

FIRST DIVISION

[G.R. No. 192179, July 03, 2013]

**PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. LITO
HATSERO, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an Appeal from the Decision^[1] dated June 22, 2009 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00690, which affirmed with modification the Decision^[2] of the Regional Trial Court (RTC), Branch 17 of Roxas City finding accused-appellant Lito Hatsero guilty beyond reasonable doubt of the crime of murder.

Accused-appellant Hatsero was charged with the crime of murder qualified by treachery in an Information dated March 14, 2001. He entered a plea of not guilty to the offense charged. Trial thereafter ensued, with the prosecution presenting the alleged eyewitness Alex Barroa; the victim's widow, Nimfa Gravo; and Pilar, Capiz Municipal Health Officer Dr. Ramon Nolasco, Jr. The defense, on the other hand, presented accused-appellant himself, as well as Robinson Benigla, the Barangay Captain of Bgy. Dulangan, Pilar, Capiz at the time of the incident.

Thirty-eight-year old truck driver **Alex Barroa** testified that the victim, Mamerto Gravo, was the first cousin of his wife. He knew accused-appellant Hatsero as a hauler or "pakyador" of sugarcane in their place.

On August 27, 2000, at 12:30 a.m., Barroa was with Gravo, celebrating the *barangay* fiesta at the dance hall of Sitio Tunga, Barangay Dulangan, Pilar, Capiz. Barroa and Gravo were about to go home when they passed by a group drinking behind the dance hall, in front of the store of a certain Yulo. He recognized accused-appellant Hatsero as one of the drinkers, but failed to recognize his companion who was seated in a dark place. Accused-appellant Hatsero invited Gravo to have a drink. While Gravo was holding the glass, accused-appellant Hatsero stabbed him, and ran towards the store. Gravo was not armed when this happened. Barroa saw everything since he was only about 58 inches away from them. Barroa was stunned with what he saw, but he managed to run towards the door of the gate of the dance hall, where he got people to help him bring Gravo via a tricycle to the Bailan District Hospital. Barroa then had the incident recorded with the Barangay Captain.^[3]

Nimfa Gravo, the widow of the victim, knew the accused-appellant as a worker in a cane field. She was at home when her husband was killed, and was merely informed of the incident by her neighbor, Eva Fuentes. She immediately ran to the dance hall, but her husband had been carried to the hospital when she arrived at the scene. She spent P15,000.00 at the funeral parlor and presented the receipt as evidence. She actually spent P100,000.00 in funeral expenses, but claimed that she no longer had the receipts. At the time of his death, her husband was 51 years old, in good

health, and was continuously employed.[4]

Dr. Ramon Nolasco, Jr., the Municipal Health Officer of Pilar, Capiz, was not the one who conducted the post-mortem examination of Mamerto Gravo, but was presented in lieu of Dr. Freddie Bucayan, who was already in the United States and no longer connected with the office. He acknowledged that the Municipal Health Office conducted the post-mortem examination of Mamerto Gravo, based on the Medical Certificate issued by Dr. Bucayan and the Post-mortem Examination Report.
[5]

According to said documents, Gravo sustained two wounds. The first was around 3.3 centimeters in length, 8 centimeters wide, and 6.4 centimeters deep. It had clean cut edges and clotted blood around it. The wound was located at the right armpit, stretching down Gravo's right side and back. The point of entry was at the back of the body. The weapon used, which was pointed and probably bladed, hit the lungs and the blood vessels of the lungs. The second wound was located at the right side of the thorax, and was also fatal. The cause of death was cardio-pulmonary arrest arising from hemorrhagic shock secondary to injury of the lungs.[6]

