

## EN BANC

[ G.R. No. 135857, June 18, 2003 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ADRIANO ARCA, ACCUSED-APPELLANT.**

### DECISION

**QUISUMBING, J.:**

For automatic review is the decision<sup>[1]</sup> dated March 12, 1998, of the Regional Trial Court of Borongan, Eastern Samar, Branch 2, convicting appellant Adriano Arca in Criminal Case No. 10866, for the murder of Rommel Godornez. Appellant was sentenced to death, as well as to indemnify the victim's heirs in the sum of P50,000, and to pay the costs.

Appellant was charged under the Information dated July 17, 1997, as follows:

That on July 16, 1997, at about 9:00 o'clock in the morning, at Barangay Maypangdan, Borongan, Eastern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with evident premeditation and treachery, and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault, stab and wound ROMMEL GODORNEZ<sup>[2]</sup> with the use of a sharp pointed weapon (Dipang) which the accused provided himself for the purpose, thereby inflicting injuries upon the latter, which injuries caused the direct death of the victim, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.<sup>[3]</sup>

Upon arraignment on September 25, 1997,<sup>[4]</sup> appellant pleaded not guilty. Trial ensued thereafter.

The prosecution presented the following as witnesses: Donald Arnulfo, Reynaldo Afafe, Susan Agda, and Milagros Godornez, mother of the victim. Rebuttal witnesses, Sofronio Obina and Romeo Arca, were later presented.

DR. EDGARDO E. JUABAN, examining physician at the Eastern Samar Provincial Hospital, issued the post mortem examination (autopsy) report, to which the defense offered no objection when presented. The report reads: (1) stab wound 1.5 cm length with clean cut edges located at 5<sup>th</sup> ICS (R) directed posteriorly and medially penetrating (R) lung and main pulmonary blood vessel with massive hemothorax; (2) incised wound 2 cm. length located (L) forearm medial aspect 0.5 cm. deep. Cause of death: Cardio-pulmonary arrest secondary to hypovolemic shock with massive blood loss from stab wound at (R) anterior chest with direct injury to the (R) lung and pulmonary blood vessel.

DONALD ARNULFO ALIDO, a 33-year-old resident of Borongan, Eastern Samar,<sup>[5]</sup> testified that on July 16, 1997, at 9:00 o'clock in the morning, he was at the victim's house when the stabbing incident occurred. He was then eating breakfast with Bolaw Alde and Maria Agda in the company of the victim, Rommel Godornez.<sup>[6]</sup> They were there on the occasion of the barrio fiesta. The witness claimed that he was about one meter away from the doorway so he got a good look at what happened on the street outside. He saw that appellant, Adriano Arca, came from a house located behind that of the victim's. The victim, who had just left the house for school, was suddenly stabbed by appellant at the back, hitting the victim by the right arm and right breast. He added that he saw appellant attack Rommel once but perhaps because the latter tried to parry the blows, he was also hit in the arm. The victim then ran towards their house where he was met by the witness, Donald, who brought him to the hospital.<sup>[7]</sup>

Police Officer REYNALDO AFABLE, a resident of Barangay Maypangdan, Borongan, testified that a *barangay tanod* went over to his house and informed him of the stabbing. In response, he went to the scene of the crime and began questioning the people in the area who might have seen who the malefactor. When told that it was Adriano Arca who stabbed the victim, he immediately ran after appellant, who still had in hand the bolo, locally called *depang*, used in the stabbing. Appellant released the bolo and scabbard he was holding, and surrendered without a fight. Witness Afile said he brought appellant to the police station.<sup>[8]</sup>

In answer to clarificatory questions by the trial court, witness Afile recalled that it was *Kagawad* Ipe<sup>[9]</sup> who went over to his house and informed him of the stabbing. *Kagawad* Ipe went asking for help, saying that somebody, armed with a deadly weapon, was running amuck and had already stabbed someone. When Afile got to the place, he saw the victim bleeding from a stab wound and the appellant still holding a bloodied *depang*. Appellant tried to hide but Afile gave chase. Eventually, appellant surrendered without any incident.<sup>[10]</sup>

SUSAN AGDA, aunt of the victim, testified that on July 16, 1997 at around 9:00 A.M., she was at her house together with her nephew, victim Rommel Godornez. She was outside her house, one-half meter more or less away from the doorway, handing out fare money to Rommel, who was then on his way to ROTC training. She said she saw appellant from the back of the house, holding a bolo in hand, and was about to stab Rommel. Then she saw appellant hit her nephew with the bolo. At that point, she ran towards the house of *Kagawad* Ipe Suyap, who lives only a fence away from her house.

