

## SECOND DIVISION

[ G.R. No. 188902, February 16, 2011 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROBERTO LOPEZ Y CABAL, APPELLANT.**

### RESOLUTION

**CARPIO, J.:**

This is an appeal from the 12 May 2009 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-H.C. No. 03199. The 12 May 2009 Decision affirmed with modification the 15 February 2008 Decision<sup>[2]</sup> of the Regional Trial Court, National Capital Judicial Region, Branch 73, Malabon City (trial court), finding accused-appellant Roberto Lopez y Cabal (Lopez) guilty beyond reasonable doubt of murder and sentencing him to suffer the penalty of *reclusion perpetua*. The Court of Appeals also ordered Lopez to pay the heirs of the victim Prudencio Melendres (Melendres) as follows: P50,000 as civil indemnity, P50,000 as moral damages, P33,000 as actual damages and P200,000 for loss of earning capacity.

On 10 August 2006, Lopez was charged with the murder of Melendres.

Lopez pleaded not guilty upon arraignment.

During the trial, prosecution witness Leo Acibar (Acibar) testified that on 31 July 2006 at about 8:30 a.m., he saw Melendres buying cigarettes from a store when Lopez suddenly appeared and shot Melendres from behind with a caliber .38 revolver, hitting him on the right side of the head. Acibar added that Lopez again shot Melendres on the chest and on the lower abdomen. Lopez then fled from the scene. Acibar immediately reported the incident to the barangay authorities.

Ma. Liberty Francisco Melendres (Liberty), Melendres' wife, testified as to the civil liability of Lopez. Liberty presented receipts to show that she spent P33,000 for the burial and the interment and P7,500 for the wake.<sup>[3]</sup> She also presented a certification from Tanod Publishing, Inc. (Tanod Publishing), Melendres' employer, as to his monthly salary range,<sup>[4]</sup> honoraria and transportation allowance.<sup>[5]</sup> She also sought to recover moral damages.

For the defense, Lopez maintained his innocence and claimed that he was working on Jaime Domingo's (Domingo) house on 31 July 2006.

Domingo testified that Lopez worked for him from 26 to 31 July 2006 to repair the pipelines in his house. However, on cross-examination, Domingo said that Lopez worked for him only until 30 July 2006.<sup>[6]</sup>

Maritess Padilla (Padilla) also testified that she saw two hooded men with guns

tucked in their waist draw their guns and shoot Melendres. Padilla said the first assailant was dark-skinned and stood about five feet five inches, while the second assailant was only about four feet eleven inches. Padilla stated that Lopez was not one of the assailants and that she would be able to identify the assailants if she saw them again.

On 15 February 2008, the trial court rendered its decision finding Lopez guilty of murder and sentenced him to suffer the penalty of *reclusion perpetua*. The trial court also ordered Lopez to pay the heirs of Melendres as follows: P50,000 as death indemnity, P50,000 as moral damages, P40,000 as actual damages and P7,570 per month for six months as lost income.

Lopez appealed to the Court of Appeals. Lopez insisted that the prosecution failed to prove his guilt beyond reasonable doubt. Lopez also questioned the monetary awards made by the trial court.

In its 12 May 2009 Decision, the Court of Appeals denied Lopez's appeal and affirmed with modification the trial court's decision. The Court of Appeals said that Acibar's failure to accurately describe Lopez as the perpetrator did not affect his credibility. Moreover, no ill motive can be attributed to Acibar to conclude that he would falsely testify against Lopez. The Court of Appeals also agreed with the trial court that the testimonies of the defense witnesses were vague. The Court of Appeals added that Lopez's alibi is a weak defense and can easily be fabricated.

On the award of damages, the Court of Appeals reduced the award of actual damages from P40,000 to P33,000, the latter amount having been substantiated by receipts. As to the loss of income, the Court of Appeals noted that there was no accurate way to determine Melendres' earnings since the certification issued by Tanod Publishing did not reflect a fixed amount but only a salary range. However, the Court of Appeals held that the heirs of Melendres are still entitled to a reasonable amount as a result of Melendres' loss of earning capacity and deemed it proper to increase the award from P45,420 to P200,000.

Hence, this petition.

We find the petition without merit. When the trial court's factual findings are affirmed by the Court of Appeals, such findings are generally conclusive and binding upon the Court.<sup>[7]</sup> Moreover, where the credibility of the witness is in question, the findings of the trial court are generally accorded great respect, if not finality, and generally will not be disturbed on appeal, unless there is a clear showing that the trial court overlooked, misappreciated, or misapplied some facts or circumstances of weight and substance that would have affected the outcome of the case.<sup>[8]</sup> The rationale for this rule is that the trial court has the advantage of observing first-hand the demeanor, behavior, and manner of the witness on the stand and, thus, is in a better position to determine the witness' credibility.<sup>[9]</sup>

However, we modify the award for loss of earning capacity. The rule is that documentary evidence should be presented to substantiate a claim for loss of earning capacity.<sup>[10]</sup> In this case, Liberty presented a certification from Tanod Publishing which showed that Melendres was a photo correspondent for Tanod Newspaper and that "his monthly salary ranges from P1,780 to P3,570 on per story