

SECOND DIVISION

[G.R. No. 112687, June 19, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ABNER
EUBRA Y BARTOLOME, ACCUSED-APPELLANT.**

D E C I S I O N

REGALADO, J.:

Accused-appellant beseeches us to reverse the judgment of the Regional Trial Court of Virac, Catanduanes, Branch 43, in Criminal Case No. 1863, declaring him guilty of murder^[1] which, according to the information filed therefor on January 9, 1992, was committed as follows:

That on or about the 10th day of November 1991, at Barangay Bagawang, Municipality of Pandan, Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously shoot, one Abel Angeles with an unlicensed firearm, hitting him mortally at the back of his body which resulted to the victim's death to the damage and prejudice of his heirs.

That this offense is aggravated by nighttime and use of an unlicensed firearm, as provided by Section 1, par. 2, P.D. No. 1866.^[2]

On February 13, 1992, appellant, duly assisted by counsel, pleaded not guilty to the information. On June 21, 1993, the trial court rendered its decision finding appellant guilty beyond reasonable doubt of murder, and with the following decretal portion:

WHEREFORE, finding the accused GUILTY beyond reasonable doubt of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code, he is hereby sentenced to suffer the penalty of reclusion perpetua.

The accused is likewise adjudged to pay the heirs of the victim the amount of FIFTY THOUSAND (P50,000.00) PESOS, by way of indemnity, and FIFTY THOUSAND (P50,000.00) PESOS, by way of actual and compensatory damages, and to pay the costs.^[3]

The court a quo has made a commendably well-written presentation of the contending evidence of the parties, and we have decided to sequentially reproduce the pertinent portions thereof, firstly, so that the significant details thereof may not

be lost in the synthesizing process, and, secondly, such evidence recited in extenso will readily distinguish this case from other decisions involving unlawful killings with the use of supposed illegally possessed firearms, as hereafter discussed.

Dr. Wilfredo P. Santelices testified on the medico-legal certificate (Exh. A) and the certificate of death (Exh. B). In the certification issued, the deceased suffered: (a). A gunshot wound 1 cm x 1 cm paravertebral area at the level of T-T (1) point of entry and (b). gunshot wound 2 cm x 2 cm mid clavicular line 1st intercostal space (L) point of exit. He was admitted (at) 8:15 P.M. on November 10, 1991 and expired at 9:10 P.M. on the same date. No powder burns at the point of entrance of the wound were found and the wound of exit was about four inches above the wound of entrance. The victim was shot from behind.

Antonio Angeles testified that at more o(r) less 8:00 P.M., while on his way home to Paric, he noticed that he was being followed. With the aid of his flashlight, he saw the accused point a gun at him. He ran away and hid in the forest behind the church of Bagawang, then proceeded to the house of Rodulfo Eubra where Roberto Olesco informed him of the death of his brother, Abel Angeles. On his way to Pandan District Hospital, he dropped by the police station so that a statement could be taken from his brother Abel. While in the hospital he asked the already serious Abel who shot him and was told that it was the accused.

PO3 Jaime del Valle, the policeman on duty, proceeded to Pandan District Hospital and asked the victim as to the identity of his assailant. The victim pointed to Eubra. Inasmuch as the victim was no longer in a position to write, he just affixed his thumbmark on the written interrogation (Exh. D) in the presence of Dolores Evangelista and Julie Salazar.

Sulpicio Trinidad was fetching water from the faucet near his house in Bagawang, Pandan, Catanduanes, when he saw the accused walking alone on November 10, 1991 at around 7:30 P.M. towards the direction of the house of Teodorico Trinidad which was fifteen (15) meters away from Trinidad's place. The distance between him and the accused when the latter passed by was about three meters. A few minutes later, he heard a gunshot followed by a cry for help from Lilia, the wife of Teodorico. On his way to the said house, he saw the accused walking towards the east with a gun in his hand. It was only a matter of seconds from the time he saw the accused running away from the time when he saw the victim with a wound on his breast being helped by Mauricio Angeles and Roberto Olesco. Trinidad claimed he had known the accused ever since he was a small boy, they being barriomates.

