

## **PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. CESAR BALAO Y LOPEZ, ACCUSED-APPELLANT.**

*G.R. No. 207805. November 22, 2017*

Ponente: LEONEN, J.

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### **LEONEN, J.:**

The testimony of a single eyewitness to a crime, even if uncorroborated, produces a conviction beyond reasonable doubt as long as it is credible and positive.[1] A considerable lapse of time between the commission of the offense and the identification of the accused in open court, by itself, would be insufficient to overturn a finding of guilt.

This resolves an appeal from the October 31, 2012 Decision[2] of the Court of Appeals in CA-G.R. CR-HC No. 04765, which affirmed the conviction of Cesar Balao y Lopez (Balao) for the crime of murder.

In the Information[3] dated February 8, 2001, Balao was charged of murder, The accusatory portion of this Information read:

That on or about April 10, 1991, in the City of Manila, Philippines, the said accused, conspiring and confederating together with others whose true names, identities and present whereabouts are still unknown and helping one another, did then and there wilfully, unlawfully and feloniously with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon one WILFREDO VILLARANDA, by then and there stabbing the latter with a bladed weapon, hitting him on the right upper chest, thereby inflicting upon him mortal wound which was the direct and immediate cause of his death thereafter.

Contrary to law.[4]

The case was initially archived on November 29, 2001[5] but was revived on January 21, 2003, upon Balao's apprehension.[6] During arraignment, Balao pleaded not guilty.[7]

On June 3, 2003, the case was provisionally dismissed due to the repeated absence of the prosecution's material witnesses. Balao was then released. Eight (8) days later, the case was revived upon motion of the prosecution. Trial on the merits ensued.[8] At first, Balao was absent during trial as he was hiding under a different name and was detained at the San Juan Municipal Jail for the crime of theft.[9] Upon order of the trial court, Balao was transferred to Manila City Jail.[10]

The prosecution presented the following witnesses: Rodel Francisco (Francisco); Christopher Villaranda (Christopher); SPO2 Federico Bernardino (SPO2 Bernardino); and Dr. Valentin Bernales (Dr. Bernales).[11] Asuncion M. Villaranda was also presented to testify on the civil aspect of the case. Their collective testimonies produced the prosecution's version of the incident.

Christopher, a brother of victim Wilfredo Villaranda (Wilfredo), narrated that at around 7:00 p.m. on April 9, 1991, he and his friend were walking along Tejeron Street near Don Mariano Marcos High School in Sta. Ana, Manila. Roberto "Obet" Espejo (Espejo) suddenly came out of nowhere, poked him with an arrow, and then

left.[12]

The next day, Christopher chanced upon Espejo in front of Don Mariano Marcos High School. Christopher asked Espejo why he poked him the previous night to which Espejo replied, "Wala kang pakialam, gago ka." [13] This enraged Christopher. A fistfight ensued between them, Espejo lost and threatened Christopher by saying, "Isusumbong kita kay Cesar Balao." [14] Christopher brushed off Espejo's threat and decided to go home. While Christopher was on his way home, he met a friend who invited him to watch a movie.[15]

At around 11:45 a.m. of the same day, Francisco was in front of Don Mariano Marcos High School. He narrated that he saw Wilfredo on a bicycle, engaged in a conversation with Espejo and a certain Purong.[16] Francisco, who stood four (4) to five (5) meters away from the group, overheard Espejo inquiring about Christopher's whereabouts. While the three (3) were chatting, Balao suddenly appeared behind Wilfredo and stabbed him in the chest with a fan knife. Espejo, Purong, and Balao immediately fled from the scene. Wilfredo alighted from his bicycle and tried to chase them but he fell down. Wilfredo was immediately rushed to Trinity General Hospital. However, he was pronounced dead on arrival.[17] Francisco testified that he knew Balao as a troublemaker in the area. He also stated that Balao, Espejo, and Purong were members of the Dupaks Fraternity.[18]

Christopher only learned about his brother's death later that day.[19]

On the other hand, Balao interposed the defense of alibi. The defense presented the following witnesses: Fausto Balao (Fausto), Balao's father; Elda Magat (Magat); Anita Lumbaga (Lumbaga); Luzviminda Balao-Vergara (Luzviminda). Balao's sister; and Balao himself. Their collective testimonies produced the defense's version of the alleged incident.

