

SECOND DIVISION

[G.R. No. 218581, March 27, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LARRY LUMAHANG Y TALISAY, ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by the accused-appellant Larry Lumahang y Talisay (Lumahang) assailing the Decision^[2] dated July 14, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05819, which affirmed with modifications the Judgment^[3] dated October 23, 2012 of the Regional Trial Court (RTC) of Quezon City, Branch 217 in Criminal Case Nos. Q-08-156459 and Q-08-156460, finding Lumahang guilty beyond reasonable doubt of the crimes of Murder and Slight Physical Injuries.

The Facts

Two Informations were filed against Lumahang for killing Rodel Velitario (Velitario) and stabbing Augusto Porneelos (Porneelos), the accusatory portions of which read:

Criminal Case No. Q-08-156459

That on or about the 14th day of December 2008, in Quezon City, Philippines, the [appellant], with intent to kill, with the qualifying aggravating circumstances of treachery did then and there willfully, unlawfully and feloniously commence the commission and evident premeditation of the crime of murder directly by overt acts, by then and there stabbing one AUGUSTO PORNELOS Y Buizon, with a knife, but the said accused did not perform all the acts of execution which would have produced the crime of murder by reason of some cause other than their spontaneous desistance, that is, the timely intervention of another and non-fatal nature of the wounds inflicted to the damage and prejudice of said offended party.^[4]

Criminal Case No. Q-08-156460

That on or about the 14th day of December 2008, in Quezon City, Philippines, the said accused, did, then and there willfully, unlawfully and feloniously, with intent to kill, with the qualifying aggravating circumstances of evident premeditation and treachery, did, then and there willfully, unlawfully, and feloniously attack, assault and employ personal violence upon the person of one RODEL VELITARIO y CAPACIO, by then and there stabbing him several times, thereby inflicting upon him

serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said victim.^[5]

The version of the prosecution, as summarized in its Brief for the Appellee,^[6] is as follows:

On December 14, 2008, around nine o'clock in the evening, Alberto Poraso, Rodel Velitario and Augusto Pornelos were attending a wake in Joan of Arc Street, Barangay Gulod, Novaliches, Quezon City when appellant appeared fuming mad. Suddenly, appellant approached Pornelos from behind and stabbed him in a hook motion with knife in his left hand. Pornelos, who was hit on the buttocks, quickly ran towards an alley. Without warning, appellant then turned his ire on Velitario and stabbed him repeatedly on different parts of his body.

Dr. Joseph Palmero, medico-legal examiner of Velitario, found two (2) stab wounds in the latter's abdomen, one (1) incise wound on the left shoulder and another on the left posterior thigh. He found multiple abrasions on the (sic) Velitario's right collar bone and on both toes which were presumably caused by a scuffle between said victim and his assailant. It was determined that the cause of Velitario's death was the multiple stab wounds he sustained on the abdomen, which among others, hit his left kidney. Dr. Palmero estimated that based on the depth of the wounds, the assailant was within an arm's length from the victim and that the weapon used was a bladed knife measuring around eight (8) cm. long.

On the other hand, Dr. Engelbert Ednacot of the Quezon City General Hospital, examining physician of Pornelos, found a stab wound on the latter's right buttocks, which he concluded to be a non-fatal wound that required treatment for around seven (7) days. In his medical opinion, the victim was attacked from behind.^[7]

On the other hand, the version of the defense, as summarized in its Brief for the Accused-appellant,^[8] is as follows:

On December 14, 2008, at around 9:00 o'clock in the evening, accused **LARRY LUMAHANG** and his cousin LL were on their way home from buying barbecue when five (5) bystanders who were under the influence of alcohol blocked their way. The bystanders approached Larry and LL. Suddenly, two (2) of them touched the hands, shoulders and breasts of LL while the others laughed. LL said "Huwag!" while the accused asked them to stop and told them that if they like LL, they should do it the right way and go to their house to court her. Upon hearing that, the bystanders approached the accused and one of them punched him while another pulled out a knife. The person who drew the knife stabbed the accused but he was able to thwart the thrust. However, he was hit on his left thigh and they grappled with the knife. When he saw a chance to run away, he ran towards the direction of his aunt's house with the bystanders running after him. They were not able to catch him but they tried to destroy the house of his aunt by kicking it but still, they were not

able to pull him out of the house.

He identified Augusto Pornelos as one of the bystanders who blocked their way. When the BPSO went to his aunt's house looking for him, he voluntarily surrendered, after which, he was brought to the hospital and thereafter, to Camp Karingal. He was surprised of the charges of murder and attempted murder against him because he only grappled with the knife and did not stab anyone.

The first time he met the private complainant Pornelos and the deceased Velitario was during the incident and he could not recall any disagreement or confrontations that happened between them before December 14, 2008.

He had also sustained injuries from being punched in the head and had a stab wound on his left thigh. Due to these injuries, he was confined in a clinic in Novaliches which name he could no longer remember. As proof, he showed to the court a one-inch scar with five stitches on his left thigh. When he voluntarily surrendered to the police authorities, no knife was recovered from him.^[9]

When Lumahang was arraigned, he pleaded "not guilty" to the crime charged.^[10] Pre-trial and trial thereafter ensued.

