

SECOND DIVISION

[G.R. No. 114872, January 16, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIOMEDES MAGALLANO AND MARCELO MAGALLANO, ACCUSED-
APPELLANTS.
D E C I S I O N**

REGALADO, J.:

The brothers Diomedes Magallano and Marcelo Magallano, accused-appellants in this appellate review, assail the verdict of guilt rendered against them by the Regional Trial Court, Branch 36, of Dumaguete City for the crime of murder. Appellants assert that their respective pleas of self-defense and denial should have been favorably appreciated by the trial court, considering the inconsistencies and consequent unreliability of the testimony of the prosecution's principal eyewitness, hence their guilt was not proven beyond reasonable doubt.^[1] We find otherwise; accordingly, we affirm the challenged judgment.

Appellants were charged with murder for the death of Elfonio Adelantar in an amended information dated July 16, 1992, the indictment alleging:

That on or about February 1, 1989 at Sitio Tampa-on, Barangay Banawe, Pamplona, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring together and mutually helping each other, with treachery and intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault, hack and stab one Elfonio Adelantar, inflicting upon the latter multiple injuries, which directly caused the death of said Elfonio Adelantar.^[2]

Duly arraigned with the assistance of their counsel on August 20, 1992, appellants registered negative pleas.^[3] Trial proceeded thereafter, with the testimonies of prosecution witnesses Dr. Rogelio M. Kadili, Municipal Health Officer of Pamplona, Negros Oriental; Marciano Rodriguez, then Barangay Captain of Barangay Banawe, Pamplona, Negros Oriental; Cirilo Manaban, brother-in-law of the victim and eyewitness to the crime; and Virginia M. Adelantar, the victim's spouse and elder sister of Cirilo Manaban.

Appellants, on the other hand, testified in their defense. To lend support to their declarations, one Dr. Inofredita Abordo Sibol, who supposedly treated the wounds inflicted upon the brothers by the victim, was presented in court. Eventually, the trial court rendered the following judgment on February 3, 1994:

WHEREFORE, in view of the foregoing, this Court hereby finds both accused Diomedes Magallano and Marcelo Magallano GUILTY beyond reasonable doubt for the crime of Murder qualified by treachery with no attendant generic aggravating or mitigating circumstance. Both accused Diomedes Magallano and Marcelo Magallano are hereby sentenced to the

penalty of reclusion perpetua and its accessory penalties and to indemnify the heirs of the victim (in) the amount of FIFTY THOUSAND PESOS (P50,000.00) as indemnity on a pro-rata basis. Cost(s) de of(i)cio.^[4]

The key prosecution witness, Cirilo Manaban who was then only fourteen years old, recalled that the killing of his brother-in-law, Elfonio Adelantar, occurred at around 4:30 in the afternoon of February 1, 1992. While they were both resting on a bench in the house of the Adelantars in the aforesaid Sitio Tampa-on of Barangay Banawe, Elfonio aimed and shot with his slingshot at a bird perched on a nearby mango tree. Elfonio missed and the bird flew and settled on another tree a few meters away from the house. Elfonio rose and went towards the bird, with Cirilo following him about ten meters behind in order to retrieve the bird if it was shot down by Elfonio.^[5]

At that point, appellant Marcelo Magallano emerged from a clearing in a nearby sugarcane plantation and talked to Elfonio. In a little while, appellant Diomedes Magallano stealthily approached from behind the two and, without much ado, hacked Elfonio with a bolo in plain sight and to the horror of Cirilo. The victim's attempt to unsheathe his own weapon was preempted by a hacking blow on his arm delivered by appellant Marcelo Magallano. Cirilo then scurried away and rushed back to the victim's house where he informed his sister of the violent incident. Thereafter, he reported the matter to his father at their house. When they later went to the scene of the crime, they found the lifeless body of Elfonio Adelantar. The victim was buried the next day.^[6]

Both appellants denied the version of the prosecution. According to Marcelo, it was in fact Elfonio who had initiated the fight when, as he was passing by the victim, the latter deliberately aimed and threw a knife at him. Marcelo claims that he was hit on the left leg but he was able to run home. A few minutes later, his brother, Diomedes, arrived with a fresh wound on his face. Diomedes informed him that he had been attacked for no reason at all by an apparently intoxicated Elfonio Adelantar and that he was forced to retaliate, resulting in the victim's death.^[7]

