

SIXTEENTH DIVISION

[CA-G.R. CR-HC NO. 04241, June 30, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARLON SORIANO Y NARAG, ACCUSED-APPELLANT.**

DECISION

CORALES, J.:

This is an appeal^[1] from the October 30, 2009 Judgment^[2] of the Regional Trial Court (RTC), Branch 3, Tuguegarao City, Cagayan in Criminal Case No. 10121 finding accused-appellant Marlon Soriano (Marlon) guilty of murder under Article 248 of the Revised Penal Code (RPC), as amended by Republic Act No. 7659.

The Antecedents

On February 9, 2004, Marlon stabbed and hacked to death his uncle, Perfecto Narag (Perfecto), a retired Philippine Army soldier who was then 71 years old. Based on the Autopsy Report^[3] prepared by Dr. Eugenio Dayag (Dr. Dayag), Perfecto succumbed to the following injuries:

Findings: Multiple stab wounds, head, chest & back region. Laceration on the left hand. Lacerated wound on the left side of the face.

Cause of Death: Severe internal injuries due to multiple stab wounds, head, chest and back region.

Immediately after the incident, Marlon surrendered to *Barangay* Councilman Benigno Lucas (Lucas) who brought him to the *Pulisya ti Umili* (PTU) in Annafunan.^[4]

On February 10, 2004, Marlon was charged with murder under an Information^[5] which reads:

That on February 9, 2004, in the City of Tuguegarao, Province of Cagayan and within the jurisdiction of this Honorable Court, accused MARLON SORIANO y NARAG, armed with a bladed weapon, with intent to kill and with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously stab to death victim PERFECTO NARAG, husband of complainant EDERLINA A. NARAG, inflicting upon him mortal stab wounds which caused his untimely death.

That the crime was committed with the aggravating circumstance of dwelling, and in disregard of the respect due to the offended party on account of his age, being an old man.

When arraigned, Marlon pleaded not guilty to the crime charged^[6] but during the initial presentation of evidence for the prosecution, he proposed to plead guilty,

without prejudice to his right to prove mitigating circumstance. Accordingly, Marlon was re-arraigned with the assistance of a counsel *de oficio* and his earlier plea of not guilty was withdrawn and changed to a guilty plea.^[7] However, Marlon was re-arraigned after the court discovered that his guilty plea was not in accordance with Section 3, Rule 116^[8] of the Revised Rules of Criminal Procedure and the same was improvidently made because he did not truly understand the full consequences of his plea. After reading to him the Information in *Itawes* dialect, which he fully understood, Marlon entered a plea of not guilty.^[9]

As culled from the testimonies of the prosecution's witnesses, it appears that in the afternoon of February 9, 2004, Perfecto was inside his room when Marlon arrived. Her aunt Ederlina Narag (Ederlina), Perfecto's wife, saw him and asked why he was looking for his uncle. Marlon replied that he only wanted to know who between them is tougher. Suddenly, Marlon went inside the house and into Perfecto's room. Ederlina noticed Marlon's bladed weapon so she followed him and shouted at Perfecto, "*Etong, close your door because Marlon is here!*" Still, Marlon was able to get in and attacked Perfecto. Ederlina tried to stop him, but the latter pushed her and injured her in the process.

Villamor Pagulayan (Villamor), a nephew of Perfecto and Juanita and driver of the victim's tricycle since 2002, happened to be in the garage of the latter's house and heard Marlon looking for Perfecto. Afterwards, Villamor heard Ederlina shouting. He ran inside the house and proceeded to Perfecto's room where he saw Marlon stabbing his uncle. He immediately wrapped his left arm around Marlon's neck, held the latter's right hand and dragged him out of the room. Villamor returned to Perfecto but Marlon followed and tried to stab him. He went out again and chanced upon Martin Soriano (Martin), Marlon's brother. Instead of helping Villamor, Martin grabbed him by the neck and threatened him not to report the incident to the police. When Villamor was able to break free from Martin's grip, he boarded a tricycle and proceeded to the police station.^[10]

SPO4 Guinucay and SPO2 Alay-ay were dispatched to the crime scene. They found Perfecto lying in a pool of blood with multiple stab wounds.^[11] Ederlina and Villamor brought Perfecto's mangled body to the People's Emergency Hospital (PEH) in a desperate attempt to revive him.^[12]

Dr. Dayag, a former municipal health officer, conducted the autopsy^[13] on Perfecto's cadaver and prepared the latter's death certificate.^[14] He opined that the wounds at the back area were likely caused by a very forceful blow of a chisel while the wounds at the front area were inflicted by a sharp, pointed instrument.^[15]

Meanwhile, Marlon surrendered to Lucas who brought him to PTU Annafunan. He admitted the killing but gave a different account of what transpired. According to Marlon, his family and Perfecto had a misunderstanding over a land inherited by Marlon's mother and Perfecto. Whenever Perfecto gets drunk, he would drive Marlon and his family away from their place. In the afternoon of February 9, 2004, Perfecto went to Marlon's house shouting and asking him to go out. When he tried to confront his uncle, the latter swung his bolo hitting him in the knee. Marlon ran to the kitchen and got a chisel. As he was emerging from the door, Perfecto tried to hack him again but before he could be hit, Marlon stabbed Perfecto. They were already three (3) meters away from Marlon's house when the scuffle occurred and

there were several onlookers but no one tried to pacify them. After his surrender, the police officer allegedly brought Marlon to the PEH to treat his wounded knee, however, he was unable to get a copy of his medical certificate.^[16]

