

SECOND DIVISION

[G.R. No. 176527, October 09, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SAMSON VILLASAN Y BANATI, ACCUSED-APPELLANT.**

DECISION

BRION, J.:

We review in this appeal the May 25, 2006 decision of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 00250.^[1] The appellate court affirmed the May 29, 2001 decision of the Regional Trial Court (RTC), Branch 18, Cebu City,^[2] that in turn found appellant Samson Villasan (*appellant*) guilty beyond reasonable doubt of the crime of murder and imposed on him the penalty of *reclusion perpetua*.

ANTECEDENT FACTS

The prosecution charged the appellant before the RTC with the crime of murder under the following Information:^[3]

That on or about the 1st day of June, 2000, at about 6:30 in the evening, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a .357 caliber Magnum revolver S&W (Homemade), with treachery and evident premeditation, with deliberate intent, with intent to kill, did then and there attack, assault and shot one Jacinto T. Bayron, hitting him on his [sic] vital parts of his body, thereby inflicting upon him physical injuries, as a consequence of which said Jacinto T. Bayron died instantaneously.

CONTRARY TO LAW.

The appellant pleaded not guilty to the charge upon arraignment.^[4] The prosecution presented the following witnesses in the trial on the merits that followed: Jose Secula (*Jose*); Gaudioso Quilaton (*Gaudioso*); Sergio Bayron (*Sergio*); and Dr. Rene Enriquez Cam (*Dr. Cam*). The appellant, Carlito Moalong (*Carlito*), and Police Senior Inspector Mutchit Salinas (*P/Sr. Insp. Salinas*) took the witness stand for the defense.

Jose, a security guard of PROBE Security Agency, testified that he was outside his employer's branch office at the Ayala Business Center, Siquijor Road, Cebu City at around 6:15 p.m. of June 1, 2000, when he heard three successive gunshots.^[5] He mounted his motorcycle to go and investigate but before he could start it, he saw the appellant "walking fast" and carrying a gun. He ordered the appellant to stop and to drop his weapon. The latter obeyed and dropped his gun. He then

approached the appellant, conducted a body search on him,^[6] and turned him over to his (Jose's) supervisor who, in turn, contacted the police. The police forthwith brought the suspect to the police station. Jose recalled that he executed an affidavit on the shooting incident before the police.^[7]

On cross examination, Jose clarified that he did not see the actual shooting; he only saw the victim's lifeless body after the appellant had been arrested.^[8] On re-direct, Jose stated that before the appellant was brought to the police station, the latter told him that he had shot a fellow driver.^[9]

Gaudioso, a store assistant at Healthy Options, narrated that he boarded a jeep at the waiting shed at the Ayala Business Center at around 6:30 p.m. of June 1, 2000.^[10] He occupied the jeep's front seat, beside the driver Jacinto Bayron (*Bayron*). While so seated, he heard the appellant briefly converse with Bayron, requesting the latter to be allowed to ride the jeep because his own jeep conked out.^[11] Soon after the appellant got into Bayron's jeep, Gaudioso heard a gunshot. He looked back and saw the appellant shoot Bayron twice in the head.^[12] Gaudioso immediately jumped off but later returned to assist in bringing Bayron to the hospital.^[13] It was then that he learned of Bayron's name. Thereafter, the police invited him to the police station for his statement regarding the shooting.^[14]

On cross examination, Gaudioso recalled that there were three other passengers at that time inside the jeep. He immediately turned his head towards the passenger's side when he heard the first shot; two more shots followed. He got scared and jumped off the jeep together with the other passengers. He later returned and found that the driver was already dead.^[15]

On re-direct, he reiterated that he was the only passenger at the jeep's front seat, and that the appellant was seated at the jeep's rear seats. He maintained that the appellant shot Bayron.^[16]

