

FIRST DIVISION

[G.R. No. 189301, December 15, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE PEPITO D. COMBATE A.K.A. "PEPING," ACCUSED-APPELLANT.

D E C I S I O N

VELASCO JR., J.:

The Case

This is an appeal from the January 30, 2008 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CEB CR-H.C. No. 00294 entitled *People of the Philippines v. Jose Pepito D. Combate a.k.a. "Peping,"* which affirmed with modification the July 2, 2003 Decision^[2] in Criminal Case Nos. 95-17070 & 95-17071 of the Regional Trial Court (RTC), Branch 50 in Bacolod City.

Accused-appellant Jose Pepito D. Combate stands convicted of the crime of Murder and Homicide, as defined and penalized under Articles 248 and 249 of the Revised Penal Code (RPC), respectively. He was sentenced to suffer the penalties of *reclusion temporal* and *reclusion perpetua*.

The Facts

The charge against accused-appellant stemmed from two Informations:

Criminal Case No. 95-17070

That on or about 16th day of March, 1995, in the Municipality of Murcia, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm, with treachery, with intent to kill and taking advantage of nighttime, did then and there, willfully, unlawfully and feloniously attack, assault and shoot on EDMUND PRAYCO y OSABEL, thereby inflicting gunshot wounds upon the body of the latter which caused the death of the said victim.

Contrary to law.^[3]

Criminal Case No. 95-17071

That on or about 16th day of March, 1995, in the Municipality of Murcia, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm, with treachery, with intent to kill and taking advantage of nighttime, did then and there, willfully, unlawfully and feloniously attack, assault and

shoot on LEOPOLDO GUIRO, JR. y PEREZ alias "Nene" thereby inflicting gunshot wounds upon the body of the latter which caused the death of the said victim.

Contrary to law.^[4]

On November 28, 2001, the trial court ordered the consolidation of the two cases. When arraigned with assistance of counsel, accused-appellant pleaded "not guilty" to both charges. Thereafter, a joint trial ensued.

During the trial, the prosecution offered the testimonies of Shenette Guiro, the wife of the deceased victim Leopoldo Guiro; Jose Tomaro; Rebecca Montino Apdo; Senior Police Officer 1 (SPO1) Rolando Salamisan; Inspector Jose Labuyo; Police Inspector William Senoron; PO1 Rommel Pregil; Dr. Jimmy Nadal; and Dr. Emmanuel Bando. On the other hand, the defense presented as its witnesses Magno Montinola and accused-appellant.

The Prosecution's Version of Facts

On March 16, 1995, at around 9 o'clock in the evening, Tomaro parked his passenger jeepney at the garage of Leopoldo's mother, Patria Guiro, located at Purok 2, *Barangay* Minoyan in Murcia, Negros Occidental. He then proceeded to the house of Leopoldo where he usually sleeps after driving the jeepney owned by Leopoldo's parents.

Upon entering the gate, Tomaro met Leopoldo and Edmund Prayco, who were on their way out. Leopoldo invited him to join them in drinking liquor but he declined saying he was already tired. He continued on his way and was about to ascend the stairs when he heard a gunshot. He rushed back to the road and there he saw accused-appellant pointing a gun at the fallen Leopoldo. When Edmund was about to intervene, accused-appellant also shot Edmund at a very close range. After shooting Edmund, accused-appellant turned his attention back to Leopoldo and shot him for a second time.

Tomaro then rushed to help Leopoldo and pleaded for his life. Instead of heeding his plea, accused-appellant pointed his gun towards Tomaro and pulled the trigger but the gun did not fire. At that instant, Tomaro jumped on accused-appellant and was able to grab the gun. Tomaro tried to shoot accused-appellant but the gun still did not fire. Hastily, accused-appellant fled to the direction of Bacolod City.

Leopoldo and Edmund were later brought to the Bacolod Sanitarium and Hospital. Edmund was declared dead on arrival, while Leopoldo died the following day.

Version of the Defense

Accused-appellant's defense, on the other hand, was confined to a denial, to wit:

In the evening of March 16, 1995, accused-appellant was in his house drinking liquor when Montinola, a close friend, arrived to fetch him. He was told to report to the *barangay* hall and to render duty as a *tanod*. Before leaving, Montinola also partook of a small quantity of liquor.

On their way to the *barangay* hall, they passed by the house of Leopoldo, who was drinking liquor by the side of the street fronting his house, along with Tomaro, Edmund, and someone else who accused-appellant could not identify. He and Montinola were walking on the left side of the street going towards the direction of the Mambucal Resort, while Leopoldo and his group were on the right side. Accused-appellant then extended a greeting to Leopoldo, who responded with a sarcastic remark. Accused-appellant and Montinola ignored the rudeness thrown their way and just continued walking.

They, however, soon noticed Leopoldo crossing the street and started to follow them. Edmund likewise also followed them but on the other side of the street. Suddenly, accused-appellant saw Leopoldo pull something out from his waist. He then heard a gunshot and saw Leopoldo fall to the ground. He pushed Montinola aside and they ran away.

After a few moments, he heard more gunshots coming from the direction of where Leopoldo and his group were situated. He was stricken with fear so he went home. Later, he learned that he was the suspect in the killing of Leopoldo and Edmundo. Thus, to avoid trouble, he fled to Victorias City, Negros Occidental where he was arrested by the Murcia police on October 13, 2001.

The story of accused-appellant was corroborated by Montinola.

