

SECOND DIVISION

[G.R. No. 117949, October 23, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX BANTILLO, ERNESTO ASUNCION, LARRY ASUNCION, RODOLFO ATANAS, PAQUITO FERNANDEZ AND ANORING BADANDO, ACCUSED, ALEX BANTILLO, AND ERNESTO ASUNCION, ACCUSED-APPELLANTS.

D E C I S I O N

QUISUMBING, J.:

This is an appeal from the decision^[1] rendered on March 17, 1994, by the Regional Trial Court of Iloilo City, Branch 25, in Criminal Case No. 35146, finding accused-appellants Alex Bantillo and Ernesto Asuncion guilty of murder.

On August 31, 1990, Assistant Provincial Prosecutor Arsenio Villa charged Alex Bantillo, Ernesto Asuncion, Larry Asuncion, Rodolfo Atanas, Paquito Fernandez and Anoring Badando with the crime of murder, allegedly committed as follows:

"That on or about the 6th day of March, 1990, in the Municipality of Carles, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another to better realize their purpose, with deliberate intent and decided purpose to kill, armed with unlicensed firearms (*pugakhang*), with treachery and evident premeditation and without any justifiable cause or motive, did then and there wilfully, unlawfully and feloniously assault, attack and shoot one FRANCISCO TEMBLOR with the firearms they were then provided, inflicting upon their said victim multiple gunshot wounds on the head and on the different parts of his body, which caused the instantaneous death of said Francisco Temblor.

CONTRARY TO LAW."^[2]

Upon arraignment, Alex Bantillo and Ernesto Asuncion, assisted by counsel, entered a plea of not guilty.^[3] Thereafter, trial on the merits ensued. Subsequently, the trial court rendered judgment, disposing as follows:

"WHEREFORE, premises considered, there being a plethora of proof showing that accused Ernesto Asuncion and Alex Bantillo are guilty beyond any shadow of doubt of the crime of Murder as charged, with the qualifying circumstance of treachery and aggravating circumstances of superiority of force and band, and without any mitigating circumstance, said accused are hereby sentenced to suffer the penalty of Reclusion Perpetua with the accessory penalties as provided in Article 41 of the Revised Penal Code and they are also ordered to indemnify the family of

the victim the sum of P50,000.00 as well as the amounts of P30,000.00 and P20,000.00 as moral and exemplary damages, respectively, and to pay the costs.

SO ORDERED."^[4]

The factual antecedents of this case as culled from the records are as follows:

Ruel Temblor (Ruel), the son of the victim, testified that at about 7:30 in the morning of March 6, 1990, he accompanied his father, the deceased Francisco Temblor, to cut coconut lumber in Barangay Batuanan, Carles, Iloilo, two kilometers away from their residence. They walked along the seashore near an ascending and rocky portion where there were coconut trees and bushes. He was ahead of his father, by about 30 meters. While walking, Ruel heard gunfire and, as he looked back, he saw his father fall to the ground. He then saw six persons, all carrying long homemade firearms known as "*pugakhang*", rush and surround his father. He witnessed Alex Bantillo shoot his father on the head. Thereafter, all the assailants ran towards the hills and vanished. Ruel then proceeded to Barangay Barangcalan to seek the help of their employer, Eric Lacson. But upon finding that Lacson was not there, he went home and informed his mother (Celedonia) what happened to his father. Together with four male companions, Ruel immediately returned to the scene of the crime to attend to his dead father until a doctor and policemen arrived. He said that his family incurred expenses in the amount of P20,000.00 for the wake and funeral of his father.^[5]

Ruel positively identified the appellants in open court. He testified that he personally knew the six perpetrators because all used to reside in the same barangay. He added that Ernesto Asuncion is his first cousin while Larry Asuncion is Ernesto's son. He opined that Ernesto Asuncion had a grudge against his father, that is why they killed him. He stated that Ernesto Asuncion lost as barangay captain because his father supported another candidate in the person of Romerico (Mariano) Asuncion.^[6]

Ruel's testimony was corroborated in its material points by another eyewitness, Alfredo Bandojo. Bandojo declared that at about 7:30 in the morning of March 6, 1990, he went to Barangcalan aboard a pumpboat to get coconut lumber stocked along the seashore. As they moored their pumpboat along the beach at the tip of Batuanan, he saw Ruel walking along the seashore followed by his father. Suddenly, he heard a series of explosions and saw the six accused persons, coming out of the bushes and coconut trees carrying long homemade firearms. The assailants descended to where the victim fell and then Alex Bantillo shot the victim on the head and thereafter the perpetrators went away.^[7]

Dr. Judy Ann Trumpeta testified that she conducted the *post-mortem* examination of the victim's body. She found that it bore fifteen gunshot wounds. Significantly, she found Francisco's frontal bone as well as his left and right parietal bones exploded, exposing the victim's brain. As there were powder burns on the wounds, she opined that some shots were fired at close range probably less than three meters. She declared that the cause of the victim's death is cardiorespiratory arrest secondary to hypovolemic shock secondary to multiple gunshot wounds.^[8]

The incident was reported to the Carles, Iloilo police. They conducted an investigation but failed to apprehend any suspect. Two days after the incident, Ruel

went to the police station and gave the names of the suspects except the name of Ernesto Asuncion.^[9]

Of the six perpetrators, only Alex Bantillo and Ernesto Asuncion were apprehended and tried. The others still remain at large. Therefore, this case concerns only these two appellants.

