

THIRD DIVISION

[G.R. No. 215732, June 06, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHRISTOPHER BADILLOS, ACCUSED-APPELLANT.**

DECISION

MARTIRES, J.:

On appeal is the 23 April 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05864, which affirmed the 21 September 2012 Decision^[2] of the Regional Trial Court of Malolos, Bulacan, Branch 78, in Criminal Case No. 50-M-2008 finding herein accused-appellant Christopher Badillos (*Christopher*) guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code (*RPC*).

THE FACTS

On 5 November 2007, Christopher and a "John Doe" were charged with murder for the killing of Alex H. Gregory (*Alex*) in an Information, the accusatory portion of which reads:

That [o]n or about the 11th day of August 2007, in the [M]unicipality of Bocaue, [P]rovince of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, armed with a knife and with intent to kill one Alex H. Gregory, did then and there willfully, unlawfully and feloniously, with treachery attack, assault and stab with the said knife and hit with a piece of wood the said Alex H. Gregory, hitting the latter on the left portion of his chest, thereby inflicting upon him serious physical injuries which directly caused his death.

Contrary to law.^[3]

On 26 February 2008, Christopher, with the assistance of counsel, was arraigned and pleaded not guilty to the charge against him.^[4] Trial on the merits thereafter ensued.

Evidence for the Prosecution

The prosecution presented three (3) witnesses, namely: Domingo C. Gregory (*Domingo*), Jonathan Gregory (*Jonathan*), and Elsa H. Gregory (*Elsa*). The prosecution also sought the presentation of Cecilia Lopez (*Cecilia*), the forensic physician Police Superintendent James Margallo Belgira (*P/Supt. Belgira*), and Dr. Corazon Del Rosario (*Dr. Del Rosario*) as witnesses. Cecilia's testimony, however, was dispensed with in view of the defense's admission that it would only be

corroborative with the testimonies of Domingo and Jonathan. The testimonies of P/Supt. Belgira and Dr. Del Rosario were also dispensed with in view of the defense's admission of their respective qualifications, as well as the authenticity of the contents of the documents they were to identify. The combined testimonies of the prosecution witnesses sought to establish the following:

Domingo testified that on 11 August 2007, at around 7:00 P.M. or 8:00 P.M., he and his cousin, Alex, were walking home to Brgy. Malibo Matanda, Pandi, Bulacan, after attending the barrio fiesta of Barangay Sta. Clara, Sta. Maria, Bulacan.^[5] They were walking along an alley or "*tawid-bukid*" at Barangay Batia, Bocaue, Bulacan, when, suddenly, Christopher and an unidentified person appeared in front of them. Christopher was armed with a bladed weapon, while the unidentified person held a wooden club more particularly described as a "*dos por dos*."^[6] The unidentified person struck Alex with the wooden club three times hitting him on the nape and at the back of his head. Christopher followed by stabbing Alex once in his left chest.^[7] Alex was able to run at first but shortly after fell to the ground. The two assailants chased Alex, but they failed to catch him as residents from nearby houses started gathering near the scene. Thereafter, Domingo ran towards the house of his co-worker to ask for help.^[8] On cross-examination, Domingo stated that the place where the incident took place was well-lit by the street lights.^[9]

Domingo could not think of any reason or ill motive why Christopher and his companion would harm Alex.^[10] He recalled, however, that Alex and Christopher had an argument prior to the incident. He narrated that earlier that day, he, Alex, and Christopher were among the guests of a certain "*Bong*" at the barrio fiesta of Barangay Sta. Clara. At around 6:00 P.M., they were partaking of food and drinks together with other visitors when an altercation ensued between Alex and Christopher.^[11] At that time, Domingo was speaking with someone else and could not hear what the two were arguing about.^[12] After that, Domingo and Alex decided to go home, leaving Bong's house ahead of Christopher. Domingo continued that they tried hailing tricycles but when they failed to find a ride, they decided to walk home.^[13] Domingo could not estimate how far they had walked before they were ambushed by Christopher and his companion. He alleged, however, that the incident happened near the residence of Christopher who was a resident of Barangay Batia.^[14]

Jonathan testified that at around 7:00 P.M. or 8:00 P.M. on 11 August 2007, he was in their house at Barangay Malibo Matanda when his *comadre*, Cecilia, came and informed him that his brother, Alex, was stabbed at Barangay Batia. After hearing the news, he immediately rushed to his brother on his motorcycle.^[15] He arrived at the scene of the crime at around 9:00 P.M.^[16] There, he saw Alex bloodied, sprawled on the ground, and almost dying or "*naghihingalo*." While in this condition, Alex told him that he was stabbed by "*Boyet*" whose real name was Christopher.^[17] After a while, a police mobile arrived and brought Alex to the hospital. Alex, however, died on the same night.^[18]

Jonathan explained that they had known Christopher even before the incident because he was their neighbor at Barangay Batia when they were residing there.^[19]

On her part, Elsa, Alex's mother, testified that they incurred more than P100,000.00 for the wake and funeral of Alex.^[20] Of this amount, however, only a total of P50,265.90 were supported by receipts.^[21]

The medico-legal report^[22] prepared by the forensic physician, P/Supt. Belgira, revealed that Alex sustained multiple abrasions on his head and a stab wound on his left pectoral region. P/Supt. Belgira concluded that the cause of death was the stab wound.

