PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROEL “RUEL” SALLY, ACCUSED-APPELLANT.

G.R. No. 191254. October 13, 2010

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-191254/

VELASCO JR., J.:

Before this Court on appeal is the Decision dated December 15, 2009[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02948, which upheld the convictions of accused-appellant Roel "Ruel" Sally in Criminal Case Nos. Q-94-56820 and Q-94-56821, decided by the Regional Trial Court (RTC), Branch 37 in Quezon City on June 7, 2007.

In Criminal Case No. Q-94-56820, accused-appellant was charged with Murder in an Information dated April 11, 1994, which reads as follows:

> That on or about the 30[th] day of January, 1994, in Quezon City, Philippines, the above-named accused, with intent to kill and qualified by evident premeditation and treachery, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one EDWIN LUCAS Y SIMON, by then and there hitting him with an iron pipe (tubong bakal), thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his untimely death, to the damage and prejudice of the [heirs] of the said Edwin Lucas y Simon.[2]

In Criminal Case No. Q-94-56821, accused-appellant was also charged with Murder in an Information dated April 11, 1994, which reads as follows:

> That on or about the 30[th] day of January, 1994, in Quezon City, Philippines, the above-named accused, with intent to kill, and qualified by evident premeditation and treachery, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one JOSE BERSERO Y SINGCO, by then and there hitting him on his head with an iron pipe (tubong bakal), thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said Jose Bersero y Singco.[3]

Upon motion of the prosecution,[4] these cases were consolidated, as they were founded on the same facts and the prosecution would be presenting common evidence in both cases.

Although a warrant of arrest for accused-appellant had been issued on April 19, 1994, considering that he had not been apprehended, the case was ordered archived on October 27, 1994.[5]

In 2003, accused-appellant was finally arrested. At his arraignment on February 23, 2004, he pleaded not guilty to both charges.[6]

The prosecution presented Roger Lara as the sole witness to the killing, along with Renato Lucas, the brother of the deceased Edwin Lucas, to testify as to the income of Edwin at the time of his death, and Dr. Valentin Bernales of the Medico Legal Division of the National Bureau of Investigation (NBI), to interpret the necropsy report

pertaining to the two victims.

Roger Lara testified that on the night of January 29, 1994, he was in a drinking session that lasted until 1:30 a.m. the following morning with accused-appellant, victims Edwin Lucas y Simon and Jose Bersero y Singco, among others, inside the Nikon Iron Works office located along Commonwealth Avenue, Diliman, Quezon City. Their drinking companions left earlier, leaving behind Lara, accused-appellant, and the two victims. Lara testified that he was falling asleep inside the office when he heard a noise coming from the shop. When he investigated the matter, he saw accused-appellant hitting the sleeping Jose Bersero with a piece of pipe. Lara further stated that accused-appellant then rushed towards him and attempted to hit him, but he avoided the accused and ran.[7] He testified that he also saw accused-appellant attack the sleeping Edwin Lucas with a pipe. Lara then went to their employer's house to report the incident.[8] When he and the employer, Virgilio Reyes, reached the shop, they only saw the bodies of the two victims, as accused-appellant was no longer there. He then reported the matter to the police.[9]

Renato Lucas testified that his brother, Edwin Lucas, worked at the Nikon Iron Works, and had a salary of PhP 140 a day at the time of his death.[10]

Dr. Valentin Bernales of the NBI interpreted the necropsy reports on Jose Bersero and Edwin Lucas. The reports had been prepared by Dr. Juan Zaldariaga, the attending medico-legal officer for those cases but who had resigned earlier. Dr. Bernales testified that from the report on Jose Bersero, the victim died of traumatic head injuries on January 30, 1994, inside 888 Commonwealth Ave., Quezon City, and that the body was found at 7:15 a.m. He also testified that based on the report on Edwin Lucas, the victim died of traumatic head injury on January 30, 1994, and that the body was found at 7:15 a.m.[11]

