

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR BADUYA Y TIBUS, DEFENDANT-APPELLANT.

G.R. No. 84448. February 07, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

What started as an ordinary volleyball game led to the death of one Ariel Brusas and the wounding of Ramon Euste, and ended in the conviction of herein appellant Salvador Baduya of the complex crime of murder and frustrated murder.

The following is a narration of the facts:

On December 29, 1984, a volleyball competition between two teams was held in Barangay San Antonio, Milaor, Camarines Sur. One team was composed of residents of the place which included Francisco Baduya, the son of herein appellant. Believing that the said team would win, appellant placed a bet of P50.00 in its favor. The other competing team was a "visiting team" comprised of residents of another barrio for whom the Brusas and Euste families cheered. Ariel Brusas and Ramon Euste who were first cousins were among those who sided with this other team.

Even after the "visiting team" won the game the Brusases and the Eustes continued sneering and jeering at the appellant. Apparently vexed by the non-stop cajoling of the other group, appellant pushed one Vicente de la Torre, a relative of the Brusases and the Eustes.

As to what happened next, there are two different versions.

According to appellant, the following day, due to the above-mentioned pushing incident, the Brusas and Euste cousins sent a warning to him that if ever he went out, they would inflict bodily harm on him.[1] Seriously taking the threats, he allegedly stayed home on January 1. Two days later, appellant continues, he learned of the shooting incident whereby Ariel Brusas died and Ramon Euste barely survived.

The prosecution on the other hand states that on January 1, 1985, at about 6:00 o'clock in the evening, appellant, appellant's son Francisco and the brothers Noel Lumerio and Wilfredo Lumerio (who are also relatives of appellant) were at the store of a certain Hipolito Calpe in Barangay San Antonio. It so happened that the brothers Rafael and Ramon Euste went to the same place. While in the store, Noel Lumerio got into a heated argument with Rafael Euste. A fight later ensued between the Lumerio brothers and the Euste brothers as a consequence of which Ramon Euste was stabbed. Immediately after the stabbing incident, the group of appellant dispersed.

Upon the request of one Dominador Novales, a passenger jeepney driven by one Reynaldo Brito arrived to bring Ramon Euste to a nearby hospital. The injured Ramon Euste was accompanied by Ariel Brusas, Rene Bautista, Venancio Abiog and his brother Rafael. Ramon Euste was seated at the driver's side of the back of the jeepney. Beside him sat Ariel Brusas, while positioned opposite then were Rafael Euste and Ramon Bautista.

On the way to the hospital, the persons enumerated above saw a group composed of appellant, Francisco Baduya, Vicente Baduya, Tranquilino Lumerio, Noel Lumerio and Wilfredo Lumerio. Francisco Baduya was holding a bolo while his father was carrying a rifle.

As the jeepney neared the group of appellant. Francisco Baduya, appellant's son, signalled to them to stop the jeepney but Brito continued driving. When the jeepney was already passing directly in front of Francisco, the latter struck the windshield with his bolo. Undaunted by such violent behavior coming from Francisco, Brito drove on. When the vehicle was already about five meters away from the group, appellant pointed his gun towards its passengers and fired at them hitting both Ariel Brusas and Ramon Euste. Upon reaching the hospital, the two gunshot victims were immediately brought to the emergency room. After about two hours, Ariel Brusas expired. Ramon Euste, on the other hand was operated upon during which a slug was recovered from inside his body. Were it not for the timely medical attendance, Ramon Euste would have also died.

On March 27, 1985, both appellant and his son Francisco were charged with the crime of murder and frustrated murder in an Information that states:

"That on or about the 1st day of January, 1985, at about 6:30 P.M. at barangay San Antonio, municipality of Milaor, Camarilnes Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, conspiring, confederating together and mutually helping one another, then armed with a gun with treachery, evident premeditation and taking advantage of nighttime to better accomplish their purpose, did then and there wilfully, unlawfully and feloniously shot one Ariel Brusas who, as a result thereof, sustained a fatal wound on his body which caused his instantaneous death; that the same slug which hit said Ariel Brusas also hit one Ramon Euste who as a result thereof, sustained fatal injuries on his body, thus the accused have performed all the acts of execution which would have produced the crime of murder upon said Ramon Euste, but which nevertheless, did not produce it by reason of some cause independent of their will, that is by the timely and able medical attendance rendered unto said Ramon Euste which prevented his death.

