

SIXTH DIVISION

[CA-G.R. CR-H.C. NO. 05540, November 17, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERT BETAY AND MANSUETO BETAY, ACCUSED-APPELLANTS.

DECISION

BALTAZAR-PADILLA, J.:

On appeal is the April 24, 2012 Decision^[1] of the Regional Trial Court, Branch 22 of Cabagan, Isabela (hereinafter, "RTC") finding appellants Albert Betay and Mansueto Betay guilty beyond reasonable doubt of the crimes of Multiple Murder and Frustrated Murder in Criminal Case No. 22-2129.

Appellants, together with two (2) unidentified persons designated as John Doe and Peter Doe, were charged with the crime of Multiple Murder and Frustrated Murder before the RTC under an Amended Information^[2] which reads -

"The undersigned Fourt Assistant Provincial Prosecutor accuses, ALBERT BETAY, MANSUETO BETAY, JOHN DOE and PETER DOE, of the crime of MULTIPLE MURDER AND FRUSTRATED MURDER, defined and penalized under Article 248 of the Revised Penal Code, committed as follows:

That on or about the 5th day of July, 2007, in the municipality of Cabagan, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused, Albert Betay, Mansueto Betay together with John Doe and Peter Doe, whose identities are still to be determined, conspiring, confederating together and helping one another, with intent to kill and with evident premeditation, treachery, did then and there, willfully, unlawfully and feloniously, stage an ambush, explode a land mine and assault, attack and shoot with a gauge 12 shotgun for several times the persons of Barangay Captain Adriano Taccang [sic], Carmen Taccang [sic] and Juanito Layugan @ Ryan inflicting upon the said Barangay Captain Adriano Taccang [sic], multiple gunshot wounds on the chest and neck (R) and upon the person of the said minor Juanito Layugan @ Ryan multiple gunshot wound[s] (L), lateral side of the skull ® [sic] and (L) arm, which directly cause[d] their deaths and upon the said Carmen Taccang [sic], a gunshot wound on the left arm, which injury would ordinarily caused [sic] her death, thus performing the acts of execution which should have [produced] the crime of Murder, as a consequence, but nevertheless did not produce it by reason of causes independent of their will, that is, by the timely and able medical assistance rendered to the said Carmen Taccang [sic] which prevented her death.

That during the commission of the crime, the said accused, not being allowed nor authorized by law to keep, possess and carry firearm and ammunitions, did then and there, willfully, unlawfully and feloniously, have in their possession and under their control and custody, the gauge 12 gunshot with live ammunitions for the same, which they used into shooting to deaths [sic] the said Barangay Captain Adriano Taccang [sic] and Juanito Layugan @ Ryan, without first having obtained the necessary permit and/or license therefore [sic].

CONTRARY TO LAW."

Appellants were arraigned and pleaded not guilty to the charges against them.

During pre-trial, the prosecution and the defense stipulated on the following facts: (1) the place and time of the commission of the crimes; and (2) at the time of the commission of the crime, the victim Adriano Tacang was the incumbent Barangay Captain of Pilig Alto, Cabagan, Isabela.^[3]

Trial ensued where the prosecution presented Carmen Tacang, Joel Marayag, Eduardo Castillo, Dr. Marivic Dela Peña, Dr. Anthony Abogado and Joel Sangco as witnesses while the defense presented Orlanda Dela Fuente, Miguel Sagadrace and herein appellants.^[4]

The parties' respective versions of the facts of the case were summarized by the trial court in this wise -

"PROSECUTION'S VERSION

Carmen Tacang and her husband Adriano Tacang who was then the barangay captain of Pilig Alto, Cabagan, Isabela on July 5, 2007, started their day, manning their store which was situated 200 meters from their residence. The store was in operation for the past ten (10) days consisted mainly of serving snacks such as noodles. The spouses Tacang opened their store at 5:00 o'clock in the morning and closed at 7:00 to 8:00 o'clock in the evening.

