

SECOND DIVISION

[G.R. No. 177162, March 31, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROBERTO
PAJABERA Y DOE, APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

On appeal is the December 22, 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. 01437^[1] affirming the July 7, 2005 Decision of Branch 63 of the Regional Trial Court of Calabanga, Camarines Sur in Criminal Case No. RTC '03-878, finding Roberto Pajabera (appellant) guilty beyond reasonable doubt of Murder.

The Information dated November 5, 2003 charging appellant with Murder reads:

That on or about the 29th day of May, 2003 at about 2:30 P.M., in Barangay Pag-asa, Tinambac, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent to take the life of one MAJEN B. BOLANOS, with treachery and evident premeditation, did then and there, willfully, unlawfully, feloniously and suddenly attack, assault and stab the latter from behind with a "balisong", fatally hitting the latter on his neck and other parts of his body, which caused the instantaneous and direct death of the said MAJEN B. BOLANOS, to the great damage and prejudice of his heirs, in such amount as may be proven in court.^[2]

On arraignment, appellant pleaded not guilty.^[3]

Culled from the testimonies of Efren Basi (Basi)^[4] and Ceferino Barcillano (Barcillano)^[5] is the following version of the prosecution:

On May 29, 2003 at around 2:30 in the afternoon, Majen B. Bolanos (the victim) was at the cockpit arena at Barangay Pag-asa, Tinambac, Camarines Sur to watch the scheduled cockfighting event that was part of the barangay fiesta celebrations. Appellant, who was also present thereat, called the victim from behind. When the victim turned around, appellant placed one hand on the victim's shoulder. The victim thereafter fell on the ground and blood oozed from his shoulder. Basi, who was standing beside the victim, and Barcillano, soon realized that appellant had stabbed the victim.

Appellant quickly pulled out the knife from the victim's shoulder, and left. At this juncture, the people at the cockpit arena scampered, and the cockfighting event did not push through.

Dr. Salvador Betito (Dr. Betito), Municipal Health Officer of Tinambac, Camarines

Sur, who conducted a medico-legal necropsy examination on the body of the victim about two or three days after the incident,^[6] concluded that the cause of the death of the victim was rapid internal and external hemorrhage secondary to a deep penetrating stab wound measuring 1.5 cm. and .5 cm. on his right shoulder, which could have been caused by anything pointed and sharp like a knife.^[7]

Appellant, admitted having stabbed the victim. He, however, claimed self-defense. By his account, he and the victim had wagered with each other for P300 on the result of the cockfight, and he won.^[8] When he tried to collect his winning, however, the victim refused to pay; instead, the victim pulled out a bladed instrument and attacked him with it.^[9]

Continued appellant: While he ran away from the victim, fell on the ground face down, and as he turned around, the victim promptly knelt down and stabbed him.^[10] He was able to parry the blow by holding the victim's hand, after which the two of them grappled for possession of the bladed instrument.^[11]

Further, appellant related that in the course of the scuffle, while he was lying with his back on the floor and the victim was stooping down on him in a kneeling position, he (appellant), accidentally pushed the bladed instrument being then held by the victim towards the latter.^[12] He then saw blood oozing from the victim's body, but he was not sure which part,^[13] drawing him to flee out of fear.^[14]

Salvador Habulin (Habulin), who claimed to have witnessed the incident at a distance of about three meters,^[15] corroborated appellant's account.

The trial court, crediting the testimonial evidence for the prosecution *vis a vis* the findings of Dr. Betito,^[16] convicted appellant of Murder, qualified by treachery, disposing as follows:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of accused Roberto Pajabera y Doe beyond reasonable doubt, he is hereby found guilty of the crime of murder as charged. He is sentenced to suffer the penalty of Reclusion Perpetua and to pay the heirs of Majen Bolanos the amount of P50,000.00 as civil indemnity; P50,000.00 as moral damages; P10,000.00 as actual damages and to pay the costs. Accused is likewise meted the accessory penalty of perpetual absolute disqualification as provided in Article 41 of the Revised Penal Code.

Considering that herein accused has undergone preventive imprisonment, he shall be credited in the service of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for in Article 29 of the Revised Penal Code.^[17]

Rejecting appellant's claim of self-defense, the trial court found it improbable that the victim could be accidentally hit on the shoulder with the knife during the respective positions of the parties as described by appellant.^[18] If, posed the trial court, the victim was indeed kneeling and stooping down on appellant who was lying with his back flat on the ground prior to the fatal blow, the victim could have been hit on the chest or the stomach, but not on the shoulder.^[19]

The trial court found that the killing was attended by treachery, the suddenness of the attack having deprived the unarmed victim of any means to defend himself.^[20] It ruled out evident premeditation, however, there being no proof of when appellant conceived of killing the victim.^[21]

On appeal, the Court of Appeals, by Decision of December 22, 2006,^[22] affirmed that of the trial court, holding that appellant failed to discharge the burden of proving self-defense by clear and convincing evidence. Appellant thus comes before this Court.

Both appellant and the Solicitor General manifested that they were dispensing with the filing of supplemental briefs and submitting the case for decision based on the Briefs they had filed with the appellate court.^[23]

The appeal fails.

What appellant essentially wants is for this Court to weigh the credibility of the prosecution witnesses against that of the defense witnesses and review the observations and conclusions of the trial and appellate courts.

It is settled that the issue of credibility is a question best addressed to the trial court, and that its findings of fact, especially when affirmed by the appellate court as in the present case, are accorded the greatest respect in the absence of a showing that it ignored, overlooked, or failed to properly appreciate matters of substance or importance likely to affect the results of the litigation.^[24]

Independently of the factual findings of the lower courts, this Court, in its review of the records, found the findings in order.

Appellant would have it that he was lying with his back flat on the floor while the victim was kneeling and stooping down on him holding the knife. Given that, the thrust of the knife could only have been downwards pointing to appellant. Even assuming that appellant was able to twist the victim's hand which held the knife, it was unlikely that appellant could "accidentally" stab the victim on the right shoulder.

The Court notes that the testimony of Habulin, the defense's so-called "eyewitness," bears lapses on material points:

x x x x

DIRECT EXAMINATION:

x x x x

Q Then what happened when the two ran after each other?

A Roberto fell down and at that juncture Roberto was able to get hold of the right hand of Majen.

Q Then what happened when Roberto got hold of the right hand of Majen?

A This Majen was hit by the bladed weapon that he himself was holding.

Q When you said Berto and Roberto as you mentioned the person who was ran after by Majen, was he the same Roberto Pajabera the accused in this case?

A Yes, Sir.

Q After that, what happened, after you saw that bladed weapon being held by Majen struck [sic] him while the two were grappling with each other, what happened next?

A The people scampered.

x x x x

CROSS EXAMINATION:

x x x x

Q And how about Roberto, where he was [sic], while you were as you said that [sic] you are at the fence?

A Roberto was lying back flat on the ground with his enemy on top of him.

x x x x

Q And Roberto fell down, when Roberto fell down, did Roberto stood [sic] up?

A After the victim was hit that is the time that Roberto left.

Q Just answer my question whether or not when Roberto fell down after which he stood up or not [sic]?

A Yes, Sir.

Q Then when he stood up that is the time that you said they grappled with the knife, correct?

A Yes, Sir.

Q And when you said that Majen was hit, they were standing position [sic], correct?

A When Majen fell down because he was already hit, Roberto left.

Q So it is clear from your testimony that when they were grappling in a standing position, that's the time when Majen was hit and Majen fell down, correct?