

## SECOND DIVISION

[ G.R. No. 171951, August 28, 2009 ]

**AMADO ALVARADO GARCIA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**QUISUMBING, J.:**

For review on certiorari is the Decision<sup>[1]</sup> dated December 20, 2005 of the Court of Appeals in CA-G.R.-CR No. 27544 affirming the Decision<sup>[2]</sup> dated July 2, 2003 of the Regional Trial Court (RTC), Branch 9, Aparri, Cagayan, which found petitioner Amado Garcia guilty beyond reasonable doubt of homicide. Contested as well is the appellate court's Resolution<sup>[3]</sup> dated March 13, 2006 denying petitioner's Motion for Reconsideration.<sup>[4]</sup>

On February 10, 2000, petitioner was charged with murder in an Information that alleges as follows:

The undersigned, Provincial Prosecutor accuses AMADO GARCIA @ Manding of the crime of Murder, defined and penalized under Article [248] of the Revised Penal Code, as amended by Republic Act No. 7659, committed as follows:

That on or about September 29, 1999, in the municipality of Aparri, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bottle, with intent to kill, with evident premeditation and with treachery, did then and there wilfully, unlawfully and feloniously assault, attack, box, club and maul one Manuel K. Chy, inflicting upon the latter fatal injuries which caused his death.

CONTRARY TO LAW.<sup>[5]</sup>

Upon arraignment, petitioner entered a not guilty plea. Thereafter, trial on the merits ensued.

The factual antecedents are as follows:

At approximately 11:00 a.m. on September 26, 1999, petitioner, Fidel Foz, Jr. and Armando Foz had a drinking spree at the apartment unit of Bogie Tacuboy, which was adjacent to the house of Manuel K. Chy. At around 7:00 p.m., Chy appealed for the group to quiet down as the noise from the videoke machine was blaring. It was not until Chy requested a second time that the group acceded. Unknown to Chy, this left petitioner irate and petitioner was heard to have said in the *Ilocano* vernacular,

"*Dayta a Manny napangas makaala caniac dayta.*" (This Manny is arrogant, I will lay a hand on him.)<sup>[6]</sup>

On September 28, 1999, the group met again to celebrate the marriage of Ador Tacuboy not far from Chy's apartment. Maya Mabbun advised the group to stop singing lest they be told off again. This further infuriated petitioner who remarked, "*Talaga a napangas ni Manny saan ko a pagbayagen daytoy,*" meaning, "This Manny is really arrogant, I will not let him live long."<sup>[7]</sup>

Yet again, at around 12:00 p.m. on September 29, 1999, the group convened at the house of Foz and Garcia. There, petitioner, Foz, Jr. and Fred Rillon mused over the drinking session on the 26<sup>th</sup> and 28<sup>th</sup> of September and the confrontation with Chy. Enraged at the memory, petitioner blurted out "*Talaga a napangas dayta a day[t]oy a Manny ikabbut ko ita.*" (This Manny is really arrogant, I will finish him off today.)

<sup>[8]</sup> Later that afternoon, the group headed to the store of Adela dela Cruz where they drank until petitioner proposed that they move to Punta. On their way to Punta, the group passed by the store of Aurelia Esquibel, Chy's sister, and there, decided to have some drinks.

At this juncture, petitioner ordered Esquibel to call on Chy who, incidentally, was coming out of his house at the time. Upon being summoned, the latter approached petitioner who suddenly punched him in the face. Chy cried out, "*Bakit mo ako sinuntok hindi ka naman [inaano]?*" (Why did you box me[?] I'm not doing anything to you.)<sup>[9]</sup> But petitioner kept on assaulting him. Foz attempted to pacify petitioner but was himself hit on the nose while Chy continued to parry the blows. Petitioner reached for a bottle of beer, and with it, struck the lower back portion of Chy's head. Then, Foz shoved Chy causing the latter to fall.

