

SECOND DIVISION

[G.R. No. 219884, October 17, 2018]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
MICHAEL A. BELLUDO AND JOHN DOE, ACCUSED.**

MICHAEL A. BELLUDO, ACCUSED-APPELLANT.

D E C I S I O N

A. REYES, JR., J.:

Nature of the Case

Before this Court is an appeal^[1] from the August 14, 2014 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR HC No. 05937, which affirmed with modification the October 24, 2012 Decision^[3] of the Regional Trial Court (RTC), Branch 27 of Naga City, in Criminal Case No. 2008-0412, finding accused-appellant Michael A. Belludo (Belludo) guilty beyond reasonable doubt of the crime of Murder.

The Facts

In an Information dated November 27, 2008, Belludo was charged with Murder of one Francisco "Paco" Ojeda (Ojeda) committed as follows:

That on or about August 12, 2008, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named [accused-appellant] with intent to kill, with treachery, did, then and there, willfully, unlawfully and feloniously shoot with a handgun FRANCISCO "PACO" OJEDA while the latter was walking near BBS Radio Station, Balatas, Naga City, thereby hitting his head and inflicting upon him serious mortal and fatal wounds which directly caused his instantaneous death, to the damage and prejudice of herein complaining witness ARLENE P. RODRIGUEZ, common law wife of the deceased and his other heirs.

ACTS CONTRARY TO LAW.^[4]

Upon motion of the public prosecutor, the case was submitted for reinvestigation regarding the inclusion of an additional accused, the motorcycle driver who allegedly participated in the commission of the offense charged. On February 28, 2009, the prosecution filed a Manifestation with Motion to Admit Amended Information which the trial court admitted in its Order dated April 29, 2009.^[5] The Amended Information reads thusly:

That on or about August 12, 2008, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Michael A. Belludo, conspiring and confederating with his co-accused

John Doe, with intent to kill, and with treachery, did, then and there, willfully, unlawfully and feloniously shoot with a handgun FRANCISCO "PACO" OJEDA while the latter was walking near BBS Radio Station, Balatas, Naga City, thereby hitting his head and inflicting upon him serious mortal and fatal wounds which directly caused his instantaneous death, and thereafter escape aboard a waiting motorcycle being driven by his co-accused John Doe, to the damage and prejudice of herein complaining witness ARLENE P. RODRIGUEZ, common law wife of the deceased, and his other heirs.

ACTS CONTRARY TO LAW.^[6]

As John Doe's identity and whereabouts remained unknown, only Belludo stood trial. Upon arraignment, he pleaded not guilty. Thereafter, trial on the merits ensued.

Version of the Prosecution

During trial, the prosecution presented an eyewitness, Allan Ladia (Ladia), Arlene Rodriguez (Rodriguez), who is the common-law wife of the victim, and members of the Philippine National Police (PNP) who conducted the investigation of the case and arrested Belludo.

The prosecution's version may be synthesized as follows:

On August 12, 2008 at around 3:00 a.m., Ladia and his son Albert were collecting scraps near BBS radio station along Balatas Road, Naga City, when they suddenly heard a gunshot. Right away, his son pointed his finger in front of them and told him: "*Pa, may binadil sa inutan*" ("Pa, someone has just been shot in front of us"). Ladia immediately looked up and saw a man, approximately fifteen to twenty meters away, tucking a gun on his waist. The man then boarded a motorcycle being driven by another person wearing a helmet. The motorcycle turned around fronting Ladia and his son then quickly proceeded towards Magsaysay Street which was in the opposite direction from where they were located at that time. When the man and the driver of the motorcycle passed by them, his son uttered: "*Pa, iyo nayan ang nagbadil*" ("That is the man who fired the shot"). At once, Ladia told his son to keep quiet. He then saw the victim lying on the side of the road near an acacia tree. Thereafter, they directly went home and told his wife what he witnessed.^[7] Ladia recognized the person whom he saw on August 12, 2008 tucking a gun on his waist and identified him in court as herein accused-appellant, Belludo.^[8]

Meanwhile, Rodriguez was awakened by the horrible news that her common-law husband, Ojeda, was shot near BBS radio station in Balatas Road. Rodriguez immediately proceeded to the said place where she saw Ojeda lying prostate on the ground, his head oozing with blood. When she embraced the unmoving body of Ojeda, she knew that it was too late for medical intervention.^[9]

On even date, Police Officer 3 Rodel Llamado (PO3 Llamado) of the Philippine National Police Peñafrancia Precinct No. 2 received a phone call that there was a shooting incident in front of BBS radio station. Accordingly, he went to the crime scene and conducted his investigation. He interviewed possible witnesses and according to a radio announcer of BBS radio station, he heard a gunshot and when he went outside, he saw a person about to board a motorcycle near the victim. PO3 Llamado also received a call from a concerned citizen informing him that he

witnessed the incident and that the police should investigate a person called *alyas* "Odo." Upon following-up on the lead, PO3 Llamado verified that "Odo" resides in Barangay Lerma, Naga City and ascertained the latter's identity who turned out to be Belludo.^[10]

