

SECOND DIVISION

[G.R. No. 147196, June 04, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGAR DUMADAG
Y CAGADAS, APPELLANT.**

DECISION

CALLEJO, SR., J.:

Before us on appeal is the Decision^[1] of the Regional Trial Court of the City of Malaybalay, Bukidnon, Branch 8, finding appellant Edgar Dumadag y Cagadas, guilty beyond reasonable doubt of murder; sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the heirs of the victim P50,000 as civil indemnity and P50,000 as moral damages.

The Indictment

The appellant was charged with murder in an Information filed before the Regional Trial Court of Malaybalay, the accusatory portion of which is herein quoted:

That on or about the 24th day of June 1999, in the afternoon, at Barangay Impalutao, Municipality of Impasugong, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill by means of treachery, armed with a sharp bladed weapon, did then and there willfully, unlawfully and criminally attack, assault and stab FERNANDO PRUDENTE, inflicting upon the latter a mortal stab wound which caused the instantaneous death of FERNANDO PRUDENTE, to the damage and prejudice of the legal heirs of FERNANDO PRUDENTE in such amount as may be allowed by law^[2]

The Evidence of the Prosecution^[3]

June 24, 1999 was the feast of St. John. Fernando "Ondo" Prudente, with his friends, including Marlyn Meliston, agreed to meet at the Gantungan swimming pool in Impalutao, Impasugong, Bukidnon, to celebrate the occasion.^[4] At about 5:00 p.m., Ondo and his friends headed back home. By then, there was heavy downpour. They decided to take shelter at the store of a certain Mr. Salvaña. Jovy Baylin, who had just come from the house of his sister, Enecita Abacajin, approximately one hundred (100) kilometers away, was also in the store.^[5] Two men, one of whom was the appellant, were having some drinks.^[6] When they saw Ondo, the appellant and his friend offered him a drink of Tanduay.^[7] Ondo, declined, saying "Bay, I am not drinking now."^[8] Thereafter, Ondo left. The appellant was peeved. He rose from his seat and followed Ondo. The appellant then took hold of Ondo's right shoulder, took out a stainless knife and stabbed the latter on the breast.^[9] The appellant left the scene, walking towards the direction of the lower area of Cagayan de Oro.^[10]

Jovy Baylin, who was about five meters from the scene of the crime, was stunned, and was unable to do anything.^[11] Ondo's companions saw the stabbing and immediately flagged down a vehicle.

Mortally wounded, Ondo ran towards the vehicle and fell inside it.^[12] Ondo's companions brought him to the Bethel Baptist Hospital, Inc., in Malaybalay City, where he was pronounced dead on arrival.^[13] Dr. Leslie Joan M. Arcadio signed Ondo's death certificate and indicated that the cause of death was "*stab wound, right chest.*"^[14]

The Evidence of the Appellant^[15]

The appellant denied the charge. He testified that in the afternoon of June 23, 1999, he was at Vista Villa, Sumilao, Bukidnon,^[16] looking for some way to get money. He saw Richard Masicampo, Sr., the owner of a 2.5 hectare riceland in the same *sitio* and borrowed money from him.^[17] The latter agreed, but required the appellant to cut the grass in his riceland the next day.

On the aforesaid date, the appellant, along with Richard, cut grass in the ricefield. At around 11:00 a.m., they stopped and had lunch in Richard's house.^[18] Because it rained the whole afternoon, they were unable to go back to the ricefield. They stayed in the house and had drinks.^[19] After consuming five (5) bottles of "fighter wine," the appellant fell asleep. At 5:30 p.m., he woke up and went home. He returned the next day to finish the job.^[20]

The appellant was arrested in his house on July 4, 1999. He denied knowing Ondo and Jovy Baylin.^[21]

On November 21, 2000, the trial court rendered judgment, the dispositive portion of which reads:

WHEREFORE, judgment is entered (sic) finding accused Edgar Dumadag guilty beyond reasonable doubt of the offense of murder qualified by treachery. Accordingly, he is hereby sentenced to suffer the penalty of *reclusion perpetua*, and to indemnify the heirs of his victim Fernando Prudente the sum of P50,000.00 and moral damages of P50,000.00.^[22]

The Present Appeal

On appeal, the appellant asserts that:

I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT FOR THE CRIME OF MURDER AND IN DISREGARDING ACCUSED-APPELLANT'S DEFENSE OF ALIBI BECAUSE IN THE WORDS OF THE TRIAL COURT "ALIBI IS ONE OF THE WEAKEST DEFENSE AND EASY TO CONCOCT."

