

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHRIS CORPUZ Y BASBAS, ACCUSED-APPELLANT.

G.R. No. 191068. July 17, 2013

Ponente: PEREZ, J.

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PEREZ, J.:

This is an appeal from the Decision[1] dated 18 November 2009 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03246 which affirmed the 15 February 2008 Decision[2] of the Regional Trial Court (RTC), Branch 42, Dagupan City, finding the appellant guilty beyond reasonable doubt of the crime of murder in Criminal Case No. 2001-0070-D.

The Facts

On 18 January 2001, Chris Corpuz (Corpuz) was charged with the crime of Murder with the Use of an Unlicensed Firearm in an Information,[3] the accusatory portion of which reads:

That on or about October 22, 2000 at around 8:45 o' clock in the evening at barangay Salay, Municipality of Mangaldan, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused CHRIS CORPUZ y BASBAS, being then armed with an unlicensed firearm a cal .38 revolver, with intent to kill and with treachery, did then and there, wilfully, unlawfully and feloniously attack and shoot at the left upper portion of the stomach of one GILBERT CEREZO y ESQUEBEL, causing his death shortly thereafter due to: "MASSIVE BLOOD LOSS SECONDARY TO GUNSHOT WOUND" as per Certificate of Death issued by Dr. Danilo A. Claridad, Municipal Health Officer, Mangaldan, Pangasinan, to the damage and prejudice of the legal heirs of said deceased GILBERT CEREZO y ESQUEBEL and other consequential damages relative thereto.[4]

Upon arraignment, accused-appellant Corpuz pleaded not guilty[5] to the charge.

Thereafter, trial on the merits ensued.

Culled from the records, the prosecution evidence primarily taken from the eyewitness account of Romeo Aquino (Aquino) reveals that at 8:45 in the evening of 22 October 2000, the victim Gilbert Cerezo (Cerezo) together with his friends Aquino, Jonathan Baloy (Baloy) and Frankie Presto (Presto) were in front of his house which is adjacent to the road. The group later sent Presto on an errand to buy gin. While waiting, Cerezo went to talk with Naning, the daughter of the appellant, whose house was just six (6) meters across Cerezo's house. Suddenly, appellant Corpuz came out of his house and shot Cerezo with a handgun with the latter not being able to put up any defense.[6] Aquino, Baloy and Presto then brought Cerezo to the hospital[7] where he consequently died. Appellant, on the other hand, walked towards the eastern dark portion of the road after shooting Cerezo.

Dr. Danilo Claridad, Municipal Health Officer of Mangaldan, Pangasinan prepared a Medico Legal Report on the cause of Cerezo's death. He declared that it was caused by massive blood loss resulting from a gunshot wound which ran thru part of the stomach and the liver. He explained that the liver is full of blood vessels that is why there was massive blood loss. The immediate cause of Cerezo's death was respiratory arrest, while the secondary

cause was the gunshot wound which caused the massive blood loss. He further testified that he did not recover any slug from Cerezo's body; the entrance of the gunshot wound was at the left portion of the body about four (4) inches just below the nipple and he did not find any exit wound. He also stated that based on the direction of the slug, the assailant was probably in front of Cerezo at the time of the shooting but he could not identify the kind or type of gun used. He surmised that after the liver was hit, Cerezo could probably survive only for one (1) to two (2) hours. Finally, he confirmed that Cerezo was shot on 22 October 2000 at 8:45 p.m., although, he conducted his examination only on 23 October 2000 at 9:00 a.m.[8]

The prosecution also submitted as evidence the Police Blotter Entry as reported by witness Romeo Aquino as well as the police investigation conducted by Police Officer Ronnie Maramba which were stipulated upon by the defense.

On the part of the defense, testimonies of the appellant and his daughter Christina also known as "Naning" were offered in evidence which can be summed up as follows:

In the evening of 22 October 2000, appellant was inside their house watching TV together with his wife and children when he heard the firing of a gun, which he ignored as shooting incidents occur in their place. As he went out to check on the water he was boiling, he noticed something in front of the door which he thought was a dog. However, when he opened the door it was Cerezo whom he saw, who even uttered the words "Kuya Chris," to which appellant answered, "It's you Gilbert, your daddy is looking for you." Cerezo said, "don't mind him, I was injured." At this point, appellant instructed his daughter Naning to call for Cerezo's father. After Naning left, appellant followed her and he was able to bring Cerezo's father to appellant's house. Upon seeing his son, Cerezo's father asked him what happened. When Gilbert failed to answer, his father boxed the appellant. The wife of appellant asked him to go inside their house.[9]

After evaluating the evidence presented by the parties, the trial court found appellant guilty of murder with the use of an unlicensed firearm. It noted the Certification issued by the Firearms and Explosives Division of the PNP Camp Crame indicating that the accused is not a licensed/registered firearm holder of any kind and caliber as of 22 October 2000.[10] It likewise appreciated the existence of treachery as demonstrated by the fact that the attack on the victim was sudden and unexpected to the extent that he was defenseless at the time of the shooting.

Aggrieved, the appellant assailed the decision on appeal. The Court of Appeals sustained the trial court's finding and found the same to be in order.

The appellant now seeks recourse to this Court on the same issues raised before the CA as to reversible errors committed by the court a quo in giving credence to the alleged eyewitness testimony of Aquino, despite the latter's failure to positively identify the appellant as the victim's assailant and for wrongfully appreciating the qualifying circumstance of treachery.

Our Ruling

We find the appeal unmeritorious.

Time and again, we have ruled that factual findings of the trial court, especially those affirmed by the Court of Appeals, are conclusive on this Court when supported by the evidence on record.[11] In numerous instances, this Court observes restraint in interfering with the trial court's assessment of the witnesses' credibility, absent any indication or showing that the trial court overlooked some material facts or gravely abused its discretion, more so, when the CA sustained such assessment. In the case at bench, we have scoured the records for any indication of arbitrariness or oversight of some fact or circumstance of weight and influence that would warrant a reversal of the factual findings of the courts a quo. However, we found none.

The appellant challenges his conviction by attacking the credibility of prosecution witness Romeo Aquino. According to appellant, the said eyewitness failed to positively identify him as the victim's assailant. This is aside from the inconsistencies between Aquino's affidavit submitted to the police and the testimony he made in open court.

We do not find any such inconsistency that would place in doubt the evidence of appellant's guilt.

Well aware that the identity of the offender is crucial in the success of the prosecution of an offense, we note important details that clearly ascertain the appellant as the person responsible for the death of Gilbert Cerezo. For one, it must be pointed out that at the outset, appellant's identity as Chris Corpuz was already admitted and he was positively identified by Romeo Aquino during the trial as the person who shot his friend Gilbert Cerezo in the abdomen, while the latter was having a conversation with appellant's daughter "Naning." In a straightforward manner, Aquino narrated and demonstrated how appellant shot the victim and where they were positioned vis-a-vis his location at the time of the shooting. He also pointed to the appellant as the person who shot Cerezo with a handgun, causing the latter's death. This was appreciated by the court a quo which observed the demeanor of Aquino while on the witness stand. At this point, we see no reason to disbelieve his testimony, especially so, that there was no motive on his part to attribute the killing to appellant Corpuz, a neighbour known to him for so long.

The same thing holds true as regards the second assigned error pertaining to the contradicting statements of witness Aquino made in his affidavit[12] as compared to his testimonies in court which is claimed to have tainted the truthfulness of his alleged eyewitness account of the event. In an attempt to instill doubts in our mind, appellant pointed out that in Aquino's affidavit dated 6 November 2000, he averred that "minutes while Gilbert and Christina were having conversation in front (sic) of the house of suspect CHRIS (sic) I heard gunshot which (sic) when (sic) focused my attention where the shot came (sic) I saw suspect CHRIS carrying hand gun and immediately fled towards the eastern dark portion of our barangay."

