

## THIRD DIVISION

[ G.R. No. 181467, August 06, 2008 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
AMBROSIO GOLEAS Y LIMUEL A.K.A. "CLEO" AND ALVIN LACABA  
Y LIMUEL, ACCUSED-APPELLANTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

For review is the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01880, dated 17 July 2007,<sup>[1]</sup> affirming *in toto* the Decision of the Quezon City Regional Trial Court (RTC), Branch 81, in Criminal Case No. Q-02-113076<sup>[2]</sup> finding accused-appellants Ambrosio Goleas y Limuel (Goleas) a.k.a. "Cleo" and Alvin Lacaba y Limuel (Lacaba) guilty of murder and imposing upon them the penalty of *reclusion perpetua*.

The facts of the case are as follows:

On 5 November 2002, an Information<sup>[3]</sup> was filed with the RTC charging appellants with murder. The Information reads:

That on or about the 2<sup>nd</sup> day of November 2002, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, with intent to kill, qualified by evident premeditation, treachery and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of JERRY LOBOS y FAMANIAS, by then and there stabbing him several times with a bladed weapon, hitting him on the chest and other parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said JERRY LOBOS Y FAMANIAS.

When arraigned on 4 December 2002, appellants, assisted by their counsel *de oficio*, pleaded "Not guilty" to the charge.<sup>[4]</sup> Trial on the merits thereafter followed.

The prosecution presented as witnesses Jelly Javier (Javier), Police Officer 1 Jose Taopo (PO1 Taopo) and Jessica Lobos (Jessica). Their testimonies, taken together, bear the following narrative:

On 2 November 2002, at about 8:30 a.m., Javier went to a *sari-sari* store located in front of the Ombudsman Building, Agham Road, Barangay Pagasa, Quezon City, and chatted with some friends. At around 11:30 a.m., he saw Jerry Lobos (Lobos) driving a *pedicab* and heading towards the said store. Lobos dropped off his passenger near the store and continued driving. Thereupon, appellants approached

Lobos and blocked the latter's path. Appellant Lacaba held both arms of Lobos while appellant Goleas repeatedly stabbed Lobos on different parts of the body. Thereafter, appellants fled.<sup>[5]</sup>

Javier and some *pedicab* drivers brought Lobos to the Philippine Children's Medical Center (PCMC). PO1 Taopo arrived at the PCMC and asked Lobos to identify his assailants. Lobos uttered "Leo."<sup>[6]</sup> Subsequently, Jessica, Lobos's live-in partner, came to the PCMC. Lobos told her that appellants attacked and stabbed him.<sup>[7]</sup>

Later that day, Lobos was transferred to the East Avenue Medical Center where he died at about 4:00 p.m. due to stab wounds.<sup>[8]</sup>

The prosecution also proffered documentary evidence to buttress the testimonies of its witnesses, to wit: (1) joint-affidavit of PO1 Taopo and other police officers (Exhibit A);<sup>[9]</sup> (2) sworn statement of Jessica (Exhibit B);<sup>[10]</sup> (3) sworn statement of Javier (Exhibit C);<sup>[11]</sup> and (4) death certificate of Lobos (Exhibit D).<sup>[12]</sup>

For its part, the defense presented the testimonies of appellants to refute the foregoing accusations. Appellants denied any involvement in the incident and interposed the defense of alibi.

Goleas testified that from 8:00 a.m. up to 4:00 p.m. of 2 November 2002, he was at Roxas Street, Barangay Pagasa, Quezon City, selling folding beds. He sold three folding beds before 4:00 p.m. At past 4:00 p.m., four police officers arrested him at Roxas Street and brought him to a nearby precinct. The police officers wanted him to admit killing Lobos but he refused because he did not have anything to do with the incident. Despite being detained and beaten by the police officers, he declined to make a confession regarding the incident.<sup>[13]</sup>

Lacaba declared that he slept in his house on the whole morning of 2 November 2002. He woke up at about 1:00 p.m. of the same day. Later, two police officers barged in his house and arrested him for killing Lobos. During the investigation, he denied any involvement in the incident but the police officers did not believe him. Thereafter, he was detained.<sup>[14]</sup>

After trial, the RTC rendered its Decision on 12 September 2005 convicting appellants of murder under Article 248 of the Revised Penal Code. Appellants were sentenced to *reclusion perpetua*. They were also ordered to pay the heirs of Lobos P21,000.00 as actual damages, P50,000.00 as moral damages, P50,000.00 as civil indemnity, and P25,000.00 as exemplary damages. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the Court finds accused AMBROCIO GOLEAS Y LIMUEL, a.k.a. CLEO and ALVIN LACABA Y LIMUEL, GUILTY beyond reasonable doubt of the crime of MURDER punishable under Article 248 of the Revised Penal Code as amended, both accused are hereby sentenced to suffer the penalty of RECLUSION PERPETUA. Both accused are further ordered to pay the heirs of the late JERRY LOBOS the total amount of Twenty One Thousand (Php21,000.00) Pesos as actual damages, Fifty Thousand (Php50,000.00) Pesos as moral damages, Fifty

Thousand (Php50,000.00) Pesos as civil indemnity and Twenty Five Thousand (Php25,000.00) Pesos as exemplary damages.