On July 5, 2007, after a day of toiling at the store, the spouses Tacang called it a day and prepared going home. They were accompanied by their ten year old grandson Juanito Layugan @ Ryan. They left the store to the care of barangay tanods, Michael Sagadraca, Redentor Bagunu and Ronaldo Jose. They left at 7:30 o'clock in a motorcycle driven by Adriano Tacang, their grandson Ryan sat between Adriano and Carmen Tacang. While traversing the road or about thirty (30) meters from their store, someone fired at them, hitting the left arm of Carmen who informed her husband that she was hit. Adriano then turned the motorcycle to his left and it was then that the headlight of the motorcycle focused on the person of Albert Betay who was with Mansueto Betay who were armed with long firearms. Carmen was able to recognize them as both of them

are her barangay mates. As Adriano Tacang was turning his motorcycle, a second shot emanated from Mansueto Betay hitting her husband Adriano at his chest killing him instantaneously. Their grandson was likewise killed at the first gunshot. Carmen Tacang left the place and proceeded to the hospital in Tuguegarao City, Cagayan. She was accompanied by Mila Laguinday, Aning Campano, Darwin Laguinday and his wife Linda Laguinday. Carmen was treated of her gunshot wound in Cagayan Valley Medical Center and was confined thereat for four (4) days. While undergoing treatment at the CVMC, she went home to attend the wake and burial of her husband who was laid in state in the house of her younger sibling in Magassi, Cabagan, Isabela. She went back to CVMC and continued her treatment. She spent One Hundred Ninety-Five [sic] (P195,000.00) Pesos for the funeral and medical expenses which included surgical procedure.

DEFENSE' VERSION

On July 5, 2007 at about 6 o'clock in the evening, Mansueto Betay was at the house of his brother Leon Betay watching television in Pilig Alto, Cabagan, Isabela. Aside from Leon Betay's family, Orlanda Dela Fuente, Ato Betay and Kikoy Dapena were there. While they were watching a program at the television, Marivic Betay, wife of Leon Betay, heard a gun report. She went out of the kitchen and met a neighbor, Belen Managuelod, who told her that their Barangay Captain Adriano Tacang was shot. Marivic Betay then informed his [sic] brother-in-law Mansueto Betay who was barangay tanod at that time that Adriano Tacang was shot. Mansueto Betay immediately went to the scene of the incident followed by Leon and Marivic Betay as well as Orlanda Dela Fuente and Kikoy Dapena. When they arrived at the scene of the crime, there were already persons milling around the dead bodies of Adriano Tacang and Ryan Layugan on the barangay road. Mansueto Betay overtook his fellow barangay tanods Eduardo Dela Fuente, Romualdo Jose and Edilberto Balingao carrying the dead body of Ryan Layugan. Mansueto Betay and his co-tanods guarded the dead bodies and waited for the arrival of police officers. When the policemen arrived, they conducted investigation. Mansueto Betay did not see Carmen Tacang, his first cousin at the scene of the incident, he learned that she was already brought somewhere at the curved [sic] of the road. Two members of SOCO likewise arrived and investigated. Mansueto Betay helped in carrying the dead bodies of Ryan Layugan and Adriano Tacang to be brought to Funeraria Rumbaua.

Albert Betay claimed that he shot Adriano Tacang in defense of himself. In the evening of July 5, 2007, Albert Betay was walking towards Barangay Fermeldy to visit his aunt. He met Adriano Tacang who was driving his motorcycle. He saw Adriano Tacang poked his firearm at him. Before Adriano Tacang could fire his shot, Albert Betay shot Adriano Tacang twice. He went home to Masipi East, Cabagan, Isabela and went to Barangay Kagawad Nida Sarmiento and sought her advice. Nida Sarmiento told him that she will bring him to SB Masigan who brought him to the police station of Cabagan, Isabela on July 17, 2007."^[5]

On April 24, 2012, the trial court convicted both appellants, thus-

"WHEREFORE, premises considered, the court hereby finds the accused Albert Betay and Mansueto Betay, both GUILTY beyond reasonable doubt for the crime [sic] charged of Multiple Murder and Frustrated Murder, and accordingly sentences each of the said accused to a Prison Term of Reclusion Perpetua, pursuant to Article 48 and Article 248 of the Revised Penal Code.

