

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CECILIA LAGMAN Y PIRING, ACCUSED-APPELLANT.

G.R. No. 197807. April 16, 2012

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the May 14, 2010 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03289, which affirmed the January 18, 2008 Decision[2] of the Regional Trial Court (RTC), Branch 18 in Manila, in Criminal Case No. 02-200106 for Murder and Criminal Case No. 02-200107 for Frustrated Murder.

The Facts

Two Informations[3] charged accused Cecilia Lagman as follows:

Criminal Case No. 02-200106

That on or about February 24, 2002, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously with intent to kill, with treachery and evident premeditation, attack, assault and use personal violence upon the person of Jondel Mari Davantes Santiago, by then and there stabbing him with a knife with an approximate length of 6 ½ inches (blade and handle) hitting his neck and trunk, thereby inflicting upon said Jondel Mari Davantes Santiago stab wounds which are necessarily fatal and mortal, which were the direct cause of his death immediately thereafter.

Criminal Case No. 02-200107

That on or about February 24, 2001, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and use personal violence upon the person of Violeta Sicor y Sapitula, by then and there stabbing her hitting her buttocks, thereby inflicting upon the said Violeta Sicor y Sapitula mortal wounds which were necessarily fatal, thus, performing all the acts of execution which would produce the crime of Homicide as a consequence, but nevertheless, did not produce it by reason of causes independent of her will, that is, by the timely and able medical assistance rendered to said Violeta Sicor y Sapitula which prevented her death.

During her arraignment, the accused gave a negative plea to both charges.

At the trial, the prosecution presented the following witnesses: Donna Maniego (Maniego), Violeta Sicor (Sicor), Police Officer 3 Ricardo M. Alateit (PO3 Alateit), and PO3 Ronaldo Samson (PO3 Samson).

On February 24, 2002, at about 1:30 p.m, Maniego was in front of her banana cue store on Lakandula Street, Tondo, Manila. She was seated alongside her mother, Sicor, inside the sidecar of a motorcycle. Without warning, the accused approached her and punched her face several times. The accused turned on Sicor, grabbed her and stabbed her in the middle of her buttocks with a small knife. Maniego got out of the sidecar and ran to the barangay hall for help. Upon finding that the barangay chairman was not around, Maniego went to check on her common-law spouse, Jondel Santiago (Santiago), at the house of Santiago's mother.[4] On her way there, she saw

the accused stab Santiago four (4) times from a distance of five (5) to six (6) meters. The distance between where Maniego was punched and where Santiago was stabbed was about nine (9) meters.[5] Maniego then saw the accused flee the scene of the crime carrying a knife and heading towards Juan Luna Street. Seeing that Santiago was mortally hurt, Maniego rushed Santiago to Gat Andres Bonifacio Hospital but he later expired. While Maniego was at the hospital, she saw the accused, who was being treated after an angry crowd mauled her. Maniego informed the policeman who was escorting the accused that it was the latter who had stabbed and killed Santiago.[6]

After receiving the information from Maniego, the accused was arrested and brought to police headquarters.[7]

On cross-examination, Maniego testified that she had known the accused for almost ten years and had a close relationship with her. She stated that the accused got angry with her when she eloped with Santiago.[8]

Sicor, Maniego's mother, corroborated Maniego's testimony. She saw the accused punch Maniego several times while they were inside the sidecar on February 24, 2002. The accused then grabbed her and stabbed her in her buttocks with a small knife. She said that after she was stabbed, two sidecar boys came to her aid and brought her to the hospital. She added that she was released from the hospital two hours after receiving treatment.[9]

PO3 Alateit testified that on the day of the incident, he was riding his motorcycle on his way home. While he was on the corner of Juan Luna and Moriones Streets, it was reported to him that a stabbing incident had taken place. He headed towards an area where a crowd was causing a commotion. He then saw a woman who looked like a lesbian running towards him. Her head was bloodied. He handcuffed the injured woman after he was informed that she had stabbed someone. At the time of her arrest, a sharp object fell from the woman's waist. He confiscated the item and brought the woman to the police station and to Gat Andres Bonifacio Hospital. He identified the woman as the accused.[10]

Both the prosecution and the defense stipulated that Senior Police Officer 2 Edison Bertoldo was the police investigator in the case against the accused and that he prepared the following:

