

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANIEL SISON Y ALEGRIA, DEFENDANT-APPELLANT.

G.R. No. 86455. September 14, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

In Criminal Case No. D-8195 of the Regional Trial Court at Dagupan City (Pangasinan), Daniel Sison y Alegria was charged with the crime of Homicide with the Use of Unlicensed Firearm, committed, as follows:

"That on or about the 20th day of July 1987, in barangay Dinalaoan, municipality of Calasiao, province of Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there wilfully, unlawfully and feloniously shoot John Ventura with an unlicensed firearm, inflicting upon him the following injuries:

- gunshot wound (point of entry), 5th costo-sternal joint, (L)
- powder burns at the periphery of the wound
- perforation of the heart (through and through)
- perforation of the mediastinal wall, lower right side

which caused his death as a consequence, to the damage and prejudice of his heirs." [1]

When arraigned, the said accused, assisted by counsel, pleaded not guilty to the charge, [2] but, after trial, he was found guilty of the charge and sentenced 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. [3]

From this judgment, he appealed to this Court.

The established facts of the case, according to the Solicitor General, are as follows:

"On July 20, 1987, at about 2:30 in the afternoon, John Ventura was conversing with several persons on a culvert when appellant arrived riding on a bicycle. He approached John Ventura and forthwith, drew a gun from his waistline, pointed the same to Ventura uttering at the same time: 'Agka mibabali pare' (Don't interfere, pare!). Ventura instinctively ran towards his house, but appellant chased him. He caught up with Ventura in the latter's yard, about 8 meters away from the culvert. There, appellant shot Ventura (tsn, Crisostomo, Jan. 12, 1988, pp. 5-8). The victim fell and sprawled on the ground. Appellant tried to reload the gun still pointed at the victim, but the latter's sister, Corazon Ventura Crisostomo, who was at that time only about 1 1/2 meters away from appellant, grabbed and succeeded in taking possession of the gun from the latter. She witnessed the whole incident from the time appellant chased the victim up to the time he shot him (tsn, ibid, pp. 11-12).

A certain Daniel Alegria, the victim's brother-in-law, upon hearing the gun report followed by screams and shouts from the people, immediately left his house which was about 40 to 50 meters away and ran towards the

place of the commotion. He saw Corazon Ventura- Crisostomo wrest the gun from appellant (tsn, Sison, Jan. 7, 1988, p. 35). When appellant saw Daniel Alegria, he immediately ran away, while Corazon handed the gun to him (Daniel Alegria) telling him to surrender it to the police. He hired a tricycle and brought Ventura to the hospital. Along the way, they first stopped at the police station to surrender the gun to the authorities. The victim died on the way to the hospital (tsn, Ibid, pp. 39-41).

Dr. Dante Bernabe, a Rural Health Physician of Calasiao, Pangasinan, who performed the medico-legal examination on the victim opined that the victim and the assailant were standing at the time of the incident (tsn, Bernabe, Jan. 7, 1988, p. 11). His findings are:

- ‘ - gunshot wound (point of entry) 5th costo-sternal joint, (L)
- powder burns at the periphery of the wound
- perforation of the heart (through and through)
- perforation of the mediastinal wall lower right side.' (Exhibit "F")

The cause of death was cardiac failure caused by cardiac perforation due to gunshot wound.

A certification issued by the Firearms and Explosive Unit, Camp Crame, Quezon City reveals that appellant was not a licensed/registered holder of a firearm of any kind. Records further show that subject firearm is a homemade .45 gun with no brand name nor serial number, unlicensed and/or unregistered."[4]

The appellant, however, denied that he shot the deceased John Ventura. He also denied that the gun belonged to him. His version of the incident, as summarized by his counsel, is as follows:

"Accused on his behalf, testified that on July 20, 1987 while repairing his bicycle in front of their house he saw the victim, John Ventura at the top of the culvert together with Wilfredo Bravo, Avelino Alegria and Carlito Soriano. That he boarded his bicycle and went near John Ventura. Upon reaching the place, he told John Ventura 'Agka Mibabali Pare'. That after he uttered the words, John Ventura immediately ran towards their house which is about seven to eight meters away from the culvert. That John Ventura entered their house. Daniel Sison followed him because he wants (sic) to talk to him as John Ventura was interfering to (sic) his debtors. Daniel Sison was not able to follow him inside their house for in a matter of second John Ventura came out from their house carrying a gun. Daniel Sison immediately grabbed the right hand of John Ventura to wrest possession of the gun; however, in the process of grappling for possession of the gun it went off hitting John Ventura. Daniel Sison immediately ran towards the house of Brgy. Captain Perfecto Corpuz of Dinalaoan, Calasiao, Pangasinan. The Brgy. Captain was not at his house at that time. Daniel Sison was told to see the Brgy. Captain Perfecto Corpuz at Poblacion, who surrendered him to the police authorities on that day.

