

THIRD DIVISION

[G.R. No. 217889, March 14, 2018]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. RITZ BARING MORENO, ACCUSED-APPELLANT.

DECISION

MARTIRES, J.:

For resolution is the appeal of accused-appellant Ritz Baring Moreno seeking the reversal and setting aside of the 29 October 2014 Decision^[1] rendered by the Court of Appeals (CA), Twentieth Division which affirmed, with modification as to the award of monetary damages, the 17 August 2012 Decision^[2] of the Regional Trial Court (RTC), Branch 20, Cebu City, finding him guilty of Murder.

THE FACTS

The accused-appellant was charged with murder in an Information docketed as Crim. Case No. CBU-74770, *viz*:

That on or about the 3rd day of October 2005, at about 10:45 p.m., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a .38 cal. revolver with deliberate intent, with intent to kill, and with treachery and evident premeditation, did then and there suddenly and unexpectedly shoot one KYLE KALES CAPSA y LOMIBAO hitting him on the vital part of his body, thereby inflicting upon him physical injuries as a consequence of said injuries, said KYLE KALES CAPSA y LOMIBAO died minutes later.

CONTRARY TO LAW.

When arraigned, the accused-appellant, with the assistance of counsel, pleaded not guilty; trial on the merits thereafter ensued.

Version of the Prosecution

The prosecution tried to prove its case against the accused-appellant through the testimony of Vicente Capsa (*Vicente*), Reanne Vincent Kerby Capsa (*Reanne*), and Atty. Rene Bautista (*Atty. Bautista*).

The testimony of SPO4 Alex Dacua (*Dacua*) of the Cebu City Police Office (CCPO) was dispensed with after the parties agreed to stipulate on the following: that the witness was assigned at the Criminal Investigation and Intelligence Bureau (CIIB) Homicide Section, CCPO, on 3 October 2005; that the witness responded to a shooting incident at the Capsa compound, Sitio Maharlika, Barangay Sambag II, Cebu City, where one Kyle Kales Capsa (*Kyle*), the victim, was shot and declared

dead on arrival at the Vicente Sotto Memorial Hospital (*VSMH*); that there was a hot pursuit operation; that the accused voluntarily surrendered to Bobby Nalzaro of DYSS Radio Station; that Bobby Nalzaro turned over the accused who voluntarily surrendered to the police authorities at the CIIB; that the police officers voluntarily conducted a custodial investigation on the accused; that the accused voluntarily executed an extrajudicial confession before the police officers; that it was Insp. Monilar who typed the extrajudicial confession; that the accused was assisted by counsel Atty. Bautista; and that the witness saw Atty. Bautista at the premises of the Homicide Section of CIIB.^[3]

Likewise, the record custodian of the National Bureau of Investigation and Dr. Gil Macato were no longer called to the witness stand after the defense admitted the records of Kyle and the existence of Kyle's certificate of death^[4] and the findings therein.^[5]

The unrefuted facts established by the prosecution, in view of the manifestation of the accused-appellant that he would no longer present evidence on his behalf, were as follows:

On the night of 3 October 2005, Reanne, the younger brother of Kyle, had a fistfight with his cousin, Tyke Philip Lomibao (*Tyke*), after Tyke hit Reanne with a cue stick. Kyle, who saw the incident, sided with Reanne; thus, the fistfight continued, but neighbors were subsequently able to separate the three.^[6]

At around 10:45 p.m. that same night, inside their compound, while Reanne and Kyle were discussing what happened earlier to Tyke, Ivan Sala (*Sala*) and Alexander Pala (*Pala*) passed by and looked at the Capsa brothers. Shortly, the accused-appellant arrived, positioned himself five meters away from Reanne and Kyle and fired at them twice with a .38 caliber revolver, the second shot hitting Kyle in the chest. The accused-appellant ran away because there were neighbors who saw him fire the shots. Since Reanne was still in shock after the shooting, a neighbor brought Kyle, then twenty-three years old and a nautical graduate, to the *VSMH* where he was pronounced dead on arrival.^[7]

Vicente, the father of Reanne and Kyle, was awakened by his daughter-in-law informing him that Kyle was shot. Vicente proceeded to the *VSMH* where he was told that Kyle had already died.^[8]

The following day, when Vicente went to the police station to report the incident, he was told that the person who shot Kyle was the accused-appellant, upon Tyke's order. Vicente filed a complaint against Tyke, which was subsequently dismissed.^[9] At the police station, the accused-appellant confessed to Reanne that it was Tyke who ordered him to shoot them.^[10]

Atty. Bautista also went to the police station on 4 October 2005, upon the advice of Vice-Mayor Michael Rama, the Chairman of the Peace and Order Council, to observe and ascertain whether the investigation on the shooting of Kyle was above board. Because the accused-appellant had no counsel during the investigation, Atty. Bautista was asked to assist him. Present during the investigation, Atty. Bautista observed that the police neither coerced nor threatened the accused-appellant. He

explained to the accused-appellant and his mother, Dolores Baring Moreno, the consequences of signing the sworn statement^[11] executed at the police station.^[12]

