

THIRD DIVISION

[G.R. No. 176385, February 26, 2008]

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, vs. EMELIO TOLENTINO y ESTRELLA and JESUS TRINIDAD y MARAVILLA, Accused-Appellants.

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 00880 which affirmed the Decision^[2] of the Regional Trial Court (RTC) of Labo, Camarines Norte, Branch 64, finding appellants Emelio E. Tolentino and Jesus M. Trinidad, guilty of the crime of Murder and two counts of Frustrated Murder.

On 13 February 1998, three separate informations of Murder and two counts of Frustrated Murder were filed before the RTC against appellants, together with accused Jimmy Trinidad and Arnel Trinidad. The murder case was docketed as Criminal Case No. 98-0258 while the two frustrated murder cases were docketed as Criminal Cases No. 98-0260 and No. 98-0270. The accusatory portions of the Informations read:

Criminal Case No. 98-0258

For: Murder

That on or about 11:10 o'clock in the evening, more or less, on the 29th day of August, 1997, at Purok 7, Barangay San Vicente, Santa Elena, Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully, and feloniously, with intent to kill, conspiring, confederating, and helping each other to attain a common purpose, with treachery, evident premeditation and abuse of superior strength, while armed with firearms, assault, attack, and use personal violence upon one JOSITA FERNANDEZ-NOVELO, by then and there shooting the said victim on her face causing upon the latter serious and mortal wounds which were the direct and proximate cause of the death of the victim to the damage and prejudice of the heirs of said victim.

That the commission of the offense is attended by aggravating circumstance of nighttime purposely sought to facilitate the same and dwelling.

Criminal Case No. 98-0260

For: Frustrated Murder

That on or about 11:10 in the evening of the 29th day of August, 1997,

at Purok 7, Barangay San Vicente, Santa Elena, Camarines Norte, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, conspiring, confederating, and mutually helping each other to attain a common purpose, did then and there, willfully, unlawfully, and feloniously, with intent to kill, while armed with firearms and knife, and with treachery, evident premeditation and abuse of superior strength, attack, assault, and use personal violence upon one ANTONIO BEA, by then and there, poking a firearm at said private offended party, tying his hands with a rope and thereafter, stabbing said victim on different parts of his body, thus causing upon the latter serious and mortal wounds capable of causing death, hence, performing all the acts of execution which could have produced the crime of murder as a consequence, but nonetheless, did not produce it by reason of causes independent of their (accused) will, that is, by the timely and able medical assistance rendered to said victim which prevented his death, to the damage and prejudice of herein private complainant.

Criminal Case No. 98-0270

For: Frustrated Murder

That on or about 11:10 o'clock in the evening of August 29, 1997 at the fishpond at Purok 7, Barangay San Vicente, municipality of Santa Elena, province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another with intent to kill with treachery and evident premeditation and while armed with long firearms and 12 gauge shot gun, did, then and there willfully, unlawfully and feloniously attack, assault, kick and strike one ANTONIO NOVELO with a shotgun, hitting him on the different parts of his body and then shot one said Antonio Novelo but missed, which ordinarily would cause the death of Antonio Novelo thus performing all the acts of execution which should have produced the crime of Murder as a consequence, but nonetheless, did not produce it by reason of causes independent of their will, that is, by the timely and able medical assistance rendered to said Antonio Novelo, which prevented his death, to his damage and prejudice.^[3]

During the arraignment on 13 July 1998, appellants, with the assistance of counsel *de parte*, entered their respective pleas of not guilty.^[4] Accused Jimmy and Arnel Trinidad remained at large. Thereafter, a joint trial on the merits of the three criminal cases ensued.

The prosecution presented the following witnesses and their respective testimonies: (1) Antonio Bea testified as an eyewitness on the killing of Josita Novelo and narrated his own near death experience; (2) Ricardo Basila testified that he saw the accused escorting Antonio Bea whose hands were tied and disclosed that he was also subjected to violent acts of the accused. He claimed that he later heard a gunshot coming from Josita Novelo's house; (3) Wilfredo Larena, a Barangay Captain, testified that several persons went to his house carrying an injured Antonio Bea and they proceeded to the hospital. He later reported the incident to the police officers; (4) Antonio Novelo testified that the accused went to the house of Josita Novelo and attempted to kill him; (5) Dr. Noli Bayani, the rural health physician of Sta. Elena, Camarines Norte, conducted a post-mortem examination of the body of

Josita Novelo; (6) Belen Avellera testified on the existence of the medical records of Antonio Bea; (7) SPO2 Nelson Ricierra testified that Wilfredo Llarena reported to him the stabbing and the killing incidents and that he was a member of the team who made a follow-up investigation of the report; (8) Rogelio Novelo testified that Jesus Trinidad used to be his partner in operating a fishpond and that their partnership turned sour as Jesus Trinidad harvested the yields of the fishpond without his consent; (9) Dr. Rolando C. Victoria, a Medico-Legal Officer of the NBI, Manila, conducted an autopsy of the body of Josita Novelo.

