

THIRD DIVISION

[G.R. No. 182793, July 05, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIONISIO CALONGE Y VERANA, ACCUSED-APPELLANT.**

DECISION

VILLARAMA, JR., J.:

For review is the Decision^[1] dated November 29, 2007 of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 01516 which affirmed with modification the Joint Decision^[2] dated August 10, 2005 of the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 27 in Criminal Case Nos. 4077-4080 finding the above-named accused-appellant guilty beyond reasonable doubt of parricide and frustrated parricide.

The facts as culled from the records:

Rosita A. Calonge was appellant's legitimate wife, with whom he had three (3) children, namely: Melody, Dony Rose and Kimberly whose respective ages at the time of the incident were nine (9), seven (7) and six (6) years.^[3] The family lived in a four (4) by five (5) meters house at a farm land near the house of Rosita's parents at Barangay Cabuluan, Villaverde, Nueva Vizcaya.

On December 1, 2001 at around 6:00 o'clock in the morning, the Villaverde Police Station received a radio call from the *barangay* captain of Cabuluan that a massacre took place in their locality. By 7:30 a.m., the responding team led by PO3 Alfelmer Balut arrived at the area. Rosita's bloodied body was found lying on the ground about fifteen (15) meters away from their house. Her right hand was loosely clasping a knife. Lying on his back near the stairs was appellant who was also wounded but still conscious. Beside him were a bolo and a flashlight, both stained with blood. While the windows of the house were locked with a piece of tie wire, the door was already opened, its metal lock was found three (3) to five (5) meters from the door and seven (7) to ten (10) meters from the body of Rosita. Inside the two (2) "bedrooms" of the house separated only by a curtain, they found the lifeless bodies of the two (2) young girls, Kimberly and Dony Rose. The other child, Melody, was also bloodied but alive and conscious. They brought Melody to the Veterans Regional Hospital where she was treated and confined for seventeen (17) days.^[4]

Police investigators found no signs of struggle or forcible entry as the things inside the house were not disarranged. Photographs of the three (3) dead victims (Rosita, Dony Rose and Kimberly) were also taken at the crime scene. When interviewed by the policemen, Melody's grandmother, Ana O. Amlag, said that Melody told her it was their father (appellant) who attacked her, her mother and her sisters. Melody's grandparents said they knew it was appellant because they had heard Rosita shouting that appellant will kill them. On the other hand, when appellant was asked what happened and who attacked him, he answered he does not know. Appellant

asked to be treated also and they brought him to the hospital.^[5]

While still in the hospital, Melody, assisted by her first cousin Ana Fe Huang, gave her statement to the police. She identified her father, who had a quarrel with her mother the previous night, as the one (1) who hacked her and also fatally stabbed her mother and two (2) sisters.^[6]

On January 17, 2002, appellant was charged with parricide and frustrated parricide under the following Informations:

Criminal Case No. 4077

That on December 01, 2001 in the morning, at Barangay Cabuluan, Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill, evident premeditation, treachery and superior strength, did then and there willfully, unlawfully and feloniously, with the use of a bladed/pointed object, stab ROSITA CALONGE y AMLAG, legal wife of the accused, thus inflicting upon the latter mortal wound which caused her instantaneous death, to the damage and prejudice of her heirs.

CONTRARY TO LAW.^[7]

Criminal Case No. 4078

That on December 01, 2001 in the morning, at Barangay Cabuluan, Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill, evident premeditation, treachery and superior strength, did then and there willfully, unlawfully and feloniously, with the use of a bladed/pointed object, hack KIMBERLY CALONGE y AMLAG, 06 years old, daughter of the accused, thus inflicting upon the latter mortal wounds which caused her instantaneous death, to the damage and prejudice of her heirs.

CONTRARY TO LAW.^[8]

Criminal Case No. 4079

That on December 01, 2001 in the morning, at Barangay Cabuluan, Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill, evident premeditation, treachery and superior strength, did then and there willfully, unlawfully and feloniously, with the use of a bladed/pointed object, stab DONY ROSE CALONGE y AMLAG, 07 years old, daughter of the accused, thus inflicting upon the latter mortal wounds which caused her instantaneous death, to the damage and prejudice of her heirs.

CONTRARY TO LAW.^[9]

Criminal Case No. 4080

That on December 01, 2001 in the morning, at Barangay Cabuluan, Municipality of Villaverde, Province of Nueva Vizcaya, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill, evident premeditation, treachery and superior strength, did then and there willfully, unlawfully and feloniously, with the use of a bladed object, hack Melody Calonge y Amlag, 09 years old, daughter of the accused, thus inflicting upon the latter fatal wounds and performing all the acts of execution which should have produced the crime of Parricide as a consequence, but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, the timely medical attendance given which prevented the victim's death, but nevertheless resulted to her damage and prejudice.

CONTRARY TO LAW.^[10]

When arraigned, appellant pleaded not guilty. During the trial, the prosecution presented as witnesses PO3 Alfelmer Balut, Dr. Telesforo A. Ragpa (Municipal Health Officer), Lourdes Amlag, Dr. Lirio Marie Ronduen-Adriatico and Melody A. Calonge.

