

FIRST DIVISION

[G.R. No. 201445, November 27, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HERMENIGILDO MAGLENTE Y MEDINA ALIAS "JUN MAGLENTE"
AND ROLANDO VELASQUEZ Y GUEVARRA ALIAS "RANDY,"
ACCUSED-APPELLANTS.**

**DAN MAGSIPOC Y CANCELER AND PABLO INEZ ALIAS "KA JAY,"
ACCUSED.**

R E S O L U T I O N

REYES, J.:

This is an appeal from the Decision^[1] dated June 30, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03256, which affirmed with modification the Joint Decision^[2] dated December 21, 2007 of the Regional Trial Court (RTC) of Angeles City, Branch 59, finding Hermenigildo Maglente y Medina (Maglente) guilty beyond reasonable doubt of the crimes of Murder (Criminal Case No. 00-032) and Frustrated Murder (Criminal Case No. 00-033).

Maglente, together with Dan Magsipoc y Canceler (Magsipoc), John Doe, Peter Doe and Charlie Doe, was charged with Murder^[3] and Frustrated Murder^[4] under two separate Informations. Maglente pleaded not guilty to the charges against him.

The Informations were subsequently amended^[5] to include accused Rolando Velasquez y Guevarra (Velasquez) and Pablo Inez (Inez), who also pleaded not guilty upon arraignment. Inez died while the case was pending, and the case against him was consequently dismissed. Magsipoc, meanwhile, remained at large.

Evidence for the prosecution

Crisanta De Leon (De Leon), testified that at around 5:00 p.m. of August 6, 1999, she and her co-teacher Regina Manalili (Manalili) were walking along Jesus Street going to Lakandula Street along Balibago. They saw a kinky-haired man (later identified in court as Maglente) standing at the corner of said streets, holding a revolver as if waiting for someone. A white Nissan Safari van then passed along and had its path blocked by a red Toyota Corolla car. Maglente and two other armed men then went to the front of the van and simultaneously riddled it with bullets at a close range of about 1 to 1 ½ meters away^[6]. The van's driver lost control of the van causing it to head towards an apartment and destroy its fence. The red Toyota Corolla then disappeared. When the shooting erupted, De Leon and Manalili hid behind a big fence. Maglente followed and looked at them. Then, another man holding a shotgun came from across Lakandula Street towards Maglente and told the latter, "*tara na!*" Both men then left the crime scene going south towards Manila.

[7]

Pepe A. Mendoza (Mendoza), meanwhile, was the driver of the van and a security aide of Benito Chua, the father of the deceased victim Victor Benito Chua (Chua). On the day of the incident, August 6, 1999, Mendoza accompanied Chua to different banks to withdraw money. While they were travelling towards Balibago in Angeles City, their van was intercepted at Lakandula Street by an old faded maroon car. Three (3) men suddenly appeared and drew guns. He shifted gear as he saw them poke their guns at them. He then lost consciousness and could not tell anymore who among the men particularly shot him. Upon regaining consciousness, Mendoza was informed that there were seven (7) bullets in his head, three (3) of which have already been removed.

Mendoza and Chua were rushed to the hospital where Chua was pronounced dead^[8] due to “[h]emorrhage, massive, traumatic intracranial, secondary to multiple gunshot wounds.”^[9] Mendoza, on the other hand, was immediately operated on. In his medico-legal certificate, Dr. Joven G. Esguerra reported on the injuries sustained by Mendoza, to wit:

1. Emergency E Craniotomy done
2. Gunshot wounds, right temporal and right mandibular areas
3. slug recovered upon opening of skin at mandibular area
4. Craniotomy allowed evacuation of intracerebral hematoma

REMARKS:

Barring complications or involvement of other structures not apparent at the time of the examination, the above-named injuries will require medical attendance for 1 ½ to 2 months.^[10]

