

# THIRD DIVISION

[ G.R. No. 241779, December 09, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALBERTO PEREZ Y ESABIDRA, ACCUSED-APPELLANT.**

## DECISION

**DELOS SANTOS, J.:**

### **The Case**

This appeal assails the Decision<sup>[1]</sup> dated September 8, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07880 affirming Alberto Perez y Esabidra's (accused-appellant) conviction for Slight Physical Injuries and Murder.

### **The Proceedings Before the Trial Court**

#### **The Charges**

Two separate *Informations* for Frustrated Murder and Murder were filed against accused-appellant, viz.:

#### Criminal Case No. 2007-852

That on or about the 14th day of July 2007, at Barangay Matipunso, Municipality of San Antonio, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, qualified by treachery and superior strength, did then and there willfully, unlawfully and feloniously attack, assault, and stab with said knife one ANASTACIA LANDICHO y PEREZ, who was then 63 years old, thereby inflicting upon the latter "punctured wound" on her left breast, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, by the timely and able medical attendance rendered to said Anastacia P. Landicho, which prevented her death.

CONTRARY TO LAW.<sup>[2]</sup>

#### Criminal Case No. 2007-853

That on or about the 14th day of July 2007, at Sitio Gulugod Baboy, Barangay Matipunso, Municipality of San Antonio, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, qualified by treachery, did then and there willfully, unlawfully and feloniously attack,

assault and repeatedly stab with said knife one DOMINGO PEREZ LANDICHO, who was then sleeping inside their house, thereby inflicting upon the latter multiple wounds on different parts of his body, which directly caused his instant death.

CONTRARY TO LAW.<sup>[3]</sup>

On arraignment, accused-appellant pleaded not guilty to both charges. Joint trial ensued.

### **The Prosecution's Version**

Domingo Landicho (Domingo) is the son of Anastacia Landicho (Anastacia). Accused-appellant is the grandson of Anastacia's sister.

On July 14, 2007, around 8:00 in the evening, victims Anastacia and Domingo were at their house in Matipunso, San Antonio, Quezon. Accused-appellant came to their house and asked permission to watch television. Anastacia was used to this since accused-appellant always watched television in her house. Being the grandson of victim Anastacia's sister, accused-appellant was also well-known to her.<sup>[4]</sup>

Together, accused-appellant and Anastacia watched the television. At the time, Domingo was sound asleep in the kitchen. Accused-appellant asked for water so Anastacia went to the kitchen. As she was getting water, she turned around and witnessed accused-appellant in the act of stabbing her sleeping son, Domingo, with a knife. She asked him, "*Why did you do that to my son[,] when he was doing nothing and just sleeping?*" Accused appellant then turned his attention to Anastacia and attacked her with the knife he was holding. Anastacia was hit in her left breast but she was able to evade the full force of the attack. Domingo then declared that he was struck, to which Anastacia answered that she was stabbed herself too.<sup>[5]</sup>

Anastacia shouted for help but accused-appellant ran away before anyone could arrive. Her daughter-in-law Mary Jane Landicho (Mary Jane), who was then sleeping in her own house nearby, was awakened by Anastacia's shouts for help. Alarmed, she immediately went to Anastacia's house and saw the latter carrying the bloody body of Domingo. She observed that there was blood coming out of their bodies and Domingo appeared to have been disemboweled because his intestines were falling out.<sup>[6]</sup> Anastacia told her that it was accused-appellant who stabbed both of them. She asked for help from their neighbors but no one came to their aid. Domingo thereafter died.<sup>[7]</sup>

Brgy. Chair Ruben Mendoza (Brgy. Chair Ruben) was informed about the stabbing incident by a Tanod named Bienvenido. He reported the incident to the police officers. When he arrived at the house of Anastacia, he saw the body of Domingo and then talked to Anastacia.<sup>[8]</sup> Anastacia recalls that it was Brgy. Chair Ruben who brought her to the hospital.<sup>[9]</sup>

The result of Domingo's post-mortem examination conducted by Dr. Wilma Laroza (Dr. Laroza) shows that he suffered five (5) stab wounds on the chest and abdomen which eventually caused shock and severe hemorrhage resulting in his death. On the other hand, Dr. Joseph Palmero (Dr. Palmero), the physician who examined

Anastacia, found that the latter sustained a punctured wound on the left breast which was not penetrating and non-fatal.<sup>[10]</sup>

Anastacia failed to present receipts of her hospitalization and medical expenses as well as the expenses she incurred for Domingo's burial and funeral service.<sup>[11]</sup>

### **The Defense's Version**

Accused-appellant denied both charges. He testified that he was a resident of Brgy. Matipunso, San Antonio, Quezon when he was still single but moved to Balintawak, Caloocan City when he got married in 1994. He claimed that he was in his house in Bulacan with his family on July 14, 2007, when the stabbing incident happened.<sup>[12]</sup>

Accused-appellant's wife Thelma Perez (Thelma) corroborated his alibi. She testified that accused-appellant was with her in their house in Brgy. Masagana, Pandi, Bulacan on July 14, 2007.<sup>[13]</sup>

### **The Trial Court's Ruling**

By Joint Decision<sup>[14]</sup> dated August 27, 2015, the trial court rendered a verdict of conviction against accused-appellant for Slight Physical Injuries and Murder, *viz.*:

**WHEREFORE**, premises considered, the accused is found by this Court guilty beyond reasonable doubt of a crime of Murder under **Criminal Case No. 2007-853** and hereby imposes upon him a penalty of "**RECLUSION PERPETUA**," and to pay the heirs of the victim, the following:

- (a) [P] 50,000.00 as moral damages;
- (b) [P] 50,000.00 as indemnity; and
- (c) [P]25,000.00 by way of temperate damages;
- (d) Cost of suit.

