

## THIRD DIVISION

[ G.R. No. 207805, November 22, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. CESAR BALAO Y LOPEZ, ACCUSED-APPELLANT.**

### D E C I S I O N

**LEONEN, J.:**

The testimony of a single eyewitness to a crime, even if uncorroborated, produces a conviction beyond reasonable doubt as long as it is credible and positive.<sup>[1]</sup> A considerable lapse of time between the commission of the offense and the identification of the accused in open court, by itself, would be insufficient to overturn a finding of guilt.

This resolves an appeal from the October 31, 2012 Decision<sup>[2]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 04765, which affirmed the conviction of Cesar Balao y Lopez (Balao) for the crime of murder.

In the Information<sup>[3]</sup> dated February 8, 2001, Balao was charged of murder, The accusatory portion of this Information read:

That on or about April 10, 1991, in the City of Manila, Philippines, the said accused, conspiring and confederating together with others whose true names, identities and present whereabouts are still unknown and helping one another, did then and there wilfully, unlawfully and feloniously with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon one WILFREDO VILLARANDA, by then and there stabbing the latter with a bladed weapon, hitting him on the right upper chest, thereby inflicting upon him mortal wound which was the direct and immediate cause of his death thereafter.

Contrary to law.<sup>[4]</sup>

The case was initially archived on November 29, 2001<sup>[5]</sup> but was revived on January 21, 2003, upon Balao's apprehension.<sup>[6]</sup> During arraignment, Balao pleaded not guilty.<sup>[7]</sup>

On June 3, 2003, the case was provisionally dismissed due to the repeated absence of the prosecution's material witnesses. Balao was then released. Eight (8) days later, the case was revived upon motion of the prosecution. Trial on the merits ensued.<sup>[8]</sup> At first, Balao was absent during trial as he was hiding under a different name and was detained at the San Juan Municipal Jail for the crime of theft.<sup>[9]</sup> Upon order of the trial court, Balao was transferred to Manila City Jail.<sup>[10]</sup>

The prosecution presented the following witnesses: Rodel Francisco (Francisco); Christopher Villaranda (Christopher); SPO2 Federico Bernardino (SPO2 Bernardino); and Dr. Valentin Bernales (Dr. Bernales).<sup>[11]</sup> Asuncion M. Villaranda was also presented to testify on the civil aspect of the case. Their collective testimonies produced the prosecution's version of the incident.

Christopher, a brother of victim Wilfredo Villaranda (Wilfredo), narrated that at around 7:00 p.m. on April 9, 1991, he and his friend were walking along Tejeron Street near Don Mariano Marcos High School in Sta. Ana, Manila. Roberto "Obet" Espejo (Espejo) suddenly came out of nowhere, poked him with an arrow, and then left.<sup>[12]</sup>

The next day, Christopher chanced upon Espejo in front of Don Mariano Marcos High School. Christopher asked Espejo why he poked him the previous night to which Espejo replied, "*Wala kang pakialam, gago ka.*"<sup>[13]</sup> This enraged Christopher. A fistfight ensued between them, Espejo lost and threatened Christopher by saying, "*Isusumbong kita kay Cesar Balao.*"<sup>[14]</sup> Christopher brushed off Espejo's threat and decided to go home. While Christopher was on his way home, he met a friend who invited him to watch a movie.<sup>[15]</sup>

At around 11:45 a.m. of the same day, Francisco was in front of Don Mariano Marcos High School. He narrated that he saw Wilfredo on a bicycle, engaged in a conversation with Espejo and a certain Purong.<sup>[16]</sup> Francisco, who stood four (4) to five (5) meters away from the group, overheard Espejo inquiring about Christopher's whereabouts. While the three (3) were chatting, Balao suddenly appeared behind Wilfredo and stabbed him in the chest with a fan knife. Espejo, Purong, and Balao immediately fled from the scene. Wilfredo alighted from his bicycle and tried to chase them but he fell down. Wilfredo was immediately rushed to Trinity General Hospital. However, he was pronounced dead on arrival.<sup>[17]</sup> Francisco testified that he knew Balao as a troublemaker in the area. He also stated that Balao, Espejo, and Purong were members of the Dupaks Fraternity.<sup>[18]</sup>

Christopher only learned about his brother's death later that day.<sup>[19]</sup>

On the other hand, Balao interposed the defense of alibi. The defense presented the following witnesses: Fausto Balao (Fausto), Balao's father; Elda Magat (Magat); Anita Lumbaga (Lumbaga); Luzviminda Balao-Vergara (Luzviminda). Balao's sister; and Balao himself. Their collective testimonies produced the defense's version of the alleged incident.

