

## THIRD DIVISION

[ G.R. No. 184792, October 12, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALFREDO DELA CRUZ Y MIRANDA, ALIAS "DIDONG," ACCUSED-  
APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

On appeal is the Decision dated April 15, 2008 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01024, which affirmed the April 15, 2005 Decision in Criminal Case No. 1206-M-2002 of the Regional Trial Court (RTC), Branch 12 in Malolos City, Bulacan. The RTC convicted accused-appellant Alfredo Dela Cruz, alias "Didong," of the crime of murder and sentenced him to suffer the penalty of *reclusion perpetua*.

In an Information dated April 10, 2002, appellant and three others, namely: Narciso Samonte, alias "Boyet," Alfredo Gongon, alias "Fred," and Florante Flores, alias "Nante," were charged with murder allegedly committed as follows:

That on or about the 20<sup>th</sup> day of November, 2001, in the municipality of San Rafael, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a handgun and fanknives, [sic] conspiring, confederating together and mutually helping one another, with intent to kill one Ahlladin Trinidad y Payumo, did then and there willfully, unlawfully and feloniously, with evident premeditation and treachery, attack, assault, shoot and stab the said Ahlladin Trinidad y Payumo, hitting the latter on the different parts of his body which directly caused the death of the said Ahlladin Trinidad y Payumo.<sup>[1]</sup>

Of the four indicted, only appellant Dela Cruz (Didong) and Samonte (Boyet) were taken into custody. The other two accused, Gongon (Tata Fred) and Flores (Nante), remained at large.

Upon their arraignment, both appellant and Samonte pleaded not guilty to the charge.

#### **The Case for the Prosecution**

During trial, the prosecution presented in evidence the testimony of Anthony Villacorta and his mother, Zenaida Soriano, to establish the ensuing course of events:

On November 20, 2001, at around 5 o'clock in the afternoon, Anthony, then 13 years old, was playing in front of the house of Gongon, in Brgy. Pantubig, San Rafael, Bulacan. Anthony addresses Gongon, one of the accused at large, as "Tata Fred." Tata Fred was then having a drinking spree with Boyet, Nante, Rico, Ariel, Arnel, Ahlladin Trinidad (Ahlladin), and appellant, also known as "Didong." At approximately 6 o'clock in the evening of that day, Anthony went home to have dinner and then met up with friends to sing Christmas carols from house to house. The group broke up at around 8:30 that evening, after which Anthony and two of his friends, Edwin and Ronnel, stayed at a store to wait for a certain JR.<sup>[2]</sup>

At about 9 o'clock, Anthony saw Nante and Boyet, the latter holding an ice pick, pass by going to the direction of a forested area. Shortly thereafter, Ahlladin also passed by, walking unsteadily, followed by Tata Fred who had a gun tucked in his waist. Tata Fred then put an arm around Ahlladin's shoulder and the two then proceeded to the forested area. Moments later, Anthony and his friends heard three gunshots. They stayed at the store for a while before proceeding home. They did not, before leaving, see anyone come out of the forested area.

The next morning, Ahlladin's lifeless body was discovered. Among those who joined the curious onlookers was Anthony who, upon seeing Ahlladin's corpse, remarked, "*Iyan pala ang pinaputukan ni Tata Fred kagabi.*" Tata Fred, who was among those in the crowd and who heard Anthony's utterances, pulled the latter aside, told him to keep quiet, and slapped him. The next day, Tata Fred threatened Anthony again while the latter was with his mother, Zenaida. He told Anthony not to tell anyone of his drinking spree with Ahlladin. Zenaida then instructed her son to go home.<sup>[3]</sup>

Zenaida confirmed that there was indeed a drinking session at Tata Fred's house in the afternoon of November 20, 2001. Present at the time were Fred, Boyet, Rico, Nante, Ariel, Arnel, Ahlladin, and Didong. According to Zenaida, she was fetching water nearby when she overheard the group arguing about Ahlladin being a police informant and heard Boyet declared, "All the *salot* in their occupation should be liquidated." Tata Fred commented that they should first wait for Ahlladin's friend, Wowie, so that they could dispose of "two birds with one shot."<sup>[4]</sup> The exchange enraged Ahlladin who there and then remarked that he would have the police arrest them. He then left and went inside the house of Tata Fred's brother, Hernan. After 20 minutes, Zenaida noticed Nante calling Ahlladin's name and telling him that they were all only kidding. Ahlladin rejoined the drinking group shortly thereafter.<sup>[5]</sup>

Boyet and Nante then headed to Zenaida's house that same night. It was around 8 o'clock. An inebriated-looking Boyet said out loud, "*Ang mga salot sa hanapbuhay namin ay kailangang patayin,*" then left with Nante. Peeping through her window, Zenaida saw the two walking towards a forested area. Sometime later, Zenaida sat out on her yard with her niece, Luz. She saw Ahlladin walking in a wobbly manner. He was accompanied by Tata Fred, who had a gun tucked in his waist. Both men likewise walked towards the forested area. At around 9 o'clock, Zenaida heard three explosions which she surmised to be the sounds coming from firecrackers.<sup>[6]</sup>

The following morning, Zenaida observed people running in the direction of the forest area. She learned along with her son Anthony that Ahlladin's body had been discovered there. Anthony then told Zenaida that it was his Tata Fred who killed Ahlladin.<sup>[7]</sup>

On December 1, 2001, Zenaida and Anthony each issued statements on Ahlladin's death to the local police. Anthony's statement named his Tata Fred, Boyet, and Nante as the men he saw walking towards the forested area the night before the discovery of Ahlladin's body.<sup>[8]</sup> On January 7, 2002, Anthony executed a *Karagdagang Salaysay*. He explained that after giving his first *Salaysay*, he often dreamt of Ahlladin during which he would shout "*Kuya Ahlladin, takbo, babanatan ka nila.*" The recurring dreams prompted him to execute an additional affidavit, this time also implicating appellant.<sup>[9]</sup>

In his *Karagdagang Salaysay*, Anthony recounted that at about 9:00 in the evening of November 20, 2001, while at a store with his two friends, he spotted appellant taking the short-cut route to the forested area which Boyet and Nante had earlier used. Didong was carrying what appeared to be a wooden paddle. He turned to Anthony and his two friends and told them not to follow him. Intrigued, the boys ignored appellant's warning and hid under a hut in the forested area. They saw Ahlladin being killed by Boyet, Nante, Tata Fred, and appellant. Tata Fred was then heard saying "*Siguraduhin na patay na,*" to which Boyet answered, "*Siguradong patay na.*"<sup>[10]</sup>

The following day, November 21, 2001, Anthony met appellant who again warned the former not to reveal to anybody what he saw the night before. The terrified Anthony answered "yes" and proceeded home.

Per Medico-Legal Report No. M-244-01,<sup>[11]</sup> marked and presented in evidence as Exhibit "F," gunshot wounds on his head and trunk, as well as a stab wound on his trunk, caused Ahlladin's death.

### **The Case for the Defense**

Didong proffered the defenses of alibi and denial. He testified to being at Tata Fred's house from five in the afternoon of November 20, 2001 until seven in the evening.<sup>[12]</sup> He then headed home and stayed there the whole night. He only found out about Ahlladin's death when his neighbors informed him about it the next day.<sup>[13]</sup>

When asked of any motive that might have impelled the prosecution witnesses to implicate him in Ahlladin's death, appellant answered that, in 1998, Zenaida was arrested and subsequently convicted of drug charges. He acknowledged being the police informant who reported on her drug activities.<sup>[14]</sup>

### **The Ruling of the Trial and Appellate Courts**

After trial, the RTC, finding the prosecution's evidence sufficient to sustain a finding of guilt, rendered judgment convicting appellant and his co-accused Samonte of murder. The dispositive portion of the RTC Decision reads:

WHEREFORE, finding herein accused Alfredo dela Cruz y Miranda @ "Didong" and Narciso Samonte y Dionisio @ "Boyet" each guilty as principal beyond reasonable doubt of the crime of murder as charged in

the information, there being no other circumstances, aggravating or mitigating, found attendant in its commission, except the qualifying circumstance of treachery as alleged, due to the drunkenness of the victim which rendered him helpless to put up any defense or to retaliate, said accused are hereby sentenced each to suffer the penalty of reclusion perpetua, to indemnify the heirs of victim Ahlladin Trinidad y Payumo in the amount of P75,000.00, plus P93,000.00 as actual damages (Exh. "C"), and the further sum of P50,000.00 as moral damages subject to the corresponding filing fees as a first lien, and to pay the costs of the proceedings.

