

## THIRD DIVISION

**[ G.R. No. 179476, February 09, 2011 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUEL TUY , ACCUSED-APPELLANT.**

### **R E S O L U T I O N**

**BERSAMIN, J.:**

Together with Ramon Salcedo, Jr. and Raul Salcedo, who have remained at large, appellant Ruel Tuy was charged with murder in the Regional Trial Court in Calabanga, Camarines Sur (RTC) for the killing of Orlando Barrameda in the afternoon of October 11, 2001 in Brgy.Bani, Tinambac, Camarines Sur, under the following information:

That on or about 4:00 o'clock in the afternoon of October 11, 2001 at Bani, Tinambac, Camarines Sur, Philippines and within the jurisdiction of the Honorable Court, the said accused with intent to kill and while armed with firearms and a bolo and with conspiracy between and among themselves, did then and there, willfully, unlawfully and feloniously attack, assault and harm one Orlando Barrameda thereby inflicting mortal wounds on the different part of his body which caused his instantaneous death, to the damage of his heirs in such amount as maybe duly proven in court.

Attendant during the commission of the crime is treachery because the accused took advantage of their superior strength, with arms and employed means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.

Further, the offended party was at the time of the crime the incumbent barangay captain of the place where the incident happened.

ACTS CONTRARY TO LAW.<sup>[1]</sup>

Upon arraignment, the accused-appellant pleaded not guilty to the charge of murder. Thereafter, trial on the merits ensued.

For the Prosecution, Severino Barrameda (Severino), the son of the victim, declared that he had witnessed the Salcedos shooting and Tuy hacking his father. The medico-legal evidence presented through Dr. Salvador Betito, Jr. (Betito), who had conducted the autopsy, established that the victim had sustained five hack wounds and two gunshot wounds. Betito concluded that the cause of death was rapid external and internal hemorrhage secondary to multiple gunshot wounds and hack

wounds.

In his defense, Tuy denied his participation in the crime and claimed that he was processing copra at the time of the killing in Sitio Olango, Brgy. Bani Tinambac, Camarines Sur. His brother Ramil Tuy corroborated him.

On February 22, 2006, the RTC rendered its decision convicting Tuy of murder, and archiving the case as against the Salcedos. The RTC based its judgment on the eyewitness testimony of Severino and on the testimony of Dr. Betito. The dispositive portion reads:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of the accused Ruel Tuy beyond reasonable doubt, he is hereby found guilty of the crime of Murder as charged. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the heirs of Orlando Barrameda the amount of P50,000 as civil indemnity; P50,000 as moral damages; P38,000 as actual damages and to pay the costs. He is likewise meted the accessory penalty as provided for under the Revised Penal Code.

xxx

SO ORDERED. [2]

On appeal, the Court of Appeals (CA) affirmed the conviction,<sup>[3]</sup> rejecting Tuy's defenses of denial and *alibi*. It ruled that it was still physically possible for him to come from Brgy. Olango and be at the seashore of Brgy. Bani, Tinambac, Camarines Sur where the killing happened. The decretal portion of the decision reads:

WHEREFORE, the assailed Decision of the Regional Trial Court, Branch 63, Calabanga, Camarines Sur in Criminal Case No. 02-697 dated 22 February 2006 is AFFIRMED.

SO ORDERED. [4]

Tuy now insists to us that the CA committed reversible error in affirming his conviction.

We affirm the decision of the CA.

Firstly, the findings of the RTC are accorded the highest degree of respect, especially if adopted and confirmed by the CA, because of the first-hand opportunity of the trial judge to observe the demeanor of the witnesses when they testified at trial; such findings are final and conclusive and may not be reviewed on appeal unless there is clear misapprehension of facts.<sup>[5]</sup> Here, there was no showing that the RTC and the CA erred in appreciating the worth of Severino's eyewitness testimony.

Secondly, the CA and the RTC rejected the *alibi* of Tuy. We agree with their rejection.