

SECOND DIVISION

[G.R. No. 224886, September 04, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER RACAL @ RAMBO, ACCUSED-APPELLANT.

D E C I S I O N

PERALTA, J.:

Before the Court is an ordinary appeal filed by accused-appellant, Roger Racal @ Rambo (*Racal*), assailing the Decision^[1] of the Court of Appeals (CA), dated February 27, 2015, in CA-G.R. CR-H.C. No. 01450, which affirmed, with modification, the Decision^[2] of the Regional Trial Court (RTC) of Cebu City, Branch 18, in Criminal Case No. CBU-77654, finding herein appellant guilty of the crime of murder and imposing upon him the penalty of *reclusion perpetua*.

The antecedents are as follows:

In an Information filed by the Cebu City Prosecutor's Office on August 15, 2006, Racal was charged with the crime of murder as defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended. The accusatory portion of the Information reads, thus:

That on or about the 19th day of April 2006, at about 4:20 A.M., more or less, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a knife, with deliberate intent, with treachery and evident premeditation, and with intent to kill, did then and there, suddenly and unexpectedly, attack, assault, and use personal violence upon the person of one Jose "Joe" Francisco by stabbing the latter, at his body, thereby inflicting a fatal wound and as a consequence of which he died.

CONTRARY TO LAW.^[3]

Upon arraignment, Racal entered a plea of not guilty.^[4] Subsequently, trial on the merits ensued.

The evidence for the prosecution established that around 4 o'clock in the morning of April 19, 2006, "*trisikad*" drivers were lining up to pick passengers along Lopez St. at Sitio Alseca in Cebu City. Among the "*trisikad*" drivers was Jose Francisco (*Francisco*). Also present at that place during that time was Racal, who was then standing near Francisco. While the "*trisikad*" drivers were waiting for passengers, Racal spoke in a loud voice, telling the group of drivers not to trust Francisco because he is a traitor. Francisco, who was then holding a plastic container in one hand and a bread in another, and was eating, retorted and asked Racal why the latter called him a traitor. Without warning, Racal approached Francisco and stabbed

him several times with a knife, hitting him in the chest and other parts of his body. Francisco, then, fell to the pavement. Immediately thereafter, Racial stepped backwards and upon reaching a dark portion of the street, he hailed a "*trisikad*" and sped away. Thereafter, one of the "*trisikad*" drivers called ue *barangay tanod*, but by the time they arrived, Francisco was already dead.

Racial, on his part, did not deny having stabbed Francisco. However, he raised the defense of insanity. He presented expert witnesses who contended that he has a predisposition to snap into an episode where he loses his reason and thereby acts compulsively, involuntarily and outside his conscious control. Under this state, the defense argued that Racial could not distinguish right from wrong and, thus, was not capable of forming a mental intent at the time that he stabbed Francisco.

After trial, the RTC rendered judgment convicting Racial as charged. The dispositive portion of the RTC Decision, dated September 14, 2011, reads as follows:

WHEREFORE, on the following considerations, the court renders judgment finding accused ROGER RACAL @ RAMBO guilty beyond reasonable doubt of Murder and sentences him to the penalty of *reclusion perpetua* with all its accessory penalties. He is likewise directed to pay the heirs of the late Jose "Joe" Francisco the amount of Thirty Thousand Pesos (P30,000.00) as actual damages, Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, and Fifty Thousand Pesos (P50,000.00) as moral damages.

SO ORDERED.^[5]

The RTC ruled that the evidence for the defense is insufficient to convince the court that Racial was indeed deprived of his mind and reason at the time when he committed the crime as to exempt him from criminal liability because his depression and psychotic features are not the kind of insanity contemplated by law. The trial court found the circumstance of treachery to be present, but ruled out the presence of the aggravating circumstance of evident premeditation.

Racial filed a Motion for Reconsideration^[6] contending that the trial court failed to appreciate the mitigating circumstances of sufficient provocation on the part of the offended party and voluntary confession of guilt on the part of Racial. However, the RTC denied the Motion for Reconsideration in its Order^[7] dated December 15, 2011.

Aggrieved by the ruling of the RTC, Racial appealed to the CA. In his Appellant's Brief, Racial reiterated his defense of insanity contending that, at the time he stabbed the victim, he snapped into a fatal episode of temporary loss of rational judgment and that such a predisposition to "snap" was testified upon by his expert witnesses.

In its assailed Decision, the CA affirmed the conviction of Racial but modified the judgment of the RTC by imposing interest on the damages awarded. The CA disposed, thus:

WHEREFORE, the September 14, 2011 Judgment in Criminal Case No. CBU-77654, convicting accused-appellant Roger Racial @ Rambo of Murder and sentencing him with *reclusion perpetua* and its accessory

penalties is **AFFIRMED with MODIFICATION**. Accused-appellant is also **ORDERED** to pay the heirs of Jose "Joe" Francisco, interest on damages awarded, the amount of 6% from the date of finality of the judgment until fully paid, and to pay costs.

SO ORDERED.^[8]

The CA held that the prosecution proved all the elements of the crime necessary to convict Racal for the murder of Francisco. The CA gave credence to the testimonies of the prosecution witnesses. It also affirmed the presence of the qualifying circumstance of treachery and affirmed the trial court in ruling out the presence of the aggravating circumstance of evident premeditation. As to Racal's defense of insanity, the CA held that he failed to rebut the presumption that he was sane at the time of his commission of the crime. The CA, nonetheless, appreciated the mitigating circumstance which is analogous to an illness of the offender that would diminish the exercise of his will-power.

