

SECOND DIVISION

[G.R. NO. 159950, February 12, 2007]

**JOEL P. GONZALES, JR., PETITIONER, VS. THE PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

QUISUMBING, J.:

For review on certiorari is the Decision^[1] dated March 11, 2003 of the Court of Appeals in CA-G.R. CR No. 22157, affirming the guilty verdict against petitioner for arson by the Regional Trial Court (RTC) of Quezon City, Branch 97.

Petitioner Joel P. Gonzales, Jr.^[2] was charged in an Information^[3] dated July 24, 1997, which read as follows:

That on or about the 26th day of June, 1997, in Quezon City, Philippines, the said accused, did then and there wilfully, unlawfully, feloniously and deliberately set fire to an inhabited place, to wit: a two-storey residential building which [was] partitioned into dwellings rented out to tenants, owned and occupied likewise by CARLOS C. CANLAS, located at No. 120 corner Halcon and Simon Streets, Brgy. San Isidro Labrador, La Loma, Quezon City, thereby setting said residential building into flames and razing it including other properties; and that the properties that were burned with their corresponding owners and value were as follows:

1. The residential building and other property
owned by Carlos C. Canlas valued atP3,000,000.00
2. Property of Nicasio M. de Jesus valued at800,000.00
3. Property of Andres V. Villaflor valued at350,000.00
4. Property of Gloria V. Lacasandile valued at. . . .350,000.00
5. Property of Carmen B. Principio valued at300,000.00
6. Property of Dante L. Buri valued at185,000.00
7. Property of Francis F. Simpao valued at170,000.00
8. Property of Luisito C. Abonita valued at 150,000.00
9. Property of Miraflor Saldi Manuel valued at . . . 100,000.00
10. Property of Estrella C. Villaflor valued at . . . 60,000.00

with the total of FIVE MILLION, FOUR HUNDRED SIXTY FIVE THOUSAND (P5,465,000.00), all belonging to the aforesaid persons, to the damage and prejudice of said owners in the aforesaid amount of P5,465,000.00, Philippine Currency.

CONTRARY TO LAW.

On arraignment, the petitioner pleaded not guilty.

At the ensuing trial, the prosecution presented eyewitness Carlos C. Canlas, owner of the two-storey building in the corner of Halcon Street and Simon Street, Brgy. San Isidro Labrador, La Loma, Quezon City. He testified that at about 9:30 p.m. on June 26, 1997, he was watching television in his room when his daughter called his attention to check the commotion in an adjacent room. On his way to the room rented by Gonzales, he smelled gas. He saw Gonzales ignite a flame and throw it on a pile of clothes in the middle of the living room where Gonzales had also placed an M-Gas liquefied petroleum gas (LPG) tank. Fire quickly spread to the other parts of the building.

The prosecution also presented two tenants, Andres V. Villaflor and Francis F. Simpao, as witnesses. Villaflor testified that he heard Gonzales and his aunt quarreling before the fire. He said he heard Gonzales yell "*Susunugin ko itong bahay na ito!*" Alarmed, he went to the Barangay Hall to report the incident but immediately went back to his place when someone informed him his house was on fire. Simpao testified that he saw the fire coming from Gonzales's room. He added that Gonzales was laughing while the building was burning. After the fire was extinguished, the aunt of Gonzales told Simpao that her nephew was to blame.

The testimonies were corroborated by Police Officer Alejandro Mendoza, who testified that when he and his fellow officer arrived at the crime scene, Gonzales admitted responsibility for the fire.

Gonzales presented a different story. He averred that the fire was caused by faulty electrical wiring. He testified that he was napping inside his room when he was awakened by heat beside his bed. The room was on fire. He shouted for help and Canlas tried to help him but they failed to extinguish it.

Gonzales denied he and his aunt were quarreling that evening before the fire started. As his aunt was partly deaf, he said he had to speak in a loud voice. He averred that he merely asked his aunt to buy food because they ran out of M-Gas LPG. Gonzales said that when he met PO1 Mendoza, he explained that he noticed the fire had started in his room. He sought police protection from his neighbors who accused him of starting it.

The defense presented as exhibit the Physical Science Report^[4] prepared by Police Inspector Grace M. Eustaquio showing that the ashes obtained from the burnt premises were negative of any flammable substance.

On May 28, 1998, the RTC of Quezon City, Branch 97 rendered a decision convicting Joel P. Gonzales, Jr. of arson, as follows:

WHEREFORE, judgment is hereby rendered finding the accused guilty beyond reasonable doubt of the crime charged and is hereby sentenced to suffer the penalty of imprisonment for twelve (12) years of Prision Mayor, as minimum, to seventeen (17) years and four (4) months of Reclusion Temporal as maximum, with full credit for the entire period of preventive imprisonment provided he is qualified therefore (sic) according to Art. 29 of the Revised Penal Code. Civil liability not having been proved, the Court cannot grant the same and can only award

nominal damages in the amount of Ten Thousand Pesos (P10,000.00) each to the private complainants who testified, namely, Carlos Canlas, Andres Villaflor and Francis Simpao.

SO ORDERED.^[5]

Gonzales appealed, but the Court of Appeals affirmed the trial court's decision. In its Decision dated March 11, 2003, the Court of Appeals held that the denial of Gonzales cannot prevail over the positive identification of a witness. The Court of Appeals also held that the prosecution established circumstantial evidence sufficient to support the conviction of the accused beyond reasonable doubt. The Court of Appeals noted that although there were discrepancies in the testimony of Canlas and his affidavits, the discrepancies did not necessarily discredit him because affidavits taken ex parte are generally considered to be inferior to the testimony given in open court. Moreover, the Court of Appeals held that the alleged discrepancies pertain to minor matters which negated any suspicion that the testimony was perjured and rehearsed.

Gonzales moved for reconsideration but it was denied. Hence, petitioner now raises the following issues for this Court's consideration:

I

WHETHER THE HONORABLE COURT OF APPEALS ACTED CORRECTLY IN CONCLUDING THAT THE TRIAL COURT COMMITTED NO SERIOUS REVERSIBLE ERROR OR GRAVE ABUSE OF DISCRETION IN ITS APPLICATION OF THE PERTINENT RULE AND JURISPRUDENCE WHERE THERE ARE MATERIAL DISCREPANCIES OF THE PROSECUTION WITNESSES' STATEMENTS MADE IN THEIR AFFIDAVITS AND THOSE TESTIMONIES GIVEN ON THE WITNESS STAND;

II

WHETHER UPON THE AFORESTATED GIVEN SET OF FACTS, THE HONORABLE COURT OF APPEALS ACTED CORRECTLY IN AFFIRMING THE TRIAL COURT'S JUDGMENT OF CONVICTION FINDING PETITIONER GUILTY OF THE CHARGE OF ARSON.^[6]

Stated simply, in our view, the main issue is whether the discrepancies in the affidavit and the court testimonies of a witness are sufficient to exculpate Gonzales of the crime of arson.

Petitioner argues that the trial court and the appellate court erred in giving credence to the testimony of prosecution witness Canlas. He claims that the sworn statements of Canlas before the investigating officer of the fire department on June 27, 1997 and before the city prosecutor of Quezon City on July 17, 1997, were inconsistent. Further, petitioner adds that Canlas had testified that he saw petitioner start the fire, but Canlas's testimony on this point was made only for the first time in court. Petitioner points out that in the two prior sworn statements of Canlas, he made no mention of seeing petitioner start the fire. This discrepancy is a material point that ought to cast doubt on the credibility of Canlas. He cites *People v. Salik Magonawal*,^[7] where the material discrepancies between the court testimony and prior statements of a witness at a preliminary investigation made the testimony incredible.