

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORBERTO CLORES Y CORAL, DEFENDANT-APPELLANT.*G.R. No. 82362. April 26, 1990*

Ponente: MELENCIO-HERRERA, J.

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We affirm the Decision[1] promulgated on 7 March 1988 by the Regional Trial Court (RTC) of Caloocan City, Branch 131, acting as a Special Criminal Court, finding Appellant, Norberto Clores y Coral, guilty of Murder for the killing of Rodolfo Reyes y de Paz and sentencing him to suffer the penalty of reclusion perpetua; to indemnify the heirs of the victim in the amount of P30,000.00; and to pay the costs.

The prosecution evidence, as narrated in the appealed Decision (pp. 1-2, Rollo, pp. 14-15), discloses that on 24 December 1986, at about 2:00 o'clock in the morning, Celso Escobar, the lone eyewitness in this case, was about to go home from a dancing party held at Zapote Street, Barangay 178, Camarin, Caloocan City, when he saw, from a distance of about four (4) arms lengths, Appellant and a certain Jedy, suddenly attack from behind and stab Rodolfo Reyes, who at that time was standing beside the road preparing to go home. The latter had given no provocation whatsoever. Appellant Clores and Jedy took turns in stabbing the victim, with Clores using a bladed weapon about six (6) to eight (8) inches long, while Jedy used a longer weapon about twelve (12) to fourteen (14) inches in length, until the victim fell to the ground. Both weapons were not recovered by the police from the crime scene. When attacked, the victim was unable to shout or ask for help although he gave out a scream before he expired. It was only after the assailants had run away and after the victim had fallen flat on his face that the incident caught the attention of other people who were still loitering after the party. The victim was immediately rushed to the Quezon City General Hospital where he was declared dead on arrival. Escobar did not go to the hospital but instead informed the victim's brother-in-law, who lived just in front of the dance hall, of the tragedy.

Soon thereafter, Escobar accompanied the widow of the victim to a police sub-station to report the incident. Two policemen immediately proceeded to the scene of the crime and were thereafter assisted by Escobar in locating the house of Appellant. The latter was found sleeping in his house. Having been identified by Escobar as one of the assailants of the victim, Appellant was then taken to the Caloocan City Police Station where he denied participation in the crime. Witness Escobar and the victim's widow, Mylvin Anson Reyes, gave their sworn statements to the police.

For his part, Appellant narrated that on 23 December 1986, at around 7:00 o'clock in the evening, after having come from work, he was going home to Area D, Camarin, Caloocan City, when he was accosted by a man whom he met for the first time and who introduced himself as Celso Escobar. The latter asked him for some money with which to buy two (2) cases of beer. Since Escobar appeared to be drunk at that time and because he was afraid that he might create trouble, Appellant claimed that he gave him all the money in his pocket amounting to thirty five pesos (P35.00). While he was walking home, he saw one of the companions of Escobar challenging anyone for a fight. He then saw Escobar engaged in a fistfight with another man whom he did not recognize. When he reached his residence, he prepared his supper and went to bed. At around 4:00 o'clock in the morning of 24

December 1986, he was awakened by police officers and was taken to the Caloocan City Police Station. He claims that he was asked to identify the assailant of the victim, but was unable to do so as he was not at the crime scene. He was then informed that he was implicated by Escobar as one of the assailants of the victim, which he denied. According to him, the only reason he could think of as to why he was implicated was his failure to give Escobar the amount the latter was demanding (RTC Decision, pp. 2-3, Rollo, pp. 15-16).

The Trial Court gave more credence to the prosecution version, attributed greater weight to the testimony of lone prosecution witness, Escobar, which it found to be logical, straightforward and more probable compared to the alibi and the denials interposed by Appellant, and adjudged the latter guilty of Murder with the qualifying circumstance of treachery.

Disagreeing with said Decision, Appellant addresses this appeal to this Court, ascribing the following errors below:

"FIRST:

The trial court gravely erred in giving much weight and credence to the version of lone eye-witness Mr. Celso Escobar;

SECOND:

The trial court also erred in finding and considering the existence of the qualifying circumstance of 'treachery' in the instant case; and

THIRD:

The trial court likewise erred in finding the herein accused-appellant guilty beyond reasonable doubt of the offense charged."

