

## FIRST DIVISION

[ G.R. No. 175602, January 18, 2012 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PO2  
EDUARDO VALDEZ AND EDWIN VALDEZ, ACCUSED-APPELLANTS.**

### D E C I S I O N

#### **BERSAMIN, J.:**

The sufficiency of the allegations of the facts and circumstances constituting the elements of the crime charged is crucial in every criminal prosecution because of the ever-present obligation of the State to duly inform the accused of the nature and cause of the accusation.

The accused were tried for and convicted of three counts of murder on January 20, 2005 by the Regional Trial Court (RTC), Branch 86, in Quezon City. They were penalized with *reclusion perpetua* for each count, and ordered to pay to the heirs of each victim P93,000.00 as actual damages, P50,000.00 as civil indemnity, and P50,000.00 as moral damages.

On appeal, the Court of Appeals (CA) upheld the RTC on July 18, 2006, subject to the modification that each accused pay to the heirs of each victim P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, and P25,000.00 as exemplary damages, plus costs of suit.<sup>[1]</sup>

The accused came to the Court to seek acquittal. On May 9, 2007, however, accused Edwin Valdez filed a *motion to withdraw appeal*, which the Court granted on October 10, 2007, thereby deeming Edwin's appeal closed and terminated.<sup>[2]</sup> Hence, the Court hereby resolves only the appeal of PO2 Eduardo Valdez.

#### **Antecedents**

The Office of the City Prosecutor of Quezon City charged the two accused in the RTC with three counts of murder for the killing of Ferdinand Sayson, Moises Sayson, Jr., and Joselito Sayson, alleging:

Criminal Case No. 00-90718

That on or about the 1<sup>st</sup> day of March, 2000, in Quezon City, Philippines, the above-named accused conspiring together, confederating with and mutually helping each other, with intent to kill, qualified with treachery, evident premeditation and abuse of superior strength did, then and there, willfully, unlawfully and feloniously, assault, attack and employ personal violence upon the person of one FERDINAND SAYSON Y DABOCOL by then and there shooting him with a gun, hitting him on his

head, thereby inflicting upon him serious and mortal wound which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of the said FERDINAND SAYSON Y DABOCOL.

CONTRARY TO LAW.<sup>[3]</sup>

Criminal Case No. 00-90719

That on or about the 1<sup>st</sup> day of March, 2000, in Quezon City, Philippines, the above-named accused conspiring together, confederating with and mutually helping each other, with intent to kill, qualified with treachery, evident premeditation and abuse of superior strength did, then and there, willfully, unlawfully and feloniously, assault, attack and employ personal violence upon the person of one MOISES SAYSON, JR. Y DABOCOL by then and there shooting him several times with a gun, hitting him on his face and chest, thereby inflicting upon him serious and mortal wound which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of the said MOISES SAYSON, JR. Y DABOCOL.

CONTRARY TO LAW.<sup>[4]</sup>

Criminal Case No. 00-90720

That on or about the 1<sup>st</sup> day of March, 2000, in Quezon City, Philippines, the above-named accused conspiring together, confederating with and mutually helping each other, with intent to kill, qualified with treachery, evident premeditation and abuse of superior strength did, then and there, willfully, unlawfully and feloniously, assault, attack and employ personal violence upon the person of one JOSELITO SAYSON Y DABOCOL by then and there shooting him with a gun, hitting him on his back, thereby inflicting upon him serious and mortal wound which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of the said JOSELITO SAYSON Y DABOCOL.

CONTRARY TO LAW.<sup>[5]</sup>

The Office of the Solicitor General (OSG) summarized the State's evidence of guilt as follows:

On March 1, 2000, at around 8:00 o'clock in the evening, Estrella Sayson, (Estrella) was at the canteen (which also includes a *jai alai* betting station) located at 77 Corregidor Street, Bago Bantay, Quezon City. Estrella was preparing for the celebration of the birthday of her second husband, Wilfredo Lladones, which was held later in the evening. Estrella's son, the deceased Moises Sayson, a former policeman, and his

wife, Susan Sayson (Susan) owned the said canteen and managed the betting station. At about 9:00 o'clock in the evening, Estrella's other sons Joselito Sayson (Joselito) and Ferdinand Sayson (Ferdinand) arrived at the canteen to greet their stepfather. Estrella's family and other visitors ate and enjoyed themselves at the party (pp. 3-5, TSN, November 29, 2000; pp. 3-6, TSN, February 6, 2001; pp. 3-4, TSN, July 31, 2001).

