

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO EDAÑO AND NESTOR EDAÑO, ACCUSED, ANTONIO EDAÑO ACCUSED-APPELLANT.

G.R. No. 206970. July 29, 2015

Ponente: PEREZ, J.

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PEREZ, J.:

Before us for review is the Decision[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 00846 dated 28 August 2012 which affirmed the Judgment[2] of the Regional Trial Court (RTC) of Carigara, Leyte, Branch 13 in Criminal Case No. 2881 finding accused-appellant Antonio Edaño guilty beyond reasonable doubt of the crime of murder.

Accused-appellant, together with co-accused Nestor Edaño (Nestor) was charged with murder in an Information, the accusatory portion of which reads:

That on or about the 21[st] day of March, 1999 in the [M]unicipality of Leyte, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with deliberate intent, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one LEONARDO DABALOS with the use of knife (pisao) which the accused have provided themselves for the purpose, thereby inflicting upon the latter the following wounds to wit:

- Incised wound, right side of lower face just beside [the] nose, measuring 1 inch long x ¼ inch wide x skin deep.
- Incised wound anterior neck, measuring 8 inches long x 4 inches wide x 2 inches deep damaging the esophagus and the big blood vessels on both lateral side of neck.
- Incised wound upper anterior abdomen across the epigastrium measuring 4 inches long x 1 inch wide x 2 inches deep with liver damaged and large intestine.
- Incised wound perpendicular to wound number 3, anterior abdomen, from epigastric region downward to the right iliac region, measuring 8 inches long x 4 inches wide x 2 inches deep, damaging the intestines.
- Incised wound over hypogastrium, measuring 3 inches long x 1 inch wide x 2 inches deep damaging the urinary bladder.
- Stab wound, multiple at lower back 1/3 inch long x skin-deep.
- Stab wounds, left lower back just below the left scapula measuring 1/3 inch long x skin-deep.

which wounds caused the death of said Leonardo Dabalos.[3]

Nestor was arrested on 28 June 1999. Trial proceeded against him. He was eventually convicted by the RTC on 29 November 2001. Accused-appellant remained at large and was only arrested on 31 August 2005.

During accused-appellant's scheduled arraignment on 28 September 2005, he entered a "not guilty" plea to the offense charged. The trial proceeded. The prosecution presented four witnesses and adopted the testimonies and exhibits presented in the case against Nestor in lieu of the death of witnesses Fernando Layson (Fernando) and Monico Dabalos (Monico).

The facts, as narrated by prosecution witnesses, follow.

In the evening of 21 March 1999 at around 6:00 p.m., Fernando was about to cross a riverbank on his way home when he heard a person moaning. He quietly followed the sound and saw Leonardo Dabalos (Leonardo) being stabbed by accused-appellant while Nestor held him on both arms. He saw accused-appellant stab Leonardo at least three times with a bolo measuring approximately eight inches long. Fernando witnessed the incident while hiding behind some plants. Terrified by the incident, Fernando did not go home and instead went to the house of his brother in Leyte. He told his brother the stabbing incident that he witnessed. On the following day, Fernando reported the matter to the police and to Leonardo's family. Fernando accompanied Monico, Leonardo's son, and the police officers to the scene of the crime. Thereat, they found Leonardo sprawled on the ground. Leonardo sustained seven stab wounds on different parts of his body.

Florante Paa (Florante) testified that there was an altercation between the accused and the victim one week before the stabbing incident.[4] Police Officer 2 (P02) Ruben Astilla received a report from Florante about the killing of Leonardo.[5] Senior Police Officer 3 (SPO3) Roque Baronda identified the entry in the police blotter of the incident.[6] PO3 Margarito Delantar (PO3 Delantar) led the criminal investigation on the death of Leonardo. Based on the testimonies of Fernando and Monico, his office formally filed a complaint against the accused.[7]

