

THIRD DIVISION

[G.R. No. 222645, June 27, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
MICHAEL DELIMA, ALLAN DELIMA, JOHN DOE, PAUL DOE AND
PETER DOE ACCUSED, MICHAEL DELIMA AND ALLAN DELIMA,
ACCUSED-APPELLANTS.**

D E C I S I O N

MARTIRES, J.:

This is an appeal from the 18 September 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 01820, which affirmed the 22 October 2013 Decision^[2] of the Regional Trial Court, Branch 58, Cebu City (RTC), in Criminal Case No. CBU-88328 finding accused-appellants Michael Delima (*Michael*) and Allan Delima (*Allan*) guilty beyond reasonable doubt of the crime of murder.

THE FACTS

In an Information^[3] dated 26 February 2010, Michael and Allan, together with their co-accused, were charged with murder for the death of Ramel Mercedes Congreso (*Ramel*). The accusatory portion of the information reads:

That on or about the 14th day of June 2009, at about 4:00 a.m., more or less, at Burgos St., Poblacion, Talisay City, Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating with together and mutually helping one another, armed with a bladed and pointed weapon, with deliberate intent, with intent to kill, and with treachery and evident premeditation, did then and there attack, assault and stab one RAMEL MERCEDES CONGRESO, with the use of said bladed and pointed weapon, hitting the latter on different parts of his body, and as a consequence of said stab wounds, RAMEL MERCEDES CONGRESO died instantaneously.

During their arraignment on 25 May 2010, Allan and Michael entered a plea of "Not Guilty."^[4]

Version of the Prosecution

The prosecution presented Ramel's mother Josefina Congreso (*Josefina*), Jose Gajudo, Jr. (*Jose*), and Anthony Nator (*Anthony*) as its witnesses. Their combined testimonies sought to establish the following:

On 13 June 2009, Anthony invited Jose to his home to celebrate the barangay fiesta.^[5] At around 4:00 A.M. the following day, Jose decided to go home. As he came out from Anthony's house, he saw five individuals ganging up on Ramel — the scuffle was around eight meters from Anthony's house. When they saw him, three of the

five assailants scampered away while the two left continued to beat Ramel, whom they stabbed while they held and pulled him back by his pants. Scared of what he saw, Jose rushed back inside Anthony's house.^[6]

Anthony was surprised that Jose was back because he had already asked permission to go home. When he asked why, Jose told him about the stabbing incident and asked Anthony to accompany him to where it happened.^[7] There, Jose pointed to the two persons whom he saw holding and stabbing Ramel and asked Anthony who they were.^[8] Anthony said Allan was the one Jose saw stab Ramel while Michael held the victim by his pants; and that after the incident, he saw Michael and Allan just walk away from the crime scene.^[9]

On 16 June 2009, Josefina's sister-in-law called her to say her that her son Ramel had died from a stabbing incident. She travelled to Cebu and viewed Ramel's remains at the funeral parlor where she noticed that her son had several stab wounds on various parts of his body.^[10]

Version of the Defense

The defense presented Michael, Allan, and their father Francisco Delima (*Francisco*) as witnesses. In their combined testimonies, they narrated:

On 13 June 2009, Michael, who was with a certain Lito, went to a disco at Poblacion, Talisay City. Meanwhile, his brother Allan was at home drinking with Francisco, in celebration of the barangay fiesta, and slept after their drinking session. On 14 June 2009, at around 1:00 A.M., Francisco fetched Michael from the disco and they went home. Once home, Michael slept and woke up at around 6:30A.M. the next morning, when both he and Allan learned of the stabbing incident. ^[11]

The RTC Ruling

In its 22 October 2013 decision, the RTC found Michael and Allan guilty of murder for the stabbing of Ramel. The trial court noted that Jose, who neither knew Ramel nor Michael and Allan, positively identified Allan as the one who stabbed Ramel while Michael held the victim by his pants. It disregarded the arguments of accused-appellants that Anthony had a grudge against them on account of their conflicting testimonies, and that Anthony only named them after Jose had asked for their names. The RTC also explained that their defenses of denial and alibi had no leg to stand on because their testimonies did not match. Further, the trial court expounded that Michael and Allan conspired with each other to kill Ramel. The dispositive portion reads:

ACCORDINGLY, judgment is hereby rendered finding both accused Michael Delima and Allan Delima GUILTY of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua. They are also ordered to pay, jointly and severally, the heirs of Ramil [sic] Mercedes Congreso, the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as temperate damages.

The full preventive detention shall be credited in the service of their sentence.

SO ORDERED.^[12]

Aggrieved, accused-appellants appealed before the CA.

The CA Ruling

In its assailed decision, the CA affirmed that of the RTC. The appellate court ruled that the perceived inconsistencies in the testimonies of the prosecution witnesses pertained to minor details which, in fact, strengthened their credibility because they tended to prove that their testimonies were not rehearsed. It also explained that inconsistencies in the sworn affidavit and in the testimony of the witness do not discredit the witness' credibility because affidavits are generally incomplete. The CA found that Michael and Allan conspired to kill Ramel as evidenced by their concerted actions of stabbing him while he was being held by his pants; and that treachery attended the killing because Ramel was helpless when the fatal blow was inflicted. The dispositive portion reads:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Decision dated October 22, 2013 of Branch 58 of the Regional Trial Court (RTC) of Cebu City in Criminal Case No. CBU-88328 finding accused-appellants guilty beyond reasonable doubt of the crime of murder is AFFIRMED.

