

EN BANC

[G.R. No. 137497, February 05, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CHARLES JOY FLORES ALIAS "POK-POK", APPELLANT.

DECISION

SANDOVAL-GUTIERREZ, J.:

This is an automatic review of the Decision^[1] of the Regional Trial Court, Branch 27, Cabanatuan City, finding CHARLES JOY FLORES alias "Pok-Pok," appellant, guilty beyond reasonable doubt of murder.

The Information filed against appellant reads:

"That on or about the 30th day of May 1998 in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, with evident premeditation and treachery and with the use of a knife, did then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one NATHANIEL DELA CRUZ, that is by stabbing the latter, thereby inflicting upon him serious physical injuries which resulted to his instantaneous death.

"CONTRARY TO LAW."^[2]

Upon being arraigned on August 25, 1998, appellant, with the assistance of his counsel *de officio*, pleaded not guilty to the crime charged. Pre-trial proceedings having been terminated, trial on the merits ensued.

The prosecution presented six (6) witnesses, namely: Marissa dela Cruz, Reggie Malubay, Dr. Jun Concepcion, SPO2 Francisco Sudla, Jeannie dela Cruz, and Rubenito Obedoza. The gist of their testimonies is as follows:

On May 30, 1998, Nathaniel dela Cruz went to Imelda District, Cabanatuan City to attend his brother Henry's birthday party. On his way home at around 7 o'clock in the evening, he passed by a store. Appellant and one Reggie Malubay were there. Suddenly, appellant accosted Nathaniel and put his arm on the latter's shoulders, at the same time poking a knife at him.^[3] Reggie immediately apprised Marissa dela Cruz, Nathaniel's sister-in-law, of the incident. She pleaded with appellant to spare Nathaniel's life. In turn, appellant proposed that her husband take the place of Nathaniel. Pretending she was acceding to appellant's demand, she promised to fetch her husband Henry. At this point, Nathaniel and appellant struggled for the possession of the knife. As they were grappling for the weapon, appellant stabbed Nathaniel. Marissa rushed home to call her husband. Meantime, Nathaniel fought back and was able to run away^[4] but he accidentally tripped and fell to the ground.

At that moment, appellant who was chasing Nathaniel, repeatedly stabbed him.

Dr. Jun Concepcion, Medico-Legal Officer in the City Health Office of Cabanatuan City, testified that the cause of death of Nathaniel was hypovolemic shock secondary to multiple stab wounds. His findings, reflected in his autopsy report, are as follows:

"FINDINGS (PERTINENT ONLY):

"HT: 165 cm in length.

(+) Abrasions, linear, 3-4 inches long, (L) frontal area.

(+) Abrasion, multiple, (L) supra-labial area.

(+) Incised wound, linear, 4-4½ inches long, 2½ inches deep, (R) upper arm, lateral, cutting the muscles under crossly, complete.

(+) Stabbed wound, (R) upper abdominal quadrant, level 9th ICS, axillary line, 1-1/2 inches width, penetrating the liver lobe, posteriorly (1½-2 inches deep).

(+) Stabbed wounds (4), (R) upper abdominal quadrant as follows:

#1. Penetrating the stomach.

#2. Superficial penetrating the adipose tissue.

#3. Superficial penetrating the adipose tissue.

#4. Penetrating the omentum underneath.

(+) Stabbed wound, 2 inches in width, (L) palm, as point of entry, ended through-through on the opposite side.

(+) Incised wound, interdigital, index and ring finger (L) hand."

NOTE: ALL WOUNDS WERE SUTURED BEFORE THE AUTOPSY. THE CADAVER WAS IDENTIFIED BY MRS. JENNY DELA CRUZ (WIFE).

CAUSE OF DEATH:

"HYPOVOLEMIC SHOCK SECONDARY TO STABBED WOUNDS, MULTIPLE"

[5]

SPO2 Francisco Sudla of the Cabanatuan City Police Department testified that his office received from Puerto Princesa City Police a message that appellant was arrested. Upon instruction of the Chief of Police of Cabanatuan City, he and his team fetched appellant.[6]

Jeannie dela Cruz testified that she spent P10,500.00 for the funeral of her husband and P6,000.00 for the wake, or a total of P16,500.00;[7] and that she and her family suffered wounded feelings due to his untimely death.

The defense, on the other hand, presented appellant as its lone witness. He denied any participation in the commission of the crime. He claimed that on the night of May 30, 1998, he was in the house of Joel Flores in Purok 5 of Imelda District, Cabanatuan City, engaged in a drinking spree with Patricio Tolentino. At around 10:00 o'clock in the evening, they proceeded to the house of Patricio in Purok 6 where they again had another drinking session. It was on June 2, 1998 that he learned from the by-standers in their place that a certain Nathaniel dela Cruz was killed. That same day, he went to his father's place in Balagtas, Bulacan. On July

28, 1998, he was apprehended in Palawan by the police and was turned over to the Cabanatuan City Police on August 4, 1998.

