

EN BANC

[G.R. No. 129256, November 17, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL PINCA Y HUARDE, ACCUSED-APPELLANT.

DECISION

PANGANIBAN, J.:

Republic Act 7659 defines the so-called heinous crimes. Not all convictions involving such crimes automatically warrant the imposition of the death penalty. There are specific qualifying and/or aggravating circumstances that must both be *alleged* in the information and *proven* during the trial, before the criminal offenders may be sentenced to death. Absent any of these specific qualifying and/or aggravating circumstances, the capital penalty cannot be imposed. Accordingly, in the present case, while the appellant can be convicted of murder on the basis of the established facts, the penalty must be reduced to *reclusion perpetua*, because the prosecution failed to prove any aggravating circumstance.

The Case

In an Information^[1] dated May 22, 1995 filed by 2nd Assistant Provincial Prosecutor Reinerio S. Namocatcat, Appellant Joel Pinca y Huarde was charged with murder, committed as follows:

"That on or about the 16th day of January, 1995, in the [M]unicipality of Balilihan, [P]rovince of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a round piece of wood, with intent to kill, and without justifiable motive, with evident premeditation, treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously and suddenly attack, assault and strike one Conrado Angcahan who was unarmed and unaware of the said attack, hitting the latter on the vital parts of his body resulting [in] his death, and without giving the victim an opportunity to defend himself; to the damage and prejudice of the heirs of the deceased in the amount to be prove[n] during the trial."

Upon his arraignment on August 11, 1995, the accused-appellant duly assisted by his counsel, Atty. Alfonso Damalerio, pleaded not guilty to the charge.^[2] Thereafter, trial ensued.^[3] On January 8, 1997, the 3-page "Judgment"^[4] was promulgated, finding accused-appellant guilty as charged but, quite faultily, sentencing him to the penalty of "reclusion perpetua to death." The dispositive portion of the Judgment reads:

"WHEREFORE, premises considered, the Court finding accused Joel Pinca GUILTY beyond reasonable doubt of the crime of murder, hereby sentences him to suffer the penalty of reclusion perpetua to death

qualified by treachery and evident premeditation punishable under Art. 248 of the Revised Penal Code in relation to Sec. 6 of R.A. 7659, [an] [A]ct to impose the death penalty on certain heinous crimes, and to indemnify the heirs of the victim [in] the amount of P50,000.00, with cost de oficio."

The case was elevated to this Court for automatic review, in view of the death sentence.^[5]

The Facts **Version of the Prosecution**

The trial court summarized the prosecution evidence as follows:^[6]

"Evidence for the prosecution disclosed that in the afternoon of January 16, 1995, witness Gerry Abenir after disembarking from a passenger bus which he rode from Tagbilaran City to Balilihan, Bohol, together with a friend, entered the Madona's Bake Shop located at the public market of Balilihan, Bohol. Upon entering, Gerry Abenir saw accused Joel Pinca [who] made a remark that somebody splashed [him with] liquor [and that] if it were not for the presence of the shop owner, he would have inflicted injuries to the person responsible. At about 7:00 P.M. Gerry and the accused rode on a passenger motorcycle (habal-habal) driven by one Wilfredo Lumantas on their way home to Del Carmen Weste and Dorol, Balilihan, Bohol. When they were about to reach Gerry's place, they passed by the victim, Conrado Angcahan walking on the road in an unsteady manner. The motorcycle stopped and both Gerry and the accused disembarked. The accused told Gerry that he would wait for the victim for he was the person who splashed [on] him liquor earlier in the afternoon. The accused got a piece of wood, waited for the victim and once near, the accused suddenly and without warning, struck the victim hitting the latter on the head rendering the victim unconscious and deprived of a chance to defend himself. Gerry Abenir, who was gripped with fear, ran away towards his house and never reported the matter to the police. However, at 5:00 o'clock in the morning of the next day, he started to dress up to report the incident but police officer Victor Llano arrived and made an inquiry fo [sic] the incident of which he (Gerry) obliged. After receiving the report, police officer Llano together with Gerry Abenir proceeded to the house of the accused. The accused denied any participation. Gerry Abenir went home to his house but moments later, two (2) police officers arrived and again they returned to the house of the accused, who was no longer around. They proceeded to the police station and took down the written statements of Gerry Abenir."

Version of the Defense

On the other hand, the testimony of accused-appellant was summed up in this wise:
^[7]

"For his defense, the accused declared that at around 6:30 in the evening of January 16, 1995, Gerry Abenir together with a friend entered Madona's Bake Shop and ordered beer and then offered to drink with them. While drinking, Conrado Angcahan approached Gerry Abenir and

asked for cigarettes. Gerry Abenir refused to give the victim causing the latter to murmur and went away. At about 7:00 in the evening, the accused and Gerry Abenir rode on a passenger motorcycle driven by Wilfredo Lumantas and proceeded to their home. While on their way, they passed by the victim and Gerry remarked that the said person Conrado Angcahan was the one who asked him cigarette. The motorcycle stopped and both Gerry Abenir and the accused disembarked. Gerry Abenir called the victim and once the victim got near to Gerry, the two boxed each other. Gerry ran and got a piece of wood and used it in hitting the victim. The victim fell to the ground despite defending himself using his forearm. While the victim was [on] the ground, Gerry Abenir struck the latter hitting the head. He was told by Gerry not to talk. The following morning, police officer Llano arrived at his residence together with Gerry Abenir. Because Gerry made signs not to talk, the accused did not give information to the police. After the police investigation, he proceeded to Tagbilaran City to fetch his wife. While in Tagbilaran City, he received an information that the police of Balilihan, Bohol were looking for him. He presented himself to the police and he was placed in jail."