Accused-appellant's evidence that he grappled for possession of the gun from the victim, John Ventura was corroborated by the testimony of Benjamin Gutierrez and Arturo Bravo, both disinterested witnesses who has (sic) no motive to tell a lie, both testified that they were at Sitio Alegria, Dinalaoan, Calasiao, Pangasinan on July 20, 1987 looking for goats to buy because they have a purchase order and their supply is not enough. x x x."[5]

In this appeal, the accused-appellant, through his counsel, insists that he is innocent and assails the trial court for giving credence to the "absurd and fascinatingly incredible" and biased testimony of the prosecution witnesses who are close relatives of the deceased; and in not believing his version which is corroborated by two (2) disinterested witnesses.

We have gone over the record of this case with pain-staking care and find no merit in the appeal. The trial court found the testimonies of the prosecution witnesses to be credible and we find no reason to disturb the findings of the trial court. The record of this case is bereft of any circumstance from which we may infer that the testimonies

of the prosecution witnesses are mere concoctions. There are sufficient facts on which said witnesses based their positive identification of the appellant as the owner of the gun used by him in killing John Ventura.

Avelino Alegria declared that he was one of those persons chatting with John Ventura when the appellant arrived and told the said John Ventura: "Agka mibabali pare" (meaning, Do not interfere pare) and then drew a gun tucked in his waist and pointed it at John Ventura who ran away pursued by the appellant. He was positive that the gun belonged to the appellant because he saw the same gun in appellant's possession the night before the incident.[6]

Corazon Ventura-Crisostomo, for her part, declared that she was also among those conversing with John Ventura when the appellant arrived and drew a gun from his waist which he pointed at John Ventura saying: "Do not interfere pare." She saw John Ventura running home, followed by the appellant who shot him; and that when the appellant tried to re-load the gun, she wrested the gun from the appellant. She gave the gun to Daniel Alegria, who had arrived in the meantime, with instructions to surrender it to the police.[7] Daniel Alegria, an uncle of the appellant, confirmed her testimony.[8]

The mere fact that the prosecution witnesses Daniel Alegria and Corazon Ventura-Crisostomo are closely related to the deceased is not a sufficient reason to disregard their testimonies since they had no improper motive to testify falsely against the appellant. The relationship of the witnesses to the victim does not render the clear and positive testimonies of said witnesses less worthy of full faith and credit. The declarations of interested witnesses are not necessarily biased and incredible.[9]

The alleged inconsistency in the testimonies of the prosecution witnesses, pointed out by the appellant in his Brief, i.e., that Avelino Alegria declared that upon hearing a gun shot, he went out of his house which is less than 10 meters from the house of John Ventura where the shooting took place and saw the said John Ventura sprawled on the ground and the appellant was no longer there, whereas, Daniel Alegria, who lived about 40 to 50 meters away from the house of John Ventura stated that upon hearing the gun shot, he ran to the direction from where the gun shot came and saw his sister-in-law Corazon Ventura-Crisostomo grappling with the appellant for the possession of the gun, is in the nature of a minor detail. It does not affect the integrity of the witnesses' testimonies. It is well-settled that inconsistencies on minor details do not affect credibility as they refer only to collateral matters which do not touch upon the commission of the crime itself.

At any rate, the issue is one of credibility of witnesses and it is a settled rule that findings of fact of trial courts which heard the witnesses and assessed their credibility are not to be disturbed on appeal where there is no abuse of discretion imputed to them. Herein appellant failed to demonstrate that his case falls within the exception that would justify this Court to overturn the findings of the trial court.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with the sole modification that the indemnity to be paid by the appellant to the heirs of the victim is increased to P50,000.00 in accordance with the new policy of the Court on this matter. Costs against the appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Sarmiento, and Regalado, JJ., concur.
Paras, J., on leave.

[1] Original Record, p. 57

[2] Id., p. 88

[3] Id., p. 175

[4] Appellee's Brief, pp. 5-8

[5] Appellant's Brief, pp. 4-6

[6] tsn of January 7, 1988, pp. 25-26

[7] tsn of January 12, 1988, pp. 11-14

[8] tsn of January 7, 1988, pp. 35-39

[9] People vs. Kipte, G.R. No. L-26662, October 30, 1971, 42 SCRA 198 and cases cited; People vs. Canada, G.R. No. 63728, September 15, 1986, 144 SCRA 121 and cases cited; People vs. Ocaya, G.R. No. 75074, September 15, 1986, 114 SCRA 165

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