

THIRD DIVISION

[G.R. No. 190317, August 22, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LARRY TORRES, SR., ACCUSED-APPELLANT.

DECISION

VELASCO JR., J.:

This is an appeal from the September 24, 2009 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02630, which affirmed the August 18, 2006 Decision of the Regional Trial Court (RTC), Branch 87 in Rosario, Batangas, in Criminal Case No. RY2K-086. Accused-appellant was convicted of Murder.

The Facts

An Information charged accused Larry Torres, Sr. (Torres, Sr.), as follows:

That on or about the 19th day of January, 2000, at about 9:00 [in the evening], at Barangay Libato, Municipality of San Juan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with an unlicensed short firearm, cal. 38 with intent to kill, with treachery and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and shoot with the said firearm one Michael M. Santonia, suddenly and without warning, thereby inflicting upon the latter [a] gunshot wound on his head, which directly caused his death.

Version of the Prosecution

At the trial, the prosecution presented Mitchell Santonia, Romeo Santonia, and Gregorio Carandang (Carandang) as witnesses.

Mitchell Santonia, brother of Michael Santonia (Santonia), testified that accused is their neighbor in *Barangay* Libato, San Juan, Batangas. On the night of January 19, 2000, he was with Santonia and several others at the home of Liberato Perez (Perez). Accused was also at the home of Perez and he was drinking with Perez, Carandang and Venancio Perez. Santonia, on the other hand, was playing pool with Larry Torres, Jr. (Torres, Jr.), Goring Carandang, and a few others. Accused approached Santonia and offered him a drink, which the latter accepted. Santonia then resumed playing pool. Shortly after, Mitchell Santonia heard Santonia and accused having an argument. Mitchell Santonia pulled his brother aside and told him that they should head home. Thereafter, the brothers started to leave the premises. On their way out of the house, Mitchell Santonia heard a gunshot while his back was turned. He looked back when he sensed that his brother was falling

over. He then saw the accused at an arm's length away holding a .38 caliber gun. He noticed blood oozing from his brother's head when he fell to the ground. Accused pointed the gun at Mitchell Santonia and a struggle ensued for possession of the gun. They tumbled to the ground then Torres, Jr. tried to hit Mitchell Santonia with a broken plate. Venancio Perez helped Mitchell Santonia extricate himself by taking hold of the accused. Hurriedly, Mitchell Santonia ran to their house located a few meters away and told his parents what had just occurred.^[1]

Mitchell Santonia rushed back to Perez's house with his parents. Santonia was still lying on the ground when they arrived. They brought him to San Juan District Hospital in San Juan, Batangas. The doctors pronounced Santonia as dead on arrival.^[2]

Upon stipulation the testimony of Santonia's father, Romeo Santonia, was dispensed with and the prosecution and the defense admitted certain facts he was going to testify on:

(1) That the victim was brought to San Juan District Hospital by his family on January 19, 2000 at around 9:00 in the evening.

(2) That the family spent PhP 20,000 as a result of Michael's hospitalization; and

(3) Santonia was 24 years old at the time of his death and earning PhP 25,000 a month as a contract worker.^[3]

Carandang corroborated the testimony of Mitchell Santonia when he said that after witnessing the accused and Santonia arguing, he advised them to defer for the next day what they were fighting about. He thereafter advised Santonia to go home. He testified that he heard a gunshot as the Santonia brothers were on their way out of the house. He saw the accused holding a short gun while just an arm's length from Santonia. He added that he was two arms' length away from Santonia when the latter fell down. Fearing for his safety, Carandang left after seeing Santonia lying on the ground.^[4]

The prosecution and defense entered into a stipulation on the existence and authenticity of Santonia's Death Certificate and Post-Mortem Examination issued by Dr. Maria Divina Duque. Her testimony was thus dispensed with.^[5]

Version of the Defense

The defense offered the sole testimony of the accused. He testified that he was drinking at Perez's house on January 19, 2000 at around 6:00 in the evening. He was drinking with Goring Carandang, Raul Santoria, and Ben Perez while watching a game of pool. The accused said that the Santonia brothers arrived later on together with the accused's son, Torres, Jr. He alleged that half an hour after they arrived, Santonia poked a gun at him while he was about to take a shot of alcohol. According to him, Santonia had his right hand on the firearm so he tried to stop Santonia by placing his hand on the former's right hand. The gun fired while the accused and Santonia were struggling for it. Accused then noticed that Santonia had been hit. Upon further questioning, the accused reiterated that he did not have any gun. He

added that he had a good relationship with the Santonia brothers. [6]

Ruling of the Trial Court

The RTC found the accused guilty of the crime charged. It was convinced of the accused's guilt by the prosecution witnesses' positive identification of accused and their credible testimonies. It gave full faith and credit to their testimonies as these corroborated each other on material points. The trial court noted that the accused's defense of denial was not supported by any other evidence and was weak in the face of the positive evidence established by the prosecution.

The trial court ruled that treachery was present in the killing of Santonia, since it was proved that Santonia, with his back turned, was suddenly shot without warning as he was about to leave the premises.

The dispositive portion of the RTC Decision dated August 18, 2006 reads:

WHEREFORE, in view of the foregoing considerations, the Court finds the accused *GUILTY* beyond reasonable doubt of the crime of *MURDER* and hereby sentences him to suffer the following penalties:

1. to suffer the penalty of imprisonment of **Reclusion perpetua** and;
2. to pay the heirs of the victim:
 - a. P200,000.00 as actual damages;
 - b. P50,000.00 as indemnity for death;
 - c. P4,479,600.00 as loss of earning capacity of the victim. [7]

Ruling of the Appellate Court

On appeal, accused argued that the trial court erred in finding him guilty beyond reasonable doubt of murder. He also averred that treachery was incorrectly appreciated as a qualifying circumstance.

On September 24, 2009, the CA affirmed accused-appellant's conviction. According to the appellate court, proof beyond reasonable doubt was established by the prosecution in its presentation of documentary and testimonial evidence. The elements of murder were proved by the Certificate of Death of the victim, the Post-Mortem Report, and the eyewitness accounts of Mitchell Santonia and Carandang.

Disagreeing with the accused, the CA held that treachery was correctly appreciated by the trial court. The victim, at the time of the attack, had his back turned and was unarmed, leaving him unable to defend himself. He was shot in the head with no warning. The appellate court consequently concluded that accused consciously and deliberately adopted the particular means, method and form of attack he used in committing the crime.

On the claim of self-defense, the appellate court ruled that none of its requisites was present. It also modified the trial court's award of damages, as no documentary

evidence was presented to substantiate the loss of earning capacity of the victim. Moral and exemplary damages were likewise awarded to the victim's heirs.

The CA, thus, disposed of the case as follows:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 18 August 2006 of the Regional Trial Court of Rosario, Batangas, Branch 87 in *Crim. Case No. RY2K-086* finding accused-appellant Larry Torres, Sr. guilty beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of *reclusion perpetua* is AFFIRMED with MODIFICATION in that the award of P4,479,600.00 as loss of earning capacity of the victim is DELETED, and in addition to P50,000.00 as civil indemnity for death and P200,000.00 as actual damages, to be paid by accused-appellant to the heirs of the victim Michael Santonia y Magnaye, accused-appellant is further ORDERED to pay the heirs of the victim P50,000.00 as moral damages, P25,000.00 as exemplary damages.^[8]

The Issues

I

Whether the CA erred in finding that the guilt of accused-appellant was proven beyond reasonable doubt.

II

Whether the CA erred in appreciating the qualifying circumstance of treachery.

The Ruling of this Court

We affirm accused-appellant's conviction.

Culpability of Accused-appellant Established

Murder, according to Article 248 of the Revised Penal Code, is committed as follows:

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 following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity.