

THIRD DIVISION

[G.R. No. 102367, October 25, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. ABUNDIO ALBARIDO AND BENEDICTO IGDOY, ACCUSED-
APPELLANTS.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is the appeal from the decision^[1] of the Regional Trial Court, Branch 12, Ormoc City, in Criminal Case No. 3138-0, "People of the Philippines vs. Abundio Albarido and Benedicto Igday" finding them guilty beyond reasonable doubt of multiple murder.

The information against the accused reads:

"That on or about the 15th day of June, 1987, in the Municipality of Kananga, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another, with treachery and evident premeditation, with intent to kill, and of nighttime and abuse of superior strength, did, then and there willfully, unlawfully and feloniously attack, assault, stab, hack, shot and wound CELSO LARBO, DANILO PALACIO and LAURO PALACIO, with the use of guns and bolos, which the accused had provided themselves for the purpose, thereby inflicting various gunshot, stabbing and hacking wounds on the different parts of the victims' bodies (please see attached medical certificates), which caused their death.

CONTRARY TO LAW."

Only accused Abundio Albarido and Benedicto Igday, now appellants, were apprehended. When arraigned, they entered a plea of not guilty.

The version of the prosecution, as narrated by the Solicitor General in the appellee's brief,^[2] is as follows:

"At about 7:00 p.m. on June 15, 1987, a group of men composed of Celso Larbo, Danilo Palacio, and Lauro Palacio, together with Maximo Peña, Melchor Palacio and Jose Palacio, were walking single file on a trail measuring about fifteen (15) inches wide in Sitio Bislog, Barangay Sto. Domingo, Kananga, Leyte (tsn, pp. 7, 8, 10, 34, Peña, October 17, 1988; tsn, pp. 8, 9, Jose Palacio, June 13, 1989; tsn, pp. 7-9, Melchor Palacio, June 15, 1989).

Without warning, all of them were waylaid by another group composed of Aquilino Canaway, Elias Merced and appellants (tsn, pp. 9, 10, Peña, October 17, 1988). They were recognized by Maximo Peña and Jose Palacio because Lauro Palacio was able to focus the flashlight he was then holding on the faces of appellants (tsn, pp. 10, 30, Peña, October 17, 1988; tsn, p. 13, Jose Palacio, June 13, 1989; tsn, p. 11, Melchor Palacio, June 15, 1989).

Guns were fired. Among those hit in the first volley were Celso Larbo (tsn, p. 35, Peña, October 17, 1988; tsn, p.12, Jose Palacio, June 13, 1989; tsn, p. 9, Melchor Palacio, June 15, 1989). The other men scampered for safety in the tall grasses nearby (tsn, p. 11, Peña, October 17, 1988; tsn, p. 10, Jose Palacio, June 13, 1989). After the shooting, appellants approached Celso Larbo and mercilessly hacked him with bolos many times (tsn, p. 11, Peña, October 17, 1988).

Danilo Palacio and Lauro Palacio were likewise attacked by appellants who mercilessly hacked and stabbed them (tsn, p. 11, Peña, October 17, 1988; tsn, pp. 12, 13, 15, Jose Palacio, June 13, 1989). Appellants' companions, Aquilino Canaway and Elias Merced, on the other hand, acted as guards to head off any attempt by anyone minded to come to the aid of the victims (tsn, p. 12, Peña, October 17, 1988).

All the injured victims subsequently died (tsn, pp. 16, 17, Melchor Palacio, June 15, 1989; tsn, pp. 7, 25, 26, 30, Cam, June 3, 1988)."

Dr. Roland Cam, resident physician of the Ormoc District Hospital, testified that he conducted a post-mortem examination on the bodies of Celso Larbo, Danilo Palacio and Lauro Palacio. The examination disclosed that Celso Larbo sustained "gunshot and hacking wounds," probably caused by a sharp instrument, causing his death. Danilo and Lauro Palacio suffered from "multiple stab and hacking wounds," possibly caused by a sharp instrument, which also caused their death.^[3]

In his defense, Benedicto Igday claimed that at the time the incident took place, he was at Hibucawon, Jaro, Leyte where he resides with his family. He insisted that he has never been to Barangay Sto. Domingo, Kananga, Leyte, the place where the crime took place, and that he only goes to the Municipality of Kananga twice a year to visit his parents-in-law in Lonoy. He does not know the victims, or Maximo Peña and Jose Palacio who both testified against him.^[4]