In addition, the accused are hereby ordered to pay, jointly and severally the following:

1) To the heirs of Adriano Tacang:

a) Fifty Thousand (P 50,000.00) Pesos as Moral Damages.

b) Fifty Thousand (P 50,000.00) Pesos as Actual Damages.

2) To the heirs of Ryan Layugan:

a) Fifty Thousand (P 50,000.00) Pesos as Moral Damages.

b) Fifty Thousand (P 50,000.00) Pesos as Actual Damages.

SO DECIDED."^[6]

Hence, this recourse by appellants anchored on the following assigned errors:

"I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS (SIC) GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

III

THE TRIAL COURT GRAVELY ERRED IN NOT FINDING EXISTENCE OF THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE ON THE PART OF ACCUSED ALBERT BETAY."^[7]

Appellants contend that the trial court erred in giving credence to the testimony of Carmen Tacang. Her narration that she recognized appellants as the persons

responsible for the shooting because they were illuminated by the motorcycle's headlight when her husband tried to evade the gunshot should not be believed for being unrealistic. The act of Carmen Tacang of staying where she was during the firing incident was contrary to human experience because the natural reaction of a person when fired at would be to immediately seek cover. Appellants argue that it is a well-settled rule that evidence to be believed must not only proceed from the mouth of a credible witness but must be credible in itself – such as the common experience and observation of mankind can approve as probable under the circumstances. Since the statement of Carmen Tacang as to how she was able to know the identities of their assailants go against the natural human experience, the same should not be given full faith and credit by the court.

Appellant Albert Betay for his part, asserts that the trial court erred in not appreciating self-defense to free him of any liability. He insists that he killed Adriano Tacang in self-defense when the latter drew and poked a gun at him, otherwise, he could have been dead.

Appellants argue that inasmuch as their culpability was not sufficiently established, it follows that treachery is not attendant in this case. According to appellants, the rules require that the said qualifying circumstance be specifically alleged in the Information in order to properly inform the accused of the nature and cause of the accusation against him. The purpose is to allow the accused to prepare fully for his defense and prevent surprises during trial. It is also a rule that an aggravating circumstance must be proven as clearly as the crime itself.

Appellant Mansueto Betay stresses that in convicting them for the crimes, the trial court merely made a sweeping statement that the defense of denial and alibi cannot prevail over the positive identification made by the prosecution eyewitness. He argues that although it is a settled rule that denial and alibi are weak defenses, the Supreme Court had the occasion to rule in *People vs. Ladrillo*,^[8] that such defenses should not instantly be looked upon with disfavor since there are situations where an accused may really have no other defenses but denial and alibi which, if established to be the truth, may still tilt the scales of justice in his favor, especially when the prosecution's evidence itself is weak. Considering that the prosecution in this case failed to prove their guilt beyond reasonable doubt, their acquittal is in order.

The appeal must fail.

At the outset, WE must stress that the primary issue raised by appellants in their brief relates to the question of credibility of prosecution's eyewitness Carmen Tacang who is also a private complainant herself. The doctrinal rule is that findings of facts made by the trial court, which had the opportunity to directly observe the witnesses, and to determine the probative value of other testimonies, are entitled to great weight and respect because the trial court is in a better position to assess the same, an opportunity not equally open to an appellate court.^[9] The assessment of the credibility of witnesses and their testimonies is best undertaken by the trial court due to its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grilling examination.^[10] These significant factors are needed in unearthing the truth, especially in conflicting testimonies. The findings of the trial court on such matters are binding and conclusive on the