

FIRST DIVISION

[G.R. No. 179044, December 06, 2010]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODRIGUEZ
LUCERO Y PAW-AS ALIAS "KIKIT," APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

On appeal is the November 29, 2006 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00340 which affirmed with modifications the July 19, 2002 Decision^[2] of the Regional Trial Court of Bislig City, Surigao del Sur, Branch 29, finding appellant Rodriguez Lucero y Paw-as guilty beyond reasonable doubt of the crime of murder.

Factual Antecedents

On October 20, 1998, an Information^[3] was filed charging appellant with the crime of murder committed as follows:

That on or about 1:30 [a.m.] of July 21, 1998, at Purok 6, Barangay Sta. Cruz, Municipality of Tagbina, Province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with treachery and evident premeditation and with intent to kill, did then and there wil[ly]fully, unlawfully and feloniously attack, assault and hack one Edgar Aydaon, a Barangay Kagawad, with the use of a bolo, thereby hitting the victim[']s head, which wound and injury caused the instantaneous death of the victim, to the damage and prejudice of the heirs of said Aydaon.

CONTRARY TO LAW x x x

Appellant pleaded not guilty to the charge. Trial thereafter ensued.

Version of the Prosecution

The prosecution presented Leonito Maceda (Maceda), Rafael Ampis and SPO1 Daniel Barrios as witnesses. Based on their combined testimonies, the prosecution established the following:

At about midnight of July 20, 1998, Maceda went out of his house to get "*kasla*," a medicinal herb for his sick child. After getting the herb, he went to a waiting shed located about 10 meters away from his house as he saw a certain Linda Basalo (Basalo) thereat waiting for a ride. While at the waiting shed, the victim Edgar

Aydaon passed by. But after a while, the victim returned and helped Basalo load the vegetables in the jeepney.

After the jeepney left, appellant arrived and called out the victim. Appellant pleaded that he be allowed by the victim to go with him as he (appellant) was allegedly being pursued by a certain Pandeta. The victim acceded to the request and even invited appellant to sleep in his house. However, after walking a distance of about 10 meters, appellant suddenly hacked the victim at the left side of his head causing the victim to fall to the ground. In spite of the fact that the victim was already lying on the ground, appellant further stabbed him on his waist. Thereafter, appellant left the premises.

Version of the Defense

The defense presented appellant as its lone witness who could only offer denial and alibi. He claimed that on July 21, 1998, he was at his farm located at Nyholm, Agusan del Sur. He alleged that he had no prior disagreement with the victim or any of the prosecution witnesses. Hence, he could not understand why he was being implicated in the crime.

Ruling of the Regional Trial Court

The trial court found appellant guilty of murder qualified by treachery. It noted that appellant "beguiled [the victim by] pleading for help"^[4] but after walking a distance of about 10 meters, suddenly hacked him on the head leaving him with no opportunity to defend himself.

The trial court however found that the qualifying circumstance of evident premeditation was not present. It noted that the prosecution failed to prove "(1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the culprit clung to his determination; and (3) sufficient lapse of time between the determination and execution to allow him to reflect upon the consequences of his act."^[5]

The trial court disregarded appellant's denial and alibi for being uncorroborated. Besides, appellant himself admitted that the distance between his farm and the scene of the crime is only 10 kilometers and could be traversed by motorcycle in one hour or even less. Thus, he failed to prove that it was physically impossible for him to be at the crime scene at the time it was committed. Besides, appellant's alibi could not stand scrutiny vis-à-vis the testimony of Maceda positively identifying appellant as the author of the crime.

Finally, the trial court found the inconsistencies in the testimony of Maceda only minor and trivial as they did not touch on the elements of the crime.

The dispositive portion of the Decision of the trial court reads:

Wherefore, finding the accused RODRIGUEZ LUCERO Y PAW-AS alias "KIKIT" guilty beyond reasonable doubt of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, this Court hereby sentences him to suffer the

penalty of *Reclusion Perpetua* with all the accessory penalties provided for under Article 41 of the Revised Penal Code.

To pay the heirs of the victim the sum of fifty thousand pesos (P50,000.00) as [civil] indemnity and ten thousand pesos (P10,000.00) as exemplary damages.

To pay the costs.

The accused shall serve his sentence at the National Penitentiary now New Bilibid Prisons, Muntinlupa City.

SO ORDERED.^[6]

Ruling of the Court of Appeals

The CA affirmed with modifications the Decision of the trial court, thus:

FOR THE REASONS STATED, the appealed Decision convicting RODRIGUEZ LUCERO Y PAW-AS alias "[K]ikit of Murder is hereby AFFIRMED with the MODIFICATION[S] that he is ORDERED to pay the heirs of the victim P50,000.00 as indemnity, P25,000.00 as exemplary damages, P3,000.00 as actual damages and P50,000.00 as moral damages. *Costs de officio*.

SO ORDERED.^[7]

As did the trial court, the appellate court found the alleged inconsistencies adverted to by the appellant minor and did not impair the credibility of Maceda. According to the CA, there was no inconsistency in "the narration of the principal occurrence [or] the positive identification of the assailant."^[8] Further, "minor inconsistencies, far from detracting from the veracity of the testimony, even enhance the credibility of the witnesses, for they remove any suspicion that the testimony was contrived or rehearsed."^[9]

The appellate court also affirmed the findings of the trial court that treachery attended the commission of the crime. According to the CA, treachery was -

clearly demonstrated when appellant suddenly attacked and stabbed the victim who offered the accused to sleep in his house and having conversation at that time, with absolutely no inkling of the impending danger as the accused suddenly and without warning, hacked and stabbed the victim, giving the victim no x x x chance to defend himself. x x x^[10]

Hence, this appeal.

On October 15, 2007, we notified both parties that they may file their respective supplemental briefs. However, in separate manifestations, both parties opted not to file their briefs.

Assignment of Errors

Appellant raises the following assignment of errors:

I. THE COURT A QUO ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCONSISTENT TESTIMONY OF PROSECUTION WITNESS LEONITO MACEDA AND IN DISREGARDING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

II. THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.^[11]

Our Ruling

The appeal lacks merit.

The defense basically assails the credibility of prosecution eyewitness Maceda. As it did before the CA, the defense claims that credence should not have been given to the testimony of prosecution eyewitness Maceda as it bore several inconsistencies.

We find this contention untenable. Basic is the rule that the Supreme Court accords great respect and even finality to the findings of credibility of the trial court, more so if the same were affirmed by the CA, as in this case. Besides, upon our review of the records of this case, we find that both the trial court and the CA did not overlook or misunderstand any substance or fact which would have materially affected the outcome of this case.

Our ruling in *People v. Elarcosa*^[12] is instructive, thus:

In this regard, it should be noted that questions concerning the credibility of a witness are best addressed to the sound discretion of the trial court, since it is the latter which is in the best position to observe the demeanor and bodily movements of a witness. This becomes all the more compelling when the appellate court affirms the findings of the trial court. Thus, we generally defer to the trial court's assessment, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error. x x x

Moreover, the alleged inconsistencies referred to by the defense indeed refer to minor details which are very inconsequential to the outcome of the case. According to the defense, "Maceda first testified that when the victim was about to leave, [appellant] came out and mauled the victim. However, he contradicted himself when he further testified that when [appellant] came out, the latter conversed with the victim and it was only after the victim and the [appellant] reached the distance