

SECOND DIVISION

[G.R. No. 173612, March 26, 2008]

**DOMINADOR MALANA AND RODEL TIAGA, PETITIONERS, VS.
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

TINGA, J.:

The petitioners Dominador Malana (Dominador) and Rodel Tiaga (Rodel), together with their acquitted co-accused Elenito Malana (Elenito), were charged with the crime of murder and multiple frustrated murder before the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 12. The charges^[1] stemmed from an incident on 28 May 2000 that left Betty Capsa-Roxas (Betty) dead, and her daughter and granddaughter injured. The appellants pleaded not guilty during the arraignment.

The prosecution presented the two adult survivors of the ghastly crime, Vicente Roxas Jr., (Vicente) and his daughter Suzette Roxas (Suzette), as its main witnesses.

They testified as follows: In the evening of 28 May 2000, Vicente, his wife, Betty, Suzette, and the latter's infant daughter, Jenny Rose de la Cruz (Jenny), were asleep inside their house in San Jose del Monte, Bulacan. Their house is a single-storey structure with spaces apportioned for the living room, the kitchen, and one bedroom.^[2] Vicente and Betty slept at the living room, while Suzette and Jenny occupied the bedroom. ^[3]

Vicente testified that at around 11:30 p.m., he was awakened by the sound of dogs barking. He saw the kitchen door of their house on fire. He tried to douse the flames with water, but the fire fuming of the smell of gasoline, spread out instead. Vicente woke Betty and told her to fetch help. As Betty opened the main door of their house, Dominador, Rodel, and a third man whom he identified as Ronnie Malana, suddenly appeared and entered the house.^[4] Since these individuals had previously threatened to kill Vicente and his entire

family, Vicente, upon seeing them, ran through the burning kitchen door and out of the house to seek help from his brother-in-law, Roberto Oredero, whose house was merely 30 meters away.^[5] After escaping several meters from his house, Vicente heard an explosion and saw the fire engulf his entire house.^[6]

Meanwhile, Suzette, who was awakened by her parents' panicked reaction to the kitchen fire, cradled Jenny and saw the three men enter their house when her mother opened the main door. Dominador and Rodel were standing behind the third man.^[7] She testified that the third man carried a round one-gallon container with a

wick of three to four inches in length. Rodel lit the wick with a match, and the third man threw the container into Suzette's bedroom. After that, the three men simultaneously ran away. Suzette saw the container burst into flames and explode.^[8]

The explosion killed Betty instantly, blowing apart her legs and one of her arms. Her body, from the waist down, was burned. The explosion also shattered and exposed the bone of Suzette's left leg and knocked her front teeth out. The doctors could not save Suzette's

shattered left leg so the same was amputated from below the knee. Had it not been for the prompt medical attention she received, Suzette would have died from the injuries she had sustained from the explosion.^[9] Jenny survived the blast with barely any injury.

Vicente also testified that appellants had been threatening to liquidate him and his family, due to their belief that he was in the practice of witchcraft by which he had caused the deaths of Rodel's parents-in-law.^[10]

Appellants proffered the defenses of denial and alibi. Dominador testified that on the date and time of the crime, he was working as a construction worker in Parian, Calamba, Laguna and that

he had been in Laguna since 11 May 2000 until the end of the month. He claimed that he was implicated by Vicente because the latter

thought that he had something to do with the elopement of Suzette.^[11] He pointed to Salvador Villafuerte, Roman Villafuerte, Boyet Villafuerte, and Mondring Erederos as the perpetrators of the crime.^[12] Rodel testified that he was recuperating from illness in Binahaan, Pagbilao, Quezon when the incident took place. He claimed that he was implicated because he helped Dominador in engaging the services of a counsel.^[13] Elenito similarly gave the alibi that he was engaged as a construction worker together with Dominador in Laguna when the crime occurred. He also denied that his alias is "Ronnie," the name of the third perpetrator identified by Vicente.^[14]

The RTC, in a Decision^[15] dated 21 February 2003, found Dominador and Rodel guilty of two (2) separate crimes of murder and frustrated murder, and acquitted Elenito on the ground of reasonable doubt. The trial court gave credence to the eyewitness accounts of Vicente and Suzette who positively identified the appellants as two of the three perpetrators of the crime. However, the trial court acquitted Elenito as he was not positively identified by Suzette as the third man and his physical appearance does not fit the description of the tall fat man seen by Suzette.