In his defense, accused-appellant claimed that on January 30, 1994 at about 1:30 a.m., he had been working at the Balintawak Market in Quezon City as a manual hauler, a job he had for nine years.[12] He testified that his work lasted from 6:00 p.m. to 6:00 a.m.,[13] and that he did not work for Nikon Iron Works.[14] He further testified that he did not know Edwin Lucas or Jose Bersero, nor did he know anyone who worked for Nikon Iron Works. He denied killing Lucas and Bersero, and that he had no knowledge of the matters testified to by Roger Lara.[15]

After considering the evidence for both sides, the trial court rendered its Decision on June 7, 2007, finding accused-appellant guilty in Criminal Case Nos. Q-94-56820-21, the dispositive portion of the decision reading as follows:

> WHEREFORE, judgment is herby rendered sentencing ROEL "RUEL" SALLY, to suffer the penalty of Reclusion Perpetua in Crim. Case No. Q-94-56820 and to pay the heirs of Edwin Lucas y Simon the sum of P75,000.00 as indemnity;
>
> In Crim. Case No. Q-94-56821, likewise, ROEL "RUEL" SALLY, is likewise sentenced to suffer the penalty of Reclusion Perpetua and to pay the heirs of Jose Bersero y Singco the sum of P75,000.00, as indemnity.[16]

The Case before the CA

In his appeal, accused-appellant claimed that the RTC erred in finding him guilty of the crimes charged, or assuming that he was indeed guilty of the crimes charged, the RTC should have convicted him of homicide instead of murder.

He claimed that Lara's testimony was inconsistent and contradicted his Sinumpaang Salaysay, which had been executed at the police station. He further claimed that the prosecution had failed to prove the existence of treachery when it failed to present as evidence the iron pipe, which was used in the killings.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The CA found the testimony of Roger Lara to be credible and convincing, and thus upheld the RTC decision. The CA found the need for modifications, however, when it came to the award for damages, by reducing the award of civil indemnity to PhP 50,000, and awarding moral and exemplary damages. The dispositive portion of the CA decision, thus, reads as follows:

> WHEREFORE, the Decision dated 7 June 2007 of the Regional Trial Court of Quezon City, Branch 87, in Criminal Case Nos. Q-94-56820 and Q-94-56821 is hereby AFFIRMED with the following MODIFICATIONS such that in both cases:
>
> - The award of P75,000.00 as civil indemnity is REDUCED TO P50,000.00
>
> - Appellant Roel "Ruel" Sally is ORDERED to pay the heirs of Edwin Lucas and Jose Bersero the amounts of P50,000.00, P25,000.00 and P25,000.00 as moral, exemplary and actual damages, respectively
>
> SO ORDERED.[17]

Hence, we have this appeal.

The Ruling of this Court

The appeal is without merit.

Addressing the errors raised by accused-appellant in his appeal before the CA, we find no reason to reverse the RTC.

Accused-appellant claims that the testimony of the sole witness Roger Lara in open court on February 3, 2005 is inconsistent with the latter's sworn statement executed on January 30, 1994.

The inconsistency accused-appellant sees is more apparent than real.

In his sworn statement on January 30, 1994, Roger Lara related the events as follows:

