

EN BANC

[G.R. No. 202124, April 05, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
IRENEO JUGUETA, ACCUSED-APPELLANT.**

DECISION

PERALTA, J.:

This resolves the appeal from the Decision^[1] of the Court of Appeals (CA) dated January 30, 2012 in CA-G.R. CR HC No. 03252. The CA affirmed the judgments of the Regional Trial Court (RTC), Branch 61, Gumaca, Quezon, finding accused-appellant Ireneo Jugueta y Flores guilty beyond reasonable doubt of Double Murder in Criminal Case No. 7698-G and Multiple Attempted Murder in Criminal Case No. 7702-G.

In Criminal Case No. 7698-G, appellant was charged with Double Murder, defined and penalized under Article 248 of the Revised Penal Code, allegedly committed as follows:

That on or about the 6th day of June 2002, at about 9:00 o'clock in the evening, at Barangay Caridad Ilaya, Municipality of Atimonan, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a caliber .22 firearm, with intent to kill, qualified by treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and shoot with said firearm Mary Grace Divina, a minor, 13 years old, who suffered the following:

"Gunshot wound -

Point of Entry - lower abdomen, right, 2 cm. from the midline and 6 cm. from the level of the umbilicus, directed upward toward the left upper abdomen."

and Claudine Divina, a minor, 3 V% years of age, who suffered the following:

"Gunshot wound -

Point of Entry - 9th ICS along the mid-axillary line, right, 1 cm. diameter

Point of Exit - 7th ICS mid-axillary line, left;"

which directly caused their instant death.

That the crime committed in the dwelling of the offended party who had not given provocation for the attack and the accused took advantage of nighttime to facilitate the commission of the offense.

Contrary to law.^[2]

In Criminal Case No. 7702-G, appellant, together with Gilbert Estores and Roger San Miguel, was charged with Multiple Attempted Murder, allegedly committed as follows:

That on or about 9:00 o'clock in the evening of 6th day of June, 2002, at Barangay Caridad Ilaya, Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, armed with short firearms of undetermined calibres, with intent to kill, qualified by treachery, with evident premeditation and abuse of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault, and shoot with the said firearms the house occupied by the family of Norberto Divina, thereby commencing the commission of the crime of Murder, directly by overt acts, but did not perform all the acts of execution which would have produced it by reason of some cause or accident other than the spontaneous desistance of the accused, that is, the occupants Norberto Divina, his wife Maricel Divina and children Elizabeth Divina and Judy Ann Divina, both elementary pupils and who are minors, were not hit.

CONTRARY TO LAW.^[3]

Roger San Miguel, however, moved for reinvestigation of the case against them. At said proceedings, one Danilo Fajarillo submitted his sworn statement stating that on June 6, 2002, he saw appellant with a certain "Hapon" and Gilbert Estores at the crime scene, but it was only appellant who was carrying a firearm while the other two had no participation in the shooting incident. Fajarillo further stated that Roger San Miguel was not present at the crime scene. Based on the sworn statement of Fajarillo, the Provincial Prosecutor found no *prima facie* case against Gilbert Estores and Roger San Miguel.^[4] Thus, upon motion of the prosecution, the case for Attempted Murder against Gilbert Estores and Roger San Miguel was dismissed, and trial proceeded only as to appellant.^[5]

At the trial, the prosecution presented the testimonies of Norberto Divina, the victim, and Dr. Lourdes Taguinod who executed the Medico-Legal Certificate and confirmed that the children of Norberto, namely, Mary Grace and Claudine, died from gunshot wounds. Dr. Taguinod noted that the trajectory of the bullet wounds showed that the victims were at a higher location than the shooter, but she could not tell what kind of ammunitions were used.^[6]

Norberto testified that the appellant is his brother-in-law. He recounted that in the evening of June 6, 2002, as his entire family lay down on the floor of their one-room nipa hut to sleep, the "sack" walling of their hut was suddenly stripped off, and only the supporting bamboo (fences) remained. With the covering of the wall gone, the three (3) men responsible for the deed came into view. Norberto clearly saw their faces which were illuminated by the light of a gas lamp hanging in their small hut. Norberto identified the 3 men as appellant, Gilbert Estores and Roger San Miguel.

The 3 men ordered Norberto to come down from his house, but he refused to do so. The men then uttered, "*Magdasal ka na at katapusan mo na ngayon*" Norberto pleaded with them, saying, "*Maawa kayo sa amin, matanda na ako at marami akong anak. Anong kasalanan ko sa inyo?*" Despite such plea for mercy, a gunshot was fired, and Norberto immediately threw his body over his children and wife in an attempt to protect them from being hit. Thereafter, he heard successive gunshots being fired in the direction where his family huddled together in their hut.^[7]

When the volley of shots ceased and the three (3) men left, Norberto saw that his two (2) young daughters were wounded. His wife went out of their house to ask for help from neighbors, while he and his older daughter carried the two (2) wounded children out to the street. His daughter Mary Grace died on the way to the hospital, while Claudine expired at the hospital despite the doctors' attempts to revive her.^[8]