Balao narrated that at 7:00 p.m. on April 9, 1991, he and his family boarded a bus bound for Cagayan Province. His eldest sister, Luzviminda,[20] arrived from Japan and wanted to visit Piat Church, being a devotee of Our Lady of Piat. Balao and his family arrived in Cagayan on April 10, 1991, They stayed for one (1) night at a relative's house in Catotoran, Camalaniugan. The next day, they went to Piat Church. After hearing mass, Balao and Luzviminda took photographs to commemorate their visit. Balao and his family left the province after a few days and arrived in Manila on April 14, 1991.[21] Balao's testimony was corroborated by the testimonies of Luzviminda and Fausto.[22]

A photograph of Balao's visit to Piat Church and a photograph purportedly showing Balao with his family in Camalaniugan River were both presented in court.[23]

Magat and Lumbaga testified that they were both in Hollywood Street in Pandacan, Manila during the alleged incident. They saw four (4) persons conversing with each other within the vicinity. Both Magat and Lumbaga testified that they saw a person from the group fall down and that they did not recognize Balao from the group. However, Lumbaga stated that she had never met Balao before and that she only learned of his identity when she appeared in court.[24]

On October 12, 2010, the Regional Trial Court rendered a Decision,[25] finding Balao guilty beyond reasonable doubt of murder. The Regional Trial Court gave more weight to the positive identification of Balao as the perpetrator of the crime over Balao's defense of alibi.[26] Judgment was rendered as follows:

WHEREFORE, in view of all the foregoing, the Court finds accused CESAR BALAO y LOPEZ GUILTY beyond reasonable doubt of the crime of MURDER, and sentences him to suffer the penalty of imprisonment of reclusion perpetua.

Accused Cesar Balao is further ordered to pay the heirs of the victim Willy Villaranda the total amount of P190,000.00 representing civil indemnity as well as actual, exemplary and moral damages as clearly stated in

the body of the Decision.

Costs against the accused.

SO ORDERED.[27]

Balao filed his Notice of Appeal on November 10, 2010.[28]

In his Appellant's Brief,[29] Balao asserted that the prosecution failed to establish his guilt beyond reasonable doubt. The trial court heavily relied on the testimony of a single eyewitness to determine whether or not he was guilty of the crime charged. Although he was identified as Wilfredo's assailant, the sole eyewitness, Francisco, had ill motives against him. Therefore, Francisco's testimony should be re-examined and more weight should be given to accused-appellant's alibi, which was corroborated by the testimonies of the other defense witnesses.[30]

On the other hand, in its Appellee's Brief,[31] the Office of the Solicitor General asserted that a conviction may rest on the sole testimony of an eyewitness provided that the testimony is clear and straightforward.[32] Francisco had no ill motive against Balao or any history of quarrels with him.[33] Furthermore, Balao's defense of alibi was weak as there was no showing that it was physically impossible for him to be at the place of the commission of the crime on the day of the alleged incident.[34]

In its Decision[35] dated October 31, 2012, the Court of Appeals affirmed Balao's conviction but modified the amounts of damages:

WHEREFORE, the appeal is DENIED. The assailed decision of the RTC in Crim. Case No. 01-190439 finding the Accused-Appellant guilty of Murder and ordering the payment [of] actual and moral damages are AFFIRMED with the MODIFICATION that the award of civil indemnity is DECREASED from Seventy-Five Thousand Pesos (PhP75,000.00) to Fifty Thousand Pesos (PhP50,000.00) while the exemplary damages are INCREASED from Twenty-Five Thousand Pesos (PhP25,000.00) to Thirty Thousand Pesos (PhP30,000.00). Costs against the Accused-Appellant.

SO ORDERED.[36]

The Court of Appeals emphasized that although Francisco was the only witness who positively identified Balao as the perpetrator of the crime, his testimony was credible and sufficient to support a finding of guilt.[37] As regards Balao's alibi, the Court of Appeals observed that the photograph showing Balao in Piat Church had no date or time stamp. Even if it was proven that the photograph was taken on April 11, 1991, or the day after the alleged incident, it only established that Balao was in Piat Church on April 11, 1991 but did not prove that Balao was not in Manila the day before, the day of the alleged incident.[38]

On November 16, 2012, Balao filed, his Notice of Appeal,[39] which was given due course in the Court of Appeals January 9, 2013 Resolution.[40] The case records were then elevated to this Court on June 27, 2013.[41]

In its Resolution[42] dated August 28, 2013, this Court noted the records forwarded by the Court of Appeals and notified the parties to submit their respective supplemental briefs if they desired. Both parties manifested that they would no longer file supplemental briefs.[43]

The sole issue for this Court's resolution is whether or not accused-appellant Cesar Balao is guilty beyond reasonable doubt of murder.