When Chy found an opportunity to escape, he ran towards his house and phoned his wife Josefina to call the police. Chy told Josefina about the mauling and complained of difficulty in breathing. Upon reaching Chy's house, the policemen knocked five times but nobody answered. Josefina arrived minutes later, unlocked the door and found Chy lying unconscious on the kitchen floor, salivating. He was pronounced dead on arrival at the hospital. The autopsy confirmed that Chy died of myocardial infarction.

After trial in due course, the RTC of Aparri, Cagayan (Branch 9) found petitioner guilty beyond reasonable doubt of homicide. The dispositive portion of the RTC decision reads:

**WHEREFORE**, the Court renders judgment:

1) Finding AMADO GARCIA guilty beyond reasonable doubt for the crime of HOMICIDE defined and penalized by Article 249 of the Revised Penal Code and after applying in his favor the provisions of the Indeterminate Sentence Law, hereby sentences him to suffer an indeterminate prison term of TEN (10) YEARS OF PRISION MAYOR, as minimum, to FOURTEEN (14) YEARS and EIGHT (8) MONTHS of RECLUSION TEMPORAL as maximum;

2) Ordering him to pay the heirs of Manuel Chy the amount of FIFTY THOUSAND (P50,000.00) PESOS, as death indemnity; TWO HUNDRED THOUSAND (P200,000.00) PESOS, representing expenses for the wake and burial; THREE HUNDRED THOUSAND (P300,000.00) PESOS, as moral damages; and THREE HUNDRED THIRTY[-]TWO THOUSAND (P332,000.00) PESOS, as loss of earning, plus the cost of this suit.

**SO ORDERED.**<sup>[10]</sup>

On appeal, the Court of Appeals affirmed the conviction in a Decision dated December 20, 2005, thus:

WHEREFORE, premises considered, appeal is hereby [**DENIED**] and the July 2, 2003 Decision of the Regional Trial Court of Aparri, Cagayan, Branch <sup>[9]</sup>, in Criminal Case No. 08-1185, is hereby **AFFIRMED IN TOTO**.

**SO ORDERED.**<sup>[11]</sup>

Petitioner moved for reconsideration but his motion was denied in a Resolution dated March 13, 2006.

Hence, the instant appeal of petitioner on the following grounds:

I.

THE APPELLATE COURT ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT THAT PETITIONER IS THE ONE RESPONSIBLE FOR INFLICTING THE SLIGHT PHYSICAL INJURIES SUSTAINED BY THE DECEASED MANUEL CHY.

II.

THE APPELLATE COURT ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT FINDING PETITIONER LIABLE FOR THE DEATH OF MANUEL CHY DESPITE THE FACT THAT THE CAUSE OF DEATH IS MYOCARDIAL INFARCTION, A NON-VIOLENT RELATED CAUSE OF DEATH.

III.

THE APPELLATE COURT ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT WHICH CONCLUDED THAT THE HEART FAILURE OF MANUEL CHY WAS DUE TO "FRIGHT OR SHOCK CAUSED BY THE MALTREATMENT."

IV.

BOTH THE APPELLATE TRIBUNAL AND THE TRIAL COURT ERRED IN NOT ACQUITTING THE PETITIONER ON THE GROUND OF REASONABLE DOUBT.<sup>[12]</sup>

In essence, the issue is whether or not petitioner is liable for the death of Manuel Chy.

In his undated Memorandum,<sup>[13]</sup> petitioner insists on a review of the factual findings of the trial court because the judge who penned the decision was not the same judge who heard the prosecution evidence. He adds that the Court of Appeals had wrongly inferred from, misread and overlooked certain relevant and undisputed facts, which, if properly considered, would justify a different conclusion.<sup>[14]</sup>

At the onset, petitioner denies laying a hand on Manuel Chy. Instead, he implicates Armando Foz as the author of the victim's injuries. Corollarily, he challenges the credibility of Armando's brother, Fidel, who testified concerning his sole culpability. Basically, petitioner disowns responsibility for Chy's demise since the latter was found to have died of myocardial infarction. In support, he amplifies the testimony of Dr. Cleofas C. Antonio<sup>[15]</sup> that Chy's medical condition could have resulted in his death anytime. Petitioner asserts that, at most, he could be held liable for slight physical injuries because none of the blows he inflicted on Chy was fatal.