This appeal lacks merit. Admittedly, the prosecution presented only one eyewitness to the commission of the crime, Celso Escobar, who pointed to Appellant as one of the assailants of the victim. The fact that his testimony is uncorroborated, however, will not detract from its credibility. There is no law which requires that the testimony of a single witness has to be corroborated, except where expressly mandated as in treason where the testimony of at least two witnesses to the same overt act is needed (*People vs. Canada*, G.R. No. L-63728, 15 September 1986, 144 SCRA 121). The testimony of only one witness, if credible and positive, is sufficient to support a conviction even in a charge for Murder (*People vs. De la Cruz*, G.R. No. L-71044-45, 16 March 1987, 148 SCRA 582).

When it comes to the matter of credibility of a witness, settled are the guiding rules some of which are that (1) the Appellate court will not disturb the factual findings of the lower Court, unless there is a showing that it had overlooked, misunderstood or misapplied same fact or circumstance of weight and substance that would have affected the result of the case (*People vs. Ablaza*, G.R. No. L-27352, 31 October 1969, 30 SCRA 173), which showing is absent herein; (2) the findings of the Trial Court pertaining to the credibility of a witness is entitled to great respect since it had the opportunity to examine his demeanor as he testified on the witness stand, and, therefore, can discern if such witness is telling the truth or not (*People vs. Amoncio*, G.R. No. L-49069, 22 June 1983, 122 SCRA 686) and (3) a witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent on cross-examination is a credible witness (*People vs. Barros*, G.R. No. L-34249, 3 May 1983, 122 SCRA 34).

The Trial Court described Escobar's testimony as "logical, straight-forward and more probable" and not "in any manner shaken by cross-examination to which he was exposed" (RTC Decision, p. 5, Rollo, p. 18). We have found no reason to overturn that finding. Escobar's testimony faithfully re-states the sworn declaration he gave to

the police authorities on 24 December 1986, a few hours after the incident transpired. He was one of the Barangay Tanods of the area (TSN, 13 April 1987, p. 7), concerned with peace and order in the community. He was about four (4) arms lengths away from the actual occurrence and saw Appellant stab the victim once "on the upper right, above the buttocks." This coincides with the medical certificate which indicated the location of one of the stab wounds as on the "trunk" (Exhibit "A"). He had known Appellant for about a month before the incident and the place where he was residing which he described as near the house of the victim, and could not have been mistaken in his identification. He had also known the other assailant "Jed" for about two weeks before the incident and saw him stab the victim once.

There can be no question either about Appellant's identification as one of the assailants by Escobar during both his direct and cross-examination. It has been held that positive identification of an accused by a credible witness demonstrates his culpability (People vs. Sabater, G.R. No. L-38169, 23 February 1978, 81 SCRA 564). It bears stressing that Appellant was identified by witness Escobar not only during the trial, but immediately after the commission of the crime before the investigating police officers. The early identification of appellant by a prosecution witness bespeaks of his spontaneity and veracity (People vs. Chavez, G.R. No. L-38603, 30 September 1982, 117 SCRA 221).

Appellant, in denying his participation in the crime, resorted to alibi and claimed that he was sleeping at the house where he was staying after coming from work at the time of the incident in question. Well-settled is the rule that alibi is generally a weak defense since it is easy to concoct. For this reason, it is viewed with caution and is accepted only when proved by positive, clear and satisfactory evidence. For alibi to prosper, it is not enough to prove that the person accused of a crime was somewhere when the crime was committed. It must likewise be demonstrated that it was physically impossible for him to have been at the scene of the crime at that time (People vs. Candado, G.R. No. L-34089, 1 August 1978, 84 SCRA 508). As found by the Trial Court, the distance between Appellant's place of residence and the scene of the crime was barely one-half kilometer (RTC Decision, p. 6, Rollo. p. 19), hence, Appellant's posture cannot be sustained. "Positive identification of the accused is more credible than his denials and alibis, which were not established by full, clear and satisfactory evidence" (People vs. Candado, supra). Nothing could be more settled than that alibi cannot prevail over the positive identification made by a prosecution witness.