It is posited that while on the stand, Aquino gave the impression that he saw the act of shooting and not merely heard a gunshot which caused him to look at the direction where it came from.

Giving attention to the apparent inconsistency, our perusal of the records reveal that during cross-examination, Aquino insisted that he actually witnessed the shooting and that he was telling the truth. In fact, he was able to demonstrate how the shooting was carried out and the position of appellant Corpuz when he aimed his shot at Cerezo.

Moreover, it has been emphasized that an affidavit taken ex-parte is generally unreliable as oftentimes it is inaccurate.[13] This underscores the weight of the clarification that the prosecution witness made during the trial. Indeed, discrepancies on minor details do not erase but enhance the credibility of either the witness or his testimony. As aptly cited in *People v. Cabtalan*,[14] minor inconsistencies and discrepancies pertaining to trivial matters do not affect the credibility of witnesses, as well as their positive identification of the accused as the perpetrator of the crime. Similarly, as held in the case of *People v. Laog*,[15] where the appellant also raised the inconsistencies in the testimony of the victim, this Court declared:

Nonetheless, this matter raised by appellant is a minor detail which had nothing to do with the elements of the crime of rape. Discrepancies referring only to minor details and collateral matters – not to the central fact of the crime – do not affect the veracity or detract from the essential credibility of witnesses' declarations, as long as these are coherent and intrinsically believable on the whole.[16]

In the same vein, we are not persuaded by the appellant's defense of denial. Well entrenched is the rule that the defense of denial can easily be overcome by a positive identification that is categorical, consistent and untainted

by any ill motive on the part of the eyewitnesses testifying on the matter. Nothing is more settled in criminal law jurisprudence than that denial and alibi cannot prevail over the positive and categorical testimony of the witness.[17] As aptly cited in the case of *People of the Phils. v. Carlito Mateo y Patawid*, [18] the defense of denial cannot surmount the positive and affirmative testimony offered by the prosecution. It is self-serving deserving no weight in law. Alibi, on the other hand, is viewed with suspicion and received with caution, because it can easily be fabricated.[19] For alibi to prosper, appellant must prove not only that he was at some other place when the crime was committed but that it was physically impossible for him to be at the locus criminis at the time of its commission.[20]

To support his defense of denial and alibi, the appellant offered the testimony of her daughter Christina also known as “Naning,” who was allegedly with him from the time Cerezo was shot, until he was brought to the hospital, discounting thereby the version of Aquino that Cerezo was then conversing with Christina when he was shot. On further examination, however, it came to the fore that Christina had a relationship with the victim, they being lovers, of which her father, appellant Corpuz, did not approve – which explains why Cerezo went to talk to Christina outside her house.

Likewise, in an attempt to extricate her father, Naning stated that Cerezo told his father that it was not appellant who shot him.[21] Despite that, she claimed that because other people were saying otherwise, the elder Cerezo boxed her father. Such statement further destroys the credibility of the defense. There is no explanation why persons, while not even named or identified who were supposedly at the scene of the crime, would point to the appellant as the assailant when he was even the one who supposedly called the father of the wounded victim. It must be remembered that not only must a witness be credible in order to be believed; his or her testimony must itself be also credible and believable.[22]

Indeed, it is quite puzzling why the appellant took flight after the shooting incident and returned only after six (6) years, until he was finally arrested in 2006.[23] As we held in the case of *People v. Deunida*, [24] flight of an accused from the scene of the crime removes any remaining shred of doubt on his guilt.