The Office of the Solicitor General reiterates the trial court's assessment of the witnesses and its conclusion that the beating of Chy was the proximate cause of his death.

Upon careful consideration of the evidence presented by the prosecution as well as the defense in this case, we are unable to consider the petitioner's appeal with favor.

The present petition was brought under Rule 45 of the Rules of Court, yet, petitioner raises questions of fact. Indeed, it is opportune to reiterate that this Court is not the proper forum from which to secure a re-evaluation of factual issues, save where the factual findings of the trial court do not find support in the evidence on record or where the judgment appealed from was based on a misapprehension of facts.<sup>[16]</sup> Neither exception applies in the instant case as would justify a departure from the established rule.

Further, petitioner invokes a recognized exception to the rule on non-interference with the determination of the credibility of witnesses. He points out that the judge who penned the decision is not the judge who received the evidence and heard the witnesses. But while the situation obtains in this case, the exception does not. The records reveal that Judge Conrado F. Manauis inhibited from the proceedings upon motion of no less than the petitioner himself. Consequently, petitioner cannot seek protection from the alleged adverse consequence his own doing might have caused. For us to allow petitioner relief based on this argument would be to sanction a travesty of the Rules which was designed to further, rather than subdue, the ends of justice.

We reiterate, the efficacy of a decision is not necessarily impaired by the fact that the *ponente* only took over from a colleague who had earlier presided over the trial. It does not follow that the judge who was not present during the trial, or a fraction thereof, cannot render a valid and just decision.<sup>[17]</sup> Here, Judge Andres Q. Cipriano took over the case after Judge Manauis recused himself from the proceedings. Even so, Judge Cipriano not only heard the evidence for the defense, he also had an opportunity to observe Dr. Cleofas Antonio who was recalled to clarify certain points in his testimony. Worth mentioning, too, is the fact that Judge Cipriano presided during the taking of the testimonies of Fidel Foz, Jr. and Alvin Pascua on rebuttal.

In any case, it is not unusual for a judge who did not try a case in its entirety to decide it on the basis of the records on hand.<sup>[18]</sup> He can rely on the transcripts of stenographic notes and calibrate the testimonies of witnesses in accordance with their conformity to common experience, knowledge and observation of ordinary men. Such reliance does not violate substantive and procedural due process of law.<sup>[19]</sup>

The Autopsy Report on the body of Manuel Chy disclosed the following injuries:

### **POSTMORTEM FINDINGS**

Body embalmed, well preserved.  
Cyanotic lips and nailbeds.

**Contusions**, dark bluish red: 4.5 x 3.0 cms., **lower portion of the left ear**; 4.0 x 2.8 cms., left inferior mastoid region; 2.5 x 1.1 cms., upper lip; 2.7 x 1.0 cms., **lower lip**; 5.8 x 5.5 cms., dorsum of left hand.

**Lacerated wound**, 0.8 cm., involving mucosal surface of the **upper lip on the right side**.

No fractures noted.

Brain with tortuous vessels. Cut sections show congestion. No hemorrhage noted.

Heart, with abundant fat adherent on its epicardial surface. Cut sections show a reddish brown myocardium with an area of hyperemia on the whole posterior wall, the lower portion of the anterior wall and the inferior portion of the septum. Coronary arteries, gritty, with the caliber of the lumen reduced by approximately thirty (30%) percent. Histopathological findings show **mild fibrosis of the myocardium**.

Lungs, pleural surfaces, shiny; with color ranging from dark red to dark purple. Cut sections show a gray periphery with reddish brown central portion with fluid oozing on pressure with some reddish frothy materials noted. Histopathological examinations show pulmonary edema and hemorrhages.

Kidneys, purplish with glistening capsule. Cut sections show congestion. Histopathological examinations show mild lymphocytic infiltration.