

FIRST DIVISION

[G.R. No. 129216, April 20, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMEO GARCIA, ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

Having been convicted of murder qualified by treachery by the Regional Trial Court and sentenced to suffer the penalty of *reclusion perpetua*, the appellant seeks relief from this Court praying for his acquittal.

Accused-appellant was charged with murder before the Regional Trial Court, Tenth Judicial Region, Branch 35, Ozamis City, under the following information:

That at or about 7:20 o'clock in the evening of July 8, 1995, in Purok 6, Barangay Carmen, Annex, Ozamiz City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused willfully, unlawfully and feloniously with intent to kill, treachery and evident premeditation, attack, assault and use personal violence to the person of victim Rodrigo K. Manding, to wit: by the use of a firearm accused did then and there shot Rodrigo K. Manding which was the direct and immediate cause of his death thereafter.

CONTRARY to Article 248 of the Revised Penal Code.^[1]

During arraignment, the accused-appellant pleaded not guilty. Trial on the merits then ensued. The following facts were established by the evidence for the prosecution which consisted of the testimonies of two (2) eyewitnesses.

Lucio Guintaason testified that on July 8, 1995, at around 6:30 in the evening, he was with victim Rodrigo Manding (a.k.a. Bebot Manding) in front of Gaisano Store in Ozamiz City.^[2] They walked home together towards Manding's house in Annex, Ozamiz City. Upon passing by a coconut tree, the accused-appellant, Romeo Garcia, who was wearing his security guard uniform, suddenly appeared and fired in the direction of the victim's chest. Manding raised his hand and said "enough."^[3] He then ran towards his house with the accused-appellant chasing him. When Manding fell to the ground, the accused-appellant shot him four (4) times.^[4] Guintaason witnessed the whole incident since he was only three (3) meters away from the protagonists. He noticed that the accused-appellant used a .38-caliber handgun.^[5] Guintaason had known the accused-appellant because Manding had earlier confided to him about a quarrel he had with the accused-appellant over a tricycle seat.^[6] Overcome by fear, Guintaason left for Pagadian City early the next morning. He returned to Ozamiz City only after three months from the incident.^[7]

Jennelyn Romaguera, a stepdaughter of the victim, testified that at around 7:20 in the evening of that fateful day, she was tending their store in Carmen, Ozamiz City. [8] She noticed that there was a chase outside and saw the accused-appellant, armed with a short handgun, running after Rodrigo Manding. Both were running towards their store. She then heard a single gunfire. When she peeped through a hole in their wall, [9] she saw Romeo Garcia shoot her stepfather, who fell at the side of the store. [10] The accused-appellant continued to fire his gun at the victim, hitting him three times on the head and twice on the body. [11] Thereafter, the accused-appellant ran towards the artesian well. [12] Romaguera was familiar with the accused-appellant since the latter's wife was renting the second floor of their house and he was a frequent visitor. [13] She also knew him to be working as a security guard. [14]

Corroborating the testimonies of the two eyewitnesses, Dr. Victor Alinas, Assistant City Health Officer, testified that he conducted a post-mortem examination of the remains of Rodrigo Manding. He found multiple lacerated wounds which he believed to have been caused by gunshots located in different parts of the body. The certificate of death issued on July 10, 1995 [15] indicated the following:

1. Lacerated wound, probably gunshot, temporal area right.
2. Lacerated wound, probably gunshot, left eyebrow.
3. Entrance lacerated wound, probably gunshot, left angle mouth.
4. Exit lacerated wound, right check.
5. Lacerated wound, anterior chest, left, probably gunshot.
6. Lacerated wound, probably gunshot, peri umbilical area, right.
7. Lacerated wound, probably gunshot, infrascapular area, right.

For his defense, the accused-appellant testified on his own behalf. He denied killing Bebot Manding and claimed that he had no motive as the disagreement which he previously had with the victim regarding the ownership and possession of a tricycle seat had already been resolved. He was a security guard assigned by his agency at Wilson Lumber in Catadman since June, 1995. His service firearm was a shotgun, not a short handgun. On July 8, 1995, his tour of duty was from seven o'clock in the evening to seven o'clock in the morning. He reported for work at the Wilson Lumber at 6:45 in the evening. He was conversing with Carlos Papa, a tricycle driver who at that time drove a passenger to Wilson Lumber, when a police patrol car arrived with his wife Luz Garcia. The police officer approached him and informed him that he was the suspect in the killing of Bebot Manding. The police officer smelled appellant's hands for gunpowder. Thereafter, the police officer invited him to the police headquarters to which appellant readily acceded. [16]

To corroborate his testimony, he presented (1) Mrs. Luz Garcia, (2) Carlos Papa, (3) SPO2 Gospe Maquiling, (4) Teofilo Nunez, (5) Angele Durias, and (6) Carlos Garcia.

Luz Garcia declared that she is the wife of the accused-appellant but they have long been separated. Her husband is now living with his paramour in another town. Luz Garcia and her children are renting the second floor of the house owned by the victim, Bebot Manding, while the latter and his family live on the ground floor. In order to discredit prosecution witness Romaguera, Luz Garcia testified that said

witness was merely instructed by her mother, Cleopas Nomar, to point at the accused-appellant as the assailant,^[17] knowing about the grudge the two men had against each other. In fact, Luz Garcia even helped "coach" the witness in making these false accusations against her husband because of her hatred towards him for leaving her for another woman. She was now bothered by her conscience for turning against her husband. She added that when the investigating police officer smelled the hands of the accused-appellant, he did not smell any "gunpowder burn" and the latter allegedly concluded that the accused-appellant did not fire any gun.^[18]

Carlos Papa is a tricycle driver who testified that he saw the accused-appellant at his post in Wilson Lumber at around 6:45 in the evening of July 8, 1995. He brought a female passenger to the lumber compound and conversed with the accused-appellant for around an hour since they were acquaintances. He left when the police officers came.^[19]

SPO2 Maquiling testified that he was on duty in the evening of July 8, 1995. At 7:00 p.m., his team received a radio call that there was a shooting incident in Barangay Annex. They immediately responded and there they met the wife of the accused who told them that it was her husband who shot the victim. They went to the house of the accused in Aguada but were told by one Angela Durias that the accused-appellant was on duty at Wilson Lumber. They saw the accused-appellant at said place. SPO2 Maquiling smelled the hands of the accused-appellant for gunpowder and invited him to go with them to the headquarters. The accused-appellant deposited his service firearm with the management of Wilson Lumber and went with the police.^[20]

Teofilo Nunez, a barangay kagawad, was presented to show that the accused-appellant had no motive to commit the crime charged. He alleged that in the morning of July 8, 1995, he met the victim and the accused-appellant outside of the barangay office. He asked what they needed and they replied that they wanted to see the barangay captain to help settle their dispute. Since the barangay captain was not around, he took the initiative to patch up the quarrel between the two men. Both parties agreed to reconcile, smiled at each other and even shook hands before him.^[21]

Angela Durias is the live-in partner of the accused-appellant. She testified that she accompanied the accused-appellant and the victim to the office of the barangay captain to settle their differences and saw that they had reconciled. On the night of the incident, she saw accused-appellant leave her house at around 6:30 in the evening.^[22] She was surprised when the policemen came to her house asking the whereabouts of her husband. She told them that he was at work. Thereafter, she learned that her husband was arrested by the police.

Carlos Garcia, the son of the accused-appellant, averred that he was inside the house of the victim when he heard five gunshots. He alleged that when he went out of the house, he did not see any person except Manding, lying on the ground face down at the side of the house. He further testified that he heard her mother say that she was going to implicate his father as the assailant to get even with him.^[23] He was testifying in favor of his father because his conscience bothered him as well.