The Ruling of the RTC

In its October 30, 2009 Judgment,^[17] the RTC noted Marlon's admission that he stabbed Perfecto and stressed that the only issue for resolution was the imposable penalty. It did not consider evident premeditation but appreciated the qualified aggravating circumstance of treachery because of the manner by which the killing was executed. The court *a quo* found that Perfecto was totally unaware of the imminent danger against his person when Marlon attacked him inside his house. The fact that Ederlina warned Perfecto of Marlon's presence is of no moment because the victim was unable to defend himself considering that he was unarmed. It stressed that Marlon deliberately chose a manner of attack that insured the attainment of his evil design without detriment to himself. The RTC did not also give credence to Marlon's claim that the stabbing occurred outside of Perfecto's house and gave more weight to Ederlina's testimony that the stabbing happened inside Perfecto's room as corroborated by Villamor and SPO4 Guinucay.

In computing the penalty, the court *a quo* held that the mitigating circumstance of voluntary surrender offset one of the two generic aggravating circumstances, *i.e.*, dwelling and disregard to the victim's age, but considering that the penalty for murder is indivisible, the higher penalty would be imposed. It then disposed the case as follows:

WHEREFORE, the accused **MARLON SORIANO** y Narag is found **GUILTY** beyond reasonable doubt of **MURDER** as defined in Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659 and is hereby sentenced to suffer the penalty of *Reclusion Perpetua* without possibility of parole. Said accused is **ORDERED** to pay the heirs of Perfecto Narag the amount of P75,000.00 as civil indemnity; P75,000.00 as stipulated actual damages; P50,000.00 as moral damages; and P25,000.00 as exemplary damages; and to pay the costs of suit. (Emphasis appears in the original text of the Judgment)

Insisting on his innocence, Marlon filed the present appeal with this lone assignment of error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF MURDER DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH WITH MORAL CERTAINTY THE QUALIFYING CIRCUMSTANCE OF TREACHERY.^[18]

Marlon faults the RTC in giving credence to Villamor's testimony because he allegedly did not witness the actual stabbing of Perfecto. He also questions Villamor and Ederlina's credibility due to their alleged bias considering their relationship with Perfecto. He alleges that the RTC erred in disregarding SPO1 Tangan's testimony which corroborated Marlon's claim that Perfecto hacked him with a bolo prompting him to get a chisel and stab his attacker. In essence, Marlon contends that Perfecto provoked him to retaliate and the stabbing happened as a spur of the moment, not as a result of a pre-concieved or deliberate attack, which negates the presence of treachery.

This Court's Ruling

The appeal lacks merit.

Testimonies of Prosecution's Witnesses More Credible than Accused-Appellant's

It has been held time and again that factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies and the conclusions based on these factual findings are to be given the highest respect^[19] because it had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination.^[20] On the other hand, the reviewing magistrate has none of the advantages peculiar to the trial judge's position, and could rely only on the cold records of the case and on the judge's discretion.^[21] Thus, the trial court's assessment of the credibility of witnesses and their testimonies would not be disturbed absent any showing that it has overlooked, misapprehended or misapplied certain facts or circumstances of weight and substance which could substantially affect the outcome of the case.^[22] We assiduously examined the records and We find no reason to either depart from this established doctrine or to review, much less, overturn the factual findings of the court *a quo*.

Marlon tried to destroy the credibility of the prosecution's witnesses by belaboring on their relationship with the victim, Ederlina and Villamor being Perfecto's wife and nephew, respectively. Such emphasis is misplaced. Blood relationship between a witness and the victim does not, by itself, impair the credibility of the witness. In fact, the relationship with the victim would render the testimony more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit. There is absolutely nothing in our laws to disqualify a person from testifying in a criminal case in which said person's relative was involved, if the former was really at the scene of the crime and was a witness to the execution of the criminal act.^[23] Indisputably, Ederlina was with Perfecto in their home when Marlon attacked his uncle. She clearly described the events that took place before, during, and after her husband was stabbed and her testimony remained consistent and unwavering even on cross-examination. Thus, her positive testimony is enough to convict Marlon of the crime charged.

Further, Marlon's claim that the stabbing occurred outside of their respective houses does not inspire belief. We quote with approval the following disquisition of the RTC, *viz.*:

The version of the accused that the stabbing incident happened outside their house cannot be given credence. First, it is uncorroborated even if accused claimed that there were persons outside their house during the incident. Second, the testimony of prosecution witnesses Villamor Pagulayan and Ederlina Narag that the accused stabbed the victim inside the latter's room was corroborated by SPO4 Avelino Guinucay who testified that he found the victim's body with multiple stabbed (*sic*) wounds lying inside his room with a pool of blood. Defense conveniently did not present evidence on what happened to the victim after the stabbing incident that should have explained why the victim's body was