PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO CUESTA Y ASTORGA A.K.A BOYET CUBILLA Y QUINTANA, ACCUSSED-APPELLANT.

G.R. No. 217380. November 23, 2015

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the July 14, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06074, which affirmed the December 13, 2012 Decision[2] of the Regional Trial Court of Malabon City, Branch 73 (RTC) in Criminal Case No. 35359-MN, finding accused Eduardo Cuesta, a.k.a "Boyet Cubilla" (Cuesta) guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code (RPC).

The Facts

On February 7, 2007, Cuesta was charged with murder committed against Ruel Duardo (Duardo) in an Information filed before the RTC, the accusatory portion of which reads:

> That on or about the 18[th] day of September, 2006, in the City of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed weapon, with intent to kill and with treachery and evident premeditation, did then and there, wilfully, unlawfully and feloniously attack, assault and stab one RUEL DUARDO y MEDINA, hitting him on different parts of his body, as a consequence said RUEL DUARDO y MEDINA sustained fatal injury which directly caused his death.
>
> CONTRARY TO LAW.[3]

During his arraignment on July 10, 2007, Cuesta pleaded "Not Guilty." Thereafter, the trial ensued.

Version of the prosecution

The prosecution presented as witnesses, Rodel Flores Bartolome (Bartolome), the companion of Duardo; Juliet Duardo (Juliet), Duardo's sister; and Medico-Legal Officer Dr. Vladimir Villasenor (Dr. Villaseñor). Their combined testimonies tended to prove that on September 18, 2006, at around 9:00 o'clock in the evening, Duardo and Bartolome were drinking beer; that at about 10:20 o'clock, Bartolome accompanied Duardo to the Teacher's Village in Sitio 6, Catmon, Malabon City, to hail a jeepney; that just when Duardo was able to board a passenger jeepney, a certain Roland Dante, Cuesta's companion, cursed him; that this prompted Duardo to step out of the vehicle to confront Dante; that Cuesta, who was near Duardo while the latter was alighting from the jeepney, suddenly stabbed him at the side of his abdomen; that at the time of the stabbing, Cuesta was in front of Duardo, while the latter was looking at Dante; that in spite of Duardo's pleas, Cuesta repeatedly stabbed him; and that Duardo died upon arrival at the Pagamutang Bayan.

The medico-legal report indicated that Duardo sustained three (3) stab wounds in his left lumbar area, in the right

side and in the back. The cause of death was the one at the left side of the abdomen.[4]

Version of the Defense

The defense presented accused Cuesta and Feliciano de la Cruz (de la Cruz), a former police officer of the Philippine Drug Enforcement Authority (PDEA), as its witnesses. Their testimonies sought to establish that at around 9:00 o'clock in the morning of September 18, 2006, de la Cruz, together with other police officers, fetched Cuesta from the Larangay Police Station and arrived in Calumpit, Bulacan, an hour later; that de la Cruz engaged the services of Cuesta to drive for them in connection with their surveillance operations of a suspected drug laboratory in Calumpit, Bulacan; that they left Calumpit, Bulacan, at around 11:00 o'clock in the evening and arrived at the PDEA head office in Quezon City at about 2:00 o'clock in the morning of the next day after conducting surveillance work in other areas and experiencing bad traffic condition due to road repairs on the expressway; and that shortly after arriving at the PDEA office, de la Cruz allowed Cuesta to go home.[5]

The RTC Ruling

On December 13, 2012, the RTC rendered a decision finding accused Cuesta guilty of the crime of murder. In convicting him, the RTC gave more credence to Bartolome's positive identification of Cuesta over the latter's defense of alibi. According to the RTC, de la Cruz, a co-detainee of Cuesta, merely narrated the conduct of an alleged drug operation without any supporting evidence to establish its veracity. The trial court noted that anti-drug operation activities were required to be documented at every step. For the said reason, Cuesta could have easily provided documentary support if the said drug operation was indeed true.

