

[G.R. No. 240231, November 27, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRESENCIANO ENOJO A.K.A. "OLPOK," ACCUSED-APPELLANT.

D E C I S I O N

ZALAMEDA, R.V., J.:

This appeal ^[1] assails the Decision^[2] dated 19 December 2017 by the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 02161, which affirmed with modifications the Joint Decision^[3] dated 16 November 2015 of Branch 31, Regional Trial Court (RTC) of Dumaguete City in Criminal Case Nos. 14617, 14900, 14902 and 14903, finding Cresenciano Enojo (accused appellant) guilty beyond reasonable doubt for three (3) counts of murder, for the killing of three (3) children, namely: Delfred A. Cuevas, nine (9) years old; Alfred A. Cuevas, six (6) years old; and Chrocila A. Cuevas, two (2) years old; and one (1) count of frustrated murder, for the wounding of their mother, Carmen A. Cuevas.

Antecedents

The separate Informations filed against accused-appellant read:

Criminal Case No. 14900

That on November 20, 1999, at about 5:30 in the afternoon at Sitio Dumanon, Barangay Nasig-id, Zamboanguita, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with treachery and abuse of superior strength the victim being a minor and of tender age and unarmed, did then and there willfully, unlawfully and feloniously with the use of a bolo, assault, attack and hack DELFRED A. CUEVAS, a 9 year old, inflicting upon the said victim the following mortal wounds x x x which caused the instantaneous death of the victim.

Contrary to Article 248 of the Revised Penal Code as amended by RA 7659.^[4]

Criminal Case No. 14902

That on November 20, 1999, at about 5:30 in the afternoon at Sitio Dumanon, Barangay Nasig-id, Zamboanguita, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with treachery and abuse of superior strength the victim being [a] minor and of tender age and unarmed, did then and there willfully, unlawfully and feloniously with the use of a bolo, assault, attack and hack CARLFRED A. CUEVAS,^[5] a 6 year old, inflicting upon the said victim the following mortal wounds x x x which caused the

instantaneous death of the victim.

Contrary to Article 248 of the Revised Penal Code as amended by RA 7659.^[6]

Criminal Case No. 14903

That on November 20, 1999, at about 5:30 in the afternoon at Sitio Dumanon, Barangay Nasig-id, Zamboanguita, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with treachery and abuse of superior strength the victim being [a] minor and of tender age and unarmed, did then and there willfully, unlawfully and feloniously with the use of a bolo, assault, attack and hack CHRESELA A. CUEVAS,^[7] a 2 year old, inflicting upon the said victim the following mortal wounds x x x [w]hich caused the instantaneous death of the victim.

Contrary to Article 248 of the Revised Penal Code as amended by RA 7659.^[8]

Criminal Case No. 14617

That on or about November 20, 1999, at about 5:30 o'clock in the afternoon at Sitio Dumanon, Barangay Nasig-id, Zamboanguita, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery, abuse of superior strength and disregard of the respect due the offended party on account of her sex, the victim being a woman, did then and there willfully, unlawfully and feloniously attack, assault and hack three (3) times Carmen Cuevas with the use of a bolo the accused was then armed and provided, thereby inflicting upon the victim the following injuries x x x which injuries could have caused the death of the victim, thus performing all the acts of execution which could have produced the crime of Murder, as a consequence, but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, by the timely medical assistance given to said victim that prevented her death.

Contrary to Article 248 of the Revised Penal Code in relation to Articles 6 and 250 of the said (sic) code.^[9]

When arraigned, accused-appellant pleaded not guilty to the charges. Upon termination of pre-trial, trial ensued where the prosecution and the defense presented their respective versions of the facts.

Version of the Prosecution

The prosecution presented the following as its witnesses: (1) Felix Montiil (Montiil), the victims' neighbor; (2) Carmen Cuevas (Carmen); and, (3) Dr. Clemente Hipe IV (Dr. Hipe). Montiil testified that he overheard one of the child victims, Delfred, saying he hit accused-appellant's dog with a slingshot. At that

exact moment, accused-appellant was passing by, and in a fit of rage, he told Delfred, "tirador ka rang bataa ka nga akong iro dako man ug samad sa kilid. Bukon nya nako na imong ulo bataa ka. Bisan musugilon ka sa imong ginikanan iapil nako ug buak ang ulo." [10] The RTC translated this to mean:

Slingshot you juvenile child, my dog has a big wound on its side, it even went home to my house. I might break your head you juvenile child. Even if you will tell your parents I will also break their heads. [11]

Upon hearing this, Delfred rushed home. Moments later, his mother, Carmen, came looking for accused-appellant to confront him on what he told her son. However, accused-appellant emerged and hacked Carmen twice on the head and once on the back, causing the latter to fall to the ground. Accused-appellant then made his way to Carmen's house, giving Carmen the opportunity to seek Montii's help. [12]

In her testimony, Carmen recounted how she heard her children, Alfred and Chrocila, calling out to her after she fell to the ground. She yelled for them to run to their house, but accused-appellant followed them. [13] Carmen claimed she witnessed how accused-appellant hacked Alfred and Chrocila to death. [14] As for Delfred, she maintained that her son almost escaped, but accused-appellant caught up with him and hacked him on the head twice. [15]

Finally, Dr. Hipe, the physician who medically examined Carmen, testified that the injuries she suffered were fatal, and should have resulted in her death, but which nevertheless did not produce it by reason of a cause independent of the will of the accused: the timely medical attention provided to Carmen. [16]

Version of the Defense

Accused-appellant denied having hacked to death Carmen's three (3) minor children. He narrated that while plowing his neighbor's field, he heard children crying from a distance, but the sound died down. Accused appellant continued with his errands and chanced upon Carmen, then armed with wooden club with clothes drenched in blood. When asked what happened, Carmen angrily retorted she would break his head if he continued asking her questions. Carmen then attacked and hit him. When the attack continued, accused-appellant swung his *bolo*, accidentally hitting Carmen on the head. He was surprised for being considered the suspect in the killing of Carmen's three children. [17]

Ruling of the RTC

After trial, the RTC found accused-appellant guilty of three (3) counts of murder and one (1) count of frustrated murder. The dispositive portion of the RTC's Decision reads:

WHEREFORE, all the foregoing considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 14617, the court finds accused Cresenciano Enojo @ "**Olpok**" **GUILTY**

beyond reasonable doubt of the crime of Frustrated Murder under Article 248 as amended by R.A. 7659 of the Revised Penal Code in relation to Article 6 and 50 also of the Revised Penal Code and hereby sentence[s] him to suffer 13 years of *cadena temporal* with the accessories of the law as well as sentence[s] him to pay temperate damages in the amount of Php25,000.00 in lieu of actual damages considering that some pecuniary loss was suffered but its amount cannot be proven with certainty during trial.

2. Considering that deceased minor victims Delfred Cuevas, Calfred (actually Alfred) Cuevas and Chrosela (actually Chrocila) Cuevas in Criminal Case Nos. 14900, 14902, 14903, were children of tender years, and since killing a child is characterized by treachery even if the manner of the assault is not shown because of the weakness of the victim due to her tender age results in the absence of any danger to the accused, the court finds accused Cresenciano Enojo **GUILTY beyond reasonable doubt for three (3) counts of the crime of Murder under Article 248 of the Revised Penal Code as amended by RA 7559** and hereby sentences him to suffer the penalty of reclusion perpetua for each count.

The penalty of Death should have been imposed to the accused in Criminal Case Nos. 14900, 14902 & 14903, however, with the enactment of R.A. No. 9346 on June 24, 2006, this court has to reduce the penalty of death to reclusion perpetua each in all said cases. This, notwithstanding (sic), accused should not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

Finally, [the] accused is further ordered to indemnify the heirs of the aforesaid three (3) children the amounts of Php50,000.00 as civil indemnity, Php50,000.00 as moral damages, Php30,000.00 as exemplary damages and Php25,000.00 as temperate damages for each child-victim, plus legal interest on all damages awarded at the rate of 6% from the date of the finality of this decision.

SO ORDERED.^[18] (Citations omitted)

The trial court found the prosecution's evidence sufficient to sustain accused-appellant's conviction of the crimes charged. After affording itself the opportunity to observe the witnesses' demeanor on the stand, the RTC found no reason to doubt their credibility. Moreover, accused-appellant's claim of self-defense failed to persuade since his version of what transpired was uncorroborated by any other