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# THIRD DIVISION

# [ G.R. No. 198057, September 21, 2015 ]

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANDY BAÑEZ Y BAYLON AND RAMIL BAÑEZ Y BAYLON, AND FELIX RUFINO (AT LARGE), ACCUSED-APPELLANTS.

## D E C I S I O N

**PERALTA, J.:**

The instant case seeks to reverse and set aside the Court of Appeals (*CA*) Decision[1] dated April 29, 2011 in CA-G.R. CR-HC No. 00581-MIN. The CA upheld the Decision[2] of the Regional Trial Court (*RTC*) of Surallah, South Cotabato, Branch 26, dated October 1, 2007 in Criminal Case No. 2645-B, which found accused-appellants Randy Bañez y Baylon and Ramil Bañez y Baylon guilty beyond reasonable doubt of the crime of murder.

On December 14, 1999, an Information was filed indicting the Bañez brothers and Felix Rufino for the murder of Sevino Baylon, to wit:

> *That on or about the 8th day of October, 1999, at Sitio Ebenizer, Barangay Rang-ay (Bo. 4), Municipality of Banga, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with evident premeditation, abuse of superior strength and treachery, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully, and feloniously attack, assault, drag to a secluded place and while thereat stab one SEVINO II BAYLON alias "BOLOY" with the use of deadly bladed weapons, hitting and mortally wounding the latter in different parts of his body that caused his death thereafter.*[3]

Upon arraignment, the Bañez brothers pleaded not guilty to the crime charged. Rufino, however, remains at large. Trial thus ensued.

The factual antecedents of the case are as follows:

On October 8, 1999, at 5:00 a.m., Dominador Marcelino was plowing outside his house in Sitio Ebenizer, Barangay Rang-ay, Banga, South Cotabato, when he heard Sevino Baylon shouting, "I have no fault!" He then saw Rufino striking Baylon with an iron bar while brothers Randy and Ramil Bañez were holding each of the latter's arms behind his back. The accused-appellants thereafter dragged Baylon to Ramil's house, which was merely thirty (30) meters away. Later that day, at around 5:00 p.m., Marcelino was asked to go to the house of *Kagawad* Dory Marquez regarding the incident he witnessed earlier.

The next day, or on October 9, 1999, at 7 o'clock in the morning, *Kagawad* Marao Olarte went to Marcelino's house and invited him to search for Baylon, who had been reported missing. Accompanied by the authorities, they immediately proceeded to search Ramil's house and the area surrounding it. In the course of their search, they suddenly smelled a foul odor coming from a pile of banana leaves, thirty (30) meters away from Ramil's house. Upon removing the leaves, they found the missing body of Baylon lying face down, bearing several stab and hack wounds, with both arms tied behind his back, and with a slit throat.

Dr. Ellen D. Quidilla, the medico-legal expert who conducted a postmortem examination on the cadaver of the victim, found that the cause of his death was massive blood loss secondary to multiple stab wounds.

For its part, the defense presented Marcelino's Affidavit of Retraction. He stated therein that he was merely forced to testify against the accused due to threats he had received from Baylon's family. The truth was, according to him, at the time of the incident, he was tending his carabao far away from the scene of the crime. Likewise, Randy and Ramil Bañez both testified that they were somewhere else at the time of the commission of the crime. Randy claimed that he was deeply saddened when he saw his house gutted by fire, but he left after two (2) hours because he had to go with his wife to their house at Barrio 7, which is about two (2) kilometers from the crime scene.

On October 1, 2007, the RTC of Surallah, South Cotabato rendered a Decision convicting the Bañezes of the crime of murder, the decretal portion of which provides:

> Accordingly, premises considered, both accused RANDY BAÑEZ y BAYLON and RAMIL BAÑEZ y BAYLON, are hereby found GUILTY beyond reasonable doubt of having committed the crime of MURDER as defined in Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, qualified by treachery and aggravated by abuse of superior strength. The proper imposable penalty would have been death. However, pursuant to Republic Act No. 9346 which repealed and abolished death penalty, both accused then are sentenced each to suffer the penalty of *reclusion perpetua*. It is further ORDERED that each of them pay the heirs of the victim, Sevino Baylon alias Boloy, the amounts of P75,000.00 as civil indemnity and P50,000.00 as moral damages, all with interest at the legal rate of six percent (6%) per annum from the date this decision is promulgated and until the said amounts shall have been fully paid.
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> Meantime, let a warrant, with no bail recommended, be issued anew for the arrest of the other accused, Felix Rufino alias Pagong, so that he may also be brought before the bar of justice to answer for the charges against him.
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> Costs de oficio.
>
> SO ORDERED.[4]

Thus, the Bañezes elevated the case to the CA. On April 29, 2011, the CA affirmed the trial court's Decision with modifications, to wit:

> **WHEREFORE**, the Decision dated October 1, 2007 is AFFIRMED with MODIFICATIONS. Appellants are found guilty beyond reasonable doubt of Murder qualified by treachery and sentenced to suffer the penalty of *Reclusion Perpetua*. In addition, appellants are ordered to pay the heirs of the victim the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P25,000.00 as temperate damages and P30,000.00 as exemplary damages.
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> Costs against appellants.
>
> **SO ORDERED.**[5]

Accused-appellants now come before the Court, seeking the reversal of the ruling of the court *a quo*, which found that the prosecution was able to prove their guilt beyond reasonable doubt on the mere basis of circumstantial evidence.[6]

The appeal lacks merit.

Accused-appellants attack Marcelino's credibility, harping on the fact that the latter did not even move, help, or run away from the crime scene, but simply chose to stay and continue plowing. Marcelino's reaction, however, was not at all uncommon or unnatural so as to make his testimony incredible. Placed in the same or a similar situation, some may choose to intervene, but others, like Marcelino, would just opt to stay away and remain hidden. It is settled that there could be no hard and fast gauge for measuring a person's reaction or behavior when confronted with a startling, not to mention horrifying, occurrence, as in this case. Witnesses of startling occurrences react differently depending upon their situation and state of mind, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience. The workings of the human mind placed under emotional stress are unpredictable, and people react differently to shocking stimulus — some may shout, some may faint, and others may be plunged into insensibility.[7]

Further, the fact that Marcelino executed an Affidavit of Retraction should be given little weight or scant consideration.[8] As the trial court aptly observed, in his original testimony, Marcelino described in full and vivid details what he saw and heard in the early morning of October 8, 1999. Such a detailed testimony could not have been the subject of fabrication, especially since the same survived the rigors of cross-examination. Besides, a mere retraction by a prosecution witness does not necessarily vitiate the original testimony, if credible. In cases where a previous testimony is retracted and a subsequent different, if not contrary, testimony is made by the same witness, the test to decide which testimony to believe is one of comparison, coupled with the application of the general rules of evidence. A testimony solemnly given in court should not be set aside and disregarded lightly. And before this can be done, both the previous testimony and the subsequent one should be carefully compared and juxtaposed, the circumstances under which each was made, carefully and keenly scrutinized, and the reasons or motives for the change, discriminatingly analyzed. The unreliable character of the affidavit of retraction executed by a complaining witness is also shown by the incredulity of the