

## THIRD DIVISION

[ G.R. No. 182156, November 25, 2009 ]

**REY A. VILLAMOR, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### RESOLUTION

**NACHURA, J.:**

Before this Court is a Petition<sup>[1]</sup> for Review on *Certiorari* under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision<sup>[2]</sup> dated August 31, 2007 which affirmed the Decision<sup>[3]</sup> of the Regional Trial Court (RTC) of Virac, Catanduanes, Branch 42, dated September 21, 2005, convicting petitioner Rey A. Villamor alias "Ikoy" (petitioner) of the crime of Homicide, with modification as to the damages awarded.

#### *The Facts*

On January 11, 1995, petitioner was charged with Homicide in an Information<sup>[4]</sup> which reads:

That on or about the 13<sup>th</sup> day of July 1994 [in] [B]arangay Bagong Bayan, [M]unicipality of Panganiban, [P]rovince of Catanduanes, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there, willfully, unlawfully and feloniously with intent to kill attack and assault one Manuel Cabrera by boxing and kicking him on the head and in different parts of his body which directly caused his death to the damage and prejudice of his heirs.

ALL ACTS CONTRARY TO LAW.

The RTC issued a warrant of arrest with a bail recommendation of P20,000.00.<sup>[5]</sup> Petitioner posted bail for his provisional liberty.<sup>[6]</sup> Upon arraignment on May 15, 1995, petitioner pleaded not guilty to the offense charged.<sup>[7]</sup> During the pretrial, it was stipulated that the victim, Manuel Cabrera (Manuel), died on July 25, 1994 in the house of his sister, Helen Cabrera, in Quezon City; and that prior to his death, he worked as a welder in an iron workshop. Thereafter, trial on the merits ensued. In the course of the trial, two varying versions arose.

#### *Version of the Prosecution*

The prosecution established that Manuel was mauled on July 13, 1994 based on the testimonies of Lolito Cabrera,<sup>[8]</sup> Barangay Chairman of Barangay Bagong Bayan, Panganiban, Catanduanes (Barangay Bagong

Bayan), and Senior Police Officer 4 Roberto Reyes.<sup>[9]</sup> The latter also

testified that he was the one who investigated the case and that affidavits sworn before him pointed to petitioner as the culprit.

The prosecution also relied on the testimony of Manuel's mother, Rosario Cabrera (Rosario), a Grade IV teacher assigned in Cahan, Bagamanoc, Catanduanes. Rosario testified that, in the early afternoon of July 13, 1994, she went home early from work as she would attend a conference the following day; that she hiked towards Barangay Hinipaan to wait for a ride home towards Panganiban, Catanduanes, where she resides; that, since there was no other available means of transportation at that time, she decided to just hitch a ride on a hemp-loaded truck *en route* to Virac, Catanduanes; and that being a hitchhiker, she stood at the back of the truck and held on to its ropes to maintain her balance.

She went on to narrate that when the truck passed by Barangay Bagong Bayan, she saw petitioner mauling and beating someone in front of the house of one Crispin Oliveros, Sr. (Crispin). She saw the victim fall to the ground bleeding, as petitioner kicked and boxed him on the stomach and on the head while the latter was sprawled on the ground. At that moment, Rosario did not pay much attention to the incident because she thought all along that Manuel was still in Manila. Her suspicion that Manuel was the victim of the mauling incident was confirmed only when she reached home and was informed that Manuel had already arrived. Rosario then wanted to go to the Viga District Hospital thinking that Manuel would be brought there, but was prevailed upon by her husband to go instead to the police station to have the incident blottered.

After attending her scheduled seminar the next day, Rosario went to the Viga District Hospital to visit Manuel. When they met, Manuel complained of physical pain and requested Rosario that he be brought immediately to Manila. She brought him to Virac on board a passenger jeepney to prepare for his flight to Manila. But since there was a storm at that time and all flights from Catanduanes were cancelled, Rosario was compelled to momentarily confine Manuel at the Eastern Bicol Medical Center (EMBC). At the EMBC, Manuel continued to complain of abdominal pains and had difficulty urinating.

When he was finally airlifted to Manila, Manuel still complained of abdominal pains and his nose bled. He was brought to the Tondo General Hospital where he was confined for four (4) days. Manuel was then brought to his house in Manila where he requested to see his family, as he could no longer bear the pain. He was then brought to his sister Helen Cabrera's house in Quezon City where he eventually died on July 25, 1994 because of *cerebral edema*.<sup>[10]</sup>

### ***Version of the Defense***

The defense denied the prosecution's claims. Petitioner testified that while he was drinking *tuba* with his friends, Milo Lara<sup>[11]</sup> and Igmedio Torio Villamor,<sup>[12]</sup> in front of Crispin's house at about 3:00 p.m. of July 13, 1994, Manuel passed by and shoved petitioner's baseball cap; that at around 3:20 p.m., he left the drinking session and went to work at the Sumalde ricemill located in the adjoining barangay, Barangay Sta. Maria; and that he stayed in the ricemill until 8:00 p.m. He claimed

that he had no grudge against Manuel who was his cousin and that he learned of Manuel's death only when he received a subpoena.<sup>[13]</sup> To corroborate petitioner's story, the defense presented Milo Lara<sup>[14]</sup> and Igmedio Torio Villamor.<sup>[15]</sup>

