

THIRD DIVISION

[G.R. No. 229829, January 22, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNEL KALIPAYAN Y ANIANO, ACCUSED-APPELLANT.

DECISION

GESMUNDO, J.:

This is an appeal from the Decision^[1] dated July 29, 2016 of the Court of Appeals-Visayas Station (CA) docketed as CA-G.R. CEB-CR-HC No. 01962. The CA affirmed with modification the Judgment^[2] dated November 26, 2014 of the Regional Trial Court (RTC) of Tacloban City, Branch 34, finding accused-appellant Arnel Kalipayan y Aniano (*accused-appellant*) guilty of murder.

The Antecedents

Accused-appellant was charged with the crime of murder under Article 248 of the Revised Penal Code (RPC). The accusatory portion of the information reads:

Criminal Case No. 2008-06-323

That on or about the 25th day of June 2008 in the City of Tacloban and within the jurisdiction of this Honorable Court the above-named accused with intent to kill, with treachery, evident premeditation and abuse of superior strength did then and there wilfully [*sic*] and feloniously stab several times Glaiza Molina, his former live-in partner inside her house with the use of bladed knife hitting different parts of the latter's body causing her some injuries thereon resulting to her instantaneous death.

Said act is attended with the aggravating circumstance of "dwelling."

Contrary to law.^[3]

On September 10, 2008, accused-appellant was arraigned and he pleaded not guilty to the charge.^[4] Thereafter, trial ensued.

Evidence for the Prosecution

Prosecution witnesses testified that Glaiza Molina (*Glaiza*) and accused-appellant were lovers and they have a child. They lived with Glaiza's grandmother Celestina Molina (*Celestina*) for some time. Their living arrangements changed throughout the

years until it was agreed that Glaiza, together with the couple's daughter, would live with Celestina so that Glaiza can continue her studies. Glaiza and accused-appellant's relationship took a negative turn with the incident that occurred on June 25, 2008.^[5]

Josephine Paraiso (*Josephine*), Glaiza's mother, testified that on June 25, 2008, at around 5:45 p.m., she was watching television inside their house while Celestina and Glaiza were in the kitchen preparing their dinner. Accused-appellant entered their house without permission, approached Glaiza, stabbed her in the back and held her hair. Accused-appellant then made Glaiza face him and continued stabbing her in the abdomen. Josephine tried to stop accused-appellant but the latter poked the knife at her, telling her not to interfere as it was none of her business. Josephine then ran outside the house and asked for help. A neighbor, Dennis Alegre, tried to stop accused-appellant but the latter was undeterred, even when Josephine was begging him to stop. Josephine decided to leave the house while accused-appellant escaped. With accused-appellant gone, Josephine went back inside their house, where she found Glaiza still breathing. Glaiza was brought to Remedios Trinidad Romualdez Medical Foundation Hospital where she was declared dead on arrival.

On cross examination, she testified that accused-appellant entered the house through the main door. Glaiza was about to put the pot on the stove with her back facing accused-appellant when the latter stabbed her using a 9 ½ inch long Rambo knife, which they did not have in their kitchen. She likewise said that accused-appellant and Glaiza did not have a conversation immediately prior to the incident.

Celestina testified that she was in the kitchen with Glaiza while the latter was trying to cook rice. Celestina was doing something to the gas tank when accused-appellant suddenly entered the house and stabbed Glaiza. The latter fell to the ground but accused-appellant continued stabbing her. Celestina then went out of the house to seek help and she was prevented by their neighbors to go back inside.

SPO2 Marion Lavadia testified that he was the policeman on duty and he received the phone call about the stabbing incident. Celestina met the police who responded to the incident and informed them that Glaiza was stabbed several times. They later discovered that accused-appellant could be somewhere in V&G Subdivision in Tacloban City. When they saw accused-appellant, Josephine confirmed that he was the one that stabbed Glaiza. The police arrested accused-appellant and frisked him, which resulted in the discovery of the knife used against Glaiza.

The Medico-Legal Autopsy Report^[6] stated that the victim Glaiza Molina (*Glaiza*) suffered one (1) puncture wound on her head, eight (8) stab wounds and one (1) puncture wound on her chest, one (1) stab wound on her abdomen, two (2) incise wounds, and three (3) stab wounds on her extremities.^[7]

Evidence for the Defense

Accused-appellant presented a different account of the incident. He claimed that he confronted Glaiza because he believes that the latter was having an affair with another man and the situation hurt him. Accused-appellant and Glaiza then went to the balcony of the house near the kitchen, where they ended up arguing and shouting. Glaiza was angry at him, and thereafter went to the kitchen, and he

followed her. Accused-appellant took a knife from the sink and threatened Glaiza, causing the latter to slap him. Accused-appellant then lost control and started stabbing Glaiza, and he could not remember the number of times he stabbed her. He could also not recall what happened until he surrendered when the police saw him at V&G Subdivision.

On cross-examination, accused-appellant stated that he had no intention of hurting Glaiza; instead he wanted to mend their relationship. Glaiza, however, was cold to him. He insisted that he was not armed when he went to Glaiza and he only found the knife inside the house.

The RTC Ruling

In the judgment dated November 26, 2014, the RTC found accused-appellant guilty beyond reasonable doubt of committing the crime of murder. On the matter of the circumstance of abuse of superior strength, it noted that Glaiza was unarmed and stabbed numerous times and it showed that accused-appellant abused his superior strength and demonstrated his brutality. Nevertheless, the RTC opined that this circumstance is absorbed in treachery which was also present in this case. Treachery was proven by the clear and credible testimony of Celestina. The trial court observed that due to the suddenness of the attack, Glaiza was unable to defend herself and repel the attack. On the subject of dwelling as an aggravating circumstance, the RTC stated that there is no evidence showing that the crime was deliberately and purposely intended to be inside Glaiza's house and to cause disrespect to the sanctity of the dwelling.