Rubenito Obedoza testified as a rebuttal witness for the prosecution. He declared that he is a Bantay Bayan investigator of Barangay Imelda District, Cabanatuan City; that the entries in the barangay's logbook or blotter show several derogatory reports and complaints lodged by the barangay residents against appellant.

On December 28, 1998, the trial court promulgated its Decision convicting appellant of murder and sentencing him to suffer the supreme penalty of death, thus:

"WHEREFORE, premises considered, the Court finds, and so holds, the accused CHARLES JOY FLORES alias "POK-POK," guilty beyond reasonable doubt of the crime of Murder and hereby sentences him to suffer the penalty of DEATH.

The accused is further ordered to indemnify the heirs of the deceased offended party in the amount of P50,000.00, and the amount of P16,500.00, representing actual damages; and to pay the costs of this suit.

No moral damages are awarded as the same is subsumed in the civil indemnity for death (People vs. Daen, G.R. No. 112015, 26 May 1995).

SO ORDERED."^[8]

Appellant, in his brief, assails the Decision of the court *a quo*, raising the following assignments of error:^[9]

"I

IN RELYING ON THE TESTIMONY OF MARISSA DELA CRUZ IN THE CONVICTION OF THE ACCUSED FOR MURDER.

II

IN NOT CONSIDERING THE TESTIMONY OF DR. JUN CONCEPCION IN ITS DETERMINATION OF THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

III

IN CONVICTING THE ACCUSED OF THE OFFENSE OF MURDER."

In the appellee's brief, the Solicitor General maintains that the trial court did not err in convicting appellant for murder and that treachery attended the killing of Nathaniel.^[10]

On the first assigned error, while witness Marissa is the victim's sister-in-law, such relationship does not necessarily impair her credibility as a witness. This is especially so when the witness was present at the scene of the crime,^[11] as in this case. Moreover, that there was a rift between Marissa's husband and appellant's uncle does not mean that she would testify falsely against appellant. To be sure,

there is no proof or any indication that she was animated by improper motive in testifying against him. We have held that where there is no evidence and nothing to indicate that the principal witnesses for the prosecution were impelled by any improper motive, the presumption is that they were not and that their testimonies are thus entitled to full faith and credit.^[12] We thus sustain the credibility of Marissa whom the trial court found to have positively identified appellant as the one who stabbed Nathaniel dela Cruz. Once again, we must reiterate the familiar rule that the task of taking on the issue of credibility is a function properly lodged with the trial court, whose findings are entitled to great weight and accorded the highest respect by the reviewing courts, unless certain facts of substance and value were overlooked or misappreciated such as would alter the conviction of the appellant.^[13] There is no such fact of substance and value in this case.

The second and third assignments of error will be discussed jointly.

Appellant seeks refuge in the defense of *alibi* which we have consistently regarded as "the much abused sanctuary of felons and which is considered as an argument with a bad reputation . . . It is, to say the least, the weakest defense which must be taken with caution being easily fabricated."^[14] Such defense cannot prevail over the positive identification of appellant as the perpetrator of the crime.^[15] In this case, two prosecution witnesses, Marissa dela Cruz and Reggie Malubay, positively identified appellant as the culprit. Furthermore, the defense failed to establish that it was physically impossible for the appellant to have been at the scene of the crime at the time of its commission. For its part, the prosecution has proved that the place where the crime took place was only 100 to 150 meters, more or less, away from the house where appellant and his companions had a drinking spree. Clearly, it was possible for him to be at such place when the crime was committed. It is well settled that for the defense of *alibi* to prosper, accused must not only prove his presence at another place at the time of the commission of the offense, **but he must also demonstrate that it would be physically impossible for him to be at the *locus criminis* at the time of the commission of the crime.**^[16]

Appellant's protestation is further belied by his admission that upon learning of Nathaniel's death, he went to Bulacan and thereafter proceeded to Palawan where he was apprehended. There is no doubt that he fled because of a guilty conscience. The rule is settled that flight evidences guilt.^[17]

Appellant vigorously contends that the trial court erred in concluding that treachery attended the commission of the crime. In fact, Dr. Concepcion testified that the victim did not sustain any stab wound at his back.

There is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.^[18] Two (2) conditions must concur for treachery to exist, namely: (a) the employment of means of execution that gave the person attacked no opportunity to defend himself or to retaliate; and (b) the means or method of execution was deliberately and consciously adopted.^[19] Both these circumstances must be proved as indubitably as the crime itself.