Every conviction requires proof beyond reasonable doubt. This standard does not entail absolute certainty[44] but only moral certainty or that which "ultimately appeals to a person's very conscience." [45] The main consideration of every court is not whether or not it has "doubts on the innocence of the accused but whether it entertains such doubts on his guilt." [46]

The immense responsibility of discharging this burden lies with the prosecution, who must establish the identity of the perpetrator of the crime with equal certainty as the crime itself "for, even if the commission of the crime is a given, there can be no conviction without the identity of the malefactor being likewise clearly ascertained." [47]

The conviction of accused-appellant rests on the testimony of Francisco, the sole eyewitness presented by the prosecution during trial. The Court of Appeals found no reason to re-evaluate the trial court's assessment of Francisco's credibility holding that his testimony was "clear and positive in its vital points." [48]

The trial courts' assessment of a witness' credibility is generally given great weight and respect by the appellate courts. Trial courts are in the best position to gauge whether or not a witness has testified truthfully since they had "the direct opportunity to observe the witnesses on the stand." [49]

However, if there is a clear showing that the assessment was made arbitrarily or that "the trial court . . . plainly overlooked certain facts of substance or value that if considered might affect the result of the case," [50] then appellate courts would not hesitate to review the trial court's findings, especially when a person's fundamental right to liberty is at stake. [51]

Although there is value in the contention of the Office of the Solicitor General that a finding of guilt may rest solely on the testimony of a single eyewitness, this Court is not so quick to rely on this rule. Evidently, there was a considerable lapse of time between the commission of the offense and the identification of the accused in open court—12 years, six (6) months, and eight (8) days to be exact. The incident happened on April 10, 1991 but it was not until October 20, 2003 when Francisco took the witness stand [52] and it was not until April 19, 2004 when Francisco identified accused-appellant in open court. [53]

The main consideration now is whether or not this circumstance would be sufficient to overturn accused-appellant's conviction.

This Court has pored over the records of the case and has found no significant evidence that would support an acquittal. Accused-appellant's conviction is affirmed.

Francisco, the sole eyewitness, was familiar with accused-appellant and knew accused-appellant's identity and reputation even before the stabbing incident took place.

First, although Francisco did not know accused-appellant's name, Francisco knew accused-appellant's identity. In his Sinumpaang Salaysay dated April 17, 1991, Francisco stated:

T:

Saan at kalian ang sinabi mong pag-saksak kay WILFREDO VILLARANDA?

S:

Sa may Hollywood St., noong . . . Abril 10, 1991 mga bandang alas Onse kuarenta y singko ng umaga.

. . . .

T:

Sino ang nakita mong sumaksak kay WILFREDO VILLARANDA?

S:

Hindi ko po kilala sa pangalan pero sa mukha ay kilala ko at may nagsabi na ang sumaksak ay si Cesar Balao @ Tonton.[54]

Francisco explained how he came to know of accused-appellant before the stabbing incident during his cross-examination, thus:

Atty. Villanueva: Prior to the incident on April 10, 1991, do you know already this Cesar Balao?

A

Yes, sir.

Q

Why do you know him, Mr. Witness?

Witness:

"Madalas po kasi siya nandoon sa harap ng eskwelahan."

Atty. Villanueva:

Considering you said you know him, what can you say about this person?

A

"Paka ano laging nag-aabang ng away. Naghahanap ng away po."

Q

Were you involved in those occasions where he asked for a fight?

A

No, sir. "Paglabas po ng eskwelahan. Kasi officer ako noong araw. Puwede akong lumabas tapos 'yung ibang mga estudyante hindi. Natataon na kapag nagkahabulan sa Carreon, Sta. Ana, Manila, nakikita ko nangunguna agad 'yung Cesar Balao."

....

Q

To whom was he asking for a fight?

A

"Sa mga estudyante po doon na ano, lalo pag alam niyang mga batang estudyante, mga ganun. 'Yung mga estudyanteng pauwi na sa bahay."

Q

How about the persons present around?

A

"Yung mga estudyante lang po ng Don Mariano Marcos High School."

Q

At that time, Mr. Witness, do you hold [an]y position in your barangay?

A

No, sir.

Q

What do you do whenever he picked a fight?

A

"Minsan dire-diretso na lang ako ng uwi. Hindi na po ako nakiki-usyoso doon."[55]

The identification of the accused as the perpetrator of the crime is regarded as more important than ascertaining the name of the accused. For instance, in *People v. Catipon*,<sup>[56]</sup> this Court held that confusion in the perpetrator's name, by itself, would be insufficient to overturn the positive identification made by a credible witness.<sup>[57]</sup>

Second, when he testified in court, Francisco affirmed without hesitation that it was accused-appellant who stabbed Wilfredo in the chest. During his direct examination, Francisco narrated the events that transpired on the day of the alleged incident and identified the person responsible for Wilfredo's death:

Q

While you were in front of Don Mariano Marcos High School at Carreon St., Sta. Ana, Manila at around 11:45 on April 10, 1991, do you recall of any unusual incident that happened, if any?

A

Yes, sir.

Q

What is this unusual incident, if any?

Witness:

When Willy was stabbed by Cesar Balao, sir.

Court:

Do you know this Cesar Balao?

Witness:

Yes, Your Honor.

Court:

Why do you know him?

Witness:

He is always there in front of the school looking for trouble, Your Honor, every morning.[58]

Apart from Francisco's positive identification of Balao as the perpetrator of the crime, Francisco narrated in a straightforward manner how Wilfredo was killed, thus:

Pros. Rebagay:

How did Cesar Balao stabbed (sip) Willy Villaranda?

A

"Kasi po may kumakausap kay Willy na dalawang tao na nagngangalang Purong at Obet. Bigla pong tumakbo galing sa likuran" ... (unfinished)

....

Witness:

"Galing sa likuran ni Willy, Kausap ni Willy si Purong at Obet, Hinahanap kay Willy yung kapatid na si Cris."

....

Q

What happened when this Obet whose real name is Roberto Espejo was looking for Cris?

A

"Tumakbo po si Cesar Balao galing sa likuran. Nakasakay [po sa] bisikleta si Willy Villaranda, Dito nanggaling 'yung taong sumaksak. Akala ni Willy, sinuntok lang siya."[59]

Francisco's testimony on how Wilfredo was killed does not appear to be tainted with any irregularity. The circumstances surrounding the commission of the crime gave him a fair opportunity to observe the events that transpired. First, the killing happened around noon, in broad daylight when he could see clearly. Second, Francisco was at a distance not far from where the victim and the accused-appellant were standing when the stabbing occurred.

Moreover, Francisco's testimony is bolstered by the autopsy report, which stated that Wilfredo died from a "stab wound, located on the upper inner quadrant of the chest, right side," which was caused by "a single-bladed sharp pointed instrument." [60] This is consistent with Francisco's eyewitness account that Wilfredo was stabbed in the chest with a fan knife.

Accused-appellant discredits Francisco's testimony on the ground that Francisco had ill-motives to testify against him. [61] Accused-appellant quotes a portion of Francisco's testimony during cross-examination:

Q:

Were you in any way involved in trouble by this Cesar Balao?

A:

Yes, sir.

Q:

Which even land you in trouble likewise, Mr. Witness?

A:

Yes, sir.

Q:

And because of this, Mr. Witness, you dislike Cesar Balao?

A:

Yes, sir.

Q:

And being a tough guy and I presumed even a menace to your place, you want this Cesar Balao to be disposed in your place, Mr. Witness?

A:

Yes, sir.

Q:

And one of that is to have him incarcerated?

A:

Yes, sir.

Q:

That's why you are now testifying for him to be incarcerated?

A:

Yes, sir.

....

Q:

And that's why you are testifying that he stabbed Wilfredo Villaranda but your main purpose is for him to be incarcerated so that he will no longer be around?

A:

Yes, sir.[62]

Although Francisco stated that he disliked accused-appellant for being a notorious troublemaker in their community, this does not conclusively establish that he was animated by ill-motives in testifying against accused-appellant. The presumption then is that Francisco testified in good faith.[63] Therefore, his testimony should be "entitled to full weight and credit." [64]

Accused-appellant's conviction for the crime of murder is affirmed. However, this Court modifies the civil indemnity, moral damages, and exemplary damages to P100,000.00 each in accordance with *People v. Jugueta*. [65] In *Jugueta*, this Court clarified that "when the crime proven is consummated and the penalty imposed is death but reduced to reclusion perpetua because of [Republic Act No.] 9346, the civil indemnity and moral damages that should be awarded will each be P100,000.00 and another P100,000.00 for exemplary damages[.]" [66]

WHEREFORE, the appeal is DISMISSED. The assailed Decision of the Court of Appeals in CA-G.R. CR-HC No. 04765 is AFFIRMED with MODIFICATION. Accused-appellant Cesar Balao y Lopez is found GUILTY beyond reasonable doubt of murder and is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole.

Moreover, he is ordered to pay the heirs of Wilfredo Villaranda the amounts of P40,000.00 as actual damages, P100,000.00 as civil indemnity, P100,000.00 as exemplary damages, and P100,000.00 as moral damages. In line with current jurisprudence, interest at the rate of six percent (6%) per annum should be imposed on all damages awarded from the date of the finality of this judgment until fully paid.[67]

### **SO ORDERED.**

Bersamin,[\*] Martires, and Gesmundo, JJ., concur.  
Velasco, Jr., J., on official leave.