In **Criminal Case No. 2007-852** for slight physical injuries, this Court imposes upon the accused a penalty of **ARRESTO MENOR**, and to pay private complainant the following:

- (a) [P] 3,000.00 as actual damages;
- (b) [P] 10,000.00 as moral damages; and
- (c) Cost of suit.

**SO ORDERED.**<sup>[15]</sup>

The trial court held that Anastacia could not have been mistaken as to the identity of the person who killed her son Domingo and inflicted wound upon her. *First*, although it happened at nighttime, there was power supply as accused-appellant and Anastacia watched television. *Second*, Anastacia knew accused-appellant being the grandson of her own sister and a neighbor as well. *Lastly*, before the stabbing incident, Anastacia had a face-to-face interaction with accused-appellant.<sup>[16]</sup>

The trial court further held that there was no ill motive on the part of Anastacia to falsely implicate accused-appellant in the cases. Moreover, Anastacia's claim was

corroborated by Mary Jane who testified that when she arrived at the crime scene, Anastacia told her that it was accused-appellant who stabbed her and her son Domingo.<sup>[17]</sup>

Lastly, the trial court found that the killing of Domingo was attended by treachery. He was not in a position to defend himself at the time of attack. Thus, accused-appellant is guilty of Murder for his death. On the other hand, for the attack and the wound sustained by Anastacia, the trial court found accused-appellant guilty of Slight Physical Injuries only.<sup>[18]</sup>

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

In a Decision<sup>[19]</sup> dated September 8, 2017 the CA affirmed accused-appellant's conviction for both crimes of Slight Physical Injuries and Murder with modification as to the awards of damages

The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the *Appeal* filed by Alberto Perez y Esabidra on 10 September 2015 is **DENIED**. The *Joint Decision* rendered by Branch 55 of the Regional Trial Court of Lucena City on 27 August 2015 in Criminal Cases No. 2007-852 and No. 2007-853 is *AFFIRMED* with *MODIFICATION*. In accord with recent jurisprudence, the awards of moral damages and civil indemnity in Criminal Case No. 2007-853 are each increased to PHP75,000.00, while an award of exemplary damages in the amount of PHP75,000.00 is bestowed in addition to the temperate damages already imposed by the trial court *a quo*. In Criminal Case No. 2007-852, the award of actual damages is deleted for the failure to present proof of the expenses relating to the injuries sustained, while the amount of moral damages is reduced to PHP50,000.00. All amounts of damages awarded shall earn interest at the legal rate of 6% per annum commencing from the date of finality of judgment until fully paid.

**SO ORDERED.**<sup>[20]</sup>

### **The Present Appeal**

Accused-appellant now seeks affirmative relief from this Court and prays anew for his acquittal. He assails the sufficiency of evidence relied upon for his conviction. He particularly challenges the credibility of eyewitness victim Anastacia who allegedly gave testimony inconsistent with the testimonies of other prosecution witnesses. He also claims that he was present somewhere else when the stabbing incident happened in the house of Anastacia on July 14, 2007.

### **Issue**

The issue for the Court's resolution is whether or not the CA erred in affirming accused-appellant's conviction for Slight Physical Injuries and Murder.

### **The Court's Ruling**

The appeal lacks merit.

Accused-appellant challenges in the main his conviction for Murder. He faults both the trial court and the CA for giving credence to the testimony of victim Anastacia despite its inconsistencies with the testimonies of other prosecution witnesses, allegedly casting doubt on her credibility and the veracity of her claims.

The Court stressed in *People v. Gerola*:<sup>[21]</sup>

The assessment of the credibility of witnesses is a task most properly within the domain of trial courts. In *People v. Gahi*, the Court stressed that the findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. Consequently, appellate courts will not overturn the factual findings of the trial court in the absence of facts or circumstances of weight and substance that would affect the result of the case. Said rule finds an even more stringent application where the said findings are sustained by the CA, as in the case at hand.<sup>[22]</sup> (Citations omitted)

Anastacia positively identified accused-appellant as the person who stabbed her and her son Domingo causing the latter's death. She testified that she saw accused-appellant in the act of stabbing her son Domingo who was then sleeping. When she asked him why he stabbed Domingo, she was herself attacked and struck by him in the chest, *viz.*:

Direct examination

Q And where did Alberto Perez watch TV?

A In our house sir, he sat beside me.

Q How about your son Domingo where was he at that time?

A He was then sleeping at the kitchen sir.

Q While you were watching TV with Alberto what transpired next, if any?

A He requested for water and when I was then getting water from our kitchen Alberto Perez followed me and after a while I saw him already stabbing my son who was then sleeping sir.  
<sup>[24]</sup>

x x x x

Q Were you able to talk to your son after he was stabbed by Alberto?

A I was not able to talk with him sir.

COURT:

Q Did he say anything?

A He did not say anything your honor except the words "ako'y may tama" and I answered "ako din."<sup>[25]</sup>

x x x x

Q How many times did Alberto stab your son?

A Only one sir but his intestine came out.<sup>[26]</sup>