Accused-appellant **Lito Hatsero** was 33 years old at the time of his testimony. He was a lumberjack chainsaw operator. He testified that he was sleeping in his house at around 12:30 a.m., on August 27, 2000. Earlier in the evening, however, he went with his children to the dance hall. He asserted that he left the dance hall at around 10:00 p.m., denied having killed Mamerto Gravo, and believed that he was implicated because he refused Mamerto Gravo's wife's request to be a witness when she asked him to pinpoint the real killer. He denied knowing Alex Barroa, and claimed that the latter's testimony is incredible as he was wrong as regards the number of wounds inflicted.[7]

Robinson Benigla,^[8] a fisherman, was the Barangay Captain of Brgy. Dulangan, Pilar, Capiz at the time of the incident. He denied receiving any report of the killing of Mamerto Gravo and thus did not cause a blotter of the same. He attested that there was no record of the killing in the *barangay*. He claimed that he did not meet Alex Barroa early in the morning of August 28, 2000.[9]

On August 22, 2006, the trial court rendered its Decision convicting accused-appellant Hatsero of the crime of murder. The dispositive portion of the Decision is as follows:

WHEREFORE, premises considered, accused Lito Hatsero is hereby found guilty beyond reasonable doubt of the **crime of murder** and he is sentenced to suffer the penalty of **reclusion perpetua** and to indemnify the heirs of the deceased in the sum of *Fifty Thousand Pesos* (P50,000.00), with subsidiary imprisonment in case of insolvency, and the sum of *Sixty Thousand Pesos* (P60,000.000) for funeral and hospital expenses.[10]

The trial court held that the accused-appellant was positively identified as the assailant, that the eyewitness account was categorical and consistent, and that

there was no showing of ill motive on the part of the prosecution witnesses. The defense, on the other hand, failed to conclusively establish that it was physically impossible for the accused-appellant to be at the scene of the crime at the approximate time of its commission.^[11]

Accused-appellant Hatsero elevated the case to the Court of Appeals which rendered its Decision affirming the conviction, to wit:

WHEREFORE, the decision of the Regional Trial Court, Branch 17 of Roxas City dated August 22, 2006, finding accused-appellant Lito Hatsero guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of *reclusion perpetua* is hereby **AFFIRMED** with the **MODIFICATION** as to the amount of damages only. Accused-appellant should indemnify the heirs of the victim the following amount[s]: (i) Fifteen Thousand Pesos (P15,000.00) as actual damages; (ii) Fifty Thousand Pesos (P50,000.00) as civil indemnity for the death of the victim; and (iii) Twenty[-]Five Thousand Pesos (P25,000.00) as exemplary damages.^[12]

The Court of Appeals agreed with the assessment of the trial court that Alex Barroa described the stabbing incident in a clear and convincing manner. The disparities between the testimonies of Barroa and Dr. Nolasco do not make Barroa's testimony less credible since Barroa fled the scene after the first stabbing, and may have merely failed to witness a second one. The Court of Appeals likewise reiterated that the defense failed to prove that Barroa was moved by any improper motive, giving rise to the presumption that his testimony is entitled to full faith and credit.^[13]

The Court of Appeals, however, modified the civil damages as follows: (1) the award of P60,000.00 for funeral and hospital expenses was reduced to P15,000.00, the amount duly substantiated by a receipt; (2) accused-appellant was ordered additionally liable for the amount of P50,000.00 as indemnity for the death of Mamerto Gravo; and (3) accused-appellant was also made additionally liable for the amount of P25,000.00 as exemplary damages.

Accused-appellant appealed to this Court through a Notice of Appeal.^[14] On February 22, 2010, accused-appellant filed a Manifestation^[15] stating that he will no longer file a supplemental brief as all relevant matters have already been taken up in his Appellant's Brief with the Court of Appeals, thus bringing before us the same assignment of error:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED FOR THE CRIME OF MURDER DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[16]

Accused-appellant's bone of contention is that the testimony of the lone eyewitness, Alex Barroa, is glaring with contradictions. Specifically, accused-appellant points out the following: (1) while the testimony of Barroa only indicated that there was one wound inflicted, the medical examination showed that there were two fatal wounds