Accused-appellant testified in his defense and interposed denial and alibi. Accused-appellant claimed that he was already residing in Babatngon, Leyte when the incident happened. Accused-appellant admitted that Nestor is his cousin. He mentioned that Nestor and Leonardo had a fight during the wedding of his cousin. In said fight, accused-appellant stated that he even sided with Leonardo. Accused-appellant claimed that he had a misunderstanding with Fernando when he was still living in Leyte, Leyte prompting him to leave for Babatngon, Leyte. Accused-appellant explained that he did not surrender despite knowledge of a case filed against him because he was innocent. [8]

On 24 January 2008, accused-appellant was found guilty beyond reasonable doubt of murder. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, the [c]ourt found accused ANTONIO EDAÑO, GUILTY, beyond reasonable doubt of the crime of MURDER, charged in the information pursuant to Art. 248 of the Revised Penal Code as amended and further amended by R.A. No. 7659 (Death Penalty Law), and sentenced to suffer the maximum penalty of RECLUSION PERPETUA and to pay civil indemnity in the amount of Fifty Thousand (P50,000.00) Pesos and exemplary damages in the amount of Twenty Five Thousand (25,000.00) Pesos to the heirs of Leonardo Dabalos; and

Pay the Cost.[9]

Accused-appellant filed a Notice of Appeal on 29 January 2008.[10]

On 28 August 2012, the Court of Appeals rendered the assailed judgment affirming in toto the trial court's decision.

Accused-appellant filed the instant appeal. In a Resolution[11] dated 22 July 2013, accused-appellant and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Both parties manifested that they were adopting their briefs filed before the appellate court.[12]

In his Brief, accused-appellant targets the credibility of Fernando as an eyewitness to the alleged stabbing incident. Accused-appellant argues that Fernando's testimony was fraught with improbabilities. First, accused-appellant insists that Fernando's failure to intervene and seek help cast doubt on the credibility of his testimony. Second, accused-appellant maintains that it was impossible for Fernando to identify the perpetrators when he admitted to have been hiding in darkness. Third, accused-appellant asserts that Fernando had the ill motive to testify against him because the latter held a grudge against him when their former landlord entrusted to accused-appellant the land and carabao used in farming. Fourth, accused-appellant notes that Fernando testified that he saw him stab Leonardo thrice but the total stab wounds found on Leonardo's body is seven. Finally, accused-appellant avers that the prosecution's evidence contained no proof of treachery to qualify the crime to murder.

The OSG defends the actuations of Fernando in not intervening in the stabbing incident. The OSG posits that Fernando may have been too shocked when he witnessed the stabbing incident or that for fear of being wounded, he chose to keep quiet.

There is no merit in this appeal.

At the outset, we give imprimatur to the utilization of the testimonies of Fernando and Monico presented in the trial of Nestor. Both of these witnesses were already deceased during accused-appellant's trial. Pursuant to Section 47, Rule 130 of the Rules of Court, the testimony or deposition of a witness deceased or unable to testify, given in a former case or proceeding, judicial or administrative, involving the same parties and subject matter, may be given in evidence against the adverse party who had the opportunity to cross-examine him. In this case, the prosecution properly offered the testimonies of Fernando and Monico in the case against Nestor.

The testimony of the lone eyewitness Fernando is sufficient to prove accused-appellant's complicity.

During the direct examination, Fernando gave a straightforward narration of the stabbing incident and positively identified accused-appellant and his co-accused as the assailants. His testimony is consistent with the contents of his sworn statement taken on 23 March 1999 by PO3 Delantar in the office of the Investigation Section of Leyte Police Station, thus:

Q- - - 7.

Will you narrate to the investigator the nature of the incident?

A - - -

That on or about 6:30 o'clock in the afternoon of March 21, 1999 while I was on my way home at Brgy. Elizabeth, Leyte, Leyte and while I was about to reach the river to which I am going to cross, I notice and heard a strange sound/voice asking for help. I immediately hide myself at the bushes and slowly move to the place where the voice came from. There I saw ANTONIO EDAÑO stabbing LEONARDO DABALOS while NESTOR EDAÑO is holding the hands of Leonardo Dabalos at his back.

Q- - - 8.

After that what transpired next?

A - - -

I slowly went back on my way to poblacion because I am afraid that I might be seen by them and kill me also.