For his part, Abundio Albarido likewise denied the crime imputed against him. He testified that he was at his house approximately three (3) kilometers away from the scene of the crime at the time it happened. When presented with his affidavit where he stated that he was with Benedicto Igday on June 15, 1987, he refuted the same, saying he was only forced to sign it because Romy Tauy, a policeman, threatened to kill him if he refuse to do so.^[5]

After trial, the lower court rendered judgment finding Abundio Albarido and

Benedicto Igdoy guilty beyond reasonable doubt of three (3) counts of murder, thus:

"WHEREFORE, decision is hereby rendered finding both accused ABUNDIO ALBARIDO and BENEDICTO IGDOY guilty beyond reasonable doubt as principals of three counts of murder defined and penalized under Art. 248 of the Revised Penal Code. Appreciating the aggravating circumstance of nighttime with no mitigating circumstance to offset the same, the proper penalty imposable is three death penalties for each accused. For reason, however, that the present constitution prohibits the imposition of the death penalty, this Court, accordingly sentences both accused ABUNDIO ALBARIDO and BENEDICTO IGDOY to suffer an imprisonment of RECLUSION PERPETUA for the death of Celso Larbo; another RECLUSION PERPETUA for the death of Danilo Palacio; another RECLUSION PERPETUA for the death of Lauro Palacio. Further, accused ABUNDIO ALBARIDO is ordered to indemnify the heirs of Celso Larbo the sum of FIFTY THOUSAND PESOS (P 50,000.00); the heirs of Danilo and Lauro Palacio the sum of FIFTY THOUSAND PESOS (P 50,000.00) for the death of Danilo Palacio and another sum of FIFTY THOUSAND PESOS (P 50,000.00) for the death of Lauro Palacio. Also, BENEDICTO IGDOY is ordered to indemnify the heirs of Celso Larbo the sum of FIFTY THOUSAND PESOS (P 50,000.00); the heirs of Danilo and Lauro Palacio the sum of FIFTY THOUSAND PESOS (P 50,000.00) for the death of Danilo Palacio and another sum of FIFTY THOUSAND PESOS (P 50,000.00) for the death of Lauro Palacio. And finally, both accused are ordered to pay the costs.

SO ORDERED."^[6]

In the instant appeal, Albarido and Igdoy ascribe to the trial court the following errors:

I

"THE TRIAL COURT ERRED IN GIVING 'FULL FAITH AND CREDIT' TO THE TESTIMONIES OF TWO ALLEGED EYEWITNESSES TO THE MULTIPLE MURDER DESPITE THE FACT THAT SAID TESTIMONIES (A) ARE RIDDLED WITH INCONSISTENCIES, CONTRADICTIONS AND IMPROBABILITIES AND (B) WERE NOT CORROBORATED BY ANOTHER ALLEGED EYEWITNESS.

II

THE TRIAL COURT ERRED IN ENGAGING IN CONJECTURE AND/OR SPECULATION REGARDING THE TESTIMONY OF PROSECUTION WITNESS MELCHOR PALACIO.

III

THE TRIAL COURT ERRED IN BASING ITS JUDGMENT OF CONVICTION

ON THE TESTIMONIES OF TWO WITNESSES WHICH ARE FLAWED WITH INCONSISTENCIES, CONTRADICTIONS AND IMPROBABILITIES AND HENCE, DO NOT CONSTITUTE PROOF OF GUILT BEYOND REASONABLE DOUBT."^[7]

Appellants, in seeking the reversal of the challenged decision, rely principally on the inconsistencies in the testimonies and affidavits of the prosecution witnesses.

The appeal has no merit.

Appellants contend that the testimonies of Maximo Peña and Jose Palacio on material details of the incident conflict with their allegations in their affidavits executed before the trial. For instance, while Peña stated in his affidavit that only Elias Merced was holding a revolver, however, during the hearing, he testified that all the four (4) accused were armed, three with handguns and one with a long gun. Peña likewise stated in his affidavit that after the first gunshot, victim Lauro Palacio focused his flashlight on the four accused. But during the trial, Peña declared that Lauro Palacio had focused the flashlight on the accused prior to the first gunshot.