II

ASSUMING FOR THE SAKE OF ARGUMENT THAT ACCUSED IS GUILTY FOR THE DEATH OF FERNANDO PRUDENTE, THE TRIAL COURT ERRED IN CONVICTING HIM OF THE CRIME OF MURDER INSTEAD OF SIMPLE HOMICIDE.^[23]

The appellant insists that the prosecution failed to prove his guilt for the crime charged beyond reasonable doubt. He asserts that although his defense of alibi is weak, he should be acquitted because the evidence of the prosecution is also weak.

The appellant, likewise, contends that, assuming that he is guilty of the crime charged, he can only be convicted of homicide because the prosecution failed to prove beyond reasonable doubt the qualifying circumstance of treachery. He avers that he could not have deliberately and consciously adopted a plan to kill the victim because they never knew each other. Citing our ruling in *People vs. Aguiluz*,^[24] the appellant points out that where the sudden attack is not preconceived and intended as the means, but is merely triggered by the sudden infuriation on the part of the accused because of an act of the victim, or where the meeting is purely accidental, the killing would not be attended by treachery.

The Office of the Solicitor General (OSG) avers that the prosecution, through Baylin's direct and straightforward testimony, proved that the appellant stabbed the victim to death. The OSG asserts that the appellant's defense of denial and alibi are weak and cannot be given probative weight in light of Baylin's testimony, and that the admission made by the appellant during the pre-trial that he was at the scene of the crime belied his alibi.

The OSG, however, agrees that the appellant is guilty only of homicide because the prosecution failed to prove the qualifying circumstance of treachery. It posits that the altercation between the appellant and the victim that preceded the commission thereof forestalled the attendance of treachery.

We agree with the trial court that the appellant stabbed the victim.

Time and again, we have consistently ruled that the findings of facts of the trial court, its calibration of the testimonial evidence of the parties, as well as its conclusions on its findings, are accorded high respect if not conclusive effect.^[25] This is because of the unique advantage of the trial court to observe, at close range, the conduct, demeanor and deportment of the witnesses as they testify.^[26] In this case, the trial court gave credence and probative weight to the testimony of Jovy Baylin. After a careful review of the records of this case, we find no cogent reason to overrule the trial court's findings that the appellant stabbed the victim.

As long as it is positive, clear and credible, the testimony of a single prosecution witness on which judgment of conviction is anchored, is sufficient. Corroborative or cumulative evidence is not a prerequisite to the conviction of the accused. Truth is established not by the number of witnesses but by the quality of their testimonies.^[27]

The trial court found Baylin to be a credible witness. The denial and alibi of appellant

cannot prevail over the positive identification and eyewitness account of Baylin.^[28] Baylin testified, thus:

ASST. PROS. TORIBIO: (continuing)

Q: After Edgar Dumadag invited Ondo Prudente to have a drink of Tanduay, what did Ondo Prudente do, if any?

A: He declined the offer.

Q: How did Ondo Prudente decline the offer of Dumadag?

A: He said, "Bay, I am not drinking now," and then he left.

Q: After Ondo Prudente left, what happened next, if any?

A: Dumadag followed Prudente, held his right shoulder and stabbed him.

Q: Now, how many time[s] did this Dumadag stabbed (sic) Ondo Prudente?

A: Once.

Q: Was Prudente hit?

A: Yes.

COURT: (to the witness)

Q: What part of his body?

A: On his breast.

Q: What did the accused use in stabbing?

A: A stainless knife.

ASST. PROS. TORIBIO

Q: Now, when this Dumadag followed Ondo Prudente after he declined the offer, did you see already Dumadag carrying with him a knife (sic)?

A: No, he was running.

Q: When for (sic) the first time you saw the knife of Dumadag?

A: When he held the shoulder (sic).

Q: Where did he get the knife?

...

A: From his side.^[29]

On the other hand, the appellant's alibi is weak. It is settled that for the defense of alibi to prosper, the appellant must prove with clear and convincing evidence not only that he was some place else when the crime was committed, but also that it was physically impossible for him to be at the scene of the crime or its immediate