

THIRD DIVISION

[G.R. No. 177564, October 31, 2008]

**ARTURO REVITA "ALIAS" ARTHUR, PETITIONER, VS. PEOPLE OF
THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assails the Decision^[1] dated 15 February 2007 of the Court of Appeals in CA-G.R. CR No. 29903 which affirmed *in toto* the Decision^[2] dated 7 November 2005 of the Regional Trial Court (RTC) of Rosales, Pangasinan, Branch 53, finding petitioner Arturo O. Revita (Arturo) guilty of the crime of homicide.

On 26 August 2002, Arturo was charged before the RTC with the crime of Homicide under Article 249 of the Revised Penal Code, as amended. The accusatory portion of the Information reads:

That on or about the 23rd day of July, 2002, in the evening, in Brgy. Rajal, Municipality of Balungao, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with an unlicensed firearm, with intent to kill, did then and there, willfully, unlawfully and feloniously attack and shoot Flordeliza Caguioa, inflicting upon her multiple gunshot wounds on the different parts of her body which caused her death, to the damage and prejudice of the heirs of said deceased.^[3]

During the arraignment on 25 September 2002, Arturo, with the assistance of counsel *de officio*, pleaded not guilty.^[4] Thereafter, trial on the merits ensued.

The prosecution presented two witnesses: (1) Bryan Caguiao (Bryan), 19-year old grandson of the late victim, Flordeliza Caguioa (Flordeliza), who allegedly saw the actual killing of the latter; and (2) Dr. Monina M. Madriaga (Dr. Madriaga), the Municipal Health Officer of Balungao, Pangasinan, who conducted the autopsy of the corpse of the victim.

As documentary evidence, the prosecution offered the following: (1) Exhibit "A" - Autopsy Report issued by Dr. Madriaga; (2) Exhibit "B" - Death Certificate of Flordeliza; (3) Exhibit "C" - Sworn Statement of Bryan dated 24 July 2002; and (4) Exhibit "D" - Certificate issued by the Firearms and Explosives Division of the Philippine National Police, Camp Crame certifying that Arturo is not a licensed firearm holder.

The totality of evidence offered by the prosecution shows that at around 8:00 o'clock in the evening of 23 July 2002, Bryan and his cousin, Manilyn Rangel

(Manilyn), were idly talking at the yard of Flordeliza in Sitio Bantog, Barangay Rajal, Balungao, Pangasinan, when Arturo arrived.^[5] Bryan asked Arturo where he was going, but the latter, who looked infuriated, did not reply.^[6] Arturo proceeded to the direction of Flordeliza who was coming out of her house towards the terrace. When Arturo was already close to Flordeliza, at the distance of two and a half meters, he shot the latter with a baby armalite several times.^[7] Flordeliza fell down. Bryan saw the incident since the place was illuminated by a light coming from his aunt's terrace. After witnessing the shocking incident, Bryan and Manilyn ran away from the scene to a cousin's house nearby.^[8]

The following day, Dr. Madriaga conducted an autopsy of the corpse of Flordeliza where she found seven gunshot wounds, four of which were entry wounds and the three others being exit wounds.^[9] She observed that three of the four entry wounds were fatal.^[10] She then concluded that the ultimate cause of the victim's death was severe hemorrhage secondary to multiple gunshot wounds.^[11] Dr. Madriaga's autopsy report reveals the following findings:

"EXTERNAL FINDINGS:

- gunshot wound, entrance, 0.7 cm, oval, posterior axillary line at the line of the 7th intercostal space (R) no blackening
- gunshot wound, entrance, 0.7 cm, oval, (R) scapular area, no blackening
- gunshot wound, entrance, 0.7 cm, oval (R) upper back, no blackening
- gunshot wound, entrance, 0.7 cm, oval (R) upper third of the arm, no blackening
- gunshot wound, exit, 8 cm, sternum area
- gunshot wound, exit, 11 cm, mid-upper back
- gunshot wound, exit, 13 cm. (R) chest

INTERNAL FINDINGS:

On opening the chest cavity, the heart and the (R) lung were lacerated with multiple blood and blood clots inside.

CAUSE OF DEATH:

Hemorrhage, severe 2nd to Multiple gunshot wounds^[12]

As to the funeral expenses incurred by the family of the deceased, both prosecution and the defense stipulated that said family spent P43,615.00 for the interment.^[13]

The defense, on the other hand, advanced the theory of denial and alibi. To buttress its claim, the defense presented Arturo and the following witnesses: (1) Rolando de

la Peña (Rolando), Arturo's brother-in-law, who was allegedly with Arturo when the incident took place; (2) Teodoro Olivares (Teodoro), Arturo's nephew, who also claimed he was with Arturo during the night in question; (3) Lemie Revita (Lemie), Arturo's wife; (4) Police Inspector (P/Insp.) Emelda Besarra Roderos, Forensic Chemist of the Pangasinan Provincial Laboratory, who conducted a paraffin test on Arturo; (5) Senior Police Officer (SPO) 1 Gervacio Villanos, the investigator of the killing incident; and (6) Police Officer 3 (PO3) Ben Perez Bince, the responding police officer.