Ruling of the Trial Court

After trial, the RTC convicted accused-appellant. The dispositive portion of its July 2, 2003 Decision reads:

FOR ALL THE FOREGOING, judgment is hereby rendered finding the accused Jose Combate, Jr. y Dallarte alias Peping, GUILTY beyond reasonable doubt of the crime of HOMICIDE in Criminal Case NO. 95-17071 as Principal thereof. There being no modifying circumstances, the accused is sentenced to suffer the penalty of RECLUSION TEMPORAL in its medium period. Applying the Indeterminate Sentence Law, the accused shall serve a prison term of Eight (8) Years and One (1) Day of Prision Mayor to Fifteen (15) years of Reclusion Temporal.

By way of civil liability, the accused is condemned to pay the heirs of the late Leopoldo Guiro the following:

1. The sum of P50,000.00 as death indemnity.
2. The sum of P932,712.00 as compensatory damages and;
3. The sum of P56,319.59 as reimbursement for the burial expenses.

In addition, the accused is ordered to pay Shenette Guiro the sum of P50,000.00 as moral damages.

The accused is also declared GUILTY of MURDER for the death of Edmund Prayco as charged in the Information in Criminal Case No. 95-17070 as Principal thereof. There being no modifying circumstances, the accused is sentenced to suffer the penalty of RECLUSION PERPETUA. He is

condemned to pay the heirs of the late Edmund Prayco the sum of P50,000.00 as death indemnity and the sum of P30,000.00 as compensatory damages.^[5]

Ruling of the Appellate Court

On January 30, 2008, the CA affirmed the judgment of the lower court and modified the award of damages. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the Decision of the Regional Trial court, Branch 50 of Bacolod City dated 2 July 200^[3] is AFFIRMED WITH MODIFICATIONS. The award of compensatory damages in both cases is deleted, and in lieu thereof, exemplary damages of P25,000.00 is awarded to the heirs of Leopoldo Guiro and another P25,000.00 to the heirs of Edmund Prayco. In all other respects, the assailed decision is affirmed.

SO ORDERED.^[6]

The Issue

Hence, this appeal is before us, with accused-appellant maintaining that the trial court erred in convicting him of the crimes of homicide and murder, despite the fact that his guilt was not proved beyond reasonable doubt.

The Court's Ruling

We sustain accused-appellant's conviction.

Factual findings of the trial court should be respected

In his *Brief*, accused-appellant says that the trial court failed to consider several inconsistencies in the testimonies of the prosecution witnesses. *First*, as to Tomaro, who directly implicated accused-appellant, his testimony was unsubstantiated and did not conform to the physical evidence. According to Tomaro, Edmund was shot at close range yet no powder burns were found around the entry wound. *Second*, as to the testimony of Shenette Guiro, accused-appellant harps on the fact that she never mentioned Tomaro being present at the scene of the crime and that she only heard one gunshot while the other witnesses heard three or four. *Lastly*, as to the testimony of SPO1 Salamisán, accused-appellant points out that SPO1 Salamisán testified that he only saw one spot of blood when there were two victims.

To accused-appellant, the inconsistencies thus described erode the credibility of the witnesses when taken as a whole.

We do not agree.

Time-tested is the doctrine that the trial court's assessment of the credibility of a witness is entitled to great weight, sometimes even with finality.^[7] The Supreme

Court will not interfere with that assessment, absent any indication that the lower court has overlooked some material facts or gravely abused its discretion.^[8]

Complementing the above doctrine is the equally established rule that minor and insignificant inconsistencies in the testimony tend to bolster, rather than weaken, the credibility of witnesses, for they show that the testimony is not contrived or rehearsed.^[9] As the Court put it in *People v. Cristobal*, "Trivial inconsistencies do not rock the pedestal upon which the credibility of the witness rests, but enhances credibility as they manifest spontaneity and lack of scheming."^[10]

A careful review of the records shows that the RTC, as well as the CA, committed no reversible error when it gave credence to the testimonies of the prosecution witnesses, as opposed to accused-appellant's bare denials.

Moreover, the testimony of a witness must be considered in its entirety and not merely on its truncated parts. The technique in deciphering a testimony is not to consider only its isolated parts and anchor a conclusion on the basis of said parts. In ascertaining the facts established by witnesses, everything stated by them on direct, cross, and redirect examinations must be calibrated and considered.^[11] It must be stressed in this regard that facts imperfectly or erroneously stated in an answer to one question may be supplied or explained as qualified by the answer to other question. The principle *falsus in uno, falsus in omnibus* is not strictly applied to this jurisdiction.^[12] As explained in *People v. Osias*:

It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts. And it has been aptly said that even when witnesses are found to have deliberately falsified in some material particulars, **it is not required that the whole of their uncorroborated testimony be rejected but such portions thereof deemed worthy of belief may be credited.**

The primordial consideration is that the witness was present at the scene of the crime and that he positively identified [the accused] as one of the perpetrators of the crime charged x x x.^[13]
(Emphasis supplied.)

In this case, we agree with the trial court that the alleged inconsistencies merely refer to minor details which do not affect the witnesses' credibility. In disregarding the alleged inconsistent statements, the trial court explained:

The inconsistencies are more imagined than real. The inconsistencies, like the ownership of the passenger jeepney, whether said jeepney is owned by Guiro or his mother, are so trivial and does not at all affect credibility.

The accused also makes much fuss about the fact that Shenette Guiro heard only one (1) shot while the other prosecution witnesses as well as the accused and his witness Magno Montinola, heard three (3) to four (4)