

FIRST DIVISION

[G.R. No. 155256, July 30, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDUARDO MEDINA
ALIAS "EDDIE BOY FLUID," APPELLANT.**

D E C I S I O N

DAVIDE JR., CJ.:

What started as a day of revelry ended as a day of tragedy for Nelson Caubalejo (hereinafter, Nelson) and his family on Christmas day of the year 2000. At around 7:30 p.m. of 25 December 2000, Nelson was shot several times in his neighborhood at Lipa City. He sustained gunshot wounds on his left chest and right thigh which caused severe loss of blood leading to his death.^[1]

For the death of Nelson, appellant Eduardo Medina (hereinafter, Eduardo) was charged with and tried for the crime of murder before the Regional Trial Court of Lipa City, Branch 12, in Criminal Case No. 0053-2001. The accusatory portion of the Information reads as follows:

That on or about the 25th day of December 2000, at around 7:30 o'clock in the evening at Interior, Kapitan Simeon Luz Street, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused then armed with an unlicensed caliber .45 with intent to kill, and without any justifiable cause, with treachery and evident premeditation did then and there wilfully, unlawfully and feloniously shoot with the use of said firearm suddenly and without warning one Nelson Caubalejo, thereby inflicting upon the latter gunshot wounds on the chest and thigh, which directly caused his death.^[2]

Upon arraignment on 20 June 2001, Eduardo entered a plea of not guilty.^[3] During the pre-trial that followed on 25 July 2001, the parties agreed on the following stipulations and admissions:

1. That this court has jurisdiction over the person of the accused and the subject matter of this case;
2. That the accused admits the authenticity and due execution of the Death Certificate issued by Dr. Nemesio K. Villa, Jr.;
3. That the accused admits the fact and cause of the death of Nelson Caubalejo as stated in his Death Certificate;
4. That the accused admits that Nelson Caubalejo died due to severe hemorrhage due to gunshot wound; and

5. That the accused admits that he is the same Eduardo Medina alias "Eddie Boy Fluid" charged for murder in this case.^[4]

In view of the above stipulations and admissions, the prosecution dispensed with the testimony of Dr. Nemesio K. Villa, Jr., the physician who examined Nestor and issued the latter's death certificate. At the trial, the prosecution presented as witnesses Nelson's sister Nilda Caubalejo-Samontañez and Nelson's and Eduardo's neighbor and childhood friend Henry Aniversario.

Nilda Caubalejo-Samontañez testified that on the evening of 25 December 2000, while she was watching television in the living room of her family's residence together with her husband Rodel Samontañez, their three children – Jing, Crizalyn and Donna, her sister, her brother, their aunt Lilia Caubalejo and Nelson's common-law wife Angelina Hermoso, her brother Nelson suddenly appeared at the door around three (3) meters away from where she was seated. Nelson appeared to be injured as his left chest was bloody and he was weak and stammering. In this condition, Nelson said *Nilda, dalhin mo ako sa ospital. Nadali ako ni Eddie Boy Fluid. May kinalaman si Gerry Conti dahil kanya ang baril.* (Nilda, bring me to the hospital. Eddie Boy Fluid got me. Gerry Conti has something to do with it as he owns the gun.) Nelson then slumped to the ground and was taken to the N.L. Villa Memorial Medical Center where he expired shortly thereafter.^[5]

Henry Aniversario testified that at around 7:30 p.m. of 25 December 2000, while on a drinking spree with Nelson, Rodel Tapay and Celso Perez at the latter's house located at Calye Pogi, Interior Malvar St., Nelson excused himself and went outside to urinate. As soon as Nelson stepped out of the house, Henry and his companions heard three consecutive gun shots, prompting them to peep through the window to the alley. Nelson was seen running towards the direction of the latter's house, which was about one hundred (100) meters away from where they were. To get a better view of the commotion, Henry went to the door to look further out to the alley. He saw Eduardo chasing the fleeing Nelson with a .45 caliber gun and firing three (3) more shots at Nelson who was merely ten (10) meters ahead of Eduardo. Upon being fired at by Eduardo, Nelson fell down. But Nelson, evidently having survival in mind, got up and continued running, albeit slowly, away from Eduardo and towards his house to seek refuge. Eduardo then turned his back, desisted from further pursuing Nelson and proceeded to the direction of his house. At this point, Henry had the opportunity to clearly see Eduardo carrying a firearm, which appeared to be a .45 caliber pistol, on his right hand with the nozzle pointed downwards. Henry was able to do so because of the illumination provided by the electric lamp posts and the lights on the houses in the alley, which were all turned on since it was Christmas day. As soon as Eduardo disappeared in the corner, Henry followed Nelson to determine the latter's condition. He found Nelson holding his bloody chest and being aided by the latter's brother to be brought to the hospital. Henry immediately assisted Nelson. They boarded a tricycle to go to the hospital. On the way to the hospital, Nelson was muttering inaudible words which Henry could not understand. After bringing Nelson to the hospital, Henry went home and later found out that Nelson expired thirty (30) minutes after being brought to the hospital.^[6]

The defense presented Eduardo and Gerardo Conti, also known as Gerry.

