

## SPECIAL THIRD DIVISION

[ G.R. No. 176262, September 11, 2007 ]

**PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, vs. EDILBERTO TORRES and JOSE TORRES, Accused-Appellants.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

For review is the Decision<sup>[1]</sup> dated 27 September 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 00994 which affirmed the Decision<sup>[2]</sup> dated 3 January 2005 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 11, finding appellants Edilberto Torres and Jose Torres guilty of the crime of murder and sentencing them to suffer the penalty of *reclusion perpetua*.

On 10 May 2002, appellants, together with their brother Rodolfo Torres, were charged before the RTC of Malolos, Bulacan, with the crime of murder under Article 248 of the Revised Penal Code, as amended. The accusatory portion of the Information reads:

That on or about the 17<sup>th</sup> day of February, 2002, in the municipality of San Miguel, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a pointed instrument and firearm, with intent to kill Noel Yumang y Macasu, conspiring, confederating together and mutually helping one another, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault, stab and shoot the said Noel Yumang y Macasu hitting him on the different parts of his body, thereby inflicting upon him serious physical injuries which directly caused the death of the said Noel Yumang y Macasu.<sup>[3]</sup>

During their arraignment on 31 May 2002, appellants Edilberto Torres and Jose Torres, with the assistance of counsel *de officio*, entered their respective pleas of not guilty, while accused Rodolfo Torres remains at large. <sup>[4]</sup> Thereafter, trial ensued.

At the trial, the prosecution proved the following:

On 17 February 2002, at around one o'clock in the morning, witness Emilio Tamundez (Emilio) was walking home after spending hours guarding the fruits of the mango trees owned by his parents-in-law and a certain Feliciano Calbay. As he was passing through Feliciano Calbay's rice field, he noticed Noel Yumang (Noel), who was 40 to 50 meters away, also walking on his way home. Suddenly, three men emerged from the middle of the rice field and attacked Noel, the victim. Emilio recognized the assailants as appellants and accused Rodolfo Torres. While Rodolfo held both arms of Noel behind his back, Edilberto seized the head of Noel by his left hand and stabbed the victim on the nape and on the left side of his body. Rodolfo

then pushed the victim to the ground. When the victim hit the ground, Jose poked a gun on the victim's head and shot the latter. Thereafter, the Torres brothers left the scene.

At past 1:00 in the morning of the same day, a *barangay* official of Tibagan, San Miguel, Bulacan, called up the PNP San Miguel Station to report the killing incident. In response, PO2 Ferdinand Pagala went to the crime scene where he found the corpse of the victim. Thereafter, PO2 Pagala brought the body to a funeral parlor for autopsy.

In the afternoon of the following day, Emilio met the *barangay* captain of Tibagan and informed the *barangay* official of what he had witnessed. He was told that two of the assailants were already arrested and were detained at the municipal jail, and that the victim's wake was being held at Feliciano Calbay's house.

Dr. Agnes Carpio conducted an autopsy of the body. She confirmed that the victim died of cardiac respiratory arrest secondary to gunshot wounds and stabbing. In her medico-legal report the following were the findings:

**Head:** 1 inch clean edge wound in 3 inch depth at the postoccipital region  
1 cm post auricular left stab wound

**Trunk:** 0.5 cm 2 inch depth at the post axillary side left  
1 inch clean edge wound 3 inch depth left

bullet wound at the right shoulder as point of entry 9 holes.<sup>[5]</sup>

For their defense, appellants denied authorship of the killing of the victim. They interposed the defense of denial and alibi.

Appellant Jose testified that he is a native of San Miguel, Bulacan. He left his native place when he was more or less 22 years old. Presently, he is a resident of Barangay Bongbongan II, Sibalom, Antique. According to him, 10 days before the incident, he arrived at his daughter's residence in Meycauayan, Bulacan, as he was invited by his daughter to attend the baptism of his grandchild. His son-in-law, Florante Zamora, asked him to go to Tibagan, San Miguel, Bulacan, to invite their relatives there. At around 5:00 to 6:00 a.m. of 17 February 2002, he left for Tibagan, San Miguel, to personally invite his siblings to the baptism. He reached the house of his brother, appellant Edilberto, at around 10:00 a.m. where he came upon Edilberto's wife. After a while, a policeman and the *barangay* captain arrived looking for Edilberto, who was then attending the wake of a certain *barangay* councilman. The *barangay* captain asked Edilberto's wife to call her husband. When Edilberto arrived, the *barangay* captain invited the former, who, in turn, requested appellant Jose to accompany him to the *barangay* hall. Instead of being brought to the *barangay* hall, appellants were brought to the municipal building of San Miguel, Bulacan. Moments later, appellants were escorted to the police station, then the policeman and the *barangay* captain left. When the policeman and the *barangay* captain returned, another person was with them and pointed to them as the killers of Noel.

Appellant Edilberto denied having any participation in the death of Noel. He pointed

to Feliciano Calbay as the person responsible for implicating him and his brothers for the death of Noel. Feliciano Calbay, whose wife is the aunt of the victim, wanted to get the farm lot that the Torres brothers were leasing. Calbay even filed a case against the Torres brothers, but he lost the case. This loss made him angry with the Torreses.