Evidence for the Defense

The defense presented Christopher, his cousin Myrna Acedillo (*Myrna*), and his uncle Alex Rapsing (*Rapsing*) as witnesses. Their testimonies sought to establish the defense of alibi, as follows:

Christopher testified that on 11 August 2007, at around 5:00 P.M., he was at Rapsing's house to celebrate the fiesta of Barangay Sta. Clara.^[23] While there, Domingo and Alex, both already drunk, passed by Rapsing's house. One of Rapsing's guests invited Domingo and Alex to join their drinking session to which the two accepted.^[24] At around 6:00 P.M., Christopher decided to leave as his mother had earlier instructed him to go to Canumay, Valenzuela, to borrow money from Myrna. Rapsing's guests, including Domingo and Alex, accompanied him to the tricycle terminal which was about 50 meters away.^[25]

After boarding a tricycle and then another vehicle, Christopher arrived at Myrna's residence between 7:00 P.M. and 8:00 P.M. After he pledged his ATM card for P3,000.00, Myrna told him to stay for the night as it was already late. Christopher left Myrna's place and went home only on the following morning.^[26]

Christopher denied that he had anything to do with the death of Alex. He insisted that he could not have stabbed Alex as he was far from the scene of the crime at that time.^[27] While he admitted knowing Domingo as he was a former neighbor,^[28] he denied meeting Alex prior to 11 August 2007.^[29]

On his part, Rapsing testified that Christopher arrived at his house on 11 August 2007 at around 4:00 P.M. He was his only guest at that time as his *kumpare*, a certain Peter Genejada, had yet to arrive. At around 5:00 P.M., after consuming two shots of Emperador Light, Christopher left and proceeded to Valenzuela.^[30] On the other hand, Myrna testified that it was past 7:30 P.M. when Christopher arrived at her house. Christopher sought Myrna's help in borrowing money.^[31] At around 8:00 P.M., Myrna accompanied Christopher to borrow money from a certain "Digoy." Thereafter, they returned to Myrna's house where Christopher spent the night and stayed until the following morning.^[32]

The RTC Ruling

In its decision, the RTC found Christopher guilty beyond reasonable doubt of the crime of murder. It was convinced that the prosecution was able to prove the identity of Christopher as the person who stabbed and killed Alex. Moreover, the trial

court considered Alex's statement to Jonathan as a dying declaration pointing to Christopher as his assailant. It did not give credence to Christopher's defense of alibi noting the failure to demonstrate physical impossibility of his presence at the crime scene at the time of the incident. The trial court further appreciated the aggravating circumstance of treachery to qualify the killing to murder ratiocinating that Christopher, in committing the crime, employed means, methods, or forms to insure its execution without risk to himself. The dispositive portion of the decision reads:

WHEREFORE, the foregoing considered, this Court hereby finds accused Christopher Badillos GUILTY of the crime of Murder penalized under the provisions of Art. 248 of the Revised Penal Code. Accordingly, he is sentenced to suffer the penalty of RECLUSION PERPETUA and to indemnify the heirs of Alex H. Gregory: a. P75,000.00 as civil indemnity for his death; b. P50,000.00 as moral damages; and c. P50,265.90 representing the funeral and burial expenses incurred by the family.

In the service of his sentence, accused who is a detention prisoner shall be credited with the entire period he has undergone preventive imprisonment.

SO ORDERED.^[33]

Aggrieved, Christopher filed a notice of appeal to elevate the case to the CA.^[34]

The CA Ruling

In its decision, the CA affirmed the 21 September 2012 RTC decision. The appellate court opined that the trial court properly considered Alex's last words to his brother as a dying declaration. It also ruled that Christopher's alibi cannot prevail over his positive identification by Domingo as the person who killed the victim, and Alex's dying declaration pointing to Christopher as the perpetrator. The appellate court further affirmed the trial court's appreciation of the qualifying aggravating circumstance of treachery. The dispositive portion of the appealed decision provides:

WHEREFORE, the appealed Decision dated September 21, 2012 of the Regional Trial Court, Branch 78, Malolos, Bulacan in Criminal Case No. 50-M-2008 is hereby **AFFIRMED**.

SO ORDERED.^[35]

Hence, this appeal.

THE ISSUE

WHETHER THE TRIAL AND APPELLATE COURTS ERRED IN CONVICTING ACCUSED-APPELLANT CHRISTOPHER BADILLOS FOR THE CRIME CHARGED WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

THE COURT'S RULING

The appeal lacks merit.

Alex's declaration cannot be considered as a dying declaration; admissible as part of res gestae.

Before proceeding to the main issue of this case, the Court notes that the trial and appellate courts erred when they considered Alex's utterances to Jonathan identifying Christopher as the perpetrator of the crime as a dying declaration.

A dying declaration is admissible in evidence if the following circumstances are present: (1) it concerns the cause and the surrounding circumstances of the declarant's death; (2) it is made when death appears to be imminent and the declarant is under a consciousness of impending death; (3) the declarant would have been competent to testify had he or she survived; and (4) the dying declaration is offered in a case in which the subject of the inquiry involves the declarant's death.^[36] In order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered into by the declarant. It is the declarant's belief of his impending death and not the rapid succession of his death in point of fact that renders his declaration admissible as a dying declaration. The test is whether the declarant has abandoned all hopes of survival and looks on death as certainly impending.^[37]

In his testimony, Jonathan narrated Alex's condition when he uttered the name of the person who stabbed him, to wit:

PROS. MALAPIT:

Q. Did you actually reach that place?

A. Yes, sir.

Q. What did you find out?

A. I found my brother bloodied and sprawled on the ground.

Q. You were referring to Alex Gregory?

A. Yes, sir.

Q. What was his condition at that time?

A. He was "naghihingalo" and he told me the person responsible in stabbing him.

Q. What were the names given to you?

A. Boyet, sir.

Q. Do you know who is the Boyet referred to by Alex?

A. He is only [alias] Boyet but his real name is Christopher Badillos.^[38]

X X X X

COURT:

Witness may answer.

A. It is true that he was "naghihingalo" and even tore his shirt and then he mentioned to me the name of the person responsible.