

THIRD DIVISION

[G.R. No. 172752, June 18, 2008]

PEOPLE OF THE PHILIPPINES VS. RODOLFO SISON, ACCUSED- APPELLANT.

D E C I S I O N

REYES, R.T., J.:

WE review on appeal by *certiorari* the Decision^[1] of the Court of Appeals (CA) affirming with modification that^[2] of the Regional Trial Court (RTC) in Lingayen, Pangasinan, finding appellant Rodolfo Sison, alias "Danny" and "Pagong," guilty of murder.

The Facts

On November 25, 1993, at about 10:00 p.m., Bernadette dela Cruz, her brother Bernie, sister Bernalyn, and her grandfather were at the second floor of their house in Balang Street, *barangay* Maniboc, Lingayen, Pangasinan.^[3] While lying in bed, they heard stones landing at the roof of their house.^[4] Bernadette immediately peeped through their window. She saw appellant Rodolfo Sison, together with Corleto Sendaydiego, in a sitting position atop a Pepsi stand outside their fence.^[5] A moment later, she saw her father Bernabe dela Cruz come out of their house clad in an undershirt and underwear.^[6]

Bernabe walked towards appellant and Sendaydiego to confront them. Unexpectedly, appellant drew a gun and shot Bernabe thrice, hitting him in the chest and stomach.^[7] Bernabe cried out in pain and clutched his stomach.^[8] After the shooting, the duo fled the crime scene post-haste. Bernabe was brought to a hospital. He later expired as efforts to revive him proved futile.

On January 6, 1994, appellant and Sendaydiego were charged with murder in an Information bearing the following accusation:

The undersigned hereby accuses DANNY SISON @ "Pagong" and CORLETO SENDAYDIEGO @ "Kolet" of the crime of MURDER, committed as follows:

That on or about the 25th day of November 1993 in the evening, in Balang Street, *barangay* Maniboc, Municipality of Lingayen, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with a gun, with treachery and evident premeditation and intent to kill, did then and there willfully,

unlawfully and feloniously attack, shoot and hit Bernabe dela Cruz, inflicting upon him, the following:

x x x x

which injuries directly caused his death, to the damage and prejudice of the heirs of the said Bernabe dela Cruz.

CONTRARY to Art. 248 of the Revised Penal Code.^[9]

Appellant was also charged with possession of an unlicensed firearm, in a separate Information which reads:

That on or about the 25th day of November 1993 in the evening, in *barangay* Maniboc, municipality of Lingayen, province of Pangasinan, Philippines and within the jurisdiction of the Honorable Court, the above named accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control an unlicensed firearm without first securing the necessary permit and/or license from the lawful authorities to possess the same.

Contrary to P.D. 1866.^[10]

He was arrested after the lapse of almost five (5) years since the death of Bernabe. Co-accused Sendaydiego, however, has remained at large.

Appellant pleaded not guilty to both Informations. Joint trial ensued after the arraignment.

Bernadette testified on the events that led to the killing of Bernabe. She testified on the stoning incident and the shooting of her father. Bernie^[11] and Bernalyn^[12] narrated the same story.

Lydia, Bernabe's widow, testified that at about 10:00 p.m. of November 25, 1993, she was lying at the ground floor of their house^[13] while her husband was playing video games.^[14] Moments later, their house was hit by a stone, prompting her husband to go out of the house.^[15] She heard three consecutive gunshots.^[16] Later, she saw her husband fall down. She likewise saw appellant and Sendaydiego fleeing from the crime scene. Lydia testified that she knew appellant well, they being neighbors for quite some time.^[17]

Lydia ran to the house of their neighbor Emily Sison to call for help.^[18] When she returned, she was informed that her husband was brought to the hospital.^[19] It was while in the police station that she learned of her husband's death.^[20]

Dr. Jose U. Martinez conducted an autopsy on the victim and submitted an Autopsy Report, which reads:

External findings:

- Gunshot wound over the (L) chest, about 3 inches above and medial to the (L) nipple, measuring about 1/5 x 1/5 inches in diameter, the

trajectory cannot be determined until the chest and the abdominal cavity was opened, by following the hole found over the chest wall and the information that the gun used was *desabog*, point of entrance.

- Multiple abrasion like wounds over the chest and abdomen, with 3 small metal places recovered embedded in the abrasive wounds over the chest and abdomen.
- Gunshot wound over (L) back, lat. aspect about the level of the 8th thoracic vertebra about 7 inches lateral to it, measuring 1/5 x 1/5 inches in diameter, suspected point of exit of above gunshot wound.

Internal findings:

- On exposing the thoracic wall shows a hole over the 3rd & 4th intercostal space, medial aspect, measuring about 1/2 x 1/2 inches in diameter.
- On opening the thoracic cavity shows accumulation of fresh and clotted blood of about 700-800 cc.
- Perforation of the (L) surface of the (L) lung.
- The heart is clean.

Cause of death:

- Respiratory arrest, shock and hemorrhage sec. to lung damage and loss of blood due to gunshot wound to the (L) chest. [21]

Dr. Martinez also testified that he recovered three metal pellets embedded in Bernabe's chest wounds and in the left part of his abdomen. He concluded that the firearm used in the crime was possibly a "*desabog*" (shotgun).