At about 10:00 o'clock in the evening, the celebration was interrupted with the arrival of Eduardo and Edwin, who alighted from a motorcycle in front of the *jai alai* fronton. Eduardo and Edwin asked the *jai alai* teller, Jonathan Rubio (Jonathan), to come out. Jonathan was then attending to customers who were buying *jai alai* tickets. Moises approached Eduardo and Edwin and tried to reason with them. Estrella saw Eduardo and Edwin armed with guns. She tried to prevent Moises from going near Edwin and Eduardo. Moises did not heed his mother's warning. He went out and advised Eduardo and Edwin not to force Jonathan to go out of the fronton. Estrella then heard one of the accused-appellants threaten Moises with the words "Gusto mo unahin na kita?" Moises replied "huwag." Successive shots were thereafter heard. Moises fell and was continuously fired upon even after he was sprawled on the ground. Ferdinand immediately approached the scene to help his brother Moises. Ferdinand, however was shot on the left temporal portion of his head and fell. Somebody told Joselito to run away, but he was hit at the back while running. Joselito fell on a burger machine (pp. 7-11, TSN, November 29, 2000; pp. 6-10, TSN, February 6, 2001; pp. 5-10, TSN, July 31, 2001; pp. 2-6, September 5, 2001).

After shooting the Sayson brothers, Eduardo and Edwin escaped from the scene of the crime (p. 10, TSN, February 6, 2001).<sup>[6]</sup>

In turn, the *appellant's brief* filed by the Public Attorney's Office (PAO) rendered the version of the accused, to wit:

xxx [A]t about 10:00 o'clock in the evening, Heidi dela Cruz (a barbecue vendor) and Noel Valad-on (a tricycle driver) saw accused Edwin Valdez alight from a bus. The latter bought P100.00 worth of barbecue from Heidi then proceeded towards home. He was walking along Corregidor Street when Heidi saw Jun Sayson (Moises), then holding a gun, block his (Edwin's) way. Jun Sayson poked a gun at accused Edwin, shouting, 'Putang-ina mo, papatayin kita'. The latter raised both his hands and said 'Wag kuya Jun, maawa ka.'

Accused Eduardo Valdez (a policeman), then carrying his 6-year old child, was walking when his way was likewise blocked but this time, by the siblings Joselito and Ferdinand as well as their stepfather. Joselito twisted one of his (Eduardo's) hands at his back while his (Joselito's) stepfather held the other. Ferdinand fired a gun but accused Eduardo was able to evade. Joselito, who was positioned behind Eduardo, was hit. He slumped and bled. He asked Heidi to inform his family that he was hit. Heidi ran away. She saw Jun (Moises) and accused Edwin grappling. Thereafter,

she heard gunshots.

Accused Eduardo ducked during the firing. He pretended to be dead. Ferdinand stopped firing. Accused Eduardo's son approached him crying. Accused thereafter, brought his son home, took his service firearm and on his way back to the scene of the incident when he met General Jesus Almadin, his commanding officer (CO). He reported the incident and sought for advice. He was told to take a rest and go back on (sic) the following day. He accompanied his CO to Camp Crame. He surrendered his firearm to Sr./Insp. Rodolfo Araza of the CIU. Accused Edwin Valdez likewise surrendered (TSN dated 05 February 2003; pp. 3-9; 12 March 2003, pp. 2-16; 11 August 2003, pp. 2-18, 1 September 2003, pp. 3-10; 15 October 2003, pp. 2-8; 03 December 2003, pp. 2-4; 18 February 2004, pp. 2-9; 24 March 2004, pp. 3-9; 10 April 2004, pp. 2-7; 07 June 2004, pp. 2-25).<sup>[7]</sup>

The RTC convicted the two accused of three counts of murder and sentenced them to suffer *reclusion perpetua* for each count of murder.<sup>[8]</sup>

On appeal, the CA affirmed the convictions.<sup>[9]</sup>

### **Issues**

In this appeal, PO2 Valdez assails the credibility of the State's witnesses by pointing to inconsistencies and weaknesses in their testimonies; challenges the finding of conspiracy between the accused; and contends that the State did not establish the qualifying circumstance of treachery.<sup>[10]</sup>

### **Ruling**

The Court affirms the convictions, but holds PO2 Valdez guilty only of three counts of homicide due to the failure of the informations to allege the facts and circumstances constituting treachery.

First of all, PO2 Valdez insists that the State's witnesses (Susan Sayson, Marites Sayson and Estrella Sayson) did not really see the events as they transpired; and that they wrongly identified the two accused as the persons who had shot and killed the victims; and that the victims were themselves the aggressors.

The CA rejected PO2 Valdez's insistence, holding thus:

In their Brief, the accused-appellants desperately attempted to discredit the testimonies of witnesses Susan, Marites and Estrella. They claimed that a perusal of Estrella's testimony would cast doubt on her statement that she actually witnessed the shooting incident. The accused-appellants claimed that Estrella Sayson did not actually see who allegedly threatened her son Moises with the words "Gusto mo unahin na kita?" The accused-appellants also claimed that Estrella also failed to see who shot Moises. They likewise assailed the testimonies of Susan and Marites as being incredible. They said that Susan testified that she was in a state

of shock after the incident and that she could not speak; yet she was still able to give her statement on the same day the incident allegedly happened. The accused-appellants also said that Marites testified that she was only about five (5) meters away from them (accused-appellants) when they alighted from their motorcycle; but that, "interestingly," she only learned from her husband Joselito that the accused-appellants were looking for a certain Jonathan.

We are not persuaded. In her testimony, Estrella satisfactorily explained her purported failure to see who between the accused-appellants threatened Moises with the words "Gusto mo unahin kita?" and who shot her son Moises, by pointing out that she was then facing Moises because she was preventing him from approaching the accused-appellants, who were armed with short firearms. Estrella categorically stated that she **saw** the accused-appellants alight from their motorcycle on March 1, 2000. She could not have been mistaken about the identity of the accused-appellants for the simple reason that they are her neighbors and that their (the accused-appellants') father is her "cumpadre." When the incident happened, the accused-appellants were about eight (8) to ten (10) meters away from where she and her son Moises were standing. She also **saw with her own eyes** how her son Moises fell after she heard successive bursts of gunshots (approximately <sup>[9]</sup> shots) coming from where the accused-appellants were standing.<sup>[11]</sup>

Considering that the CA thereby affirmed the trial court's findings of fact, its calibration of the testimonies of witnesses and its assessment of their probative weight, as well as its conclusions, the Court accords high respect, if not conclusive effect, to the CA's findings.<sup>[12]</sup> The justification for this is that trial court was in the best position to assess the credibility of witnesses by virtue of its firsthand observation of the demeanor, conduct and attitude of the witnesses under grilling examination. The only time when a reviewing court was 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 and, if considered, could affect the outcome of the case.<sup>[13]</sup> No such fact or circumstance has been brought to the Court's attention.

It is not trite to remind that a truth-telling witness is not always expected to give an error-free testimony because of the lapse of time and the treachery of human memory; and that inaccuracies noted in testimony may even suggest that the witness is telling the truth and has not been rehearsed.<sup>[14]</sup> To properly appreciate the worth of testimony, therefore, the courts do not resort to the individual words or phrases alone but seek out the whole impression or effect of what has been said and done.<sup>[15]</sup>

Secondly, PO2 Valdez argues that the three victims were themselves the aggressors who had attacked to kill him and his brother. He narrated during the trial that he dodged the bullet fired from the gun of Ferdinand (one of the victims), causing the bullet to fatally hit Joselito (another victim); that he played dead to avoid being shot at again, and walked away with his terrified son only after the way was clear for them to leave; and that he heard gunshots while Edwin and Jun (the third victim)