

SECOND DIVISION

[G.R. No. 204895, March 21, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL DOMINGO, ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

This is an Appeal^[1] under Section 13, Rule 124 of the Rules of Court from the Decision^[2] dated May 31, 2012 of the Court of Appeals, Ninth Division (CA) in CA-G.R. CR-H.C. No. 04278. The CA Decision affirmed the Joint Judgment^[3] dated August 18, 2009 rendered by the Regional Trial Court (RTC) of Laoag City, Branch 14, in Criminal Cases Nos. 11741-14, 11742-14, 11743-14,^[4] which found accused-appellant Joel Domingo (accused-appellant) guilty of two counts of the crime of Murder and one count of Attempted Murder.

Facts

Three Informations were filed against accused-appellant and Roel Domingo (Roel). In Criminal Case No. 11741-14, the Information states:

That in the evening of February 26, 2005 at Brgy. Sta. Maria, in the municipality of Piddig, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously shoot VIRGILIO DALERE with the use of an unlicensed firearm causing his instantaneous death.^[5]

In Criminal Case No. 11742-14, the Information regarding the death of Glenn Rodriguez^[6] states:

That in the evening of February 26, 2005 at Brgy. Sta. Maria, in the municipality of Piddig, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously shoot GLENN RODRIGUEZ with the use of an unlicensed firearm causing his instantaneous death.^[7]

In Criminal Case No. 11743-14, the Information, charging accused-appellant and Roel with Attempted Murder of Roque Bareng (Bareng), states:

That in the evening of February 26, 2005 at Brgy. #21, Sta. Maria, in the municipality of Piddig, province of Ilocos Norte, Philippines and within the

jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill and with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously assault, attack and shoot ROQUE BARENG with the use of an unlicensed firearm but was not able to hit him, thereby commencing by overt acts the commission of the crime of Murder but did not perform all the acts of execution which should have produced it by reason of some causes other than the spontaneous desistance of said accused.^[8]

The CA summarized the subsequent proceedings as follows:

The three cases were originally raffled to Branch 15 of the Regional Trial Court (RTC) of Laoag City. With the assistance of counsel, the Accused Roel Domingo and Joel Domingo were arraigned before Branch 15 and pleaded not guilty to each charge. ,

Subsequently, the accused through counsel filed a Motion praying for the re-raffle of these cases to another branch since proceedings had not gone beyond the pre-trial stage although they had been detained for more than a year. The Motion was granted by Branch 15, and the cases were re-raffled to Branch 14 of the same Court.

Pre-trial conference ensued. There, it was agreed that the prosecution would present its evidence in four settings of a joint trial. **The prosecution failed to present a single witness in each of those four settings. Thus, the Court in an Order dated February 7, 2007 dismissed the cases and directed the release of the two accused.**

On February 14, 2007, the Office of the Provincial Prosecutor filed a Motion for Reconsideration, claiming that notices to the prosecution witnesses had not been served because they constantly transferred to other places due to persistent threats to their lives as a result of these cases.

In an Order dated June 14, 2007, the Court granted the Motion for Reconsideration, reasoning that "the State in the present cases was deprived of its right to due process, for it was not given a fair opportunity to present its witnesses. Accordingly, double jeopardy cannot bar the reconsideration of the assailed Order, and due process mandates that the prosecution be allowed to present its witnesses."

Accused Joel Domingo was rearrested; his co-accused Roel Domingo was not. Parenthetically, the cases against Roel Domingo were dismissed in an Order dated April 28, 2009, after the defense submitted a death certificate showing that he died on April 8, 2009 in Lopez, Quezon due to multiple hack wounds.

Thereafter, the prosecution presented its evidence. Its only witness was private complainant Roque Bareng. It dispensed with the presentation of Dr. Diophantes M. Acob who conducted the post-mortem examination on Deceased Glenn Rodriguez and Virgilio Dalere, upon the agreement of the

parties during the pre-trial conference that his reports thereon show the cause and the fact of death of the two deceased.^[9] (Emphasis and underscoring supplied)

The CA summarized the version of the prosecution as follows:

The prosecution sought to prove that three men armed with M-14 and M-16 rifles attacked and shot Roque Bareng, Virgilio Dalere, Glenn Rodriguez and Edwin Andres at the Abadilla Farm in Brgy. Sta[.] Maria, Piddig, Ilocos Norte, around 11:30 PM on February 26, 2005. Virgilio Dalere and Glenn Rodriguez died from gunshot wounds. Roque Bareng, who managed to escape unharmed, identified Joel Domingo as one of the assailants.

The prosecution's evidence showed that Roque Bareng was with Edwin Andres, Glenn Rodriguez and Virgilio Dalere at the bunkhouse of the Abadilla Farm at the time of the shooting incident. While Roque Bareng and his companions were having coffee, three men bearing M-14 and M-16 rifles appeared; one of them stayed outside the kitchen door, while the other two entered. Roque Bareng was on the southern edge of the kitchen, facing north; the armed men came from the northern portion of the kitchen.

The assailant with the M-14 rifle asked, "Are you the tough guys here?" The other one with the M-16 rifle ordered them not to move. The assailant with the M-16 rifle pointed his firearm towards Virgilio Dalere, and the one with the M-14 rifle pointed it towards Glenn Rodriguez. Around two seconds after the gunmen entered, each fired a single shot inside the kitchen.

Roque Bareng ran toward the fence. Upon reaching the fence, he looked back and saw the assailant with the M-14 rifle pointing it at him. He then crouched toward the irrigation and proceeded to the house of Edwin Andres where he stayed for the night. He could no longer recall how many gunshots were fired while he was running.