Sergio, the victim's brother, testified that Bayron was a jeep driver earning more or less P500.00 daily. He further stated that the funeral and burial expenses for his brother amounted to P100,000.00. He also added that Bayron had a common-law wife and had a 1 ½ year-old son with her.^[17]

Dr. Cam, the Medico-Legal Officer of the National Bureau of Investigation (NBI), Cebu City, testified that he conducted a post-mortem examination on the victim's body on June 2, 2000,^[18] and made the following findings:

NECROPSY REPORT

x x x x

GUNSHOT WOUNDS:

- 1) ENTRANCE: 1.0 x 1.3 cms., ovaloid edges, with an area of tattooing around the wound, 8.0 x 10.0 cms., contusion collar widest supero-

laterally, located at the right side of the face, below the right eye, 3.5 cms. x x x

2) ENTRANCE: 0.9 x 1.0 cm., ovaloid, edges inverted, contusion collar widest infero-posteriorly, located at the right side of the head, just in front of the right ear x x x

3) ENTRANCE: 0.6 x 0.8 cm. ovaloid, edges inverted, contusion collar widest, supero-medially, located at the right side of the head, occipital area, 4.0 cms., above 13.0 cms., behind the right external auditory meatus, x x x

POSTMORTEM FINDINGS

Hematoma, scalp, frontal area and right parietal.

Hemorrhage, intracranial, intracerebral, subdural, subarachnoidal, massive, generalized Internal Organs, congested

Stomach, empty

CAUSE OF DEATH: GUNSHOT WOUNDS OF THE HEAD

Remarks: Two (2) bullets were recovered and submitted to Firearm Investigation Section for Ballistic Examination.^[19]

On cross-examination, Dr. Cam stated that the distance between the muzzle of the gun and the entrance wounds was two feet, more or less.^[20]

The defense presented a different version of events.

Carlito testified that he was with the appellant at the parking lot of the Ayala Business Park at past 5:00 p.m. of June 1, 2000, when Bayron and another person approached the appellant. Bayron pointed to the appellant and said: "*Pre, pagtarong sa imong pagkatawo, basig magkaaway ta*" (Behave like a good man, otherwise we will become enemies). The appellant replied, "*pre tell me who was the person who told you about that*"?^[21] Bayron's companion then accused the appellant of being a traitor.^[22]

The jeepney dispatcher soon after called Bayron as it was his jeep's turn to load passengers.^[23] Bayron and his companion boarded the jeep; Bayron sat at the driver's seat while his companion proceeded to the passengers' seats at the rear. The appellant followed them into the jeep and sat behind Bayron. There were 5-7 passengers on board the jeep, one of them at the front seat beside Bayron. Bayron then drove away, leaving the parking area.^[24] According to Carlito, he learned of Bayron's death at 6:30 p.m. of that day.^[25]

On cross examination, Carlito testified that he went to Ayala on June 1, 2000 to meet the appellant to ask for help on his application as a driver.^[26] He saw the appellant and Bayron talking to each other when he arrived, and overheard Bayron warning the appellant to be careful. Bayron thereafter got into his jeep, followed by the appellant who sat behind him (Bayron). While inside the jeep, Bayron pointed

his finger at the appellant and continued to argue with the appellant as he drove away.^[27] He heard gunshots 15 minutes after the jeep left the parking area. Carlito later saw the appellant being apprehended by security guards.^[28]

The appellant stated that he was a driver plying the Ayala-Colon route. At around 5:00-6:00 p.m. of June 1, 2000, he talked to "Lito" at the parking area of the Ayala Business Center. Lito was a friend of his son who had been asking for his assistance in applying as a driver.^[29] He read a newspaper after talking to Lito. Not long after, Bayron and a certain Roel came and pointed their fingers at him. Roel uttered, *"Even if you are double your body [sic], I am not afraid."*^[30] The appellant suspected that Roel was mad at him for an incident in 1999 when he reprimanded Roel for indiscriminately firing a gun.^[31]