For his part, Jose Palacio testified that appellant Abundio Albarido and Elias Merced were armed with guns, while appellant Benedicto Igdo and Aquilino Canaway were carrying bolos. However, in his sworn statement, he stated that Merced was carrying a gun and the other three (3) accused had bolos. Also, Palacio's statement in his affidavit that it was Merced who fired at him and his companions is inconsistent with his testimony that he did not know who fired the shots.

Appellants likewise argue that the testimonies of the three (3) prosecution witnesses are inconsistent with each other. Peña's account that all the four accused had guns is contradicted by Jose Palacio's testimony that only two accused were carrying guns, while the other two had bolos. Likewise, Peña testified that appellant Albarido fired the first gunshot, but Palacio declared it was Merced who first fired his gun. Lastly, Peña's version that before the first gunshot, Lauro Palacio's flashlight was already focused on the four accused is contradicted by Palacio's testimony that he did not see any person before they heard any gunshot.

Concerning the discrepancies between the affidavits and testimonies of the prosecution witnesses, suffice it to say that time and again, this Court has held that when there is an inconsistency between the affidavit and the testimony of a witness in court, the testimony commands greater weight.^[8] For, oftentimes, affidavits taken *ex parte*, are considered inaccurate as they are prepared by other persons who use their own language in writing the affiant's statements.^[9] Omissions and misunderstandings by the writer are not infrequent, particularly under circumstances of haste or impatience.^[10] Thus, more often than not, affidavits do not reflect precisely what the declarant wants to impart.^[11]

A careful scrutiny of the inconsistencies relied upon by the appellants shows that they refer only to **minor** details in the commission of the crime and do not affect at all the credibility of the prosecution witnesses. It is elementary in the rule of evidence that inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their

declaration nor the veracity or weight of their testimony.^[12] In fact, these minor inconsistencies enhance the credibility of the witnesses, for they remove any suspicion that their testimonies were contrived or rehearsed.^[13] In *People vs. Maglente*,^[14] this Court ruled that inconsistencies in details which are irrelevant to the elements of the crime are not grounds for acquittal. Besides, both Peña and Palacio were consistent in identifying herein appellants as the perpetrators of the crime and in narrating how the victims died.

Indeed, the fact that the statements of the two prosecution witnesses differ on some minor details, does not in any way affect their credibility. This is in accord with ordinary human experience that persons who witness an event perceive the same from their respective points of reference. Therefore, almost always, they have different accounts of how it happened. Certainly, we cannot expect the testimony of witnesses to a crime to be consistent in all aspects because different persons have different impressions and recollections of the same incident.^[15] What is significant is that the trial court had the opportunity to observe the demeanor of the prosecution witnesses and found them to be telling the truth. It is axiomatic that findings of the trial court on the credibility of witnesses are entitled to great respect and will not be disturbed on appeal, absent any showing of palpable mistake or grave abuse of discretion which is not present in this case.^[16]

Appellants assailed the prosecution evidence, stating that Melchor Palacio, the father of the two (2) victims, failed to corroborate the testimonies of Maximo Pena and Jose Palacio. Melchor categorically declared on the witness stand that due to the darkness of the night and the suddenness of the attack, he did not see the assailants.

Again, appellants' contention must fail. There is no hard and fast rule requiring a number of witnesses to a crime to positively identify the perpetrators thereof. In numerous instances, the testimony of a single witness, if positive and credible, is sufficient to convict an accused.^[17] Here, there were two eyewitnesses who positively identified the appellants as the perpetrators of the crime. Moreover, the fact that the crime took place in a dark place does not mean that the assailants could not be identified. Both declared that they used a flashlight in lighting their path that fateful night. Consequently, it cannot be said that the crime took place on an entirely dark night which made it impossible for those witnesses to identify the assailants.

Lastly, appellants insist that the infirmities in the testimonies of Maximo Pena and Jose Palacio cast grave and serious doubt on their trustworthiness. They further emphasize that no evidence was presented by the prosecution to prove that they were ill motivated in committing the crime.

We are not persuaded. As mentioned earlier, the trial court did not err in giving full faith and credit to the testimonies of Maximo Pena and Jose Palacio quoted below:

Testimony of Maximo Peña:

"Q: Now, at about 7:00 o'clock while on your way at So. Bislog, do you recall of any unusual incident that took place?