In answer to questions of what could have prompted such an attack from appellant, Norberto replied that he had a previous altercation with appellant who was angered by the fact that he (Norberto) filed a case against appellant's two other brothers for molesting his daughter.^[9]

On the other hand, appellant was only able to proffer denial and alibi as his defense. Appellant's testimony, along with those of Gilbert Estores, Roger San Miguel, Isidro San Miguel and Ruben Alegre, was that he (appellant) was just watching TV at the house of Isidro San Miguel, where he had been living for several years, at the time the shooting incident occurred. However, he and the other witnesses admitted that said house was a mere five-minute walk away from the crime scene.^[10]

Finding appellant's defense to be weak, and ascribing more credence to the testimony of Norberto, the trial court ruled that the evidence clearly established that appellant, together with two other assailants, conspired to shoot and kill the family of Norberto. Appellant was then convicted of Double Murder in Criminal Case No. 7698-G and Multiple Attempted Murder in Criminal Case No. 7702-G.

The dispositive portion of the trial court's judgment in Criminal Case No. 7698-G reads:

WHEREFORE and in view of all the foregoing, the Court finds accused Ireneo Jugueta guilty beyond reasonable doubt for Double Murder defined and punished under Article 248 of the Revised Penal Code and is hereby sentenced to suffer *Reclusion Perpetua* for the death of Mary Grace Divina and to indemnify her heirs in the amount of Php50,000.00 and another to suffer *Reclusion Perpetua* for the death of Claudine Divina

and accused is further ordered to indemnify the heirs of Claudine Divina in the sum of Php50,000.00. In addition, he is hereby ordered to pay the heirs of the victims actual damages in the amount of Php16,150.00 and to pay for the costs,

SO ORDERED.^[11]

On the other hand, the dispositive portion of the trial court's judgment in Criminal Case No. 7702-G, reads:

WHEREFORE and in view of all the foregoing, the Court finds accused Ireneo Jugueta guilty beyond reasonable doubt for Multiple Attempted Murder defined and penalized under Article 248 in relation to Article 51 of the Revised Penal Code and is hereby sentenced to suffer the penalty of FOUR (4) YEARS and TWO (2) MONTHS of *Prision Correccional* as minimum to EIGHT (8) YEARS and ONE (1) DAY of *Prision Mayor* as maximum for each of the offended parties; Norberto Divina, Maricel Divina, Elizabeth Divina and Judy Ann Divina. Further, accused is ordered to pay for the costs of the suit.

SO ORDERED.^[12]

Aggrieved by the trial court's judgments, appellant appealed to the CA. On January 30, 2012, the CA rendered a Decision affirming appellant's conviction for the crimes charged.^[13]

Dissatisfied with the CA Decision, appellant elevated the case to this Court. On July 30, 2012, the Court issued a Resolution^[14] notifying the parties that they may submit their respective Supplemental Briefs. Both parties manifested that they will no longer submit supplemental briefs since they had exhaustively discussed their positions before the CA.^[15]

The main issue advanced in the Appellant's Brief deals with the inconsistencies in Norberto's testimony, such as his failure to state from the beginning that all three assailants had guns, and to categorically identify appellant as the one holding the gun used to kill Norberto's children.

The appeal is unmeritorious.

At the outset, it must be stressed that factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies, and the conclusions based on these factual findings are to be given the highest respect. Thus, generally, the Court will not recalibrate and re-examine evidence that had been analyzed and ruled upon by the trial court and affirmed by the CA.^[16]

The evidence on record fully supports the trial court's factual finding, as affirmed by the CA, that appellant acted in concert with two other individuals, all three of them

carrying firearms and simultaneously firing at Norberto and his family, killing his two young daughters. Norberto clearly saw all of the three assailants with their firearms as there is illumination coming from a lamp inside their house that had been laid bare after its walling was stripped off, to wit:

Q: When the wall of your house was stripped off by these three persons at the same time, do you have light in your house?

A: Yes., sir.

Q: What kind of light was there?

A: A gas lamp.

Q: Where was the gas lamp placed at that time?

A: In the middle of our house.

x x x x

Q: when did they fire a shot?

A: On the same night, when they had stripped off the wallings.

Q: How many gunshots did you hear?

A: Only one.

Q: Do you know the sound of a gunshot? A firearm? A: Yes, sir, it is loud? (sic)

x x x x

Q: After the first shot, was there any second shot?

A: After that, successive fire shot (sic) followed and my youngest and eldest daughters were hit.

x x x x

Q: How many of the three were holding guns at that time?

A: All of them.

Q: You mean to tell the honorable court that these three persons were having one firearm each?

A: Yes, sir.

Q: And they fired shots at the same time?

A: Yes, sir.

Q: To what direction these three persons fired (sic) their firearms during that night?

A: To the place where we were.

Q: When those three persons were firing their respective firearms, what was your position then?

A: I ordered my children to lie down.