The appellant further narrated that Bayron went to the jeep's driver's seat after the dispatcher called him. Roel followed Bayron but sat on the rear passenger seat. The appellant also got into the jeep and sat across Roel because he was bothered by what was happening between Bayron and Roel.^[32] He asked Roel to get off the jeep so they could settle their differences, but Roel instead drew a gun from his waist.^[33] The appellant and Roel wrestled for the gun which discharged while they were grappling for its possession. Thereafter, Roel immediately alighted from the jeep. The appellant followed but was unable to catch up with Roel.^[34]

On cross examination, the appellant recalled that he read a newspaper at the parking lot after conversing with Lito. At that point, Bayron and Roel came; Roel pointed a finger at him and blamed him for his (Roel's) arrest for illegal possession of firearms.^[35] Bayron went to board his jeep when the dispatcher called him; Roel followed him inside the jeep. The appellant then also boarded the jeep, sitting across Roel to "clear the matter" with him.^[36] When the jeep was already on its way, Roel suddenly drew a gun from his waist. The appellant held Roel's hand, but the gun went off while they were grappling for its possession. He did not notice if anyone had been hit. The passengers, including Roel, ran out of the jeep.^[37] The appellant saw the gun on the ground and picked it up. The appellant tried to follow Roel, but the latter was able to board another jeep. Thereafter, the security guards arrested appellant and then turned him over to the police.^[38]

P/Sr. Insp. Salinas testified that he conducted a paraffin test on the appellant at the PNP Regional Crime Laboratory on June 2, 2000 to determine the presence of gunpowder nitrates. The appellant tested negative for the presence of gunpowder nitrates.^[39]

On cross examination, P/Sr. Insp. Salinas explained that the absence of gunpowder nitrates was not conclusive proof that person did not fire a gun. According to him, a person could remove traces gunpowder nitrates by washing his hands.^[40]

The RTC convicted the appellant of the crime of murder in its decision of May 29, 2001, as follows:

WHEREFORE, in view of the foregoing facts and circumstances, accused Samsom B. Villasan is found guilty beyond reasonable doubt of the crime of Murder and is hereby imposed the penalty of RECLUSION PERPETUA, with the accessory penalties of the law; to indemnify the heirs of the deceased Jacinto Bayron in the sum of P50,000.00 and to pay the costs.

The accused is, however, credited in full during the whole period of his detention provided that he will signify in writing that he will abide by all the rules and regulations of the penitentiary.

SO ORDERED.^[41]

The appellant directly appealed to this Court in view of the penalty of *reclusion perpetua* that the RTC imposed. We referred the case to the Court of Appeals for intermediate review pursuant to our ruling in *People v. Mateo*.^[42]

The CA affirmed the RTC Decision *in toto* in its May 25, 2006 Decision.^[43]

In his brief,^[44] the appellant argued that the prosecution failed to prove his guilt beyond reasonable doubt.

THE COURT'S RULING

We *deny* the appeal but modify the awarded indemnities.

Sufficiency of Prosecution Evidence

An established rule in appellate review is that the trial court's factual findings, including its assessment of the credibility of the witnesses and the probative weight of their testimonies, as well as the conclusions drawn from the factual findings, are accorded respect, if not conclusive effect. These factual findings and conclusions assume greater weight if they are affirmed by the CA. Despite the RTC and the CA's unanimity in the findings of fact, we nevertheless carefully scrutinized the records of this case, as the penalty of *reclusion perpetua* demands no less than this kind of scrutiny.^[45]

Gaudioso, in his July 25, 2000 testimony, positively identified the appellant as the person who shot Bayron inside the latter's own jeepney on June 1, 2000; he never wavered in pointing to the appellant as the assailant. To directly quote from the records:

FISCAL VICTOR LABORTE:

Q: At about 6:30 in the evening of June 1, 2000, can you recall where you were?

GAUDIOSO QUILATON:

A: Yes, I can remember.