> T: Maaari bang isalaysay mo sa akin ang buong pangyayari?
>
> S: Nang ala 1:30 ng madaling araw ika 30 ng Enero 1994 nagkakainuman po kami nila ROGER, JOSE, RUEL at iba pang kasamahan namin sa trabaho sa loob ng NIKO IRON WORKS kung saan kami ay nagtratrabaho, nang marami nang na-iinum itong si RUEL kinukulit po si Mang JOSE at EDWIN kaya sinaway siya ng dalawa na kung lasing na siya (RUEL) ay matulog na, pagkatapos po nagkaroon ng pagtatalo sa pagitan ni RUEL at ng dalawa kumuha po ng patalim itong si RUEL pero naawat ito ng iba pa naming kasamahan. Pagkatapos po nang natutulog na si Mang JOSE at si EDWIN nakarinig ako ng gulo sa labas ng aming barracks at nakita ko na pinalo ni RUEL si Mang JOSE ng tubong bakal at nang ako'y lalabas na sa barracks ako naman ang pinalo mabuti na lang at aking nailagan at ang hinarap nito ay si EDWIN habang siya'y natutulog.
>
> T: Ano ang ginawa mo nang makita mo ang pangyayari?
>
> S: Tumakbo po ako sa labas ng bakuran dahil baka ako ay patayin din.
>
> T: Saan ba natutulog si Mang JOSE at si EDWIN?
>
> S: Si Mang JOSE po ay nasa labas at si EDWIN ay sa barracks na aming pinaka-opisina.
>
> T: Saan pinalo si Mang JOSE at si EDWIN?
>
> S: Sa ulo at batok.[18]

This, accused-appellant claims, is at variance with the witness' testimony on February 3, 2005, related as follows:

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

COURT

Q You only presume that the accused attacked Mang Jose outside because of the noise that you heard. Therefore, you did not exactly see the accused attacking Mang Jose using an iron pipe.

A It is like this, Your Honor. When I heard the noise I peeped and there I saw outside the accused hitting Mang Jose and when I came out, the accused also attacked me but I was able to avoid it. After that, he went inside the office and attacked Edwin.

x x x x

ATTY MATEO:

Q Mr. Witness, did I get you right that you are maintaining that you saw the accused attacking Mang Jose despite the fact that you were sleeping?

A I was sleeping but I was awakened by the noise and when I opened the door to see what is the noise about, I saw the accused attacking Mang Jose.

Q You made mention that the accused also attacked you but you were able to evade his attack and then you scampered away because of the fear for your life. Is that correct?

PROSECUTOR:

Already answered.

ATTY MATEO:

Q So because you ran away you would not know when the accused turned to Edwin and attacked Edwin.

A When I went out of the office because I was awakened by the noise, I saw the accused attacking Mang Jose and he hit me in fact only I was able to avoid it. So I ran away, but when I looked back, I saw the accused hitting Edwin with an iron pipe. (Witness demonstrating holding an iron pipe hitting Edwin).

COURT

Q Where was Edwin at the time that the accused was attacking Mang Jose, he was inside the office sleeping?

A Yes, Your Honor.

Q By the time you were already outside the office you were able to leave the area because of your fear for your life?

A Yes, Your Honor. He might kill me also.

Q And because of your feeling of fear for your life your instinct was to immediately leave the place and did not mind anything more what is happening?

A Yes, Your Honor.

ATTY. MATEO:

Q And because of that you would not be in a position to see that and it would be impossible for you to see the accused attacking Edwin?

A The truth is when I ran away, I looked back and I saw Roel going inside the office where Edwin was sleeping.[19]

There is no real inconsistency between the sworn statement and the testimony of Roger Lara. While

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

accused-appellant would have it appear that Lara would have been unable to witness the killing of Edwin Lucas, he latches onto the portion of the sworn statement relating the fact of Lara's running outside after the killing of Jose Bersero. That fact did not preclude Lara from witnessing the killing of Edwin Lucas, and his testimony in open court actually clarifies the matter, that he saw accused-appellant kill Edwin Lucas because Lara turned and looked back after he had put some distance between himself and accused-appellant.