As documentary evidence, the prosecution offered the following: Exhibit "A" - a photograph of the bloody body of Josita Novelo; Exhibit "A-1" - the "x" mark on the face of Josita Novelo; Exhibit "B" - a photograph showing the victim prostrate on the ground; Exhibits "C" and "D" - photographs of the house where the incident of killing took place; Exhibit "E" - the medical certificate of Antonio Bea; Exhibit "F" - the affidavit of Antonio Bea; Exhibit "G" - the affidavit of Ricardo Basila; Exhibit "H" - the affidavit of Antonio Novelo; Exhibit "I" - the medical certificate of Antonio Novelo; Exhibit "J" - the death certificate of Josita Novelo showing the result of the post-mortem examination; and Exhibit "K" - the NBI autopsy report.

The collective evidence adduced by the prosecution shows that sometime in January 1997, Rogelio Novelo, the surviving spouse of the deceased-victim Josita Novelo, and appellant Jesus Trinidad agreed to manage and operate a rented fishpond located at Barangay San Vicente, Santa Elena, Camarines Norte. Sometime in April of the same year, when the fishpond was yielding its first harvest, Rogelio Novelo and his wife Josita brought the produce to Manila to be sold, while appellant Jesus Trinidad was left to manage the fishpond. Upon the couple's return, they discovered that all the fish and crabs in the fishpond had already been harvested and disposed of. Believing that appellant Trinidad was responsible for the pilferage, Josita demanded from him either the return of the couple's investment or be allowed to buy appellant Trinidad's share in the partnership. Appellant chose the latter and was paid by the couple the amount of P9,700.00 as his share in the partnership. After their partnership with appellant Trinidad was terminated, the couple proceeded to replenish the fishpond with crab seedlings. When the crabs were ready for harvest, appellant Jesus Trinidad with appellant Emelio Tolentino, Jimmy and Arnel Trinidad, without the permission from the couple, harvested the crabs for their own benefit. The couple confronted appellants and their cohorts, but the former's protestation was merely ignored by the latter. The couple filed a complaint before the barangay which was then set for hearing on 30 August 1997. A few days before the scheduled hearing, Rogelio Novelo took a trip to Manila, leaving his wife Josita to manage the fishpond.

On 29 August 1997, at around 10:30 p.m., Antonio Bea, one of the complainants and the caretaker of the couple's fishpond, was inside his house located at Purok 7, Tinagong Dagat, Barangay San Vicente, Santa Elena, Camarines Norte.^[5] He heard someone calling his name from outside his house. Carrying a flashlight, Bea went outside and focused his flashlight towards the direction of the fishpond watergate ("prensa").^[6] Suddenly, someone whom he recognized to be appellant Emelio Tolentino grabbed his hand and pulled him out of the house.^[7] There he saw appellant Jesus Trinidad, Jimmy Trinidad and Arnel Trinidad. Jesus Trinidad kicked Bea on the right side of his hip, and tied a rope around his hands behind his back. Then appellant Emelio Tolentino pulled him by the rope towards the house of a

certain Ricardo Basila.^[8] Upon reaching the house of Ricardo Basila, Arnel Trinidad called out the former. Ricardo Basila, with a flashlight in his hand, went out of his house and focused the flashlight at the faces of the four perpetrators. Irritated by what Ricardo Basila did, Emelio Tolentino, Jesus and Arnel Trinidad took turns in kicking Ricardo Basila and ordered the latter to get inside his house.^[9] While inside his house, Ricardo Basila noticed that Emelio Tolentino was carrying a weapon.^[10]

The assailants, together with Antonio Bea, proceeded to the house of the spouses Novelo situated alongside the fishpond which was more or less 100 meters from Basila's house.^[11] When they arrived at the Novelo house, Jesus Trinidad called Josita Novelo to get out of the house.^[12] Josita Novelo went out of the house holding a light.^[13] Jesus Trinidad quickly grabbed Josita Novelo by her mouth and the two of them went inside the house together with Emelio Tolentino, Jesus Trinidad and Antonio Bea. From inside the house, Emelio Tolentino and Jesus Trinidad took Antonio Bea to another door leading outside and chanced upon Antonio Novelo, Rogelio Novelo's brother.^[14] Immediately, Jesus Trinidad and Emelio Tolentino kicked Antonio Novelo causing the latter to fall right into the fishpond and disappear from sight.^[15] Antonio Bea was then tied to the door from the waist down with Emelio Tolentino guarding him.^[16] In that position, Antonio Bea saw Josita Novelo being mauled by Jesus Trinidad and Arnel Trinidad. All of a sudden, Jesus Trinidad shot Josita Novelo on the left cheek with a gun.^[17] Immediately after, Emelio Tolentino entered the house and slashed the face of Josita with a jungle bolo.^[18] The three assailants untied the binding on Antonio Bea's feet while leaving the ropes tied behind his back.^[19] They left Novelo's house proceeding towards the fishpond watergate which was about three meters from the house. Emelio Tolentino led the way, followed by Bea, with Jesus and Arnel Trinidad taking the rear. Without warning, Emelio Tolentino stabbed Antonio Bea four times in the stomach with the former's jungle bolo. Antonio Bea fell into the fishpond.

The assailants left the victim and boarded a boat which was operated by Jimmy Trinidad. Injured and bleeding, Antonio Bea managed to untie his hands and swim across the river to ask for help. He received help from the people of Purok 7 and was brought to the house of the Barangay Captain Wilfredo Llarena in a hammock.^[20] The barangay captain then brought the victim to a hospital. From the hospital, Barangay Captain Wilfredo Llarena, along with some members of the police, went to the house of spouses Novelo and came upon the dead body of Josita Novelo.^[21]

Dr. Noli Bayani, the Rural Health Physician of Sta. Elena, Camarines Norte, conducted an autopsy of the body and found that the cause of Josita Novelo's death was "*[h]ypovolemic shock secondary to gunshot wounds and lacerated wound.*"^[22] Dr. Rolando C. Victoria, a Medico-Legal Officer of the National Bureau of Investigation, who also conducted an autopsy on the body of the deceased, testified that the shotgun wound at the left side of the face of the victim caused her death.^[23]

The medical certificate of Antonio Bea shows that the four stab wounds inflicted on him caused damage to his intestines.^[24]

On 19 October 1999, the prosecution rested its case and made a formal offer of

evidence.^[25]

On 13 April 2000, appellants through counsel filed a Demurrer to Evidence, without leave of court.^[26] In an order^[27] dated 17 May 2000, the RTC denied the demurrer and submitted the case for decision pursuant to Section 15, Rule 119 of the 1985 Rules on Criminal Procedure.^[28] On 31 May 2000, appellants filed a motion for reconsideration, praying that the order denying their Demurrer to Evidence be recalled and that they be allowed to present evidence. The RTC denied the said motion. Unfazed, appellants filed a petition for *certiorari* before this Court. This Court denied the petition in a Resolution dated 2 December 2002, which became final and executory on 5 February 2003. As a result, the case was submitted for decision without any evidence proffered by the defense.

On 30 November 2004, the RTC rendered a decision finding appellants guilty of the crimes charged in Criminal Case No. 98-0258 and Criminal Case No. 98-0260 for murder and frustrated murder, respectively. The decretal portion of the RTC decision reads:

CRIM. CASE NO. 98-0258
For: MURDER

WHEREFORE, finding accused EMELIO TOLENTINO y ESTRELLA and JESUS TRINIDAD y MARAVILLA guilty beyond reasonable doubt of the crime of Murder, they are hereby sentenced to suffer the supreme penalty of DEATH. They are also ordered to pay the heirs of the victim, Josita Novelo, the amount of P75,000.00 by way of civil indemnity, P50,000.00 as moral damages and another P50,000.00 as exemplary damages.

CRIM. CASE NO. 98-0260
For : FRUSTRATED MURDER

WHEREFORE, finding accused EMELIO TOLENTINO y ESTRELLA and JESUS TRINIDAD y MARAVILLA guilty beyond reasonable doubt of the crime of Frustrated Murder, they are hereby sentenced to suffer the penalty of RECLUSION PERPETUA. They are also ordered to pay their victim, Antonio Bea the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages.

^[29]

The trial court, however, acquitted appellants of the crime of frustrated murder allegedly committed against Antonio Novelo in Criminal Case No. 98-0270.

On 10 December 2004, appellants filed a Motion For New Trial on the ground that "errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial."^[30] Appellants argued that in the interest of justice and equity, they should be given the opportunity to testify in their favor considering that they are meted out by the RTC the supreme penalty of death.

In an Order^[31] dated 15 December 2004, the RTC denied appellants' motion for new trial ratiocinating that the error of appellants' counsel during the trial does not