That as a consequence of the death of Ariel Brusas, his heirs suffered the following item of damages, to wit:

- For the fact of death — P12,000.00

- For loss of earning capacity — 5,000.00

- For moral exemplary damages — 5,000.00

all in the total amount of Twenty Two Thousand Pesos, Philippine currency.

That for the injuries sustained by Ramon Euste, he suffered actual, moral and compensatory damages in the amount of not less than P10,000.00, Philippine currency.

ACTS CONTRARY TO LAW."[2]

Both father and son pleaded not guilty to the crime.

After a trial on the merits, on June 17, 1988 the Regional Trial Court of Naga City, Branch 24, promulgated a Decision convicting appellant of the complex crime of murder with frustrated murder and acquitting his son Francisco on the ground of reasonable doubt. The dispositive portion of the said Decision is as follows:

"WHEREFORE, finding the accused SALVADOR BADUYA guilty beyond reasonable doubt of the complex crime of murder with frustrated murder, as charged in the information, said accused is hereby sentenced to RECLUSION PERPETUA, with the corresponding accessory penalties provided for under Article 41 of the Revised Penal Code.

The said accused, Salvador Baduya, is hereby further adjudged to indemnify the estate of the late ARIEL BRUSAS the amount of P30,000.00 on account of the death of ARIEL BRUSAS and the further sum of P10,482.85, representing actual expenses incurred for the medicine and hospitalization of Ariel Brusas and the incidental expenses in connection with his wake and burial expenses.

Likewise, the said accused, Salvador Baduya, is also adjudged to indemnify the complainant RAMON EUSTE the sum of P1,412.19, as actual damages, representing the loss of earning capacity for 1-1/2 months as mechanic of the PHILTRANCO at the rate of P36.21 daily. Further, the accused SALVADOR BADUYA is hereby adjudged to indemnify RAMON EUSTE the sum of P10,000.00 as moral damages.

The accused FRANCISCO BADUYA is hereby acquitted of the crime charged in the information on the ground of reasonable doubt.

Costs charged against the accused Salvador Baduya.

SO ORDERED.”[3]

In this appeal, two assignments of errors are alleged, to wit:

"The court a quo erred:

- In finding that appellant shot and killed Ariel Brusas and wounded Ramon Euste; and

- In convicting appellant despite reasonable doubt on his culpability.”[4]

It is admitted by herein appellant that the issue posed in this appeal is purely one of fact. Needless to say, the conclusions and findings of facts by the trial court are entitled to great weight and will not be disturbed on appeal because the trial court was in a better position to examine the real evidence as well as to observe the demeanor of the witnesses while testifying in the case.[5]

It is urged by the appellant that the answers to the following questions are vital in determining whether or not he is truly guilty as found by the lower court: Was the identity of the appellant as the perpetrator of the crime adequately established? Do the testimonies of the prosecution witnesses deserve full faith and credence?

To both questions, the answer is in the affirmative.

Basically, the first argument of appellant rests on his proposition that the prosecution witnesses failed to positively identify him as the one who fired the shot that hit the two victims. He insists that the imputation that he was the author of the crime is drawn not from positive identification[6] but from mere inference passed on as fact and truth. In this regard, appellant cites the testimony of Brito who said that he presumed that the former was the one who fired the shot because he saw him holding a rifle.

It may be true that Briton did not categorically state that he saw appellant actually fire the shot. However, this does not make appellant any less culpable. It must be remembered that appellant's conviction of guilt does not rest solely on the testimony of Brito. Other witnesses, namely Rafael Euste, Ramon Euste and Rene Bautista came forward to positively assert that they saw appellant position his rifle in a firing position, point it towards the jeepney they were riding in and fire the same. Furthermore, Brito's conclusion is a product of logical reasoning. There was no other gun seen in the vicinity of the crime except that used by the appellant. It was, therefore, reasonable to deduce that the gunshot heard came from the said gun. And since appellant was the one in possession of the weapon at the moment it was fired, it can be inferred, as Brito did, that it was he who fired the gun. The aforestated testimony of Brito could be considered as circumstantial evidence since the probability or improbability of the fact in dispute, that is, whether or not appellant shot the victims, could be drawn from

evidence of collateral facts or circumstances. There is nothing in our law or jurisprudence which prohibits courts from taking into consideration circumstantial evidence presented by a particular witness especially if it is corroborated by other witnesses in its material points.