Both accused shall be credited in the service of the full time during which they had undergone preventive imprisonment. Let a mitimus order be issued for service of sentence.<sup>[15]</sup>

Appellants appealed the RTC Decision to the Court of Appeals. On 17 July 2007, the appellate court promulgated its Decision affirming *in toto* the RTC Decision, thus:

Hence, the lower court correctly found that treachery attended the killing of Lobos which makes accused-appellants Goleas and Lacaba guilty of murder.

WHEREFORE, premises considered, the Decision dated September 12, 2005 of the RTC, Branch 81, Quezon City, in Criminal Case No. Q-02-113076 is hereby AFFIRMED.<sup>[16]</sup>

Before us, appellants assigned the following errors:

I.

THE COURT A *QUO* ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II.

ASSUMING ARGUENDO THAT THE ACCUSED ARE GUILTY OF KILLING JERRY LOBOS, THE TRIAL COURT ERRED IN CONVICTING THEM FOR MURDER INSTEAD OF HOMICIDE CONSIDERING THAT NEITHER THE QUALIFYING CIRCUMSTANCE OF TREACHERY NOR PREMEDITATION WAS DULY ESTABLISHED.<sup>[17]</sup>

Anent the first assigned error, appellants put in issue the credibility of Javier's testimony. They maintain that the testimony of Javier regarding the fact that he saw them hold and stab Lobos is incredible. Javier testified that he was fifteen to twenty meters away from the scene when the incident occurred. At such distance, and considering that there were people around, it was impossible for Javier to have identified the attackers of Lobos.<sup>[18]</sup>

Appellants also assert that Lobos pointed to a certain "Leo" as the one who stabbed him.<sup>[19]</sup>

In resolving issues pertaining to the credibility of the witnesses, this Court is guided by the following well-settled principles: (1) the reviewing court will not disturb the findings of the lower court, unless there is a showing that it overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that may affect the result of the case; (2) the findings of the trial court on the credibility of witnesses are entitled to great respect and even finality, as it had the opportunity to examine their demeanor when they testified on the witness stand;

and (3) a witness who testifies in a clear, positive and convincing manner is a credible witness.<sup>[20]</sup>

After carefully reviewing the evidence on record and applying the foregoing guidelines to this case, we find no cogent reason to overturn the RTC's ruling finding Javier's testimony credible. As an eyewitness to the incident, Javier positively identified appellant Lacaba as the one who held both arms of Lobos; and appellant Goleas as the one who repeatedly stabbed Lobos. His direct account of how appellants helped one another in killing Lobos is candid and convincing, thus:

Q Mr. Witness, can you please tell us where you were on November 2, 2002 at 8:30 in the morning?

A I was at the store together with my friends sir.

Q And, where was that store located, Mr. Witness?

A It was in front of the Ombudsman Building sir.

Q And, where is that Ombudsman Building located?

A It was at Agham Road sir.

Q Of what barangay?

A Barangay Pagasa sir.

Q During that time and place Mr. Witness, can you please tell us what was that unusual incident that happened?

A I saw Jerry coming, boarding with his pedicab.

Q And, do you know the surname of Jerry?

A Jerry Lobos sir.

Q You said that Jerry was boarded at his pedicab, whereat?

A He was heading towards us sir.

Q And, while Jerry heading towards you what happened, if any?

A When he was in front of us his passenger alighted and waved his [Lobos] hand to us.

Q And, what happened next after his passenger alighted from his pedicab?

A He was not yet far from us when Jerry was blocked by Alvin and Ambrosio.

Q And what happened after he was blocked by Alvin and Ambrosio?

A When [sic] Alvin blocked him and he was held by the hands.

Q Who held the arms of Jerry?

A It was Alvin who held the hands of Jerry sir.

Q And, how did he held the arms of Jerry?

A He held his two arms sir.

Q What is the position of Alvin to Jerry?

A He was in front of Jerry sir.

Q When Alvin was holding the hands of Jerry, what happened?

A He suddenly stabbed Jerry Lu [Lobos] sir.

Q Who stabbed Jerry Lobos?

A Ambrosio Goleas sir.

Q What happened to Jerry after he was stabbed?

A He struggled sir.

Q And, how many times did Ambrosio stab Jerry?

A Many times sir.

Q And, do you know what kind of instrument or weapon used to stab Jerry?

A I did not see sir but I saw him stabbed Jerry.

Q And, how do you know that you said, that it was Ambrosio who stabbed Jerry?

A Yes sir.

Q And, it was Alvin who held both arms of Jerry?

A Yes sir.

Q If you will see these people again would you be able to identify them?

A Yes sir.

Q Are they present here inside the courtroom?

A Yes sir.