

SECOND DIVISION

[G.R. No. 172696, August 11, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENITO BALLESTEROS Y GRAGASIN, ACCUSED-APPELLANT.**

D E C I S I O N

BRION, J.:

We review in this appeal the decision^[1] and resolution^[2] of the Court of Appeals (CA) dated July 26, 2005 and September 26, 2005, respectively, in CA-G.R. CR No. 00460. The challenged decision affirmed the decision^[3] of the Regional Trial Court (RTC), Branch 27, Bayombong, Nueva Vizcaya convicting the appellant Benito Ballesteros (*appellant*) of the crime of murder and meting him the penalty of *reclusion perpetua*. The assailed resolution, on the other hand, denied the appellant's motion for reconsideration.

ANTECEDENT FACTS

The prosecution charged the appellant before the RTC with the crime of murder under an Information that states:

x x x

That on December 19, 1998 in the evening, in Poblacion, Municipality of Diadi, Province of Nueva Vizcaya, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, armed with a knife, with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously stab one REYNALDO REYES, thus inflicting upon the latter mortal wound which caused his instantaneous death, to the damage and prejudice of his heirs.

CONTRARY TO LAW.^[4]

On arraignment, the appellant pleaded not guilty to the charge. The prosecution presented the following witnesses in the trial on the merits that followed: Ernesto Valencia; Normita Reyes; and Dr. Telesforo Ragpa. The appellant and Rodolfo Castro took the witness stand for the defense.

Ernesto Valencia (*Ernesto*) testified that between 11:00 o'clock in the evening and 12:00 o'clock midnight of December 19, 1998, he was playing a local card game known as "*tong-its*" with *Barangay* Captain Reynaldo Reyes (*Reyes*) and Odion Cabezon at the wake of the mother of Norma Miguel, town mayor of Diadi, Nueva Ecija.^[5] In the course of the game and while Reyes was looking at his cards, holding them close to his face, the appellant suddenly approached the victim and stabbed him in the stomach.^[6] Due to the force of the blow, Reyes was pushed backwards,

[7] dropping his playing cards and eyeglasses.[8] Blood spurted as the appellant pulled out the knife from Reyes' body. Although shocked, Ernesto told Reyes, "*adda tamam capitan*" (You are hit).[9] Reyes covered the injured part of his stomach with his hand, grabbed his "*batuta*", [10] and chased the appellant towards the back of the house.[11] The appellant was, however, accosted by the people around and brought to the Municipal Hall of Diadi, Nueva Vizcaya where he was detained.[12]

Reyes was rushed to the Habonillos Clinic in Cordon, Isabela where he later died.

Dr. Telesforo A. Ragpa (*Dr. Ragpa*), the Municipal Health Officer of Diadi, Nueva Vizcaya, narrated that on December 20, 1998, he conducted an autopsy on the body of Reynaldo Reyes at the request of the victim's relatives.[13] According to him, Reyes sustained only one (1) stab wound located below the 10th rib along the right clavicular line.[14] The wound penetrated the diaphragm and the liver.[15] Dr. Ragpa further testified that Reyes' cause of death was hypovolemic shock due to a wound penetrating the liver secondary to a stab wound at the abdomen.[16]

Normita Reyes (*Normita*), the victim's wife, declared on the witness stand that her husband was 52 years old[17] and a *barangay* captain when he died.[18] Her husband also drove a jeepney three (3) weeks a month, earning P100.00 to P150.00 a day.[19] According to her, she incurred total expenses of P66,090.50 due to her husband's death.[20]

The appellant gave a different version of the events, summarized in the RTC decision as follows:

He asseverated that on that fateful night of December 19, 1998, he was asked to help in the preparation of food. He helped slice meat.[21] It was while doing this chore when Barangay Captain Reynaldo Reyes arrived. Without any provocation the said official started to hurl invectives at him, such as "tarantado ka, bastos ka" which embarrassed him[22] as there were about 14 persons helping in the cooking chores.[23] Being ashamed [sic], he left the table[24] where he was slicing meat after he handed the knife which he was using to Idong Miguel who was also helping in the food preparation.[25] He went to a table where card game known as "tong-it" was going on. The Barangay Captain followed but went to another table where he sat down to play with other persons. Reyes then called him and he thought that he wanted to play cards with him.[26] At this time, a certain Andy Ortiz called him saying "Come I will tell you something." [27] When he turned his head in the direction of Ortiz, Reyes said, "Bastos ka. Tarantado. You are turning your back at me." [28] He turned his head towards Reyes and that was when Barangay Captain Reyes hit him with a "batuta" on his forehead, injuring it. He grappled with the victim when the latter again tried to hit him. When they were fighting for possession of the "batuta", somebody elbowed him when they tried to separate them.[29] Nothing further happened after that. [Footnotes referring to the pertinent parts of the record supplied]

Rodolfo Castro (*Castro*) testified that he was at the house of Mayor Norma Miguel on December 19, 1998 to help in the cooking and butchering of pigs.^[30] At around 11:00 o'clock in the evening, Reyes arrived and scolded the appellant, uttering the words "*gago*" and "*ukkinam*".^[31] Thereafter, the appellant proceeded to the garage where people were playing cards. Reyes followed the appellant to the garage. Castro recalled that when the appellant was with him mixing food, he (the appellant) was not holding any knife but only a ladle.^[32]

A few minutes later, he heard a scream. He went to the garage and saw Reyes hit the appellant in the forehead with a truncheon.^[33] Thereafter, Reyes went towards the direction of the crowd.^[34]

The RTC's decision of May 27, 2002 convicted the appellant of the crime of murder; sentenced him to suffer the penalty of *reclusion perpetua* (20 years and 1 day, to 40 years); and ordered him to pay the victim's heirs the sum of P66,090.50 as actual damages, P50,000.00 as civil indemnity, P25,000.00 as moral damages, P10,000.00 as exemplary damages, and the costs of the suit.^[35]

The appellant directly appealed his conviction to this Court in view of the penalty of *reclusion perpetua* that the RTC imposed. We referred the case to the Court of Appeals for intermediate review pursuant to our ruling in *People v. Efren Mateo y Garcia*.^[36]

The CA affirmed the RTC decision *in toto* in a decision dated July 26, 2005. The appellant moved for a reconsideration of the decision but the CA denied his motion in a resolution dated September 26, 2005.

In his brief,^[37] the appellant imputes to the RTC the following errors:

- 1. The RTC erred in finding the appellant guilty beyond reasonable doubt of the crime of murder;**
- 2. The RTC erred in giving full faith and credence to the testimony of the prosecution witness and not giving weight to the testimony of the defense witness; and**
- 3. Assuming *arguendo* that the appellant stabbed the victim, the RTC erred in convicting him of murder instead of homicide.**

THE COURT'S RULING

After due consideration, we resolve to deny the appeal and to modify the amount of the awarded indemnities.

Sufficiency of Prosecution Evidence

An established rule in appellate review is that the trial court's factual findings, including its assessment of the credibility of the witnesses and the probative weight of their testimonies, as well as the conclusions drawn from the factual findings, are accorded respect, if not conclusive effect. These factual findings and conclusions assume greater weight if they are affirmed by the CA.^[38] Despite the enhanced

persuasive effect of the initial RTC factual ruling and the results of the CA's appellate factual review, we nevertheless carefully scrutinized the records of this case as the penalty of *reclusion perpetua* that the lower courts imposed on the accused demands no less than this kind of scrutiny.

A distinguishing feature of this present case is the presence of a witness - Ernesto Valencia - who provided positive identification of the accused in his October 5, 1999 testimony. To directly quote from the records:

PROSECUTOR CASTILLO:

Q: This person who **stabbed** him, were you able to see and recognize him during that time?

ERNESTO VALENCIA:

A: Yes, sir.

Q: If you will see him will you recognize him?

A: Yes, sir.

Q: Please look around the courtroom and point to him

A: He is here, sir.

Q: Where is he? Go down from that chair and approach the person and tap on [sic] the shoulder.

A: **(Witness went down from the witness stand, went near a person and tapped his shoulder and when asked to give his name gave his name as Benito Ballesteros)** ^[39] [Emphasis ours]

At the continuation of the hearing on October 7, 1999, Ernesto further elaborated on what he saw of the incident that left Reynaldo mortally wounded. He said:

PROSECUTOR CASTILLO:

Q: What about the blade, were you able to see the blade?

ERNESTO VALENCIA:

A: I saw the blade when the accused already pulled it out, sir.

Q: From what was that pulled out?

A: From the body where it was stabbed, sir.

Q: Whose body?

A: From the body of Brgy. Captain Reyes, sir.

Q: And where were you at that time the knife was being drawn from the body of the victim?

A: I was just sitting, sir.

Q: Who actually drew the knife from the body of the late Brgy. Captain Reyes?

A: **Ballesteros, sir.** ^[40] [Emphasis ours]

Ernesto clearly implied in this testimony that he did not see the actual stabbing as the thrust went in, but *categorically claimed that he did see the knife when it was already in Reyes' body*. The holder of the knife was Ballesteros, the accused. On cross-examination, Ernesto actually confirmed that he did not see the precise moment the appellant drove the knife into Reyes.

The appellant seizes this gap in Ernesto's testimony as opening to argue that his guilt was not proven beyond reasonable doubt; Ernesto did not see him actually stab Reyes.

Significantly, the trial proper was not the only source of evidence available in the case. Stipulations and admissions were made at the pre-trial conference that filled in the gaps of what were not expressly brought up at the trial. These admissions are conclusively established facts that are not for us to evaluate and reject as we see fit; they are the evidence that the parties themselves admit and confirm.

At the pre-trial, the following stipulations were agreed upon:

1. The injury which led to the death of the victim was inflicted at the house of Mayor Norma Miguel;
2. During the infliction of the injury on the victim, there was a wake relative to the mother of Mayor Norma Miguel;
3. The coffin of the dead mother of Mayor Norma Miguel was in the second floor of the house;
4. At the time of the infliction of the injury, the accused was in the vicinity of the house of Mayor Norma Miguel;
5. Immediately before the infliction of the injury, the accused was in the ground floor of the house of Mayor Norma Miguel;
6. During the infliction of the injury, the accused was in possession of a bladed weapon;
7. After the infliction of the injury, a knife was recovered from the accused;
8. Immediately after the victim was stabbed, the accused was held by the people in the place of the incident;
9. Immediately after the accused was held, he was detained in the municipal hall; and
10. The victim was rushed to the Habonillos Clinic at Cordon, Isabela.

In his defense, the appellant denies that he stabbed the victim. He claims that Reyes, after hurling invectives at him, hit him on the forehead with a truncheon, causing him to bleed profusely. When Reyes tried to attack him again, he parried the blow and the two of them grappled for the possession of the Reyes' truncheon. After they were separated, he saw blood coming from the breast of Reyes. By clear implication from all these, the appellant says that while he was at the scene and did indeed grapple with Reyes, someone else stabbed the latter.

The appellant's witness, Rodolfo Castro, supports much of what the appellant claims