Besides, Appellant had involved himself in contradictions. He said that it was around 7:00 P.M. when he saw Escobar on 23 December 1986 after having come from work. But when asked for his working hours, he answered that they worked half day up to 1:00 P.M. that day because of the yuletide season (TSN, 5 November 1989, pp. 3 & 5). It is also highly improbable that Escobar, whom he admittedly did not know, would demand money from him. The impression that Appellant wanted to convey by his testimony was that Escobar was the culprit as he saw the latter engaged in a fistfight with an unidentified man. If this were the truth, he could have disclosed his impression during the police interrogation; however, all he declared then was that he did not know the culprit as he was not at the crime scene.

Appellant's submission likewise is that witness Escobar testified against him because he did not give him the amount he was demanding. According to Appellant, this tarnished the witness' credibility and showed his bias (Rollo, p. 28). Aside from the fact that Escobar denied having approached Appellant and demanded money from him, this circumstance alone would not be a convincing motive for witness Escobar to falsely implicate Appellant in such a heinous crime as Murder.

Appellant further alleges that witness Escobar's testimony is also discredited by his inaction and failure to call for help and pursue the assailants. (Rollo, p. 29). However, an eyewitness to a crime like Murder cannot normally be expected to immediately respond to the victim or summon assistance, much less pursue the criminals who are

armed. Under such circumstances, the natural instinct of self-preservation would prevail. Besides, Escobar directed his attention more at informing the family of the victim and reporting the incident to the police.

Appellant makes capital of the fact that the physician who examined the cadaver of the victim was not presented as a witness. Hence, the possible relative positions of the victim and assailants could not be determined which also raised doubts as to who between Clores and Jedy actually inflicted the stab wounds. The fact remains, however, that from the evidence adduced, each of them had stabbed the victim once (TSN, 15 July 1987, p. 11). Besides, in the face of positive identification of the Appellant, the kind of weapon used, as well as the location of the stab wounds, assume secondary importance. Notably also, the medical certificate presented in evidence was authenticated and admitted by the lower Court (Exhibit "1", TSN, 9 October 1987, p. 5; 6 November 1987, p. 4).

On the matter of the existence of treachery, Appellant claims that from the unsubstantiated medical evidence, it appears that the victim sustained stab wounds in the trunk and chest, hence, the attack was frontal and negates the presence of treachery. The "trunk", however, is, in fact, at the back of an individual. As categorically stated by witness Escobar in his testimony, he saw Appellant stab the victim above the buttocks, proving in fact, that he was stabbed from behind. The stab wound on the chest must have been that inflicted by Jedy, the other assailant.

But even assuming that the attack was frontal, as suggested by Appellant, there could still be treachery if the attack was suddenly made, as the evidence in this case indicates (*People vs. Acabado*, G.R. No. L-26104, 31 January 1969, 26 SCRA 727), on an unarmed and helpless victim who was given no chance whatsoever to defend himself from the fatal blows. The requisites that the law requires for a finding of treachery have thus been established.

Finally, appellant claims that because of the conflicting versions of the prosecution and the defense, motive is important in determining the truth. According to him, there was no motive for him to kill the victim (*Rollo*, pp. 32-33). Motive, however, need not be established where the appellant has been positively identified and there is no doubt as to the identity of the culprit, as in the case at bar (*People vs. Demeterio*, G.R. No. L-48255, 30 September 1983, 124 SCRA 914). And in case of contradictory declarations and statements, greater weight is generally given to the positive testimonies of the prosecution witnesses than to denials by an accused (*People vs. Mostoles, Jr.*, G.R. No. L-38644, 30 September 1983, 124 SCRA 906).

In fine, no cogent reason has been adduced to warrant a reversal of the findings and conclusions of the Trial Court adjudging Appellant guilty, to a legal and moral certainty, of Murder. In accordance with the majority opinion in *People vs. Munoz and Millora, et al.*, (G.R. Nos. L-38968-70, 2 February 1989), the imposable penalty, in the absence of any aggravating or modifying circumstance, is reclusion perpetua.[2]

WHEREFORE, the judgment appealed from is hereby AFFIRMED. Costs against accused-appellant, Norberto Clores y Coral.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Judge Antonio J. Fineza.

[2] This ponente, however, maintains her dissent in that case as to the imposable penalty.

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