In the service of their sentence, each of the aforementioned accused being a detention prisoner, shall be credited with the full time during which he had undergone preventive imprisonment, pursuant to art. 29 of the Revised Penal Code.

As to the other two accused still at-large, Alfredo Gongon alias Fred and Florante Flores alias Nante, let alias warrant of arrest issue against them and, pending their actual apprehension, let the record of this case be in the meantime committed to the Archives to be recalled therefrom as soon as circumstances demand so.

SO ORDERED.<sup>[15]</sup>

Therefrom, only Didong appealed to the CA. Eventually, the CA rendered on April 15, 2008 a Decision affirming that of the RTC with a modification as to the damages awarded. The CA reduced the amount assessed as civil indemnity, deleted the award of moral damages, but awarded exemplary damages, as follows:

WHEREFORE, the appealed DECISION dated 15 April 2005 of the Regional Trial Court, Third Judicial Region, Malolos City, Bulacan, Branch 12 is AFFIRMED with the following MODIFICATIONS: (1) the award of civil indemnity is reduced to P50,000.00; (2) the award of moral damages is deleted; and (3) appellant Alfredo dela Cruz is further ordered to pay exemplary damages in the amount of P25,000.00.

SO ORDERED.<sup>[16]</sup>

On May 20, 2008, Didong filed a timely Notice of Appeal of the appellate court's decision.

On December 3, 2008, the Court directed the parties to submit supplemental briefs if they so desired. The parties manifested their willingness to submit the case on the basis of the records already submitted.

Appellant questions his conviction on the following grounds or issues on which he anchored his appeal to the CA, viz:

WHETHER THE COURT A QUO ERRED IN GIVING CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESSES;

II

WHETHER THE COURT A QUO ERRED IN NOT APPLYING THE RULE THAT CONVICTION OF THE ACCUSED IS BASED ON THE STRENGTH OF THE PROSECUTION'S EVIDENCE AND NOT ON THE WEAKNESS OF THE DEFENSE; and

III

WHETHER THE COURT A QUO ERRED IN FAILING TO APPLY THE RULE THAT IN CASE OF TWO CONFLICTING CULPATORY FACTS AND CIRCUMSTANCES THE ONE THAT IS EXCULPATORY IN NATURE SHOULD BE RESOLVED IN FAVOR OF THE ACCUSED.<sup>[17]</sup>

### **The Court's Ruling**

We deny the appeal.

Didong urges the Court to overturn his conviction, basing his plea on the supposed contradictory statements by the prosecution's principal witness. He avers: witness Anthony testified that he, Didong, was not part of the group that went to the forest with the victim on the night of the incident; Didong was not in the vicinity of the crime scene when the victim was shot; and Anthony was not an eyewitness to the killing, as deduced from his *res gestae* statement of "*Iyan pala ang pinaputukan ni Tata Fred kagabi*" the day after the incident. Rounding up his arguments, Didong alleges that Anthony's *Karagdagang Salaysay* is in direct conflict with his earlier statement which did not mention appellant as one of the men who was with the victim when killed.

The Court is not convinced.

The appeal essentially assails the credibility accorded by the trial court to the prosecution witnesses' testimonies.

As a matter of settled jurisprudence, the Court generally defers to the trial court's evaluation of the credibility of witness and their testimonies, for it is in a better position to decide questions of credibility having heard the witnesses themselves and observed their attitude and deportment during trial.<sup>[18]</sup> Accordingly, a finding on the credibility of witnesses, as here, with respect to the testimony of Anthony and Zenaida, deserves a high degree of respect and will not be disturbed on appeal absent a clear showing that the trial court had overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which could reverse a judgment of conviction.<sup>[19]</sup> None of the exceptions exists in this case.

To be sure, Anthony's testimony is not without discrepancies. But as the trial court and later the CA found, Anthony was able to satisfactorily explain the perceived