- (1) Sworn Statement of Maniego, Exhibit "A";
- (2) Affidavit of Apprehension of PO3 Alateit, Exhibit "C";
- (3) Booking Sheet and Arrest Report, Exhibit "E";
- (4) Crime Report dated February 25, 2002, Exhibits "F," "F-1" and "F-2"; and
- (5) Request for Laboratory Examination dated February 27, 2002, Exhibit "F-3." [11]

The last witness for the prosecution, PO3 Samson, testified that on the date of the incident, he was assigned at the Western Police District Crime Laboratory Division. He presented before the court the sharp object used in stabbing the victim (Exhibit "M") and the Request for Laboratory Examination (Exhibit "M-1"). [12]

For their part, the defense offered the testimonies of the accused and Dr. Mario Lato.

Chiefly relying on denial as her defense, the accused claimed that on the date of the stabbing incident, she confronted Maniego and asked her if it was true that she had been spreading the rumor that the accused was insane. Maniego answered in the affirmative. Angered, the accused slapped Maniego and left, leaving Santiago, Sicor, and Maniego in pursuit. Santiago then hit her with a lead pipe. Since she needed medical treatment after the attack, she was brought to Gat Andres Bonifacio Medical Hospital by her mother and a barangay kagawad. [13]

At the police station, the accused denied killing Santiago. She averred that nothing was found on her body when she was frisked. She said that the knife recovered by PO3 Alateit was not hers and that there were other people in the area where it was found. She added that she had an argument only with Maniego, not with Sicor or Santiago. [14]

Dr. Mario Lato testified that on February 24, 2002, he treated the accused, who had a laceration on the head which was possibly caused by a hard object such as a pipe. He said that the accused sustained a two-centimeter laceration in her mid-pectoral area.[15]

Ruling of the Trial Court

On January 18, 2008, the RTC convicted the accused of Murder in Crim. Case No. 02-200106 and Less Serious Physical Injuries in Crim. Case No. 02-200107. The dispositive portion of the RTC Decision reads:

WHEREFORE, this court finds accused Cecilia Lagman y Pring guilty of Murder in Crim. Case No. 02-200106. She is sentenced to suffer reclusion perpetua and to pay the heirs of the victim Jondel Lari Santiago, the amount of P50,000 as civil indemnity. In Crim. Case No. 02-200107, this court finds same accused guilty of Less Serious Physical Injuries. She is sentenced to suffer six (6) months of arresto mayor and to pay Violeta Sicor the amount of P25,000 as temperate damages.

SO ORDERED.[16]

Ruling of the Appellate Court

On appeal, accused-appellant faulted the trial court for not considering the inconsistencies and contradictions in the testimony of prosecution witness Maniego. She also averred that the same witness' credibility was improperly appreciated, as the judge who heard the case was different from the one who rendered the decision.

The CA affirmed the findings of the RTC. The appellate court ruled that the totality of the prosecution's evidence showed that accused-appellant's guilt was proved beyond reasonable doubt. It added that accused-appellant failed to show any ill motive on the part of the prosecution witnesses to falsely testify against her. The dispositive portion of the May 14, 2010 CA Decision reads:

WHEREFORE, premises considered, the Decision dated January 18, 2008 of the Regional Trial Court of Manila, Branch 18 in Criminal Case Nos. 02-200106 and 02200107 is AFFIRMED.[17]

Hence, We have this appeal.

The Issues

I

Whether the CA erred in finding accused-appellant guilty beyond reasonable doubt

II

Whether the CA erred in giving credence to the testimony of the prosecution's witness despite patent inconsistencies

III

Whether the CA erred in finding that the killing of the victim was attended by treachery

The defense reiterates previous arguments calling for an acquittal of accused-appellant. It casts doubt on Maniego's testimony, claiming that it has irreconcilable inconsistencies which affected her credibility.

The defense also calls attention to the fact that Maniego testified before Judge Romulo A. Lopez, while the Decision was penned by Judge Myra Garcia-Fernandez.[18] It is further contended that Maniego did not actually witness Santiago being stabbed, because she admitted in court that she found out that Santiago had been stabbed when she was already at the hospital attending to her injured mother.