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February 21, 2018

### **NOTICE OF JUDGMENT**

Sirs/Mesdames:

Please take notice that on November 22, 2017 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on February 21, 2018, at 2:30 p.m.

Very truly yours,

(SGD.) WILFREDO V. LAPITAN  
Division Clerk of Court

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[\*] Designated Acting Chairperson per S.O. No. 2514 dated November 8, 2017.

[1] *People v. Gonzales*, 370 Phil. 577 (1999) [Per J. Gonzaga-Reyes, En Banc].

[2] *Rollo*, pp. 2-17. The Decision was penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios of the Second Division, Court of

Appeals, Manila.

[3] Records, p. 1.

[4] Id.

[5] Id. at 17, RTC Order dated November 29, 2001.

[6] Id. at 21, RTC Order dated January 21, 2003.

[7] CA rollo, p. 82, RTC Decision dated October 12, 2010.

[8] Id. at 83, RTC Decision dated October 12, 2010.

[9] Records, pp. 123-124.

[10] Id. at 154.

[11] CA rollo, p. 83.

[12] Id. at 84-85.

[13] Id. at 86-87.

[14] Id. at 87.

[15] Id.

[16] Id. at 85-86.

[17] Id.

[18] Id. at 86.

[19] Id.

[20] Luzviminda was referred to as "Luzviminda" by Cesar and as "Virginia" by Fausto. See Luzviminda's testimony, TSN dated February 4, 2009, pp. 7-8; Fausto's testimony, TSN dated September 5, 2005, p.4; and Balao's testimony, TSN dated December 4, 2008, p. 5.

[21] CA rollo, pp. 88-89.

[22] Id. at 89-92.

[23] Id. at 92.

[24] Id. at 90-91.

[25] Id. at 82-96. The Decision, docketed as Crim. Case No. 01-190439, was penned by Presiding Judge Rosalyn D. Mislos-Loja of Branch 41, Regional Trial Court. Manila.

[26] Id. at 92-96.

[27] Id. at 96.

[28] Id. at 54.

[29] Id. at 67-81, Accused-Appellant's Brief dated July 13, 2011.

[30] Id. at 75.

- [31] Id. at 105-126, Appellee's Brief dated November 10, 2011.
- [32] Id. at 120.
- [33] Id. at 122.
- [34] Id. at 123-124.
- [35] Rollo, pp. 2-17.
- [36] Id. at 16.
- [37] Id. at 11-12.
- [38] Id. at 13.
- [39] Id. at 18-20.
- [40] Id. at 21.
- [41] Id. at 1.
- [42] Id. at 23.
- [43] Id. at 29-31, Office of the Solicitor General's Manifestation; and rollo, pp. 32-34, Balao's Manifestation.
- [44] RULES OF COURT, Rule 133, sec. 2.
- [45] Daayata v. People of the Philippines, G.R. No. 205745, March 8, 2017 < <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/205745.pdf> > 12 [Per J. Leonen, Second Division].
- [46] People v. Bacalso, 395 Phil. 192, 205 (2000) [Per. J. Vitug, En Banc].
- [47] Id. at 199.
- [48] Rollo, p. 11.
- [49] People v. Dinglasan, 334 Phil. 69), 704 (1997) [Per J. Panganiban, Third Division].
- [50] Id.
- [51] Id.
- [52] Records, p. 106.
- [53] TSN dated April 19, 2004, pp. 5-6.
- [54] Records, p. 8, Francisco's Sinumpaang Salaysay dated April 17, 1991. The records do not show when and how Francisco learned of accused-appellant's name.
- [55] TSN dated October 20, 2003, pp. 13-15.
- [56] 223 Phil. 403 (1985) [Per J. Melencio-Herrera, First Division].
- [57] Id. at 415.
- [58] TSN dated October 20, 2003, pp. 4-5.
- [59] Id. at 6-7.

[60] CA rollo, p. 46.

[61] Id. at 75-76.

[62] Id. at 76.

[63] *People v. Emoy*, 395 Phil. 371, 384 (2000) [Per J. Pardo, First Division].

[64] Id.

[65] G.R. No. 202124, April 5, 2016 <  
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/202124.pdf> > [Per J. Peralta, En Banc].

[66] Id. at 27.

[67] See *Nacar v. Gallery Frames, et al.*, 716 Phil. 267, 281-283 (2013) [Per J. Peralta, En Banc].

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