

FIRST DIVISION

[G.R. No. 214757, March 29, 2017]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. TIRSO SIBBU, ACCUSED-APPELLANT.

DECISION

DEL CASTILLO, J.:

This resolves the appeal from the January 6, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 04127 which affirmed with modification the May 15, 2009 Decision^[2] of Branch 11, Regional Trial Court (RTC) of Laoag City finding Tirso Sibbu (appellant) guilty beyond reasonable doubt of attempted murder in Criminal Case No. 11722 and of murder in Criminal Case Nos. 11721, 11723, and 11724.

In Criminal Case No. 11722, appellant, together with Benny Barid (Benny) and John Does charged with attempted murder allegedly committed as follows:

That on or about the 6th day of December 2004, in Brgy. Elizabeth, Municipality of Marcos, Province of Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an unlicensed firearm, conspiring and confederating together and mutually helping one another, with intent to kill and treachery, did then and there willfully, unlawfully, and feloniously shot BRYAN JULIAN y VILLANUEVA, twice but missed, thereby commencing the commission of the crime of Murder directly by overt acts, but did not perform all the acts of execution which should have produced the said crime, by reason of some cause independent of his will, that is, accused are poor shooters, to the damage and prejudice of the above-named victim.

That the crime was committed [in] the dwelling x x x of the victim at nighttime and disguise was employed, with accused Sibbu wearing a bonnet on his face.^[3]

In Criminal Case Nos. 11721, 11723 and 11724, and except for the names of the victims and the location of their gunshot wounds, appellant together with Benny and John Does, was charged with murder in three similarly worded Informations^[4] allegedly committed as follows:

That on or about the 6th day of December 2004, in Brgy. Elizabeth, Municipality of Marcos, Province of Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an unlicensed firearm, conspiring and confederating together and mutually helping one another, with intent to kill and treachery, did then and there willfully, unlawfully, and feloniously shot [Trisha May Julian y Villanueva, Ofelia Julian y Bagudan, and Warlito Julian y

Agustin], inflicting upon [her/him] gunshot wounds, which caused [her/his] instantaneous death, to the damage and prejudice of the heirs of the above-named victim.

That the crime was committed in the dwelling x x x of the victim at nighttime and disguise was employed, with accused Sibbu wearing a bonnet on his face.

During arraignment held on July 22, 2005, appellant pleaded not guilty to the charges against him. After pre-trial was conducted, trial on the merits followed. On May 31, 2008, appellant's co-accused Benny was arrested. However, his trial was held separately considering that the trial with respect to the appellant was almost finished with the prosecution already presenting rebuttal evidence.^[5]

Version of the Prosecution

Bryan Julian (Bryan), the private complainant in Criminal Case No. 11722 and a common witness to all the cases, testified that between 6:30 and 7:00 p.m. of December 6, 2004, he was with his three year old daughter, Trisha May Julian (Trisha), the victim in Criminal Case No. 11721; his mother Ofelia Julian (Ofelia), the victim in Criminal Case No. 11723; and his father, Warlito Julian (Warlito), the victim in Criminal Case No. 11724 in the *azotea* of his parents' house in *Barangay* Elizabeth, Marcos, Ilocos Norte when he saw from a distance of about five meters a person in camouflage uniform with a long firearm slung across his chest and a black bonnet over his head. When the armed man inched closer to the house, he tried to fix his bonnet thereby providing Bryan the opportunity to see his face; Bryan had a clear look at the armed man because there were Christmas lights hanging from the roof of their porch. Bryan recognized the armed man as the appellant.^[6] Bryan also saw two men in crouching position at a distance of three meters away from the appellant. Fearing the worst, Bryan shouted a warning to his family. Appellant then fired upon them killing Trisha, Ofelia and Warlito.

Bryan ran inside the house where he saw his brother, Warlito Julian, Jr. (Warlito Jr.) coming out of the bathroom. Bryan then proceeded to the pigpen at the back of the house to hide.

