

SECOND DIVISION

[G.R. No. 191063, October 09, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALDRIN M. GALICIA, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

On appeal is the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03143 promulgated on 14 November 2008, which affirmed with modification the 5 November 2007 Decision^[2] of the Regional Trial Court (RTC) of Makati City, Branch 58, finding the appellant guilty beyond reasonable doubt of the crime of murder in Criminal Case No. 05-1602.

The Facts

On 10 January 2005,^[3] accused-appellant Aldrin M. Galicia (Galicia) and co-accused Jun Asuncion were charged with the crime of Murder punishable under Article 248 of the Revised Penal Code in an Information,^[4] the accusatory portion of which reads:

That on or about 11:45 in the morning of June 10, 2004, at N. Gonzales St., cor. F. Platon St., Barangay II, Poblacion, Tanauan City and within the jurisdiction of this Honorable Court, the above named accused conspiring and confederating and mutually helping one another, with treachery and evident premeditation, one of the accused **JUN ASUNCION y NOBERO**, armed with a firearm, and with deliberate intent to kill, did then and there willfully, unalwfully and feloniously in an unexpected manner, shot Judge Voltaire Rosales, hitting the latter on his head and neck thus causing fatal injuries which resulted to the instantaneous death of said Judge Rosales. Said accused escaped through the use of a motorcycle then driven by the accused **ALDRIN GALICIA y MICOSA**.

Upon arraignment, Galicia pleaded not guilty^[5] to the charge. On the other hand, accused Jun Asuncion remained at large.

Thereafter, trial on the merits ensued.

The prosecution evidence, established primarily from the eyewitness accounts of Maricel Flores (Flores) and Ramil Enriquez (Enriquez), is culled by the summary^[6] of State's evidence of guilt presented by the Office of the Solicitor General (OSG), quoted hereunder:

On June 10, 2004, at 9:15 in the morning, [Flores] was tending to a garden of the carinderia located at No. 58 N. Gonzales St., Tanauan, Batangas where she was working, when she noticed two (2) men three to four meters away. x x x

One of them approached her and asked what she was planting. She replied that she does not know the name of the plant. She noticed that the man has big eyes, dark skin and has a prominent jaw (pangahin). He was wearing a black jacket and a helmet which was open in front. The other man remained where he was standing and was wearing a gray jacket. That man was later identified by [Flores] as [Galicia]. Beside him was a black motorcycle which has no plate number and the engine still running. x x x

When [Flores] noticed that it was about to rain, she invited them to come inside the carinderia. As [Flores] entered the diner, she turned her face towards the two men and stared hard. x x x

After a few moments while she was attending to the chores inside the diner, she heard successive gunshots. Immediately she looked out of the window and from her vantage point, she saw a green Pajero 7 to 10 meters away, slowly crossing and swerving to the right toward Platon St. x x x

After the shots were fired, she saw the two men she talked to earlier riding their motorcycle and speeding away. The motorcycle was driven by [Galicia]. Then in a split second, she saw the Pajero hitting the wall at the corner of Platon and N. Gonzales St. x x x

Moments later, policemen arrived and they took pictures of the Pajero as well as the crime scene. x x x

On July 7, 2004, she summoned her courage to disclose what she knew and executed an affidavit before the Tanauan Police Station. She disclosed what she witnessed because her conscience bothered her. x x x

Likewise, on June 10, 2004 in the morning, [Enriquez], an agent of the Surety Commonwealth Insurance Company of Tanauan City, Batangas was walking at N. Gonzales St., Tanauan City headed towards Jollibee when he noticed a black Enduro motorcycle without plate number with two riders cruising the streets. x x x

Suddenly from where [Enriquez] was standing, he saw a green Mitsubishi Pajero pass by. Then he saw the two riders of the motorcycle firing upon somebody inside the vehicle. He saw appellant manning the motorcycle. x x x

After firing the shots, the motorcycle sped away. [Enriquez] later learned that the occupant of the Green Mitsubishi Pajero was Judge Voltair[e] Rosales. He knew him considering his job as bondsman. x x x

On the part of Galicia, the Public Attorney's Office (PAO) rendered the following version of events:^[7]

At about 11:45 a.m. of June 10, 2004, Judge Voltaire Rosales was killed while on board his Pajero van at N. Gonzales St. Corner F. Platon St., Barangay II, Poblacion, Tanauan, Batangas. At about one o' clock of the same day, a team of SOCO Investigators from PNP Region 4, Canlubang, Laguna, arrived at the scene of the crime and conducted an investigation. The PNP-SOCO's investigation revealed that the "assailants (of Judge Voltaire Rosales) were wearing "black bonnets" (Exh. "A"). Nobody questioned by the police investigators could identify the assailants.

On January 24, 2005, seven months after the incident, an Information for Murder was filed against Galicia and one Jun Asuncion in the Regional Trial Court, Tanauan City, Batangas.

The Information alleged thus:

The undersigned State Prosecutors of the Department of Justice accuse ALDRIN GALICIA y MICOSA and JUN ASUNCION y NOBERO of the crime of MURDER defined under Article 248 of the Revised Penal Code as amended by Republic Act 7659, committed as follows:

x x x x

CONTRARY TO LAW.

Having been arrested, Galicia filed an Application For Bail on the ground that the Prosecution's evidence against him is not strong.

