

FIRST DIVISION

[G.R. No. 184337, August 07, 2009]

**HEIRS OF FEDERICO C. DELGADO AND ANNALISA PESICO,
PETITIONERS, VS. LUISITO Q. GONZALEZ AND ANTONIO T.
BUENAFLOR, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review on certiorari^[1] assailing the Amended Decision^[2] dated 29 August 2008 of the Court of Appeals' Former Special Seventh Division, which reversed the Original Decision^[3] dated 18 March 2008 of the Court of Appeals' Seventh Division, in CA-G.R. SP No. 101196.

The Antecedent Facts

On 11 March 2007, the police found the dead body of Federico C. Delgado (Delgado) at his residence in Mayflower Building, 2515 Leon Guinto corner Estrada Streets, Malate, Manila. The police was alerted by Annalisa D. Pesico (Pesico), who allegedly was present at the time of the commission of the crime and was likewise injured in the incident.^[4]

On 1 June 2007, on behalf of Pesico and the heirs of Delgado (petitioners),^[5] the Manila Police District (MPD), represented by Alejandro B. Yanquiling Jr., Chief of the Homicide Section, filed a complaint-affidavit^[6] with the Office of the City Prosecutor of Manila. The MPD charged respondents Luisito Q. Gonzalez (Gonzalez) and Antonio T. Buenaflor (Buenaflor) with the murder of Delgado and frustrated murder of Pesico. Gonzalez is the stepbrother of the deceased and Buenaflor was a former driver for 15 years of Citadel Corporation, owned by the Delgado family.

Together with the complaint-affidavit, the police presented the following documents:

1. Sworn Statement ("Sinumpaang Salaysay") of Pesico dated 11 March 2007;^[7]
2. Supplemental Sworn Statement ("Karagdagang Sinumpaang Salaysay") of Pesico dated 15 March 2007;^[8] and
3. Crime and Progress Reports of Senior Police Officer 2 (SPO2) Virgo Ban Villareal dated 23 March 2007.^[9]

At petitioners' request, the case was transferred to the Department of Justice (DOJ) for preliminary investigation.^[10] On 20 June 2007, the MPD filed a Supplemental Complaint-Affidavit^[11] and attached the following additional documents:

1. Scene of the Crime Operation (SOCO) Report dated 11 March 2007;^[12]
2. Medical Certificate of Pesico from the Ospital ng Maynila dated 7 June 2007;
^[13]
3. Cartographic Sketch of one of the suspects dated 13 March 2007, drawn by an artist sketcher of the MPD, as described by Pesico;^[14]
4. Photographs of criminals and Delgado's family members, relatives, friends and employees, shown to Pesico, where she recognized Gonzalez and Buenaflor as the ones who mauled her and murdered Delgado;^[15]
5. Affidavit of SPO2 Virgo Ban Villareal dated 15 June 2007 attesting to the identification made by Pesico after viewing said photographs;^[16]
6. Affidavit of Retired Police Superintendent Leonito Manipol Cantollas, the forensic document examiner who analyzed the questioned handwritten word "FRANCO," the inscription on a wall found at the crime scene;^[17]
7. Questioned Document Examination Report No. 004-07 of Leonito Manipol Cantollas;^[18]
8. Curriculum Vitae of Leonito Manipol Cantollas;^[19]
9. Complaint-Affidavit for Robbery filed by Jose Mari C. Delgado, stepbrother of Gonzalez, against Ruby Q. Gonzalez-Meyer, sister of Gonzalez;^[20]
10. Letter via electronic mail dated 4 July 2003 written by Ruby Q. Gonzalez-Meyer to her and Gonzalez's mother, Vicky Quirino Gonzalez-Delgado;^[21]
11. Newspaper clipping taken from the Philippine Daily Inquirer dated 26 March 2007, where Gonzalez's wife, Kuh Ledesma, talked about him, their relationship and the accusations that her husband was facing;^[22]
12. Newspaper clipping taken from the Philippine Daily Inquirer dated 22 March 2007, referring to the family feud between the Delgado and Gonzalez siblings;
^[23] and
13. Police Blotter dated 16 March 2007 reported by Atty. Augusto M. Perez, Jr., lawyer of Francisco "Franco" Delgado III, regarding a threatening phone call by an unknown caller made on 15 March 2007 at the latter's residence.^[24]

Gonzalez and Buenaflor filed their Counter-Affidavits, respectively.^[25] Together with his counter-affidavit, Gonzalez attached relevant documents^[26] establishing his confinement at the Neuro-Psychiatric Unit of the Makati Medical Center from 7 March 2007 until 18 March 2007 and the corroborative affidavits of 29 impartial and independent witnesses composed of physicians, nurses and personnel of said hospital.^[27] On the other hand, Buenaflor presented the affidavit of his employer, who attested that Buenaflor was on duty and driving for him at the time of Delgado's death.^[28]

Acting City Prosecutor of Manila Cielitolindo A. Luyun (Investigating Prosecutor) conducted the preliminary investigation and evaluated the evidence submitted by the MPD, as well as respondents' Counter-Affidavits, corroborating affidavits of 29 witnesses, and supporting documentary evidence. In a Resolution dated 10 September 2007, the Investigating Prosecutor dismissed the complaint for lack of probable cause that respondents committed the crimes of murder and frustrated murder.^[29]

On 18 September 2007, petitioners filed a Petition for Review with the Secretary of Justice. On 15 October 2007, then Acting Secretary of Justice Agnes VST Devanadera (Acting Secretary Devanadera) reversed the finding of the Investigating Prosecutor and directed the filing of separate informations for murder and less serious physical injuries against respondents.^[30]

On 18 October 2007, respondents filed a Motion for Reconsideration which was denied by Acting Secretary Devanadera in a Resolution dated 26 October 2007.^[31]