Racal filed a Motion for Reconsideration,^[9] questioning the penalty imposed upon him, but the CA denied it in its Resolution^[10] of October 22, 2015.

Thus, on November 23, 2015, Racal, through counsel, filed a Notice of Appeal^[11] manifesting his intention to appeal the CA Decision to this Court.

In its Resolution^[12] dated March 16, 2016, the CA gave due course to Racal's Notice of Appeal and directed its Archives Section to transmit the records of the case to this Court.

Hence, this appeal was instituted.

In a Resolution^[13] dated July 20, 2016, this Court, among others, notified the parties that they may file their respective supplemental briefs, if they so desire.

In its Manifestation and Motion,^[14] filed on September 23, 2016, the Office of the Solicitor General (OSG) manifested that it will no longer file a supplemental brief because it had already adequately addressed in its brief filed before the CA all the issues and arguments raised by accused-appellant in his brief.

On the other hand, Racal filed a Supplemental Brief^[15] dated October 21, 2016, reiterating his defense of insanity by contending that at the time of the commission of the crime, expert evidence demonstrates that he had, within him, predisposing factors that cause insanity. He also argues that the lower courts failed to appreciate the mitigating circumstances of sufficient provocation on the part of the victim and voluntary confession of guilt on his part.

The basic issue for the Court's resolution in the present appeal is whether or not the CA correctly upheld the conviction of herein appellant, Racal, for murder.

The Court rules in the affirmative.

At the outset, it bears to reiterate that in the review of a case, the Court is guided

by the long-standing principle that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect.^[16] These factual findings should not be disturbed on appeal, unless there are facts of weight and substance that were overlooked or misinterpreted and that would materially affect the disposition of the case.^[17]

In the present case, after a careful reading of the records and pleadings, this Court finds no cogent reason to deviate from the RTC's factual findings. There is no indication that the trial court, overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. Moreover, the factual findings of the RTC are affirmed by the CA. Hence, the Court defers to the trial court in this respect, especially considering that it was in the best position to assess and determine the credibility of the witnesses presented by both parties.

In any case, the Court will proceed to resolve the present appeal on points of law.

The Information in the instant case charged appellant with the crime of murder, for stabbing the victim, Francisco, which offense was alleged to have been attended by treachery and evident premeditation.

Murder is defined and punished by Article 248 of the RPC, as amended by Republic Act No. 7659, to wit:

Article 248. *Murder*. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity;

x x x

2. With evident premeditation;

x x x

To successfully prosecute the crime of murder, the following elements must be established: (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 RPC; and (4) that the killing is not parricide or infanticide.^[18]

In the present case, the prosecution was able to clearly establish that (1) Francisco was stabbed and killed; (2) appellant stabbed and killed him; (3) Francisco's killing was attended by the qualifying circumstance of treachery as testified to by prosecution eyewitnesses; and, (4) the killing of Francisco was neither parricide nor infanticide.

Paragraph 16, Article 14 of the RPC defines treachery as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising

from the defense which the offended party might make. The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.^[19] In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.^[20] These elements are extant in the facts of this case and as testified to by the prosecution witnesses. To emphasize, the victim, Francisco, was caught off guard when appellant attacked him. As testified to by a prosecution witness, Francisco was then holding a plastic container containing bread and was eating. The stealth, swiftness and methodical manner by which the attack was carried out gave the victim no chance at all to evade when appellant thrust the knife to his torso. Thus, there is no denying that appellant's sudden and unexpected onslaught upon the victim, and the fact that the former did not sustain any injury, evidences treachery. Also, the fact that appellant was facing Francisco when he stabbed the latter is of no consequence. Even a frontal attack could be treacherous when unexpected and on an unarmed victim who would be in no position to repel the attack or avoid it,^[21] as in this case. Undoubtedly, the RTC and the CA correctly held that the crime committed was murder under Article 248 of the RPC by reason of the qualifying circumstance of treachery.

Appellant, nonetheless, insists on his defense of insanity. In this regard, the Court's pronouncement in the case of *People v. Estrada*^[22] is instructive, to wit:

The basic principle in our criminal law is that a person is criminally liable for a felony committed by him. Under the classical theory on which our penal code is mainly based, the basis of criminal liability is human free will. Man is essentially a moral creature with an absolutely free will to choose between good and evil. When he commits a felonious or criminal act (*delito doloso*), the act is presumed to have been done voluntarily, *i.e.*, with freedom, intelligence and intent. Man, therefore, should be adjudged or held accountable for wrongful acts so long as free will appears unimpaired.

In the absence of evidence to the contrary, the law presumes that every person is of sound mind and that all acts are voluntary. The moral and legal presumption under our law is that freedom and intelligence constitute the normal condition of a person. This presumption, however, may be overthrown by other factors; and one of these is insanity which exempts the actor from criminal liability.

The Revised Penal Code in Article 12 (1) provides:

ART. 12. *Circumstances which exempt from criminal liability.*
The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

When the imbecile or an insane person has committed an act which the law defines as a felony (*delito*), the court shall order