

FIRST DIVISION

[G.R. No. 191254, October 13, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROEL
"RUEL" SALLY, ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

Before this Court on appeal is the Decision dated December 15, 2009^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02948, which upheld the convictions of accused-appellant Roel "Ruel" Sally in Criminal Case Nos. Q-94-56820 and Q-94-56821, decided by the Regional Trial Court (RTC), Branch 37 in Quezon City on June 7, 2007.

In Criminal Case No. Q-94-56820, accused-appellant was charged with Murder in an Information dated April 11, 1994, which reads as follows:

That on or about the 30th day of January, 1994, in Quezon City, Philippines, the above-named accused, with intent to kill and qualified by evident premeditation and treachery, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one EDWIN LUCAS Y SIMON, by then and there hitting him with an iron pipe (tubong bakal), thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his untimely death, to the damage and prejudice of the [heirs] of the said Edwin Lucas y Simon.^[2]

In Criminal Case No. Q-94-56821, accused-appellant was also charged with Murder in an Information dated April 11, 1994, which reads as follows:

That on or about the 30th day of January, 1994, in Quezon City, Philippines, the above-named accused, with intent to kill, and qualified by evident premeditation and treachery, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one JOSE BERSERO Y SINGCO, by then and there hitting him on his head with an iron pipe (tubong bakal), thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said Jose Bersero y Singco.^[3]

Upon motion of the prosecution,^[4] these cases were consolidated, as they were

founded on the same facts and the prosecution would be presenting common evidence in both cases.

Although a warrant of arrest for accused-appellant had been issued on April 19, 1994, considering that he had not been apprehended, the case was ordered archived on October 27, 1994.^[5]

In 2003, accused-appellant was finally arrested. At his arraignment on February 23, 2004, he pleaded not guilty to both charges.^[6]

The prosecution presented Roger Lara as the sole witness to the killing, along with Renato Lucas, the brother of the deceased Edwin Lucas, to testify as to the income of Edwin at the time of his death, and Dr. Valentin Bernales of the Medico Legal Division of the National Bureau of Investigation (NBI), to interpret the necropsy report pertaining to the two victims.

Roger Lara testified that on the night of January 29, 1994, he was in a drinking session that lasted until 1:30 a.m. the following morning with accused-appellant, victims Edwin Lucas y Simon and Jose Bersero y Singco, among others, inside the Nikon Iron Works office located along Commonwealth Avenue, Diliman, Quezon City. Their drinking companions left earlier, leaving behind Lara, accused-appellant, and the two victims. Lara testified that he was falling asleep inside the office when he heard a noise coming from the shop. When he investigated the matter, he saw accused-appellant hitting the sleeping Jose Bersero with a piece of pipe. Lara further stated that accused-appellant then rushed towards him and attempted to hit him, but he avoided the accused and ran.^[7] He testified that he also saw accused-appellant attack the sleeping Edwin Lucas with a pipe. Lara then went to their employer's house to report the incident.^[8] When he and the employer, Virgilio Reyes, reached the shop, they only saw the bodies of the two victims, as accused-appellant was no longer there. He then reported the matter to the police.^[9]

Renato Lucas testified that his brother, Edwin Lucas, worked at the Nikon Iron Works, and had a salary of PhP 140 a day at the time of his death.^[10]

Dr. Valentin Bernales of the NBI interpreted the necropsy reports on Jose Bersero and Edwin Lucas. The reports had been prepared by Dr. Juan Zaldariaga, the attending medico-legal officer for those cases but who had resigned earlier. Dr. Bernales testified that from the report on Jose Bersero, the victim died of traumatic head injuries on January 30, 1994, inside 888 Commonwealth Ave., Quezon City, and that the body was found at 7:15 a.m. He also testified that based on the report on Edwin Lucas, the victim died of traumatic head injury on January 30, 1994, and that the body was found at 7:15 a.m.^[11]

In his defense, accused-appellant claimed that on January 30, 1994 at about 1:30 a.m., he had been working at the Balintawak Market in Quezon City as a manual hauler, a job he had for nine years.^[12] He testified that his work lasted from 6:00 p.m. to 6:00 a.m.,^[13] and that he did not work for Nikon Iron Works.^[14] He further testified that he did not know Edwin Lucas or Jose Bersero, nor did he know anyone who worked for Nikon Iron Works. He denied killing Lucas and Bersero, and that he had no knowledge of the matters testified to by Roger Lara.^[15]

After considering the evidence for both sides, the trial court rendered its Decision on June 7, 2007, finding accused-appellant guilty in Criminal Case Nos. Q-94-56820-21, the dispositive portion of the decision reading as follows:

WHEREFORE, judgment is hereby rendered sentencing ROEL "RUEL" SALLY, to suffer the penalty of *Reclusion Perpetua* in Crim. Case No. Q-94-56820 and to pay the heirs of Edwin Lucas y Simon the sum of P75,000.00 as indemnity;

In Crim. Case No. Q-94-56821, likewise, ROEL "RUEL" SALLY, is likewise sentenced to suffer the penalty of *Reclusion Perpetua* and to pay the heirs of Jose Bersero y Singco the sum of P75,000.00, as indemnity.^[16]

The Case before the CA

In his appeal, accused-appellant claimed that the RTC erred in finding him guilty of the crimes charged, or assuming that he was indeed guilty of the crimes charged, the RTC should have convicted him of homicide instead of murder.

