

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERWIN LALOG, ROOSEVELT CONCEPCION, EDWIN RAMIREZ, AND RICKY LITADA, ACCUSED-APPELLANTS.

G.R. No. 196753. April 21, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The facts of this case as summarized by the Court of Appeals are as follows:

On September 29, 1999 at around 8:00 o'clock in the evening, Ryan Gain [Gain], Roswel Mercado [Mercado], Rex Rey [Rey] and Jayson Manzo [Manzo] were strolling at the Municipal Park of Poblacion, Municipality of Pinamalayan, Oriental Mindoro, when they were blocked by four (4) persons, namely Erwin Lalog [Lalog], Roosevelt Concepcion [Concepcion], Edwin Ramirez [Ramirez] and Ricky Litada [Litada]. x x x Lalog angrily talked to x x x Gain, but x x x Mercado intervened and apologized to the group of x x x Lalog x x x.

Later, x x x Gain and x x x Mercado went down the stairs of the park locally known as the “RAINBOW[.]” x x x Mercado [was] walking ahead of x x x Gain by six (6) arms length[;] when he looked back, he saw x x x Gain being ganged upon by the group of the accused-appellants x x x [held] both the hands of x x x Gain, while x x x Lalog stabbed x x x Gain. x x x [Fearing for his life,] Roswel x x x immediately fled the scene.

Sensing that the assailants had left the scene, x x x Mercado approached x x x Gain and brought him to the hospital x x x but it was already too late for he was declared x x x [d]ead on [a]rrival x x x.

On the other hand, x x x Lalog admitted stabbing x x x Gain in self-defense, while the other three appellants, x x x Concepcion, x x x Ramirez, and x x x Litada denied their participation in the stabbing incident, claiming that the three of them were in a drinking session, in the house of [Ramirez’s aunt] in Quezon Street, Pinamalayan, Oriental Mindoro.[1]

Thus, on October 28, 1999, an Information[2] was filed charging appellants Lalog, Concepcion, Ramirez, and Litada with the crime of murder. During their arraignment on February 21, 2000, appellants pleaded not guilty.[3] The case was set for pre-trial on April 27, 2000.[4] However, upon agreement by both parties, the pre-trial was terminated. Trial on the merits ensued.

In a Decision[5] dated October 17, 2003, the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 42, found appellants guilty as charged, viz:

ACCORDINGLY, judgment is hereby rendered finding accused Erwin Lalog, Roosevelt Concepcion, Edwin Ramirez and Ricky Litada guilty beyond reasonable doubt as principal[s] of the crime of MURDER for having conspired in killing Ryan Gain, qualified by treachery, which is defined and penalized under Article 248 of the Revised Penal Code by RECLUSION PERPETUA to DEATH. Considering that there is neither a mitigating nor aggravating circumstance in the commission of the crime, all accused are hereby sentenced to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties and to jointly and severally pay the heirs of Ryan Gain the sum of P50,000.00 as civil indemnity, the sum of P29,510 as expenses incurred during the

wake of deceased Ryan Gain including the funeral expenses, the sum of P50,000.00 as moral damages and to pay costs of suit.

SO ORDERED.[6]

The trial court lent credence to the testimony of Mercado who never wavered in his narration that he saw appellants gang up on the victim and that appellant Lalog stabbed the victim at the back. It was not persuaded by Lalog's claim of self-defense as it was quite improbable for Lalog to have stabbed the victim on the back while he was lying on the ground and the victim on top of him. The number of wounds sustained by the victim negated Lalog's claim of self-defense; rather, it was indicative of appellants' intent to kill. The trial court disregarded Concepcion's, Ramirez', and Litada's defense of alibi considering that the place where they claim to be was only about a hundred meters away from the scene of the crime. Thus, it was not physically impossible for them to be present at the crime scene.

The trial court found that the qualifying circumstance of evident premeditation did not attend the commission of the crime. It noted that appellants and the victim met only by chance at Pinamalayan Park; there was no showing that appellants planned the killing. However, it found that the killing was done in a treacherous manner. The prosecution established that appellants first held the hands of the victim to render him immobile and to foreclose any defense from the latter. Thereafter, appellant Lalog stabbed him at the back. As regards the aggravating circumstance of abuse of superior strength, the same was absorbed in the qualifying circumstance of treachery. Nocturnity was not considered to have qualified the crime because there was no showing that appellants took advantage of the same to perpetrate the crime or to conceal their identity.

Aggrieved, appellants appealed to the Court of Appeals. However, in its November 11, 2010 Decision,[7] the appellate court affirmed in full the Decision of the trial court, viz:

WHEREFORE, premises considered, the appealed Decision of the Regional Trial Court of Pinamalayan, Oriental Mindoro, in Criminal Case No. P-6043 convicting the accused-appellants of the crime of Murder and sentencing them to suffer the penalty of Reclusion Perpetua, with all the accessory penalties, and to jointly and severally pay the heirs of Ryan Gain the sum of P50,000.00 as civil indemnity, the sum of P29,510.00 as expenses incurred during the wake of deceased Ryan Gain including the funeral expenses, the sum of P50,000.00 as moral damages and to pay costs of suit, is hereby AFFIRMED.

