

FIRST DIVISION

[G.R. No. 133814, July 17, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANDRES ORTIZ Y PEBRERO, ACCUSED-APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

For failure to pay an indebtedness of P210.00 for pork sold to him on credit, Juanito Coronado was ganged upon and stabbed to death by several persons. Andres Ortiz y Pebrero and three (3) others who are still at large were charged with his Murder in an Information^[1] which alleges:

That on or about the 4th day of November 1996, in Quezon City, Philippines, the above-named accused, conspiring, confederating with three (3) other persons whose true names, identities and whereabouts have not as yet been ascertained, and mutually helping one with another, with intent to kill and qualified with treachery, with evident premeditation and taking advantage of superior strength, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of JUANITO CORONADO y SEDA, by then and there hitting him with a hammer and stabbing him [with] the use of [a] deadly weapon, hitting him on different parts of the body, thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the said Juanito Coronado y Seda.

CONTRARY TO LAW.

Upon arraignment on November 29, 1996, accused pleaded "not guilty" to the crime charged.^[2] The case thereafter proceeded to trial.

On March 4, 1995, the court *a quo* rendered judgment against the accused, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Andres Ortiz guilty beyond reasonable doubt of the crime of murder and hereby sentences him to suffer the penalty of **reclusion perpetua** and to indemnify the heirs of Juanito Coronado the amount of P50,000.00 for the death of Juanito Coronado and the amount of P80,000.00 for funeral and burial expenses, plus moral damages in the amount of P30,000.00 and costs.

SO ORDERED.

Dissatisfied, accused interposed this appeal alleging that -

1. THE TRIAL COURT ERRED WHEN IT DISREGARDED THE TESTIMONY OF ACCUSED-APPELLANT'S WITNESS FOR BEING A PERJURED WITNESS AND INSTEAD GAVE FULL FAITH AND CREDENCE TO THE PROSECUTIONS' VERSION OF THE INCIDENT DESPITE SEVERAL MATERIAL INCONSISTENCIES IN THEIR TESTIMONIES AS WELL AS CONTRADICTIONS IN ITS OWN DOCUMENTARY EVIDENCE.
2. THE TRIAL COURT ERRED IN CONVICTING HEREIN ACCUSED-APPELLANT FOR THE CRIME CHARGED DESPITE THE MATERIAL INCONSISTENCIES IN THE TESTIMONY OF THE PROSECUTION WITNESSES AND FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The trial court summed the versions of the incident of both Prosecution and Defense, as culled from their evidence, thus:

Prosecution evidence tend to show that on or about 5:00 o'clock in the afternoon of November 4, 1996, the victim Juanito Coronado was repairing a tricycle in front of his house in Culiat, Quezon City. Four to five meters away, his live-in partner Rebecca Mayo and their one-and-a half year old child were watching him. Suddenly four male persons came. Rebecca Mayo recognized one of them as their best friend Jose Leano alias "Joven". Without provocation, Jose Leano attacked the victim Juanito Coronado from behind by hitting him with a hammer he picked up near the place where Coronado was working. After being hit for about four times, Coronado fell backwards. Leano then held his hands and accused Andres Ortiz stabbed the victim on his chest four times with a bladed weapon. Upon seeing what happened Rebecca Mayo shouted for help. The assailants fled from the scene of the incident together with their two companions. The neighbors responded and brought the victim to the hospital.

Immediately prior to the attack on Coronado, Rebecca heard that Leano was collecting from the victim an indebtedness of P210.00 for the pork sold to the victim on credit. Leano told Coronado "**kailangang kailangan ko lang ang pera.**" Coronado told him that he has no money yet. After the conversation, Leano said "**Itutuloy ko na, bay.**" He went around the victim and hit him with the hammer he picked up at the back of Coronado.

Immediately upon hearing that Coronado was stabbed, SPO3 Angelito Salas, whose residence was only a few meters from the scene of the crime, responded. He saw the assailants running away from the scene of the crime. Upon seeing them board a tricycle, he fired a warning shot into the air ordering the driver to stop. The tricycle stopped and the passengers scampered away in different directions. SPO3 Salas and his brother Esteban Salas, also a policeman, apprehended the accused Andres Ortiz who was then and there mobbed by responding neighbors of the victim. The accused was brought to East Avenue Medical Center for treatment of his injuries. He was later brought to the police precinct for investigation.

Meanwhile, Coronado died of four fatal wounds on his chest above his heart. He sustained minor wounds and abrasions in other parts of his body.

Victim's legal wife Dominica Coronado, who lives in General Santos City, learned about the death of her husband from the newspapers. She came to this City and found her deceased husband at the Prudential Funeral Homes. She spent P80,000.00 for the funeral and burial of her husband in General Santos City.

On the basis of the sworn statements of complaining witnesses, the arresting officer and the medico legal report, the instant action was filed against the accused Andres Ortiz. The other known assailant Jose Leano alias Joven has not yet been apprehended and was not included in the instant case.

Defense witness Melinda Villar testified that she knows the accused Andres Ortiz whose aunt is her neighbor. She also knew the deceased Juanito Coronado alias "King". On November 4, 1996 at about 5:00 o'clock in the afternoon, she went out of her house to make a call by telephone to her sister whose birthday fell on that day. While on the way home, after making the call to her sister, she heard the sounds "ugh, ugh" from her right side. When she looked at the direction where the sound was coming, she saw two men facing "King" (Coronado). One of them was stabbing the victim on his chest. She did not know the assailants as it was the first time she saw them. However, if she is given a chance to see them again, she would recognize them. Not anyone of them is inside the courtroom. One of them was about 5'6" in height, dark and with a big body built (sic). Another was fair-skinned with a height of about 5'3". The third one has a small built with haircut like the Beatles and with fair complexion. The fourth man was about 5'6" in height. The man with the hairstyle of the Beatles stabbed the victim Coronado. She was about nine meters away when she witnessed the incident. After stabbing the victim, one of the men said "takbo na". The men ran towards the direction of Philcoa. After the incident, she was shocked and urinated in her panty. She narrated the incident only to a neighbor named Linda Agno.