Ruling of the RTC

After trial on the merits, in its Judgment^[11] dated October 23, 2012, the RTC convicted Lumahang of the crimes of Murder and Less Serious Physical Injuries. The dispositive portion of the said Judgment reads:

WHEREFORE, judgment is hereby rendered:

- 1) In Criminal Case No. Q-08-156459, finding accused LARRY LUMAHANG Y TALISAY guilty beyond reasonable doubt of LESS SERIOUS PHYSICAL INJURIES and there being attendant aggravating and mitigating circumstance (*sic*), he is thereby sentenced to suffer an imprisonment of 4 months and 1 day to 6 months;
- 2) In Criminal Case No. Q-156460 for Murder, likewise finding accused LARRY LUMAHANG Y TALISAY guilty beyond reasonable doubt of the offense charged and hereby sentences him to the penalty of *reclusion perpetua*. He is also ORDERED to pay the heirs of the deceased Rodel Velitario the sums of P75,000.00 as death indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

x x x x

SO ORDERED.^[12]

The RTC convicted Lumahang on the basis of the testimony of the prosecution eyewitness Alberto Poraso (Poraso), who positively identified him as the assailant of

Velitario and Pornelos. The RTC held that the stabbing of Pornelos and the killing of Velitario were attended by treachery because the attacks were sudden, the victims were unarmed, and they were not able to defend themselves. However, as to the attack on Pornelos, the RTC only convicted Lumahang of less serious physical injuries as it could not be inferred from the attack, or the wound sustained by Pornelos, that Lumahang had the intent to kill Pornelos.

Aggrieved, Lumahang appealed to the CA.

Ruling of the CA

In the assailed Decision^[13] dated July 14, 2014, the CA affirmed with modifications the RTC's conviction of Lumahang on the basis of Poraso's testimony. It reiterated the rule that the testimony of a lone witness, if found by the trial court to be positive, categorical, and credible, is sufficient to support a conviction.^[14]

The CA held that Lumahang's defense of denial could not prevail over the positive and categorical testimony of the eyewitness who identified him as the assailant of Velitario and Pornelos. As to Lumahang's claim of defense of relative, the CA did not give credence to the claim because the element of unlawful aggression was insufficiently proven. As Lumahang's cousin, who was supposedly harassed by the group of Velitario, was not presented in court, the CA concluded that the supposed aggression relied on by Lumahang was not sufficiently proven. Moreover, the CA held that when Lumahang used the plea of defense of relative, he had, in fact, admitted to doing the acts charged against him as the plea was in the nature of a confession in avoidance.^[15]

The CA likewise upheld the RTC finding that the attacks were attended with treachery. As to the attack against Pornelos, Lumahang effected the attack from behind; as to Velitario, the attack, while made frontally, was made by Lumahang in a sudden, unexpected, and swift manner.^[16] The CA also upheld the RTC's finding that Lumahang was entitled to the mitigating circumstance of voluntary surrender because he surrendered to the barangay at the night of the incident after having been convinced by his aunt, Virginia Lumahang.^[17]

While the CA upheld Lumahang's conviction for Murder for the killing of Velitario, it did, however, downgrade Lumahang's conviction for the stabbing of Pornelos. The CA convicted Lumahang of only Slight Physical Injuries, as Pornelos needed only seven days of confinement in the hospital to recover from the injury.

Hence, the instant appeal.

Issue

For resolution of this Court are the following issues submitted by Lumahang:

- (1) Whether the CA erred in convicting Lumahang despite the prosecution's failure to prove his guilt beyond reasonable doubt;
- (2) Whether the CA erred in appreciating the qualifying circumstance of treachery.

The Court's Ruling

The appeal is partially meritorious. The Court affirms the conviction of Lumahang but for the crime of Homicide, instead of Murder, as the qualifying circumstance of treachery was not present in the killing of Velitario. The Court likewise affirms the conviction of Lumahang for the crime of Slight Physical Injuries for stabbing Pornelos.

On whether Lumahang's guilt was proven beyond reasonable doubt

In questioning his conviction, Lumahang again reiterates his argument that he cannot be convicted on the basis of a single, uncorroborated testimony of an eyewitness.^[18] He argues that the prosecution was unable to present evidence that was contrary to his version of the facts, and this supposedly raises reasonable doubt on his guilt.^[19]

The arguments deserve scant consideration.

At the outset, it bears mentioning that Lumahang raises the same issues as those raised in — and duly passed upon by — the CA. It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.^[20] Thus, when the case pivots on the issue of the credibility of the testimonies of the witnesses, the findings of the trial courts necessarily carry great weight and respect as they are afforded the unique opportunity to ascertain the demeanor and sincerity of witnesses during trial.^[21] Here, after examining the records of this case, the Court finds no cogent reason to vacate the RTC's appreciation of the testimonial evidence, which was affirmed *in toto* by the CA. In this connection, the Court quotes with approval the following disquisition by the CA on the credibility of the testimony of eyewitness Porazo:

It bears stressing that [Porazo] was only about a meter and a half away from appellant when he saw the latter stab [Pornelos]. Also, [Porazo] was about 3 meters away from [Velitario] when he saw appellant turned to stab [Velitario]. Even if it was already 9:00 in the evening, and he is not familiar with appellant, [Porazo]'s proximity to the two victims and the appellant gave him unimpeded view of the stabbing incident. Thus, appellant easily and unmistakably identified appellant in open court as the assailant of the victims.

Of marked relevance is the failure of appellant to impute and show ill-motive on the part of [Porazo] to wrongly implicate him in the present criminal cases. Appellant's admission that he does not know [Porazo] and is unaware of any reason for the latter to falsely testify against him, serves to bolster the credibility of [Porazo]'s testimony. The rule is that when there is no evidence to show any dubious reason or improper motive for a prosecution witness, like [Porazo] to testify falsely against an accused, his testimony is worthy of full faith and credit.^[22]