After hearing, the Regional Trial Court of Makati, Branch 145, thru Judge Cesar Santamaria, denied the application for bail.

Upon motion for inhibition filed by Galicia, the case was re-raffled and assigned to Branch 58 of the same Regional Trial Court, which conducted the trial and convicted Galicia in its Decision subject of the appeal.

The prosecution presented as witnesses the following PNP SOCO Investigators, namely: Police Supt. Ligaya Sim Cabal of the PNP Regional Crime Laboratory, Calamba City, Laguna; Gregorio de Guzman, Chief Inspector and Team Leader of the SOCO team dispatched to the crime scene; Jerome Quiasao, Chief Forensic Photographer and Operating Officer, PNP Regional Crime Laboratory, Camp Vicente Lim, Calamba, Laguna; and Jupri Delantar, the forensic chemical officer of the Batangas Provincial Crime Laboratory. The Prosecution also presented Antonio Vertido, medico-legal officer of the NBI, Southern Tagalog Region and two civilians, namely: [Flores] and [Enriquez].

The medico-legal officer and the PNP-SOCO Investigators testified on

post-crime matters. Civilian witnesses [Flores] and [Enriquez], who claimed to be within the area where the crime was committed, testified on facts which they allegedly and purportedly observed.

On the other hand, Galicia presented himself and the following as his witnesses, namely: Lourdes Rosales, Teresita Mabilangan-Lucido and Katherine Sison Ramilo.

In essence, the defense witnesses testified that Galicia could not have committed the crime charged because on the day and time of the incident, he was attending the wake of his grandfather Armando Lucido in Brgy. Pantay Matanda, Tanauan City, who testified that Armando Lucido died on June 7, 2004 and was in state at his house in Pantay Matanda, Tanauan City from June 8, 2004 until June 11, 2004 when his remains were brought to Cabanatuan City, where his wife and children reside, for final interment.

x x x x

Witness Lourdes Rosales, the Barangay Chairwoman of the place where the incident happened, testified in essence that on June 11, 2004 at around 6 p.m., she was asked by her cousin Carmelita Yabut, the owner of the carinderia where [Flores] works, to go to their house to talk to [Flores]. When she arrived at the house, she saw policemen who wanted to talk to [Flores] but the latter refused to talk to them. As a Barangay Chairwoman, she asked [Flores] to talk to the policemen so they will not keep coming back and to tell them the truth of what happened. Finally, [Flores] was convinced to talk to the policemen with the barangay chairwoman accompanying her. During the interview by the policemen, [Flores] said that "she did not see the incident and also did not see the perpetrator."

After evaluating the evidence presented by the parties, the trial court rendered a Decision^[8] dated 5 November 2007, finding the appellant guilty of murder, the dispositive portion of which reads:

WHEREFORE, premises considered, this Court renders judgment finding the accused ALDRIN GALICIA **GUILTY** beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA**. Consequently, he is hereby ordered to indemnify the victim the amount of Php50,000.00 as civil damages.

Considering that the Court has not yet acquired jurisdiction over the person of accused Jun Asuncion who has remained at large, let an alias warrant of arrest be issued against him.

Aggrieved, Galicia assailed the decision on appeal. The CA sustained the trial court's finding and found the same to be in order.

The appellant now seeks recourse in this Court maintaining the issues raised before the CA as reversible errors committed by the *court a quo* in giving credence to the testimonies of Flores and Enriquez despite serious contradictions and material inconsistencies, while disregarding or ignoring the testimony of defense witness *Barangay* Chairwoman Lourdes Rosales.

Our Ruling

We find the appeal bereft of merit.

Time and again, we have ruled that factual findings of the trial court, especially those affirmed by the CA, are conclusive on this Court when supported by the evidence on record.^[9] In numerous instances, this Court observes restraint in interfering with the trial court's assessment of the witnesses' credibility, absent any indication or showing that the trial court overlooked some material facts or gravely abused its discretion, more so, when the CA sustained such assessment, as in this case, where it affirmed the trial court's findings of fact, the veracity of the testimonies of the witnesses, the determination of physical evidence and conclusions.

As exception to the rule, the only time a reviewing court is not bound by the trial court's assessment of credibility arises upon a showing of a fact or circumstance of weight and influence that was overlooked which, if considered, could affect the outcome of the case.^[10] With this exception as basis we reviewed the records for any indication of arbitrariness or clear oversight of some fact or circumstance of weight that can warrant a reversal of the findings of the courts *a quo*. We found none.

Galicia calls our attention to the discrepancy between the respective testimonies and affidavits of prosecution witnesses Flores and Enriquez, to wit:

A. Testimony of Flores:^[11]

1. She pointed to "Galicia" as the man driving the motorcycle while the other man approached her in the garden at back x x x. However, she contradicted herself and said that she asked the first man who approached her, this time pointing to Galicia who was in court, to go inside the carinderia (canteen) since it was raining x x x;
2. She also declared that after she heard the gunshots, she looked out of the window of the carinderia and saw Judge Rosales' Pajero moving slowly then hitting the wall at the corner of Gonzales and Platon Streets. [Flores] testified that she did not know how the Pajero was fired upon, how the firing began, and how it ended, and she did not see the persons who fired the gun; and
3. She also declared in court that the two assailants were wearing helmets. The portion of the helmet going down the right and left sides of their faces to the chin measured two inches wide, thereby the impossibility of recognizing the face.