SO ORDERED.[8]

Hence, this appeal.

Appellants claim that Mercado's testimony should not have been given credence by the trial court and the appellate court as there were inconsistencies. They allege that Mercado initially testified that appellants attacked the victim at the place known in the locality as the "rainbow" but later recanted and stated that the stabbing occurred on the ground near the "rainbow".

This contention deserves no consideration. Whether the victim was stabbed at the "rainbow" or near the "rainbow" is inconsequential. What is important is the fact that Mercado unwaveringly testified that he saw appellants gang up on the victim, render him immobile, and then stab him at the back several times.

Appellants next argue that the trial court and the appellate court erred in disregarding Lalog's claim of self-defense. We are not persuaded. As correctly held by the trial court:

To avail of self-defense as a justifying circumstance so as not to incur any criminal liability, it must be proved with certainty by satisfactory and convincing evidence which excludes any vestige of criminal aggression on the part of the person invoking it. It cannot be entertained where it is not only uncorroborated by any separate

competent evidence but is also doubtful. If the accused fails to discharge the burden of proof, his conviction, shall of necessity follow on the basis of his admission of the killing (People v. Suyum et. al. G.R. No. 137518, March 6, 2002).

The claim of x x x Lalog that he stabbed x x x Gain at the back portion of the latter's body (Lumbar area) while the former was lying down is not only uncorroborated by any other evidence but it is improbable and contrary to the physical evidence because how could x x x Lalog [stab] x x x Gain's back when the former was lying on the ground while the latter was on top and at the same time choking him. The testimony of prosecution witness x x x Mercado that x x x Gain was stabbed at his back by x x x Lalog while x x x [both his hands were being held by the other appellants] is more logical, believable and [in] consonance with the physical evidence. x x x Gain could not have been easily stabbed at his back if his x x x hands were not being held x x x considering that x x x Gain is much taller and bigger in built than the accused particularly x x x Lalog unless x x x Gain just simply let his back (lumbar area) [be] stabbed without any resistance or struggle on his part which is impossible under any state of circumstances. Furthermore, the number of wounds [sustained by Gain] (Exh. "A") [is] indicative of x x x Lalog's desire to kill the former and not really defend himself because not a single moment of the incident was his life and limb being endangered which is the essence of self-defense. The fact that the deceased x x x Gain was not armed all the more negates self-defense.[9]

Finally, we are not persuaded by appellants' argument that the qualifying circumstance of treachery was not proved. We agree with the trial court's observation that appellants attacked Gain in a treacherous manner. They held Gain's arms, rendered him immobile and then thrust the knife into his body several times.

Both the trial court and the Court of Appeals properly sentenced appellants to reclusion perpetua there being no aggravating circumstance other than the qualifying circumstance of treachery. However, appellants are not eligible for parole.[10]

As regards damages, the award of civil indemnity must be increased to P75,000.00 in line with prevailing jurisprudence.[11] The awards of moral damages in the amount of P50,000.00 and actual damages in the amount of P29,510.00 are proper. In addition, the heirs of the victim are entitled to an award of exemplary damages in the amount of P30,000.00.[12] Finally, interest at the rate of 6% per annum from date of finality of this judgment until the awards of damages are fully paid is imposed.[13]

WHEREFORE, the appeal is DISMISSED. The November 11, 2010 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00325 which affirmed the October 17, 2003 Decision of the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 42, finding appellants Erwin Lalog, Roosevelt Concepcion, Edwin Ramirez and Ricky Litada guilty beyond reasonable doubt of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATIONS that appellants are without eligibility for parole; the award of civil indemnity is increased to P75,000.00; appellants are ordered to pay the heirs of the victim P30,000.00 as exemplary damages; and interest on all damages awarded is imposed at the rate of 6% per annum from date of finality of this judgment until fully paid.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Perlas-Bernabe, JJ., concur.

[1] CA rollo, pp. 155-156.

[2] Records, p. 1.

[3] Id. at 34.

[4] Id.

[5] Id. at 78-88; penned by Judge Recto A. Calabocal.

[6] Id. at 87-88.

[7] CA rollo, pp. 152-168; penned by Associate Justice Ruben C. Ayson and concurred in by Associate Justices Amelita G. Tolentino and Normandie B. Pizarro.

[8] Id. at 167.

[9] Records, pp. 82-83.

[10] Section 3 of Republic Act No. 9346 (An Act Prohibiting the Imposition of Death Penalty in the Philippines) provides: "Person convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

[11] People v. Jalbonian, G.R. No. 180281, July 1, 2013, citing People v. Dela Cruz, G.R. No. 188353, February 16, 2010, 612 SCRA 738, 747.

[12] Id.

[13] Id.

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