Roque Bareng testified that Edwin Andres ran ahead of him. He further testified that Glenn Rodri[g]uez also ran away. He did not notice Virgilio Dalere, but heard the latter moan, "Apo."

The following morning, Piddig policemen fetched him at the house of Edwin Andres, and they proceeded to the Abadilla Farm. There, they found the lifeless bodies of Glenn Rodriguez and Virgilio Dalere outside the bunkhouse. He further testified that policemen found one empty M-14 shell and one empty M-16 shell at the kitchen of the bunkhouse.

After taking Roque Bareng to a hospital in Piddig for treatment of the wounds he sustained during his flight from the bunkhouse, the policemen brought him to the police station.

In an answer to the query of the policemen, Roque Bareng told them that he could recognize the assailants. He also testified that there was a

fluorescent lamp just above the dining table during the shooting, and the moon also illuminated the place.

Three (3) days later, Roque Bareng was brought to the Ilocos Norte Police Provincial Office in Camp Juan, Laoag City, where he gave his statement. On March 2, 2005, he was called back to Camp Juan. An artist asked him to describe the assailants; out of that description, the artist prepared cartographic sketches of two of the assailants. He signed the cartographic sketches afterward.

The policemen continued interviewing Roque Bareng. They showed him a logbook containing several photographs. He identified the two assailants from the photographs in the logbook.

Several days later, Roque Bareng was again invited to the Piddig police station. During his stay, he saw two persons being interviewed. He recognized them to be the assailants with the M-14 and M-16 rifles.

During the trial, he identified herein accused Joel Domingo as the gunman with an M-14 rifle.^[10]

On the other hand, the accused-appellant's evidence is summarized as follows:

The defense sought to prove that Accused Joel Domingo was attending a social dance in Brgy. Dupitac, Piddig, Ilocos Norte when the victims were shot at Brgy. Sta[.] Maria of that town. It also sought to establish that the descriptions given by Roque Bareng to the policemen and the cartographic sketches differed from the actual appearance of the Accused Joel Domingo.

It presented Edwin Andres, Pastor Virgilio Notarte, Noel Esteban, Norman Pablo and the Accused Joel Domingo as witnesses.

Edwin Andres testified that the shooting incident transpired while he was having coffee with Roque Bareng, Virgilio Dalere and Glenn Rodriguez at the bunkhouse of the Abadilla Farm in Sta. Maria, Piddig, Ilocos Norte on February 26, 2005. Somebody arrived from the western portion of the bunkhouse. He then heard a voice that he did not recognize; the voice was followed by a gunshot. He immediately ran toward the gate and took a circuitous route to his house. Edwin Andres claimed that he was not able to see the assailants. He could not tell how many he saw as he did not see them.

Upon reaching his house, Edwin Andres found Roque Bareng already there. When he asked Roque Bareng about the incident, the latter replied that he saw the assailants and that they were "small thin persons wearing hats". He could no longer recall how many assailants were seen by Roque Bareng.

The following day, he and Roque Bareng went back to the bunkhouse. They found the dead bodies of Glenn Rodri[g]uez and Virgilio Dalere outside the building. They reported the matter to the chief tanod, who in

turn informed Pastor Virgilio Notarte, a kagawad, who then called the police.

The policemen recovered the bodies and questioned Roque Bareng and him. He told them that he did not see anything. He heard Roque Bareng describe the assailants to the police as "small thin persons wearing hat with a brim."

Pastor Virgilio Notarte testified that he was a barangay kagawad of Brgy. Sta. Maria, Piddig, Ilocos Norte at the time of the x x x shooting incident. After the chief tanod had informed him of the matter, he reported it to the police. He accompanied the policemen when they inspected the Abadilla Farm.

Nobody was at the Abadilla Farm when they arrived. On their way to the barracks located on an elevated part at the center of the farm, they passed by the body of Virgilio Dalere lying face down. When they moved further west, they also found the body of Glenn Rodriguez.

Pastor Notarte picked up around six empty M-14 shells east of, the dirty kitchen and one empty M-16 shell north of that kitchen.

He heard Roque Bareng telling the policemen that he and his companions had come from a drinking spree when he heard a dog barking and saw two men at the dirty kitchen of the barracks. He further heard Roque Bareng describe the assailants as "tall, thin, wearing a hat with a brim and the other man was short and stout."

For his part, Accused Joel Domingo invoked the defense of denial and alibi. He claimed he was at Brgy. Dupitac in Piddig, Ilocos Norte attending a social dance between 10:00 PM of that date until 2:00 AM the next day. Fie, together with Norman Pablo and Rexon Domingo walked from his residence at Brgy. Estancia to Brgy. Dupitac that night.

He testified that Brgy[.] Dupitac was less than ten (10) kilometers away from Brgy. Sta. Maria where the shooting incident happened. Fie did not know how long it would take to travel from Brgy. Dupitac to Brgy. Sta. Maria by foot, as he had never done it. However, he said that if one would travel from Brgy. Dupitac to Brgy. Sta. Maria on a motorcycle, it would take more than an hour because the route passed through mountains.

He also averred that Brgy. Estancia, where he resided, was around ten (10) kilometers away from Brgy. Sta. Maria where the victims were shot. The travel time between the two barangays was more than one hour.

He stressed that he never had any grudge or misunderstanding with the deceased Glenn Rodriguez or Virgilio Dalere. He also opined that the police pinned him as an author of the crime to enable them to say that they had solved the case; he added that he was facing other charges at that time. He learned about the incident only when the policemen came to arrest him.