

FIRST DIVISION

[G.R. No. 182523, September 15, 2012]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN LAURIO Y ROSALES, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before this Court is an appeal of the December 12, 2007 **Decision**^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 01446,^[2] which affirmed with modification the December 1, 2000 **Decision**^[3] of the Regional Trial Court (RTC), Branch 18, Manila in Crim. Case No. 98-169470, entitled *People of the Philippines v. Efren Laurio y Rosales and Juan Gullab y Mercader* wherein appellant Efren Laurio was found guilty of the crime of murder and co-accused Juan Gullab (Gullab) was found guilty of the crime of slight physical injuries.

The following information charging appellant and Gullab with the crime of murder was filed on December 15, 1998:

That on or about December 11, 1998, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping each other, did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon one ALFREDO VILLEZA y VILLAS^[4] by then and there punching and stabbing the latter several times causing him to fall down [on] the cemented pavement thereby inflicting upon the latter mortal stab wounds which were the direct and immediate cause of his death thereafter.^[5]

On arraignment, appellant pleaded not guilty.^[6] Thereafter, trial on the merits ensued.

During the trial a certain Irene Pangan (Pangan), a *kabataang barangay kagawad* and daughter of the owner of the vulcanizing shop where appellant worked, was presented as the prosecution's lone eyewitness. She narrated that at around 9:30 p.m. she went to the sari-sari store to buy cigarettes for her father. Upon her arrival at the store, she saw the victim, a balut vendor, drinking a bottle of Red Horse and inquiring from the saleslady about the price of the deposit for the bottle. As she was about to leave, the victim threw a bottle in the direction where appellant and Gullab were engaged in a drinking spree. Gullab confronted the victim. Gullab punched the victim, causing him to fall to the ground. It was while the victim was down that appellant stabbed him on the chest several times. Pangan related that she saw appellant wrapping a knife with a white hand towel bearing the inscription "Good Morning." She then told her father about the incident and called the police.

The bloodstained towel was recovered by the second floor occupants of the vulcanizing shop from the rest room at the first floor and was later surrendered to the police officers.^[7]

Dr. Emmanuel Aranas, medico-legal officer of the Western Police District, was also presented as a witness by the prosecution. He confirmed that the victim sustained seven fatal stab wounds in the chest and abdominal region, which caused his death. The stab wounds were inflicted using a single-bladed weapon.^[8] Dr. Aranas presented the victim's death certificate.^[9]

During his testimony, Gullab denied being involved in a drinking spree with appellant. He claimed that he only knew appellant because they were co-workers and they would once in a while drink together. However, on that night, Gullab said that he was not drinking but only loitering across the street from the *sari-sari* store. He testified that he saw appellant pulled out a knife and stabbed the victim. He then went upstairs to his house to sleep.

When called to the witness stand, appellant confirmed that he and his half-brother, Gullab, were drinking gin after work at the said sari-sari store. In the midst of their drinking spree, the victim threw a bottle at them. He maintained that at this point, he had only consumed a bottle of gin. Gullab confronted the victim who replied, "*Anong pakialam mo sa akin!*"^[10] Gullab then hit the victim who thereafter pulled out a knife.^[11] When appellant saw that the victim had a knife, he pulled out his own knife and stabbed the victim. After the altercation, he went to the vulcanizing shop to clean his bloodied hands.

After weighing the evidence presented by both parties, the RTC rendered the December 1, 2000 Decision finding appellant guilty of the crime of murder, *to wit*:

The act of [appellant] in suddenly and repeatedly stabbing the defenseless and unarmed victim while he was sprawled on the ground after he was boxed by accused Gullab, thereby causing his instant and violent death, constitutes the crime of murder qualified by treachery under Article 248 of the Revised Penal Code. No other aggravating and/or mitigating circumstances attended the commission of the crime.

The assertion of [appellant] that he stabbed the victim because the latter drew a knife and was about to stab him x x x, is not believable and persuasive. Other than his negative testimony to this effect, no hard and convincing evidence was adduced by the defense. Neither could his negative allegation prevail over the positive, logical, straightforward and credible testimony of prosecution eyewitness Irene Pangan, to whom no improper motive to testify falsely against the two accused had been proven. Settled is the rule that positive evidence is entitled to more weight than negative evidence such as [appellant's] spurious pretension.

As regards the accused Gullab, this court finds that there is insufficient positive and direct evidence to establish beyond reasonable doubt that he had conspired with his co-accused in the killing of the victim. The crime was committed on the spur of the moment. The mere fact that accused

Gullab punched the victim, before the latter was repeatedly stabbed to death by accused Laurio, is not sufficient and positive proof to justify a finding of conspiracy between the accused. In fact, as testified to by the prosecution's eyewitness, Irene Pangan, accused Gullab merely stood and watched while his co-accused repeatedly stabbed the victim. Accused Gullab was a passive spectator. He did not actively participate in the commission of the murder of the victim. Accused Gullab cannot therefore, be held liable for the crime charged. However, his act of punching the face of the victim without sufficient provocation on the part of the latter, who thereby suffered [an] abrasion on his nose, constitutes the crime of slight physical injuries under Article 266 of the Revised Penal Code.

WHEREFORE, [appellant] is hereby convicted of the crime of murder without any aggravating and/or mitigating circumstances and sentenced to suffer the penalty of *reclusion perpetua* with all the accessory penalties provided by law and to pay the costs.

