

FIRST DIVISION

[G.R. No. 188124, June 29, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JONEL FALABRICA SERENAS AND JOEL LORICA LABAD, ACCUSED-APPELLANTS.

D E C I S I O N

PEREZ, J.:

Before us on appeal is the Decision^[1] of the Court of Appeals affirming the Judgment^[2] of the Regional Trial Court (RTC) of Paraxiaque in Criminal Case No. 02-01426 convicting appellants Jonel Falabrica Serenas *alias* "Joe-An" (Joe-An) and Joel Lorica Labad (Joel) of the crime of murder.

Appellants were charged under the following Information:

That on or about the 8th day of December 2002 in the City of Paraxiaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one John Doe, whose true name and present whereabouts is still unknown, and all of them mutually helping and aiding one another, with intent to kill, treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously attack, assault and stab one Nino Noel Ramos, thereby inflicting upon him serious and mortal stab wound, which caused his death.^[3]

The facts, as narrated by prosecution witnesses, follow -

On 8 December 2002, at around 10:00 o'clock in the evening, Nixio Noel Ramos (Nixio) had just brought his girlfriend, Dianne Charisse Gavino (Dianne), home in Sto. Nixio, Paraxiaque City. On his way back to La Huerta, he passed by a bridge connecting the *barangays* of Sto. Nixio and La Huerta. Thereat, Nixio was stabbed and mauled.^[4]

Cesar Ramos (Cesar), Nixio's brother, was in the vicinity of N. Domingo Street in La Huerta when he heard a commotion on the bridge. As he was about to proceed to the bridge, he met Nixio and noticed that his brother was soaked in his own blood. Nixio relayed to Cesar that he was stabbed by Joe-An. Cesar immediately brought Nixio to the hospital where the latter expired thirty (30) minutes later.^[5] At the police station, Cesar claimed that appellants told him that they merely "took fancy" on Nixio.^[6]

Dianne initially related in her affidavit executed at the police station that her cousin informed her of a commotion on the bridge. Upon reaching the bridge, she met a friend who told her that her boyfriend, Nixio, was stabbed and brought to the hospital. She added that one day before the incident, she and Nixio were walking along the bridge when they passed by the group of appellants and heard Joe-An utter the words, "*Iyang mama na iyan, may araw din siya sa akin.*"^[7] In her testimony during the trial however, she narrated that she actually saw Joe-An stabbing Nixio.^[8]

PO3 Ramoncito Lipana (PO3 Lipana) was at the police station in La Huerta on 8 December 2002 when a woman named Dianne came to report a stabbing incident involving her boyfriend. PO3 Lipana, together with PO2 Jesus Brigola (PO2 Brigola) and PO3 Marlon Golfo, immediately proceeded to the crime scene. Upon arriving thereat, the police saw two men scampering away upon seeing them. They chased the two men, later identified as Joe-An and Joel. The police managed to catch the appellants while they were hiding near a *bangka* under the bridge. Appellants were brought to the police station where Dianne identified them as the assailants of Nixio.^[9]

Dr. Valentin T. Bernales (Dr. Bernales), the medico-legal officer who issued the autopsy report, testified that the victim was stabbed twice at the back and the assailant was situated within arm's length. The victim succumbed from the stab wounds, both of which, are fatal. Dr. Bernales also noted that there were contuse abrasions on different parts of the victim's body.^[10]

Appellants invoked denial and alibi as their defense. Joe-An, a resident of Wawa, Sto. Nixio, alleged that he was at his house on 8 December 2002. While he was taking his dinner, he saw people running towards the bridge. He went out of the house to check on what had happened. He approached a group of people talking about the commotion. Thereafter, he saw the police and *barangay tanods* arrive. He was immediately handcuffed and asked to go with the police. Joe-An alleged that he was physically forced by the police to admit the killing of Nixio.^[11] Joe-An denied knowing the victim or his girlfriend, Dianne, but admitted that Joel is an acquaintance.^[12]