Accused-appellant cannot point to alleged differences between the sworn statement and the testimony of Roger Lara to exculpate him. As held in People v. Dabon:

> The most honest witnesses may make mistakes sometimes, but such innocent lapses do not necessarily impair their credibility. The testimony of a witness must be considered and calibrated in its entirety and not by truncated portions thereof or isolated passages therein. It is a matter of judicial experience that an affidavit, being ex parte, is almost always incomplete and often inaccurate, sometimes from partial suggestions, sometimes for want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestions of his memory and for his accurate recollection of all that belongs to the subject. Affidavits taken ex parte are generally considered to be inferior to the testimony given in open court. Therefore, discrepancies between statements of the affiant in his affidavit and those made by him on the witness stand do not necessarily discredit him.[20]

Accused-appellant made an effort to show that witness Roger Lara was motivated to testify in favor of the prosecution as he had been asked to by the relatives of the victim, Edwin Lucas. This endeavor of accused-appellant deserves short shrift. Whether or not the victim's relatives contacted Roger Lara or asked him to testify in the present case is immaterial, as Lara was merely reiterating what he had stated in his sworn statement executed on the day of the killings. For personal motive on the part of a witness to testify against the accused to be appreciated as showing bias, its presence should be supported by satisfactory proof.[21] Accused-appellant has failed to show that Lara was impelled by improper motive to testify, thus Lara's testimony is entitled to full faith and credit.

In his defense, accused-appellant raises the defense of alibi. This defense must fail in the light of the credible testimony of Roger Lara. Alibi is the weakest defense not only because it is inherently weak and unreliable, but also because it is easy to fabricate. It is generally rejected when the accused is positively identified by a witness.[22] Accused-appellant states that he was elsewhere at the time the killings occurred, namely at his alleged work as a hauler at the Balintawak Market in Quezon City. However, he failed to produce any corroborating witness to his alleged presence there, or even failed to show that he was indeed employed as such. The RTC thus correctly disregarded the defense of alibi. It is well-settled that alibi cannot be sustained where it is not only without credible corroboration but also does not, on its face, demonstrate the physical impossibility of the presence of the accused at the place of the crime or in its immediate vicinity at the time of its commission.[23]

The RTC found the testimony of Roger Lara more credible than that of accused-appellant. It is hornbook doctrine that the findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect. Having seen and heard the witnesses and observed their behavior and manner of testifying, the trial court is deemed to have been in a better position to weigh the evidence.[24] Accused-appellant has failed to show that the trial court misappreciated any of the facts before it; thus, there is no need to deviate from the established doctrine.

Accused-appellant also questions the finding that treachery attended the killings, qualifying the crime to murder, instead of homicide. To support this argument, he points out the failure of the prosecution to prove that an iron pipe was used in killing Jose Bersero and Edwin Lucas. It was pointed out that the weapon was not retrieved or presented in evidence, nor was the medico-legal officer certain if an iron pipe would cause the injuries suffered by

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

the victims.

Accused-appellant misses the point entirely.

Whether or not an iron pipe was used to kill Jose Bersero and Edwin Lucas is irrelevant. It was the testimony of Roger Lara that accused-appellant killed Jose Bersero and Edwin Lucas by hitting them with an iron pipe while they were sleeping. It is beyond argument that the unconscious victims would have been unable to defend themselves from the attack of the accused, regardless of the weapon used. Article 14, paragraph 16(2) of the Revised Penal Code provides, "There is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make." This precisely covers the situation that accused-appellant took advantage of, when he attacked the victims while they were sleeping. The essence of treachery is the sudden and unexpected attack by the aggressor on unsuspecting victims, thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victims.[25]

The RTC was correct in appreciating the circumstance of treachery accompanying the act, which qualifies the killing to murder under the first paragraph of Art. 248 of the Revised Penal Code, not homicide.

Anent the damages awarded in Criminal Case Nos. Q-94-56820 and Q-94-56821 by the trial court as adjusted by the CA, they should be modified.

