

EIGHTH DIVISION

[CA-G.R. CR NO. 34972, February 26, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL
SABATER MALANA, ACCUSED-APPELLANT.**

D E C I S I O N

REYES, JR., J.C., J.:

On appeal is the May 11, 2012 Decision (Records, pp.354-360) of the Regional Trial Court of Las Piñas City, Branch 198 convicting herein accused-appellant Noel Sabater Malana guilty beyond reasonable doubt of the offense of Violation of Section 261 (q) of the Omnibus Election Code in relation to Section 32 of R.A 7166 otherwise known as "An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes".

The facts:

The records show that accused-appellant Noel Sabater Malana was charged with the said offense in an Information, the accusatory portion of which reads as follows:

"That on or about the 1st day of April 2010, which is within the election period and within the ban on carrying of firearms and other deadly weapon in connection with (the) May 10, 2010 national elections and local elections, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously carry and have in his control and possession one (1) knife, a deadly weapon, outside his residence or place of business without prior written authority from the Commission on Elections.

CONTRARY TO LAW" (Records, p. 1)

During arraignment on May 6, 2010, accused-appellant pleaded NOT GUILTY to the charge against him. Trial on the merits ensued where the prosecution presented PO3 Efren de los Santos (PO3 delos Santos) together with PO2 Efren Pascua Mimis and PO2 Bernard Merdegia as witnesses. Meanwhile, the defense presented accused-appellant as one of the witnesses together with Antonio Navarro (Navarro), Arvin Mercado (Mercado) and Gilbert Tolentino (Tolentino).

On April 1, 2010 around 1:00 o'clock in the morning, PO3 Efren delos Santos together with PO2 Efren Mimis and PO2 Bernard Merdegia were patrolling along Marcos Alvarez Avenue when a concerned citizen reported a stabbing incident along said street. On their way to where the reported incident took place, they saw accused-appellant running towards Sta. Rita Street with a knife in his left hand which caused them to arrest him. PO3 delos Santos alighted from the patrol to

arrest accused-appellant who did not resist so they went to the precinct after his constitutional rights were reiterated to him.

While they were heading towards the precinct, a witness informed them that accused-appellant's victim, Angelito Blanca was brought to Las Piñas Medical Center for medical treatment. However, the victim later passed away. After the incident was recorded in the police blotter, accused-appellant was brought to the Las Piñas District Hospital for medical examination. Accused-appellant was then turned over to the police station for further investigation and the apprehending officers executed a Complaint and Joint Affidavit of Arrest.

On the other hand, accused-appellant testified that on April 1, 2010 he had a drinking spree with his friends Navarro, Mercado and Tolentino. As they were leaving the beerhouse at around 1:00 o'clock in the morning, they came across two (2) dispatchers asking for money to buy alcohol. Accused-appellant declared that he answered back saying that they spent their money during the drinking session. Consequently, one of the two men punched accused-appellant then Navarro and Mercado ran away. Tolentino was able to catch accused-appellant before he could fall on the ground. Accused-appellant grappled for the knife which one of the men was holding and he ran farther as four (4) more men arrived throwing stones at him. As soon as the men caught up with accused-appellant, the latter accidentally stabbed Angelito Blanca. Accused-appellant also claims that it was done out of self-defense.

The RTC was not persuaded with the testimonies of the defense as they had inconsistencies in their narrations as to how the incident really happened. Hence, on May 11, 2012, the RTC rendered its decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, this court finds the accused NOEL SABATER MALANA GUILTY beyond reasonable doubt of the offense of Violation of the Omnibus Election Code and he is hereby sentenced to an indeterminate sentence of one (1) year of imprisonment as minimum to two (2) years of imprisonment as maximum, not subject to probation; and he shall suffer DISQUALIFICATION to hold public office and DEPRIVATION of the right of suffrage.

SO ORDERED." (Records, p. 360)

Dissatisfied, accused-appellant filed an appeal in this Court with the following assigned errors:

I.

THE COURT A QUO GRAVELY ERRED IN CONVICTING SABATER DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.

II.

THE COURT A QUO GRAVELY ERRED IN CONVICTING SABATER DESPITE THE CREDIBILITY OF THE DEFENSE WITNESSES.

III.

THE COURT A QUO GRAVELY ERRED IN CONVICTING SABATER DESPITE HIM BEING ABLE TO JUSTIFY HIS POSSESSION OF THE BLADED WEAPON.

Accused-appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt. He avers that the RTC was mistaken in not giving credence to the testimonies of the defense witnesses. He argues that he should not be held liable for the possession of the knife as he only acted in self-defense from the unlawful aggression exerted by the victim.

The appeal is without merit.

After a thorough review of the records, this Court is of the view that the RTC is correct in its findings of fact. Indeed, the testimonies of the defense witnesses, as found by the RTC, are in conflict with each other. Evidence to be believed must not only proceed from the mouth of a credible witness but it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstances. In addition, the question of credibility of witnesses is primarily for the trial court to determine. For this reason, its observations and conclusions are accorded great respect on appeal. (*Abenes v. Court of Appeals*, 515 SCRA 690 [2007])

The trial court's assessment of the credibility of a witness is entitled to great weight. It is conclusive and binding unless shown to be tainted with arbitrariness or unless, through oversight, some fact or circumstance of weight and influence has not been considered. (*People v. Barde*, 631 SCRA 187[2010]). Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily, his assessment of the credibility of witnesses deserves high respect by appellate courts. (*People v. Corpuz*, 482 SCRA 435 [2006]) Thus, the Court finds no cogent reason to disturb the findings of the lower court that accused-appellant was guilty beyond reasonable doubt of the offense of Violation of Section 261 (q) of the Omnibus Election Code in relation to Section 32 of R.A. 7166 for possession of a dangerous weapon.

The different version of the defense witnesses on the surrounding circumstances of the incident negates his claim of innocence. The testimonies of the defense witnesses on how the incident happened differs on material points such as: a) the number of dispatchers who extorted money; b) on whether there were other persons who arrived to help the dispatchers; c) the number of the persons who pursued the group of accused-appellant and the weapons they were holding; and more importantly d) whether or not accused appellant immediately stabbed the victim or the victim was stabbed after the group of accused-appellant were pursued.

Antonio Navarro testified that he saw the incident 5 to 7 meters away while accused-appellant was accompanied by Arvin Mercado. Three (3) men were trying to extort money from accused-appellant and punched the latter. One of the men pulled out a knife, but, accused-appellant was able to get hold of the knife and immediately stabbed the person attacking him.

Gilbert Tolentino testified that he was with accused-appellant and Arvin Mercado