Ruling of the Trial Court

To justify his conviction of the accused, the trial judge summarily wrote:^[8]

"The Court, after evaluating the conflicting versions of the prosecution and the defense, is inclined to give credence to the former. Firstly, there was motive on the part of the accused to inflict injuries to the victim considering that the victim was responsible in splashing liquor [on] the accused a few hours before the incident. There was therefore a score [to settle] on the part of the accused. Secondly, Gerry Abenir's testimony that the victim was hit on the nape was ably supported by the Autopsy Report (Exhibit 'C') made by Dr. Jude Doblas. There is no showing in the autopsy report that the forearms of the victim suffered injuries which [was] contrary to the claim made by the accused that the victim used his forearm in defending himself from the striking blows made by Gerry Abenir. Thirdly, it contrary to human experience for Gerry Abenir to assault the victim, who did nothing wrong nor provoked him."

With nary a discussion, the judge peremptorily concluded, "[T]he crime was committed [with] treachery, thus, qualifying the crime of murder."

Issues

In his 27-page Brief,^[9] appellant through his counsel *de officio*^[10] submits the following assignment of errors:

"I. The trial court's decision is inconsistent with the evidence.

A. the trial court erred in finding that there was motive on the part of the accused to inflict injuries on the victim.

B. the trial court erred in finding that only the testimony of the prosecution witness, Gerry Abenir, [was] supported by the

autopsy report.

C. the trial court erred in finding that there was no motive on the part of the prosecution witness, Gerry Abenir, to assault the victim.

II. The trial court's decision is inconsistent with law and jurisprudence.

A. the trial court erred in appreciating the qualifying circumstance of treachery.

B. the trial court erred in appreciating the aggravating circumstance of evident premeditation.

C. the trial court erred in not appreciating voluntary surrender as a mitigating circumstance.

III. The trial court violated the constitutional presumption of innocence as it resolved all doubts against the appellant.

IV. The sentence of death imposed by the trial court is an unconstitutional penalty and thus void.

A. murder as defined by R.A. No. 7659 is not a heinous crime.

B. there is no compelling reason to reimpose the death penalty for murder."

In his Reply Brief,^[11] appellant further submits that in the event his conviction is upheld, intoxication should be appreciated as a mitigating circumstance.

In sum, there are really three issues being raised by the appellant: (1) the credibility of the witnesses and the sufficiency of the prosecution evidence; (2) the presence of the modifying circumstances of treachery, evident premeditation, voluntary surrender and/or intoxication; and (3) the constitutionality of the death penalty for the crime of murder.

The Court's Ruling

We affirm that Appellant Joel Pinca is guilty of murder. However, there being no aggravating circumstance warranting the imposition of death, the proper penalty is *reclusion perpetua*. Since the factual circumstances do not merit the death penalty as prescribed under RA 7659, the Court finds it unnecessary to tackle the constitutional question raised by appellant. In addition, we grant actual damages to the heirs of the victim, consistent with current jurisprudence.

First Issue:

Credibility of the Witnesses and Sufficiency of the Prosecution Evidence

The issues of which witnesses and whose testimonies are to be believed are best addressed by the trial judge, who had the unique opportunity to observe the

witnesses firsthand and to note their demeanor, conduct and attitude on the witness stand.^[12] Undeniably these are significant factors in evaluating a witness' honesty, sincerity and credibility; and in unearthing the truth, especially in the face of conflicting testimonies. Because of his direct observations of the entire proceedings, the trial judge is in the best position to determine reasonably whose testimonies to accept and which witnesses to believe or disbelieve.^[13]

Thus, the trial court's assessment of the credibility of witnesses and their testimonies is generally entitled to great respect and will not be disturbed on appeal, ^[14] unless (1) it is found to be clearly arbitrary or unfounded; (2) some substantial fact or circumstance that could materially affect the disposition of the case was overlooked, misunderstood or misinterpreted;^[15] (3) the trial judge gravely abused his or her discretion;^[16] or (4) the judge who penned the appealed decision was not the same one who had presided over the trial and heard the witnesses testify.^[17]

In view of the scanty discussion in the assailed Decision, we thoroughly perused the transcripts of the witnesses' testimonies and examined the other pieces of evidence on record. After evaluating the evidence proffered by both the prosecution and the defense, we see no reason to reverse or modify the trial court's findings on the credibility of the prosecution witnesses and their testimonies.

Other than the victim who has been muted forever, there were only two eyewitnesses to the crime. One was the principal prosecution witness, Gerry Abiner; ^[18] the other was appellant himself. Interestingly, each points to the other as the culprit. Their respective testimonies must, therefore, be carefully evaluated in detail to find out which one is truthful and credible.

The following is Prosecution Witness Abiner's version of the incident:^[19]

"Q. On January 16, 1995 did you report to your work at Quad Motors here in the City of Tagbilaran?

A. Yes, Sir.

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Q. Did you also go home at the afternoon of that day?

A. Yes.

Q. And about what time did you arrive at Balilihan, Bohol?

A. At about 6:00 o'clock in the evening.

Q. Upon arriving at Balilihan did you immediately go home to your place at Del Carmen, Balilihan, Bohol?

A. Not yet, Sir.

Q. Where did you go instead?

A. I entered in the bakeshop or bakery yet.

Q. Who is the owner of that bakery?

A. Bebbie Chatto.

Q. And what did you do there?