

EN BANC

[G.R. No. 174476, October 11, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARNOLD T. AGCANAS, ACCUSED-APPELLANT.**

D E C I S I O N

SERENO, J.:

For the automatic review of this Court is the Decision^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 00845 convicting the accused of murder and sentencing him to suffer the penalty of death and to pay damages.

The antecedent facts are as follows:

On 8 May 2000, the provincial prosecutor of Laoag City charged the accused with murder in the Regional Trial Court (RTC), Branch 16, Laoag City, under the following Information:^[2]

That on or about 9:00 o'clock in the evening of May 4, 2000 at Brgy. Root, Dingras, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with evident premeditation, with treachery and nighttime (sic) having been purposely sought and inside a dwelling, did then and there willfully (sic), unlawfully and feloniously shoot WARLITO RAGUIRAG with an illegally possessed firearm of yet unknown calibre, inflicting upon the latter fatal gunshot wounds which caused the death of said WARLITO RAGUIRAG immediately thereafter.

CONTRARY TO LAW.

NO BAIL RECOMMENDED.

Upon arraignment, the accused pleaded not guilty. Thereafter, trial ensued.

The trial court found that on 4 May 2000, at about nine o'clock in the evening while the victim Warlito Raguirag was having dinner at home, herein accused Arnold Agcanas entered the former's house through the kitchen door. The accused pointed a gun at the back of the left ear of the victim and shot him point-blank. Beatriz Raguirag, the victim's wife, shouted, "We were invaded [*sinerrek*] by Arnold Agcanas."^[3] Under the 50-watt light bulb and with only a meter between them, the wife was able to identify the accused, who was the son of her cousin.

Around 9:15 in the evening, Senior Police Officer (SPO) 1 Jessie Malvar, SPO4

Bonifacio Valenciano, SPO1 Marlon Juni and Police Officer (PO) 2 Ramil P. Belong arrived at the scene of the crime and were informed by Beatriz Raguirag that Arnold Agcanas was the assailant. The police were also informed by several people that the accused had a relative in *Barangay* Naiporta, Sarrat, Ilocos Norte. Thereafter, around ten o'clock in the evening, the police found the accused in the house of his brother, Alejandro Agcanas, who was actually residing in *Barangay* San Miguel, Sarrat, Ilocos Norte. The accused then went willingly with the police officers to the police station.

The trial court further found that the crime was aggravated by the qualifying circumstance of dwelling, given that the crime was committed in the kitchen of the house of the victim. Finally, it held that the accused shot the victim with an illegally possessed firearm, although it was not presented as evidence. It did not, however, find the crime attended by the aggravating circumstances of evident premeditation and nighttime, there being no evidence presented to prove these two.

Thus, on 30 September 2004, the trial court found the accused guilty beyond reasonable doubt of the crime of murder, qualified by treachery and attended by the aggravating circumstances of dwelling and the use of an illegally possessed firearm. The dispositive portion of the Decision states:

WHEREFORE, PREMISES CONSIDERED, the prosecution was able to prove the guilt of the accused ARNOLD AGCANAS beyond reasonable doubt of the crime of Murder qualified by treachery. With the same quantum of evidence, the aggravating circumstance (sic) of dwelling and the use of an illegally possessed firearm were duly established. No mitigating circumstance is accorded to the accused. Hence, the maximum penalty of DEATH is hereby imposed upon him with all its accessory penalties. Likewise, he is ordered to pay the widow of the victim WARLITO RAGUIRAG Seventy Five Thousand Pesos (P75,000.00) as civil indemnity; Fifty Thousand (P50,000.00) as moral damages; Fifty Thousand Pesos (P50,000.00) as exemplary damages and the costs.

SO ORDERED.^[4]

On intermediate appellate review by the Court of Appeals, the conviction was affirmed. However, the award of damages was modified based on prevailing jurisprudence. The dispositive portion states:

WHEREFORE, premises considered, the appealed decision finding the accused-appellant guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the supreme penalty of **DEATH** is hereby **AFFIRMED** with the **MODIFICATIONS** as to damages.

The accused-appellant is ordered to pay the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00), as moral damages, and Twenty Five Thousand Pesos (P25,000.00), as exemplary damages.

In accordance with A.M. No. 00-5-03-SC which took effect on October 15, 2004, amending Section 13, Rule 124 of the Revised Rules of Criminal Procedure, let the entire records of this case be elevated to the Supreme Court for review.

Costs de oficio.

SO ORDERED.

Accused-appellant assigns the following errors for this Court's automatic review:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANT WAS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II.

ASSUMING ARGUENDO THAT ACCUSED-APPELLANT WAS LIABLE FOR THE DEATH OF THE VICTIM, THE TRIAL COURT GRAVELY ERRED IN FINDING HIM GUILTY OF MURDER INSTEAD OF HOMICIDE ONLY.

III.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE CRIME WAS AGGRAVATED BY THE CIRCUMSTANCES OF DWELLING AND ILLEGAL POSSESSION OF FIREARM.

After a judicious review of the records, the Court finds no cogent reason to overturn the findings of the trial court.

This Court has held in a number of cases that denial and alibi are weak defenses, which cannot prevail against positive identification.^[5] *People v. Caisip*^[6] thus held:

Positive identification where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter prevails over a denial which, if not substantiated by clear and convincing evidence is negative and self-serving evidence undeserving of weight in law. They cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters.

Beatriz Raguirag positively identified the accused as the one who had shot her husband. She was firm and consistent throughout her testimony. This Court does not see any ill motive on her part in testifying against her own relative regarding the death of her husband. Thus, there is no reason to question her credibility as a witness.