In Criminal Case No. Q-94-56820, the CA only awarded the reduced civil indemnity of PhP 50,000 to the heirs of Edwin Lucas y Simon without handing out moral and exemplary damages. Of course in murder, the grant of civil indemnity, which has been fixed by jurisprudence at PhP 50,000, requires no proof other than the fact of death as a result of the crime and proof of the accused's responsibility for it.[26] On the other hand, moral damages of PhP 50,000 are awarded in view of the violent death of the victim which does not necessitate any allegation or proof of the emotional sufferings of the heirs. Likewise, in line with prevailing jurisprudence, the heirs of Edwin Lucas y Simon are also entitled to an award of PhP 30,000 as exemplary damages, because the commission of the crime of murder was attended by an aggravating circumstance whether ordinary or qualifying, as in this case.[27] Art. 2230 of the Civil Code provides:

> In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances.

With respect to the dispositions in Criminal Case No. Q-94-56821, the award of PhP 25,000 as moral damages shall be raised to PhP 50,000, and the amount of PhP 30,000 shall be awarded as exemplary damages in lieu of the previous CA award of PhP 25,000 in accordance with current jurisprudence.[28]

Likewise, the PhP 25,000 in damages awarded by the CA was mislabeled in the dispositive portion as "actual damages," whereas these were properly called "temperate damages" in the body of the CA decision. Art. 2224 of the Civil Code provides, "Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be proved with certainty." This amount of PhP 25,000 was awarded by the CA to the victim's families in lieu of actual damages, as the families failed to present proof of burial as well as medical expenses.

Accused-appellant has been proved to be guilty beyond reasonable doubt of the crimes charged, and must answer for all the effects of his conviction.

WHEREFORE, the Court AFFIRMS with modification the Decision dated December 15, 2009 of the CA in

CA-G.R. CR-H.C. No. 02948. As modified, the CA Decision shall now read:

> WHEREFORE, judgment is hereby rendered sentencing ROEL "RUEL" SALLY, to suffer the penalty of Reclusion Perpetua in Crim. Case No. Q-94-56820 and to pay the heirs of Edwin Lucas y Simon the sum of PhP 50,000 as civil indemnity, PhP 50,000 as moral damages and PhP 30,000 as exemplary damages;
>
> In Crim. Case No. Q-94-56821, likewise, ROEL "RUEL" SALLY, is likewise sentenced to suffer the penalty of Reclusion Perpetua and to pay the heirs of Jose Bersero y Singco the sum of PhP 50,000 as civil indemnity, PhP 50,000 as moral damages, PhP 30,000 as exemplary damages and PhP 25,000 as temperate damages.

SO ORDERED.

Corona, C.J., Chairperson, Velasco, Jr., Leonardo-De Castro, Del Castillo, and Perez, JJ.

---

[1] Penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Bienvenido L. Reyes and Antonio L. Villamor.

[2] Records, p. 2.

[3] Id. at.8.

[4] Id. at 1.

[5] Id. at 25.

[6] Id. at 42.

[7] Id. at 116.

[8] Id. at. 92.

[9] Id. at 93.

[10] Id. at 139-140.

[11] Id. at 178-181.

[12] Id. at. 210-211.

[13] Id. at 212.

[14] Id. at 219.

[15] Id. at 219-222.

[16] Rollo, p. 51.

[17] Id. at 13.

[18] Records, p. 18.

[19] Id. at 115-117.

[20] G.R. No. 102004, December 16, 1992, 216 SCRA 656, 664.

[21] Vidar v. People, G.R. No. 177361, February 1, 2010, 611 SCRA 216, 226.

[22] Sumbillo v. People, G.R. No. 167464, January 21, 2010, 610 SCRA 477, 484.

[23] People v. Sobusa, G.R. No. 181053, January 21, 2010, 610 SCRA 538, 558.

[24] People v. Ofemiano, G.R. No. 187155, February 1, 2010, 611 SCRA 250, 256.

[25] People v. Gutierrez, G.R. No. 188602, February 24, 2010, 611 SCRA 633, 644.

[26] Id. at 646-647.

[27] Id. at 647.

[28] People v. Dalisay, G.R. No.188106, November 25, 2009, 605 SCRA 807, 816, 821.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.