The RTC further concluded that the prosecution sufficiently established the presence of treachery because Duardo was unaware that he was going to be stabbed and that he was in a defenseless position as both his hands were holding on to the vertical bars of the jeepney on his way down. Seeing that Duardo was in no position to defend himself, Cuesta deliberately stabbed him. The dispositive portion of the decision reads:

> WHEREFORE, finding the accused GUILTY beyond reasonable doubt for the crime of MURDER, as penalized under Art. 248 of the Revised Penal Code (as amended by Republic Act No. 7659) the Court hereby sentences the accused, EDUARDO CUESTA y ASTORGA Aka BOYET CUBILLA y QUINTANA, to RECLUSION PERPETUA.
>
> The accused is also hereby ordered to pay the heirs of the victim temperate damages in the amount of PHP25,000.00; civil indemnity in the amount of Php50,000.00; exemplary damages in the amount of Php25,000.00; and moral damages in the amount of Php50,000.00.
>
> SO ORDERED.[6]

Aggrieved, Cuesta appealed to the CA, arguing that Bartolome's testimony was marred with inconsistencies which belied its credibility. He noted that during his direct examination, Bartolome narrated that both Cuesta and Duardo fled after the stabbing; but on cross-examination, he replied that he saw Duardo lying down after he was stabbed. Cuesta also asserted that even if it was established that he was the assailant, he could only be guilty of homicide, and not murder, as the prosecution failed to establish the qualifying circumstance of treachery.[7]

The CA Ruling

On July 14, 2014, the CA promulgated the assailed decision upholding Cuesta's conviction for murder. The appellate court gave full weight to Bartolome's identification of Cuesta as the one who stabbed Duardo. The CA appreciated the attendance of treachery because Duardo was defenseless at the time he was suddenly stabbed while he was alighting from the jeepney.

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The CA also upheld the penalty of reclusion perpetua. It, however, modified the award of civil indemnity by increasing the amount from P50,000.00 to P75,000.00 and imposed an interest on all awarded damages at the legal rate of six percent (6%) per annum from the date of the finality of judgment until fully paid. The decretal portion of the decision states:

> WHEREFORE, the Decision dated December 13, 2012 rendered by Branch 73, Regional Trial Court (RTC) of Malabon City, National Capital Judicial Region in Criminal Case No. 35359-MN wherein accused-appellant Eduardo Cuesta y Astorga a.k.a Boyet Cubilla y Quintana was found guilty of the crime of Murder is hereby AFFIRMED with MODIFICATION that:
>
> (1)
>
> Accused-appellant Eduardo Cuesta is ordered to pay the heirs of the deceased Ruel Duardo the amount of Seventy-Five Thousand Pesos (Php75,000.00) as civil indemnity; and
>
> (2)
>
> Accused-appellant Eduardo Cuesta is further ordered to pay the private offended parties or their heirs interest on all damages awarded at the legal rate of six percent (6%) per annum from the date of finality of this judgment until such amounts shall have been fully paid.
>
> SO ORDERED.[8]

Hence, this appeal, anchored on the following

ISSUES

> I
> WHETHER OR NOT THE COURT OF APPEALS ERRED IN UPHOLDING THE CONVICTION OF THE ACCUSED BASED ON THE TESTIMONY OF BARTOLOME DESPITE ITS BEING IMPROBABLE AND INCONSISTENT.
>
> II
> WHETHER THE ELEMENTS OF TREACHERY WERE DULY ESTABLISHED.

In compliance with the Resolution[9] of the Court, dated July 6, 2015, the parties filed their respective manifestations stating that they would no longer file any supplemental brief as the issues had been sufficiently discussed in their respective briefs filed before the CA.

The Court's Ruling

In spite of his attempts to evade responsibility for the untimely demise of Duardo, the Court still finds Cuesta culpable for the unlawful act.

The testimony of the prosecution witness deserves full weight and credence

It has been established that the trial courts are best situated to address the issue of the witnesses' credibility as they are in the unique position of being able to observe the demeanor of witnesses, something which appellate courts are deprived of. Absent any showing of substantial reasons, the Court is generally bound by the trial court's findings particularly when no significant facts and circumstances are shown to have been overlooked or disregarded which when considered would have affected the outcome of the case.[10] In People v. Tabayan,[11] the Court expounded on the weight given on the assessment of trial courts of the testimony of witnesses, to wit:

> Settled is the rule that when it comes to credibility, the trial court's assessment deserves great weight, and is

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> even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.

