

SPECIAL TWELFTH DIVISION

[CA-G.R. CR-HC No. 05583, June 09, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NEHEMIAS CASTULO, ACCUSED-APPELLANT.**

DECISION

PAREDES, J.:[*]

After all, mas vale que queden sin castigar diez reos presuntos, que se castigue uno inocente. Courts should be guided by the principle that it would be better to set free ten (10) men who might be probably guilty of the crime charged than to convict one (1) innocent man for a crime he did not commit^[1].

THE CASE

THIS IS ON THE APPEAL filed by accused-appellant NEHEMIAS CASTULO (*appellant*) from the Decision^[2] dated May 3, 2012 of the Regional Trial Court (RTC), Branch 51, Tayug, Pangasinan, in Criminal Case No. T-5028 for Murder with the use of unlicensed firearm, finding appellant guilty of the crime charged. The dispositive portion of the assailed Decision reads, thus:

WHEREFORE, having found beyond reasonable doubt that the accused NEHEMIAS CASTULO is guilty of Murder, defined and penalized under Article 248 of the Revised Penal Code, as charged, the Court hereby sentences him to suffer the penalty of reclusion perpetua, and to indemnify the heirs of the late Nelson Magpali for damages in the stipulated sum of P150,0000.00.

Costs are for his account.

SO ORDERED.

THE ANTECEDENTS

On July 9, 2010, after having his motorcycle serviced, Nelson Magpali (*Nelson*) went home, had a bottle of beer and went to sleep. His wife, Ana Maria, and son, Nelson, Jr., went out to attend a wake while his two other children were at a computer cafe. On their way to the wake, Ana Maria and Nelson, Jr. passed by their neighbor, Allan Ladines (*Ladines*), sitting in front of his house.

At past 10 o'clock in the evening, Ana Maria and Nelson, Jr. went home and found Nelson's body with multiple gunshot wounds. She learned from her brother-in-law, Sonny Magpali (*Sonny*), that Ladines and appellant killed her husband. On June 12, 2010, she executed a Sworn Statement^[3] regarding the incident^[4].

On September 23, 2010, the Office of the Provincial Prosecutor (*OPP*) filed an (Amended) Information^[5] charging Ladines and Nehemias Castulo (*as corrected*

from Casiano Castulo, Jr. in the original Information) of murder with the use of unlicensed firearms, committed as follows:

That on or about 10:00 o'clock in the evening of July 9, 2010 at Brgy. Legaspi, municipality of Tayug, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to kill, evident premeditation and use of superior strength, qualified by treachery and with the use of unlicensed firearms, did then and there willfully, unlawfully and feloniously shoot NELSON MAGPALI hitting different parts of his body, which caused his death, to the damage and prejudice of the heirs of said Nelson Magpali.

CONTRARY to Article 248 of the Revised Penal Code.^[6]

The accused remained at large. However, appellant voluntarily surrendered and, on January 25, 2011, appellant was arraigned^[7] and entered a plea of "Not Guilty".

Ladines remained at large. However, on reliable information received by the court *quo* that Ladines had died, the RTC by Order^[8] dated March 3, 2011, directed that he be dropped from the Information.

The prosecution presented the testimonies of the widow, Ana Maria Magpali^[9] and Sonny Magpali^[10].

On the other hand, the defense presented the testimonies of appellant^[11], Barangay Captain Eugenio Supian^[12], Alfredo de Guzman (*aka Fred*)^[13], Zaldino Apolinario^[14], appellant's father, Casiano Castulo (*Casiano*)^[15], Ricardo Magbanua^[16], appellant's sister and wife of Ladines, Irene Castulo-Ladines^[17], and appellant's other sister, Imelda Alvarado^[18].

According to the prosecution, Sonny was at home at around 9 o'clock in the evening of July 9, 2010, watching a movie on DVD when he heard gunshots coming from the direction of Nelson's house. His house and Nelson's house are aligned, together with the house of another brother, Napoleon Magpali (*Napoleon*), three in a row, with the house of Napoleon in the middle. His house was 10 to 15 meters away from the house of Nelson. He stood up, opened the back door a crack and peered through it. He saw appellant holding a short gun standing beside Nelson's house. He also saw Ladines, with a short handgun, emerge from Nelson's house through the front door. The two walked away slowly at the back of Nelson's house. Sonny closed his door.

Five to ten minutes later, he heard his sister-in-law scream. He rushed to his brother's house. He proceeded to Nelson's room and saw him covered in blood. He told Ana Maria that he saw appellant and Ladines. When the police arrived to investigate, Sonny remained indoors, trembling. Later, Sonny told PO3 Alonzo that he saw appellant at the side of his brother's house and he saw Ladines coming out the front door. He gave his statement^[19] only on July 12, 2010, because he had to attend to the wake and burial of his brother, Nelson^[20].

On cross-examination, it was brought out that Casiano, appellant's father, his brother, Leo Castulo, and Ladines had filed cases of attempted and frustrated murder^[21] against Nelson, Sonny and a certain Mario Quines before the Municipal

Circuit Trial Court of Tayug-San Nicolas, Pangasinan. During the pendency of these cases, Sonny's nephew, Rocky Magpali, stabbed Sonny during a family squabble. Appellant and a nephew, Jonathan Castulo, brought Sonny to the hospital.