On 30 October 2007, the corresponding Informations were filed. The charge for the crime of murder was filed before the Regional Trial Court (RTC) of Manila, Branch 32, docketed as Criminal Case No. 07-257487. The charge of less serious physical injuries was filed before the Metropolitan Trial Court of Manila, Branch 9, docketed as Criminal Case No. 441878.^[32]

Thereafter, respondents filed with the Court of Appeals a petition for certiorari and prohibition under Rule 65, docketed as CA-G.R. SP No. 101196, assailing the Resolutions of Acting Secretary Devanadera dated 15 October 2007 and 26 October 2007.^[33]

The Ruling of the Court of Appeals

On 18 March 2008, the Court of Appeals, in its Original Decision, dismissed the petition and denied respondents' application for preliminary and/or permanent injunctive writ. The appellate court found no grave abuse of discretion on the part of Acting Secretary Devanadera in issuing the Resolutions dated 15 October 2007 and 26 October 2007. It affirmed the existence of probable cause when Pesico, the lone eyewitness of the commission of the crime, positively identified respondents as the perpetrators. The relevant portion of the Original Decision states:

As held by public respondent, probable cause was met, and rightly so, when Pesico, the lone eyewitness of the commission of the crime positively identified petitioners as the authors of the bestial act. To cast doubt on Pesico's positive identification of petitioners, the latter pointed to the alleged inconsistencies in the two affidavits that the former has executed and such other circumstances surrounding the commission of the crime showing the improbability of identification. But as correctly ruled by public respondent, these are minor inconsistencies and matters which are not enough, at that stage in time, to overthrow the possibility and credibility of identification.

On the one hand are the following facts, established by the complaints: (1) That Pesico, who was likewise injured, witnessed the commission of the crime; (2) Her condition, despite the injury caused by the blunt object that was used to maul her, with swollen eyes, tied in the arms and legs, does not totally forestall the possibility that she could have seen and identified the assailants; (3) Pesico identified petitioners as the authors of the complained acts; and (4) No evidence to show that Pesico and petitioners know each other as to entertain any possibility that her identification may have been prompted by ill-motive. On the other, are petitioners' defense of alibi and denial which they assert were not considered by public respondent.

In order to overthrow the jurisprudential injunction of giving superior regard to positive identification over the defenses of alibi and denial, these defenses should be clearly established and must not leave any room for doubt as to its plausibility and verity. It (alibi) cannot prevail over the positive testimonies of the prosecution witnesses who have no motive to testify falsely against the accused.

The burden of evidence, thus, shifts on the respondents to show that their defenses of alibi and denial are strong enough to defeat probable cause, which was engendered by the prosecution's alleged eyewitness' positive identification of them as the assailants to the crime under investigation. Moreover, for alibi to prosper, there must be proof that it was physically impossible for the accused to be at the scene of the crime at the time it was committed. At this juncture, We note the undisputed fact, concerning the accessibility of the distance between the crime scene and the hospital where petitioner Gonzale[z] alleged to have been detailed/admitted. The same is true with petitioner Buenaflor who was only in the vicinity of Roxas Boulevard. Considering the distance of the *locus criminis* and the places petitioners alleged they were at the time of the commission of the crime, neither their arguments nor the affidavits of their witnesses draw out the possibility, nay create physical impossibility, that they may have been at the scene of the crime when it was committed.

x x x

IN VIEW OF THE FOREGOING, We find no grave abuse of discretion on

the part of the Acting Secretary of Justice in issuing the Resolutions dated 15 October 2007 and 26 October 2007.

ACCORDINGLY, the present Petition is hereby DISMISSED and petitioners' application for preliminary (and/or permanent) injunctive writ is necessarily denied.

SO ORDERED.^[34]

Respondents then filed a Motion for Reconsideration with the Court of Appeals on 27 March 2008.^[35]

Meanwhile, on 3 July 2008, the RTC ordered that warrants of arrest be issued against respondents.^[36] On 16 and 21 July 2008, Gonzalez and Buenaflor, respectively, surrendered voluntarily to the police.^[37] On 28 July 2008, respondents filed with the RTC a Motion for Reconsideration (of the Order dated 3 July 2008).

To address the motion for reconsideration filed by respondents, the Court of Appeals held oral arguments on 17 July 2008. After said hearing, the appellate court issued an Amended Decision dated 29 August 2008. In the Amended Decision, the Court of Appeals granted the motion for reconsideration and ordered that the Informations charging petitioners with murder and less serious physical injuries be quashed and dismissed. The relevant portion of the Amended Decision states:

This Court has carefully evaluated the evidence of the parties once more, and its reassessment of the evidence compels it to reconsider its previous affirmation of public respondent Acting Secretary of Justice's finding of probable cause. The Court's incisive scrutiny of the evidence led it to the conclusion that there was really insufficient evidence to support public respondent Acting Secretary of Justice's finding of probable cause. It is significant to stress at this point that while "probable guilt" and "evidence less than sufficient for conviction" is the threshold in probable cause determinations, it is also important nay indispensable that there be sufficient and credible evidence to demonstrate the existence of probable cause.

x x x

Public respondent Acting Secretary of Justice's finding of probable cause against the petitioners is based solely on the account of the prosecution's lone eyewitness, private respondent Annalisa Pesico. x x x

It is once apparent that public respondent Acting Secretary of Justice did not really dwell on the essential facts of the case, much less dig through the crucial details of private respondent Pesico's account. Curiously, a close reading of public respondent Acting Secretary of Justice's assailed resolution reveals that except for the rather sweeping finding that private respondent Pesico "positively identified" the petitioners, most of it were re-statements, without more, of broad principles and presumptions in criminal law, such as the doctrines on alibi, denial, and positive