

SECOND DIVISION

[G.R. No. 235778, November 21, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. BENIE MON Y ABARIDES @ "BALENTO," ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

Before the Court is an appeal^[1] filed under Section 13(c), Rule 124 of the Rules of Court from the Decision^[2] dated July 28, 2017 (Decision) of the Court of Appeals, Fifth Division (CA), in CA-G.R. CR-HC No. 08813, which affirmed the Decision^[3] dated October 26, 2016 of the Regional Trial Court, National Capital Judicial Region, Branch 211, Mandaluyong City (RTC), in Criminal Case No. MC10-13272, finding herein accused-appellant Benie Mon y Abarides @ "Balento" (Benie) guilty of the crime of murder under Article 248 of the Revised Penal Code.

The Facts

Benie was charged for the crime of murder under the following Amended Information:

That on or about the 2nd day of May 2010, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun, with intent to kill and by means of qualifying aggravating circumstances of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously shot one Uldarico Arroyo, thereby inflicting upon him gunshot wounds which directly caused his death."

Contrary to law.^[4]

Upon arraignment, Benie pleaded not guilty.

Version of the Prosecution

On May 2, 2010, at around 3:00 a.m., Manolo Guevarra (Manolo) and victim Uldarico Arroyo (Uldarico), both members of the Bantay Bayan, were having coffee in a store near their outpost at Blk. 40, Paradise Court, Brgy. Addition Hills, Mandaluyong City when Benie arrived and proceeded to the back of Uldarico.^[5]

Benie pointed and fired a gun at the right side of Uldarico's neck causing the latter to fall from his seat. While Uldarico was lying face down on the ground, Benie fired three more gunshots at him. Subsequently, Benie fled the place carrying said gun. Due to his gunshot wounds, Uldarico was rushed to the Mandaluyong City Medical Center by Randy Buera, another Bantay Bayan member.^[6]

Meanwhile, Nida^[7] Arroyo (Nida), wife of Uldarico, was inside their house in Ugnayan St., Blk. 40, Welfareville Compound, Brgy. Addition Hills, Mandaluyong City when she heard several gunshots.^[8]

Thereafter, somebody shouted, "Si Kuya Ding, si Kuya Ding binaril." Nida went out of their house and learned from the people who witnessed the crime that Uldarico was brought to the hospital. Nida immediately proceeded to the Mandaluyong City Medical Center.^[9]

Since Uldarico's condition became critical, he was transferred to Quirino Memorial Medical Center on the same day, where Uldarico was confined for 11 days. On May 13, 2010, Uldarico died.^[10]

Also on May 13, 2010, the Philippine National Police (PNP) Crime Laboratory, Eastern Police District, received a letter-request from Uldarico's family requesting for an autopsy examination of Uldarico's cadaver.^[11]

Upon autopsy examination, Police Chief Inspector Maria Anna Lisa G. Dela Cruz, MD (PCI Dela Cruz), a medico-legal officer, noted that the cause of Uldarico's death was a gunshot wound. PCI Dela Cruz explained that the gunshot wound from the lumbar region was the fatal one as it caused laceration in Uldarico's big organs like the left kidney, large intestine, and part of the liver.^[12]

Version of the Defense

Benie denied the allegations against him and testified that on May 2, 2010 at around 3:00 a.m., he was sleeping at his residence in San Fernando, Pilar, Capiz, which is located in the Visayas Region and very far from Metro Manila.^[13]

When Benie was arrested on July 12, 2012, he did not think that his arrest was due to the crime of murder until he learned that he was being arrested for Uldarico's murder. Benie only knew Uldarico as a barangay tanod of Blk. 40, Welfareville Compound since he studied in Fabella High School, Mandaluyong City from second year until he graduated.^[14]

Prior to his arrest, Benie had a drinking spree on March 14, 2010, when Uldarico arrested him for violation of curfew hour. Uldarico brought Benie to jail. After posting bail, Benie went to the province on March 27, 2010 and did not see Uldarico again. Benie thought that he was being charged for Uldarico's death due to the latter's belief that Benie would take revenge on Uldarico for sending him to jail.^[15]

Benie also presented a certification issued by Renan Valois (Valois), Punong Barangay of Brgy. San Fernando, Pilar, Capiz certifying that Benie was a resident of the said barangay from 2008 until 2012 when he was arrested by the authorities at the Municipality of President Roxas, Capiz.^[16]

Benie further presented Ricky Villa (Ricky), operator of the tricycle driven by him, who testified that Benie had been driving the tricycle since March 30, 2010 until the time Benie was apprehended by the PNP Crime Investigation and Detection Group (CIDG). Ricky stated that he did not know the reason for Benie's apprehension and confirmed that he did not receive any complaint regarding Benie. Ricky narrated that Benie never took a leave of absence from driving the tricycle.^[17]

RTC Ruling

In its Assailed Decision^[18] dated October 26, 2016, the RTC found Benie guilty of murder, to wit:

WHEREFORE, premises considered, the court finds accused BENIE MON Y ABARIDES @ "BALENTO" GUILTY beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 and absent any aggravating circumstances is hereby SENTENCED to suffer the penalty of RECLUSION PERPETUA. Accused shall not be eligible for parole under Act No. 4180, otherwise known as the Intermediate (sic) Sentence Law, as amended, pursuant to Section 3 of Republic Act No. 9346 "An Act Prohibiting the Imposition of Death Penalty in the Philippines".

Accused Mon is hereby ordered to pay the victim's heirs the following amounts: P50,000.00 as moral damages, P89,361.00 as actual damages, P30,000 as exemplary damages, P50,000.00 as civil indemnity and P342,000.00 as damages for loss of earning capacity.

SO ORDERED.^[19]

The RTC found that the prosecution was able to establish that it was Benie who killed the victim. As to the aggravating circumstances, it ruled that the shooting was attended by treachery since Benie all of a sudden appeared and fired at the victim who was unarmed and unaware of the attack. However, it ruled that the prosecution failed to establish the requisites of evident premeditation. Lastly, it did not give weight to the defense of denial advanced by the Benie.^[20]

Aggrieved, Benie appealed to the CA.

CA Ruling

On appeal, in its Decision^[21] dated July 28, 2017, the CA affirmed *in toto* the conviction by the RTC:

WHEREFORE, the appeal is DENIED. The RTC Decision dated October 26, 2016 is AFFIRMED *in toto*.

SO ORDERED.^[22] (Emphasis in the original)

The CA held that minor inconsistencies in the narration of facts by the witnesses do not detract from their essential credibility. Its perusal of the records showed that witness Manolo positively identified Benie as the perpetrator of the crime. It also stressed that alibi is an inherently weak defense, which cannot prevail over the positive identification of the accused.^[23]

Hence, this appeal.

Issue

Whether the CA erred in affirming Benie's conviction for murder despite the fact that the prosecution failed to establish his guilt for murder beyond reasonable doubt.

The Court's Ruling

The appeal is meritorious.

In criminal prosecutions, a person who stands charged of a crime enjoys the presumption of innocence, as enshrined in the Bill of Rights.^[24] He is designated as the *accused* precisely because the allegations against him have to be proven beyond reasonable doubt. Due process dictates that an accused is entitled to a fair trial where both the prosecution and defense can present their respective versions of the events, and submit proof thereon. Accusation does not amount to conviction. Only when the prosecution has established guilt beyond reasonable doubt shall the presumption of innocence be overturned. In this case, the prosecution did not overcome the burden of proof.

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.^[25] A factual question would necessitate the reevaluation of the evidence submitted before the trial court. However, this is allowed in the exceptional circumstance where the judgment is based on a misapprehension of the facts.^[26] Such is the situation in this case.

Positive identification v. denial and alibi

While positive testimony is generally given more weight than the defenses of denial and alibi which are held to be inherently weak defenses because they can be easily fabricated,^[27] this does not mean that the defense of denial and alibi should be easily dismissed by the Court as untrue.

In considering the defenses of denial and alibi, the Court held in *Lejano v. People*:^[28]

But not all denials and alibis should be regarded as fabricated. Indeed, if the accused is truly innocent, he can have no other defense but denial and alibi. So how can such accused penetrate a mind that has been made cynical by the rule drilled into his head that a defense of alibi is a hangman's noose in the face of a witness positively swearing, "I saw him do it." Most judges believe that such assertion automatically dooms an alibi which is so easy to fabricate. This quick stereotype thinking, however, is distressing. For how else can the truth that the accused is really innocent have any chance of prevailing over such a stone-cast tenet?

There is only one way. A judge must keep an open mind. He must guard against slipping into hasty conclusion, often arising from a desire to quickly finish the job of deciding a case. A positive declaration from a witness that he saw the accused commit the crime should not automatically cancel out the accused's claim that he did not do it. A lying witness can make as positive an identification as a truthful witness can. The lying witness can also say as forthrightly and unequivocally, "He did it!" without blinking an eye.^[29] (Emphasis supplied)

Thus, if found credible, the defenses of denial and alibi may, and should, be considered complete and legitimate defenses. The burden of proof does not shift by the mere invocation of said defenses; the presumption of innocence remains in favor of the accused.

In alibi, the accused must prove not only that he was at some other place at the time the crime was committed, **but that it was likewise physically impossible for him to be at the scene of the crime at the time thereof.**^[30] Physical impossibility refers to the distance between the place where the appellant was when the crime transpired and the place where it was committed, as well as the facility of access between the two places.^[31]

In the instant case, the RTC and CA erred when it failed to appreciate that **it was physically impossible for Benie to commit the crime due to the distance between his whereabouts and the place where the crime was committed.** This was firmly established by the testimonies of the witnesses presented by the defense:

[Direct and cross-examination of Benie Mon y Abarides]

Q Mr. witness, do you remember where you were on May 2, 2010 at around 3:00 o'clock in the morning?

A Yes ma'am, I was at my residence, sleeping, ma'am.

Q And where is your residence?

A I was in the province then at Capiz, ma'am.

Q What is your exact address in Capiz?

A At San Fernando Pilar, Capiz, ma'am.

Q And how far is San Fernando, Pilar Capiz from Metro Manila, Mr. Witness?

A Very far, it is in the Visayan region, and it is needed to ride a ship, ma'am.

Q And how long have you been staying in San Fernando, Pilar, Capiz?

A I was born and grow up in Pilar[,] Capiz, ma'am.^[32]

x x x x

Q Mr. witness, is there a direct flight from Capiz to Manila?

A Through ship, sir.

Q What about airplane?

A Yes, sir.

Q By PAL, Philippine Airlines?

A Yes, from Roxas City, sir.

Q And Roxas City is also a province, correct?

A Yes, sir.