The Ruling of the RTC

The RTC held that the lone testimony of Reanne identifying the accused-appellant as the one who shot Kyle sufficed to convict. Considering that there was no evidence offered by the defense to refute the testimony of Reanne, his credibility as a witness stood on firm and solid ground. The RTC considered the following facts in appreciating the qualifying circumstance of treachery in this case, *viz*: no prior warning or indication as to the presence of the accused-appellant; there was no previous altercation between the accused-appellant and the Capsa siblings; and the accused-appellant and the Capsa siblings hardly knew each other. Additionally, the accused-appellant executed an extrajudicial confession freely and voluntarily. The RTC ruled that because the accused-appellant was criminally liable for the death of Kyle, he should also be held civilly liable.^[13]

The RTC resolved the case as follows:

WHEREFORE, in view of the foregoing, the court finds accused RITZ BARING MORENO GUILTY beyond reasonable doubt of the crime of Murder, qualified by treachery, and hereby sentences him to a prison term of *Reclusion Perpetua*.

Accused Ritz Baring Moreno is also hereby ordered to pay the heirs of Kyle Kales Lomibao Capsa the sum of P75,000.00 as civil indemnity *ex delicto* and moral damages of P50,000.00.

SO ORDERED.^[14]

Aggrieved with the decision of the RTC, the accused-appellant appealed before the CA.

The Ruling of the CA

The CA found Reanne's testimony as credible considering the following: he was facing the gate where the accused-appellant was at the time of the incident; he was merely five meters away from the accused-appellant; and the face of the accused-appellant was visible even at night since the sodium light was very bright.^[15]

The CA ruled that the RTC properly appreciated the qualifying circumstance of treachery in the killing of Kyle. In the same manner, the CA agreed with the finding of the RTC that evident premeditation was not established by the prosecution.^[16]

The CA held that the RTC failed to appreciate the mitigating circumstance of accused-appellant's voluntary surrender, a fact which had been expressly stipulated on by the parties. The CA, however, found that the RTC imposed the correct penalty of *reclusion perpetua* upon the accused-appellant but ruled that there was a need to modify the monetary awards to the heirs of Kyle as follows: P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P25,000.00 as temperate damages.^[17]

The dispositive portion of the CA decision reads:

WHEREFORE, the appeal is DENIED. The August 17, 2012 *Decision* of the Regional Trial Court, Branch 20 of Cebu City in Crim. Case No. CBU-74770 is AFFIRMED WITH MODIFICATION that accused appellant Ritz Baring Moreno is ordered to pay the victim's heirs the following amounts: (a) P50,000.00 as civil indemnity *ex delicto*; (b) P50,000.00 as moral damages; and (c) P25,000.00 as temperate damages in lieu of actual damages.

SO ORDERED.^[18]

ISSUE

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.

OUR RULING

The appeal is partly meritorious.

The findings of the trial court relative to the credibility of witnesses are accorded respect.

Time and again, this Court has held that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect.^[19] The reviewing court is bound by the findings of the trial court, more so when the same is affirmed by the appellate court on appeal.^[20] The justification for this ruling was discussed in *People v. Macaspac*^[21] as follows:

It is settled that the assessment of the credibility of the witnesses and their testimonies is best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grueling examination. These factors are the most significant in evaluating the sincerity of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. Through its personal observations during the entire proceedings, the trial court can be expected to determine whose testimonies to accept and which witnesses to believe. Accordingly, the findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight were overlooked, misapprehended, or misinterpreted as to materially affect the disposition of the case.

In this case, the Court adopts the finding of the RTC and the CA that Rearme's testimony identifying the accused-appellant as the one responsible for the killing of Kyle was convincing and credible especially in the absence of evidence from the defense that would refute his testimony. The pertinent portions of Reanne's testimony are as follows:

Q. During that time that you were talking with your brother what happened?

A. At about 10:00 o'clock going to 11:00 o'clock RJ arrived.

Q. Who is this RJ?

A. Ritz Baring.

Q. Are you referring to Ritz Baring Moreno, the accused in this case?

A. Yes.

Q. Do you know him personally before or during the incident?

A. Yes because I have a "kumpare" who is his neighbor and also a classmate who is also his neighbor.

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Q. You said that this RJ Moreno arrived at your place, did he enter the gate of the compound?

A. At the door of the gate because we have no door it was broken and it is always open.

Q. If you are the person outside can you see the person inside that gate?

A. Yes.

Q. When you said that RJ Moreno entered and was in your gate at the door what happened?

A. He suddenly shoot us.

Q. You said shot us. Who are you referring to? You and?

A. Me and my brother.

Q. How many shots did you hear that time?

A. 2.

Q. To whom did RJ Moreno aimed and fired his firearm?

A. He shot me first because I was in front.

Q. Were you hit by the shot of RJ Moreno?

A. No.

Q. Was it the first shot or the second shot that was aimed at you?