Teodorico Trinidad was the owner of the house where the shooting incident happened. On November 10, 1991, they had a drinking spree in his place with Mauricio Angeles, Roberto Olesco, Crisanto Angeles and the victim. They were facing each other around the table in the kitchen. The victim was sitting on a stool at the end of the table with his back towards the wall (Exh. G). At around 7:30 P.M., he heard a gunshot outside the

kitchen. He rose from his seat and opened the kitchen door. About two meters away, he saw the accused holding a revolver, walking towards the east. Afraid that he might be shot next, he closed the door. He informed his companions that he saw the accused. They brought the victim to the hospital. On the witness stand, he identified several photographs, particularly his house (Exh. H); the encircled hole where the bullet entered (Exh. H-1); the hole where the bullet exited (Exh. H-2); the rattan line showing the projection of the bullet (Exh. H-3 and Exh. H-3-A) and the stool where the victim was seated. When the victim was hit, he was sitting with both his elbows on the table and his body bent a little forward. Witness admitted that he executed his affidavit only on December 4, 1991 for fear of the accused who previously hacked the screen of his store sometime in February 1991.

Zoe Angeles (sic, Santileces), the barangay captain of Bagawang, Pandan, Catanduanes, testified that the hole where the bullet passed through smelled of gun powder. In the presence of two members of the barangay council, he found the slug (Exh. I) which he turned over to the police authorities. He was also present when photographs of the scene of the incident were taken. With the use of a rattan, one end of which he placed through the hole where the bullet entered and the other end, through the hole where the bullet exited, they were able to determine the trajectory of the bullet. By re-enacting the position of the victim at the time he was shot, the rattan touched the portion of his left arm. Again, standing near the wall, his nipple was on level with the hole of entrance. He was 5'4" in height and about one inch shorter than the accused.

Venerando Sanchez was the Deputy Station Commander who saw the accused wiping his hands with a face towel soaked in vinegar while inside his detention cell on November 13, 1991, when the accused learned that the relatives of the victim were requesting that a paraffin test be conducted on him (accused).

The last prosecution witness was Elizabeth Angeles, the widow of the victim. She testified that the accused had an axe to grind against her husband. Sometime in 1987, her husband filed a case against the accused for threats to kill. This was amicably settled, however. In February 1991, the accused threatened again the victim's life when he testified against the accused for hacking the screen of the window of Teodorico Trinidad. The accused was imprisoned for fifteen days. In the morning of November 10, 1991 while the victim and his wife were taking breakfast, she was informed by him that the accused threatened him again when they were buying meat in the house of the victim's brother. Although the incident was not reported to the police authorities, she, however, advised her husband to be careful. She claimed that her husband was the sole breadwinner in the family with three children to support. Her husband earned P200.00 to P500.00 a week by repairing watches and radios. On account of his death, she spent P23,000.00.^[4]

It will be observed that although the information alleged that appellant used an "unlicensed firearm," the entirety of the prosecution's evidence made no mention of any evidence on such fact nor was there any attempt to prove the same, despite the vital role and significance thereof under Presidential Decree No. 1866. The foregoing, therefore, constitutes the totality of the case for the prosecution.

We now turn to the evidence for the defense consisting of the testimonies of Dr. Wilfredo P. Santelices, Gracia Bartolome, William Eubra, Lydia Eubra, the appellant himself and some exhibits, the trial court's recapitulation whereof we shall quote in equal measure.

Dr. Santelices testified that based on the testimony of Teodorico Trinidad regarding the distance of the hole of entrance of the bullet and the hole where the bullet exited, the trajectory of the bullet was downwards. On a photocopy of a human body, he drew a line showing the upward trajectory of the bullet as it entered the body of the deceased.