Dr. Ronald Bandonill, Medico-Legal Officer II of the NBI CAR, Baguio City, [22] corroborated the testimony of Dr. Martinez. He conducted an autopsy on the exhumed cadaver of the victim. Dr. Bandonill testified that the cause of death of Bernabe was the gunshot wounds. [23] He stated that the bullet is possibly a "*domdom*," which shatters into small metals when it hits a hard object.

The defense anchored its evidence on denial. [24] Lone defense witness, appellant Rodolfo Sison himself, claimed that on November 25, 1995, at about 10:00 p.m., he and Sendaydiego were on their way home. They came from the birthday party of a certain Patrolman Bert Santiago.

When they reached the house of Bernabe, Sendaydiego started throwing stones at the house of the victim. [25] He tried to pacify Sendaydiego. Sendaydiego, however, was adamant. As Sendaydiego persisted in his mischief, appellant hid himself behind the fence of a neighbor. [26]

After the stoning incident, appellant heard Sendaydiego fire four to five shots. [27] Appellant ran away and went home. [28] When they met later, Sendaydiego told him that he only wanted to avenge his father who was mauled and killed by Bernabe. [29]

Appellant then told Sendaydiego to go as far away as possible.^[30]

The following day, appellant returned to Manila where he was employed as a taxi driver.^[31] He did not see Sendaydiego anymore although he knew that the latter is a tricycle driver in Pasig City, Metro Manila.^[32] Appellant denied hiding from the police. He claimed that he frequently goes to Lingayen, Pangasinan on holidays, *barangay* fiesta,^[33] and every time his wife gives birth.^[34] According to appellant, he would often invite members of the Lingayen Police Office who are his friends whenever there are occasions in his house.^[35]

On cross-examination, appellant admitted that Bernabe had previously filed a case against him for frustrated homicide; that it resulted to his conviction for less serious physical injuries. He claimed he did not harbor any ill-feelings against Bernabe.^[36] Appellant likewise admitted that he did not surrender to the police although he knew of the filing of the murder charge.^[37]

RTC and CA Dispositions

On August 19, 1999, the RTC rendered a decision convicting appellant of murder but acquitting him of illegal possession of firearm, thus:

WHEREFORE, foregoing considerations taken, the Court hereby convicts the accused Rodolfo Sison alyas "Danny" and "Pagong" guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code as amended by R.A. 7659 and hereby sentences him to suffer a penalty of *reclusion perpetua*, and to pay the heirs of Bernabe dela Cruz the sum of P50,000.00 as indemnity, P75,000.00 as actual damages and P25,000.00 as exemplary damages.

Insofar as the charge of Illegal Possession of Firearm and Ammunition is concerned, defined and penalized under P.D. 1866 as amended by R.A. 8294, accused Rodolfo Sison @ Pagong and Danny is hereby ACQUITTED.

Meanwhile, let a warrant be issued for the arrest of accused Corleto Sendaydiego @ Kolet in Criminal Case No. L-4976.

SO ORDERED.^[38]

The case was then elevated to Us but conformably with Our decision in *People v. Mateo*,^[39] this Court transferred the case to the CA for proper disposition.

On January 31, 2006, the CA rendered judgment affirming with modification the conviction of appellant for murder. The *fallo* of the said decision reads:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Lingayen, Pangasinan finding accused-appellant Rodolfo Sison alias "Danny" and "Pagong" guilty beyond reasonable doubt of murder is hereby AFFIRMED with MODIFICATION. In addition to the penalty of *reclusion perpetua* imposed, and the award of P50,000.00 as civil indemnity, P75,000.00 as actual damages and P25,000.00 as exemplary damages, accused-appellant is likewise ordered to pay the heirs of the

victim the amount of P50,000.00 as moral damages.

SO ORDERED.^[40]

Hence, the present recourse.

Issues

Appellant imputes to the CA twin errors, viz.:

I.

THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II.

ON THE ASSUMPTION THAT THE ACCUSED-APPELLANT COMMITTED THE ACTS COMPLAINED OF, THE COURT A *QUO* NEVERTHELESS ERRED IN CONVICTING HIM OF THE CRIME OF MURDER INSTEAD OF HOMICIDE.
^[41]

Our Ruling

The guilt of appellant was proven beyond reasonable doubt. His bare denial cannot prevail over his positive identification by eyewitnesses.

Appellant contends that the prosecution fell short of its duty to prove his guilt beyond reasonable doubt. He claims he was innocently implicated in the killing of Bernabe. He points to co-accused Sendaydiego as the gunman. Appellant also questions the RTC finding of facts and appreciation of evidence, particularly the credibility of the prosecution witnesses.

It is settled that appellate courts will not interfere with the judgment of the trial court on the credibility of witnesses, unless there appears in the record some facts or circumstances of weight and influence which have been overlooked and, if considered, would affect the result.^[42] Findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position and opportunity of being able to observe the witnesses' deportment on the stand while testifying.

That opportunity is denied to the appellate courts. We find that the RTC calibration of the credibility of the witnesses is not flawed. The testimonies of Bernadette, Bernie, Bernalyn, and Lydia positively established, beyond reasonable doubt, that it was appellant who shot Bernabe.

The said witnesses testified in a clear, straightforward, and convincing manner on the material events that led to the shooting of Bernabe, to wit: (1) the stoning of their house; (2) how they immediately stood up and peeped through the window and saw appellant and Sendaydiego sitting on their fence; (3) how Bernabe came out from their house; (4) how appellant shot Bernabe while the latter was about to