Q- - - 9.

How many times did the perpetrator stabbed the victim?

A- - -

Many times sir.

Q- - - 10.

How far were you from the crime scene?

A- - -

More or less Ten (10) meters sir.

Q- - - 11.

Since it was night time, how could you able to identify the suspect?

A- - -

Because the moon was bright sir and aside from that I know them very well for we are living in the same place and they were my neighbors.

Q- - - 12.

What kind of weapon use by the suspect?

A- - -

Short bladed weapon (pisaw) sir.

Q- - - 13.

Aside from you, were there other person who can testify the veracity of the incident?

A- - -

I don't know sir.

Q- - - 14.

Did this incident reported to the authorities?

A- - -

Yes sir, to the Brgy. Chairman of Brgy. Elizabeth and to the police station.

Q- - - 15.

What do [you] think the motive of the incident?

A- - -

I don't know sir.

Q- - - 16.

When and where this incident happened?

A- - -

Last March 21, 1999 at about 6:30 o'clock in the afternoon more or less at Brgy. Elizabeth, Leyte, Leyte.

Q- - - 17.

What else can you say in this investigation?

A- - -

No more sir.

Q- - - 18.

Are you willing to sign this statement?

A- - -

Yes, sir.[13]

As to accused-appellant's argument that it was impossible for Fernando to identify him as the assailant since it was dark, Fernando himself confirmed that it was a moonlit night and that at 6:30 p.m. it was still clear. In *People v. Lopez*, [14] we held that illumination from the moon and even from the stars is fair and sufficient to identify perpetrators of crimes.

Fernando's failure to come to Leonardo's aid and to immediately report the incident do not affect the credibility of Fernando.

No standard form of behavioral response can be expected from anyone when confronted with a startling or frightful occurrence.[15] As observed by the Court of Appeals:

Thus, witness [Fernando] cannot be faulted for reacting the way he did during the incident. Human experience dictates that when a person is confronted with a threatening environment, the natural reaction is to secure his safety. Indeed, this is what [Fernando] did in staying home with his brother for the night. It is to be noted that upon the break of first light the following day, Fernando reported what he witnessed to the authorities as early as 5:00 a.m. He went on to break the news to the victim's family an hour after. These actions are conformable with his sworn statement and are logical responses considering his recent traumatic experience.[16]

While Fernando stated in court that he saw accused-appellant stab Leonardo three times, the fact that Leonardo sustained seven stab wounds does not demolish Fernando's narration. Note that when Fernando heard Leonardo's cry for help, the incident was ongoing. Leonardo was continuously being attacked by the accused even after Fernando left the crime scene. It is thus safe to speculate that Leonardo was stabbed a few more times either before Fernando stumbled upon the incident or immediately after he left.

Accused-appellant tried to attribute improper motive to Fernando to falsely testify against him. Accused-appellant however failed to substantiate his claim. He could not even state the family name of the landlord whom he claimed to be the reason why Fernando had grudge against him. Furthermore, accused-appellant's flight to elude arrest until his apprehension six years later is not consistent with his claim of innocence.

Accused-appellant committed murder qualified by treachery.

Even though the lower courts found that abuse of superior strength attended the commission of the crime, it was not appreciated as a qualifying or aggravating circumstance because it cannot serve to qualify or aggravate the felony at issue since it is jurisprudentially settled that when the circumstance of abuse of superior strength concurs with treachery, the former is absorbed by the latter.[17]

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. The requisites of treachery are:

(1) The employment of means, method, or manner of execution which will ensure the safety of the malefactor from defensive or retaliating acts on the part of the victim, no opportunity being given to the latter to defend himself or to retaliate; and

(2) Deliberate or conscious adoption of such means, method, or manner of execution.[18]

Treachery, in this case, is evident from the fact that the method employed by the accused rendered Leonardo helpless. Both of Leonardo's arms were held by Nestor while accused-appellant was stabbing him. Clearly, this manner of execution left the victim with no opportunity to defend himself or even to retaliate.