Though Britos testimony does not directly prove that appellant fired at the victims, it still remains vital to the prosecution's cause in that Brito is one witness who would not testify against appellant if the latter were not really guilty. As the lower court observed, Brito had no special reason for imputing falsely to the appellant the serious crime for which the latter was charged. In the lower court, Brito declared that he and appellant's son, Antonio, were very good friends before the shooting incident occurred — in fact, they were like brothers. Hence, testifying against appellant would damage the close relationship he had not only with appellant but also with his bosom friend, Antonio. With this in mind, the Court is fully convinced that Brito's testimony is not tainted with any falsity or malice.

The second half of the appellant's brief deals almost entirely on the alleged lack of credibility of the other principal witnesses for the prosecution. According to appellant, their testimonies are full of inconsistencies and, therefore, must not be given weight by the court. In this regard, appellant cites Rene Bautista and Rafael Euste who during the police investigation of the crime did not state that they actually saw appellant fire his gun but later, in open court, admitted that they did.

The two witnesses above-mentioned explained the reason for their reluctance to immediately disclose what they actually saw during the shooting incident. Both of them feared for their lives. Rene Bautista stated in court that he was warned by appellant not to come out in the open to tell the truth. Being so scared, he even left for Manila. Fortunately, he had a change of mind and went back to tell everything that he knew. Fear for one's life explains the failure on the part of a witness to a crime to immediately notify the authorities of what exactly transpired. Once such fear is overcome by a more compelling need to narrate the truth, then the witness must be welcomed by the courts to help dispense justice.

Still, appellant insists that the testimony of Rafael Euste is not credible because of his fraternal relationship with Ramon Euste, the surviving victim. Appellant wants the Court to classify Rafael as an "interested" witness who is entirely lacking in credibility and whose testimony was naturally biased to favor his brother.

To brand Rafael Euste as an unreliable witness and to characterize his testimony as biased for the mere reason that he happened to be the brother of the complainant in this case is grossly unfair. There is absolutely nothing in Our laws which disqualifies a person from testifying in a criminal case in which his own brother was involved if he was really at the scene of the crime and was a witness to the execution of the criminal act. A careful review of the records of the case do not show that Rafael's testimony was calculated to benefit his brother. The statements of Rafael jibe with the testimonies of the other major witnesses for the prosecution. What he said was logical and corroborated by the medical findings. Clearly then, there is no justification to cast aside his testimony.

Furthermore, the rule in this jurisdiction on the matter of credibility of witnesses has long been settled. Unless there is a showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case, the appellate court will not disturb the factual findings of the lower court.[7] Regarding the alleged inconsistencies in the statements of the prosecution witnesses concerning the incident, the same refer to minor details and are not of such magnitude as to destroy their credibility or the veracity of their declarations.[8]

In conclusion, We note that the prosecution's account of the facts is much more convincing than that of the defense. It is far from believable that the Brusases and the Eustes would accuse appellant of such a serious crime as murder just because he pushed one of their relatives after the controversial volleyball game.

On the other hand, appellant has somehow revealed his motive to assault the members of the Euste-Brusas clan. In court, appellant could not hide his resentment in the way the cousins ridiculed him in public. To recall what he said in court, he stated that they kept on cheering and uttering unsavory remarks against him, mocked and annoyed him, kept on pestering him even after the game was over and sent word that they would bodily harm on him.[9] Not only that, the Eustes had a fight with his own relatives, the Lumerios, which he himself witnessed. Indeed, it is not surprising that appellant would harbor resentment against the Brusas and Euste cousins who not only insulted and made fun of him publicly but who also posed as a threat to his life and that of his next-of-kin.

WHEREFORE, the judgment appealed from is hereby AFFIRMED, with costs against appellant.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 76 to 78, Rollo.

[2] Page 30, Rollo.

[3] Pages 63 to 64, Rollo.

[4] Page 77, Rollo.

[5] People vs. Vergara, 136 SCRA 106 (1985).

[6] Page 78, Rollo.

[7] People vs. Ablaza, 30 SCRA 173 (1969).

[8] People vs. Moral, 132 SCRA 474 (1984).

[9] Page 56, Rollo.

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