

SECOND DIVISION

[G.R. No. 190322, November 26, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VIRGILIO AMORA Y VISCARRA, ACCUSED-APPELLANT.**

R E S O L U T I O N

DEL CASTILLO, J.:

The qualifying circumstance of treachery does not require that the perpetrator attack his victim from behind. "Even a frontal attack could be treacherous when unexpected and on an unarmed victim who would be in no position to repel the attack or avoid it."^[1]

On appeal is the August 28, 2009 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03294, which affirmed with modification the February 21, 2008 Decision^[3] of the Regional Trial Court (RTC), Branch 84, Malolos City, Bulacan. The RTC convicted Virgilio Amora y Viscarra (appellant) of the crime of murder and sentenced him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim Romeo Gibaga (Romeo) P50,000.00 as civil indemnity P35,000.00 for funeral expenses, and P16,770.69 for medical expenses.

Factual Antecedents

On November 30, 2004, appellant was charged with murder defined and penalized under Article 248 of the Revised Penal Code (RPC). Pertinent portions of the Information^[4] filed against him read:

That on or about the 12th day of September 2004, in San Jose Del Monte City, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, aimed with a deadly weapon and with intent to kill one Romeo Gibaga, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said deadly weapon the said Romeo Gibaga, hitting him on the trunk, thereby inflicting upon him mortal wound[s] which directly caused his death.

Contrary to law.^[5]

Upon arraignment on January 18, 2006, appellant entered a plea of not guilty to the offense charged. Thereafter, pre-trial and trial on the merits followed.

Version of the Prosecution

The prosecution presented the testimonies of eyewitnesses Maricris Alidon (Maricris), Anselmo Benito (Anselmo), and Aurelio Amora (Aurelio). Linda Gibaga (Linda), the wife of the victim Romeo, and Dr. Felimon C. Porciuncula, Jr. (Dr. Porciuncula), the Medico-Legal officer who conducted the autopsy on the body of the victim, also testified for the prosecution. Their testimonies are summarized below.

On September 12, 2004 at around 5:45 p.m., Anselmo, Aurelio, and the victim Romeo were walking on their way to Sampol Market in San Jose Del Monte City. Maricris and her son were tailing them about four meters behind. As they were making their way to the market, they saw appellant in his store located on the right side of the street. Suddenly, appellant rushed towards them and stabbed Romeo twice - one on the chest and another on the abdomen. They were all caught by surprise due to the suddenness of the attack. Romeo fell to the ground while appellant quickly ran away from the scene. Aurelio chased appellant but failed to catch up with him. Maricris went to Romeo's house to inform his wife Linda about what had just happened.

Upon hearing the news from Maricris, Linda rushed to the scene of the crime but did not find her husband there as Romeo was already brought by Anselmo to the Sapang Palay District Hospital. Later on, he was transferred to East Avenue Medical Center where he died after three days. Linda testified that before Romeo passed away, he told her that appellant was his assailant.^[6]

Due to Romeo's injuries and eventual death, Linda spent P16,770.69 for hospital expenses, P35,000.00 for funeral expenses, and P50,000.00 as expenses for the wake.

Dr. Porciuncula testified that Romeo died due to two fatal stab wounds. The first stab wound penetrated his chest and pierced his heart while the wound on his abdomen pierced the pancreas and his small intestines. Both stab wounds appeared to have been caused by a single-bladed weapon.^[7]

Version of the Defense

The appellant was the lone witness presented by the defense. He declared on the witness stand that on September 12, 2004, at around 5:45 p.m., he was working as a construction worker in a site 8 to 9 kilometers away from his residence. On his way home, Nestor Basco, his neighbor, informed him about a stabbing incident that had just taken place near his home. Upon arriving at his house, his wife and his parents told him that the stabbing incident took place in front of their store and that the alleged assailant passed through their yard to the street at the back. The alleged assailant managed to escape, and the stabbing was wrongly imputed against appellant.

On December 9, 2004, appellant was arrested. He claimed that he does not know Romeo, whom he never met before the stabbing incident. The only reason he could think of why he is being falsely accused was that he turned down Anselmo's request for P200.00 to buy *shabu*. This happened when they were having a drinking spree with Aurelio the day before the stabbing incident. According to appellant, Anselmo got infuriated by his refusal and threw a bottle of gin at him.

Ruling of the Regional Trial Court

On February 21, 2008, the RTC rendered its Decision convicting appellant of the crime of murder. It found that the stabbing of Romeo was attended by the qualifying circumstance of treachery as it was "sudden and unexpected such that [Romeo] was unable to react or defend himself from the assault of [appellant]"^[8]

The dispositive part of the RTC Decision reads

WHEREFORE, finding the accused guilty beyond a reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, he is hereby sentenced to suffer the penalty of imprisonment of *reclusion perpetua* and to indemnify the family of the deceased Romeo Gibaga the following amounts:

1. Php1 6,770.69 for medical expenses;
2. Php35,000.00 for funeral services; and
3. Php50,000.00 for civil indemnity.

SO ORDERED.^[9]

Ruling of the Court of Appeals

On appeal, the CA affirmed with modification the Decision of the RTC. It held in its August 28,2009 Decision, thus:

WHEREFORE, the Decision dated February 21, 2008 of the Regional Trial Court, Branch 84, Malolos City is hereby AFFIRMED with modification in that the heirs of the victim are additionally awarded Php25,000.00 as temperate damages and P50,000.00 as moral damages.