Arturo denied the accusation against him. He claimed that when the killing of Flordeliza occurred on 23 July 2002, he was in the house of his sister situated in Sitio Bantog, Barangay Rajal, Balungao, Pangasinan, enjoying a drinking spree while waiting for the arrival of his sister from Spain.^[14] He alleged he was with the company of his brothers, sister, wife, children and some friends. After getting drunk, he went to sleep only to be awakened by his wife at around 8:30 to 9:00 p.m. as police officers were looking for him.^[15] The same police officers brought him to the municipal jail and detained him. The following morning, he was brought to Urdaneta City where he was subjected to a paraffin test. The test yielded a negative result since there was no gunpowder residue found in his hands.

Witnesses Lemie, Teodoro and Rolando corroborated Arturo's testimony that he was in his sister's house and that they were there the whole time when the incident was supposed to have happened. Lemie further testified that as the finance officer of the Barangay Power Association, she personally knew, through the billing statement, that there was no electricity in the house of the victim during the fateful night.

P/Insp. Emelda Besarra Roderos testified that when she conducted a paraffin test on Arturo, she found that the latter was negative for the presence of gunpowder nitrates.^[16]

SPO1 Gervacio Villanos merely testified that he saw Arturo being detained in the municipal jail at around 8:30 p.m of 23 July 2002 and that the latter was brought to Urdaneta City, Pangasinan, for paraffin examination the following day.^[17]

PO3 Ben Bince declared in the witness stand that he received a call from a concerned citizen regarding the shooting incident. When he reached the scene, he heard somebody saying that it was Arturo who killed the victim. So he went to the house where Arturo was staying. While on his way, he met a woman who told him that Arturo was inside his sister's house sleeping. Then he invited Arturo to the police station.^[18]

In a decision dated 7 November 2005, the RTC found Arturo guilty beyond reasonable doubt of the charge pressed against him.

The dispositive portion of the RTC decision reads:

WHEREFORE, the accused Arturo O. Revita is hereby found guilty beyond reasonable doubt of committing the crime of homicide as charged, defined and penalized under Article 249 of the Revised Penal Code. Accordingly, he is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as MINIMUM, to fourteen (14)

years, eight (8) months and one (1) day of reclusion temporal, as MAXIMUM; and to pay the heirs of the deceased Flordeliza Caguioa the amount of P43,615.00 as actual damages; P50,000.00 as indemnity for the death of the victim; and P50,000.00 as moral damages.^[19]

Arturo appealed the decision to the Court of Appeals. In a decision dated 15 February 2007, the Court of Appeals affirmed *in toto* the decision of the RTC. The judgment provides:

WHEREFORE, the assailed Decision of the Regional Trial Court of Rosales, Pangasinan in Criminal Case No. 4483-R finding appellant guilty of homicide and holding him civilly liable therefore is hereby AFFIRMED.^[20]

Hence, the instant case.

Arturo assails the RTC and the Court of Appeal's findings which gave weight and credence to the testimony of witness Bryan. Arturo finds incredible the testimony of Bryan who recounts that he saw the suspect pass by him while displaying his rifle. Arturo opines that it would run counter to human experience that a felon would exhibit his attack weapon before any possible witnesses to his criminal act. He said that criminals would normally hide any crime instrument to avoid being suspected. Arturo is likewise skeptical of Bryan's behavior during the incident. He stresses that if indeed Bryan witnessed what he declared in the witness stand, he would have attempted to prevent the perpetrator from killing his grandmother. Since Bryan did not even try to dissuade the malefactor from carrying out his plan, his testimony is suspect.

At bottom, the question in this case is the credibility of the parties and their witnesses.

Well-entrenched is the rule that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimony in light of the declarant's demeanor, conduct and position to discriminate between truth and falsehood.^[21] This is especially true when the trial court's findings have been affirmed by the appellate court, because said findings are generally conclusive and binding upon this Court unless it be manifestly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.^[22]

In the instant case, prosecution's main witness, Bryan, steadfastly pointed to Arturo as the person who shot the victim. He testified as follows:

Q: While you were talking with your cousin Manilyn Rangel, what happened if any?

A: When I was talking with my cousin Manilyn Rangel, uncle Arthur Revita arrived. I asked him where he was going but he did not answer me, sir.

x x x x

Q Now, where did your uncle Arturo Revita proceed when he arrived?

A: When he saw my grandmother, he went near to her and shot her, sir.

Q: Where was your grandmother coming out when Arturo Revita arrived?

A: She was coming out from inside her house, sir.

Q: And where did your grandmother proceed?

A: She proceeded at the terrace, sir.

Q: You mean to say your grandmother Flordeliza Caguioa was inside her terrace when she was shot by Arturo Revita?

A: Yes, sir.

Q: How far were you from the terrace where your grandmother was shot?

A: 4 to 5 meters away, sir.

x x x
x

Q: Now about Arturo Revita, how far was he from your grandmother when he shot her?

A: He was near my grandmother, sir, about 2½ meters.

x x x x

Q: With what gun did Arturo Revita shot your grandmother?

A: He used baby armalite, sir.

Q: And how many times did Arturo Revita shot your grandmother?

A: Many times, sir.

Q: Was your grandmother hit?

A: Yes, sir.

Q: Did you see her hit by the shooting of Arturo Revita?

A: Yes, sir, when my grandmother fell down. [23]

Bryan vividly saw the incident as it was unfolding because it happened right under his nose. He could not have missed it because the victim and the assailant were just close by. Bryan unmistakably identified Arturo as the assailant because right before the latter fired at the victim, the former was able to see at close range the