MILAGROS GODORNEZ,<sup>[11]</sup> mother of the victim, was presented by the prosecution to prove damages. She testified that her son was turning 17 years old at the time of his death. He was a first year Civil Engineering student at the Eastern Samar State College. He was a full-time student when he passed away.<sup>[12]</sup>

The defense presented as its first witness, ROBERTO ARCA, the 11-year-old brother of appellant Adriano Arca. Roberto testified that in the morning of July 16, 1997, at about 9:00 o'clock, he was walking home with his brother, the appellant, when they bumped into Romeo Arca, their cousin, whom he called "*Mano Romy*." Appellant

was drunk. He recalled that out of the blue, Mano Romy manhandled appellant, who fell down. The deceased, Rommel Godornez, arrived and tried to pacify his *Mano Romy*. But *Mano Romy*, according to the witness, stabbed Rommel with a *depang*. He said that he was three meters away from the protagonists and could clearly see what was going on. According to the witness, Rommel was hit in the right breast. His brother, Adriano Arca, was still prostrate on the ground when the stabbing occurred. *Mano Romy* then fled, leaving the *depang* behind, said Roberto. When the police arrived, according to Roberto, it was his brother, herein appellant, who got arrested.<sup>[13]</sup>

Appellant ADRIANO ARCA was presented as the last witness to testify for the defense. He corroborated the testimony of his brother, Roberto Arca, on all material points. He contradicted the statements of all the prosecution witnesses.

He denied knowing either the prosecution witnesses Arnulfo Alido, Susan Agda, SPO1 Renato Afable, or the victim Rommel Godornez. He testified that he went to barangay Maypangdan the day before the incident, together with his brother, Roberto. They took a motorized tricycle and reached the place at around three o'clock p.m. They visited their uncle, Armando Cartago, and drank gin with other companions until around six o'clock p.m. Then they went to enjoy a local dance, after which they went back to his uncle's house. They spent the night there, and they left at seven o'clock the next morning. Although appellant felt inebriated, he and his brother walked back home to Barangay Cagbunga. On their way home they came across Romeo Arca, their first-degree cousin. Without any warning, Romeo punched the appellant four times in the chest area, causing the appellant to suffer much pain. The severity of the pain coupled with his drunken stupor made him fall to the ground and become unaware of the occurrences around him. All the appellant remembered afterwards was that he was brought to the PNP Office for investigation regarding the death of Rommel Godornez. He denied ever having owned or possessed a *depang*.<sup>[14]</sup>

SOFRONIO OBINA, a 39-year-old resident of Brgy. Maypangdan, testified on rebuttal for the prosecution. He claimed that appellant is related to his wife while the victim is his neighbor. In the morning of July 16, 1997, at around 9:00 A.M., he said he was sitting outside his "sari-sari" store when the stabbing took place. He saw appellant Adriano Arca, staggering along the street. According to Sofronio, he did not see Romeo Arca punch appellant. But he saw appellant Adriano Arca in possession of the *depang*. When the police arrived, he saw appellant slid the *depang* into its scabbard, and then promptly threw the weapon away. It was the police who picked up the weapon, and thereafter arrested appellant.<sup>[15]</sup>

ROMEO ARCA also testified as rebuttal witness for the prosecution. He said that the victim, Rommel Godornez, was his wife's nephew who lived with his family. He added that appellant, Adriano Arca, is his cousin. According to the witness, he was going out of his house to attend mass when the stabbing occurred. He denied punching appellant. He said the boy who was presented as "defense witness," Roberto Arca, was nowhere around when the stabbing happened. It was appellant, said the witness, whom he saw holding a *depang*. The witness added he was about 15 meters away when appellant was arrested by the police.<sup>[16]</sup>

On March 12, 1998, the trial court rendered its decision finding appellant guilty beyond reasonable doubt of murder, thus:

WHEREFORE, and in view of the foregoing, the Court finds the accused, Adriano Arca, guilty beyond reasonable doubt of the crime of Murder defined and penalized under Art. 248 of the Revised Penal Code, as amended by R.A. No. 7659. And there being an aggravating circumstance of treachery, the accused is hereby sentenced to suffer the penalty of DEATH. He is hereby ordered, further, to indemnify the heirs of Rommel Godornez the sum of P50,000; and to pay the costs.

SO ORDERED.<sup>[17]</sup>

Hence, this automatic review. Appellant now assigns the following errors:

## I

THE COURT A QUO ERRED IN FINDING THAT THE QUALIFYING CIRCUMSTANCE OF TREACHERY WAS ATTENDANT DESPITE THE FACT THAT THE EVIDENCE ON RECORD DOES NOT SUPPORT THIS; PERFORCE, THE ACCUSED-APPELLANT SHOULD ONLY BE CONVICTED OF HOMICIDE, NOT MURDER.

## II

NOTWITHSTANDING THIS, THE COURT A QUO ERRED IN ACCORDING GREATER WEIGHT AND CREDENCE TO THE FLAWED TESTIMONIES OF THE PROSECUTION WITNESSES AND CONVICTING THE ACCUSED-APPELLANT ON THE STRENGTH OF THIS ERRONEOUS FINDING.<sup>[18]</sup>

Stated simply the issues presented before us pertain to the credibility of prosecution witnesses and the sufficiency of evidence to convict the appellant of murder beyond reasonable doubt.

Appellant contends that treachery cannot be appreciated against him because there was sufficient showing that the blows were frontal, thus negating averments that the attack against the victim was sudden. He further claims that from their respective vantage points, the witnesses did not have an opportunity to know what transpired prior to the killing, considering that at that time of the incident the victim was already out on the street and on his way to ROTC. He adds that the witnesses could not have known whether or not an altercation previously ensued before the attack, implying thereby that the attack was provoked by a verbal dispute. Finally, appellant assails the credibility of the testimony of the prosecution witnesses, pointing out that their testimonies are inconsistent and contradictory.

For the appellee, the Office of the Solicitor General contends that the victim was not aware of the impending attack, because he had his back to the appellant when he was stabbed, hence there was treachery. Moreover, said the OSG, appellant is unable to point out with specificity the alleged inconsistent testimonies of prosecution witnesses. Citing the case of *People v. Calayca*,<sup>[19]</sup> the OSG submits that an affirmative allegation requires proof to be accepted by the court. Appellant's failure to substantiate his claim of inconsistent testimonies makes his defense

untenable, concludes the OSG.

The trial court found the testimonies of prosecution witnesses credible. On this point, we are in agreement. As elucidated by the presiding judge, Celso F. Lorenzo, Sr., they corroborate each other on material points, in a logical fashion. Further, Judge Lorenzo concluded that treachery qualified the offense based on the sworn testimonies of Donald Arnulfo Alido and Susan Agda, the eyewitnesses to the stabbing incident.

The main defense of appellant is bare denial and finger-pointing. He points to a third person as the perpetrator of the killing. Relying on the testimony of his 11-year-old brother, Roberto, he names Romeo Arca as the knife-wielder. Rebuttal witnesses, however, contradicted Roberto's testimony.

Bare denials of appellant cannot be accorded greater evidentiary weight than the positive declarations of credible witnesses who testify on affirmative matters.<sup>[20]</sup> The trial court found the testimonies of the prosecution witnesses straightforward and credible. As first-hand accounts, the testimonies of the two eyewitnesses, Alido and Agda, adequately established the fact of the killing and the identity of the killer. They concur in pointing to appellant, and no other, as the person who committed the crime.

Well established is the rule that the findings of the trial court as to the credibility of the witnesses and the probative value of their testimonies deserve great weight for the trial judge had the opportunity to observe the manner by which the testimonies are given and could see any tell tale sign of a coached or rehearsed account.<sup>[21]</sup>

In this case, no ill motive was imputed against the eyewitnesses for implicating appellant in a grave offense. The defense raised no plausible reason why the witnesses for the prosecution would lie or invent scenarios against him. The rule is settled that where there is nothing to indicate that a witness was actuated by improper motives, his positive and categorical declarations on the witness stand, made under solemn oath, should be given full faith and credence.<sup>[22]</sup> It defies reason for the relatives of the deceased to insist on appellant's guilt if indeed another person committed the crime. Human nature tells us that the aggrieved relatives would want the real killer punished for their loss, and not accept a mere scapegoat to take the rap for the real malefactor.

We note that barrio Maypangdan was celebrating its fiesta at the time of the stabbing. The testimony of 11-year-old Roberto Arca that the streets were deserted when his "*Mano Romy*" (Romeo Arca), rather than the appellant, allegedly stabbed the victim, Rommel, does not inspire belief. The boy would naturally wish to exculpate his brother, the appellant. But the boy's tale appears rather tall, in the light of his cross-examination, wherein he testified thus:

Q: Before your brother was castigated by Romy Arca did they have any exchange of words?

A: No, sir.

X X X

Q: And after Adriano Arca fell down to the ground, it was the