

FIRST DIVISION

[G.R. No. 229859, June 10, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JOJIT
ARPON Y PONFERRADA @ "MODIO", ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

This is an appeal^[1] from the September 26, 2016 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 02013 which affirmed the November 13, 2014 Decision^[3] of the Regional Trial Court (RTC) of Carigara, Leyte, Branch 13, in Criminal Case No. RTC-2010-071-CR.

The Facts

Accused-appellant Jojit Arpon y Ponferrada @ "Modio" (Arpon) and Dindo Lanante (Lanante) were charged with murder in an Information^[4] which reads:

That on or about the 27th day of May 2010, in the Municipality of Barugo, Leyte, Philippines, within the jurisdiction of this Honorable Court, the said accused, conspiring and mutually helping each other, did then and there willfully, unlawfully and feloniously, with intent to kill and treachery, attack one Rodolfo^[5] Moriel y Robenta, stabbing the latter without any warning with the use of bladed weapons, inflicting mortal wounds, thereby causing the direct and immediate death of the said victim. Contrary to law.^[6]

A warrant of arrest was issued for their apprehension.^[7] On September 3, 2010, Lanante was arrested.^[8] While he was arraigned on September 30, 2010, the case against him was provisionally dismissed upon motion^[9] by the prosecution and execution of an affidavit of desistance^[10] of the mother of the victim, Melita R. Moriel (Melita); meanwhile, the case against Arpon was archived.^[11] Arpon was eventually arrested two years after or on September 20, 2012 and ordered committed on September 24, 2012.^[12] When arraigned on November 13, 2012, he pleaded not guilty.^[13]

Pre-trial was conducted and terminated; trial ensued thereafter.^[14]

The Version of the Prosecution

The evidence for the prosecution revealed that, at 3:00 a.m. on May 27, 2010, the victim, Rodolfo R. Moriel (Rodolfo) and Bernardo S. Insigne (Bernardo) were headed home walking side by side (from *Barangay* Guindaohan, Barugo, Leyte where they attended the vespers, to *Barangay* Sagkahan, Carigara, Leyte where they resided -

a 30 minute-walk) when they were accosted by accused-appellant Arpon.^[15] Using a short bladed weapon, Arpon stabbed Rodolfo on the left chest.^[16] Rodolfo tried to run, but he was stabbed for a second time on the right chest by Arpon until he fell to the ground.^[17] Fearing for his own life, Bernardo fled the scene. On the same day, Bernardo went to the police accompanied by Melita and reported the incident.

Rodolfo died due to hypovolemic shock resulting from acute blood loss caused by three multiple stab wounds - two of which were deemed fatal.^[18] His family incurred P40,000.00 as burial and funeral expenses.^[19]

The Version of the Defense

Arpon testified that he went to *Barangay* Guindaohan on May 26, 2010.^[20] He, along with his friend, Kevin Ponferrada, stayed at the house of Meldy Lucelo,^[21] the mother-in-law of his brother, Edjel Arpon, from 8:00 p.m. on May 26, 2010 to 4:00 a.m. on May 27, 2010.^[22]

The Ruling of the Regional Trial Court

The RTC found Arpon guilty as charged. It gave credence to the positive identification of the prosecution eye witness, Bernardo, who was only two yards away from Rodolfo when the latter was stabbed, over Arpon's defense of alibi.^[23] It noted that the defense failed to show any ill motive on the part of Bernardo to testify against Arpon whom the former knew prior to the incident.^[24] It likewise brushed aside the trivial inconsistencies in Bernardo's testimony in light of the complete narration of the principal occurrence and positive identification of the perpetrator.^[25]

On the qualifying circumstance of treachery, the RTC noted that Arpon - who came out of nowhere - deliberately, suddenly, and unexpectedly attacked Rodolfo - who was then unarmed and completely unaware of the danger to his life.^[26]

The dispositive portion of the Decision reads:

WHEREFORE, finding accused JOJIT ARPON y PONFERRADA, GUILTY, beyond reasonable doubt, of the crime of MURDER, this Court hereby sentences him [to] a penalty of RECLUSION PERPETUA.

Further, accused is hereby ordered to pay the heirs of the victim, civil indemnity, in the amount of Seventy Five Thousand (Php75,000.[00]) Pesos, moral damages in the amount of Seventy Five Thousand (Php75,000.00) Pesos, and temperate damages in the amount of Twenty Five Thousand (Php25,000.00) Pesos.

No costs.

