

SECOND DIVISION

[G.R. No. 177571, September 29, 2008]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. DEAN MARTIN Y SARVIDA @ DENDEN AND ROMEO TANOAN Y MACAILIG, ACCUSED-APPELLANTS.

D E C I S I O N

VELASCO JR., J.:

The Case

This is an appeal from the Decision^[1] dated November 8, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02388 entitled *People of the Philippines v. Dean Martin and Romeo Tanoan* which affirmed the Decision^[2] dated April 10, 2000 of the Regional Trial Court (RTC), Branch 11 in Manila in Criminal Case No. 95-14361. The RTC found accused-appellants Dean Martin and Romeo Tanoan guilty of murder and imposed upon them the penalty of *reclusion perpetua*.

The Facts

On April 2, 1995 at around 7:30 p.m., Rogelio Dihan, accompanied by his wife, Dolores, and their two children, was driving his passenger jeepney towards Dart, Paco, Manila. Rogelio stopped his jeepney at the red traffic light in San Andres Bukid, before crossing the railroad track near the South Super Highway. Suddenly, accused-appellant Tanoan approached Rogelio from behind and stabbed him several times. Dolores and her children, who were seated beside the victim, pleaded with Tanoan to stop but their cries were unheeded. Dolores then tried to get out of the jeepney to call for help but accused-appellant Martin and two other unidentified males blocked her way.

Thereafter, accused-appellants ran towards Perlita Street. Rogelio was able to drive the jeepney a little further before he collapsed. Dolores sought help from the passengers of the passing vehicles and an ambulance later brought Rogelio to the Philippine General Hospital. Rogelio was pronounced dead on arrival upon reaching the hospital.

Aside from Dolores, the incident was also witnessed by Sergio Delos Santos, Rogelio's co-driver along the San Andres-Faura-Paco route. At that time, Rogelio's jeep was right in front of Sergio's. While they were at a stop, Tanoan passed in front of Sergio's jeepney, and went beside Rogelio. Sergio then noticed a commotion inside the jeepney and he saw Tanoan stab Rogelio several times. Dolores tried to get out but Martin pushed her inside.^[3]

On June 5, 1995, at around 9 o'clock in the morning, Dolores chanced upon Tanoan who was bathing in the rain near the railroad track where the crime occurred.

Dolores then called her brother-in-law, who informed the police authorities of the presence of Tanoan. The police then came to the vicinity and apprehended Tanoan.

At the police station, Dolores, Sergio, and a certain Gerardo Oblibino identified Tanoan as the one who stabbed Rogelio. Later in the evening, Tanoan confessed to the investigating police that Martin was his co-conspirator. Martin was then apprehended. On the next day, Sergio identified Martin as the one who hindered Dolores from seeking help.^[4]

Tanoan and Martin underwent inquest proceedings, and were later charged with the crime of murder.

In their defense, accused-appellants denied participation in the incident. Martin claimed that at the time of the incident, he was sewing basketball jerseys in their shanty, which was 50 meters away from where the crime took place. He said that he never left their shanty from 9 to 11 o'clock in the evening.^[5] On the other hand, defense witnesses German Mariano, Irene Barrozo, and Giovanni Gafud stated that Tanoan was merely one of the bystanders who were milling around after the incident took place.

On April 10, 2000, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, this Court finds the accused DEAN MARTIN y SARVIDA @ Denden and ROMEO TANOAN y MACAILIG, guilty beyond [reasonable] doubt of the felony of murder as defined and penalized under Art. 248 of the Revised Penal Code as amended, without any aggravating and mitigating circumstance to affect their liability therefor, and sentences both of them to suffer the penalty of reclusion perpetua, and to pay jointly and severally, the heirs of the victim the amount of [PhP] 50,000.00 as civil indemnity, [PhP] 10,000.00 as actual expenses and the costs of suit.

SO ORDERED.^[6]

Accused-appellants filed a Notice of Appeal and the records of the case were forwarded to this Court for review. The case was originally docketed as G.R. No. 143079. In accordance with *People v. Mateo*,^[7] this Court, however, in its December 8, 2004 Resolution, transferred the case to the CA for intermediate review.

The Ruling of the CA

Affirming the trial court, the CA, in its Decision dated November 8, 2006, gave credence to the positive testimonies of the prosecution witnesses and dismissed the denial and alibi of accused-appellants. It held that the eyewitness account of the victim's wife is worthy of faith as she could only be interested in having the real culprit punished. Moreover, no ill motive was imputed against the prosecution witnesses that would taint their credibility. On the other hand, accused-appellants failed to show by convincing evidence that it was physically impossible for them to have been at the scene of the crime during its commission. The appellate court observed that even adducing from the defense witnesses' testimonies, both accused-appellants were very near the scene of the crime at the time of its

commission; which explained why they were identified as the perpetrators by the prosecution witnesses.

The CA then modified the trial court's award of damages. Considering that the actual damages proven only amounted to PhP 10,000, the CA awarded temperate damages in the amount of PhP 25,000 in lieu of actual damages. It also awarded PhP 25,000 as exemplary damages and PhP 50,000 as moral damages.

Hence, we have this appeal.

The Issues

In a Resolution dated August 22, 2007, this Court required the parties to submit supplemental briefs if they so desired. On October 3, 2007, accused-appellants, through counsel, signified that they were no longer filing a supplemental brief. Thus, the issues raised in accused-appellants' Brief dated April 3, 2001 are now deemed adopted in this present appeal:

I

The trial court erred in finding that accused Tanoan had been positively identified by the prosecution witnesses.

II

The trial court [erred] in holding that accused Martin had taken part in the assault on the victim. Moreover, he was not positively identified by any of the key witnesses present at the scene of the crime.

III

The trial court erred in believing the hearsay testimony of the police officers that upon being captured 2 months after the killing, accused Tanoan had declared that accused Martin was his companion in the assault.

IV

The trial court erred in finding accused Tanoan and Martin guilty beyond reasonable doubt of the crime of murder.^[8]

In essence, accused-appellants question the credibility of the prosecution witnesses in their identification of the former as the culprits.

This Court's Ruling

The appeal has no merit.

Accused-appellants contend that they were not properly identified by the prosecution witnesses as the perpetrators of the crime. They fault the investigating police officers for allegedly suggesting their identification to the eyewitnesses. Also, they question the witnesses' delay in reporting the identity of the assailants. Thus,