

SECOND DIVISION

**[G.R. No. 178545 [Formerly G.R. No. 135972],
September 29, 2008]**

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEO BARRIGA
(AT LARGE), REYNALDO BARRIGA ALIAS "*BAHO-BAHO*," PETER
DOE, PAUL DOE AND RICHARD DOE, APPELLANTS.**

D E C I S I O N

TINGA, J.:

The prosecution charged appellant Reynaldo Barriga and four others with murder for the killing of Eduardo Villabrille (Eduardo).^[1] Only appellant was arrested and tried before the trial court^[2] after pleading not guilty upon arraignment.^[3]

The prosecution, on the other hand, presented Helen Casuya (Helen), Rogelio Sucuaji (Rogelio), Felixberta Villabrille (Felixberta) and Crisanta Magallano (Crisanta) as witnesses. Rogelio, Crisanta and Felixberta testified on the facts prior to and after the killing of Eduardo, which showed that appellant actively participated in planning the murder and in addition, they corroborated Helen's account of the incident. Felixberta also testified on the matter of damages. On the other hand, the defense introduced appellant himself, Natividad Barriga (Natividad), Efinito Wahing (Efinito) and SPO2 Henry Bustamante as witnesses.

The prosecution's evidence established the following facts:

On 10 March 1995, appellant and an old man went to see Helen, the common-law wife and fiancée of Eduardo, at her house, seemingly to inquire about a lot for sale owned by a certain Miss Rosal. After talking with Miss Rosal, appellant asked Helen for the location of Eduardo's house, to which she answered "the first house with color yellow."^[4]

On 20 March 1995, Crisanta saw appellant going over the fence of her house and peeping through the jalousy window to spy on Eduardo, who was then watching television in her house.^[5]

On 23 March 1995, at around five o'clock in the morning, riding on his bicycle, Eduardo proceeded to his mother's house to pasture his cows and water his newly planted mangoes. After a while, Helen heard four successive gunshots coming from the direction of the house of Eduardo's uncle, Cecilio Villabrille, which was about 40 meters away from her house.^[6] She hurriedly went out and saw Eduardo being chased by three persons armed with short firearms.^[7] Helen recognized one of the pursuers as Leo Barriga (Leo), the brother of appellant, for they used to play together in his house during their school days.^[8] She saw Eduardo jump over a fence and fall on the ground. Then Leo approached Eduardo, poked a gun at his

head, and fired.^[9] She heard Leo tell his companions that Eduardo was already dead. Appellant picked up the three assailants in his motorcycle.^[10]

Helen approached Eduardo, and saw that he was barely alive so she shouted for help. Eduardo's relatives came and brought him to the hospital. Eduardo died the next day.^[11]

In the early morning of the same day, Crisanta saw three of the assailants near the Civilian Voluntary Organization (CVO) outpost looking at Eduardo's house some 200 meters away.^[12] The three persons then left the CVO outpost. Rogelio saw appellant driving the motorcycle which carried the other four assailants. They passed by his house which was only about 100 meters from the crime scene. He saw appellant drop three of his passengers in a place about 50 meters from his house, while one passenger stayed on in the motorcycle with appellant.^[13]

Rogelio witnessed how Eduardo was gunned down by the three assailants, who were later picked up by appellant on the same motorcycle.^[14] He approached Eduardo while Helen was cradling him, and he saw that Eduardo was then barely alive. Afterward, he went to the police station and reported the incident.^[15]

After hearing the gunshots, Crisanta ran from her house to the house of Barangay Captain Roberto Lansaderas to report the incident. However, she did not proceed anymore for she saw him talking with appellant and the latter's companion.^[16] She returned to her house, and sometime thereafter she saw appellant and his companion pass behind her house on a motorcycle going to the direction of the crime scene. Later, she saw the same motorcycle carrying appellant and his companion pass by her house again, this time carrying the three persons she saw earlier in the CVO outpost.^[17] The three persons were carrying firearms, and she heard one of them shout "*finish, patay na, mobalik pa mi naa pa mi kohaon.*"^[18]

Felixberta, the mother of Eduardo, also saw the motorcycle pass by her house in the morning of 23 March 1995. She recognized appellant as the driver but she did not know his four passengers. When they passed by, they were staring at her house as if looking for something.

Appellant, in his defense, denied his participation and that of his brother Leo in the killing of Eduardo. In the same breath, he claimed that he was only forced at gunpoint to drive the four assailants to and from the crime scene. He also belied the participation of Leo in the crime by setting up an alibi that the latter was in Barangay Mahayag, Alicia, Bohol on 23 March 1995. The other defense witnesses tried to corroborate his testimony.