On August 26, 1996, the trial court rendered its decision^[24] convicting the accused-appellant of murder, the dispositive portion of which reads:

WHEREFORE, finding accused Romeo Garcia guilty beyond reasonable doubt of murder qualified by treachery without other modifying circumstances, this Court sentences him to reclusion perpetua and to pay the heirs of Rodrigo Manding P50,000.00 as death indemnity. With costs.

SO ORDERED.^[25]

The accused-appellant now interposes this appeal, assigning the following errors, to wit:

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT ROMEO GARCIA GUILTY BEYOND REASONABLE DOUBT OF COMMITTING THE CRIME OF MURDER DESPITE:

A) INCONSISTENT, IMPROBABLE AND INCREDIBLE TESTIMONIES OF THE EYEWITNESSES OF THE PROSECUTION THEREBY NEGATING HIS POSITIVE IDENTIFICATION.

B) FAILURE OF THE PROSECUTION TO REBUT THE MATERIAL ALLEGATIONS OF THE DEFENSE IN ITS DENIAL.^[26]

In the main, the accused-appellant attacks the credibility of the two eyewitnesses of the prosecution regarding their positive identification that it was accused-appellant who committed the crime.

The accused-appellant argues that while he recognizes the general rule that findings of facts of the trial court are given great weight and are not disturbed on appeal inasmuch as the trial court has a first hand view of the demeanor of the witnesses, the case at bar falls under one of the recognized exceptions. He asserts that the trial court overlooked or misunderstood significant contrarities in the testimony of the witnesses which if considered would materially affect the result of conviction.

Accused-appellant points out some inconsistencies in the testimonies of the witnesses, i.e., Romaguera testified that the store she was tending was open at the time the incident occurred while the other prosecution witness, Guintaason, asserted that the store was already closed.^[27] Romaguera also allegedly testified to the effect that the victim had not gone somewhere and was not in the company of anybody at the time of the incident but Guintaason's version is totally different.^[28]

We find the accused-appellant's contentions without merit. The inconsistencies pointed out refer only to minor details, not to the crux of the case, and do not by themselves erode the credibility of the witness. What is important is that the testimonies reinforce each other on the essential facts and that the respective versions corroborate and substantially coincide with each other to make a consistent and coherent whole.^[29] Notwithstanding the inconsistencies, the fact remains that

they positively identified the accused-appellant as the killer. This Court has held that a truth-telling witness is not always expected to give an error-free testimony, considering the lapse of time and the treachery of human memory. Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed.^[30]

That the accused-appellant committed the crime was clearly established by the prosecution. The shooting of the victim which resulted in the latter's death was witnessed by two people. The place of the incident enjoyed sufficient lighting which came from a fluorescent lamp coming from the house of one of the neighbors^[31] as well as in front of their store.^[32] Romaguera was only around three (3) meters away from the accused and the victim.^[33] The general rule is that where conditions of visibility are favorable and the witness does not appear to be biased against the man on the dock, his assertions as to the identity of the malefactor should normally be accepted.^[34]

The testimony of Romaguera is enlightening, to wit:

ASSISTANT CITY PROSECUTOR

Q: While watching at your store in that point of time, can you inform us if there was an unusual incident that you have observed?

Witness Romaguera:

A: I noticed that there was somebody running and chasing.

Q: Who were those persons chasing each other?

A; Romeo Garcia and my stepfather, Rodrigo Manding, ma'am.

Q: Who was the one chasing?

A: It was Romeo Garcia, ma'am, chasing my stepfather, Rodrigo Manding.

Q; Now, were you able to see that, whether on that point of time this Romeo Garcia was bringing something while chasing your stepfather?

A: Yes, there was, ma'am.

Q: What was that?

A: A short handgun.

Q: Where did they go, if you can remember?

A: Towards our store.

Q: Now, after that, what else happened if anything?