

## TWENTY-THIRD DIVISION

[ CA-G.R. CR NO. 00955-MIN, February 06, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS. ROMEO BATUIGAS Y NOYNOY, ACCUSED-APPELLANT.**

### D E C I S I O N

**CONTRERAS, J.:**

Before this Court is an Appeal from the Decision<sup>[1]</sup> dated February 16, 2012 of the Regional Trial Court (RTC), Branch 16 of Davao City finding accused Romeo Batuigas guilty beyond reasonable doubt for the crime of Homicide penalized under Article 249 of the Revised Penal Code, sentencing him to suffer the Indeterminate Sentence ranging from six (6) years and one (1) day *prision mayor*, minimum period, as minimum to twelve (12) years one (1) day *reclusion temporal*, minimum period, as maximum, and ordering him to pay the heirs of Catherine Ramirez the following amount: (1) PHP 75,000.00 as death indemnity; (2) PHP 50,000.00 as moral damages; (3) PHP 25,000.00 as exemplary damages; and (4) PHP 33,963.00 as actual damages.

#### The Facts

The facts of the present controversy borne by the records are:

Romeo Batuigas y Noynoy (appellant for brevity) was charged with the crime of Homicide penalized under Article 249 of the Revised Penal Code before the Regional Trial Court (RTC), Branch 16 of Davao City in Criminal Case No. 65,727-09. The accusatory portion of the Information<sup>[2]</sup> dated May 8, 2009 states:

That at or about May 4, 2009, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, accused ROMEO BATUIGAS, with intent to kill, did then and there willfully, unlawfully and feloniously, shoot at the person of Catherine Ybanez Ramirez using a handgun described as 9mm caliber pistol with serial number 410734, thereby inflicting upon said Catherine Ybanez Ramirez mortal wounds which were the direct and immediate cause of her instantaneous death.

CONTRARY TO LAW.

When arraigned on May 28, 2009, appellant, assisted by his counsel, pleaded "not guilty" to the indictment. Pre-trial and trial on the merits then ensued. The prosecution presented three (3) witnesses, namely: (1) Juvelyn Ramirez,<sup>[3]</sup> the victim's sister; (2) Diosdada Ramirez, the victim's mother; and (3) Randy Ramirez, the victim's brother. The prosecution tried to establish the following facts:

At dawn of May 4, 2008, Randy Ramirez (Randy, for brevity) was sleeping inside the bedroom of her sister Catherine Y. Ramirez

(Catherine, for brevity) at the latter's residence in Dona Aurilla Village, Sasa, Davao City. Also sleeping inside the room were Catherine and her boyfriend, appellant Romeo Batuigas (Romeo, for brevity).

At around 5:30 a.m. in the morning, Randy was awakened by a heated squabble between Catherine and Randy. In the course of the altercation, Randy heard Romeo uttered the following words to Catherine: "Patyon taka! Dili na taka alang-alangon pag patay!" (I will kill you! I will not hesitate to kill you!). While Romeo was uttering those threatening words, Randy saw Romeo holding, loading and chambering a gun. Because he was afraid of the situation, Randy transferred to the room of his other sister, Juevelyn, to continue his sleep. Shortly thereafter, Randy was awakened by the sound of a gunfire emanating from the room of Catherine. Randy immediately rushed to Catherine's room only to find out that the door was locked. It was then that Randy heard Romeo shouting "Jov, Jov! Tabang Jov, pagtawag ug doctor! (Jov, Jov! Help Jov, call a doctor!) Randy then went out of the house through the front door and sought for help. He saw their neighbor, Ate Melva, who managed to hire a multi-cab to bring Catherine to the hospital.

At about 6:00 a.m., Randy went back inside the house and there he saw Romeo exiting Catherine's bedroom, carrying her body. Randy noticed that her sister was already pale and unconscious with eyes staring upwards. Romeo, still carrying Catherine, then boarded the multi-cab and proceeding to the hospital.

On their way to the hospital, Catherine expired while on board the multi-cab. Upon arrival, Catherine was declared dead due to hypovolemic shock secondary to gunshot.

Meanwhile, on January 5, 2011, appellant, instead of giving his testimony and presenting himself as a witness as agreed during the pre-trial, filed a Motion with Leave of Court to File a Demurrer to Evidence.<sup>[4]</sup> In the Demurrer to Evidence<sup>[5]</sup> dated January 4, 2011, appellant argues as follows:

While the fact of death of the victim Catherine Ramirez was proven, nowhere did the prosecution present any evidence to show and prove that herein accused shot and killed the victim. How the victim sustained a lone gunshot wound injury on her right thigh – whether accidental or intentional was not established by the prosecution, as no forensic nor medical expert was presented in the case. And, despite of the availability of the firearm (Exh. J), empty shell (Exh. M) and slug (Exh. E), they were not subjected to any ballistic examinations to establish that the gun of the accused may have been used and fired. There is total lack of evidence to show that the accused shot and killed Catherine Ramirez.