Balao narrated that at 7:00 p.m. on April 9, 1991, he and his family boarded a bus bound for Cagayan Province. His eldest sister, Luzviminda,<sup>[20]</sup> arrived from Japan and wanted to visit Piat Church, being a devotee of Our Lady of Piat. Balao and his family arrived in Cagayan on April 10, 1991, They stayed for one (1) night at a relative's house in Catotoran, Camalaniugan. The next day, they went to Piat Church. After hearing mass, Balao and Luzviminda took photographs to commemorate their visit. Balao and his family left the province after a few days and arrived in Manila on April 14, 1991.<sup>[21]</sup> Balao's testimony was corroborated by the testimonies of Luzviminda and Fausto.<sup>[22]</sup>

A photograph of Balao's visit to Piat Church and a photograph purportedly showing Balao with his family in Camalaniugan River were both presented in court.<sup>[23]</sup>

Magat and Lumbaga testified that they were both in Hollywood Street in Pandacan, Manila during the alleged incident. They saw four (4) persons conversing with each other within the vicinity. Both Magat and Lumbaga testified that they saw a person from the group fall down and that they did not recognize Balao from the group. However, Lumbaga stated that she had never met Balao before and that she only learned of his identity when she appeared in court.<sup>[24]</sup>

On October 12, 2010, the Regional Trial Court rendered a Decision,<sup>[25]</sup> finding Balao guilty beyond reasonable doubt of murder. The Regional Trial Court gave more weight to the positive identification of Balao as the perpetrator of the crime over Balao's defense of alibi.<sup>[26]</sup> Judgment was rendered as follows:

WHEREFORE, in view of all the foregoing, the Court finds accused CESAR BALAO y LOPEZ GUILTY beyond reasonable doubt of the crime of MURDER, and sentences him to suffer the penalty of imprisonment of reclusion perpetua.

Accused Cesar Balao is further ordered to pay the heirs of the victim Willy Villaranda the total amount of P190,000.00 representing civil indemnity as well as actual, exemplary and moral damages as clearly stated in the body of the Decision.

Costs against the accused.

SO ORDERED.<sup>[27]</sup>

Balao filed his Notice of Appeal on November 10, 2010.<sup>[28]</sup>

In his Appellant's Brief,<sup>[29]</sup> Balao asserted that the prosecution failed to establish his guilt beyond reasonable doubt. The trial court heavily relied on the testimony of a single eyewitness to determine whether or not he was guilty of the crime charged. Although he was identified as Wilfredo's assailant, the sole eyewitness, Francisco, had ill motives against him. Therefore, Francisco's testimony should be re-examined and more weight should be given to accused-appellant's alibi, which was corroborated by the testimonies of the other defense witnesses.<sup>[30]</sup>

On the other hand, in its Appellee's Brief,<sup>[31]</sup> the Office of the Solicitor General asserted that a conviction may rest on the sole testimony of an eyewitness provided that the testimony is clear and straightforward.<sup>[32]</sup> Francisco had no ill motive against Balao or any history of quarrels with him.<sup>[33]</sup> Furthermore, Balao's defense of alibi was weak as there was no showing that it was physically impossible for him to be at the place of the commission of the crime on the day of the alleged incident.<sup>[34]</sup>

In its Decision<sup>[35]</sup> dated October 31, 2012, the Court of Appeals affirmed Balao's conviction but modified the amounts of damages:

WHEREFORE, the appeal is DENIED. The assailed decision of the RTC in Crim. Case No. 01-190439 finding the Accused-Appellant guilty of Murder

and ordering the payment [of] actual and moral damages are AFFIRMED with the MODIFICATION that the award of civil indemnity is DECREASED from Seventy-Five Thousand Pesos (PhP75,000.00) to Fifty Thousand Pesos (PhP50,000.00) while the exemplary damages are INCREASED from Twenty-Five Thousand Pesos (PhP25,000.00) to Thirty Thousand Pesos (PhP30,000.00). Costs against the Accused-Appellant.