### ***The RTC's Ruling***

On September 21, 2005, the RTC rendered its decision, finding petitioner guilty as charged. It lent credence to Rosario's testimony, finding the same to be credible, categorical and free from any ill motive. Thus, the RTC disposed:

WHEREFORE, the Court finds the accused Rey Villamor guilty beyond reasonable doubt of the crime of homicide and hereby sentences him to suffer the indeterminate penalty of imprisonment ranging from 6 years and 1 day of *prision mayor* as minimum to 14 years, 8 months and 1 day of *reclusion temporal* as maximum and to pay the heirs of Manuel Cabrera P50,000.00 as civil indemnity.

SO ORDERED.

Aggrieved, petitioner appealed to the CA.<sup>[16]</sup>

### ***The CA's Ruling***

On August 31, 2007, the CA affirmed the findings of the RTC, giving full respect to the trial court's calibration of witnesses. However, the CA held that the RTC disregarded the testimony of Julieta Cabrera, Manuel's widow, on the award of compensation for the alleged lost income of Manuel. Thus, the CA ruled in this wise:

**WHEREFORE**, the 21 September 2005 Decision of Branch 42, Virac, Catanduanes assailed herein is **AFFIRMED** with **MODIFICATION** to the effect that petitioner is ordered to pay the heirs

of Manuel Cabrera the amount of P50,000.00 as civil indemnity, and in addition P25,000.00 as temperate damages.

**SO ORDERED.**

Petitioner filed a Motion for Reconsideration<sup>[17]</sup> which was, however, denied by the CA in its Resolution<sup>[18]</sup> dated November 9, 2007. Undaunted, petitioner filed a Second Motion for Reconsideration<sup>[19]</sup> which the CA, in its Resolution<sup>[20]</sup> dated December 18, 2007, denied for lack of merit and for being a prohibited pleading.

Hence, this Petition based on the following grounds:

[A] THE CHALLENGED DECISION/S (RESOLUTIONS) OF THE RESPONDENT/S [CA AND RTC] WERE RENDERED NOT IN ACCORDANCE WITH THE LAW AND APPLICABLE DECISION/S OF THE HONORABLE SUPREME COURT, AND IT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION[; AND]

[B] THE PUBLIC RESPONDENT[S] COMMITTED GRAVE ABUSE OF

DISCRETION AMOUNTING TO LACK OF JURISDICTION IN [THEIR]  
DECISION/S WHICH IS CONTRARY TO LAW AND JURISPRUDENCE.<sup>[21]</sup>

Petitioner claims that Rosario's detailed testimony that she saw him boxing and kicking Manuel while she was on board a speeding truck is highly unbelievable, considering the distance of Crispin's house from the gutter of Barangay Bagong Bayan; that Rosario was obviously a coached witness; that Rosario's lone testimony, in the absence of other prosecution witnesses, which was made after the lapse of almost six (6) years from the incident, cannot support petitioner's conviction; that Rosario did not execute any affidavit during the police investigation, preliminary examination and preliminary investigation; and that petitioner had no ill motive against Manuel.<sup>[22]</sup>

On the other hand, respondent People of the Philippines, through the Office of the Solicitor General (OSG), asseverates that the instant Petition raises purely factual issues which are outside the office of a Petition for Review on *certiorari* under Rule 45; that Rosario is a credible witness who positively identified petitioner as the one who beat Manuel; that Rosario was able to see the mauling incident as the truck reduced speed due to the presence of people around the scene of the incident; and that moral damages should be awarded in favor of Manuel's heirs since his death resulted from petitioner's criminal act.<sup>[23]</sup>

The threshold issue in this case, therefore, is whether or not the prosecution was able to prove the guilt of petitioner beyond reasonable doubt on the basis of the testimonies of the prosecution witnesses and the documentary evidence presented.

***Our Ruling***

The instant Petition is bereft of merit.

Article 249 of the Revised Penal Code (RPC) defines and punishes the crime of homicide, viz.:

Art. 249. *Homicide*. -- Any person who, not falling within the provisions of Article 246,<sup>[24]</sup> shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

The elements of homicide are as follows: 1) a person was killed; 2) the accused killed him without any justifying circumstance; 3) the accused had the intention to kill, which is presumed; and 4) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.<sup>[25]</sup>

It bears stressing that in criminal cases such as this, the prosecution is not required to show the guilt of the accused with absolute certainty. Only moral certainty is demanded, or that degree of proof which, to an unprejudiced mind, produces conviction.<sup>[26]</sup> In this case, we find that the prosecution has discharged its burden of proving the guilt of petitioner with moral certainty.

*First.* As correctly invoked by the CA, our ruling in *People v. Buban*<sup>[27]</sup> clearly teaches that family relationship does not by itself render an eyewitness' testimony