SO ORDERED.^[13]

Aggrieved, accused-appellants appealed before the Court raising:

ISSUE

I

WHETHER ACCUSED-APPELLANTS ARE GUILTY BEYOND REASONABLE DOUBT OF SERIOUS ILLEGAL DETENTION.

THE COURT'S RULING

The appeal is partly meritorious.

It must be remembered that an appeal in criminal cases throws the case wide open such that the Court is not limited to the assigned errors of the parties and may settle other issues relevant to the case. The appeal grants the appellate court full jurisdiction over the case enabling it to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.

^[14]

Inconsistencies over trivial matters do not discredit the witness.

Accused-appellants contest the credibility of Jose because of perceived inconsistencies. They highlight that based on his affidavit and Anthony's testimony, Jose saw them stabbing Ramel before he went back to Anthony's house; but, in his testimony, he claimed that he went inside immediately when he saw five persons ganging up on the victim. It must be remembered that in order for inconsistencies in a witness' testimony to warrant acquittal, the same must refer to significant facts vital to the guilt or innocence of the accused or must have something to do with the

elements of the crime.^[15] In *Avelino v. People*, the Court explained why minor inconsistencies over trivial matters do not discredit a witness, to wit:

Given the natural frailties of the human mind and its incapacity to assimilate all material details of a given incident, slight inconsistencies and variances in the declarations of a witness hardly weaken their probative value. It is well-settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-appellants. **As long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility.** Inconsistencies on minor details do not undermine the integrity of a prosecution witness. (emphasis supplied)

Here, the apparent inconsistency merely refers to insignificant matters as it only pertained to the sequence of how the events unfolded. Accused appellants earnestly try to refute Jose's credibility on the ground that it is contrary to his affidavit and Anthony's testimony. Nevertheless, the assailed inconsistency is simply whether Jose called Anthony before or after Ramel was stabbed. It does not discount the fact that Jose's testimony categorically identified accused-appellants as those responsible for Ramel's death and clearly narrated their respective participation. His testimony shows consistency on material points, i.e., the elements of the crime and the identity of the perpetrators, viz:

FISCAL MACION

Q: While you were in that place at around 4:00 o'clock in the morning. do you remember having witnessed any unusual incident?

A: Yes.

Q: What was that incident?

A: As I came from the house of my friend when I was about to go home when I went out there were people fighting.

Q: How many people where (sic) fighting?

A: As I saw at the side there were six (6) people including the person they were beating up.

Q: How many people were beating up that person you were referring to Mr. Witness?

A: As I first saw it there were five (5).

Q: You are saying Mr. Witness that it was a case of five (5) persons against one (1)?

A: Yes.

x x x x

Q: Earlier Mr. Witness you mentioned of five persons were beating up this lone person, what did these five persons actually do to that lone person?

A: They were ganging up on him some were pushing and some were pulling him.

Q: After seeing these persons one stabbing the said person and the other one holding the back portion of the pants, what did you do next?

A: I was in shock when I saw the incident and it was my friend Anthony Nator that said it was Michael and Allan and they are crazy.

Q: Your friend Anthony Nator was referring to the two persons whom you saw the other one stabbing and the other one holding the pants, is that correct?

A: Yes.

Q: Who was actually stabbing the victim Mr. Witness?

A: What I saw and what Sator (sic) told me it was Allan who stabbed the victim.

Q: How about Michael?

A: He was the one pulling the pants.

Q: If this Michael and Allan present (sic) inside this court room can you please point them out to us?

A: Those two persons sitting sir. (Witness pointing to the two persons who when asked answered by the names of Michael Delima and Allan Delima).^[16]

Accused-appellants also challenge the credibility of the prosecution witnesses on account that Anthony had a grudge against them, and that as his friend, Jose could have been easily convinced to testify against them. As correctly observed by the courts *a quo*, accused-appellants' allegations of ill will on the part of Anthony is specious considering that they offered conflicting versions: Michael claimed that Anthony held a grudge against them because he had a fistfight with his son while Allan alleged that it was he who fought Anthony's son. More importantly, Anthony's purported grudge is not fatal to the prosecution since he merely provided the names to Jose, who was the one who identified accused-appellants as Ramel's attackers.

Further, the Court finds hollow accused-appellants' claim that Anthony could have easily influenced his friend Jose to testify against them because it is purely conjecture. Surely, such unsubstantiated allegations devoid of any proof do not deserve even the faintest merit.

Positive identification trumps denial and alibi.

In view of Jose's identification of accused-appellants as Ramel's killers, their defenses of denial and alibi have no leg to stand on. It is axiomatic that the denial and alibi cannot prevail over positive identification.^[17] Further, in *Escalante v. People*,^[18] the Court explained that the alibi must show that it was physically impossible for the accused to be at the crime scene, to wit: