

## SPECIAL FOURTH DIVISION

[ CA-G.R. CR NO. 34991, May 29, 2014 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BENJIE LAGAO Y GARCIA @ BINGO, ACCUSED-APPELLANT.**

### D E C I S I O N

**TOLENTINO, A.G., J.:**

This is an appeal under Rule 122 of the Revised Rules of Court seeking to annul and set aside the decision<sup>[1]</sup> dated April 24, 2012 and the order<sup>[2]</sup> dated May 24, 2012 of the Regional Trial Court (RTC) of Bauang, La Union, Branch 33.

The antecedents of this case are as follows:

Alfredo Nerida, Sr., as the father of the late Anthony Nerida, filed a complaint<sup>[3]</sup> against the accused for homicide with the Office of the Provincial Prosecutor in Agoo, La Union. Finding probable cause to the crime charged, an information<sup>[4]</sup> dated April 30, 2008 was filed against the accused with the Regional Trial Court (RTC) of Bauang, La Union. The information reads as follows:

"That on or about 20th day of February 2008, in the Municipality of Bauang, Province of La Union, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, hit and struck with the use of a hard object, one ANTHONY SUMAD-ONG NERIDA and inflicting upon said person fatal injuries which caused his untimely death, to the damage and prejudice of the heirs of said victim.

CONTRARY TO LAW."<sup>[5]</sup>

When arraigned, the accused-appellant pleaded "not guilty" to the crime charged.

On April 24, 2012, the RTC rendered a judgment finding the accused guilty beyond reasonable doubt of the crime of homicide. The dispositive portion of the decision<sup>[6]</sup> dated April 24, 2012 reads:

**"WHEREFORE**, the Court finds and declares the accused **BENJIE LAGAO Y GARCIA, guilty beyond reasonable doubt**, of the crime of Homicide, and hereby sentences him to suffer the indeterminate penalty of **EIGHT (8) YEARS and ONE (1) day of prision mayor**, as minimum to **TWELVE YEARS and ONE (1) DAY of reclusion temporal**, as maximum; to pay the heirs of the victim Anthony Nerida, the following amounts:

- a) Php18,600, as actual damages;**
- b) Php50,000.00 for moral damages;**

**c) Php50,000.00 death indemnity;  
d) and to pay the costs.**

**SO ORDERED.”<sup>[7]</sup>**

A motion for reconsideration was filed by the accused, through the Public Attorney's Office, but the said motion was denied for lack of merit in the order<sup>[8]</sup> dated May 24, 2012. The order reads as follows:

“There being no cogent reason to reconsider the Decision, dated April 24, 2012, coupled with the fact that no new issue is raised to compel the reversal of the assailed decision, the motion is DENIED for lack of merit.

Meantime, the prayer for the increase of bail bond filed by the Public Prosecutor is granted and accused is ordered to post an additional bond of Php20,000.00, failing which, the Court shall order his immediate arrest.

**SO ORDERED.”<sup>[9]</sup>**

A notice of appeal<sup>[10]</sup> was filed by the accused, through the Public Attorney's Office, with the RTC of Bauang, La Union, Branch 33 on May 24, 2012.

Hence, this appeal.

The issue in this case is whether or not the RTC committed serious errors in finding the accused-appellant guilty of the crime charged beyond reasonable doubt.

THE APPEAL IS BEREFT OF MERIT.

The accused-appellant contended that the prosecution witnesses, namely Ricardo De Guzman and Ryan Cruz, were not eyewitnesses to the commission of the crime, and their testimonies were not based on their personal knowledge nor derived from their own perception. The said witnesses merely testified on facts relayed to them by the deceased victim. Thus, their testimonies were mere hearsay and they are inadmissible in evidence. In finding the accused-appellant guilty beyond reasonable doubt to the crime charged, the RTC committed serious errors in rendering its decision based on the testimonies of the said prosecution witnesses because moral certainty was not established that the accused-appellant indeed committed the crime of homicide.

Section 36 of Rule 130 of the Revised Rules of Court states the rule on hearsay evidence as follows:

*"Sec. 36. Testimony generally confined to personal knowledge; hearsay excluded. — A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules."*

Under the above rule, any evidence, whether oral or documentary, is hearsay if its probative value is not based on the personal knowledge of the witness, but on that of some other person who is not on the witness stand. Hence, the information that is relayed to the witness by some other person before it reaches the court is considered hearsay.