

THIRD DIVISION

[G.R. No. 138261, April 17, 2001]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO RAMIREZ,
APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

The credibility of witnesses and their testimonies is best assessed by the trial court, which had the opportunity to observe their demeanor and conduct on the stand. Moreover, *reclusion perpetua* is an indivisible penalty; hence, it is imposed in its entirety.

The Case

Pedro Ramirez appeals the Decision^[1] of the Regional Trial Court (RTC) of Ormoc City (Branch 35) in Criminal Case No. 4195-O, finding him guilty of murder and sentencing him to "suffer imprisonment of forty (40) years reclusion perpetua."

Ormoc City Prosecutor Alberto L. Canopio filed an Information dated June 16, 1993, charging appellant with murder allegedly committed as follows:

"That on or about the 21st day of May 1993, at around 7:30 o'clock in the evening, Brgy. San Jose, Ormoc City, and within the jurisdiction of this Honorable Court, the above-named accused PEDRO RAMIREZ, with treachery, evident premeditation and intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, stab and wound the person of the victim herein JONATHAN `Jojo' ALKUINO, without giving the latter sufficient time to defend himself, thereby inflicting upon said JONATHAN `Jojo' ALKUINO mortal wounds which caused his death. Medical Certificate is hereto attached."^[2]

When arraigned on March 20, 1997, appellant, with the assistance of counsel,^[3] entered a plea of not guilty. Trial on the merits ensued. On February 18, 1999, the trial court promulgated its assailed Decision, the dispositive portion of which reads as follows:

"WHEREFORE, having moral certainty from all of the foregoing, the Court finds the accused Pedro Ramirez GUILTY beyond reasonable doubt of the crime of murder and hereby sentences him to suffer imprisonment of forty (40) years reclusion perpetua and to pay the aggrieved party the sum of P50,000.00 as indemnity and another sum of P50,000.00 as moral damages.

If the accused is a detainee, his period of detention shall be credited to him in full if he abides in writing by the terms for convicted prisoners; otherwise, for only four-fifths (4/5) thereof."

In view of the penalty imposed, the appeal was lodged directly with this Court.^[4]

The Facts *Version of the Prosecution*

In its Brief, the Office of the Solicitor General summarizes the prosecution's version of the facts in this wise:^[5]

"1. On May 21, 1993 at around 7:30 in the evening, Montano Bañez, after entertaining his visitors on the occasion of the town fiesta of Bgy. San Jose, Ormoc City, was strolling in the public plaza where he met Jonathan `Jojo' Alkuino, a former resident of the barangay (pp. 6-11, tsn, July 22, 1997).

"2. Montano Bañez took him aside and invited Jojo to a drinking spree in a nearby store. They sat side by side on a bench outside the store and while exchanging pleasantries and drinking, appellant Pedro Ramirez suddenly came in front of them. Appellant ordered beer. Then he calmly approached Jojo hitting him on the right side of the body just below the ribs (pp. 6-11, tsn, supra).

"3. Jojo Alkuino was brought to the Ormoc District Hospital and was examined and treated by Dr. Kierulf who issued the medical certificate (Exhibit A) with the following findings:

`The stab wound that hit the victim was at his right anterior chest wall, at the level of 4th ICS penetrating thoracic abdominal cavity, incising the right lobe of the liner with massive hemothorax and hemoperit[o]neum"

"Although the victim was conscious and alive when he was admitted on May 21, 1993 at around 9:55 in the evening, he, however, died the following day at about 5:30 in the afternoon due to hypovolemic shock or massive blood loss (p. 24, tsn, July 17, 1998)."

Version of the Defense

In his Brief, appellant presents the following statement of facts:^[6] "The first witness, Remegio Montalban, testified that he [was] a resident and farmer of Brgy. Sta. Cruz, San Francisco, Camotes, Cebu, and a neighbor of Pedro Ramirez, the accused. On May 21, 1993, he remembered he and Pedro Ramirez were working on his farm in said barangay. They had been working on the farm since 1991. He knows that the accused went to Ormoc City in 1986 but he returned in 1990 and since then he never left their barangay. On cross examination, the witness admit[ed] there [was] a regular trip from San Francisco, Camotes to Ormoc City and

the trip would take only more than an hour to negotiate. When asked, however, as to the birth dates of his 8 children, he could not tell all. Even on the date of the arrest of the accused, his testimony falter[ed] (TSN of July 29, 1998, pp. 6-21).