SO ORDERED.<sup>[36]</sup>

The Court of Appeals emphasized that although Francisco was the only witness who positively identified Balao as the perpetrator of the crime, his testimony was credible and sufficient to support a finding of guilt.<sup>[37]</sup> As regards Balao's alibi, the Court of Appeals observed that the photograph showing Balao in Piat Church had no date or time stamp. Even if it was proven that the photograph was taken on April 11, 1991, or the day after the alleged incident, it only established that Balao was in Piat Church on April 11, 1991 but did not prove that Balao was not in Manila the day before, the day of the alleged incident.<sup>[38]</sup>

On November 16, 2012, Balao filed, his Notice of Appeal,<sup>[39]</sup> which was given due course in the Court of Appeals January 9, 2013 Resolution.<sup>[40]</sup> The case records were then elevated to this Court on June 27, 2013.<sup>[41]</sup>

In its Resolution<sup>[42]</sup> dated August 28, 2013, this Court noted the records forwarded by the Court of Appeals and notified the parties to submit their respective supplemental briefs if they desired. Both parties manifested that they would no longer file supplemental briefs.<sup>[43]</sup>

The sole issue for this Court's resolution is whether or not accused-appellant Cesar Balao is guilty beyond reasonable doubt of murder.

Every conviction requires proof beyond reasonable doubt. This standard does not entail absolute certainty<sup>[44]</sup> but only moral certainty or that which "ultimately appeals to a person's very conscience."<sup>[45]</sup> The main consideration of every court is not whether or not it has "doubts on the innocence of the accused but whether it entertains such doubts on his guilt."<sup>[46]</sup>

The immense responsibility of discharging this burden lies with the prosecution, who must establish the identity of the perpetrator of the crime with equal certainty as the crime itself "for, even if the commission of the crime is a given, there can be no conviction without the identity of the malefactor being likewise clearly ascertained."<sup>[47]</sup>

The conviction of accused-appellant rests on the testimony of Francisco, the sole eyewitness presented by the prosecution during trial. The Court of Appeals found no reason to re-evaluate the trial court's assessment of Francisco's credibility holding that his testimony was "clear and positive in its vital points."<sup>[48]</sup>

The trial courts' assessment of a witness' credibility is generally given great weight and respect by the appellate courts. Trial courts are in the best position to gauge whether or not a witness has testified truthfully since they had "the direct opportunity to observe the witnesses on the stand."<sup>[49]</sup>

However, if there is a clear showing that the assessment was made arbitrarily or that "the trial court . . . plainly overlooked certain facts of substance or value that if considered might affect the result of the case,"<sup>[50]</sup> then appellate courts would not hesitate to review the trial court's findings, especially when a person's fundamental right to liberty is at stake.<sup>[51]</sup>

Although there is value in the contention of the Office of the Solicitor General that a finding of guilt may rest solely on the testimony of a single eyewitness, this Court is not so quick to rely on this rule. Evidently, there was a considerable lapse of time between the commission of the offense and the identification of the accused in open court—12 years, six (6) months, and eight (8) days to be exact. The incident happened on April 10, 1991 but it was not until October 20, 2003 when Francisco took the witness stand<sup>[52]</sup> and it was not until April 19, 2004 when Francisco identified accused-appellant in open court.<sup>[53]</sup>

The main consideration now is whether or not this circumstance would be sufficient to overturn accused-appellant's conviction.

This Court has pored over the records of the case and has found no significant evidence that would support an acquittal. Accused-appellant's conviction is affirmed.

Francisco, the sole eyewitness, was familiar with accused-appellant and knew accused-appellant's identity and reputation even before the stabbing incident took place.

First, although Francisco did not know accused-appellant's name, Francisco knew accused-appellant's identity. In his Sinumpaang Salaysay dated April 17, 1991, Francisco stated:

T: Saan at kalia ang sinabi mong pag-saksak kay WILFREDO VILLARANDA?

S: Sa may Hollywood St., noong . . . Abril 10, 1991 mga bandang alas Onse kuarenta y singko ng umaga.

. . . .

T: Sino ang nakita mong sumaksak kay WILFREDO VILLARANDA?

S: Hindi ko po kilala sa pangalan pero sa mukha ay kilala ko at may nagsabi na ang sumaksak ay si Cesar Balao @ Tonton.  
<sup>[54]</sup>

Francisco explained how he came to know of accused-appellant before the stabbing incident during his cross-examination, thus:

Atty. Villanueva: Prior to the incident on April 10, 1991, do you know already this Cesar Balao?

A Yes, sir.

Q Why do you know him, Mr. Witness?