

FIRST DIVISION

[G. R. No. 194384, June 13, 2013]

**JOSELITO RAMOS, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

SERENO, C.J.:

Before this Court is a Rule 45 Petition for Review^[1] assailing the Decision^[2] and Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CR No. 31823 which affirmed petitioner's conviction for the crime of homicide.

The Facts

Petitioner Joselito Ramos (Ramos) was charged with the crime of homicide in an Information dated 25 February 2002, as follows:

That on or about the 3rd day of October, 2001 in the evening at Barangay Nibaliw Sur, Municipality of Bautista, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with lead pipe and woods, with intent to kill, did then and there willfully, unlawfully and feloniously attack and maul Pedro Prestoza, inflicting upon him, "Acute Subdural Hematoma Brain Contusion," which caused the death of said Pedro Prestoza, as a consequence, to the damage and prejudice of his heirs.

Contrary to Art. 249 of the Revised Penal Code.^[4] x x x.

The evidence for the prosecution showed that, at about 10:30 in the evening on 3 October 2001, the victim, Pedro Prestoza (Prestoza), was riding a tricycle with six other people,^[5] when another tricycle, this one driven by Ramos, cut in on their path. Petitioner and a certain Danny Alvarez (Alvarez) alighted from their tricycle and pulled down Nelson Tagulao from the other tricycle. Alvarez then struck Nelson Tagulao with a lead pipe.^[6]

Prestoza alighted from his tricycle in order to stop the attack. The two assailants then turned on the victim,^[7] who was hit by Alvarez with the lead pipe and by Ramos with a piece of wood.^[8] While they were ganging up on Prestoza, Jimmy Tagulao arrived and engaged Alvarez in a fist fight. The latter and petitioner then ran away.^[9]

Prestoza was brought to a hospital for treatment, but he died of his wounds after eight days.^[10]

The defense recounted a different version of the facts.

Ramos stated that, at about 10:00 in the evening on 3 October 2001, the tricycle he was driving was trailing two other tricycles with men on board who were cursing at him.^[11] He was about to overtake the two other tricycles when they blocked his way. The passengers of the two other tricycles alighted, and one of them thrust a knife at him, but missed. Ramos immediately alighted from his tricycle and ran away, with four other persons giving chase.^[12] When they reached a well-lit place, his pursuers recognized him and concluded that he was not an enemy, so they went back to their tricycles. He was about to return to his tricycle when he saw his younger brother Edwin arrive on board another tricycle. He approached Edwin, but the latter was suddenly stabbed by Nelson Tagulao. Ramos took his brother away from the place, as seven other persons attacked them with pieces of wood. He then saw his elder brother Orlando being struck on the head with a stone by Hipolito Cervas. Ramos flagged down a tricycle and brought his brothers to a hospital, then reported the incident to the police.

Edwin and Orlando filed a complaint for frustrated murder against prosecution witnesses John Tagulao, Gerardo Gloria, Ernesto Ydia and eight others, but the complaint was dismissed.^[13]

After trial, the Regional Trial Court (RTC), Branch 50, Villasis, Pangasinan, found Ramos guilty beyond reasonable doubt of the crime of homicide. In arriving at this conclusion, the lower court relied on the physical evidence that Prestoza's death was due to a "brain contusion,"^[14] and on the testimonies of prosecution witnesses John Tagulao and Gerardo Gloria. These two witnesses positively identified Ramos as the perpetrator of the assault and categorically stated that he had hit the victim on the head and back with a piece of wood.^[15] The trial court then disposed of the case as follows:

WHEREFORE, judgment is hereby rendered finding accused Joselito Ramos GUILTY beyond reasonable doubt of the crime of Homicide and, there being no modifying circumstance, is hereby sentenced to an indeterminate prison term of EIGHT (8) YEARS and ONE (1) DAY of prison mayor, as minimum, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal, as maximum, and ordered to pay the heirs of Pedro Prestoza ₱50,000.00 as death indemnity, ₱50,000.00 as moral damages and P55,019.14 as actual damages.

On ground of insufficiency of evidence, accused Edwin Ramos, Orlando Ramos and Jordan Baladad are ACQUITTED of the crime charged.