Moreover, it is pointed out by the defense that the victim was 5'8" in height and of average built while

accused-appellant is only 4'11". It is, thus, incredible that she could have inflicted fatal wounds on the victim.

Lastly, the defense argues that the prosecution was unable to prove that the killing of Santiago was accompanied by treachery. Assuming that accused-appellant did stab the victim, the defense claims that it was not proved that she deliberately and consciously adopted her mode of attack. The encounter was even preceded by a confrontation between accused-appellant and Maniego, and it was Sicor and Santiago who followed accused-appellant after the confrontation. The stabbing incident should have been considered as having occurred in the spur of the moment.

Our Ruling

We deny the appeal, but modify the CA Decision.

Elements of Murder Established

The elements of murder that the prosecution must establish are (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code (RPC); and (4) that the killing is not parricide or infanticide.[19]

The prosecution was able to clearly establish that Santiago was killed and that it was accused-appellant who killed him as there was an eyewitness to the crime. Santiago's killing was attended by the qualifying circumstance of treachery as testified to by the prosecution eyewitness, Maniego. Paragraph 16, Art. 14 of the RPC defines treachery as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make.

Maniego's testimony proved the presence of treachery in this case, as follows:

Q

What did you do after Cecilia Lagman punched you in your face?

A

I went outside of the side car x x x, and I went to the barangay hall to ask help x x x.

Q

And what happened after that?

x x x x

A

'Papauwi na po ako sa bahay ng biyenang ko sakto po ng pagpunta ko ho doon nasalubong po ni Cecilia Lagman si Jondel Mari wala hong sabi sabi inundayan po niya ng saksak si Jondel Mari.' (When I went home to the house of my mother-in-law because the barangay chairman was not in the barangay hall Jondel Mari met [sic] Cecilia Lagman and without any word Cecilia Lagman stabbed Jondel Mari.)

Q

And in what place was that where Cecilia Lagman suddenly stabbed Jondel Mari Santiago?

A

At Asuncion, Lakandula [in Tondo Manila] x x x.

Q

When you saw Cecilia Lagman stabbed Jondel Santiago how far were you?

A

(Witness demonstrating 5 to 6 meters away).

x x x x

Q

What was Jondel Santiago doing when he was stabbed by Cecilia Lagman?

A

He was lighting a cigarette x x x.

Q

And what was the reaction of Jondel Santiago when he was stabbed by Cecilia Lagman?

A

‘Nabigla po kasi hindi naman niya alam na sasaksakin siya eh.’ [He was shocked because he did not know he was going to be stabbed.]

Q

What part of the body of Jondel Santiago was hit when he was stabbed?

A

One at the chest and two at the back and one at the neck. x x x

Q

x x x [I]f the person who boxed you on the face is in court, will you be able to identify her?

A

Yes x x x.

x x x x

x x x [Witness pointing to a woman, Cecilia Lagman]

Q

x x x [I]f the person whom you saw stabbed Jondel Santiago four times is in court will you be able to identify him or her?

A

‘Siya rin po.’ [She is the same person.][20]

In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.[21] The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.[22] These elements were present when accused-appellant

stabbed Santiago. We quote with approval the appellate court's finding on the presence of treachery:

In the case at bar, the victim was caught off guard when appellant, without warning, stabbed him four times successively leaving the latter no chance at all to evade the knife thrusts and defend himself from appellant's onslaught. Thus, there is no denying that appellant's act of suddenly stabbing the victim leaving the latter no room for defense is a clear case of treachery.[23] x x x

Regardless of the alleged disparity in height between accused-appellant and the victim, We affirm the finding of the trial court, as affirmed by the CA, that accused-appellant's method of inflicting harm ensured that she would fatally wound Santiago without risk to herself. The perceived advantage of the victim in terms of height was of no use to him as accused-appellant employed treachery in attacking him. He was not afforded a means to defend himself as accused-appellant suddenly started stabbing him repeatedly with an improvised knife.

Finally, the killing of Santiago was neither parricide nor homicide.

Credibility of Prosecution Witnesses

We see no reason to overturn the findings on the credibility of the prosecution witnesses. It has been long settled that when the issues raised concern the credibility of a witness, the trial court's findings of fact, its calibration of testimonies, and its assessment of the testimonies' probative weight, including its conclusions based on said findings, are generally given conclusive effect. It is acknowledged that the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth.[24] Furthermore, accused-appellant failed to show why Maniego and her mother would falsely accuse her of committing a terrible crime. Maniego was the common-law spouse of the victim and she would naturally want to seek justice for his death as well as the injury sustained by her mother.

