

EN BANC

[G.R. NO. 169869, July 12, 2007]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO DELIMA, JR., APPELLANT.

DECISION

AUSTRIA-MARTINEZ, J.:

For automatic review is the Decision^[1] of the Court of Appeals (CA) dated August 16, 2005 in CA-G.R. CR-H.C. No. 00464, affirming the conviction of accused Pedro Delima, Jr. (appellant) of the crime of Parricide, imposing upon him the penalty of death, and ordering him to pay P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P15,000.00 as temperate damages.

The Information filed with the Regional Trial Court, Branch 81, Quezon City reads:

The undersigned accuses PEDRO DELIMA, JR. of the crime of PARRICIDE, committed as follows:

That on or about the 13th day of September, 2000 in Quezon City, Philippines, the above-named accused, with intent to kill did, then and there wilfully, unlawfully and feloniously, with treachery and taking advantage of superior strength, attack, assault and employ personal violence upon the person of one LOURDES MERINO, his wife, by then and there stabbing her with a bladed weapon hitting her on the body, thereby inflicting upon her serious and grave wounds which were the direct and immediate cause of her untimely death, to the damage and prejudice of the heirs of the said LOURDES MERINO, herein represented by ISABEL L. MAKABENTA.

CONTRARY TO LAW.^[2]

Upon arraignment, appellant, with the assistance of counsel, pleaded not guilty to the crime charged. Trial ensued.

The bodies of evidence for the prosecution and the defense are aptly summarized in the Decision of the CA as follows:

The accused-appellant Pedro Delima, Jr. and the victim Lourdes Merino were married in 1999 in the province of Surigao del Sur. They stayed at No. 823 Riverside Street, Barangay Commonwealth, Quezon City with the victim's sister Isabel L. Makabenta, Isabel's husband and their two children.

Six-year old Melissa Makabenta testified that after her mother (Isabel) left their house to sell sampaguita in the early morning of September 13,

2000, she saw the accused-appellant get a knife from his bag, kneel down beside his wife Lourdes who was asleep, and then stab and hit her in the hands. Lourdes awoke as she was stabbed; the accused-appellant repeatedly stabbed her until she died. The accused-appellant then covered his wife with linen cloth, placed the knife inside his bag and washed his hands. Before leaving the house, the accused-appellant instructed Melissa to close the door and not to leave the house.

Another prosecution witness Isabel Makabenta – Melissa's mother and sister of the victim – claimed that she left the house at 5:30 in the morning of September 13, 2000 to sell sampaguita at Don Antonio Heights, leaving her two children behind with her sister Lourdes and her husband [herein accused-appellant]. When she returned before noon of that same day, her neighbors informed her that her sister Lourdes was dead, killed by her husband Pedro (the accused-appellant), and that the police had taken the remains to Camp Karingal in Quezon City. She later found out that her sister's body was transferred to the Prudential Funeral Home at Maceda St., Sampaloc, Manila. Isabel went to the funeral parlor and took the victim's body to her place.

Isabel thereafter saw her daughter Melissa give a statement at the police station. She (Melissa) later informed her that the accused-appellant killed her aunt.

Police Senior Inspector Michael Maunahan, a medico-legal officer of the Central Police District Crime Laboratory of Camp Crame, conducted a post-mortem examination on the victim. He testified that the stab wound on the left chest pierced the left lung and the heart of the victim. The necropsy examination report states:

"POST-MORTEM FINDINGS:

Fairly developed, fairly nourished female cadaver in rigor mortis with post-mortem lividity on posterior portion of the body. Conjunctivae are pale. Nailbeds and lips are cyanotic.

HEAD AND NECK:

1. Stab wound, right zygomatic region, measuring 1 x 0.2 cm, 8.2 cm anterior midline, 2 cm deep, directed posteriorwards, downwards, medialwards, piercing the underlying soft tissues and nicking the zygomatic bone
2. Incised wound, right mental region, measuring 5 x 0.5 cm., 1.5 cm

CONCLUSION:

Cause of death: Hemorrhagic shock secondary to a stab wound on the trunk."

The accused-appellant raised the defenses of alibi and denial. He testified that he and his wife Lourdes were married in 1999 in Surigao del Sur and

stayed at Beslig, Surigao del Sur after their marriage. He alleged that it was his first time to go to Manila on June 19, 2000 and he stayed for only 2 ½ months, or until the middle of August 2000. At the time of the commission of the crime, he was at the farm with a certain Antonio Sauro in Toktok, Leyte. He stayed in Leyte for ten months or until June of 2001. He added that he arrived in Caloocan City on June 11, 2001 and stayed with his daughter Emma Delima from whose place the police served and implemented the warrant for his arrest.

On direct examination, he admitted that he killed his wife. He claimed on cross-examination, however, that the police threatened him into admitting the crime. He further stated that Melissa, his wife's niece, had no grudge against him and that she had no reason to falsely testify against him.^[3]

The trial court found appellant guilty beyond reasonable doubt of the crime of Parricide penalized under Article 246 of the Revised Penal Code, sentencing him to *reclusion perpetua* and ordered him to pay P25,000.00 as actual damages and P50,000.00 as civil indemnity.

Appellant filed a Notice of Appeal to this Court but per Resolution dated September 22, 2004, the case was transferred to the CA in accordance with this Court's Decision in *People v. Mateo*.^[4]

On August 16, 2005, the CA promulgated its Decision, the dispositive portion of which reads:

WHEREFORE, the appealed decision of the Regional Trial Court of Quezon City, Branch 81 convicting Pedro Delima, Jr. of the crime of Parricide under Article 246 of the Revised Penal Code is hereby AFFIRMED with MODIFICATION with respect to the penalty and the awarded damages. The accused-appellant is sentenced to suffer the supreme penalty of DEATH and to pay the amount of P50,000.00 as CIVIL INDEMNITY, MORAL DAMAGES in the amount of P50,000.00 and P15,000.00 as TEMPERATE DAMAGES.^[5]

The CA ruled that (1) the element of relationship between the appellant and the victim had been admitted by appellant and set forth in the stipulation of facts in the Pre-Trial Order^[6] dated September 4, 2001; (2) six-year old Melissa, who categorically and positively identified appellant as the killer, is a credible witness; and (3) treachery attended this case and the same should be considered as an aggravating circumstance, calling for the imposition of the graver penalty of death.

The case was elevated to this Court for automatic review pursuant to Section 13, Rule 124 of the Revised Rules of Criminal Procedure, as amended.

On November 22, 2005, this Court required the parties to submit their respective Supplemental Briefs, but both parties manifested that they will no longer file such pleadings as they opt to replead and adopt the arguments submitted in their respective Briefs.

Appellant assigned the following as errors of the trial court:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF PARRICIDE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT A QUO GRAVELY ERRED IN ORDERING THE ACCUSED-APPELLANT TO PAY ACTUAL DAMAGES IN THE AMOUNT OF P25,000.00 IN SPITE OF THE ABSENCE OF EVIDENCE.^[7]

Mainly, appellant argues that there are inconsistencies in the testimonies of the prosecution witnesses which undermine their credibility, *i.e.*, (1) Melissa categorically stated that her uncle left when her aunt woke up after the hands of the latter were injured; then, she later stated that her uncle stabbed her aunt many times which resulted in the latter's death;^[8] (2) Melissa could not remember issuing a statement to the authorities but her mother, Isabel, testified that she saw Melissa affix her thumbmark on the sworn statement given to authorities;^[9] (3) Isabel was already suspicious of appellant before the incident happened because "*tahimik siya at pailalim ang tingin*," but she also testified that before she left at 5:30 in the morning on the day the victim was killed, appellant was merely lying in bed;^[10] and (4) Isabel first said that the only information given to her by her neighbors was that the body of her sister was brought to Camp Karingal, but later, she added that the neighbors also said it was appellant who killed her sister.^[11] Appellant also pointed out that Melissa admitted that her mother, Isabel, had been talking to her about the case and what she would say in court.^[12]

The other argument raised by appellant is that he should not be made to pay actual damages, as prosecution witness Isabel admitted that she did not spend for the victim's burial as they were given financial aid.

After a judicious review of the record, the Court agrees with the CA that the prosecution evidence has established appellant's guilt beyond reasonable doubt.

A thorough examination of the transcripts of stenographic notes reveals that there are no real inconsistencies in the testimonies of the prosecution witnesses.

Melissa's testimony is not necessarily contradictory. The prosecutor only had to question her further to ferret out and clarify some of the details of the horrifying event. This is completely understandable, considering that she was merely six years old at the time that she was put on the witness stand. She testified thus:

Q - Now you said that your Tita Lourdes was sleeping when she was stabbed by your Tito Pedro, after your Tita woke-up, what did Tito Pedro do?

A - She was injured at the hands.

Q - Who was injured in the hand?

A - The hands of my Tita Lourdes was injured by my Tito Pedro.

Q: What did your Tita do **after she woke-up after** (sic) **and after she was stabbed** by Pedro?

A: When my Tita Lourdes woke up, my Tito Pedro left.

Q: Where did your Tito Pedro go?

A: He left but he did not tell us.

Q: **How many times did your Tito Pedro stab your Tita Lourdes?**

A: **Many times, sir.**

Q: And **what happened to your Tita Lourdes after she was stabbed many times by Tito Pedro ?**

A: When Pedro left, he told me to close the door and do not leave the house.

COURT: *Ang tanong ng Fiscal ang sagutin mo .*

A: **She died.**

Q: So, **after your Tito [sic] Lourdes died, what did your Tito Pedro do ?**

A: **He left the house, sir.**

x x x x ^[13]

(Emphasis and underscoring supplied)

It is a hornbook doctrine that the testimony of a witness must be considered in its entirety and not by truncated portions or isolated passages thereof.^[14] Evidently, the totality of Melissa's testimony positively and convincingly shows that there is no real inconsistency.

Moreover, in *People v. Lorenzo*,^[15] the Court held that it is quite understandable for a very young witness to make errors or make inconsistent statements when they are testifying. The Court explained thus:

Apparently, Lea erred when on redirect examination, she failed to mention that the appellant inserted his penis into her vagina. However, such circumstance should not discredit her and her testimony. It must be stressed that Lea was barely four years old when she was raped and when she testified. She could not be expected to understand every question asked of her in the course of examination. Ample margin of error and understanding should be accorded to Lea who, much more than adults, would be gripped with tension due to the novelty of the experience of testifying before a court.