Appellants appealed from the trial court's decision to the Court of Appeals. The appellate court, in a Decision^[16] dated 20 April 2006, affirmed the guilt of appellants but modified their sentences such that each of them is liable for the complex crime of murder with frustrated murder and attempted murder; hence, it sentenced each of the appellants to suffer the penalty prescribed for the most serious crime which is death. The Court of Appeals denied appellants' motion for reconsideration in a Resolution^[17] dated 20 July 2006.

Hence, the present Petition^[18] before this Court.

Except as to the penalty of death, now commuted to *reclusion perpetua* pursuant to Republic Act No. 9346,^[19] we affirm appellants' conviction. There is no cogent reason to disturb the finding of guilt made by the trial court and affirmed by the appellate court. The issues raised by appellants involve weighing of evidence already passed upon by the trial court and the appellate court. Appellants question the credibility of the testimony of Vicente and Suzette and the weight given by the trial court to the testimony of the bomb specialist. The age-old rule is that the task of assigning values to the testimonies of witnesses in the stand and weighing their credibility is best left to the trial court which forms its first-hand impressions as a witness testifies before it. It is also axiomatic that positive testimony prevails over negative testimony.^[20]

Vicente positively identified appellants as two of the three assailants who barged into his house and committed the heinous crime. He testified on direct examination as follows:

Q: When you saw your kitchen door of your house was on fire, what did you do then?

A: I tried to put off the fire by tossing it with container of water, sir.

Q: Were you able to stop the fire?

A: No, sir, because I smell[ed], it was a gasoline.

Q: when you were not able to stop the fire, what did you do?

A: Because my wife then was awake[d] I instructed her to sought [*sic*] for [*sic*] help, sir.

Q: Did she accede, as you directed?

A: Yes, sir. When my wife opened the door to ask for help Dominador Malana, Rodel Aliaga and Ronnie Malana suddenly appeared at the door.

Q: This Ronnie Malana is he present?

A: he is not present inside the courtroom, sir.

Q: What about Dominador Malana?

A: Yes, sir.

Q: Point to him.

COURT:

Stand up. Witness pointed to Dominador Malana inside the courtroom.^[21]

X X X

FISCAL:

Q: How about this other one Rodel Aliaga?

A: Yes, sir.

BRANCH CLERK OF COURT:

Witness pointed to Rodel Aliaga, the accused, inside the courtroom.^[22]

X X X

FISCAL:

Q: Which door of your house did they enter?

A: The main door, sir.

Q: When they entered these three persons: Rodel, Dominador and Ronnie, what did they do inside your house?

A: When I saw them, because I received several threats from them, I immediately ran towards the kitchen door which was then burning, which was then on fire, sir.

X X X

Q: When you ran towards the burning kitchen door which was on fire, where was your wife, your grandchildren and your daughter?

A: They were inside our house in the living room, sir.

Q: What happened when you ran towards the kitchen door which was burning?

A: After I ran out of the house, sir, I heard an explosion and when I looked back I saw that my house was on fire.^[23] (Emphasis ours.)

Suzette testified on what occurred after her father ran out of their house to seek help leaving her and her mother to face the two appellants and a third person. She testified, thus:

Q: And after the bombing what transpired next if anything did transpire and your have carried your child?

A: My mother then ran towards the main door, sir.

Q: Was she able to reach the main door?

A: Yes, sir.

Q: So what if anything did happen when your mother reached the main

door?

A: She opened the door, sir.

Q: And thereafter when she opened the door, what transpired next?

A: As soon as she opened the door, three (3) men entered our house, sir.

Court:

Thru that door?

A: Yes, Your Honor.

Fiscal:

Q: Were you able to recognize these three (3) men?

A: I only recognize two of the three (3) men, sir.

Q: These two (2) whom you claimed you came to know, are they present before this courtroom?

A: Yes, sir.

Q: Will you point to them one by one?

A: The first one was Rodel Tiaga (witness pointing to the accused inside the courtroom) and the second one is Dominador Malana (witness pointing to the accused inside the courtroom)

Q: The other one whom you claimed entered the main door of your house after the same was opened by your mother, is also around, will you be able to recognize him?

A: Yes, sir.

Q: So what happened when three (3) men including that person who is not around together with these two (2) persons that you have just pointed out entered your house?

A: One of them was carrying a gallon container with dynamite inside and he threw it inside the house, sir.

Q: Who in particular was carrying that content with dynamite?

A: A fat tall man with dark complexion, sir.

Q: You mean the one who is not present before this courtroom?

A: Yes, sir.

Q: What about these two (2) persons that you have just pointed out? What did they do immediately after they entered the house?

A: They were the ones holding the matchstick and the matchbox, sir.

Q: When you say they were the one holding the match, you mean both of them?

A: No, sir.