An examination of the records shows that there is no truth to the allegation of accused-appellant that Maniego did not witness the stabbing of Santiago. She clearly testified that accused-appellant first stabbed Santiago on the chest, then on the side of his neck, then twice on his back.[25]

On the other allegation of accused-appellant, We have earlier held that the fact that the judge who rendered judgment was not the one who heard the witnesses does not adversely affect the validity of conviction.[26] That the trial judge who rendered judgment was not the one who had the occasion to observe the demeanor of the witnesses during trial but merely relied on the records of the case does not render the judgment erroneous, especially where the evidence on record is sufficient to support its conclusion.[27]

Alibi as a Defense

The defense of alibi is likewise unconvincing. Accused-appellant was positively identified by eyewitnesses. She herself admitted that she confronted one of the eyewitnesses, Maniego, moments before she was seen attacking Maniego, Santiago and Sicor. 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.[28] In accused-appellant's case, there is no corroborative evidence of her alibi or proof of physical impossibility of her being at the scene of the incident to shore up her defense.

Elements of Less Serious Physical Injuries Not Established

We modify the conviction of accused-appellant with regard to Criminal Case No. 02-200107. Originally charged with frustrated murder, accused-appellant was convicted of less serious physical injuries in Criminal Case No. 02-200107. The RTC reasoned that the stabbing injury sustained by Sicor was not on a vital part of the body and

she was able to leave the hospital two hours after receiving medical treatment. The RTC properly ruled that the crime committed was not frustrated murder as it was not shown that there was intent to kill.[29] However, while the RTC correctly ruled that the accused-appellant is not guilty of frustrated murder in Criminal Case No. 02-200107, the records do not support a conviction for less serious physical injuries.

Art. 265 of the RPC provides, “Any person who shall inflict upon another physical injuries not described [as serious physical injuries] but which shall incapacitate the offended party for labor for ten (10) days or more, or shall require medical attendance for the same period, shall be guilty of less serious physical injuries and shall suffer the penalty of *arresto mayor*.” Nothing in the records, however, supports the finding that Sicor was incapacitated for labor for ten (10) days or more or that she required medical attention for the same period. After the wound on her buttocks was treated, Sicor was released two hours after she was admitted to the hospital.[30] She later returned to the hospital for the removal of the suture on her wound, according to the RTC, “after a certain period of time.”[31] The Medico-Legal Report on Sicor (Exhibit “H”) does not indicate how many days of medical treatment her injury would need.[32] Sicor, however, testified that she lost two (2) days of work on account of the injury she sustained.[33] The testimony of her attending physician, Dr. Christian Dennis Cendeno, on the other hand, was dispensed with following a stipulation by the parties on his testimony.[34] The prosecution was, therefore, unable to establish that the injury sustained by Sicor falls under less serious physical injuries absent the requirement that her injury required medical attention for 10 days or incapacitated her for the same period.

The Court can, thus, only convict accused-appellant of slight physical injuries. Under par. 1, Art. 266 of the RPC, the penalty for slight physical injuries is *arresto menor* “when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period.” There being no modifying circumstances to be appreciated, and in accordance with par. 1 of Art. 64,[35] accused-appellant should be meted a penalty of imprisonment of *arresto menor* in its medium period, which has a duration of eleven (11) to twenty (20) days under Art. 76 of the RPC.

Pecuniary Liability

The CA affirmed the award of PhP 50,000 as civil indemnity in Criminal Case No. 02-200106 and PhP 25,000 as temperate damages in Criminal Case No. 02-200106.

People v. Combate[36] reiterated the rule on civil indemnity and damages:

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. In *People v. Tubongbanua*, interest at the rate of six percent (6%) was ordered to be applied on the award of damages. This rule would be subsequently applied by the Court in several cases such as *Mendoza v. People*, *People v. Buban*, *People v. Guevarra*, and *People v. Regalario*. Thus, we likewise adopt this rule in the instant case. Interest of six percent (6%) per annum should be imposed on the award of civil indemnity and all damages, i.e., actual or compensatory damages, moral damages and exemplary damages, from the date of finality of judgment until fully paid.