Elfonio Adelantar, further reported Diomedes, was able to inflict a wound on his right forearm at the outset. However, Diomedes claimed that he responded with a hacking blow of his own on the victim before running away for safety. After applying some herbal medicine, the two brothers later proceeded to a hospital.^[8] Dr. Inofredita Abordo Sibol testified that she attended to the brothers and treated their wounds which they allegedly sustained at the hands of the victim.^[9]

Appellants advert to what they insist are inconsistencies in the narration of the events by Cirilo Manaban, as well as his supposedly unnatural reaction while the fight was taking place. In particular, they point out that in the sworn affidavit that Manaban executed five days after the incident and in the subsequent preliminary examination conducted about three weeks thereafter by the Municipal Circuit Trial Court of Pamplona, said witness, contrary to his testimony in the court below, never disclosed that Marcelo Magallano had himself hacked the victim with his bolo just as the latter was about to reach for his own weapon.

Moreover, appellants raise an issue on Cirilo Manaban's seemingly inconsistent stand in his affidavit wherein he stated that, after Diomedes Magallano attacked the

victim, he instantly ran away to inform his sister of the fight. Manaban contradicted this statement later in the preliminary examination when he claimed that it was to his father's house that he first went after the incident. Then, in his testimony before the lower court, Manaban made another turnaround when he recalled that he first ran to his sister's house and then later proceeded to his father's house.

The testimony of the barangay captain, Marcelino Rodriguez, to the effect that he saw three hacked wounds on the victim's body but that there was no wound on his arm, is also cited as refuting the claim of Cirilo Manaban that Marcelo Magallano had struck with his bolo at the victim's arm. Finally, appellants express surprise that Cirilo Manaban should idly stand nearby and not make any attempt to assist his brother-in-law while the latter was being waylaid. This, appellants claim, is not the ordinary human reaction and which all the more rendered Cirilo Manaban's testimony unworthy of belief.

In fine, appellants' arguments revolve on the matter of credibility of witnesses. Already well settled and often reiterated is the rule that the findings of trial courts which are factual in nature deserve to be respected and affirmed by appellate courts where no glaring errors bordering on a gross misapprehension of the facts, or speculative and unsupported conclusions, can readily be gleaned from such findings.

[10] We have conscientiously reviewed the records and we are convinced that the trial court's evaluation of the evidence, specifically Cirilo Manaban's testimony, was objective and fairly calibrated and should therefore be accorded affirmance by this Court.

Cirilo Manaban was only a couple of years into his teens when the incident happened. To a boy of such age, the violent and gory event must have traumatized him no end for, indeed, he unwittingly made inaccurate answers during the occasions pointed out by appellants. But, far from being corrosive of the testimony of Cirilo Manaban, those inconsistencies are merely minor lapses and clearly of no consequence, especially when viewed against his narration of the events before the trial court. There, he never wavered during the direct and cross-examination on his categorical assertion that Marcelo Magallano had likewise taken active part in the killing of his brother-in-law by wounding the latter on the arm.

Manaban was forthright and unequivocal in his testimony that while he was about ten meters away from his brother-in-law, appellant Marcelo Magallano suddenly appeared and talked to the victim as the latter was preparing to shoot at the bird perched on top of a "duhat" tree. Suddenly, appellant Diomedes Magallano emerged out of nowhere and unceremoniously pounced upon the unsuspecting victim with his 18-inch "pinuti," a locally made jungle bolo. Marcelo then followed suit with his own bolo, just as Elfonio Adelantar was attempting to unsheathe his weapon. As fate would have it, Marcelo beat the latter to the draw with a hacking blow on the victim's arm.

Cirilo Manaban had known the Magallano brothers for quite some time as they were all residents of the same area. Marcelo Magallano, in fact, had at one time been a frequent visitor of his other elder sister, Diosa Manaban. Thus, he could not have been mistaken as to the identity of the malefactors. No ulterior or ill motive was ever attributed to this witness as to why he should testify falsely against the brothers. True, the victim was a relative of this witness, but relationship, whether by consanguinity or affinity, is not by itself a demerit in weighing the true worth of