

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LARRY TORRES, SR., ACCUSED-APPELLANT.

G.R. No. 190317. August 22, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the September 24, 2009 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02630, which affirmed the August 18, 2006 Decision of the Regional Trial Court (RTC), Branch 87 in Rosario, Batangas, in Criminal Case No. RY2K-086. Accused-appellant was convicted of Murder.

The Facts

An Information charged accused Larry Torres, Sr. (Torres, Sr.), as follows:

That on or about the 19[th] day of January, 2000, at about 9:00 [in the evening], at Barangay Libato, Municipality of San Juan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with an unlicensed short firearm, cal. 38 with intent to kill, with treachery and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and shoot with the said firearm one Michael M. Santonia, suddenly and without warning, thereby inflicting upon the latter [a] gunshot wound on his head, which directly caused his death.

Version of the Prosecution

At the trial, the prosecution presented Mitchell Santonia, Romeo Santonia, and Gregorio Carandang (Carandang) as witnesses.

Mitchell Santonia, brother of Michael Santonia (Santonia), testified that accused is their neighbor in Barangay Libato, San Juan, Batangas. On the night of January 19, 2000, he was with Santonia and several others at the home of Liberato Perez (Perez). Accused was also at the home of Perez and he was drinking with Perez, Carandang and Venancio Perez. Santonia, on the other hand, was playing pool with Larry Torres, Jr. (Torres, Jr.), Goring Carandang, and a few others. Accused approached Santonia and offered him a drink, which the latter accepted. Santonia then resumed playing pool. Shortly after, Mitchell Santonia heard Santonia and accused having an argument. Mitchell Santonia pulled his brother aside and told him that they should head home. Thereafter, the brothers started to leave the premises. On their way out of the house, Mitchell Santonia heard a gunshot while his back was turned. He looked back when he sensed that his brother was falling over. He then saw the accused at an arm's length away holding a .38 caliber gun. He noticed blood oozing from his brother's head when he fell to the ground. Accused pointed the gun at Mitchell Santonia and a struggle ensued for possession of the gun. They tumbled to the ground then Torres, Jr. tried to hit Mitchell Santonia with a broken plate. Venancio Perez helped Mitchell Santonia extricate himself by taking hold of the accused. Hurriedly, Mitchell Santonia ran to their house located a few meters away and told his parents what had just occurred.[1]

Mitchell Santonia rushed back to Perez's house with his parents. Santonia was still lying on the ground when they

arrived. They brought him to San Juan District Hospital in San Juan, Batangas. The doctors pronounced Santonia as dead on arrival.[2]

Upon stipulation the testimony of Santonia's father, Romeo Santonia, was dispensed with and the prosecution and the defense admitted certain facts he was going to testify on:

- (1) That the victim was brought to San Juan District Hospital by his family on January 19, 2000 at around 9:00 in the evening.
- (2) That the family spent PhP 20,000 as a result of Michael's hospitalization; and
- (3) Santonia was 24 years old at the time of his death and earning PhP 25,000 a month as a contract worker.[3]

Carandang corroborated the testimony of Mitchell Santonia when he said that after witnessing the accused and Santonia arguing, he advised them to defer for the next day what they were fighting about. He thereafter advised Santonia to go home. He testified that he heard a gunshot as the Santonia brothers were on their way out of the house. He saw the accused holding a short gun while just an arm's length from Santonia. He added that he was two arms' length away from Santonia when the latter fell down. Fearing for his safety, Carandang left after seeing Santonia lying on the ground.[4]

The prosecution and defense entered into a stipulation on the existence and authenticity of Santonia's Death Certificate and Post-Mortem Examination issued by Dr. Maria Divina Duque. Her testimony was thus dispensed with.[5]

Version of the Defense

The defense offered the sole testimony of the accused. He testified that he was drinking at Perez's house on January 19, 2000 at around 6:00 in the evening. He was drinking with Goring Carandang, Raul Santoria, and Ben Perez while watching a game of pool. The accused said that the Santonia brothers arrived later on together with the accused's son, Torres, Jr. He alleged that half an hour after they arrived, Santonia poked a gun at him while he was about to take a shot of alcohol. According to him, Santonia had his right hand on the firearm so he tried to stop Santonia by placing his hand on the former's right hand. The gun fired while the accused and Santonia were struggling for it. Accused then noticed that Santonia had been hit. Upon further questioning, the accused reiterated that he did not have any gun. He added that he had a good relationship with the Santonia brothers. [6]

Ruling of the Trial Court

The RTC found the accused guilty of the crime charged. It was convinced of the accused's guilt by the prosecution witnesses' positive identification of accused and their credible testimonies. It gave full faith and credit to their testimonies as these corroborated each other on material points. The trial court noted that the accused's defense of denial was not supported by any other evidence and was weak in the face of the positive evidence established by the prosecution.

The trial court ruled that treachery was present in the killing of Santonia, since it was proved that Santonia, with his back turned, was suddenly shot without warning as he was about to leave the premises.

The dispositive portion of the RTC Decision dated August 18, 2006 reads:

WHEREFORE, in view of the foregoing considerations, the Court finds the accused GUILTY beyond reasonable doubt of the crime of MURDER and hereby sentences him to suffer the following penalties:

- to suffer the penalty of imprisonment of Reclusion perpetua and;

- to pay the heirs of the victim:
- P200,000.00 as actual damages;
- P50,000.00 as indemnity for death;
- P4,479,600.00 as loss of earning capacity of the victim.[7]

Ruling of the Appellate Court

On appeal, accused argued that the trial court erred in finding him guilty beyond reasonable doubt of murder. He also averred that treachery was incorrectly appreciated as a qualifying circumstance.

On September 24, 2009, the CA affirmed accused-appellant's conviction. According to the appellate court, proof beyond reasonable doubt was established by the prosecution in its presentation of documentary and testimonial evidence. The elements of murder were proved by the Certificate of Death of the victim, the Post-Mortem Report, and the eyewitness accounts of Mitchell Santonia and Carandang.

Disagreeing with the accused, the CA held that treachery was correctly appreciated by the trial court. The victim, at the time of the attack, had his back turned and was unarmed, leaving him unable to defend himself. He was shot in the head with no warning. The appellate court consequently concluded that accused consciously and deliberately adopted the particular means, method and form of attack he used in committing the crime.

On the claim of self-defense, the appellate court ruled that none of its requisites was present. It also modified the trial court's award of damages, as no documentary evidence was presented to substantiate the loss of earning capacity of the victim. Moral and exemplary damages were likewise awarded to the victim's heirs.

The CA, thus, disposed of the case as follows:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 18 August 2006 of the Regional Trial Court of Rosario, Batangas, Branch 87 in Crim. Case No. RY2K-086 finding accused-appellant Larry Torres, Sr. guilty beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATION in that the award of P4,479,600.00 as loss of earning capacity of the victim is DELETED, and in addition to P50,000.00 as civil indemnity for death and P200,000.00 as actual damages, to be paid by accused-appellant to the heirs of the victim Michael Santonia y Magnaye, accused-appellant is further ORDERED to pay the heirs of the victim P50,000.00 as moral damages, P25,000.00 as exemplary damages.[8]

The Issues

I

Whether the CA erred in finding that the guilt of accused-appellant was proven beyond reasonable doubt.

II

Whether the CA erred in appreciating the qualifying circumstance of treachery.

The Ruling of this Court

We affirm accused-appellant's conviction.

Culpability of Accused-appellant Established

Murder, according to Article 248 of the Revised Penal Code, is committed as follows:

Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder

and shall be punished by reclusion perpetua, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity.

The elements of the crime of murder are: (1) that a person was killed; (2) that the accused killed that person; (3) that the killing was attended by any of the qualifying circumstances mentioned in Art. 248 of the Revised Penal Code; and (4) that the killing is not parricide or infanticide.[9] Treachery was alleged in the information as qualifying circumstance for the charge of murder.