Hence, the appreciation by the lower court of the testimony of a witness as being truthful and credible is generally left undisturbed by the Court. It is only in exceptional instances where it is set aside.

Cuesta discredits Bartolome's testimony assailing that it was inconsistent and improbable, particularly his testimony on Duardo's position during the stabbing incident. A closer scrutiny of the records, however, reveals that the RTC and the CA correctly appreciated the veracity and reliability of his testimony.

At the witness stand, Bartolome clearly and positively identified Cuesta as the perpetrator of the crime. His testimony was unwavering and credible. He had no reason to falsely testify against Cuesta. Despite the taxing cross-examination questions propounded to him, he remained steadfast that it was Cuesta who stabbed Duardo multiple times.

Moreover, minor inconsistencies in Bartolome's testimony do not impair the veracity of his identification of Cuesta. When inconsistencies in the testimony of a witness pertain to trivial matters, they do not call into question the truthfulness of the narration of events— instead they strengthen its authenticity. The inconsistencies only show that the testimony was unrehearsed and made with candor. In People v. Cesar Givera,[12] the Court sustained the conviction of the accused therein, notwithstanding the minor inconsistencies in the testimonies of the prosecution witnesses. It ruled:

> This Court has time and again said that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality touching upon the central fact of the crime did not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tended to strengthen their credibility because they discounted the possibility of their being rehearsed testimony.[13]
>
> [Emphasis Supplied]

In the case at bench, the assailed inconsistency in Bartolome's testimony only pertained to irrelevant matters and in no way diminished the fact that he was unflinching in his assertion that it was Cuesta who stabbed Duardo on his left side. His narration was corroborated by Dr. Villasenor's report on the injuries sustained by Duardo.

Further, Cuesta belies the credibility of witness Bartolome, asserting that it was highly unusual that he would flee, instead of aiding his friend, Duardo, after the latter was stabbed. The Court is unconvinced. In People v. Samson,[14] the Court explained that, in precarious situations, it was human nature to obey the instinct of self-preservation. Thus, it was reasonable to expect that Bartolome would flee lest he suffer the same fate as Duardo's. Contrary to the position of Cuesta, what Bartolome did was not strange but was actually consistent with human nature.

Defense of alibi fails in light of the positive identification of the accused

In an attempt to exculpate himself, Cuesta alleges that it would have been impossible for him to be at the crime scene at the time Duardo was stabbed as he was in Bulacan for a drug operation. De la Cruz attempted to corroborate Cuesta's alibi by testifying that he engaged Cuesta to drive for him and other police officers in a purported drugs surveillance operation. The Court takes judicial notice that each step taken in a drugs-related activity is heavily documented considering that in the prosecution thereof, the issue of chain of custody, more often than not, is the deciding factor in the conviction or acquittal of the accused. In this case, Cuesta could have easily presented documentary evidence to support his claim of the conduct of drugs surveillance in Bulacan, but

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he failed to do so. Interestingly, the existence of the drug operations allegedly conducted by PDEA merely hinges on the bare assertions of Cuesta and de la Cruz, with no other evidence to support the same. "An alibi, without any clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law."[15] An alibi, furthermore, deserves scant consideration in the face of a clear identification of the accused. The positive identification of Cuesta by witness Bartolome prevails over his unsubstantiated alibi. In People v. Consorte,[16] the Court disregarded the alibi of the accused therein, to wit:

> In any case, the positive identification of the appellant by witnesses destroys the defense of alibi. Alibi warrants the least credibility, or none at all and cannot prevail over the positive identification of the appellant by the prosecution witnesses. Absent any ill motive on the part of witnesses, their positive identification of the appellant as the perpetrator of the crime prevails over the defense of denial or alibi.[17]
>
> [Emphasis Supplied]

Without any support whatsoever, the statements are self-serving and cannot trump Bartolome's positive and clear identification of Cuesta as the one who stabbed Duardo.

The qualifying circumstance of treachery was not proven

In Duardo's killing, both the RTC and the CA appreciated the existence of treachery. They concluded that, at the time he was stabbed, he was in a defenseless position as he was disembarking from the jeepney. A review of the records, however, discloses that treachery was not clearly proven.

There is treachery when the offender commits any of the crimes against persons deliberately employing means, methods, or forms in its execution which tend directly and specially to insure the execution, without risk to himself arising from the defense which the offended party might make.[18] Treachery is never presumed and "it is required that the manner of attack must be shown to have been attended by treachery as conclusively as the crime itself."[19]

In People v. Gonzales,[20] the Court ruled that the following elements must be established before the existence of treachery may be appreciated: (a) the employment of means of execution which would ensure the safety of the offender from defensive and retaliatory acts of the victim, giving the victim no opportunity to defend himself; and (b) the means, method and manner of execution were deliberately and consciously adopted by the offender. In short, the method employed by the accused rendered the victim defenseless and the same was purposely carried out by the accused.

In People v. Vilbar,[21] the Court reiterated that treachery cannot be appreciated simply because the attack was sudden and unexpected.

In Cirera v. People[22] (Cirera), the Court disregarded the finding of treachery for failure of the prosecution to establish that the accused therein deliberately and consciously adopted the means, method and manner of execution. It ruled that:

> The unexpectedness of an attack cannot be the sole basis of a finding of treachery even if the attack was intended to kill another as long as the victim's position was merely accidental. The means adopted must have been a result of a determination to ensure success in committing the crime.
>
> xxx
>
> The attack might "have been done on impulse [or] as a reaction to an actual or imagined provocation offered by the victim." xxx
>
> Therefore, the manner of attack might not have been motivated by a determination to ensure success in

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> committing the crime. What was more likely the case, based on private complainants' testimonies, was that petitioner's action was an impulsive reaction to being dismissed by Austria, his altercation with Naval, Naval's attempt to summon Austria home.[23]

From the pronouncement in Cirera, it is apparent that treachery cannot be appreciated if the victim's position was accidental and the accused acted impulsively. The means of attack should have been deliberately and consciously adopted by accused. The suddenness of the attack, the infliction of the wound from behind the victim, the vulnerable position of the victim at the time the attack was made, or the fact that the victim was unarmed, do not by themselves render the attack as treacherous.[24]

Bartolome witnessed the entire incident from the time before Duardo was stabbed up to the time when Cuesta fled. He clearly saw how Cuesta stabbed Duardo to his death. During his direct examination, Bartolome testified on the following:

> Fiscal Nobleza
> Q: What happened while you were with Ruel Duardo accompanying him to take a ride?
>
> Witness
> A: When Ruel Duardo was seated on a jeep, Roland Dante cursed him.
>
> Q: What happened after that person cursed Mr. Ruel Duardo?
> A: Ruel Duardo got mad and he alighted from the jeep sir.
>
> Q: What happened after Ruel Duardo alighted from the vehicle?
> A: Eduardo Cuesta suddenly stabbed him sir.
>
> xxx
>
> Q: Where was accused in this case when Roland Dante cursed Ruel Duardo?
> A: Eduardo Cuesta was near Ruel Duardo when he alighted from the jeep.
>
> xxx
>
> Q: When Mr. Ruel Duardo alighted from the vehicle, what happened next?
> A: Boyet Cubilla suddenly stabbed him.
>
> Q: In relation to Mr. Ruel Duardo, will you tell us the position of Boyet Cubilla?
> A: Right in front of him sir.
>
> Q: Will you tell us how was the first thrust delivered to Ruel Duardo?
> A: He was stabbed on the left side of his abdomen.[25]
>
> [Emphasis Supplied]

From the foregoing narration, it is clear that prior to the stabbing incident, a certain Dante cursed Duardo, infuriating the latter; and during the act of stabbing, Cuesta was in front of Duardo.

While the attack may be sudden and unexpected, the circumstances surrounding the incident fail to unequivocally establish that Cuesta deliberately and consciously adopted the means and methods of attack. The prosecution itself posited that Cuesta acted instinctively as he intended to protect Dante from possible physical retaliation from Duardo.[26] Further, Cuesta was in front of Duardo at the time of the attack; and clearly, he did not deliberately and consciously seek the mode of stabbing Duardo as to render him defenseless. If it were so, Cuesta could have intentionally positioned himself behind Duardo further eliminating any risk of retaliation or defense from him. From the fact that Duardo was about to confront Cuesta's companion after he was cursed by the latter, it was

obvious that the position of the parties was accidental and was not deliberately planned, and that Cuesta's acts were based on mere instinct.

In light of the foregoing, Cuesta's conviction for murder should be set aside. Without the qualifying circumstance of treachery, Duardo's killing amounted only to homicide and not murder.

The crime of homicide is punishable by reclusion temporal.[27] Under the Indeterminate Sentence Law, the maximum term should be that which could be properly imposed in view of the attending circumstances, and the minimum should be within the range of the penalty next lower to that prescribed by the RPC. When neither aggravating nor mitigating circumstances are present, the penalty prescribed by law shall be in its medium period.[28]

Here, no aggravating or mitigating circumstance attended Duardo's killing. As such, the maximum of the sentence should be within the range of reclusion temporal in its medium period, as maximum, and prision mayor, as minimum.

Also, to conform with prevailing jurisprudence,[29] the award of civil indemnity should be decreased from P75,000.00 to P50,000.00. Absent any aggravating circumstance, the award of exemplary damages should be removed. The award of temperate damages in the amount of P25,000.00 is proper for failure to substantiate actual expenses and losses incurred by Duardo's heirs as a result of his death.[30]

WHEREFORE, the July 14, 2014 Decision of the Court of Appeals is hereby MODIFIED, in that, accused-appellant Eduardo Cuesta y Astorga, a.k.a. Boyet Cubilla y Quintana, is found guilty of Homicide and sentenced to suffer an indeterminate penalty of Ten (10) Years of prision mayor, as minimum, to Fourteen (14) Years, Eight (8) Months and One (1) Day of reclusion temporal in its medium period, as maximum. He is also ordered to pay the heirs of Ruel Duardo the amounts of P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P25,000.00 as temperate damages, plus interest on all damages awarded at the rate of six percent (6%) per annum from the date of finality of this decision until the same have been fully paid.

SO ORDERED.

Velasco, Jr.,[*] Brion,[**] (Acting Chairperson), Del Castillo, and Leonen, JJ., concur.

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[*] Per Special Order No. 2282, dated November 13, 2015.

[**] Per Special Order No. 2281, dated November 13, 2015.

[1] Penned by Associate Justice Maria Elisa Sempio Diy with Associate Justice Ramon M. Bato, Jr. and Associate Justice Rodil V. Zalameda, concurring; rollo, pp. 2-13.

[2] Penned by Presiding Judge Carlos M. Flores; CA rollo, pp. 36-44.

[3] RTC Records, p. 3.

[4] Rollo, pp. 4-5.

[5] Id. at 5-6.

[6] CA rollo, p. 44.

[7] Id. at 29-32.

[8] Rollo, p. 12.

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[9] Id. at 20-21.

[10] People v. Laog, 674 Phil. 444, 457 (2011).

[11] G.R. No. 190620, June 18, 2014, 726 SCRA 587-588.

[12] 402 Phil. 547 (2001).

[13] Id. at 565-566.

[14] G.R. No. 214883, September 2, 2015.

[15] People v. Lumaho, G.R. No. 208716, September 24, 2014, 736 SCRA 542, 555.

[16] G.R. No. 194068, July 9, 2014, 729 SCRA 528.

[17] Id. at 540.

[18] Article 14(16) of the RPC.

[19] People v. Dagani, 530 Phil. 501, 520-521 (2006).

[20] G.R. No. 195534, June 13, 2012.sc.judiciary.gov.ph/jurisprudence/2012/June2012/195534.htm.[date accessed November 23, 2015].

[21] 680 Phil. 767, 785 (2012).

[22] G.R. No. 181843, July 14, 2014, 730 SCRA 27.

[23] Id. at 48-49.

[24] Supra note 19 at 520.

[25] TSN, dated June 11, 2008, pp. 3-4.

[26] CA rollo , p. 58.

[27] Article 249 of the RPC.

[28] Article 64 of the RPC.

[29] People v. Dulin, G.R. No. 171284, June 29, 2015.

[30] Abella v. People, G.R. No. 198400, October 7, 2013, 706 SCRA 781, 796.

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