During trial on the merits, Maglente was positively identified by De Leon as the one who held the revolver while waiting along Jesus and Lakandula Streets, and also as one of the armed men who fired at the van and the victims.^[11] Initially, however, De Leon identified Magsipoc as the one holding the revolver. On cross-examination, she rectified her previous statement and identified Maglente as the gunman who fired at the van. De Leon also identified Maglente among the pictures presented by SPO3 Danilo DG Cruz (SPO3 Cruz) during his follow-up investigation of the case. Mendoza, on the other hand, identified Velasquez as one of the men who positioned in front of the Nissan Safari van and who fired at them.^[12]

Evidence for the Defense

The defense, on the other hand, presented the testimonies of accused Velasquez who interposed an *alibi* that he was at home with his family during the time of the incident, and that he came to know about Chua’s death through his uncle. His wife Leda corroborated his statement. Maglente, on the other hand, merely denied that he is one of the assailants.

RTC Decision

In its Decision dated December 21, 2007, the RTC convicted Maglente and Velasquez of the crimes of Murder and Frustrated Murder, viz:

IN VIEW OF THE FOREGOING, the Court finds accused HERMENIGILDO MAGLENTE y MEDINA alias "Jun Maglente" and ROLANDO VELASQUEZ y VERGARA alias "Randy" GUILTY beyond reasonable doubt of the crimes of Murder and Frustrated Murder qualified by treachery defined and penalized in Articles 248 and 250 of the Revised Penal Code, respectively, and there being the aggravating circumstance of evident premeditation to be considered against the accused, hereby sentences them as follows:

1. in Criminal Case No. 00-032 for Murder, for each of them to suffer the penalty of *reclusion perpetua*; to jointly and severally pay the heirs of victim Victor Benjamin Chua the following sums:

- a) Seventy-five thousand [pesos] ([P]75,000.00) as civil indemnity,
- b) Eight hundred ninety thousand pesos (P890,000.00) for actual damages, and
- c) Fifty thousand pesos (P50,000.00) for moral damages;

and to pay the costs of suit.

2. in Criminal Case No. 00-033 for Frustrated Murder, for each of them to suffer an indeterminate penalty of from [sic] Ten (10) years and one (1) day of *prision mayor* as the minimum term to Nineteen (19) years and one (1) day of *reclusion temporal* as the maximum term; to jointly and severally pay victim Pepe A. Mendoza actual damages in the amount of Seven hundred sixty nine thousand ninety-eight pesos and twenty[-]four centavos (P769,098.24); and to pay the costs of suit.

SO ORDERED.^[13]

The RTC gave full faith and credence to the evidence of the prosecution and convicted Maglente and Velasquez of the crimes charged. The RTC found that treachery, evident premeditation, taking advantage of superior strength and conspiracy attended the commission of the crimes based on the following circumstances: (1) the lack of opportunity for Mendoza and Chua to put up any defense against the successive bursts of gunfire hailed against them at close range by all the accused, while they peacefully travelled along Balibago in Angeles City in a Nissan Safari;^[14] (2) the suddenness of the attack and its being well-planned; (3) the sufficient lapse of time for all of the accused to reflect upon the consequences of the attack prior to its commission;^[15] and (4) the fact that all the accused acted in concert before, during and after the commission of the offense, thus, making them

co-principals in the commission of the crimes. The RTC also brushed aside the *alibi* interposed by Velasquez and ratiocinated that *alibi* as a defense will not prevail over the positive identification of the accused, especially when the victim has no motive to falsely testify against the accused.^[16]

Maglente and Velasquez filed Notices of Appeals, which was given due course by the RTC in its Order^[17] dated March 3, 2008.

CA Decision

The CA affirmed^[18] the findings of the RTC and accorded full faith and credence to the evidence of the prosecution. The CA explained that De Leon's positive identification of Maglente both in open court and in the pictures shown to her by the police authorities rectified whatever confusion she had in initially identifying Magsipoc as the gunman during direct examination. The CA also found that the integrity of De Leon's testimony was reinforced by the fact that she is a disinterested witness who described in detail what she personally witnessed without any false motive or purpose to favor either of the parties in the case.

As to Mendoza, the CA ratiocinated that being a victim interested in the vindication for a crime committed against him makes it unnatural for him to falsely point against someone other than a real culprit.^[19] Lastly, the CA stressed that witnesses are not expected to be consistent in every detail of an incident with perfect or total recall as differences in recollections, viewpoints or impressions are inevitable.^[20]

The CA, however, modified the RTC decision and ruled that evident premeditation cannot be appreciated. The CA found no evidence to establish the time when the malefactors determined to commit the crime or that sufficient time has lapsed between such determination and the execution of the crime intended to be committed.^[21] Abuse of superior strength, on the other hand, cannot be separately appreciated because it was necessarily absorbed in treachery.^[22]

The CA also modified the award of damages, except as to the moral damages. Thus, the CA Decision dated June 30, 2011 provided for the following dispositive portion:

WHEREFORE, the appealed Joint Decision of the Regional Trial Court of Angeles City (Branch 59), dated 21 December 2007, is **AFFIRMED** with the following **MODIFICATIONS**:

- (1) In Criminal Case No. 00-032 for ***murder***-
 - a) The trial court's award of Seventy-Five Thousand Pesos ([P]75,000.00) by way of civil indemnity is reduced to Fifty Thousand Pesos ([P]50,000.00);
 - b) Exemplary damages of Thirty Thousand Pesos ([P]30,000.00) is awarded to the heirs of the deceased victim, in addition to the moral damages of Fifty Thousand Pesos ([P]50,000.00); and
 - c) Actual damages of Eight Hundred Ninety Thousand Pesos ([P]890,000.00) is reduced to Fifty Thousand Pesos ([P]50,000.00).
- (2) In Criminal Case No. 00-033 for ***frustrated murder***

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- a) The penalty imposed by the trial court is modified and appellants are sentenced to eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years of *reclusion temporal* medium, as maximum;
- b) Complainant Pepe A. Mendoza is awarded civil indemnity in the amount of Thirty Thousand Pesos ([P]30,000.00), moral damages of Twenty-Five Thousand Pesos ([P]25,000.00) and another Twenty-Five Thousand Pesos ([P]25,000.00) as exemplary damages;
- c) The actual damages of Seven Hundred Sixty[-]Nine Thousand Ninety[-]Eight Pesos and Twenty[-]Four Centavos ([P]769,098.24), awarded by the trial court, is reduced to One Hundred Twenty-Nine Thousand Five Hundred Forty-Eight Pesos and Eleven Centavos ([P]129,548.11).

SO ORDERED.^[23]

Dissatisfied, Maglente brought his conviction for review to this Court, anchored on the sole issue of whether the CA erred in affirming the RTC's judgment convicting him of the crimes of Murder and Frustrated Murder.^[24]

The Court's Ruling

The appeal is devoid of merit.

Maglente's argument is centered on the alleged uncertainty over his identification by De Leon as one of the assailants, and the absence of testimony from Mendoza and Chua's father identifying him as such. On this point, the Court has consistently abided by the rule that the trial court is in a better position to adjudge the credibility of witnesses, especially if its decision is affirmed by the CA, unless there is a showing that it had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case.^[25] The Court finds no reason to depart from the assessment of the RTC, as affirmed by the CA, as this is supported by the records of the case.

Thus, it was the finding of the RTC that at first, De Leon, indeed pointed to Magsipoc as the one who stood at the corner of Jesus and Lakandula streets, and one of those who fired at the van. Nevertheless, the RTC further found that De Leon was able to positively identify Maglente during cross-examination and during the investigation conducted by SPO3 Cruz one week after the incident. The CA also made a similar finding and concluded further that "[De Leon's] seeming confusion in pointing to Hernando Magsipoc during the direct examination was forthwith rectified by her during the cross-examination where she made a positive identification of Maglente."^[26] The CA also stated that "[t]he fact that De Leon identified only Maglente and not Velasquez, and Mendoza did not point to Maglente and was able to see only Velasquez during the incident does not undermine their credibility nor destroy the essential integrity of their respective testimonies."^[27] It should be stressed that De