It held, however, that the evidence presented by the prosecution did not sufficiently show that the killing was attended by evident premeditation. As pointed out by the court, though accused-appellant planned to confront Glaiza, it was not tantamount to planning to kill Glaiza. The RTC concluded that there was no direct or circumstantial proof demonstrated by the prosecution to show that accused-appellant meditated and reflected on committing murder. The dispositive portion of the RTC ruling states:

WHEREFORE, premises considered, the herein accused ARNEL KALIPAYAN y Aniano is hereby found guilty beyond reasonable doubt of the offense of MURDER and is hereby sentenced to suffer a penalty of *Reclusion Perpetua*.

Accused Arnel Kalipayan is hereby ordered to indemnify Josephine Paraiso, the mother of the victim, the amount of Php75,000.00 as moral damages, the heirs of Glaiza Molina Php75,000.00 as death indemnity, Php30,000.00 for funeral expenses and Php 25,000.00 as exemplary damages.

The herein accused Arnel Kalipayan shall be credited the period of his detention during the pendency of this case in accordance with existing laws and procedures.

COSTS against the accused

SO ORDERED.^[8]

Accused-appellant appealed to the CA.

The CA Ruling

In its decision dated July 29, 2016, the CA denied the appeal. It held that there was suddenness in the attack, as gathered from the testimonies of the prosecution, when accused-appellant swiftly appeared inside Glaiza's house and attacked her. The numerous stab wounds found on Glaiza's body, delivered in a sudden manner, negates the claim that Glaiza might have defended herself. The CA likewise agreed with the RTC that there was the qualifying circumstance of abuse of superior strength but the same is absorbed in the circumstance of treachery.

The CA sustained the grant of civil indemnity and moral damages of P75,000.00, and the award of P30,000.00 for funeral expenses and P25,000.00 as exemplary damages. The monetary award was, however, modified by adding an interest of six percent (6%) per annum on the aggregate amount of the monetary awards, computed from the time of finality of the decision until its full payment. The CA disposed the appeal in this wise:

WHEREFORE, this appeal is DENIED. The *Judgment* dated 26 November 2014 of Branch 34 of the Regional Trial Court of Tacloban City in Crim. Case No. 2008-06-323 is AFFIRMED with MODIFICATION. Appellant shall pay an interest of six percent (6%) per annum on the aggregate amount of the monetary awards computed from the time of finality of this Decision until full payment.

SO ORDERED.^[9]

Hence, this appeal.

Issue

WHETHER THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF MURDER DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH ANY QUALIFYING CIRCUMSTANCE.

The records of this case were forwarded by the CA pursuant to its Resolution^[10] dated October 26, 2016, which gave due course to the notice of appeal. The Court required the parties to submit their respective supplemental briefs. The Office of the Solicitor General (OSG), representing the appellee People of the Philippines, filed a Manifestation^[11] stating it will not file a Supplemental Brief to avoid a repetition of arguments already presented in its Appellee's Brief dated January 29, 2016. Appellant likewise filed a Manifestation in lieu of a Supplemental Brief^[12] adopting

in toto the Appellant's Brief filed before the CA.

Arguments of accused-appellant

Accused-appellant admits that he committed the acts that eventually led to Glaiza's death. However, he argues that the qualifying circumstances alleged in the information were not sufficiently proven by the prosecution. Accused-appellant points to the nature of the attack against Glaiza, which he characterizes as not sudden and unexpected. He claims that there was a commotion and a heated argument prior to the killing, which would have allowed Glaiza to raise her guard. The weapon used was also found in Glaiza's residence showing that the means of execution was only adopted as a result of an impulse prior to the killing. Thus, accused-appellant argues that there was no treachery proven.

Accused-appellant likewise posits that the presence of evident premeditation is not backed by evidence, which was acknowledged by the RTC. There was no proof that accused-appellant decided to kill the victim and that there was time for him to reflect upon his decision.

Finally, accused-appellant reiterates abuse of superior strength was also not present. He insists that the prosecution failed to show the disparity in age, size and strength, or force, except for the gender of the parties. Further, there appeared no actual difference between the body types of accused-appellant and Glaiza that will constitute superior strength on his part.

Accused-appellant concludes that these circumstances negate the suddenness of the attack, the deliberateness or conscious adoption of the method of killing, and the existence of treachery. Hence, he underscores that his conviction should only be for the crime of homicide.

Arguments of appellee

Contrary to the protestations of appellant, the OSG claims that the presence of a prior heated argument is untrue based on the testimonies of the prosecution witnesses. Both Josephine and Celestina were actually surprised of his presence in their house. The OSG also highlights that the testimonies show that Glaiza was held by the hair and was stabbed in the back, rendering the latter incapable of defending herself. Not only was Glaiza unaware of accused-appellant's presence, she was also caught unaware of his impending attack on her.

The Court's Ruling

The appeal is unmeritorious.

It is a hornbook rule that an appeal of a criminal case throws the entire case up for review. It becomes the duty of the appellate court to correct any error that may be found in the appealed judgment, whether assigned as an error or not.^[13] Bound by this doctrine, this Court will thus review not just the propriety of appellant's conviction, but likewise the penalty and monetary award given to the heirs of the victim.