

## THIRD DIVISION

[ G.R. No. 185162, April 24, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY GIDOC @ BAYENG, ACCUSED- APPELLANT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

This is an appeal from the Decision<sup>[1]</sup> of the Court of Appeals dated 27 May 2008 in CA-G.R. CR-HC No. 02414. The appellate court affirmed with modification the Joint Decision<sup>[2]</sup> dated 23 May 2006 of the Regional Trial Court (RTC) of Malabon City, Branch 170, finding accused-appellant Rolly Gidoc *alias* Bayeng guilty of two counts of Murder in Criminal Cases No. 24988-MN and No. 24989-MN.

The factual antecedents are as follows:

On 29 June 2001, accused-appellant Rolly Gidoc *alias* Bayeng, Ronnie Ocenar alias Erap (Ocenar) and one John Doe were charged in the RTC with two counts of Murder under Article 248 of the Revised Penal Code for the deaths of brothers Cesar Perez y Espinosa (Cesar) and Arnel Perez y Espinosa (Arnel) in two Informations which read:

Criminal Case No. 24988-MN

That on or about the 8<sup>th</sup> day of April 2001, in Navotas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring, confederating and mutually helping with one another, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one CESAR PEREZ Y ESPINOSA, hitting the victim on his body, thereby inflicting upon the victim serious wound which caused his immediate death.<sup>[3]</sup>

Criminal Case No. 24989-MN

That on or about the 8<sup>th</sup> day of April 2001, in Navotas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring, confederating and mutually helping with one another, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one ARNEL PEREZ Y ESPINOSA, hitting the victim on his body, thereby inflicting upon the victim serious wound which caused his immediate death.<sup>[4]</sup>

When arraigned on 23 October 2003, accused-appellant entered pleas of not guilty to the crimes charged. His co-accused Ocenar remained at large.

Upon joint motion of the prosecution and the defense, the cases were consolidated and trial ensued thereafter.

The prosecution presented witness Bernard Paladin (Paladin) who positively identified accused-appellant as the person who stabbed the brothers Arnel and Cesar. He said that Ocenar acted as a look-out. He testified that at around ten o'clock in the evening of 8 April 2001, his group which included the victims Cesar and Arnel, as well as accused-appellant and Ocenar, were drinking and singing in a videoke joint at the Bicol Area in Tanza, Navotas. He disclosed that accused-appellant and Ocenar got involved in a fight with another group nearby, while he and the victims did not join in the fray. After the fight, accused-appellant and Ocenar left but returned after about five minutes armed with bladed weapons. Accused-appellant, armed with a long knife, approached the group and suddenly stabbed victim Arnel on the right breast. About five seconds thereafter, accused-appellant also stabbed victim Cesar. The victims were sitting side by side and singing when the incident happened. While the stabbing was taking place, Ocenar stood guard with a bladed weapon on hand and was watching if somebody would help. After the incident, accused-appellant and Ocenar ran away while the victims managed to run home. As a result of the stabbing, the victims died while undergoing treatment in the hospital.

Dr. Filemon Porciuncula was called to interpret the findings of Medico-Legal Officer Michael Maunahan who conducted the autopsy on the cadavers identified as victims Arnel Perez<sup>[5]</sup> and Cesar Perez.<sup>[6]</sup> Based on the Medico Legal Report No. M-212-01,<sup>[7]</sup> victim Arnel sustained one incised and one stab wound fatal enough to cause his death, it piercing the underlying soft tissue including the right dome of the diaphragm, right lobe of the liver, lower lobe of the right lung and fracturing the 7<sup>th</sup> thoracic rib. As contained in the Medico Legal Report No. M-211-01,<sup>[8]</sup> victim Cesar sustained one abrasion and one stab wound thru and thru, piercing the right dome of the diaphragm, right lobe of the liver, right adrenal, right renal vein and right kidney. Both victims died of hemorrhagic shock secondary to stab wound on the trunk. The respective death certificates of victims Arnel and Cesar were marked, presented and offered in evidence.<sup>[9]</sup>

Accused-appellant denied the accusations against him claiming that it was not him but his cousin named Rolly Gidoc who killed the victims because his real name is Rolando Gidoc *alias* Bayeng. He insisted that at the time of the incident, he was on his way to Bicol Area, Tanza, Navotas, after coming from his work in Imus, Cavite. When he passed by the group of Cesar which was having a drinking spree, the latter's brother, whose name he did not know, called him. He approached the group but Cesar's brother suddenly punched him. The other members of the group joined in mauling him. They only stopped when Paladin arrived and pacified them. He said that when he was being mauled, his cousin Rolly Gidoc was with him. He further claimed that he does not know why Paladin pointed to him as the one who stabbed the victims. He was later informed by somebody that the victims are already dead and that it was his cousin Rolly Gidoc who killed them.