With regard to accused Juan Gullab y Mercader, he is convicted of the crime of slight physical injuries and sentenced to suffer 20 days imprisonment and to pay the costs.

On the civil liability of [appellant], he is ordered to pay the legal heirs of the victim, Alfredo Villeza y Villar, moral and nominal damages in the respective sums of P250,000.00 and P100,000.00 and compensation for the loss of the life of the victim in the sum of P50,000.00 with interest thereon at the legal rate of 6% per annum from this date until fully paid.

[12]

On December 8, 2000, appellant, through counsel, manifested in open court that he would appeal the case to this Court. Gullab did not appeal the decision.[13]

Appellant's confinement was confirmed by the Bureau of Corrections on August 1, 2002.[14]

On July 12, 2004, appellant, in a letter to the Court through the Office of the Chief Justice, manifested his intent to withdraw his appeal.[15]

In its September 8, 2004 Resolution,[16] this Court noted the July 12, 2004 letter and transferred the case to the Court of Appeals for appropriate action and disposition in line with its ruling in *People v. Mateo*. [17]

The Court of Appeals in its December 12, 2007 decision affirmed the findings of the trial court but modified the award of damages, to wit:

This Court is in complete accord with the court a quo in its finding that [appellant] was unable to establish self-defense.

This Court also concurs that treachery was attendant to the killing. The

position of the victim, the manner of the attack, and the circumstances which prevailed prior to and during the stabbing are clearly indicative of treachery.

The victim was already lying on the ground when he was stabbed by the [appellant]. As held by the Supreme Court, the crime can be qualified by treachery if the stabbing of the victim was done while the latter was lying on the ground, defenseless.

Stabbing the victim repeatedly for seven (7) times when the latter was already defenseless on the ground afforded accused impunity without risk to himself arising from any defense which the victim might make. This is the very essence of treachery as provided in Article 14, paragraph 16 of the Revised Penal Code.

The damages awarded to the heirs of the victim must, however, be modified.

When the death occurs due to a crime, the following damages may be recovered: (1) a civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in the proper cases.

The award for civil indemnity is mandatory and is granted to the heirs of the victim without need of proof other than the commission of the crime. Thus, based on recent jurisprudence, the award of civil indemnity ex delicto of P50,000 is only proper.

For the expenses allegedly shouldered by the heirs of the victim, unfortunately, no proof was presented. Hence the lower court correctly denied the payment of actual damages. No documentary evidence was presented to substantiate the claim for actual damages.

The lack of documentary evidence notwithstanding, since loss was actually established in this case, temperate damages in the amount of P25,000 may be awarded to the heirs of the victim. Under Article 2224 of the Civil Code, temperate damages or moderate damages (which are more than nominal but less than compensatory damages) may be recovered when the court finds that some pecuniary loss was suffered but its amount cannot be proved with certainty.

While the courts have a wide latitude in ascertaining the proper award for moral damages, the award should not be to such an extent that it inflicts injustice on the accused. The award of P250,000 as moral damages should accordingly be reduced to P75,000, the crime having been committed under circumstances which justify imposition of the death penalty.

Under Article 2230 of the Civil Code, exemplary damages may also be imposed when the crime was committed with one or more aggravating circumstances. Here, given the presence of treachery which qualified the

killing to murder, aforesaid damages must be awarded. The award of exemplary damages is pegged at P25,000.

WHEREFORE, premises considered, the decision of the lower court finding Efren Laurio y Rosales guilty beyond reasonable doubt of the crime of Murder is hereby AFFIRMED with MODIFICATION as to the award of damages. The heirs of the deceased Alfredo Villeza are entitled to the following:

- (a) civil indemnity ex delicto in the amount of P50,000.00;
 - (b) temperate damages in the amount of P25,000.00;
 - (c) moral damages in the amount of P75,000.00; and
 - (d) exemplary damages in the amount of P25,000.00.^[18]
- (Citations omitted.)

Appellant filed his notice of appeal on January 7, 2008.^[19] He argues that the court *a quo* erred in appreciating the testimony of prosecution witness Pangan. He avers that the court failed to note his plea of self-defense as the victim was the one who drew a weapon first. Even assuming that self-defense was not availing, appellant claims that he could only be liable for the crime of homicide since the attack was sudden, thus negating the presence of treachery.

The appeal must be dismissed for lack of merit.

The Court has often stated that factual findings of the trial court as regards its assessment of the witnesses' credibility are entitled to great weight and respect particularly when the Court of Appeals affirms the said findings, and will not be disturbed absent any showing that the trial court overlooked certain facts and circumstances which could substantially affect the outcome of the case.^[20] It is the trial judge who had the opportunity to observe the witnesses' demeanor and deportment on the stand, and the manner in which they gave their testimonies.^[21] The trial judge therefore is in a better position to determine the veracity of the witnesses' testimony.^[22]

In the present case, appellant has failed to produce any scintilla of evidence to warrant a reexamination of the facts and circumstances as found by the RTC and affirmed by the Court of Appeals. In any event, well-settled is the rule that the testimony of a single eyewitness, if credible and positive, is sufficient to support a conviction, even in a charge of murder.^[23]

Anent his claim of self-defense, appellant had to prove the following essential elements: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.^[24] A person who invokes self-defense has the burden of proof. He must prove all the elements of self-defense. However, the most important of all the elements is unlawful aggression on the part of the victim. Unlawful aggression must be proved first in order for self-defense to be successfully pleaded, whether complete or incomplete.^[25]