Gracia Bartolome, the aunt of the accused, testified that from 3:00 P.M. until more or less 9:00 P.M. on November 10, 1991, the accused and his wife and some other persons were together in a drinking spree. When she and her husband attended the baptismal party in the house of Mr. and Mrs. Felizardo Fernandez at 3:00 P.M., the accused and his wife were already there with three other guests. They were able to consume six bottles of gin. The baptismal party ended at 6:00 P.M. and thereafter, the accused, Lydia, Leonito Fernandez, she and her husband went to their place and took a rest. They later transferred to the house of Sylvia Trinidad across the street and consumed four bottles of Beer Grande. At around 7:00 P.M. she saw Antonio Angeles pass by carrying a kerosene lamp. He refused the offer of drink saying he was already drunk and was on his way home to Paric. A little later, Zoe Angeles (sic, Santileces) came looking for his grandchild Norman. After the barangay captain left, two policemen looked for her husband to accompany them to the house of Willy Eubra. At around 9:00 P.M. two policemen picked up the accused. It was she and the wife of the accused who met and talked with the policemen. The accused just stayed inside the house and refused to go with the police officers until prevailed upon by the barangay captain (TSN, August 14, 1992, pp. 13-15).

She testified on cross-examination that the distance of her house to the house of Teodorico Trinidad was about 100 meters and the normal time to reach it was less than thirty minutes when walking slowly (Id., pp. 22-23). She emphatically declared that from 3:00 P.M. to 9:00 P.M., she never left him out of her sight, not even when he urinated. When the accused left her residence to urinate, he just went near an avocado tree (Id., p. 26). The accused was not drunk on that particular date and time (Id., p. 27).

William Eubra, the brother of the accused, was in his house on the night of November 10, 1991 when two policemen picked him up. The police officers informed him that he was pointed to by Arnold Angeles as having shot the victim. He meekly went with the two policemen (TSN, November

16, 1992, p. 6). In front of the house of Teodorico Trinidad, he was told to go home, so he went home.

Lydia Eubra, the wife of the accused testified on the conversation between the defense counsel, Atty. Juan Atencia, and Jose Trinidad last May 29, 1992 in the house of her father-in-law.

The accused, when placed on the witness stand, impugned the credibility of prosecution witnesses Antonio Angeles, Sulpicio Trinidad, Teodorico Trinidad and policeman Venerando Sanchez. He averred that from 3:00 P.M. until 9:00 P.M. of November 10, 1991, he never left the group he was drinking with. He urinated once in the place of Leonita Fernandez, but he never left the house (TSN, December 14, 1992, p. 30).^[5]

Finally, the lower court reports that, on rebuttal, Zoe Santelices denied that he went to the house of Sylvia Trinidad, as claimed by Gracia Bartolome. He averred that on that particular date and time, his grandson was employed with the Manila Knitting Company in Manila. The only time he went there was when he accompanied the police officers to pick up appellant although he did not go up the house with them.^[6]

Before us, appellant now assigns, as errors committed the court below, its findings that (1) the accused is guilty beyond reasonable doubt of the crime of murder, and (2) that treachery attended the killing of Abel Angeles.^[7] We find such imputations to be baseless and without merit.

The issues in this case principally rest on credibility. In this respect, the time-honored rule virtually calcified by repetition is that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.^[8] This is obviously so since the judge below is in a better position to pass judgment on the issue because it is he who personally heard the witnesses testify and observed their deportment and manner of testifying. Thus, his evaluation deserves no less than the highest respect of the appellate court.^[9]

In the case at bar, there was no eyewitness to the actual shooting of the deceased. However, the prosecution's evidence, although circumstantial in nature, is of a sufficient quantum to establish the guilt of appellant beyond peradventure of a doubt. It is not only by direct evidence upon which guilt may be predicated. The accused may be convicted on circumstantial evidence.^[10] Circumstantial evidence may be sufficiently cogent to satisfy the judicial conscience, and may be as potent as direct testimony in tending to connect the accused with the commission of the offense.^[11]

Under Section 4, Rule 133 of the Rules of Court, circumstantial evidence is sufficient for conviction if (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.^[12] As