In accordance with the rules cited above, We modify the award of damages. In line with prevailing jurisprudence,[37] the award of civil indemnity *ex delicto* of PhP 50,000 in favor of the heirs of Santiago is in order. Moral damages of PhP 50,000 and PhP 30,000 in exemplary damages, with an interest of six percent (6%) per annum, are also proper.[38]

We delete the award of PhP 25,000 in temperate damages to Sicor, since only slight physical injuries were committed and no proof of medical expenses was presented during trial.

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 03289 finding accused-appellant guilty of Murder in Criminal Case No. 02-200106 is AFFIRMED with MODIFICATIONS. Accused-appellant is ordered to indemnify the heirs of the late Jondel Mari Davantes Santiago the sum of PhP 50,000 as civil indemnity, PhP 50,000 as moral damages, PhP 30,000 as exemplary damages, and interest on all damages at the rate of six percent (6%) per annum from the finality of judgment until fully paid. With respect to Criminal Case No. 02-200107, accused-appellant is convicted of SLIGHT PHYSICAL INJURIES and is sentenced to twenty (20) days of arresto menor. The award of temperate damages is DELETED.

SO ORDERED.

Peralta, Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 2-17. Penned by Associate Justice Ruben C. Ayson and concurred in by Associate Justices Amelita G. Tolentino and Normandie B. Pizarro.

[2] CA rollo, pp. 20-36. Penned by Judge Myra V. Garcia-Fernandez.

[3] Id. at 20.

[4] Records, pp. 5-6.

[5] Id. at 13.

[6] CA rollo, p. 24.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 27.

[12] Id. at 28.

[13] Id. at 29.

[14] Id. at 30.

[15] Id. at 77-78.

[16] Id. at 36. The Information refers to Santiago as "Jondel Mari Santiago."

[17] Id. at 16.

[18] Id. at 20-36.

[19] People v. Gabrino, G.R. No. 189981, March 9, 2011; citing People v. Dela Cruz, G.R. No. 188353, February 16, 2010, 612 SCRA 738, 746.

[20] TSN, August 27, 2002, pp. 4-10.

[21] People v. Manulit, G.R. No. 192581, November 17, 2010, 635 SCRA 426, 438; citing People v. Reyes, G.R. No. 118649, March 9, 1998, 287 SCRA 229, 238.

[22] *People v. Barangay Capt. Tomas, Sr.*, G.R. No. 192251, February 16, 2011; citing *People v. Rosas*, G.R. No. 177805, October 24, 2008, 570 SCRA 117, 133.

[23] Rollo, pp. 15-16.

[24] *People v. Barde*, G.R. No. 183094, September 22, 2010, 631 SCRA 187, 208-209; citing *People v. Lalongisip*, G.R. No. 188331, June 16, 2010, 621 SCRA 169.

[25] Rollo, p. 69.

[26] *People v. Paling*, G.R. No. 185390, March 16, 2011.

[27] *Id.*; citing *People v. Hatani*, G.R. Nos. 78813-14, November 8, 1993, 227 SCRA 497, 508.

[28] *People v. Sally*, G.R. No. 191254, October 13, 2010, 633 SCRA 293, 304; citing *People v. Sobusa*, G.R. No. 181053, January 21, 2010, 610 SCRA 538, 558.

[29] See *People v. Aviles*, G.R. No. 172967, December 19, 2007, 541 SCRA 265, 276.

[30] Records, p. 13.

[31] CA rollo, p. 35.

[32] Records, p. 36.

[33] *Id.* at 14.

[34] *Id.* at 5-6.

[35] Paragraph 1 of Art. 64 states that “When there are neither aggravating nor mitigating circumstances, [courts] shall impose the penalty prescribed by law in its medium period.”

[36] G.R. No. 189301, December 15, 2010, 638 SCRA 797.

[37] *People v. Barangay Capt. Tomas, Sr.*, *supra* note 22; citing *People v. Dela Cruz*, G.R. No. 188353, February 16, 2010, 612 SCRA 738, 751-752.

[38] *People v. Gabrino*, G.R. No. 189981, March 9, 2011; citing *People v. Combate*, *supra* note 36.

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