According to appellant, he was waiting for passengers at the wharf of Babak, Panabo, Davao del Norte in the morning of 23 March 1995. Four persons hired him to take them to Peñaplata. They traveled for about 15 to 20 minutes, and then stopped near the house of ex-barangay captain Villabrille. Three of his passengers alighted and walked toward the direction of the houses in the vicinity. He was told to wait for them. Together with the fourth passenger who was left behind, they proceeded to the house of Barangay Captain Lansaderas' sister which is only around 200 meters from where he dropped the other three passengers. He bought a

cigarette and had a conversation with Barangay Captain Lansaderas.^[19] When they left, his lone passenger then poked a pistol to his back. Appellant saw people running but he did not hear any gunshot. He then saw the three persons running toward them. The three persons boarded appellant's motorcycle. The passengers told appellant to bring them anywhere so he brought them to Mata-mata, which is still within Babak. As they disembarked, they told him to report the incident to the municipal hall.^[20] He then reported the shooting to Sgt. Panfilo Casas (Casas) of the Peñaplata Police Station. Casas informed appellant that his motorcycle had to be impounded since he used it in transporting the four other assailants.^[21] Appellant's lawyer was able to secure the release of the motorcycle from the police the following day.^[22]

Appellant denied that his brother Leo was one of the assailants in the killing of Eduardo.^[23] And that the last time he saw his brother was in 1989.^[24]

Appellant's mother, Natividad, testified that in the early morning of 23 March 1995 appellant brought her to Babak.^[25] It was only on her return in the afternoon that she learned of the killing of Eduardo by assailants who were transported by appellant, and the impounding of appellant's motorcycle.^[26] Natividad further testified that her son Leo was in Alicia, Bohol on 23 March 1995.^[27]

The defense attempted to cast doubt on the credibility of Helen's testimony. They presented Efinite, the Barangay Captain of Mahayag, Alicia, Bohol, to corroborate their testimony that Leo was in Alicia, Bohol on 23 March 1995. Efinite testified that he talked with Leo on 23 March 1995 and assigned him to decorate the stage for a religious rite to be held in the afternoon of 24 March 1995.^[28] He testified that in the morning of 24 March 1995 Leo was attending a recognition rite in their municipality's high school. Efinite even presented a picture showing Leo pin a ribbon on his wife's nephew, a certain Miguel "Joel" Galope, Jr.^[29]

SPO2 Bustamante testified that he learned about the killing of Eduardo through the police blotter when he reported to work at around eight o'clock in the morning of 23 March 1995.^[30] The entry in the police blotter was made and signed by appellant when he reported the shooting.^[31]

The Regional Trial Court (RTC) found appellant guilty of the crime of murder^[32] and sentenced him to *reclusion perpetua* in a decision dated 13 February 1998.^[33] The RTC held that two eyewitnesses pointed to appellant as a co-conspirator who guided the other four accused to the scene of the crime. Appellant went back to the crime scene after the shooting of Eduardo to pick up his three companions and brought them to a safe place. It further found credence in the prosecution's evidence that showed appellant spying or monitoring Eduardo even prior to 23 March 1995. His report of the incident to the police was merely a cover-up to draw suspicion away from him in the elaborate plan to kill Eduardo. Moreover, the defense had not ascribed ill motives on Helen's positive identification of appellant and his brother Leo in the killing of Eduardo. The RTC did not give credence to appellant's claim that a gun was pointed at his back while he waited for the three other assailants. It found such claim incredible, uncorroborated, and a mere afterthought for appellant did not even report such threat to the police when he went there to report the incident. The

RTC found that the killing was qualified by abuse of superior strength and treachery since Eduardo was shot when he fell down. Despite being a ruse, the RTC gave appellant the benefit of the mitigating circumstance of voluntary surrender to the police and sentenced him to *reclusion perpetua* and not the maximum penalty of death.^[34]

The RTC denied appellant's motion for reconsideration in an order dated 25 May 1998.^[35] Appellant filed a notice of appeal to this Court.^[36] On 30 August 2004, the Court issued a Resolution^[37] transferring the case to the Court of Appeals for intermediate review.^[38]

The Court of Appeals^[39] affirmed the decision of the RTC. The appellate court gave credence to the testimony of Helen when she explained that she did not immediately report the incident and identify Leo as one of the assailants because she was still in shock. Further, it found that the alleged inconsistencies in Helen's testimony are minor and inconsequential. It noted that the conviction of appellant did not rest on Helen's testimony alone. There was substantial corroboration on material points by prosecution witnesses Rogelio, Crisanta, and Felixberta. No ill motive was ascribed to the prosecution witnesses who testified as to the participation of appellant and his brother Leo to the murder of Eduardo.^[40]

The appellate court, however, held that the qualifying circumstance of treachery was not clearly established as no witness was presented to show how the shooting was done. But it found that evident premeditation attended the killing of Eduardo, as shown by the following circumstances: (1) the appellant's act of assessing, that is, asking where the house of the deceased is located and in surreptitiously peeping through the deceased's house days before the incident; (2) the fact that the incident happened at 5:30 a.m. of 23 March 1995; (3) the assailants arrived at the scene of the crime together, fully armed and immediately proceeded to attack the deceased; and (4) the assailants left the scene of the crime at the same time.^[41]

The case is again before us for our final disposition. Appellant had assigned three (3) errors in his appeal initially passed upon by the Court of Appeals, to wit: whether the RTC erred in declaring him as a co-conspirator of his brother Leo; whether the RTC erred in finding him guilty of murder just because he drove the vehicle carrying the other assailants, and; assuming *arguendo* that he is guilty, he is only guilty of homicide.^[42]

The Court affirms the appellant's conviction. There is no cogent reason to disturb the finding of guilt made by the RTC and affirmed by the Court of Appeals.

Jurisprudence is settled that findings of fact of the trial court command great weight and respect unless patent inconsistencies are ignored or where the conclusions reached are clearly unsupported by evidence.^[43] But these exceptions are unavailing in this case.

As support for the first and second issues, appellant attempted to impeach the credibility of Helen's testimony by pointing to alleged inconsistencies.^[44] Moreover, appellant tried to put in issue the fact that it took Helen two weeks or until 6 April 1995, after Eduardo's burial, to report the incident and pinpoint Leo as one of the

assailants.^[45]

It is a well-settled rule that the evaluation of the testimonies of witnesses by the trial court is received on appeal with the highest respect because such court has the direct opportunity to observe the witnesses on the stand and determine if they are telling the truth or not.^[46] We see no reason to deviate from this rule.

A review of the records of this case shows that the RTC did not err in giving credence to the testimonies of the prosecution's witnesses. The testimony of Helen does not suffer from any serious and material contradictions that can detract her credibility. The Court finds Helen's testimony credible as it is replete with details and corroborated on material points by the other prosecution witnesses, who were equally credible. Helen, who saw the shooting of Eduardo, was very categorical and frank in her testimony. She identified Leo as the man who shot Eduardo, and appellant as the one who drove the get away vehicle of the four assailants. The Court has held that inconsistencies and discrepancies in the testimony referring to minor details, and not on the basic aspects of the crime, do not impair the witness' credibility.^[47] These inconsistencies even tend to strengthen, rather than weaken, the credibility of witnesses as they negate any suspicion of a rehearsed testimony.^[48]

The defense also failed to impute any ill-motive on the prosecution's witnesses which would discredit their testimony on the events leading to Eduardo's killing. Absent any reason or motive for a prosecution witness to perjure, the logical conclusion is that no such motive exists and his testimony is thus worthy of full faith and credit.^[49]

The RTC and the Court of Appeals correctly gave credence to Helen's explanation on the two-week delay in reporting the identity of the assailants in the killing of Eduardo. It is understandable that she was still reeling from extreme shock and grief due to the unexpected and gruesome death of Eduardo. In *People v. Lapay*,^[50] we held that "delay in revealing the names of the malefactors does not, by itself, impair the credibility of the prosecution witnesses and their testimonies." Time and again, this Court has ruled that "the nondisclosure by the witness to the police officers of [accused-appellant's] identity immediately after the occurrence of the crime is not entirely against human experience."^[51] It is already of judicial notice that family members of victims of violent crimes react to an unnatural occurrence in diverse ways. Some, if they have any information about the incident, would waste no time in telling the police everything they know. Others would rather choose, or are forced, to clam up and refuse to divulge any information they may possess. And then, there are the majority of family members who would first hesitate before they reveal what they know.^[52]

The RTC, as affirmed by the Court of Appeals, correctly held that the existence of conspiracy between appellant and the four other assailants was established beyond reasonable doubt by the prosecution.^[53] Appellant took a direct part in the killing of Eduardo. His guilt is not merely based on circumstantial evidence. There is no question that he acted as the driver of the vehicle that took the four assailants to and from the crime scene. He even conducted reconnaissance on Eduardo prior to 23 March 1995. The RTC correctly dismissed appellant's claim that a gun was