The defense denied the accusation.

Appellant was involved in treasure hunting with Ladines. On July 9, 2010, after their treasure hunting in Aguilar, he lay exhausted at the hut and promptly fell asleep. Ladines excused himself at around 3 o'clock in the afternoon to go to Gabaldon, Nueva Ecija, where he and his family lived. That Ladines was in Gabaldon on the date of the incident was corroborated by the latter's wife/widow, Irene, Barangay Captain Eugene Sapien of Ligaya, Gabaldon, and his co-brothers in the Iglesia Ni Cristo, Zaldino Apolinario and Ricardo Magbanua, who were also, like Ladines, voluntary guards of the church.

With appellant at the hut were his father, Casiano, Alfredo de Guzman, his and Ladines' companion on their treasure hunting venture, and a ward, Isko. He did not hear the gunshots, but Fred did and shook him awake. He told De Guzman that the gunfire probably came from policemen who were practising target shooting near the creek at the back of their house. When they heard some commotion at the street, they went out and joined the on-lookers. They learned that Nelson had been shot. They returned to the hut and went back to sleep. Appellant stayed in their house days after the incident and it was only in August or September 2010 that he learned that his father was being accused. The warrant was thereafter corrected and, instead, he was named therein. He presented several witnesses to corroborate his testimony^[22].

The RTC gave more weight to the evidence presented by the prosecution; thus, this appeal^[23].

THE ISSUE

The core issue is whether or not appellant is guilty of murder beyond reasonable doubt.

Appellant contends that his guilt was not proven beyond reasonable doubt as there was no eyewitness to the incident. The RTC only based its decision on circumstantial evidence. Further, it is error on the part of the RTC to believe Ana Maria's testimony which tended to establish, that: first, the presence of Ladines in the vicinity as she stepped out of the house and saw him spying on her; second, when she arrived at the wake she was greeted by Casiano Castulo, the father of appellant and father-in-law of Ladines; third, while at the wake, she heard the son of Ladines asking Imelda Castulo Alvarado (*Imelda*), sister of appellant, if she saw Ladines and heard Imelda answer in the negative; fourth, that she again heard the boy telling Imelda that he had already seen Ladines with another person riding a motorcycle.

Appellant asserts that Sonny, the victim's brother, did not see anything as shown by his inaction for three days since the occurrence of the incident. Rather, the three-day delay in the execution of his statement implicating the accused was the product of reflection, deliberation and fabrication. Appellant contends that Sonny holds a grudge against Ladines because the latter filed a case against him and Nelson for frustrated murder in 2007 which was settled in 2009. Casiano Castulo also filed an attempted murder case against Nelson in 2007. Moreover, Nelson killed his own

brother because they had a quarrel. Lastly, when Sonny was stabbed by his nephew, it was appellant and a nephew who brought him to the hospital.

THE COURT'S RULING

The appeal is meritorious.

It is a constitutional and a well-entrenched principal in criminal law that an accused is presumed innocent until proven guilty. This presumption can only be overcome by evidence proving the guilt of an accused beyond reasonable doubt. Jurisprudence abound as to what constitutes a finding of guilt beyond reasonable doubt. It has been held that the evidence presented by the prosecution must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The proof must be to the satisfaction of the court, keeping in mind the presumption of innocence, as precludes every reasonable hypothesis except that which it is given to support it. An acquittal based on reasonable doubt will prosper even though the accused's innocence may be doubted, for a criminal conviction rests on the strength of the evidence of the prosecution and not on the weakness of the defense^[24]. The burden of proving the same lies on the prosecution for it is likewise a truism that Courts should be guided by the principle that it would be better to set free ten men who might be probably guilty of the crime charged than to convict one innocent man for a crime he did not commit^[25].

In the case at bar, there was no eyewitness to the crime. The RTC relied only on the testimonies of Ana Maria and Sonny which are, at best, circumstantial. It is settled that in the absence of an eyewitness, a conviction may be based on circumstantial evidence which requires that:

1. there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. Hence, it has been held that a judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute an unbroken chain leading to one fair and reasonable conclusion, to the exclusion of any other, that the accused are guilty. The circumstances proved must be concordant with each other, consistent with the hypothesis that the accused is guilty and, at the same time, inconsistent with any hypothesis other than that of guilt. As a corollary to the constitutional precept that the accused is presumed innocent until the contrary is proved, a conviction based on circumstantial evidence must exclude each and every hypothesis consistent with his innocence.^[26]

The RTC gave credence to the testimony of Sonny that he did not see who killed Nelson; that after hearing the gunshots, he saw appellant standing at the side of Nelson's house; that he saw Ladines go out the front door of the house; that both walked slowly away; that both were armed with guns; and that he identified appellant because the place where he was standing was well lighted. It was admitted that the shooting of the victim was heard by several people as testified to by Sonny and Ana Maria. Ana Maria narrated that while she was at the wake, somebody told her that a shooting occurred but she dismissed it and continued playing cards^[27]. It was not explained by the prosecution why Sonny's testimony with regard to seeing the appellant and Ladines at the crime scene was not corroborated by any other person. In the normal course of things, a perpetrator of a