The charge of murder was established by the prosecution through its documentary and testimonial evidence. Santonia's death and the treachery that qualified the killing to murder were established. Santonia was shown to have died of internal hemorrhage caused by a gunshot wound.[10] The person who caused the gunshot wound was positively identified as the accused-appellant. The trial court noted that Mitchell Santonia and Carandang, the prosecution witnesses, both gave a thorough account of the incident at Perez's house. Their testimonies on how accused-appellant shot Santonia from behind materially corroborated each other. They both testified that Santonia and Mitchell Santonia were on their way out of Perez's house when they heard a gunshot. Santonia then fell down and it was accused-appellant whom they saw holding a gun, showing beyond doubt that he is the killer. All the elements of the crime of murder were duly proved.

For his defense, accused-appellant argues that the prosecution was not able to prove through its evidence the presence of treachery which qualified the killing of Santonia to murder. He maintains that treachery did not attend the killing of Santonia, because there was an altercation between him and the victim, making it impossible for the latter not to have been forewarned of any danger to himself. He avers that "an attack from behind is not necessarily treacherous unless it appears that the method of attack was adopted by the accused deliberately with a special view to the accomplishment of the act without any risk to the assailant from the defense that the party assaulted may make." [11] He further avers that his conviction must depend on the weight of the evidence of the prosecution and not on the weakness of the evidence for the defense.

The qualifying circumstance of treachery is present when the offender commits any of the crimes against persons, employing means, methods or forms in its execution which tend directly and especially to ensure its execution, without risk to himself or herself arising from any defense which the offended party might make.[12] The elements of treachery are: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the means of execution was deliberate or consciously adopted.[13]

That the killing of Santonia was attended by the qualifying circumstance of treachery under Art. 248 of the Revised Penal Code was adequately proved. As observed by the trial court, Santonia was not afforded any means of defending himself or an opportunity to retaliate. We agree with the Office of the Solicitor General in its argument[14] that the attack on Michael was sudden, unexpected and without warning. Before the shooting, Mitchell Santonia had already convinced his brother to go home and they were on their way out of Perez's house. Santonia, thus, had his defenses down and had no reason to feel that his life was in danger. He could not have protected or defended himself as his back was turned when he was suddenly shot from behind. He could not have prepared himself for an attack as he had no inkling of what was about to occur. He had heeded the advice that he should just defer arguing with accused-appellant and headed home instead. As shown by the testimony of Carandang, accused-appellant's act of shooting Santonia was so swift that no one had any time to react or try to stop the attack. Clearly, the strategy employed by accused-appellant and the means he used to accomplish the act ensured that the killing of Santonia would be without risk to himself.

As to the issue raised on the weight of the prosecution's evidence, the matter boils down to the credibility of the witnesses against accused-appellant. The assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling examination.[15] We adhere to the rule that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court,[16] unless the trial court had overlooked, disregarded, misunderstood, or misapplied some fact or circumstance of weight and significance which, if considered, would have altered the result of the case.[17] An examination of the records shows that none of the aforementioned circumstances applies.

The trial and appellate courts correctly ruled that accused-appellant's uncorroborated testimony is weak in light of the positive identification by two credible witnesses. The defense noticeably failed to present any of the other men present at their drinking session who could corroborate accused-appellant's version. Even accused-appellant's son, who was also present at the time of the incident, did not provide any supporting testimony for the defense.

The trial court said:

The Court finds no irregularity in the manner the two prosecution witnesses testified. Their testimonies are likewise deserving of faith and credit from the court as [these] gave a detailed account of what transpired on the night of the incident. The testimony of witness Gregorio Carandang corroborated the testimony of Mitchell (brother of the victim) on material points. The testimon[ies] of the prosecution witnesses deserv[e] full faith and credit.

On the other hand, the accused claims simple denial in that he claims that he has nothing to do with the death of Michael as the gun accidentally fired and hit Michael when they were in the act of grappling for [it].[18]

In sustaining the findings of the trial court, We uphold settled jurisprudence that denial, like alibi, constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[19]

Penalty Imposed

The penalty for murder absent any aggravating or mitigating circumstance is reclusion perpetua, which is the lesser penalty for murder in conformity with Art. 63 of the Revised Penal Code. We affirm the penalty imposed on accused-appellant, as neither mitigating nor aggravating circumstance was present in the instant case.