The sole witness for the defense was appellant who gave a different version of the incident. According to appellant, he came home on the night of November 30, 2001 at around 6:00 o'clock. After taking coffee, he took supper with his family. At about 8:30 p.m., he put Kimberly to sleep while his wife together with Dony Rose was in the kitchen preparing for their food the following morning because they will go to church. He could not remember what time he fell asleep but when he woke up in the morning, he was no longer in their house but in a hospital. Only then he realized that he was wounded on the chest and neck. He tried to inquire from people in the hospital what happened but no voice came out of his mouth. He does not know who caused his injuries as he could not recall anything that transpired from the time he slept until the morning of December 1, 2001. Appellant denied that he and his wife quarrelled the previous night. What he knows is that his wife had a quarrel with spouses *Manong* Sante and *Manang* Paula, as the latter who is the sister of his wife did not want them to stay in the place.^[11] On cross-examination, appellant claimed that the doors of the house were still open at that time because somebody else was still using the kitchen. He denied that he sharpened his bolo that same night, as in fact all his carpentry tools were placed in their kitchen. As to his flashlight, appellant insisted it was his wife who was using it that night but he admitted that it was already placed very near the door where he had put Kimberly to sleep. He actually placed his bolo, flashlight and those other items in a shelf just four (4) meters away from where he slept.^[12]

On August 18, 2005, the trial court promulgated its Joint Decision dated August 10,

2005 convicting appellant of the crimes charged, the *fallo* of which reads:

WHEREFORE, finding the accused Dionisio Calonge y Verana GUILTY beyond reasonable doubt of three counts of parricide and one count of frustrated parricide, he is hereby sentenced as follows: (1) for the killing of Kimberly Calonge and Dony Rose Calonge, the said accused is hereby sentenced to suffer *death penalty* by lethal injection for each case; to pay the heirs of the said victims, the sums of P75,000.00 for each case as civil indemnity and P50,000.00 as moral damages; and to pay the heirs actual damages in the sum of P21,255.00 for the death of Kimberly, Dony Rose and Rosita A. Calonge; (2) for the killing of Rosita Calonge, the said accused is hereby sentenced to suffer the penalty of *reclusion perpetua*; and to pay the heirs of Rosita the sum of P50,000.00 as civil indemnity and the sum of P50,000.00 as moral damages; (3) for the crime of frustrated parricide for wounding Melody Calonge, he is hereby sentenced to suffer the penalty of 8 years and 1 day of *prision mayor* as the minimum term to 20 years of [*reclusion temporal*]^[13] as the maximum term; to pay the victim moral damages in the sum of P25,000.00; exemplary damages in the sum of P20,000.00 and P11,015.00 as actual damages.

SO ORDERED.^[14]

On appeal, the CA affirmed the trial court's judgment but modified the death penalty imposed on appellant in Criminal Case Nos. 4078 and 4079 (parricide committed against Kimberly and Dony Rose) by reducing it to *reclusion perpetua*.^[15] Appellant filed a notice of appeal^[16] and accordingly the records of the case were elevated to this Court.

On August 11, 2008, the Court resolved to require the parties to file their respective supplemental briefs, if they so desired.^[17] In a Manifestation dated October 29, 2008, the Public Attorney's Office, representing the appellant, informed the Court that it would no longer file a supplemental brief; it was adopting its main brief on record.^[18] The Office of the Solicitor General, representing the People, likewise omitted to submit a supplemental brief.^[19]

Appellant seeks the reversal of his conviction by the RTC and CA on the following grounds:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS MELODY CALONGE DESPITE ITS EVIDENT CONTRADICTIONS AND APPARENT UNREALITY.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF THE

ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN
BEYOND REASONABLE DOUBT.^[20]

Appellant contends that the trial court overlooked the following inconsistencies and contradictions in the testimony of Melody: (1) the alleged misunderstanding between her parents prior to December 1, 2001, which she first denied but changed it during a subsequent hearing when she claimed her parents had a quarrel before the stabbing incident occurred, (2) the time of such quarrel for which she gave three (3) different answers (8:00 to 9:00 p.m. of November 30, 2001; 2:00 early morning of December 1, 2001; and 6:00 to 7:00 p.m. of November 30, 2001), and (3) whether it was Melody or her mother who was first hacked by her father. These inconsistent statements of the alleged eyewitness engender doubt as to their reliability and veracity.

Appellant further argues that Melody's identification of appellant as the perpetrator of the crimes remained uncorroborated. The failure to present such other alleged witnesses (her grandparents) was not satisfactorily explained by the prosecution. He assails Melody's testimony as highly incredible. While Melody claimed that she saw appellant hacked and stabbed her sisters, the fact is that, during that time, according to her, she was sleeping together with her mother in another room inside their house. Moreover, it was impossible for Melody to have seen that the person who killed her mother and two (2) sisters was appellant when in fact, according to her, there was no light inside their room when the incident happened. Clearly, the prosecution failed to discharge its burden of proving the identity of the offender.

We disagree.

It is plain that the errors imputed to the trial court are factual and chiefly assail its evaluation of the credibility of witnesses. The doctrinal rule is that findings of fact made by the trial court, which had the opportunity to directly observe the witnesses and to determine the probative value of the other testimonies are entitled to great weight and respect because the trial court is in a better position to assess the same, an opportunity not equally open to the appellate court.^[21] We find no cogent reason to deviate from the findings and conclusions of the RTC and CA in this case.

It was established from prosecution evidence that the lone survivor Melody saw appellant using his bolo and knife, struck at her mother who was able to evade it and run outside the house. Appellant then turned to Melody, and hacked her three (3) times before stabbing Dony Rose and Kimberly who were both still sleeping. After finishing off his family, appellant inflicted his lone superficial wound before lying down on the floor, apparently to avoid suspicion that he was himself the culprit and create an impression that a trespasser had attacked all of them in the night. Melody vividly recounted to the court what she had witnessed while pretending to be still asleep even after she was hacked by appellant.

Melody's account was corroborated by the findings of prosecution witnesses Dr. Ragpa (who conducted the autopsy on the bodies of the three ^[3] victims) and Dr. Ronduen-Adriatico (who examined and treated Melody). Dr. Ragpa testified that Rosita sustained only a single stab wound on the chest. He explained that the width of such wound, 2 ½ inches, was caused by a single upward thrust and pulling out of