SO ORDERED.^[27]

Arpon filed his appeal.^[28] In his Brief,^[29] he specifically assailed the credibility of Bernardo for his failure to report the incident not only to Ms parents but also to Rodolfo's parents.^[30] He also banked on the inconsistencies in Bernardo's written and verbal testimony. He pointed out that Bernardo initially claimed arriving at

Barangay Guindaohan at 10:00 a.m. but later changed it to 10:00 p.m. and that the latter originally stated in his affidavit that Rodolfo was attacked by Arpon and Lanante but eventually declared in open court that he only saw Arpon stab Rodolfo.^[31] He also argued that treachery was not present because the victim was not alone at that time but accompanied by his friend and both could have easily subdued the attacker.^[32] Finally, he insisted that the court should have upheld his testimony rather than the confusing and inconsistent testimony of the prosecution eye witness.^[33]

On the other hand, the plaintiff-appellee averred that the RTC did not err in convicting accused-appellant whose guilt was proven beyond reasonable doubt;^[34] that no standard behavior can be expected from people who had just witnessed a frightful experience;^[35] that assuming that there had been inconsistencies in Bernardo's testimony, these only referred to minor details which did not impair his credibility.^[36] Plaintiff-appellee likewise contended that the RTC correctly appreciated the circumstance of treachery considering the time and manner of the attack which clearly indicated that the killing was deliberately and carefully planned to ensure the death of Rodolfo.^[37] Finally, it maintained that the RTC did not err in discrediting the defense of alibi in light of accused-appellant's revelation that he was in the vicinity of the crime scene.^[38]

The Ruling of the Court of Appeals

The CA affirmed *in toto* the ruling of the RTC. It held that Bernardo's failure to immediately inform his and Rodolfo's parents about the incident did not render his testimony undeserving of faith and credit.^[39] Moreover, the CA held that the inconsistencies, if any, pertained only to collateral matters, and not to the elements of the crime.^[40] It concurred with the RTC in giving more credence to the positive identification of the perpetrator by the prosecution witness, who had no ill motive to testify, over the alibi and denial of accused-appellant.^[41] Finally, it declared that treachery attended the commission of the crime in light of the circumstances on record.^[42]

Hence, the present appeal.^[43] In compliance with the directive to file a supplemental brief, if it so desired,^[44] plaintiff-appellee submitted a Manifestation^[45] in which it stated that it would be adopting the Brief^[46] submitted earlier before the CA and would be dispensing with the filing of Supplemental Brief before this Court.^[47]

Accused-appellant, through counsel, submitted his Supplemental Brief,^[48] wherein he insisted that no motive was proven by the prosecution as to why he would attack and kill Rodolfo.^[49] He claimed that this failure to establish motive would make anyone suspect, including Bernardo; hence, possibly the ill motive on the part of Bernardo to fabricate a story and implicate Arpon.^[50] He further claimed that treachery was not present, because Rodolfo was then accompanied by Bernardo.^[51] He finally claimed that Bernardo's testimony was of doubtful veracity because the latter failed to immediately report the incident.^[52]

Our Ruling

The appeal has no merit.

In order to successfully prosecute the crime of murder, the following elements must be established: (a) that a person was killed; (b) the accused killed him or her; (c) the killing was attended by any of the qualifying circumstances mentioned in Article 248^[53] of the Revised Penal Code (RPC); and (d) the killing is not parricide or infanticide.^[54]

Here, the fact that Rodolfo was killed and that accused-appellant killed him were both sufficiently established by the prosecution. Upon this point, the testimony of Bernardo is clear and categorical:

Q Will you please tell the Honorable Court the incident that transpired on said time and said place?

A We were accosted and he was stabbed.

Q Who was stabbed?

A Rodolfo Moriel.

Q Who stabbed Rodolfo Moriel?

A Jojit Arpon.

Q How far were you from Rodolfo Moriel when he was stabbed by Jojit Arpon?

A About an armslength.

Q Do you know this Jojit Arpon prior to the stabbing incident?

A Yes, sir.

Q Why do you know this person of Jojit Arpon?

A Because I already saw him.

Q Saw him where?

A Brgy. Balire.

x x x x

Q How were you able to identify Jojit Arpon when he stabbed Rodolfo Moriel?

A Because the moon at that time was shining brightly.

Q What weapon did Jojit Arpon utilize in stabbing Rodolfo Moriel?

A Short bolo.

Q Can you still recall what part of the body of Rodolfo was hit when Jojit Arpon stabbed him?

A Witness at this juncture is pointing [to] his left chest.