

SECOND DIVISION

[G.R. No. 175945 [Formerly G.R. Nos. 153211-12], April 07, 2009]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LOLITO HONOR Y ALIGWAY, ALBERTO GARJAS Y EMPIMO, NOEL SURALTA Y PAÑA, AND PEDRO TUMAMPO Y NAYA, APPELLANTS.

DECISION

QUISUMBING, J.:

On appeal is the Decision^[1] dated September 28, 2006 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00224. It had affirmed with modification the guilty verdict rendered by the Regional Trial Court (RTC) of Ormoc City, Branch 35 in a murder case against appellants Lolito Honor and Alberto Garjas.

The facts in this case are as follows:

In an Information^[2] dated February 12, 2001, Lolito Honor, Alberto Garjas, Noel Suralta, and Pedro Tumampo were charged with murder before the RTC of Ormoc City, Branch 35 as follows:

That on or about the 3rd day of February, 2001, at past 9:00 o'clock in the evening, at corner Real and Aviles Sts., this City, and within the jurisdiction of this Honorable Court, the above-named accused: **LOLITO HONOR y Aligway, ALBERTO GARJAS y Empimo, NOEL SURALTA y Paña and PEDRO TUMAMPO y Naya**, conspiring together, confederating with and mutually helping and aiding one another, with treachery, evident premeditation and intent to kill, and with the use of bladed weapons, did then and there willfully, unlawfully and feloniously attack, stab and wound the victims herein, HENRY ARGALLON and NESTOR NODALO, without giving them sufficient time to defend themselves, thereby inflicting upon said Henry Argallon and Nestor Nodaló mortal wounds which cause[d] their death. Medico-Legal Certificates are hereto attached.

In violation of Article 248, RPC, as amended by RA 7659.

Ormoc City, February 12, 2001.^[3]

Another Information dated February 12, 2001 charged the abovementioned accused for frustrated murder of Randy Autida on the same date and occasion, as follows:

That on or about the 3rd day of February, 2001 at around 9:00 o'clock in the evening, at corner Real and Aviles Sts., this City, and within the jurisdiction of this Honorable Court, the above-named accused: **LOLITO HONOR y Aligway, ALBERTO GARJAS y Empimo, NOEL SURALTA y Paña**

and PEDRO TUMAMPO y Naya, conspiring together, confederating with and mutually helping and aiding one another, with treachery, evident premeditation and intent to kill, did then and there willfully, unlawfully and feloniously, with the use of a bladed weapon, attack, stab and wound the person of the complainant herein RANDY AUTIDA, thereby inflicting upon the latter a "stab wound 2.5 cm. posterior axillary line at the level of T5-T6, penetrating chest cavity", thus performing all the acts of execution which would have produced the crime of murder but which did not, by reason of causes independent of accused's will, that is, by the able and timely medical assistance given the said Ran[d]y Autida, which prevented his death. Medico-Legal Certificate is hereto attached.

In violation of Article 248 in rel. to Art. 6, Revised Penal Code.

Ormoc City, February 12, 2001.^[4]

The abovementioned cases for murder and frustrated murder were tried jointly.

Warrants of arrest against the accused were issued on February 13, 2001.^[5] Only Lolito Honor and Alberto Garjas, however, were apprehended. Noel Suralta and Pedro Tumampo have remained at large.

During arraignment on March 13, 2001, Honor and Garjas pleaded not guilty.^[6] Since Suralta and Tumampo remained at large, trial proceeded only against Honor and Garjas.

The prosecution presented eyewitness Rey Panlubasan, a farm worker of a sugar plantation in Torrevillas and a resident of Brgy. Juaton, Ormoc City. Panlubasan testified that the victims Nestor Nodalo, Henry Argallon and Randy Autida worked under his supervision in said sugar plantation. On February 3, 2001, at about 5:00 p.m., after receiving their wages, seven of them, including the victims, went to Doris Videoke, a small tavern at the public market of Ormoc City. Their group occupied the first table at the tavern while another group of four individuals - whom he later recognized as the accused Lolito Honor, Alberto Garjas, Noel Suralta and Pedro Tumampo - occupied the second table about 2 ½ meters away from them. There were only two groups having a drinking spree then: their group and the group of the accused. After having consumed 1 ½ gallons of tuba, at around 9:00 p.m. of the same day, Nestor Nodalo accidentally dropped a bottle of Mallorca which he was holding near the table of the accused. The group of the accused then stared at them angrily. After a while, Panlubasan's group left the bar to go home. His group walked along Real Street towards Aviles Street. Panlubasan testified that he then saw the group of the accused leave and follow them at a distance of 15 meters. When they were only one meter apart, the group of the accused suddenly attacked them. Panlubasan testified that there was sufficient electrical light in the street for him to identify the assailants as the same group who drank and occupied the other table at Doris Videoke. He testified that the accused Honor and Garjas were the ones who stabbed Nestor Nodalo, Henry Argallon and Randy Autida while the other accused, Noel Suralta and Pedro Tumampo, verbally instigated them by uttering "Follow them and kill them all."^[7]

The prosecution also presented Dr. Jesus Castro, the attending physician at the Ormoc District Hospital. Dr. Castro testified that he treated the victim Nestor Nodalo at around 11:45 p.m. on February 3, 2001 and that Nodalo had a stab wound 2.5

cm. in size at the left posterior axillary line which is at the back left side posterior penetrating Nodalo's chest cavity. He testified that the wound was fatal as it was a penetrating wound causing massive blood loss and hitting a vital organ. He listed Nodalo's cause of death as cardio-pulmonary arrest due to hypovolemic shock. As per medical certificate dated February 10, 2001, the victim Nodalo was listed as dead on arrival at the hospital.

As for the victim Henry Argallon, Dr. Castro testified that he attended to him on February 3, 2001 at around 10:30 p.m. Dr. Castro recounted that Argallon had three (3) stab wounds: a stab wound 6 cm. at his right shoulder, a stab wound 5 cm. at the right mandibular area, and a stab wound 2.5 cm. at the left side of his neck penetrating the chest cavity and transecting the trachea. He listed Argallon's cause of death as cardio-pulmonary arrest due to hypovolemic shock. Argallon was also pronounced dead on arrival at the hospital.

As for the third victim, Randy Autida, Dr. Castro testified that he also attended to the latter on February 3, 2001 at around 11:45 p.m. and that Autida suffered one (1) stab wound 2.5 cm. on the right posterior axillary line penetrating Autida's chest cavity. Autida was still conscious when attended to at the hospital and he was not confined. His injury required medical attention for 15 days. Dr. Castro testified, however, that if Autida's wound was left unattended, infection could have set in and possibly result in death.^[8]

The prosecution also presented SPO4 Rodrigo Sano, the police officer who apprehended and brought Honor and Garjas to the police headquarters where they were identified as the ones who stabbed Nodalo, Argallon and Autida by witnesses.^[9]

The defense presented as witnesses Lolito Honor and his wife, Hilde Honor, and Alberto Garjas.

Lolito Honor testified that he knew his co-accused Garjas, Suralta and Tumampo since they worked as extra laborers in hauling at the Agrivet Breeders Store in Ormoc City and they were his drinking buddies. He testified that on February 3, 2001, at about 7:00 p.m. after work, he went to the public market to buy fish. He met his co-accused in the market and they had a drinking spree at a tavern there. He testified that he stayed with his drinking buddies for only about 15 minutes. He stated that he could not recall if there was a group of people in the tavern aside from them since he was there only for a short time. He testified that he has no knowledge of the stabbing incident since he reached his home at around 8:30 p.m.^[10]

Lolito's testimony was corroborated by his wife, Hilde. Hilde confirmed that her husband, Lolito, arrived at their home at around 8:25 p.m. on February 3, 2001.^[11]

Alberto Garjas confirmed his friendship with his co-accused Honor, Suralta and Tumampo and that the four of them met at the public market of Ormoc City on February 3, 2001. He testified that they were drinking at a tavern and there were two groups drinking then. He recounted that Honor was the only one who sang among them and that Honor left soon after. Then the dropping of the Mallorca bottle from the other group of drinkers occurred. He testified that he recognized the

prosecution eyewitness, Rey Panlubasan, as among that group. He stated Panlubasan's group left ahead of them and after consuming a gallon of tuba, his group also left. He was left behind as he was still paying for their drinks and buying cigarettes. He was intending to take a ride home when he saw his companions, Suralta and Tumampo, attack and stab the young persons who were part of the other group in the tavern. He confirmed that the place was well illuminated and he saw his companions Suralta and Tumampo walk away casually after the melee. Then, he took a ride home and, as he did not want to get involved, he did not report the incident.^[12]

In a Joint Judgment^[13] promulgated on November 20, 2001, by the RTC of Ormoc City, the accused Lolito Honor and Alberto Garjas were acquitted in regard to the crime of frustrated murder. But the two were found guilty of murder and sentenced to suffer the penalty of *reclusion perpetua*. The RTC found that the testimony of Garjas virtually confirmed the testimony of prosecution eyewitness Rey Panlubasan and that the testimonies of Lolito Honor and his wife, Hilde Honor, were self-serving, specious and made up. The RTC found that the element of treachery was present in the killing because the suddenness of the attack afforded the victims no opportunity to defend themselves.

