

## THIRD DIVISION

**[ G.R. No. 187074, October 13, 2009 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN DEL PRADO Y CAHUSAY, DEFENDANT-APPELLANT.**

### DECISION

**PERALTA, J.:**

Before Us is an appeal from the Decision<sup>[1]</sup> of the Court of Appeals on CA-G.R. CR-H.C. No. 02216 dated 30 September 2008 affirming with modifications the Decision of the Regional Trial Court (RTC) of Mandaluyong City finding accused-appellant Allan del Prado y Cahusay (Del Prado) guilty beyond reasonable doubt of the crime of murder.

Del Prado, together with co-accused Lloyd Peter Asurto (Asurto) and Jaylord Payago (Payago), was charged with murder under the following Information:

That on or about the 24<sup>th</sup> day of January 2003, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, armed with a knife and stone, with intent to kill and attended by the qualifying aggravating circumstances of abuse of superior strength and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one Anthony Hudo y Magtanong, by then and there hitting him with the said stone and even if he is already wounded, weak and unarmed, accused Allan del Prado stabbed him, thereby inflicting upon him mortal wounds which directly caused his death.<sup>[2]</sup>

Del Prado was arraigned on 17 March 2004, wherein he pleaded not guilty. His two co-accused, Asurto and Payago, remained at large.

The evidence of the prosecution, consisting of the testimonies of Sheryll Ann Tubigan (Tubigan); Police Officer (PO)1 Nerito Lobrido (Lobrido); Southern Police District Chief Medico-Legal Officer Dr. Ma. Cristina B. Freyra (Dr. Freyra); and the mother of Anthony Hudo (Hudo), Yolanda Magtanong (Magtanong), tended to establish the following facts:

On 24 January 2003, at around 10:40 p.m., Tubigan (Tubigan) and her friends Angela Camado (Camado) and Maria Theresa Rio (Rio) were standing and having a conversation inside a well-lit basketball court at Barangay Addition Hills, Mandaluyong City. The deceased, Hudo was standing seven meters from them

when, suddenly, Payago struck him with a baseball bat on the head and body several times. Asurto then hit Hudo several times on the face with an 8x6-inch stone. Hudo fell to the ground. Del Prado then stabbed Hudo at his neck and chest with a foot-long knife. Del Prado, Payago and Asurto shouted invectives at Hudo while the latter bled profusely on the ground.

Tubigan left the basketball court and sought the assistance of Hudo's friends and cousins. Hudo's cousins, Pony and his brother, carried Hudo's body. They boarded a tricycle and took Hudo's body to the Mandaluyong City Hospital. Tubigan, Camado and Rio proceeded to the Central Intelligence Unit (CIU) office at the Mandaluyong City Hall where they executed their affidavits.

Dr. Freyra, chief Medico-Legal Officer at the Southern Police District, conducted the autopsy examination on Hudo's body. Hudo sustained two stab wounds, two lacerated wounds, one contusion, one incised wound, one punctured wound and several abrasions. The two stab wounds were fatal.

At around midnight of 24 January 2003, Magtanong, the mother of Hudo, received a phone call from her nephew Jeffrey Arceo who told her that Hudo was dead. Magtanong went to the Mandaluyong City Hospital where she saw the body of her son, which caused her great grief. She then proceeded to the Mandaluyong City Police Station to give her statement. She spent P14,300.00 in funeral expenses.

The defense's version of the facts is as follows:

On the night of the incident, Del Prado was on his way to his mother's house in Binangonan coming from the house of his sister at Welfareville Compound, Mandaluyong City. He intended to pass through the basketball court in order to catch a jeepney ride on the other side. Upon reaching the basketball court, he saw Hudo and Payago quarreling and struggling for the possession of a baseball bat. He saw Asurto, whom he called "Bunso," hit Hudo with a stone. Hudo slumped to the ground. Upon seeing what happened, people ran towards his direction, causing him to join them as they ran away from the scene.

Del Prado did not know Tubigan and maintained that her testimony was untruthful. Nobody arrested him for over a year, but the parents of Hudo asked P50,000.00 from him by way of settlement. He later on voluntarily surrendered to the police to clear his name and to verify if a case had been filed against him. Despite being Hudo's friend, he did not inquire further into what happened to the former, as he was afraid of being implicated. He did not go to the wake and burial of Hudo.

On 30 March 2006, the RTC rendered its Decision finding Del Prado guilty of murder, as follows:

WHEREFORE then, in view of the foregoing, judgment is hereby rendered finding the accused ALLAN DEL PRADO Y CAHUSAY, "GUILTY" of the crime of MURDER as defined and penalized in Article 248 of the Revised Penal Code.

As a consequence of this judgment, the accused is hereby sentenced to suffer the penalty of *reclusion perpetua* which penalty shall be served at

the National Penitentiary, New Bilibid Prison in Muntinlupa.

Any period of detention the accused shall have served shall be credited in his favor in the service of his sentence as provided for in Art. 29 of the Revised Penal Code.

With respect to the civil liability arising from the commission of the crime, the accused is herein ordered to pay the sum of Fourteen Thousand Three Hundred Pesos (Php 14,300.00) as actual damages and the sum of Fifty Thousand Pesos (Php 50,000.00) as moral damages.<sup>[3]</sup>

Del Prado's appeal to the Court of Appeals was docketed as CA-G.R. CR-H.C. No. 02216, and was raffled to the Fifth Division of the said court. On 30 September 2008, the Court of Appeals rendered its Decision modifying the Decision of the RTC:

**WHEREFORE**, the Decision dated March 30, 2006 of the Regional Trial Court of Mandaluyong City, Branch 213 is hereby **AFFIRMED WITH MODIFICATIONS** to the effect that the accused-appellant is hereby ordered to pay the heirs of the victim the sum of P50,000.00 as civil indemnity, P50,000.00 moral damages and P25,000.00 as temperate damages in lieu of the P14,300.00 actual damages awarded by the trial court.<sup>[4]</sup>

Hence, this appeal, wherein Del Prado asserts that:

I.

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II.

ASSUMING ARGUENDO THAT THE ACCUSED IS GUILTY, THE TRIAL COURT ERRED IN CONVICTING HIM OF MURDER INSTEAD OF HOMICIDE CONSIDERING THAT NEITHER THE QUALIFYING CIRCUMSTANCE OF TREACHERY NOR PREMEDITATION WAS DULY ESTABLISHED.

**Sufficiency of the Evidence to Prove Guilt Beyond Reasonable Doubt**

In arguing that the prosecution failed to prove the guilt of Del Prado beyond reasonable doubt, the latter's main argument is that the testimony of Tubigan is incredible and contrary to human experience. According to Del Prado, it is unbelievable that Hudo's friends did not lend assistance to him despite being present at the time of the incident.

This Court disagrees with Del Prado's observations. There is no standard form of human behavioral response when confronted with a frightful experience.<sup>[5]</sup> Not

every witness to a crime can be expected to act reasonably and conformably with the expectations of mankind,<sup>[6]</sup> because witnessing a crime is an unusual experience that elicit different reactions from witnesses, and for which no clear-cut, standard form of behavior can be drawn.<sup>[7]</sup> In the case at bar, it was not even unusual for Hudo's unarmed companions to refrain from risking their lives to defend him when the assailants were brandishing a foot-long knife, a baseball bat and a 6x8-inch stone.

Furthermore, this Court has held in a long line of cases that the trial court's determination of the issue of the credibility of witnesses and its consequent findings of fact must be given great weight and respect on appeal, unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.<sup>[8]</sup> This is so because of the judicial experience that trial courts are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. It can thus more easily detect whether a witness is telling the truth or not.<sup>[9]</sup>

Del Prado also claims that the prosecution was not able to sufficiently explain why Hudo's companions in the incident were unable to testify.

We are not convinced. We have held in *People v. Jumamoy*,<sup>[10]</sup> that:

The prosecutor has the exclusive prerogative to determine the witnesses to be presented for the prosecution. If the prosecution has several eyewitnesses, as in the instant case, the prosecutor need not present all of them but only as many as may be needed to meet the quantum of proof necessary to establish the guilt of the accused beyond reasonable doubt. The testimonies of the other witnesses may, therefore, be dispensed with for being merely corroborative in nature. x x x.

In the case at bar, the prosecutor must have deemed it unnecessary to present other witnesses on the belief that the quantum of proof necessary to prove the guilt of Del Prado beyond reasonable doubt had been met. Upon examination of Tubigan's testimony on the incident, this Court finds that the prosecutor was correct in making such assumption, since Tubigan's testimony was clear and convincing:

Q        So, you said, Madam Witness, that the unusual incident you saw on the evening of January 24, 2003 was about the death of this Anthony Hudo. Can you please give the circumstances of his death before this Honorable Court?

A        He was hit by a bat, ma'am.

Q        By the way, Madam Witness, how far away were you from Anthony Hudo during this incident?

A        From where I am sitting right now to the door of the courtroom.

PROS. LAZARO:

May we request the defense counsel to stipulate, more or less seven (7) meters, Your Honor?

COURT:

From the place of the incident.

PROS. LAZARO:

Yes, Your Honor, the position of the witness from the victim.

Q Can you tell before this Honorable Court the lighting condition of the place at that time?

A Well lighted, ma'am.

Q Where did the light come from?

A From the electric post, ma'am.

Q You said that Anthony was hit by a bat. Who hit him with a bat, Madam Witness?

A Jaylord, ma'am.

Q Do you know the family name of this Jaylord?

A . No, ma'am.

Q . Do you personally know this Jaylord?

A Yes, ma'am. He is our friend.

Q How long have you friends with Jaylord? (sic)

A For a long time but not as long as my friendship with Anthony.

Q And what kind of bat was used by this Jaylord in hitting Anthony Hudo?

A Baseball bat, ma'am.

Q How many times did Jaylord hit Anthony Hudo with the said baseball bat?

A For several times, Ma'am.

Q In which body parts of Anthony Hudo were hit by the said baseball bat?

A In his head and body, ma'am.