Article 248 of the Revised Penal Code provides that the penalty for the crime of murder is reclusion perpetua to death. As correctly imposed by the trial court and as affirmed by the Court of Appeals, accused-appellant must suffer the prison term of reclusion perpetua, the lower of the said two indivisible penalties, due to the absence of an aggravating circumstance attending the commission of the crime. Accused-appellant, however, is not eligible for parole pursuant to Section 3 of Republic Act No. 9346 which states that persons convicted of offenses punished with reclusion perpetua, or whose sentence 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.[19]

Anent the award of damages, the amount of civil indemnity must be increased to P75,000.00, and exemplary damages to P30,000.00 in line with prevailing jurisprudence.[20] The award of moral damages in the amount of P75,000.00[21] is also proper in view of the recognized fact that death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family.[22] Since the RTC and the Court of Appeals did not award actual damages, we award temperate damages in the amount of P25,000.00 as it cannot be denied that the heirs of the victim suffered pecuniary loss although the exact amount was not proved.[23] In addition, all damages awarded shall earn interest at the rate of 6% per annum from date of finality of this judgment until fully paid.[24]

WHEREFORE, premises considered, the Decision dated 28 August 2012 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00846 finding accused-appellant Antonio Edaño guilty beyond reasonable doubt of the crime of Murder is hereby **AFFIRMED** with **MODIFICATIONS**. Accused-appellant is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole and is ordered to pay the heirs of the victim the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P30,000.00 as exemplary damages, and P25,000.00 as temperate damages, plus interest at the rate of six percent (6%) per annum from the finality of this judgment until fully paid.

SO ORDERED.

Leonardo-De Castro,* (Acting Chairperson), Peralta,** Bersamin, Perez, and Perlas-Bernabe, JJ., concur.

[*] Per Special Order No. 2102 dated 13 July 2015.

[**] Acting member per Special Order No. 2103 dated 13 July 2015.

[1] Rollo, pp. 3-12; Penned by Associate Justice Gabriel T. Ingles with Associate Justices Pampio A. Abarintos and Melchor Q.C. Sadang concurring.

[2] Records, pp. 137-147; Presided by Presiding Judge Crisostomo L. Garrido.

[3] Id. at 2.

- [4] TSN, 7 September 2006, p. 5.
- [5] TSN, 20 July 2006, p. 3.
- [6] TSN, 10 August 2006, pp. 3-4.
- [7] TSN, 31 May 2007, pp. 3-6.
- [8] TSN, 30 August 2007, pp. 3-6.
- [9] Records, p. 147.
- [10] Id. at 148.
- [11] Rollo, p. 18.
- [12] Id. at 21-22 and 29-30.
- [13] Exhibit of the Case (no proper pagination).
- [14] 371 Phil. 607, 621 (1999) citing *People v. Oliano*, 350 Phil. 604, 625 (1998) further citing *People v. Gamboa, Jr.*, 229 Phil. 298, 308 (1986); See also *People v. Villaruel*, 330 Phil. 79, 88-89 (1996) and *People v. Vacal*, 136 Phil. 284, 287 (1969).
- [15] *People v. Castillo*, 474 Phil. 44, 56 (2004).
- [16] Rollo, p. 10.
- [17] *People v. Dadao*, G.R. No. 201860, 22 January 2014, 714 SCRA 524, 539.
- [18] *Cirera v. People*, G.R. No. 181843, 14 July 2014, 730 SCRA 27, 47.
- [19] *People v. Gunda*, G.R. No. 195525, 5 February 2014, 715 SCRA 505, 511-512.
- [20] *People v. Abaigar*, G.R. No. 199442, 7 April 2014, 721 SCRA 73, 78.
- [21] *People v. De Leon*, G.R. No. 197546, 23 March 2015.
- [22] *People v. Delos Santos*, G.R. No. 207818, 23 July 2014, 731 SCRA 52, 65.
- [23] *People v. Zulieta*, G.R. No. 192183, 11 November 2013, 709 SCRA 202, 212.
- [24] *People v. Quisayas*, G.R. No. 198022, 7 April 2014, 721 SCRA 16, 36.

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