Finally, we uphold the ruling of the lower courts that treachery attended the attack on Cerezo. The attack was swift and sudden and the unsuspecting victim had no expectation of the coming assault, as he was engaged in conversation with appellant’s daughter. There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend to directly and specially insure the execution of the crime, without risk to himself arising from the defense which the offended party might make. The elements of treachery are: (i) the means of execution employed gives the victim no opportunity to defend himself or retaliate; and (ii) the methods of execution were deliberately or consciously adopted.[25]

By the foregoing standards and on the basis of the trial court's factual findings concurred in by the CA, we adopt the trial court's evaluation that the suddenness of the act facilitated the commission of the crime.

The Penalties

The crime of murder qualified by treachery is penalized under Article 248 of the Revised Penal Code, as amended, with reclusion perpetua to death. For the death of Cerezo, the lower courts correctly sentenced the appellant to suffer the penalty of reclusion perpetua only, since there were no aggravating or mitigating circumstances that attended the commission of the crime.

As to Damages

The trial court likewise correctly awarded civil indemnity and moral damages and exemplary damages to the heirs of the victim. We, however, increase the award of civil indemnity to P75,000.00,[26] while reducing the award of exemplary damages to P30,000.00, in conformity with current policy, we also impose on all the monetary awards

for damages an interest at the legal rate of 6% from date of finality of this Decision until fully paid.[27]

WHEREFORE, the appealed judgment is AFFIRMED with the MODIFICATION that appellant Chris Corpuz is ordered to pay the heirs of the victim Gilbert Cerezo, the amount of P75,000.00 as civil indemnity; P30,000.00 as exemplary damages; P25,000.00 as temperate damages, all in addition to the interest on all these damages assessed at the legal rate of 6% from date of finality of this Decision until fully paid.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Mendoza,[*] and Perlas-Bernabe, JJ., concur.

[*] Special Order dated No. 1484 dated 9 July 2013.

[1] Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Isaias P. Dicdican and Romeo F. Barza. CA rollo, pp. 120-133.

[2] Records, pp. 193-201.

[3] Id. at 12-15.

[4] Id. at 12.

[5] Order, id. at 51.

[6] TSN, 16 June 2006, pp. 3-9.

[7] Id. at 10.

[8] TSN, 5 June 2006, pp. 2-10.

[9] TSN, 30 July 2007, pp.2-6; TSN dated 12 March 2007, pp. 2-5.

[10] Decision of the RTC dated 15 February 2008, records, pp. 193-201.

[11] People v. Barde, G.R. No. 183094, 22 September 2010, 631 SCRA 187, 209.

[12] Exhibit "C," RTC Records, p. 4.

[13] People v. Avanzado, Sr., 242 Phil. 163, 169 (1988).

[14] G.R. No. 175980, 15 February 2012, 666 SCRA 174, 178.

[15] G.R. No. 178321, 5 October 2011, 658 SCRA 654.

[16] Id. at 671 citing People v. Suarez, 496 Phil. 231, 243 (2005).

[17] People v. Bulasag, G.R. No. 172869, 28 July 2008, 560 SCRA 245, 253.

[18] G.R. No. 179036, 28 July 2008, 560 SCRA 375, 390.

[19] People v. Penaso, 383 Phil. 200, 210 (2000).

[20] People v. Fernandez, 434 Phil. 224, 238 (2002) citing People v. Suitos, 408 Phil. 1093, 1101 (2000).

[21] TSN, 18 June 2007, pp. 11-12.

[22] People v. Padilla, 433 Phil. 276, 289 (2002).

[23] TSN, 10 September 2007, p. 13.

[24] G.R. No. 105199-200, 28 March 1994, 231 SCRA 520, 534.

[25] *People v. Jerry Se*, 469, Phil. 763, 770 (2004) citing *People v. Mantes*, 420 Phil. 751, 760 (2001); *People v. Cirilo*, 400 Phil. 495, 509 (2000).

[26] *People v. Ramil Rarugal alias "Amay Bisaya"*, G.R. No. 188603, 16 January 2013.

[27] *People v. Campos*, G.R. No. 176061, 4 July 2011, 653 SCRA 99, 116.

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