

EN BANC

[G.R. No. 225595, August 06, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO SOLAR Y DUMBRIQUE, ACCUSED-APPELLANT.**

DECISION

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by the accused-appellant Rolando Solar y Dumbrique (Rolando) assailing the Decision^[2] dated January 13, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05757, which affirmed the Judgment^[3] dated September 3, 2012 of Regional Trial Court (RTC) of Las Piñas City, Branch 202 in Criminal Case No. 08-0616 finding Rolando guilty beyond reasonable doubt, but downgrading the crime from Murder to Homicide.

The Facts

An Information was filed against Rolando and Mark Kenneth Solar (Mark Kenneth) for the murder of Joseph Capinig y Mato (Joseph), the accusatory portion of which reads:

That on or about the 9th day of March 2008, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding each other, without justifiable motive, with intent to kill and with treachery and abuse of superior strength, did then and there knowingly, unlawfully and feloniously attack, assault and use personal violence upon one JOSEPH CAPINIG y MATO, by then and there hitting and beating his head with a baseball bat, thereby inflicting upon the latter mortal injury which caused his death.

The killing of the aforesaid victim is qualified by the circumstances of treachery and abuse of superior strength.

CONTRARY TO LAW.^[4]

During the arraignment, Rolando pleaded not guilty while Mark Kenneth remained at large and hence was not brought to the RTC's jurisdiction.^[5]

The prosecution presented an eyewitness, namely private complainant Ma. Theresa Capinig (Ma. Theresa), the wife of Joseph. The prosecution also presented Dr. Voltaire Nulud (Dr. Nulud), the doctor who conducted the medical examination on Joseph.

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

Ma. Theresa testified that on March 9, 2008, at around 2:00 a.m., she decided to follow her husband who left the house to get his cellphone from Rolando. Along the way, she saw Rolando and Mark Kenneth hit Joseph with a baseball bat on his nape. When Joseph fell down, the two simultaneously ganged up on him. She then shouted for help and the assailants ran away. Immediately, Joseph was rushed to the hospital but was pronounced "dead on arrival." According to Dr. Nulud, the death resulted from traumatic injuries on the brain caused by a blunt force applied on the head of the victim. The postmortem examination revealed two external injuries on the frontal region or in the forehead, which was a contusion, and a healing abrasion on the left infra scapular region. Also, there was a subdural and subarachnoidal hemorrhage on the cerebral hemisphere of the brain or "*doon xxx sa dalawang lobes ng brain ng victim.*"^[6]

On the other hand, the version of the defense, as also summarized by CA, is as follows:

Rolando denied the accusation and claimed that he was attending a wake on the night of March 8, 2008, from 11:00 p.m. until 2:00 a.m. the following day. Joseph was also there drinking and playing *cara y cruz* with his group. After a while, Joseph approached him and offered to pawn a cellphone in exchange of cash. However, he refused because he also needed money. On his way home, he met Joseph who, upon seeing him, drew out a kitchen knife and tried to stab him thrice. Fortunately, he was not hit and he immediately ran away.^[7]

Pre-trial and trial thereafter ensued.

Ruling of the RTC

After trial on the merits, in its Judgment^[8] dated September 3, 2012, the RTC convicted Rolando of the crime of Murder. The dispositive portion of the said Judgment reads:

WHEREFORE, premises considered, this Court finds accused Rolando Solar [y] Dumbrique **GUILTY** beyond reasonable doubt for the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code.

Accordingly, said accused is hereby sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay the heirs of the deceased victim, Joseph Capinig, the amounts of P50,000.00 as civil indemnity for his death, P50,000.00 as moral damages, and P25,000.00 as exemplary damages, with subsidiary imprisonment in case of insolvency.

x x x x

SO ORDERED.^[9]

The RTC found the testimony of Ma. Theresa, the sole eyewitness of the prosecution, to be clear, positive, categorical, and credible to establish Rolando's guilt for the crime charged. The RTC also held that the qualifying circumstance of

treachery was present in the killing of Joseph, and hence, the crime committed by Rolando was Murder.

Aggrieved, Rolando appealed to the CA. In his Brief,^[10] he stated that the prosecution failed to prove his guilt beyond reasonable doubt by failing to prove his identity as the perpetrator, and that there was lack of evidence to support a finding of conspiracy among the accused. He argued that since Ma. Theresa testified that it was Mark Kenneth who inflicted the fatal blow on the victim, a finding of conspiracy was necessary to convict him and there were no facts available to support such conclusion. Thus, Rolando prayed for his acquittal.

Ruling of the CA

In the assailed Decision^[11] dated January 13, 2015, the CA modified the RTC's conviction of Rolando.

Similar to the findings of the RTC, the CA found Ma. Theresa's testimony credible and sufficient to establish the identity and culpability of Rolando. The CA also held that conspiracy may be deduced from the conspirators' conduct before, during and after the commission of the crime indicative of a joint purpose, concerted action and community of interests — that the facts of the present case reveal such concerted action to achieve the purpose of killing Joseph.^[12]

Nevertheless, the CA downgraded the offense from Murder to Homicide, holding that the Information did not sufficiently set forth the facts and circumstances describing how treachery attended the killing.^[13]

The CA also modified the award of damages to be paid to the heirs of Joseph. The CA ordered Rolando to pay the heirs of Joseph the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as temperate damages.^[14]

Hence, the instant appeal.

Issue

For resolution of the Court are the following issues submitted by Rolando:

- (1) Whether the CA erred in convicting Rolando despite the prosecution's failure to prove his guilt beyond reasonable doubt;
- (2) Whether the CA erred in convicting Rolando despite the prosecution's failure to prove that conspiracy exists.