Damages Awarded

When death occurs due to a crime, the following may be recovered: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.[20]

In cases of murder and homicide, civil indemnity and moral damages are awarded automatically. Indeed, such awards are mandatory without need of allegation and proof other than the death of the victim, owing to the fact of the commission of murder or homicide.[21] When the imposable penalty for the crime is reclusion perpetua, the damages to be imposed are: PhP 50,000 as civil indemnity, PhP 50,000 as moral damages, and PhP 30,000 as exemplary damages.[22] These amounts are proper since there are neither mitigating nor aggravating circumstances in the commission of the crime in accordance with Art. 63 of the Revised Penal Code. Interest at the rate of 6% per annum reckoned from January 19, 2000, which is the date of the killing, up to the finality of the judgment should be imposed on the damages.[23] In addition, interest at 12% per annum shall be imposed on said damages from finality of judgment until paid.

The CA awarded PhP 50,000 as civil indemnity, PhP 50,000 as moral damages, PhP 25,000 as exemplary damages, and PhP 200,000 as actual damages.

To conform to jurisprudence, exemplary damages are raised to PhP 30,000. The award of PhP 200,000 in actual damages is affirmed as this was stipulated by the parties.

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 02630 finding accused-appellant guilty beyond reasonable doubt of murder is AFFIRMED with the following MODIFICATIONS:

(1) Exemplary damages are awarded in the increased amount of PhP 30,000;

(2) Interest at the rate of 6% per annum on the civil indemnity and moral, actual, and exemplary damages from January 19, 2000 up to the finality of this Decision, and interest at 12% per annum on said damages from date of finality of this Decision until fully paid shall likewise be paid by accused-appellant to the heirs of Michael Santonia.

SO ORDERED.

Peralta, Abad, Mendoza, and Sereno,[*] JJ., concur.

* Additional member per Special Order No. 1028 dated June 21, 2011.

[1] CA rollo, pp. 29-30.

[2] Id. at 30.

[3] Id.

[4] Id. at 32.

[5] Id. at 34.

[6] TSN, November 3, 2004, pp. 5-6.

[7] CA rollo, p. 42. Penned by Judge Pablo R. Chavez.

[8] Rollo, p. 29. Penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Josefina Guevara-Salonga and Priscilla J. Balatazar-Padilla.

[9] *People v. Sameniano*, G.R. No. 183703, January 20, 2009, 576 SCRA 840, 850; citing *L.B. Reyes*, *The Revised Penal Code: Criminal Law Book One* 463 (2001).

[10] CA rollo, p. 53, Certificate of Death.

[11] Id. at 73.

[12] *People v. Continente*, G.R. Nos. 100801-02, August 25, 2000, 339 SCRA 1, 34; citing *People vs. Elijorde*, G.R. No. 126531, April 21, 1999, 306 SCRA 188, 198.

[13] *People v. Lacaden*, G.R. No. 187682, November 25, 2009, 605 SCRA 784, 799; citing *People v. Dela Cruz*, G.R. No. 174371, December 11, 2008, 573 SCRA 708, 721.

[14] CA rollo, pp. 119-121.

[15] *People v. Bi-ay*, G.R. No. 192187, December 21, 2010; citing *People of the Philippines v. Jerry Bantiling*, 420 Phil. 849, 862-863 (2001).

[16] *People v. Barde*, G.R. No. 183094, September 22, 2010, 631 SCRA 187; citing *People v. Beltran, Jr.*, G.R. No. 168051, 27 September 2006, 503 SCRA 715, 730.

[17] *Id.*; citing *People v. Cahindo*, 334 Phil. 507, 512 (1997).

[18] CA rollo, p. 38.

[19] *People v. Barde*, supra note 16, at 211; citing *People v. Francisco*, 397 Phil. 973, 985 (2000).

[20] *People v. Gutierrez*, G.R. No. 188602, February 4, 2010; citing *People v. Tolentino*, G.R. No. 176385, February 26, 2008, 546 SCRA 671, 699.

[21] *People v. Lucero*, G.R. No. 179044, December 6, 2010.

[22] *People v. Dolorido*, G.R. No. 191721, January 12, 2011.

[23] *Id.*; citing *People v. Tabongbanua*, G.R. No. 171271, August 31, 2006, 500 SCRA 727.

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