On 23 May 2006, the RTC, in a Joint Decision, found accused-appellant guilty of Murder for both charges. The trial court disposed of the case as follows:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered as follows:

In Criminal Case No. 24988-MN for Murder, the Court finds accused ROLLY GIDOC alias BAYENG GULITY beyond reasonable doubt of the crime charged and is hereby sentences to suffer the penalty of *reclusion perpetua*, and to pay the heirs of victim Cesar Perez the amount of P50,000.00 by way of civil indemnity, together with costs of suit.

In Criminal Case No. 24989-MN for Murder, the Court finds accused ROLLY GIDOC alias BAYENG GULITY beyond reasonable doubt of the crime charged and is hereby sentences to suffer the penalty of *reclusion perpetua*, and to pay the heirs of victim Arnel Perez the amount of P50,000.00 by way of civil indemnity, together with costs of suit.

It appearing that accused Ronnie Ocenar is still at large, the case against him is archived subject to revival upon his arrest.<sup>[10]</sup>

Accused-appellant appealed to the Court of Appeals arguing that:

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THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIMES CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE SAME BEYOND REASONABLE DOUBT

II

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.<sup>[11]</sup>

In its Decision, the Court of Appeals said that the prosecution was able to establish the fact of the commission of the crimes charged through the findings of the medico legal officer and that the prosecution was able to prove the fact that accused-appellant was the perpetrator of the crimes through the testimony of eyewitness Paladin. It held that Paladin's testimony is clear and his positive identification of accused-appellant has greater evidentiary weight than the bare denial of the latter.

The Court of Appeals also appreciated treachery as a qualifying circumstance due to the suddenness and mode of attack adopted by the accused-appellant which placed the victims and the people around them in a situation where there was no way for them to resist the attack or defend themselves. It, however, modified the award of damages. In addition to the award of civil liability given by the trial court, the Court of Appeals awarded the amounts of P50,000.00 and P75,000.00 as moral and exemplary damages, respectively, in each of the two cases. The dispositive portion of the appellate court's decision reads:

WHEREFORE, in view of the foregoing, the appeal is DENIED. The Joint Decision in Criminal case Nos. 24988-MN and 24989-MN is AFFIRMED with MODIFICATION that in addition to the award of civil liability of P 50,000.00 *ex delicto*; accused-appellant is likewise ordered to indemnify the

heirs of both victims moral damages of P50,000.00 and exemplary damages of P75,000.00 in each of the two (2) cases.<sup>[12]</sup>

Accused appellant is now before us praying for his exoneration. In our Resolution dated 15 December 2008, we directed the parties to file their supplemental briefs, if they so desire.<sup>[13]</sup> The parties manifested they will no longer file their supplemental briefs because they had already exhaustively discussed the assigned errors in their appellant's and appellee's briefs.<sup>[14]</sup>

After reviewing the evidence on hand, we uphold accused-appellant's conviction for the crimes charged.

The prosecution was able to prove the crime beyond reasonable doubt. It was able to establish two things: first, the fact of the commission of the crime charged or the presence of all the elements of the offense; and second, the fact that the accused was the perpetrator of the crime.<sup>[15]</sup>

The fact that the accused-appellant was the perpetrator of the crimes was proven by the testimony and the positive identification by eyewitness Paladin. We find his testimony to be bereft of inconsistency and is worthy of credence. His testimony, insofar as pertinent, reads:

Q: Before the stabbing incident of the victims Arnel and Cesar Perez, was there any incident that happened?

A: Yes Sir, there was.

Q: What was that incident?

A: Ronnie Ocenar was first involved in a brawl with another group singing in that videoke joint.

Q: Do you want to impress to this Honorable Court that Rolly Gidoc was also with your group drinking and singing in that videoke joint?

A: Yes Sir.

Q: And what happened when Ronnie Ocenar was involved in a brawl with another group?

A: He approached Rolly Gidoc and asked for help.

Q: What kind of brawl was that?

A: There was a fist fight between the group of Ronnie Ocenar and another group Sir.

x x x  
x

Q: When Ocenar sought the help of Rolly Gidoc, what happened next?

A: Another fist fight ensued Sir.

x x x x

Q: And what about your group, what did you do when there