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The testimony of prosecution witness Randy Ramirez made no reference as to how the crime was committed because admittedly, he was asleep and was awaken only when he heard a gunshot fired inside the bedroom of the accused Romeo Batuigas and the victim Catherine Ramirez.

Inspiringly, he however testified that the accused called upon Jovelyn Ramirez to call a doctor (TSN dtd July 27, 2010, p. 14). It was also the accused who carried the victim from the bedroom and immediately brought her to the hospital (TSN dtd July 27, 2010, p. 20). Surely, such gesture cannot reasonably be expected from, and would be unbecoming of, one committing a crime as killing the victim. Every circumstance favoring the accused innocence must be duly taken into account.

Furthermore, the nature and location of the wound should also be considered. The lone gunshot wound on the right thigh of the victim negates intent to kill her. There would have been intent to kill if Catherine was shot several times, finished off and the accused immediately fleeing the scene, but such was not the case.

The mere surrender of the accused to purposely face the charges filed against him does not mean that he committed the crime or is guilty of killing the victim. The guilt of the accused cannot be based on mere conjectures, presumptions or suspicions. xxx

On January 20, 2011, the prosecution filed an Opposition to Accused Demurrer to Evidence.<sup>[6]</sup>

On January 21, 2011, the appellant filed his Reply to Prosecution's Opposition.<sup>[7]</sup>

On January 25, 2011, finding the compelling need for the appellant to adduce countervailing evidence, the RTC issued an Order<sup>[8]</sup> denying the Demurrer to Evidence filed by appellant.

On February 1, 2011, the appellant filed a Motion for Reconsideration<sup>[9]</sup> which was denied in an Order<sup>[10]</sup> dated February 22, 2011.

However, despite such denial and after he was given by the RTC sufficient trial dates to present countervailing evidence, appellant, during the last setting of the case, waived his right to adduce countervailing evidence.<sup>[11]</sup> In view of such waiver, the case was submitted for decision based on the evidence of the prosecution.

On February 16, 2010, the court *a quo* rendered its Decision<sup>[12]</sup> finding appellant guilty beyond reasonable doubt of the crime of Homicide penalized under Article 249 of the Revised Penal Code, the *fallo* of which reads:

WHEREFORE, finding the evidence sufficient to prove the guilt of the accused beyond reasonable doubt, the Court hereby finds accused Romeo Batuigas guilty for the death of Catherine Ramirez and, appreciating the mitigating circumstance of voluntary surrender, hereby sentences said accused to suffer the Indeterminate Sentence, ranging from six (6) years and one (1) day prision mayor, minimum period, as minimum to twelve (12) years one (1) day reclusion temporal, minimum, as maximum.

Accused is further sentenced to indemnify the heirs of Catherine Ramirez, the following sums:

- 1) P75,000.00 as civil indemnity for the death of Catherine Ramirez;
- 2) P50,000.00 as moral damages
- 3) P25,000.00 as exemplary damages;
- 4) P33,963.00 as medical, burial and transportation expenses.

SO ORDERED.

Unsatisfied, on March 2, 2012, appellant filed a Notice of Appeal.<sup>[13]</sup> Hence, this Appeal.

Issue

WHETHER OR NOT THE COURT A QUO IN THE INSTANT CASE ERRED IN HOLDING THAT THERE IS SUFFICIENT (CIRCUMSTANTIAL) EVIDENCE TO PROVE THE GUILT OF THE ACCUSED-APPELLANT ROMEO N. BATUIGAS GUILTY FOR THE DEATH OF CATHERINE Y. RAMIREZ

The Court's Ruling.

We find no reversible error in the RTC's decision and affirm the appellants' conviction for homicide.

Appellant avers that the trial court erred in finding him guilty beyond reasonable doubt for the crime of homicide as the quantum of evidence required for his conviction was not met. Appellant argues that while the fact of death of Catherine was proven, the prosecution failed to present any evidence to show and prove that: (1) appellant shot and killed the victim and (2) he had intent to kill the victim. He asserts that the witnesses that the prosecution present did not even personally see and observe the killing of Catherine. How Catherine sustained a lone gunshot wound injury on her right thigh, whether accidental or intentional, was not established by the prosecution as no forensic or medical expert was presented during trial. Appellant also added that despite the availability of the firearm, empty shell and slug, these were not subjected to any ballistic examinations to establish that the gun of appellant was used and fired. Appellant maintains that the prosecution's evidence rested merely on speculation or naked assertions that appellant shot Catherine.

Such averment fails to persuade this Court.

Although no one witnessed the actual killing of Catherine, it must be emphasized that direct evidence is not the sole means of establishing guilt beyond reasonable doubt. Established facts that form a chain of circumstances can impel a conscious process of reasoning towards a conviction. Indeed, rules on evidence and principles in jurisprudence have long recognized that the accused may be convicted through circumstantial evidence.<sup>[14]</sup>

Section 4 of Rule 133 of the Rules of Court provides:

SEC. 4. *Circumstantial evidence, when sufficient.*-Circumstantial evidence is sufficient for conviction if: