

SECOND DIVISION

**[G.R. No. 177147 [Formerly G.R. No. 147313],
November 28, 2007]**

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOEMARIE
CERILLA, APPELLANT.**

D E C I S I O N

TINGA, J,:

For automatic review is the Decision^[1] of the Court of Appeals^[2] dated 26 October 2006 in CA-G.R. CR-HC No. 00032 which affirmed with modification the Decision^[3] of the Regional Trial Court (RTC) of Iloilo City, Branch 23 dated 15 August 2000 in Criminal Case No. 496502 finding appellant Joemarie Cerilla guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua*.

On 6 July 1998, an Information was filed against appellant charging him of the crime of murder committed as follows:

That on or about April 24, 1998, in the Municipality of Leganes, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm with deliberate intent and decided purpose to kill and by means of treachery, did then and there willfully, unlawfully and feloniously shoot Alexander Parreño with the firearm which the accused was then provided, hitting and inflicting pellet wound at the right back portion of his body which caused his death.

CONTRARY TO LAW.^[4]

The prosecution's evidence shows that at around 6:00 pm on 24 April 1998, the victim, Alexander Parreño (Alexander), his 14-year old daughter, Michelle, and neighbor, Phoebe Sendin (Sendin), went to the house of appellant. They were cordially welcomed and entertained by appellant and his wife.^[5] An hour later, a blackout occurred. At this time, Alexander sought permission from the couple to leave, which the latter acknowledged.^[6] On their way home, Michelle was walking ahead of Alexander with the latter closely following his daughter. Suddenly, after walking for about 100 meters from appellant's house, Michelle heard an explosion. Michelle immediately turned her back and saw appellant pointing a gun at Alexander who, at that moment, was staggering towards her.^[7] Sendin, who was also with Alexander and Michelle, did not look back but instead ran away and proceeded to the house of Mrs. Parreño.^[8] Meanwhile, Michelle was cuddling Alexander beside the road when the latter repeatedly told her that it was appellant who shot him.^[9] Twenty minutes later, Alexander's other daughter, Novie Mae, arrived; she was also

told by Alexander at that moment that it was appellant who shot him.^[10]

SPO3 Frederick Dequito (SPO3 Dequito) and other police officers rushed to the crime scene and helped carry Alexander to an ambulance. SPO3 Dequito was able to ask Alexander who shot him to which he answered "*Pato*." "*Pato*" is an alias by which appellant is known.^[11]

Alexander's wife, Susan, who rushed to the hospital was also told by Alexander that it was appellant who shot him.^[12] Alexander died the following day.^[13]

Dr. Tito D. Doromal, Philippine National Police medico-legal officer, performed an autopsy on the body of Alexander. The autopsy report stated the cause of death to be hemorrhage secondary to pellet wounds.^[14] Testifying on his report, Dr. Doromal explained that Alexander died from a gunshot wound which penetrated the ribs and lacerated the right lobe of the liver, colon, stomach, duodenum, and right kidney. The entrance wound was located at the middle-back portion of the body. Seven (7) pellets were recovered on the muscle of the upper and middle abdominal wall.^[15]

The defense's evidence consists of the testimonies of appellant himself and of his wife, Madoline, his stepdaughter, Franlin, PO1 Manolito Javelora, PO3 Alberto Sarmiento, and PO3 Wilson Allona. Appellant interposed alibi as his main defense. He claimed that Alexander, together with his daughter and Sendin, had gone to his house on 24 April 1998 at around 6:00 p.m. where they were welcomed and offered snacks.^[16] They were having a conversation when a blackout occurred. Alexander then asked permission to leave. After the visitors had left, appellant ordered his stepdaughter Franlin to buy candle at the store across their house. Appellant and Madoline posted themselves at their doorway holding a flashlight to light Franlin's path. Upon Franlin's return to the house, appellant heard an explosion and he immediately closed the door. Later, the policemen went to his house and told him that he was a suspect in the shooting of Alexander and was then brought to the police station.^[17] The following day, he was subjected to paraffin test the result of which turned out to be negative.^[18]

Appellant's testimony was corroborated by Madoline and Franlin. PO1 Javelora declared that when he asked Alexander who shot him, the latter did not answer.^[19] Likewise, PO3 Sarmiento and Allona stated that when they went to the hospital to interrogate Alexander, the latter could not give a definite answer as to who shot him.^[20]

On 15 August 2000, the RTC found appellant guilty beyond reasonable doubt of murder and sentenced him to suffer the penalty of *reclusion perpetua*. The dispositive portion of the decision read:

WHEREFORE, premises considered, and in the light of the facts obtaining and the jurisprudence aforecited, judgement is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crime of MURDER, hereby sentencing the said accused to the penalty of *RECLUSION PERPETUA* pursuant to Sec. 6 of Republic Act No. 7659[,] amending Article 248 of the Revised Penal Code. The said accused is further condemned to indemnify the surviving heirs of the deceased, Alexander

Parreño, the sum of P257,774.75 by way of actual damages; the amount of P30,000.00 by way of moral damages and the sum of P50,000.00 by way of death compensation. The accused who is detained is entitled to be credited in full with the entire period of his preventive detention. The Jail Warden, Iloilo Rehabilitation Center is ordered to remit the said accused to the National Penitentiary at the earliest opportunity.

