

SECOND DIVISION

[G.R. No. 230221, April 10, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR GAYON Y FERRERAS, ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

This is an appeal^[1] from the Decision^[2] dated December 7, 2015 (assailed Decision) of the Court of Appeals, Fourth Division (CA), in CA G.R. CR-HC No. 05952, which affirmed with modification the Decision^[3] dated October 4, 2012 of the Regional Trial Court, Branch 55, Irosin, Sorsogon (RTC), in Criminal Case No. 1746, finding accused-appellant Edgar Gayon y Ferreras (accused-appellant Edgar) guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code (RPC).

The Facts

Accused-appellant Edgar and Rodolfo Gayon (Rodolfo) were charged with the crime of Murder under the following Information:^[4]

That on or about the 19th day of July, 2004, at about 9:40 in the evening, at Brgy. Sulangan, municipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with bladed weapon, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and evident premeditation did then and there willfully, unlawfully and feloniously, attack, assault and stab one Leonora Givera, thereby hitting and inflicting upon her mortal wounds which caused her instantaneous death, to the damage and prejudice of her legal heirs.

CONTRARY TO LAW.^[5]

Upon arraignment, both accused-appellant Edgar and Rodolfo pleaded not guilty to the crime charged. After pre-trial, trial proceeded.

Version of the Prosecution

The version of the prosecution as summarized by the CA is as follows:

The evidence of the prosecution indicated that on July 19, 2004 at around 9:40 in the evening, Leyden Gayon [(Leyden)] was in their house in Sulangan, Matnog, Sorsogon. Her husband is the first cousin of [Rodolfo] while accused-appellant [Edgar] is the son of Rodolfo. Leyden testified that while she was in their house having a conversation with

Leonora Givera [(Leonora)], Leyden saw accused-appellant [Edgar] entered their house. According to the People's witness, [accused-appellant Edgar] sat on the lap of Leonora and suddenly stabbed Leonora several times. She even saw accused-appellant's knife embedded on Leonora's right shoulder. Thereafter, Leyden dragged Leonora inside the house. Leyden claimed that Leonora uttered to her that she was dying and Leyden likewise heard accused-appellant [Edgar] told his father [Rodolfo] "*Papay we have no more problem because I killed your sister.*"

[6]

Version of the Defense

On the other hand, the defense presented as witnesses accused-appellant Edgar and Rodolfo, whose testimonies were summarized as follows:

x x x [T]hat on July 19, 2004 at about 9:40 in the evening[,], [Rodolfo] was in their house along the road in Sulangan, Matnog, Sorsogon. He claimed he was not present at the time of the killing. That he was just informed by his wife and daughter about the incident that his son [accused-appellant Edgar] had killed Leonora Givera, the following morning. His wife and daughter-in-law had a previous altercation about their chickens. He did not know of any reason why [he was implicated in the case]. x x x [7]

For his part, accused-appellant [Edgar] alleged that on July 19, 2004, he arrived home from work but his family was not there. [He] went back on the road where a certain Toti told him that his family was not home because they had a quarrel with Leonora at Leyden's house, where they were drinking gin. Thereafter, [accused-appellant Edgar] asked Leonora what [his] wife did which caused their frequent quarrel. [However,] x x x Leonora pointed a knife at him and said that his wife kept on fighting back. Leonora then stood with the knife still pointing at accused-appellant [Edgar], who tried to resist the instrument. During the struggle, accused-appellant [Edgar] allegedly saw Leyden's husband approaching with something to hit him, so he pushed Leonora inside Leyden's house. Accused-appellant [Edgar] testified that he did not notice if the knife caused any injury. Thus, he left and went back on the road to look for his family. [8]

Ruling of the RTC

In its Decision [9] dated October 4, 2012, the RTC convicted accused appellant Edgar but acquitted Rodolfo. The dispositive portion of said Decision reads:

WHEREFORE, the prosecution having established the **GUILT** of the accused beyond reasonable doubt EDGAR GAYON is hereby sentenced to suffer a penalty of Reclusion Perpetua. And to indemnify the heirs of Leonora Givera in the amount of Php75,000.00, as civil indemnity and Php75,000.00 as moral damages.

The period of detention of Edgar Gayon is credited in his favor in accordance with Article 29 of the Revised Penal Code.

For failure of the prosecution to establish sufficient evidence to support a conviction accused RODOLFO GAYON is hereby **ACQUITTED**. Considering that the accused is a detention prisoner, he is hereby ordered released from legal custody. The Provincial Warden of Sorsogon Provincial Jail is hereby ordered to release the person of the accused unless there is a case for which he may be further detained.

Without Costs.

SO ORDERED.^[10]

The RTC gave credence to the testimony of the eyewitness, Leyden Gayon (Leyden), who identified accused-appellant Edgar as the one who stabbed Leonora several times on the right shoulder as corroborated by the medical finding of Dr. Rosanna Galeria.^[11] The RTC further held that the qualifying circumstance of treachery was duly proven due to the suddenness of the attack by accused-appellant Edgar without giving the victim a chance to defend herself.^[12]

Aggrieved, accused-appellant Edgar appealed to the CA.^[13]

Ruling of the CA

In the assailed Decision,^[14] the CA affirmed the RTC with modifications, to wit:

WHEREFORE, the **APPEAL** is hereby **DENIED**. Consequently, the appealed Decision rendered on October 4, 2012 by the Regional Trial Court, Branch 55, Irosin, Sorsogon in Criminal Case No. 1746 is **AFFIRMED** with **MODIFICATION** as to the incremental payment by the accused of legal interest at the rate of six [percent] (6%) interest per annum on all monetary awards from finality of the Decision until full payment.

SO ORDERED.^[15]

The CA found that all the elements of Murder were established by the prosecution through the testimony of the eyewitness and corroborated by the results of the post mortem examination of the victim.^[16] Anent the qualifying circumstance of treachery, the CA held that the prosecution managed to demonstrate that the attack on the unsuspecting victim, who was merely inside the house and talking to Leyden, was very sudden.^[17]

Further, the CA ruled that, apart from accused-appellant Edgar's self serving testimony, no other evidence was presented by him to show the elements of self-defense. On the contrary, the nature and the number of wounds sustained by the victim logically indicate that the assault was no longer an act of self-defense but a determined aggression on the part of accused-appellant Edgar.^[18]

Hence, this appeal.

Issues

Whether the CA erred in affirming accused-appellant Edgar's conviction for Murder.

The Court's Ruling

The appeal is partly meritorious.

It is settled that findings of fact of the trial courts are generally accorded great weight; except when it appears on the record that the trial court may have overlooked, misapprehended, or misapplied some significant fact or circumstance which if considered, would have altered the result.^[19] This is axiomatic in appeals in criminal cases where the whole case is thrown open for review on issues of both fact and law, and the court may even consider issues which were not raised by the parties as errors.^[20] The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.^[21]

After a careful review and scrutiny of the records, the Court affirms the conviction of accused-appellant Edgar but for the crime of Homicide, instead of Murder, as the qualifying circumstances of treachery and evident premeditation were not present in the killing of the victim Leonora.

Qualifying circumstances of treachery and evident premeditation

Settled is the rule that qualifying circumstances must be proved with the same quantum of evidence as the crime itself, that is, beyond reasonable doubt.^[22] Hence, for accused-appellant Edgar to be convicted of Murder, the prosecution must not only establish that he killed Leonora; it must also prove, beyond reasonable doubt, that the killing of Leonora was attended by treachery or evident premeditation.

Both the RTC and the CA found that the killing of Leonora was attended by treachery only because of the suddenness of accused-appellant Edgar's attack against the victim. However, mere suddenness of the attack is not sufficient to hold that treachery is present. For treachery to exist there must be a showing that the means of execution was deliberately or consciously adopted by the accused with a view of accomplishing the act without risk to the aggressor.^[23] Thus, in *People v. Caliao*^[24] (*Caliao*), the Court found the accused therein guilty of Homicide only, not Murder, because there was no showing that the accused made any preparation to kill the victim in such a manner as to insure the commission of the crime or make it impossible or difficult for the victim to retaliate or defend himself.^[25] The Court also ruled that "when aid was easily available to the victim, such as when the attendant circumstances show that there were several eyewitnesses to the incident, including the victim's family, no treachery could be appreciated because if the accused indeed consciously adopted means to insure the facilitation of the crime, he could have chosen another place or time."^[26]

Similar to *Caliao*, there is no showing in this case that accused appellant Edgar carefully and deliberately planned the killing in the manner that would ensure his safety and success. Moreover, the testimony of the eyewitness confirmed that