Another prosecution witness, Eddie Bayudan (Eddie), testified that on December 6, 2004, he was by a well near his house when he heard gunshots coming from the house of Warlito and Ofelia. When he turned towards the direction of the gunshots, he saw a man about five meters away wearing a black bonnet and a long-sleeved camouflage uniform and holding a long firearm. He also saw another man crouching on the ground whom he recognized as the accused Benny. Eddie went inside his house for his and his family's safety. Afterwards, he heard Bryan shouting for help. When he went out to investigate, he saw the dead bodies of Warlito, Ofelia, and Trisha.

Warlito Jr. also testified that he heard gunshots coming from outside their house. When he went out of the bathroom, Bryan told him that appellant gunned down their parents and his niece. In his cross-examination, Warlito, Jr. claimed to have seen the appellant shooting at the porch of their house.^[7]

Police Superintendent Benjamin M. Lusad (P/Supt. Lusad), chief of the provincial intelligence and investigation branch of Ilocos Norte, testified that at 7:00 a.m. of

December 7, 2004, he conducted an investigation and an ocular inspection at the crime scene. He found bloodstains on the floor of the porch, the cadavers of the victims laid side by side in the sala, and bullet holes in the cemented portion at the front of the house below the window grill.^[8] During his interview with Bryan, the latter pointed to appellant as the gunman.^[9]

SPO1 Eugenio Navarro (SPO1 Navarro) also testified that he went to the crime scene together with Senior Police Inspector Arnold Dada, PO2 Danny Ballesteros, and SPO1 Lester Daoang, where they found 13 spent shells and slugs of a caliber .30 carbine. Police Superintendent Philip Camti Pucay who conducted the ballistic examination confirmed that the recovered shells and slugs were fired from a caliber .30 carbine.

Version of the Defense

The appellant interposed the defense of denial and alibi.

Appellant's father-in-law, Eladio Ruiz (Eladio), testified that on December 6, 2004, appellant did not leave their house because they had a visitor, Elpidio Alay (Elpidio); moreover, appellant tended to his child. Eladio stated that the distance between his house and Warlito's is approximately two kilometers and that it would take an hour to negotiate the distance by foot.^[10]

Eufrecina Ruiz (Eufrecina), mother-in-law of the appellant, also testified that appellant had been living with them for two years before he was arrested.^[11] She narrated that on December 6, 2004, appellant did not leave their house the whole night as he was tending to his sick child. She also claimed that they had a visitor who delivered firewood. Eufrecina alleged that appellant did not own any firearm and that he did not know Benny.

Elpidio testified that on December 6, 2004, he went to the house of Eladio to deliver a wooden divider.^[12] He arrived at around 6:00 p.m. and left at 7:00 a.m. the following day. Elpidio stated that the appellant did not leave the house that night and that appellant was inside the house when he heard explosions.

Appellant denied the charges against him. He testified that on December 6, 2004, he never left the house of his in-laws because he was taking care of his sick son. He claimed to have heard the explosions but thought that those were sounds of firecrackers since it was nearing Christmas.^[13] Appellant denied having any misunderstanding with the Julian family, or knowing Bryan and Benny personally, or possessing camouflage clothing.

Ruling of the Regional Trial Court

On May 15, 2009, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of murder in Criminal Case Nos. 11721, 11723, and 11724, and of attempted murder in Criminal Case No. 11722. The RTC gave credence to Bryan's positive identification of appellant as the person who shot at him and killed his daughter, mother and father. On the other hand, the RTC found appellant's defense of denial and alibi weak.

The dispositive part of the RTC's Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1) In Criminal Case No. 11721, accused TIRSO SIBBU is hereby declared GUILTY BEYOND REASONABLE DOUBT of the crime of murder. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Further, he is hereby ORDERED to pay the heirs of Trisha Mae Julian y Villanueva the [amounts] of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages;

2) In Criminal Case No. 11722, accused TIRSO SIBBU is hereby declared GUILTY BEYOND REASONABLE DOUBT of the crime of attempted murder. He is hereby sentenced to suffer the penalty of SIX (6) YEARS of prision correccional as minimum to TEN (10) YEARS of prision mayor as maximum.

3) In Criminal Case No. 11723, accused TIRSO SIBBU is hereby declared GUILTY BEYOND REASONABLE DOUBT of the crime of murder. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Further, he is hereby ORDERED to pay the heirs of Ofelia Julian y Bayudan the [amounts] of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages; and

4) In Criminal Case No. 11724, accused TIRSO SIBBU is hereby declared GUILTY BEYOND REASONABLE DOUBT of the crime of murder. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Further, he is hereby ORDERED to pay the heirs of Warlito Julian y Agustin the [amounts] of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

In Criminal Case Nos. 11721, 11723 and 11724, accused TISO SIBBU is hereby ordered to pay the heirs of Trisha Mae Julian y Villanueva; Ofelia Julian y Bayudan; and Warlito Julian y Agustin the amount of P55,602.00 as actual damages.

SO ORDERED.^[14]

Aggrieved by the RTC's Decision, appellant appealed to the CA.

Ruling of the Court of Appeals

On January 6, 2014, the CA affirmed the RTC's Decision with modification as follows:

WHEREFORE, in light of the foregoing discussion, the appeal is DISMISSED. The Decision dated May 15, 2009, issued by the Regional Trial Court, Branch 11, Laoag City in Criminal Case Nos. 11721, 11722, 11723 and 11724, is AFFIRMED with MODIFICATION, as follows:

1. In Criminal Case No. 11721, appellant Tirso Sibbu is hereby declared Guilty beyond reasonable doubt of the crime of murder. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Further, he is hereby ordered to pay the heirs of Trisha May Julian y Villanueva the [amounts] of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages, with interest at the

legal rate of 6% percent from the finality of this judgment until fully paid;

2. In Criminal Case No. 11723, appellant Tirso Sibbu is hereby declared Guilty beyond reasonable doubt of the crime of murder. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Further, he is hereby ordered to pay the heirs of Ofelia Julian y Bayudan the [amounts] of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages, with interest at the legal rate of 6% percent from the finality of this judgment until fully paid; and

3. In Criminal Case No. 11724, appellant Tirso Sibbu is hereby declared Guilty beyond reasonable doubt of the crime of murder. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Further, he is hereby ordered to pay the heirs of Ofelia Julian y Bayudan the [amounts] of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages, with interest at the legal rate of 6% percent from the finality of this judgment until fully paid.

No costs.

SO ORDERED.^[15]

Dissatisfied with the CA's Decision, appellant elevated his case to this Court. On February 9, 2015, the Court issued a Resolution requiring the parties to submit their respective Supplemental Briefs. However, the appellant opted not to file a supplemental brief since he had exhaustively discussed his arguments before the CA. The Office of the Solicitor General also manifested that there was no longer any need to file a supplemental brief since the appellant did not raise any new issue in his appeal before this Court.^[16]

Issues

The main issue raised in the Appellant's Brief concerns Bryan's identification of the appellant as the assailant. The appellant contends that the trial court erred in (1) giving undue credence to the testimony of the alleged eyewitness Bryan; and (2) in finding him guilty beyond reasonable doubt as charged because the prosecution failed to overthrow the constitutional presumption of innocence in his favor.^[17] Further, appellant argues that the aggravating circumstances of treachery, dwelling, and use of disguise were not sufficiently established.

Our Ruling

The appeal is unmeritorious.

We uphold the findings of the RTC, which were affirmed by the CA, that Bryan positively identified appellant as the person who shot at him and killed Warlito, Ofelia, and Trisha. We have consistently ruled that factual findings of trial courts, especially when affirmed by the appellate court, are entitled to respect and generally should not be disturbed on appeal unless certain substantial facts were