

FIRST DIVISION

[G.R. No. 188322, April 11, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOSEPH ASILAN Y TABORNAL, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal filed by the accused-appellant Joseph Asilan y Tabornal (Asilan) to challenge the February 25, 2009 Decision^[1] of the Court of Appeals in **CA-G.R. CR.-H.C. No. 02686**, which affirmed *in toto* his Murder conviction, rendered by the Regional Trial Court (RTC), Branch 20 of the City of Manila on January 8, 2007, in **Criminal Case No. 06-243060**.

On March 31, 2006, Asilan was charged with the complex crime of Direct Assault with Murder in an Information,^[2] the pertinent portion of which reads:

That on or about **March 27, 2006**, in the City of Manila, Philippines, the said accused, conspiring, and confederating with another whose true name, real identity and present whereabouts are still unknown and mutually helping each other, did then and there willfully, unlawfully, and feloniously attack, assault and use personal violence upon the person of **PO1 RANDY ADOVAS y PE-CAAT**, a member of the Philippine National Police assigned at Camp Bagong Diwa, Bicutan, Taguig, MM, duly qualified, appointed, and acting as such, and therefore an agent of a person in authority, which fact was known to the said accused, while **PO1 RANDY ADOVAS y PE-CAAT** was in the performance of his official duty, that is, while handcuffing the at-large co-conspirator for illegal possession of deadly weapon, herein accused suddenly appeared and with intent to kill, treachery and evident premeditation, attack, assault, and use personal violence upon said police officer by then and there **repeatedly stabbing the latter with a fan knife then grabbing his service firearm and shooting him**, thereby inflicting upon the said **PO1 RANDY ADOVAS y PE-CAAT** mortal stab and gunshot wounds which were the direct and immediate cause of his death thereafter.

Asilan pleaded not guilty upon his arraignment^[3] on April 10, 2006. Pre-Trial Conference followed on April 26, 2006, where the counsels agreed to stipulate that Asilan, who was at that time present in the RTC, was the same Asilan named in the Information, and that the victim, Police Officer 1 (PO1) Randy Adovas y Pe-caat (Adovas), was a police officer in active duty at the time of his death.^[4] Trial on the merits ensued after the termination of the pre-trial conference.

Below is the prosecution's version, as succinctly summarized by the Office of the Solicitor General (OSG) from the testimony of Joselito Binosa (Binosa)^[5]:

In the evening of March 27, 2006, around 10:00 o'clock, Joselito Binosa, a jeepney barker/carwash boy while chatting with his friends at the El Niño Bakery along Teresa Street, Sta. Mesa, Manila, heard a gunshot nearby. He then went to the place where the sound came and from where he was standing which was about three (3) to four (4) meters away, he saw a uniformed policeman, who seemed to be arresting someone and ordering the latter to lay on the ground.

The police officer pushed the man to the wall, poked the gun on him and was about to handcuff the latter when another man, herein appellant Asilan arrived, drew something from his back and stabbed the police officer on his back several times until the latter fell to the ground.

The man who was being arrested by the police officer held the latter's hand while he was being stabbed repeatedly by [Asilan]. The man who was being arrested then took the officer's gun and shot the latter with it.

The fellow barker of Joselito Binosa then threw stones at the malefactors who subsequently left the place.

Joselito Binosa secretly followed [Asilan] and his companion who walked towards the railroad track taking Teresa St., Sta. Mesa, Manila. [Asilan] entered an alley and thereafter returned to the place of the incident. The other man walked on to the tracks.

At that moment, a policeman passed by and Binosa pointed [Asilan] to him. [Asilan] was arrested and the knife which was used in the

stabbing was confiscated by the policeman.^[6] (Citations omitted.)

The above narration of events was largely corroborated by Pol Justine San Diego (San Diego), a student, who also witnessed the events that transpired on March 27, 2006.^[7]

The prosecution also submitted as evidence Medico Legal Report No. M-219-06,^[8] accomplished and testified to by Dr. Vladimir V. Villaseñor. The pertinent portion of the Medico Legal Report states:

SPECIMEN SUBMITTED:

Cadaver of Randy Pe-caat Adovas, 29 y/o male, married, a policeman, 167 cm in height and a resident of 19 West Bank Road, Floodway, Rosario Pasig City.

PURPOSE OF LABORATORY EXAMINATION:

To determine the cause of death.

FINDINGS:

Body belongs to a fairly nourished, fairly developed male cadaver in rigor mortis with postmortem lividity at the dependent portions of the body. Conjunctivae, lips and nailbeds are pale. With exploratory laparotomy incision at the anterior abdominal wall, measuring 29 cm long, along the anterior midline.

Trunk & Upper Extremity:

1) Stab wound, right axillary region, measuring 6 x 4 cm, 16 cm from the anterior midline.

2) Stab wound, right hypochondriac region, measuring 2.3 x 0.7 cm, 2cm right of the anterior midline, 9 cm deep, directed posteriorwards, downwards & medialwards, lacerating the right lobe of the liver.

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CONCLUSION:

Cause of death is MULTIPLE STAB WOUNDS & GUNSHOT WOUND OF THE TRUNK AND UPPER EXTREMITIES.

Meanwhile, Asilan, in his Appellants' Brief,^[9] summed up his defense as follows:

On March 27, 2006, at around 10:00 o'clock p.m. **JOSEPH ASILAN** [Asilan] was on board a passenger jeepney on his way to Mandaluyong. As he had to transfer to another jeepney, [Asilan] alighted at Old Sta. Mesa and waited for a jeep bound for Pasig City. Suddenly, three (3) motorcycles stopped in front of him, the passengers of which approached and frisked him. He was thereafter brought to the police station and in a small room, he was forced to admit to the stabbing of a police officer. Thereafter, he was brought to a nearby hospital and was medically examined. Then he was again taken to the police station where he was confronted with the knife which was allegedly used in stabbing PO1 Adovas. He was mauled for refusing to confess to the stabbing of the said policeman. Afterwards, he was presented to alleged eyewitnesses. However, the supposed eyewitnesses were not the ones presented by the prosecution in court.^[10]

The RTC convicted Asilan of Murder in its Decision^[11] dated January 8, 2007, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds the Prosecution to have failed to establish and prove beyond reasonable doubt the offense

of direct assault. Where a complex crime is charged and the evidence fails to support the charge as to one of the component, the accused can be convicted of the other (People v. Roma, 374 SCRA 457).

WHEREFORE, his guilt having been proven beyond reasonable doubt for the crime of murder with the qualifying circumstance of treachery, judgment is hereby rendered finding accused Joseph Asilan y Tabornal **GUILTY** beyond reasonable doubt of the crime of murder and is hereby imposed the penalty of reclusion perpetua. He is hereby ordered to pay the heirs of PO1 Randy Adovas y Pe-Caat the sum of P84,224.00 as actual damages, P25,000.00 for moral damages and P50,000.00 civil indemnity.^[12]

The RTC, in acquitting Asilan of Direct Assault, held that while it was confirmed that Adovas was in his police uniform at the time of his death, the prosecution failed to establish convincingly that he was in the performance of his duty when he was assaulted by Asilan. The RTC explained that there was no evidence to show that Adovas was arresting somebody at the time Asilan stabbed him.^[13] The RTC added:

What the framers of the law wanted was to know the reason of the assault upon a person in authority or his agents. The prosecution failed to show why the victim was pushing the man on the wall or why he poked his gun at the latter. That the victim was assaulted while in the performance of his duty or by reason thereof was not conclusively proven.^[14]

In convicting Asilan of Murder, the RTC held that his defense of denial could not be "accorded more weight than the categorical assertions of the witnesses who positively identified him as the man who suddenly appeared from behind [Adovas] and stabbed the latter repeatedly."^[15] Moreover, Asilan admitted that he was at the scene of the crime when he was arrested, that he could not give any reason for the witnesses to falsely testify against him, and that he did not know them.

Anent the aggravating circumstances, the RTC found that the killing of Adovas was proven to be attended with treachery since Adovas was attacked from behind, depriving him of the opportunity to defend himself.^[16] However, the RTC declared that the aggravating circumstance of evident premeditation "could not be appreciated x x x absent evidence that [Asilan] planned or prepared to kill [Adovas] or of the time when the plot was conceived."^[17]

As to the damages, the RTC found the prosecution's evidence, which consisted of Adovas's wife's testimony, and the receipts of the expenses she incurred in Adovas's hospitalization, wake, and burial, sufficient to award moral and actual damages.

On January 19, 2007, Asilan appealed^[18] his conviction to the Court of Appeals, mainly on the ground that the prosecution failed to prove his guilt beyond reasonable doubt. He subsequently filed a Motion to Litigate as a Pauper, ^[19] which

on February 28, 2007, was granted in an Order^[20] by the RTC.

On February 25, 2009, the Court of Appeals rendered its Decision, affirming in toto the RTC's ruling.

WHEREFORE, premises considered, the assailed Decision dated 08 January 2007 of the Court *a quo* in Criminal Case No. 06-243060, finding Accused-Appellant **JOSEPH ASILAN Y TABORNAL** guilty beyond reasonable doubt of **Murder**, is hereby **AFFIRMED in toto**.^[21]

The Court of Appeals rejected Asilan's arguments and averred that his denial and bare attempt at exculpation by trying to destroy the credibility of the candid, categorical, and trustworthy testimonies of the witnesses must fail.

Aggrieved, Asilan is now appealing^[22] his case to this Court, with the same assignment of errors he posited before the Court of Appeals:

ASSIGNMENT OF ERRORS

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSE CHARGED BY RELYING ON THE INCONSISTENT AND UNNATURAL TESTIMONY OF THE ALLEGED EYEWITNESS.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.^[23]

Discussion

Asilan was convicted of the crime of Murder under Article 248 of the Revised Penal Code:

Art. 248. Murder. — Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death, if committed with any of the