The dispositive portion of the decision reads as follows:

Wherefore, after considering the foregoing, the Court finds the accused Lolito Honor y Aligway and accused Alberto Garjas y [Empimo] NOT GUILTY of the crime of Frustrated Murder as charged under Criminal Case No. 6015-0 for failure of the prosecution to prove their guilt beyond reasonable doubt.

If the said accused are detained, they should be discharged from prison unless they are held for any other lawful cause.

As to Criminal Case No. 6016-0, the Court finds the accused Lolito Honor y Aligway and accused Alberto Garjas y Empimo GUILTY beyond reasonable doubt for the crime of Murder as charged, and hereby sentences each of them to suffer imprisonment of Reclusion Perpetua and for accused Lolito Honor to indemnify the offended party, for the victim Henry Argallon, the sum of P50,000.00 and for accused Alberto Garjas to indemnify the offended party for victim Nestor Nodalo, the sum of P50,000.00.

SO ORDERED.^[14]

Honor and Garjas appealed to the Court of Appeals. In a Decision dated September 28, 2006, the Court of Appeals affirmed with modification the RTC's verdict by ordering both accused Honor and Garjas to pay jointly and solidarily the heirs of Nestor Nodalo and Henry Argallon P50,000 each as moral damages. The dispositive portion of the decision states:

WHEREFORE, the assailed Decision is **AFFIRMED** with the **MODIFICATION** that accused-appellants are ordered to pay jointly and severally the heirs of Henry Argallon and Nestor Nodalo Php 50,000.00 each as moral damages.

SO ORDERED.^[15]

In the instant appeal, Honor and Garjas seek a reversal of the Court of Appeals and RTC rulings. They raise the following issues:

I.

[WHETHER OR NOT] THE COURT A *QUO* GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF LONE WITNESS REY PANLUBASAN DESPITE ... ITS MATERIAL INCONSISTENCIES.

II.

[WHETHER OR NOT] THE COURT A *QUO* GRAVELY ERRED IN FINDING ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.^[16]

Appellants argue that the trial court and the Court of Appeals erred in giving full faith and credence to the testimony of eyewitness Rey Panlubasan, which was based mainly on generalities, without going deeply into and analyzing the points and details of his testimony. They argue that the posture of the lower court reveals its bias in favor of the prosecution and against the defense. They cite inconsistencies in the testimony of Panlubasan. Thus, Panlubasan stated in his direct testimony that Honor and Garjas stabbed Argallon but on cross-examination, he pointed only to Honor as the one who stabbed Argallon.^[17] The accused argue that irreconcilable and unexplained contradictions in the testimonies of the prosecution witnesses cast doubt on the guilt of the accused.^[18] They also argue that the lower court overlooked the fact that Panlubasan's reaction during the startling and frightening incident was inconsistent with the usual reaction of persons in similar situations. They claim that Panlubasan did not run away during the stabbing incident but instead opted to stay with the victims.^[19] They also argue that although alibi is an inherently weak defense which cannot prevail over the positive identification of the accused, when the identification of the accused is inconclusive, alibi assumes importance and, although alibi is not always deserving of credit, there are times when the accused has no other possible defense for what could really be the truth as to his whereabouts.^[20]

For the State as appellee, the Office of the Solicitor General (OSG) contends that the trial court correctly gave credence to the testimony of Rey Panlubasan. It is a time-tested doctrine, says the OSG, that a trial court's assessment of the credibility of a witness is entitled to great weight.^[21] Further, the OSG argues that the alleged discrepancy in Rey Panlubasan's testimony regarding "who stabbed whom" does not necessarily cast doubt on the identity of the assailants since conspiracy was alleged in the information and each of the accused is liable not only for his own act but also for the act of the other.^[22] The OSG points out that Panlubasan's testimony was corroborated by other evidence, notably the testimony of Dr. Castro on the nature and location of the wounds sustained by the victims.^[23]

Simply stated, the two issues for our resolution are: (1) Did the RTC and the Court of Appeals err in giving credence to the testimony of Rey Panlubasan? and (2) Was