He claimed that Lara's testimony was inconsistent and contradicted his *Sinumpaang Salaysay*, which had been executed at the police station. He further claimed that the prosecution had failed to prove the existence of treachery when it failed to present as evidence the iron pipe, which was used in the killings.

The CA found the testimony of Roger Lara to be credible and convincing, and thus upheld the RTC decision. The CA found the need for modifications, however, when it came to the award for damages, by reducing the award of civil indemnity to PhP 50,000, and awarding moral and exemplary damages. The dispositive portion of the CA decision, thus, reads as follows:

WHEREFORE, the *Decision* dated 7 June 2007 of the Regional Trial Court of Quezon City, Branch 87, in Criminal Case Nos. Q-94-56820 and Q-94-56821 is hereby **AFFIRMED** with the following **MODIFICATIONS** such that in both cases:

1. The award of P75,000.00 as civil indemnity is **REDUCED** TO P50,000.00
2. Appellant Roel "Ruel" Sally is **ORDERED** to pay the heirs of Edwin Lucas and Jose Bersero the amounts of P50,000.00, P25,000.00 and P25,000.00 as moral, exemplary and actual damages, respectively

SO ORDERED.^[17]

Hence, we have this appeal.

The Ruling of this Court

The appeal is without merit.

Addressing the errors raised by accused-appellant in his appeal before the CA, we find no reason to reverse the RTC.

Accused-appellant claims that the testimony of the sole witness Roger Lara in open court on February 3, 2005 is inconsistent with the latter's sworn statement executed on January 30, 1994.

The inconsistency accused-appellant sees is more apparent than real.

In his sworn statement on January 30, 1994, Roger Lara related the events as follows:

T: Maaari bang isalaysay mo sa akin ang buong pangyayari?

S: Nang ala 1:30 ng madaling araw ika 30 ng Enero 1994 nagkakainuman po kami nila ROGER, JOSE, RUEL at iba pang kasamahan namin sa trabaho sa loob ng NIKO IRON WORKS kung saan kami ay nagtrabaho, nang marami nang na-iinum itong si RUEL kinukulit po si Mang JOSE at EDWIN kaya sinaway siya ng dalawa na kung lasing na siya (RUEL) ay matulog na, pagkatapos po nagkaroon ng pagtatalo sa pagitan ni RUEL at ng dalawa kumuha po ng patalim itong si RUEL pero naawat ito ng iba pa naming kasamahan. Pagkatapos po nang natutulog na si Mang JOSE at si EDWIN nakarinig ako ng gulo sa labas ng aming barracks at nakita ko na pinalo ni RUEL si Mang JOSE ng tubong bakal at nang ako'y lalabas na sa barracks ako naman ang pinalo mabuti na lang at aking nailagan at ang hinarap nito ay si EDWIN habang siya'y natutulog.

T: Ano ang ginawa mo nang makita mo ang pangyayari?

S: Tumakbo po ako sa labas ng bakuran dahil baka ako ay patayin din.

T: Saan ba natutulog si Mang JOSE at si EDWIN?

S: Si Mang JOSE po ay nasa labas at si EDWIN ay sa barracks na aming pinaka-opisina.

T: Saan pinalo si Mang JOSE at si EDWIN?

S: Sa ulo at batok.^[18]

This, accused-appellant claims, is at variance with the witness' testimony on February 3, 2005, related as follows:

COURT

Q You only presume that the accused attacked Mang Jose outside because of the noise that you heard. Therefore, you did not exactly see the accused attacking Mang Jose using an iron pipe.

A It is like this, Your Honor. When I heard the noise I peeped and there I saw outside the accused hitting Mang Jose and when I came out, the accused also attacked me but I was able to avoid it. After that, he went inside the office and attacked Edwin.

x x x x

ATTY MATEO:

Q Mr. Witness, did I get you right that you are maintaining that you saw the accused attacking Mang Jose despite the fact that you were sleeping?

A I was sleeping but I was awakened by the noise and when I opened the door to see what is the noise about, I saw the accused attacking Mang Jose.

Q You made mention that the accused also attacked you but you were able to evade his attack and then you scampered away because of the fear for your life. Is that correct?

PROSECUTOR:

Already answered.

ATTY MATEO:

Q So because you ran away you would not know when the accused turned to Edwin and attacked Edwin.

A When I went out of the office because I was awakened by the noise, I saw the accused attacking Mang Jose and he hit me in fact only I was able to avoid it. So I ran away, but when I looked back, I saw the accused hitting Edwin with an iron pipe. (Witness demonstrating holding an iron pipe hitting Edwin).

COURT

Q Where was Edwin at the time that the accused was attacking Mang Jose, he was inside the office sleeping?

A Yes, Your Honor.

Q By the time you were already outside the office you were able to leave the area because of your fear for your life?