SO ORDERED.^[10]

Faulting the Decision of the CA, appellant now appeals to this Court advancing the same issues he raised before the CA.

Assignment of Errors

Appellant asserts that:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

GRANTING *ARGUENDO* THAT THE ACCUSED-APPELLANT IS CRIMINALLY LIABLE, THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.^[11]

Our Ruling

The appeal has no merit.

Appellant argues that the prosecution has failed to establish his guilt beyond reasonable doubt. Citing the testimony^[12] of prosecution witness Aurelio, appellant posits that the eyewitnesses could not have possibly identified the true assailant because it was already 5:45 p.m. and the place where the stabbing incident occurred was almost shrouded in darkness. Appellant also stresses that witness Aurelio, by his own statement, was drunk at the time of the incident, thereby impairing his perception and making his judgment in identifying the assailant unreliable. Because there is uncertainty as to the identity of the true malefactor, appellant asserts that he is entitled to an acquittal.

We are not persuaded.

The RTC is correct in giving weight and credence to the testimonies of the prosecution witnesses, *viz*:

x x x the Court finds the testimonies of the former ([Maricris, Anselmo, and Aurelio]) straightforward and credible, hence, [deserving] recognition and respect as truthful account of what actually transpired during the incident in question. The Court likewise noted the assertions of [Maricris, Anselmo, and Aurelio] that they are familiar with or know the accused and the victim well since they are neighbors in Sapang Palay, San Jose del Monte City, Bulacan. The Court therefore does not doubt [Maricris, Anselmo, and Aurelio] in identifying the accused as the attacker and assailant of [Romeo]. Besides, no evidence was offered to show ulterior motive on the part of [Maricris, Anselmo, and Aurelio] to testify falsely against the accused.^[13]

It bears stressing that the RTC Decision finding appellant guilty of the charge was not based solely on the testimony of Aurelio. Two other eyewitnesses positively identified the appellant as the person who stabbed Romeo. Anselmo and Maricris were consistent in their testimonies identifying appellant as the perpetrator of the crime. Excerpts of their testimonies are reproduced below:

[FISCAL ROQUE:]

Q:

You said that you were walking together with Aurelio Amora and Romeo Gibaga|. W]hile you were walking, what happened if any?

[ANSELMO BENITO:]

A: Romeo Gibaga was suddenly stabbed, sir.

Q: In relation to you, where was this Romeo Gibaga before he was stabbed?

A: He was at my left side, sir.

Q: How about this Aurelio Amora, where was he?

A: Aurelio was at my right side, sir.

Q: While this Aurelio Amora was on your right and this Romeo Gibaga on your left, you mentioned that somebody came and stabbed this Romeo Gibaga. Where you able to see or notice where this assailant came from before he stabbed Romeo Gibaga?

A: Yes, sir.

Q: Where?

A: He came from behind, sir.

x x x x

Q: Considering your position, are you in a position to tell us whether this Romeo Gibaga actually saw the assailant before he was stabbed?

A: Yes, sir.

Q: What did he do?

A: None, sir.

Q: Why was he not able to react before he was stabbed?

A: Because he was not aware, sir.

Q: Mr. Witness[,] you mentioned that you were able to see this person who stabbed Romeo Gibaga[. I]f he is now present, can you identify him?

A: Yes, sir.

Q: Kindly look around and point him out?

THE INTERPRETER:

Witness pointed to a person x x x wearing a detainee's t-shirt who identified himself as Virgilio Amora.

Q: And you mentioned that Romeo Gibaga was stabbed by this accused whom you [have just] identified[. W]ere you able to see the weapon that was used in stabbing Romeo Gibaga?

A: No, sir.^[14]

x x x x

[FISCAL ROQUE:]

Q: And while you were there going to Sampol Market, do you still recall x x x any unusual incident that transpired?

[MARICRIS ALIDON:]

A: Yes, sir.

Q: And what was this unusual incident, Madam witness?

A: The stabbing incident that happened to Romeo Gibaga, sir.

Q: And were you able to see who stabbed him?

A: Yes, sir.

Q: Who was he?

A: Virgilio Amora, sir.

Q: If he is present today, will you be able to identify him?

A: Yes, sir.

Q: Kindly look around and point him out?

THE INTERPRETER:

The witness pointed to a person who identified himself as Virgilio Amora.^[15]