PO3 Jose Luis Caparroso (PO3 Caparroso) of Naga City Police Station IV testified that he talked to Ladia who positively identified Belludo in a police line-up as the perpetrator of the crime. A separate police line-up was viewed by Ladia's son who also pointed to Belludo as the culprit.^[11]

Based on the post-mortem examination conducted on the victim's body by Dr. Vito Borja (Dr. Borja), the health officer of Naga City, the immediate cause of death was cardiac pulmonary arrest, secondary to the laceration of the occipital lobe of the brain, left side and secondary to gunshot wound. Dr. Borja also testified that he found pellets and one plastic remnant which is part of a bullet on the base of Ojeda's head.^[12]

Version of the Defense

As for the defense, it presented Belludo as its sole witness whose defenses were predicated on denial and alibi. His version of the events is that at the date material to this case, he was at the billiard hall located at the Central Business District of Naga City where he worked as a spotter. He opened the hall for business at 5:00am until 10:00 pm of the same day.

In October 2008, he was arrested by a police officer at the billiard hall regarding a complaint of a Barangay Kagawad that he allegedly punched. To his shock, however, upon arrival at the police station, he was shown ammunitions and was told that they were found in his possession. At this point, he was being forced to confess to the killing of Ojeda. Subsequently, he was included in a police line-up wherein a man wearing a helmet pointed at him. He was then brought to Tabuco police station where he was charged with the killing of Ojeda.^[13]

The Ruling of the RTC

On October 24, 2012, the RTC rendered a Decision finding Belludo guilty as charged. It gave full credence to Ladia's testimony finding that his identification of Belludo is positive, straightforward, and unequivocal.^[14] As for Belludo's defenses of denial and alibi, the trial court brushed them aside as they were not supported by any other evidence and did not outweigh the positive evidence established by the prosecution.^[15]

Furthermore, the RTC ruled that the victim's killing was attended by the qualifying circumstance of treachery because the gunshot wound was located at the back of his head.^[16] The dispositive portion of the RTC decision reads:

WHEREFORE, the prosecution having proven the guilt of the [accused-appellant] MICHAEL A BELLUDO beyond reasonable doubt for the felony of Murder, he is hereby CONVICTED and sentenced to suffer the penalty of of (*sic*) *reclusion perpetua* – imprisonment for twenty years and one day to forty years. The accused is further directed to pay the heirs of the victim Francisco "Paco" Ojeda the following amount: Pesos: Seventy Five Thousand (P75,000) as civil indemnity for the death of the victim; Pesos:

Fifty Thousand as moral damages; Pesos: One Hundred Nine Thousand Six Hundred Sixty (P109,660) as actual damages; and the cost of suit.

SO ORDERED.^[17]

Belludo thereafter interposed an appeal, arguing that the trial court erred in convicting him of the crime of Murder despite the prosecution's failure to prove his guilt beyond reasonable doubt.^[18]

The Ruling of the CA

In its August 14, 2014 Decision, the CA affirmed the decision of the RTC with modification as regards the amount of damages awarded. It rejected the twin defense of denial and alibi raised by Belludo finding that the totality of the prosecution's evidence had sufficiently established his guilt beyond reasonable doubt.^[19]

The CA further ruled that treachery was correctly appreciated by the trial court, noting that "in shooting the victim near his head at a close range, appellant clearly purposely employed it to insure the latter's death."^[20] The CA, thus, disposed of the case as follows:

WHEREFORE, in the light of all the foregoing, the herein impugned Decision is hereby **AFFIRMED** subject to the following **MODIFICATION**: (1) the amount of moral damages is increased from [P]50,000.00 to [P]75,000.00; and (2) that temperate damages and exemplary damages are awarded to the heirs of the victim in the amounts of [P]25,000.00 and [P]30,000.00, respectively.

The damages herein awarded are subject to the legal interest of 6% per annum from the date of finality of this Decision until fully paid. The rest of the assailed Decision stands.

SO ORDERED.^[21]

Aggrieved, Belludo brought the case before Us, raising the same arguments he had at the CA.

The Issue

The sole issue in this case is whether the CA erred in affirming Belludo's conviction for the crime of Murder.

The Ruling of the Court

The appeal is partly meritorious.

The elements of murder that the prosecution must establish are (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code (RPC); and (4) that the killing is not parricide or infanticide.^[22] Treachery was alleged in the information as qualifying circumstance for the charge of murder.

Belludo's appeal mainly hinges on his argument that the prosecution failed to sufficiently establish his identity as the culprit who killed the victim, Ojeda.^[23] In