"The second witness was the accused himself. His line of testimony corroborate[d] the testimonies of his first and third witnesses. Accused admit[ted] having gone to Ormoc City and that was in the year 1986 when he was hired by Poten Larrazabal to harvest his sugarcane plantation. He stayed there for four (4) years, up to 1990, in Laray, Valencia together with his wife and two children (TSN of September 2, 1998, p. 9, p. 44). He testified that on May 21, 1993 he was at Barangay Santa Cruz, Camotes, Cebu working. He even denie[d] knowing where Barangay San Jose, Ormoc City, [was][;] in short, he denie[d] the charge against him.

"On cross examination, the accused testified that he did not go out too often while he was living in Sitio Laray, Valencia; that he did not even hear of Barangay San Jose (TSN of September 2, 1996. Pp. 22-23).

"The last witness, Eduardo Austria, corroborate[d] the line of theory of the accused and the first witness. They had a kind of cooperative work, Ramirez, he, and Montalban. It was an inconsequential routine work and a passing of day that occurred on May 21, 1993 and the following day (TSN of October 5, 1998, pp. 7-14)

"On cross examination, the witness testified there was no cooperative work with Ramirez around in May of 1994, 1995 and 1996; that the witness [did] not even know the date of the incident involved in this case. (TSN, pp. 20-31)"

The Trial Court's Ruling

In convicting appellant, the trial court gave credence to the prosecution witnesses' testimonies. It ruled as follows:

"We can notice that from the testimony of Montano Bañez up to the last witness Amelito Biyu, there was positive identification of the assailant, the one who stabbed Jonathan Alkuino; there was knowledge about the accused and the victim. The testimonies of the witnesses were in details, not in generalities, and [the] testimony of the father, Milchisedeck Alkuino relate[d] x x x the dying declaration of his son, the victim in this case. The evidence so far adduced by the prosecution established the elements of the crime of murder: the killing of an individual [did] not [fall] under parricide and the killing was attended by treachery, the fact that the stabbing was sudden and the victim was sitting while the assailant was standing and there was therefore no means for the victim to defend himself."^[7]

On the other hand, the RTC rejected the defense witnesses' testimonies for being

"weak, unreliable and full of uncertainties." It concluded that the prosecution evidence "was not substantially overcome or overwhelmed by the defense's own proof or evidence."^[8]

Issues

In his Brief, appellant cites the following alleged errors:^[9]

I

The Court a quo erred in giving credence to the witnesses for the prosecution.

II

The Court a quo erred in appreciating treachery notwithstanding the failure of the prosecution to prove the same.

III

The Court a quo erred in convicting the accused notwithstanding the failure of the prosecution to prove his guilt beyond reasonable doubt."

In the main, the Court will resolve the following matters: (1) sufficiency of the prosecution evidence and (2) presence of treachery. In addition, it will also determine the propriety of appellant's penalty and civil liability.

This Court's Ruling

The appeal is devoid of merit.

First Issue:

Sufficiency of Prosecution Evidence

The conviction of appellant was based on the eyewitness accounts of Montano Bañez and Amelito Biyu. Bañez testified that he was with the victim when the crime was committed. He narrated the incident in this wise:^[10]

"Q . Now at that particular time while you were having a round of drink with the said Jonathan "Jojo" Alkuino, what happened?

A. Pedro Ramirez approached us, sir.
x x x x x x x x x

Q. What did Pedro Ramirez do when he approached you and Jojo Alkuino?

A. They introduced each other and immediately thereafter he stabbed him, sir.
x x x x x x x x x

Q. Who delivered that stab thrust?

A. It was Pedro Ramirez, sir.