Joel likewise denied his participation in killing Nixio. He stated that he was sleeping at around 11 p.m. on 8 December 2002 when he was awakened by an argument involving his mother and four (4) men outside his room. He then got out of the room and saw PO3 Lipana, PO2 Brigola, and two other police "assets." The group invited him for questioning. When the two assets suddenly grabbed him, Joel resisted but he was forcibly brought to the police station. He saw Dianne at the station but the latter did not identify him as the culprit. Instead, Dianne even sought his help to identify the person who killed her boyfriend. This fact notwithstanding, the police refused to let him go. He testified that he did not know the victim or Dianne personally.^[13]

After trial, the RTC rendered judgment convicting appellants, the dispositive portion of which reads:

WHEREFORE, considering that the prosecution was able to prove the guilt of both accused beyond reasonable doubt, accused JONEL FALABRICA SERENAS alias JOE-AN and JOEL LORICA LABAD are hereby sentenced to suffer the penalty of RECLUSION PERPETUA pursuant to R.A. 9346 which repealed the death penalty law. However, pursuant to Sec. 3 thereof, they are not eligible for parole.

Accused JONEL FALABRICA SERENAS alias JOE-AN and JOEL LORICA LABAD are jointly and severally liable to pay the heirs of NIXIO NOEL RAMOS, the following amounts, to wit:

1. P50,000.00 as civil indemnity *ex-delicto*;
2. P50,000.00 as moral damages;
3. P23,000.00 as actual damages;
4. P20,000.00 as and by way of attorney's fees; and
5. To pay the cost of suit.^[14]

Lending full credence to the testimonies of the prosecution witnesses, the trial court concluded that the appellants conspired in assaulting and stabbing Nixio. It gave full weight to the dying declaration uttered by Nixio to his brother, as well as the statement of Dianne, who allegedly witnessed appellants threaten Nixio the night before the incident. It also appreciated the aggravating circumstances of treachery and evident premeditation in the commission of the crime. Furthermore, the trial court regarded the uncorroborated testimonies of appellants to be "full of inconsistencies and unworthy of weight and credence."^[15]

On 13 September 2006, appellants filed a notice of appeal informing the RTC that they are appealing the decision to the Court of Appeals.^[16]

The Court of Appeals affirmed with modification the decision of the RTC by awarding exemplary damages in the amount of P25,000.00. Thus:

WHEREFORE, premises considered, the Decision appealed from, being in accordance with law and the evidence, is hereby AFFIRMED with the MODIFICATION that exemplary damages in the amount of P25,000.00 is awarded to the heirs of the victim. The Decision in all other respects STANDS.^[17]

On 13 August 2008, a notice of appeal was filed assailing the decision of the Court of Appeals before this Court.^[18]

On 26 October 2009, the parties were required to simultaneously file their respective supplemental briefs.^[19] In two (2) separate manifestations, both parties opted to adopt their briefs submitted before the Court of Appeals.^[20]

Summarizing the arguments of both parties, the issues to be resolved are: (1) whether the testimonies of the witnesses are sufficient to prove appellants' guilt beyond reasonable doubt; (2) whether the killing was qualified by treachery and evident premeditation; (3) whether conspiracy has been adequately proven.

In convicting appellants, the lower courts relied heavily on the testimonies of witnesses Cesar and Dianne, which they deemed to be credible. Jurisprudence dictates that factual findings of the trial court, its calibration of the testimonies of the witnesses, and its conclusions anchored on its findings are accorded great respect, if not conclusive effect, more so when affirmed by the Court of Appeals. The exception is when it is established that the trial court ignored, overlooked, misconstrued, or misinterpreted cogent facts and circumstances that, if considered, would change the outcome of the case.^[21]

We respect the findings that Jonel Falabrica Serenas is guilty beyond reasonable doubt of murder not by virtue of identification by Dianne but as established by the dying declaration of the victim. Upon the other hand, we reverse the conviction of Joel Lorica Labad.