SO ORDERED.^[21]

The trial court regarded the victim's dying declaration as the most telling evidence pointing to appellant as the assailant.^[22] It appreciated the presence of treachery in qualifying the crime to murder because the victim was unarmed and walking on his way home when he was suddenly and unexpectedly shot from behind by appellant.^[23] The trial court ruled that appellant's alibi and denial could not prevail over the positive testimonies of credible witnesses.^[24] Moreover, it observed that appellant was not able to prove the impossibility of his presence at the crime scene which could have proven his alibi.^[25]

In view of the penalty of *reclusion perpetua* imposed on appellant, the case was initially elevated to this Court for review. However, pursuant to our ruling in *People v. Mateo*,^[26] the case was referred to the Court of Appeals.

The appellate court affirmed the trial court's ruling but modified the award of moral damages from Thirty Thousand Pesos to Fifty Thousand Pesos.^[27] Hence, the instant appeal.

In a Resolution dated 16 July 2007, the Court required the parties to simultaneously submit their respective supplemental briefs if they so desired.^[28] Both parties manifested that they would adopt their briefs filed before the appellate court.^[29] Thereafter, the case was deemed submitted for decision.

Appellant argues that the trial court erred in giving full credence to the testimony of the prosecution's eyewitness, Michelle, as well as the dying declaration of Alexander considering that the circumstances under which the crime was committed rendered the identification of the gunman impossible.

This argument essentially challenges the credibility of the witnesses, including the eyewitness, whose testimonies were relied upon by the trial court in convicting appellant. Basic is the principle that the findings of fact of a trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect, if not conclusive effect. This is because the

trial court has the unique opportunity to observe the demeanor of a witness and is in the best position to discern whether they are telling the truth. This rule holds true especially when the trial court's findings have been affirmed by the appellate court.^[30]

Appellant's authorship of the crime was proven by the positive identification of an eyewitness and the victim's dying declaration.

The prosecution presented Michelle, who categorically identified appellant as the one who shot Alexander, viz:

Q: While you and your father were walking towards home, did you remember anything unusual that happened?

A: Yes, Ma'am.

Q: What was that?

A: I heard an explosion.

Q: Where were you in relation to your father when you heard that shot?

A: I was in front of my Daddy and he was at my back.

Q: You said you heard a shot, what did you do when you heard a shot?

A: When I heard the shot, I turned back and I saw Joemarie pointing to my Dad.

COURT:

Q: What did he point towards your Dad?

A: Firearm.

PROSECUTOR PADILLA:

Q: You said Joemarie was pointing a firearm to your father. Was it [a] long or short firearm?

A: About 11 inches.

Q: After you saw Joemarie pointing a firearm to your father, what happened next?

A: I saw my father staggering towards me and I saw Joemarie Cerilla ran.

Q: Where was he going?

A: Maybe towards his house.^[31]

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Q: If this Joemarie Cerilla is inside the Courtroom, can you identify him?

A: Yes, Ma'am.

Q: Please point to him. (Witness pointing to the accused Joemarie Cerilla).^[32]

Michelle's account of how her father was shot by appellant was corroborated by the post-mortem examination which reveals that the entrance wound is located at the

back of the victim.^[33] In the same vein, the medico-legal expert concluded that the gunshot was fired at a close range, as evidenced by the presence of a power burn measuring four (4) centimeters in diameter surrounding the periphery of the wound^[34] and penetrating his internal organs.^[35]

Significantly, the eyewitness's positive identification of appellant as the perpetrator of the crime is fully supported the victim's dying declaration.

A dying declaration is a statement made by the victim of homicide, referring to the material facts which concern the cause and circumstances of the killing and which is uttered under a fixed belief that death is impending and is certain to follow immediately, or in a very short time, without an opportunity of retraction and in the absence of all hopes of recovery. In other words, it is a statement made by a person after a mortal wound has been inflicted, under a belief that death is certain, stating the facts concerning the cause and circumstances surrounding his/her death.^[36]

As an exception to the rule against hearsay evidence, a dying declaration or ante mortem statement is evidence of the highest order and is entitled to utmost credence since no person aware of his impending death would make a careless and false accusation.^[37] It is thus admissible to provide the identity of the accused and the deceased, to show the cause of death of the deceased, and the circumstances under which the assault was made upon him. The reasons for its admissibility is necessity and

trustworthiness. Necessity, because the declarant's death renders it impossible his taking the witness stand, and it often happens that there is no other equally satisfactory proof of the crime; allowing it, therefore, prevents a failure of justice. And trustworthiness, because the declaration is made in extremity, when the party is at the point of death and when every motive to falsehood is silenced and the mind is induced by the most powerful considerations to speak the truth. The law considers the point of death as a situation so solemn and awful as creating an obligation equal to that which is imposed by an oath administered in court.^[38]

Of the doctrines that authorize the admission of special classes of hearsay, the doctrine relating to dying declarations is the most mystical in its theory and, traditionally, among the most arbitrary in its limitations. In the United States, the notion of the special likelihood of truthfulness of deathbed statements was widespread long before the recognition of a general rule against hearsay in the early 1700s. Not surprisingly, nearly as soon as we find a hearsay rule, we also find an exception for dying declarations.^[39]

Four requisites must concur in order that a dying declaration may be admissible, thus: *first*, the declaration must concern the cause and surrounding circumstances of the declarant's death. This refers not only to the facts of the assault itself, but also to matters both before and after the assault having a direct causal connection with it. Statements involving the nature of the declarant's injury or the cause of death; those imparting deliberation and willfulness in the attack, indicating the reason or motive for the killing; justifying or accusing the accused; or indicating the absence of cause for the act are admissible.^[40] *Second*, at the time the declaration was made, the declarant must be under the consciousness of an impending death.