For his defense, Alex Bantillo denied shooting Francisco. He claimed that he was in Barangay Manlot digging white clay at the time of the incident; that he had no reason to kill the victim as he has no grudge against him; that it was Eric Lacson who implicated him in the crime because the latter resented his joining the Free Farmers Federation and not supporting Lacson's candidacy during the barangay elections.^[10]

Ernesto Asuncion denied taking part in the crime. He corroborated the alibi of his co-accused Bantillo. He insisted that he was in Manlot supervising the dyeing of clay starting at four o'clock in the morning on the day the incident took place. He said he too had no reason to kill the victim. Nonetheless, he agreed that Batuanan was accessible to Manlot by pumpboat in less than an hour or in one hour and a half at most. ^[11]

The defense presented three other witnesses. First, Rolando Saturnino declared that Alex Bantillo, Ernesto Asuncion and Larry Asuncion were indeed working in Manlot at the time the victim was killed.^[12] Second, Romerico Asuncion, who was the incumbent barangay captain of Batuanan, stated that at about 7:00 o'clock in the morning he was along the seashore of Batuanan waiting for a pumpboat when Celedonia and Ruel, wife and son respectively of the victim, told him that Francisco was killed but they did not know the perpetrators. He also said that his brother, Ernesto Asuncion, was in Manlot at the time of the incident because the latter resided there.^[13] Third, Eduardo Casibual disputed Ruel's eyewitness testimony. He declared that he was at the house of the victim when a boy arrived and told Celedonia and Ruel that Francisco was killed. He added, mother and son rushed to the beach where the incident took place.^[14]

The trial court found the version of the defense unworthy of credence. It ruled that the denial and alibi put up by the defense is unavailing in the light of the positive and convincing identification of the appellants as the authors of the crime. Considering the evidence presented by the prosecution and the defense, the court found appellants guilty as charged. Insisting on their innocence, appellants promptly filed their notice of appeal.^[15] In their bid to obtain reversal of their conviction, appellants now raise the following errors allegedly committed by the trial court:

"1. THE HONORABLE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESS RUEL TEMBLOR AND ALFREDO BANDOJO, THAT:

- a. THEY ACTUALLY SAW THE KILLING AS NOTHING IMPAIR OR OBSTRUCT (sic) THEIR VIEW OF THE CRIME BEING COMMITTED AT ABOUT 7:00 O'CLOCK IN THE MORNING;
- b. BOTH ACTUALLY SAW ALEX BANTILLO SHOT FRANCISCO TEMBLOR IN THE HEAD.

2. THE HONORABLE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF RUEL TEMBLOR THAT HIS FATHER WAS KILLED BECAUSE HIS FATHER HELPED ROMERICO ASUNCION INSTEAD OF ERNESTO ASUNCION IN THE LAST BARANGAY ELECTION.

3. THE HONORABLE LOWER COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF RUEL TEMBLOR THAT HE DID NOT REPORT TO BARANGAY CAPTAIN ROMERICO ASUNCION THE INCIDENT BECAUSE THEY ARE NO LONGER IN GOOD TERMS.

4. THE HONORABLE LOWER COURT ERRED IN NOT TAKING INTO ACCOUNT THAT IMMEDIATELY AFTER THE INCIDENT NO MENTION WAS MADE WHO KILLED FRANCISCO TEMBLOR OR WHO WERE THE PERPETRATORS.

5. THE HONORABLE LOWER COURT ERRED IN NOT GIVING WEIGHT TO THE TESTIMONY OF ROMERICO ASUNCION THAT WHEN RUEL TEMBLOR AND HIS MOTHER CALLED FOR HIM, THEY DID NOT MENTION ANYBODY WHO SHOT FRANCISCO TEMBLOR.

6. THE HONORABLE LOWER COURT ERRED IN NOT GIVING FULL CREDENCE TO THE TESTIMONY OF EDUARDO CASIBUAL THAT RUEL TEMBLOR AND HIS MOTHER WAS (sic) AT THEIR HOUSE WHEN SOMEBODY INFORMED THEM ABOUT THE DEATH OF FRANCISCO TEMBLOR.

7. THE HONORABLE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE DEFENSE OF ALIBI OF THE ACCUSED.

8. THE HONORABLE LOWER COURT ERRED IN NOT ACQUITTING ALL THE ACCUSED."^[16]

Notwithstanding the formulation of eight issues by appellants, in our view, the fundamental issue to be resolved is whether or not the trial court erred in affording credence to prosecution's evidence. We shall also consider the weight and credibility of appellants' defense.

In this case, prosecution witnesses Ruel Temblor and Alfredo Bandojo both claim seeing appellants surround Francisco after the latter was shot. They claim that as the victim lay on the ground, Alex Bantillo shot him on the head. Appellants deny the charges against them. They aver that they were somewhere else at the time of the incident. Moreover, appellants insist that Ruel could not have witnessed the killing as he was in his house at the time of the incident. He was seen by Eduardo Casibual there. In any case, appellants argue, Ruel should have been killed too if indeed he was with his father because the assailants would not spare a witness to tell the tale. As regards Bandojo, appellants simply characterized him as "all-seeing witness", thus, unbelievable.^[17]

On this issue, this Court has almost invariably ruled that the assessment of the credibility of witnesses is left largely to the trial court because of its opportunity, unavailable to the appellate court, to see the witnesses on the witness stand and determine by their conduct and demeanor whether they are testifying truthfully and objectively. The determination of credibility is the domain of the trial court, and the matter of assigning values to the testimonies of the witnesses is best performed by