The trial court, as affirmed by the Court of Appeals, accorded full weight to the testimony of the prosecution witness, Dianne, who declared on the witness stand that she actually saw appellants maul and stab the victim, thus:

Q Miss witness, do you know the person of Nixio Noel Ramos?

A Yes, sir.

Q Why do you know him?

A He was my boyfriend, sir.

Q And where is Nixio Noel Ramos now?

A He's dead already, sir.

Q Why do you know that he is dead?

A **Because I saw that day when he was stabbed, sir.**

Q You said that you know when he was stabbed. When was that?

A On December 8, 2002, sir.

Q What time was that?

A At around 10:00 in the evening, sir.

Q Where did it happen?

A It happened on a bridge between La Huerta and Sto. Nixio, Paraxiaque City, sir.

Q Do you know the person who killed your boyfriend?

A Yes, sir.

Q If they are inside the courtroom, can you point to them?

COURT:

Witness pointing to the second and the third detention prisoners from among five (5) who when asked by the Court, "*Ano'ng pangalan mo, 'yong pangalawa?*" answered by the name of Joel Labad. "*IKaw? Jonel Serenas po.*"^[22] **[emphasis supplied]**

Appellants argue that Dianne gave conflicting statements regarding the identity of the assailants. In her affidavit, she narrated that a friend informed her that Nixio was stabbed and taken to the hospital. During trial however, Dianne testified that she witnessed the actual stabbing incident.

The Office of the Solicitor General (OSG) refutes the alleged inconsistencies in the statements made by Dianne in the affidavit and during trial. It claims that Dianne was categorical in her testimony that she saw appellants stab her boyfriend. Furthermore, her testimony in open court is superior to statements made in her affidavit, which statements may have been made when she was not in her right mind.^[23]

The Court of Appeals dismissed the alleged inconsistencies by giving greater weight to the statement made in court by Dianne than that made in the affidavit she executed before the police.

We do not agree.

Dianne's testimony is doubtful to say the least. This Court is mindful of the rule that if there is an inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits being taken *ex-parte* are usually incomplete and inaccurate. Corollary to this is the doctrine that, where the discrepancies are irreconcilable and unexplained and they dwell on material points, such inconsistencies necessarily discredit the veracity of the witness' claim.^[24] The second rule is apt to the case at bar.

Nowhere in her affidavit did Dianne point to appellants as the perpetrators of the crime. From the tenor of her affidavit, Dianne's suspicion that appellants committed the crime merely arose from the alleged threats made by appellants on the victim the day before the incident. The pertinent portion of her affidavit is hereby reproduced:

T: Mayroon ka bang natatandaan pagbabanta kay Nixio Noel bago ito nangyari sa kanya?

S: Opo, naalala ko po kahapon ika 7 ng Disyembre 2002 humigit kumulang na alas 9:45 ng gabi noong kami ay papauwi dahil hinatid niya ako sa bahay, pagdaan naming sa Wawa Sto. Nixio may apat na kalalakihan, naka upo sa may daanan malapit sa laruan ng pool, ang isa ay narinig ko nagsalita ng "IYANG MAMA NA IYAN, MAY ARAW DIN SIYA SA AKIN," hindi ko naman ito pinansin at tuloy tuloy po ang lakad namin.

T: Nakilala mo ba kong sino ang apat na kalalakihan?

S: Akin pong napag-alaman ang dalawang magkatabi na sina, Michael Baluyot at @Joe-An.

T: Sino naman ang iyong narinig nagsalita ng pagbabanta sa kanila kong natatandaan mo pa?

S: Opo, si @Joe-An po.

T: May ipapakita ako sa iyo, ano ang masasabi mo?

S: Opo, siya po ang nagsalita ng pagbabanta, affiant pointing to the person when asked identified himself as JONEL SERENAS Y FALABRICA,