The Court's Ruling

The appeal is unmeritorious. The Court affirms the conviction of Rolando, not for the crime of Homicide as held by the CA, but for the crime of Murder as found by the RTC.

***Whether the
prosecution
proved
Rolando's guilt
beyond***

reasonable doubt

In questioning his conviction, Rolando reiterates the arguments he raised in the CA, namely that: (1) the testimony of the lone eyewitness, Ma. Theresa, was insufficient to convict him because of her failure to positively identify him as the perpetrator of the crime; (2) the testimony of Ma. Theresa was marred with material and substantial inconsistencies; and (3) Ma. Theresa was a biased witness and her testimony was tainted with improper motive.^[15]

The arguments deserve scant consideration.

It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.^[16] Thus, when the case pivots on the issue of the credibility of the witnesses, the findings of the trial courts necessarily carry great weight and respect as they are afforded the unique opportunity to ascertain the demeanor and sincerity of witnesses during trial.^[17] Here, after examining the records of this case, the Court finds no cogent reason to vacate the RTC's appreciation of the evidence, which was affirmed *in toto* by the CA.

Further, and as pointed out by the CA, Ma. Theresa was able to positively identify Rolando as one of the perpetrators of the crime. She was only five meters away from the scene when it happened, and she knew Rolando since he was a childhood friend of her siblings.^[18] That part of her testimony in which she said that she initially did not see who attacked her husband because it was dark referred to Mark Kenneth, not Rolando.^[19] Thus, there is no merit in Rolando's contention that the prosecution failed to establish his identity as the perpetrator of the crime.

There is also no merit in Rolando's contention that Ma. Theresa's testimony should not be given credence for being marred with inconsistencies. Rolando avers:

In her direct testimony, Theresa was adamant that she saw accused Mark Kenneth hit her husband with a baseball bat. However, during the continuation of her testimony, she admitted that it was dark and she cannot see the face of the assailant. Moreover, she claimed that her husband was mauled by both the accused when the latter was already down on the ground. It should be noted, however, that when she was asked again what happened, she readily recounted that when she arrived at the scene, she saw her husband being hit by accused Mark Kenneth and when Joseph fell, she shouted for help and the assailants ran away, altogether omitting the part where both accused ganged up on Joseph.

^[20]

The supposed inconsistencies pointed out by Rolando were sufficiently explained by the prosecution. For one, Ma. Theresa already clarified that she did not recognize Mark Kenneth initially as she did not know him, and she was only able to identify him through the help of the *barangay* official who helped her.^[21] Her initial testimony that "she saw Mark Kenneth hit her husband" was her narrating to the court of what she saw: Rolando was in front of her husband while the other person — later identified as Mark Kenneth — attacked her husband from behind.^[22] The other supposed inconsistency, if at all to be considered one in the first place,

changes little to the conclusion reached in this case. The essence of Ma. Theresa's testimony never changed, in that she repeatedly claimed that she saw her husband being attacked by assailants who only stopped when she shouted for help. The supposed "inconsistency" — on whether it was both Rolando and Mark Kenneth, or only the latter, who was/were attacking her husband — does not change the essence of her testimony and, in fact, even strengthens her credibility. The Court stresses that slight contradictions, in fact, even serve to strengthen the credibility of the witnesses, as these may be considered as badges of truth rather than indicia of bad faith; they tend to prove that their testimonies have not been rehearsed; nor are such inconsistencies, and even improbabilities, unusual, for no person has perfect faculties of senses or recall.^[23]

In any event, Rolando does not deny that he had an encounter with Joseph on the date and at the place in question. The only difference between his version and that of the prosecution's is that he claims that it was Joseph who attacked him first but that he was able to run away.^[24] The Court follows the established doctrine that as between a positive and credible testimony by an eyewitness, on the one hand, and a hollow denial, on the other, the former generally prevails over the latter.^[25] Coupled with the fact that the findings of the trial courts necessarily carry great weight and respect, the Court therefore upholds the credibility of Ma. Theresa's testimony and declares it sufficient to establish the guilt of Rolando beyond reasonable doubt.

Finally, the Court affirms the findings of both the RTC and the CA that Rolando failed to prove any ill motive on the part of Ma. Theresa to implicate him. There is no evidence on record, apart from the empty imputations of ill motive by Rolando, that shows that Ma. Theresa was motivated by an improper motive to implicate Rolando for the crime. Thus, as the Court held in *People v. De Leon*:^[26]

The credibility of the prosecution witnesses is not affected by their relationship with the deceased. The fact that witness Chito is the son of the victim while Annaluz's mother-in-law is the second cousin of the wife of the victim is of no consequence since mere relationship with the victim does not necessarily tarnish the testimony of a witness. When there is no showing of improper motive on the part of the witness in testifying against the accused, her relationship with the victim does not render her testimony less worthy of full faith and credence. **In fact, relationship itself could even strengthen credibility in a particular case, for it is highly unnatural for an aggrieved relative to falsely accuse someone other than the actual culprit. The earnest desire to seek justice for a dead kin is not served should the witness abandon his conscience and prudence to blame one who is innocent of the crime.**^[27] (Emphasis and underscoring supplied)

To repeat, the testimony of Ma. Theresa deserves full faith and credit. It is thus sufficient to establish the guilt of Rolando beyond reasonable doubt.

***Whether the CA
erred in finding
that conspiracy
existed between
Rolando and
Mark Kenneth***