Eduardo denied any involvement in the killing of Nelson, whom he described as his drinking buddy. He narrated that on 25 December 2000, he was on a drinking spree with Gerardo Conti, Alex Kasilag and the latter's brother-in-law at the house of Alex Kasilag at Padre Garcia, which was thirty minutes away from the town proper of Lipa City via public transportation. The drinking spree lasted until 8:30 p.m. Thereafter, Eduardo went straight home to Interior Malvar St. where he arrived at 9:30 p.m. to retire for the night. He was not yet deep in slumber when he was roused awake by his sister who informed him that he was being sought by the police in connection with the killing of Nelson. Having developed a trauma from the police who have the habit of implicating him in any crime that was committed in their area, he immediately left his house and went to the house of his neighbor Jojo Laquian to hide. When confronted with Henry Aniversario's testimony, Eduardo imputed evil motive on Henry Aniversario for testifying against him. He alleged that Henry Aniversario has a grudge against him because he had quarreled with Henry Aniversario in the past and once defrauded the latter by selling and delivering *tawas* or alum instead of shabu worth P11,000. As regards the testimony of Nilda with respect to Nelson's dying declaration identifying a certain Eddie Boy Fluid as the assailant, Eduardo claimed that he was not the Eddie Boy Fluid referred to by Nelson, notwithstanding that he has been known in their neighborhood as Eddie Boy Fluid for ten (10) years and had been closely associated with Gerardo Conti for more than two (2) years prior to the death of Nelson, as there is another person who is also known as Eddie Boy Fluid in their neighborhood. This other person is Eduardo Viñas who is a resident of an adjoining barangay near Interior Malvar St.^[7]

To corroborate Eduardo's testimony, Gerardo Conti testified that he was at the same drinking spree which Eduardo attended on 25 December 2000 at the house of Alex Kasilag. The last time he saw Eduardo on that fateful day was at 6:00 p.m. when he left the group to head home on board his motorcycle. On cross-examination, Gerardo Conti admitted that after he left the house of Alex Kasilag at 6:00 p.m., he was later arrested by the police for illegal possession of ammunitions – a magazine of a .45 caliber gun with eleven (11) bullets – at the Total Gas Station in Antipolo del Norte. Gerardo Conti also admitted that Eduardo and Nelson were his close friends.^[8]

On 28 August 2002, the Regional Trial Court of Lipa City, Branch 12 promulgated the assailed Decision^[9] dated 16 July 2002, the dispositive portion of which reads as follows:

WHEREFORE, the Court finds the accused, EDUARDO MEDINA alias EDDIE BOY FLUID, guilty beyond reasonable doubt, as principal by direct participation, of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, without any generic modifying circumstance and sentences him to suffer the penalty of RECLUSION PERPETUA and to pay the costs.

The accused is also ordered to pay to the heirs of Nelson Caubalejo the sum of ₱50,000.00, as indemnification for his death, the sum of ₱50,000.00, as actual damages and the sum of ₱20,000.00, as moral damages^[10]

Eduardo seasonably appealed from the decision. In his Appellant's Brief, Eduardo asserts that the trial court

... GRAVELY ERRED IN NOT FINDING THAT THE TESTIMONIES OF NILDA CAUBALEJO AND HENRY ANIVERSARIO ARE TAINTED WITH MATERIAL FALSEHOODS AND IMPROBABILITIES.

... LIKEWISE ERRED IN DISREGARDING ACCUSED-APPELLANT'S ALIBI AND DENIAL WHICH IS MORE CREDIBLE.^[11]

Eduardo contends that the trial court erred in giving credence to the testimony of Henry Aniversario since the latter has a grudge against him and a motive in implicating him in the crime. He adds that the testimony of Henry Aniversario that Nelson ran towards the direction of the latter's house after being shot is highly implausible, since the house of Celso Perez, where Nelson and his companions were having a drinking spree, was more proximate and Nelson could have easily sought assistance from them. Eduardo stresses that the fact that Henry Aniversario failed to draw a sketch of the scene of the crime when asked to do so during cross-examination casts doubt on the veracity of Henry's testimony that he indeed saw Eduardo shoot Nelson. Eduardo also maintains that he is not the Eddie Boy Fluid identified in Nelson's dying declaration to Nilda Caubalejo-Samontañez as there is another person in their neighborhood who is also known as Eddie Boy Fluid. In sum, Eduardo imputes perjury against the prosecution witnesses, claiming that their testimonies were rehearsed to inculcate him. Considering the weak testimonies of the prosecution witnesses, Eduardo insists that his alibi and denial must be given importance as he was able to amply explain and account his whereabouts at the time of the crime.^[12]

In the Appellee's Brief, the Office of Solicitor General (OSG) maintains that alibi does not and cannot prevail over the positive identification of Eduardo in this case. It asserts that it was not physically impossible for Eduardo to be at the scene of the crime and the positive declaration of Henry Aniversario deserves more credence than Eduardo's negative statements. It further cites Eduardo's immediate flight as evidence of guilt. The OSG also recognizes the admissibility of Nelson's dying declaration against Eduardo. Finally, the OSG affirms the trial court's finding that treachery attended the killing of Nelson which qualifies it to murder.^[13]

Essentially, the core issue to be determined in this case is whether the testimonies of the witnesses for the prosecution are credible and offer sufficient proof beyond reasonable doubt that Eduardo is indeed guilty of the crime charged.

We have consistently ruled that the factual findings of the trial court especially on the credibility of witnesses are accorded great weight and respect and will not be disturbed on appeal. This is so because the trial court has the advantage of observing the witnesses through the different indicators of truthfulness and falsehood, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, or the carriage and mien. This rule, however, admits of exceptions, as where there exists a fact or circumstance of weight and influence that has been ignored or misconstrued by the court, or where the trial court has acted arbitrarily in its appreciation of the facts.^[14]