Villar further testified that she was shocked when she learned that Andres Ortiz was apprehended as one of the suspects in the stabbing incident. She is not familiar with Rebecca Mayo. She knows only "King" (Coronado). She was not aware whether there were other persons who were in the vicinity of the incident.

Under cross-examination, Villar stated that the incident happened in about five minutes. She was trembling and stunned. The incident happened at about 5:00 o'clock when it was about to get dark on November 4, 1996. She did not notice whether the people in the neighborhood run (sic) after the assailants.

Accused, testifying for his defense stated that on November 4, 1996, at about 5:00 o'clock in the afternoon, he was in the house of his cousin

Marita Llano (Leano). He is a resident of Las Piñas and he came to visit his cousin. He was on board a tricycle when he heard a gunshot and the tricycle he was riding was told to stop. The passengers scampered away including him because the person who fired the shot was in civilian clothes. There were three other passengers in the tricycle. He did not know his co-passengers. He sat at the back of the driver. When he ran towards a corner, he saw a highway patrol car. He noticed that the person who fired the shot was already near him. he did not notice that another passenger of the tricycle was behind him, also running. Before that he heard somebody shout "you chase the other one." One of the policemen on board the patrol car chased the other passengers while the two in civilian clothes arrived and one of them hit him on the face and head. When he asked them why they did that to him, they asked him "why did you kill?" he answered "I did not kill anybody". He was then brought to the East Avenue Medical Center and later to the police precinct No. 3. At the precinct, he was told to undress and they took his clothes. He was not investigated by the police. The person in civilian clothes told the police investigator that he killed somebody. He was the same person who hit him and who fired a gunshot at the tricycle he was riding on November 4, 1996 so that it will stop. He admits that Jose Leano, who is also being accused for the killing of the victim Coronado, is his cousin.

In fine, accused-appellant assails the credibility of the prosecution witnesses and adverts to several alleged inconsistencies in their testimonies which he insists should have been appreciated by the trial court in his favor.

Accused-appellant first points out that eyewitness Rebecca Mayo's testimony is inconsistent for while she testified on direct examination that she was inside their yard, about 4 or 5 meters away from the victim, she testified during cross-examination that their house is enclosed by a fence which is 2 meters away from the house. Appellant thus concludes that Rebecca Mayo is confused as to her exact location in relation to the victim. He further observes that she was outside their yard when the incident happened.^[3]

A circumspect scrutiny of the transcript of Rebecca Mayo's testimony, however, discloses that there are, in fact, *no* inconsistencies in her testimonial declarations.

On direct examination she testified as follows:

FISCAL DY

Q Madam Witness, where were you when Juanito Coronado was beaten with a hammer?

A **I was inside the yard 4 to 5 meters away from him, from the place where the incident happened.**

Q You mean to tell the Honorable Court that you were 4 to 5 meters away from Juanito Coronado?

A Yes, Ma'am.

Q **And this was in your yard?**

A **Yes, Ma'am.**

Q **And your yard is in front of the house where you are**

living?

A **Yes, Ma'am.**^[4]

Rebecca practically said the same thing on cross-examination, viz.:

ATTY. FERRER:

Q **Madam Witness, you stated earlier that you are inside the yard when the incident happened is that correct?**

A **Yes, sir.**

Q Is there a fence separating or enclosing your residence from the victim?

A Yes, sir, there is.

Q **How far was the fence from your house?**

A **Two meters away.**

Q You will agree with me that when you say 'inside the yard' you are referring to the place between your house and the fence, you are inside the fence?

A Yes, sir.

Q **And according to you, you are 4 to 5 meters away from the victim is that correct?**

A **Yes, sir.**^[5]

It can clearly be seen from the foregoing excerpts of Rebecca's testimony that *she could see the victim who was about 4 to 5 meters away from her*. While indeed it may appear that Rebecca could not make up her mind whether she was inside or outside the yard when the incident happened, this apparent inconsistency will not detract from the fact that *she was 4 to 5 meters away when she saw accused-appellants and his cohorts attack the victim*.

Stated differently, the foregoing circumstance is a minor inconsistency that can not override the said prosecution witness' positive identification of accused-appellant as one of the perpetrators of the crime. Although there may be inconsistencies in the foregoing details of Rebecca Mayo's testimony, the same do not impair her credibility as a witness. Minor variances in the details of a witness's account, more frequently than not, are badges of truth rather than *indicia* of falsehood and they often bolster the probative value of the testimony.^[6]

Indeed, even the most candid witnesses oftentimes make mistakes and would fall into confused statements, and at times, far from eroding the effectiveness of the evidence, such lapses could instead constitute signs of veracity.^[7] In fact, a witness whose testimony is perfect in all aspects, without a flaw and remembering even the minutest details which jibe beautifully with one another, lays herself open to suspicion of having been coached or having memorized statements earlier rehearsed.^[8] The credibility, moreover, of a witness is not affected by inconsistencies or improbabilities in her testimony if it does not appear that she willfully perverted the truth as may be gleaned from the tenor of her testimony and found by the trial judge from her demeanor and behavior on the witness stand.^[9] This principle holds true in the case of Rebecca Mayo.