Florante Zamora, son-in-law of appellant Jose Torres, confirmed the latter's testimony regarding his arrival in Meycauayan and his trip to Tibagan at around 5:00 a.m. of 17 February 2002.

The trial court, however, was convinced that the prosecution had discharged the required quantum of evidence to prove the guilt of the appellants of the crime charged. It convicted the appellants of murder, qualified by treachery and imposed upon each of them the penalty of *reclusion perpetua*. Appellants were also ordered to indemnify, jointly and severally, the heirs of the victim in the amounts of P60,000.00 as civil indemnity, P50,000.00 as moral damages and P20,000.00 as exemplary damages, and to pay the costs. The dispositive portion of the RTC decision reads:

WHEREFORE, this Court finds the herein accused JOSE TORRES and EDILBERTO TORRES, GUILTY beyond reasonable doubt of Murder under Article 248 of the Revised Penal Code, as amended, and hereby sentences both to suffer the penalty of Reclusion Perpetua and to pay jointly and severally the heirs of the late Noel Yumang the following sums of money:

1. P60,000.00 as civil indemnity;
2. P50,000.00 as moral damages; and
3. P20,000.00 as exemplary damages.

The case against Rodolfo Torres is hereby ARCHIVED.<sup>[6]</sup>

On 11 February 2005, appellants filed a notice of appeal.<sup>[7]</sup> The trial court ordered the transmittal of the entire records of the case to the Court of Appeals.

The Court of Appeals, on 27 September 2006, promulgated its Decision affirming *in toto* the decision of the trial court. The Court of Appeals decreed:

WHEREFORE, the appealed *Decision* dated January 3, 2005 of the Regional Trial Court, Branch 11, Malolos, Bulacan in Criminal Case No. 1225-M-2002, finding appellants Jose Torres and Edilberto Torres guilty beyond reasonable doubt of Murder defined and penalized under Article 248 of the Revised Penal Code is hereby AFFIRMED.<sup>[8]</sup>

Hence, the instant case.

In their brief, the appellants assign the following errors:

BASIS AND CONCRETE EVIDENCE, THAT THE ACCUSED-APPELLANTS WERE THE ONES RESPONSIBLE FOR KILLING NOEL YUMANG.

## II

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED ALTHOUGH THEIR IDENTITIES AND PARTICIPATION IN THE ALLEGED ACT WERE NOT PROVEN WITH CERTAINTY.

Appellants impugned the trial court's verdict convicting them, which judgment was affirmed by the Court of Appeals, since the same allegedly was not supported by evidence on record. They assert that the prosecution failed to establish the identity of the perpetrators, as the eyewitness did not see "at close range" the faces of the killers. Furthermore, the incident happened at 1:00 o'clock in the morning when only the new moon was illuminating the vast rice field. The moonlight provided blurred and pale brightness only and could not have provided sufficient illumination. Thus, the identification of the appellants is unreliable.

Appellants' submission lacks merit.

Emilio Tamundez, the eyewitness to the incident, described with clarity the circumstances prior to, during and after the killing of the victim. He saw the incident and was able to identify the assailants as he was about 40 to 50 meters away from the scene. Not only was the *situs criminis* lit up by moonlight, it was also brightened by the flashlight held by the victim, which remained on even when it fell from the victim's hand. Thus, contrary to appellants' postulation, the prosecution witness sufficiently demonstrated that the scene received ample illumination when the killing took place. Emilio Tamundez testified, thus:

Public Pros.:

Q: While you were walking in the ricefield of one Feliciano Calbay, do you remember any unusual incident that happened?

A: Yes, sir.

Q: And, what was that unusual incident?

A: While Noel Yumang was walking, he was just suddenly grabbed by three (3) men, sir.

Q: How far were you from Noel Yumang when he was grabbed by three (3) men.

A: 40 to 50 meters away from him, sir.

Q: Did you recognize these three (3) persons who suddenly grabbed Noel Yumang?

A: Yes, sir, I was able to recognize them.

Q: Who were they?

A: Rodolfo Torres grabbed and held him and after that he was stabbed by Edilberto Torres, sir.

Q: What about Jose Torres, what did he do?

x x x x

A: After Rodolfo Torres pushed him on the ground, he was shot by Jose Torres, sir.

Public Prosecutor

Q: What was Noel Yumang do when he was grabbed by the three (3) accused?

A: He was walking towards home, sir.

x x x x

Q: How did you recognize Rodolfo Torres, Edilberto Torres and Jose Torres at that time of the day considering that you were 40 to 50 meters away?

A: Because of the moonlight, sir.

x x x x

Q: Will you kindly demonstrate before this court how Rodolfo Torres grabbed Noel Yumang by the hand?

Court:

Assuming that Noel Yumang is the Fiscal.

Court:

The witness demonstrating that Rodolfo Torres held both arms of Noel Yumang at his back. His left and right arms criss-crossing each other.

Public Pros:

Q: Will you also kindly demonstrate how Edilberto Torres stabbed Noel Yumang while he was being held by the hand by Rodolfo Torres?

Interpreter: