

THIRD DIVISION

[G.R. No. 174371, December 11, 2008]

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. WARREN DELA CRUZ Y FRANCISCO, RESPONDENT.

DECISION

REYES, R.T., J.:

THE Holy Book tells the story of Cain treacherously slaying his brother Abel. Then God asked Cain: "*Where is your brother Abel?*" Cain replied, "*I do not know. Am I my brother's keeper?*"^[1] The story ended with God punishing and banishing Cain.

Though not involving brothers, the case before Us is similar to the Bible story because it involves treachery. And like Cain, appellant anchors his defense on bare denial despite the overwhelming evidence against him. As punishment, We affirm appellant's conviction for murder and his sentence of *reclusion perpetua*.

Appellant Warren dela Cruz y Francisco appeals the Decision^[2] of the Court of Appeals (CA) affirming with modification that of the Regional Trial Court (RTC) in Malabon City^[3] convicting him of two (2) counts of murder for the deaths of Danilo Valeriano and Felix Valeriano.

The Facts

On May 9, 1999, at around 2:45 p.m., Leonardo Cayetano, Danilo Valeriano and Felix Valeriano were on their way to the cockpit arena in Dampalit, Malabon. Leonardo was walking ahead of Danilo and Felix at the rice paddies at a distance of four (4) arms length away.

All of a sudden, Leonardo heard a couple of gunshots. Turning his back, he saw Danilo and Felix already sprawled and bloodied on the ground. Despite this, three (3) persons continued shooting them.^[4] He recognized the person firing a .38 caliber as appellant Warren dela Cruz.^[5]

Fearing for his life, Leonardo ran as fast as he could to an old storehouse. When the assailants left the crime scene, Leonardo ran towards the victims to help them, but they were already dead.^[6]

The autopsy conducted by Dr. Manuel Lagonera revealed that Danilo and Felix died of multiple gunshot wounds. Felix sustained two (2) gunshot wounds in the body and one (1) in his head. Danilo had a gunshot wound in the left temporal region of his head.^[7] Dr. Lagonera opined that the fatal wounds were fired at close range.^[8]

On July 9, 1999, appellant and two (2) John Does were indicted for two (2) counts

of murder, in two (2) Informations reading:

Criminal Case No. 21265-MN

The undersigned Asst. City Prosecutor accuses all the above-named accused of the crime of Murder, committed as follows:

That on or about the 9th day of May 1999 in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with guns, with intent to kill, treachery and evident premeditation, and with abuse of superior strength did, then and there, willfully, unlawfully and feloniously attack, assault and shoot one DANILO L. VALERIANO, hitting him on his head, which caused his immediate death.

CONTRARY TO LAW.^[9]

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CONTRARY TO LAW.^[10]

On November 11, 2001, appellant was arrested by virtue of a warrant of arrest.^[11] The other suspects remained at large. On arraignment, appellant, assisted by counsel *de oficio*, pleaded not guilty to both Informations.^[12] Trial on the merits thereafter ensued.^[13]

Prosecution witness Leonardo Cayetano testified that he saw appellant and the other two suspects shoot the victims. Witness Dr. Lagonera testified on the cause of death of the victims.

Appellant invoked the defense of denial. He testified that on May 9, 1999, at around 2:45 p.m., he was walking along the rice paddies on his way to the cockpit in Dampalit, Malabon. He was 5 meters behind Felix and Danilo. While walking, a *banca* stopped in front of him and three (3) persons wearing black bonnets alighted. Upon seeing them, appellant stopped walking but one of them held him by the nape. He was ordered to stoop down. He immediately obliged for fear that he might be hurt.

With a gun pointed at his head, appellant was commanded not to shout and say anything. Then he heard around six (6) gun shots. He was told not to look back. He remained stooping in the ground for about fifteen (15) minutes.

After the assailants left, appellant stood up and saw the victims lying down. He ran towards the cockpit to go to his mother's place in Obando, Bulacan. He told his mother about the killing incidents. He did not report the killings to the authorities because of the threat he received from the assailants.^[14]

Appellant's mother, Julieta Francisco, corroborated the testimony of her son. She testified that she was at the house of her in-law in Catanghalan, Obando, Bulacan on May 9, 1999. At around 3:00 p.m., she was surprised to see her son. He was very pale and could not talk properly. Inquiring what was wrong, her son told her that there was a killing incident at the back of the cockpit arena in Dampalit. When asked about the identity of the victim, he replied that it was Danilo. It did not cross her mind to report the incident to the police.^[15]

RTC and CA Dispositions

On December 23, 2003, the RTC rendered a joint decision convicting appellant of two (2) counts of murder, with a *fallo* reading:

WHEREFORE, premises considered, the Court finds accused Warren de la Cruz y Francisco guilty beyond reasonable doubt of the offenses charged and is hereby sentenced to suffer the penalty of *reclusion perpetua* in each of these cases and to pay each of the heirs of the victims P50,000.00 by way of civil indemnity for the death and P20,000.00 each as actual expenses in the wake and burial of the victims.^[16]

The RTC held that the defense of denial cannot prevail over the positive identification of Cayetano that appellant was one of the assailants. No ill motive can be imputed to Cayetano. The flight of appellant also belies his innocence.^[17]

The RTC also ruled that the aggravating circumstance of evident premeditation was absent but there was treachery. The means of execution employed by the assailants did not give the victims opportunity to defend themselves or retaliate. It was also deliberately or consciously adopted.^[18] There was abuse of superior strength considering the number of armed assailants against the unarmed victims. The element of treachery, however, absorbed abuse of superior strength.^[19]

Appellant directly appealed to this Court.^[20] In accordance with Our decision in *People v. Mateo*,^[21] We referred the case to the CA for proper disposition.

On February 15, 2006, the CA rendered a decision affirming with modification that of the RTC, with a *fallo* reading:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the assailed Joint Decision of the Regional Trial Court of Malabon City, Branch 170, in Criminal Cases Nos. 21265-MN and 21266-MN is **AFFIRMED** with **MODIFICATION**. The accused-appellant Warren de la Cruz y Francisco is convicted of two counts of murder, for the death of Danilo L. Valeriano and Felix Valeriano, Jr., and is sentenced to suffer the penalty of *reclusion perpetua* in each case. The accused-appellant is likewise ordered to pay the heirs of the victims the amount of P50,000.00 as moral damages, in

addition to the amounts of P20,000.00 as actual damages and P50,000.00 as civil indemnity. Costs shall also be assessed against the accused-appellant.

SO ORDERED.^[22]

The appellate court held that the testimony of lone eyewitness Cayetano is credible. Like the RTC, the CA held that appellant's bare denial cannot prevail over Cayetano's straightforward and unwaivering identification. Inconsistency in his testimony is only minor and does not affect his credibility.^[23] Appellant's flight also evinces a consciousness of guilt and a silent admission of culpability.^[24]

The CA agreed with the RTC that treachery was present. The manner of attack employed by appellant and his two (2) companions was deliberate and unexpected. It did not give the victims the opportunity to defend themselves. They were shot from behind.^[25]

The CA modified the RTC decision by awarding P50,000 moral damages in addition to the P20,000.00 actual damages and P50,000.00 civil indemnity awarded by the trial court.^[26]

Appellant moved for reconsideration but his motion was denied.^[27] Undaunted, he resorted to the present recourse.^[28]

Issues

Appellant assigns twin errors in the RTC decision -

I

IN GIVING FULL WEIGHT AND CREDENCE TO THE INCONSISTENT TESTIMONY OF PROSECUTION WITNESS LEONARDO CAYETANO AND IN DISREGARDING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

II

IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.^[29]

In his supplemental brief,^[30] appellant claims that if he is guilty, he should only be convicted for homicide.^[31]

Our Ruling

The trial court's assessment of credibility of witnesses is given great weight and respect; appellant was identified as one of the perpetrator of the crime. The issues raised by appellant hinge on the credibility of a witness. Appellant argues that the testimony of Cayetano was materially inconsistent. Cayetano initially

testified that right after the shooting incident, the police authorities conducted an investigation where he gave his statement to them. However, he contradicted himself when he further testified that he gave his testimony to the police two (2) weeks after the incident.^[32]

Appellant also banks on the alleged inconsistencies in the evidence of Cayetano. He asserts that Cayetano testified that he recognized him as one of the assailants but he failed to mention this to the authorities when they took his statement during the investigation.^[33] Appellant argues that although his defense is based on mere denial, the prosecution must rely on the strength of its own evidence rather on the weakness of the defense.^[34]

It is settled that appellate courts give due respect to the assessment of facts of the trial court. The reason is simple. The trial court had the opportunity of not only receiving evidence but also of observing the witnesses while testifying. The respect accorded to the factual findings of the trial court should be maintained, unless it has overlooked or failed to consider certain facts of weight and importance that could have materially affected the conclusion reached in a case.^[35]

Here, We find no compelling reason to disturb the factual findings of the trial court. The alleged inconsistency in Cayetano's testimony refers only to a minor matter. It is inconsequential and does not impair his credibility.^[36] In *People v. Prado*,^[37] this Court held:

Inconsistencies and discrepancies on minor details of the testimony of a witness serve instead to strengthen his credibility as they are badges of truth rather than indicia of falsehood. The most candid witnesses oftentimes make mistakes and fall into confused and inconsistent statements but such honest lapses do not necessarily affect their credibility. Far from eroding the effectiveness of the testimonies of the two witnesses, such trivial differences in fact constitute signs of veracity.^[38]

We agree with the CA that the alleged inconsistency "only challenges the exact time when Cayetano gave his statement to the police."^[39] The fact that Cayetano had conflicting accounts as to when he gave his statement to the police, does not in any way alter his testimony that appellant is one of the malefactors. He witnessed the crimes and had positively identified appellant.

Contrary to his claim, Cayetano specifically identified appellant as one of the assailants in his sworn affidavit before the police authorities. He even declared that he could also identify the other two suspects in case he sees them again.^[40] Cayetano confirmed this on the witness stand, thus:

A: I turned my back and I saw my two (2) companions fell down with blood, Sir.

Q: Were those shots successive?

A: Yes, Sir.

Q: When you turned your back you saw the two (2) victims slumped on the ground?