SO ORDERED.^[16]

On appeal, the CA reviewed the records and affirmed the decision of the trial court. In reaching its conclusion, the appellate court found that the identity of Ramos as one of the assailants had been indubitably established by credible eyewitness testimony.^[17] Thus, petitioner's denial could not prevail over this positive

identification.^[18] The CA then ruled as follows:

FOR THESE REASONS, We **AFFIRM** the August 4, 2008 Decision of the Regional Trial Court convicting Joselito Ramos of Homicide under Article 249 of the Revised Penal Code.

SO ORDERED.^[19]

Petitioner moved for a reconsideration,^[20] but his motion was denied by the CA.^[21] He then filed the instant Petition for Review^[22] before this Court.

THE ISSUES

In seeking a reversal of the decisions of the appellate and the lower courts, petitioner Ramos mainly argues the following:

1. The testimonies of the prosecution witnesses should not have been given credence, because the testimony of Ernesto Ydia contradicts the testimonies of the other witnesses,^[23] and because they were impelled by an improper motive, as petitioner's brothers had filed a complaint for frustrated murder against them.^[24]
2. Alvarez, who remains at large, is the culprit in Prestoza's death.^[25]
3. Assuming Ramos physically assaulted the victim, petitioner did not deliver the lethal blow, and hence, did not commit the crime of homicide.^[26]

THE COURT'S RULING

We deny the instant petition and affirm the RTC's finding of guilt.

At the outset, we note that based on the records, we are faced with two different versions of the facts leading to Prestoza's death. The trial court opted to give credence to the prosecution's version. On appeal, the CA affirmed the findings of fact of the trial court.

The record supports the choice of the trial and appellate courts to give decisive weight to the prosecution's version of the facts. The testimonies of John Tagulao and Gerardo Gloria clearly pointed to petitioner as the perpetrator of the offense. In contrast, Ramos was inconsistent in his statements, and his testimony on the witness stand contradicted his counter-affidavit, as found by the trial court:

x x x. Joselito testified that he did not see Pedro Prestoza in the evening of October 3, 2001.

x x x x

Q How about Pedro Prestoza, do you know him personally?

A Yes, we see him that he is from Nandacan, that he is a coconut climber, Your Honor.
Q Did you see him on that evening of October 3, 2001?
A No, sir.
Q You did not see him with the group of the persons who were then on board of the 2 tricycles you were then following?
A No, Your Honor.
x x x x.

In his counter-affidavit (Exh. "G" and Exh. "6"), however, Joselito categorically declared:

2. We saw Jaime Tagulao holding a piece of wood which he used in striking Pedro Prestoza who fell down to the ground; there was a fight among the group of Jaime Tagulao; Pedro Prestoza was just a passenger in their tricycle;

The foregoing contradictions and inconsistencies render the narration of Joselito Ramos of doubtful veracity.^[27]

Findings of fact of the RTC, particularly when affirmed by the CA, are accorded great weight and respect.^[28] Thus, these findings are not to be disturbed in the absence of clear proof that the trial and the appellate courts overlooked, misunderstood or misapplied some facts or circumstances of weight and substance.^[29] In this case, petitioner failed to adduce sufficient proof that the trial and the appellate courts so erred.

During trial, the prosecution presented three witnesses – namely, John Tagulao, Gerardo Gloria and Ernesto Ydia – to testify on the events that led to Prestoza's death.

Petitioner Ramos ascribes reversible error on the part of the CA when it affirmed his conviction, because parts of Ernesto Ydia's testimony were allegedly inconsistent with the testimonies of John Tagulao and Gerardo Gloria.^[30] As petitioner pointed out, John Tagulao testified that petitioner, Alvarez and a certain Jordan Baladad mauled the victim. On the other hand, Ernesto Ydia stated that petitioner, his brothers Edwin and Orlando, and Jordan Baladad were the ones who had beat up Prestoza.^[31]

The CA and the RTC correctly refused to give credence to the testimony of Ernesto Ydia.^[32] As explained by the appellate court:

Significantly, the points of recall and circumstances of the witnesses were different. Ydia was a passive eyewitness, being a passenger from another tricycle. Tagulao and Gloria, on the other hand, directly witnessed the incident as they were riding the same tricycle ridden by Prestoza. As such, Tagulao and Gloria were able to observe events that Ydia might have overlooked or failed to see.^[33]