

THIRD DIVISION

[G.R. No. 175929, December 16, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMMEL DELA CRUZ, ACCUSED-APPELLANT.**

D E C I S I O N

REYES, R.T., J.:

MURDER is one of the odious crimes a man can commit against another. It is no respecter of blood relations.

Accused-appellant Rommel dela Cruz seeks a reversal of his conviction by the Court of Appeals (CA)^[1] and the Regional Trial Court (RTC)^[2] for murder.

The Facts

Mario Pader, Manny Viscaya and Rafael Santarin are neighbors and friends.^[3] Santarin and appellant Dela Cruz are first cousins.^[4]

On August 7, 1995, at about 7:00 p.m., Santarin, Pader and Viscaya were conversing^[5] near the *barangay* hall in Nadurata St., Caloocan City. Fronting the *barangay* hall is a street which was lighted by a fluorescent lamp.^[6] Santarin was seated between Pader and Viscaya.^[7] They were arms-length away of each other.^[8] Appellant was standing behind them,^[9] at a distance of about two (2) meters.^[10]

Viscaya went to buy some cigarettes from a nearby store beside the *barangay* hall^[11] and returned to the place where Santarin and Pader were.^[12]

Suddenly, appellant came from behind and stabbed Santarin^[13] once.^[14] Santarin fell to the ground, chin first.^[15] Pader and Viscaya were instantly shocked and were unable to move.^[16]

Appellant immediately fled the scene.^[17] Subsequently, people from the *barangay* hall arrived and brought Santarin to the nearest hospital.^[18] He, however, succumbed to death due to the stab wound.^[19]

Dr. Bienvenido Muñoz, a Medico-Legal Officer of the National Bureau of Investigation (NBI),^[20] conducted an autopsy on the victim's body. According to his findings,^[21] Santarin sustained one stab wound in the back^[22] which was 15 centimeters deep.^[23] The wound reached the left lung^[24] causing his death.^[25] According to Dr. Muñoz, the weapon used by the assailant was a sharp, pointed single-bladed

instrument which could either be a kitchen knife or a *balisong*.^[26]

On December 13, 1995, appellant was indicted for murder in an Information that read:

I N F O R M A T I O N

The undersigned Assistant City Prosecutor accuses ROMMEL DELA CRUZ of the crime of 'MURDER,' committed as follows:

That on or about the 7th day of August, 1995 in Kaloocan City, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with treachery and evident premeditation and with deliberate intent to kill, did then and willfully, unlawfully and feloniously attack and stab with a bladed weapon on the back portion of the body one RAFAEL SANTARIN y DELA CRUZ, thereby inflicting upon the latter serious physical injuries which injuries caused his death upon arrival at the Ospital ng Kalookan, this city.

Contrary to law.

Kaloocan City, Metro Manila, December 6, 1995.

(SGD.) AFABLE E. CAJIGAL
Assistant City Prosecutor^[27]

Appellant evaded arrest. The long arm of the law, however, caught up with him when he was arrested in Aliaga, Nueva Ecija.

When arraigned on June 7, 2000, appellant, assisted by Atty. Jimmy Edmund Batara, pleaded not guilty^[28] to the Information. Trial on the merits ensued after.

The prosecution evidence, which portrayed the foregoing facts, was supplied by the combined testimonies of Viscaya and Dr. Muñoz.

Appellant's version of the events is premised on denial and alibi.^[29] He claimed that on the night of August 7, 1995, at about 7:00 p.m., he went to collect his fees for electrical services rendered from neighbors.^[30] It was about that time when he passed by the group of Viscaya who were seated in front of the *barangay* hall at Libis Nadurata, Caloocan City.^[31]

Appellant did not join the group but went on his separate way. He went to the houses of his "clients" to collect his fees until 8:00 p.m.^[32] He did not go home to his parent's house later that evening because he was angry with them and his siblings.^[33] He slept in a parked passenger jeep that was half a kilometer away from his parent's house.^[34] He woke up at 3:00 a.m.^[35] and took a passenger jeep bound for the pier.^[36] He took a boat to Cebu City, arriving there the following day at about 6:00 a.m.^[37] He stayed in Cebu City for four years.^[38] His family in

Cebu City was surprised to see him when he got there.^[39]

Sometime in 1999, appellant returned, his family in tow, to his parent's house in Caloocan City. His mother, however, refused to accept them for her fear of trouble because of his alleged involvement in the killing of his first cousin.^[40] As a result, he and his family proceeded to the house of his sister at P. Zamora Street, Caloocan City.^[41] His mother later allowed his wife and children to stay in her house at Libis, but not him.^[42]

Appellant proceeded to Tabang, Plaridel Bulacan^[43] and stayed there for eight (8) months.^[44] He told his relatives there that his mother was keeping him away as his life was in danger.^[45] He also feared for his life because he was accused of killing his first cousin.^[46] Appellant later transferred to Aliaga, Nueva Ecija where he was arrested on June 7, 1999.^[47]

According to appellant, Viscaya had ill-motives in testifying falsely against him. They had a misunderstanding sometime in 1989 after appellant meddled in a quarrel between Viscaya and a friend. Since then, Viscaya resented him.

Appellant insisted that he is innocent. When asked why he was charged for the killing of his first cousin, his reply was "*hindi ko po alam sa kanila.*"^[48]

RTC and CA Dispositions

On February 26, 2001, the trial court rendered a judgment of conviction, disposing as follows:

WHEREFORE, premises considered, this Court finds the accused ROMMEL DELA CRUZ **guilty** beyond reasonable doubt as principal of **Murder**, as defined and penalized under Article 248 of the Revised Penal Code, as amended by Section 6 of Rep. Act No. 7659. Accordingly, he shall serve the penalty of **Reclusion Perpetua**, with all the accessory penalties under the law and shall pay the costs.

Pursuant to Section 7, Rule 117 of the Revised Rules of Criminal Procedure, the accused shall be credited with the period of his preventive detention.

By way of death Indemnity, the accused shall pay the victim's heirs the amount of P50,000.00, without subsidiary imprisonment in case insolvency.

As funeral and related expenses, the accused shall also pay the victim's heirs the amount of P20,900.00 without subsidiary imprisonment in case of insolvency.

The Branch Clerk of this Court shall now issue the corresponding Commitment Order for the accused's confinement at the Bureau of Corrections, Muntinlupa City.^[49]

By virtue of this Court's decision in *People v. Mateo*,^[50] the Court issued a resolution on September 6, 2004, transferring this case to the CA for appropriate action and disposition.

On July 28, 2006, the CA affirmed the trial court's disposition, with modification on the award of damages. The *fallo* of the CA decision reads:

UPON THE VIEW WE TAKE OF THESE CASES, THUS, the appealed Decision finding the accused-appellant Rommel Dela Cruz guilty beyond reasonable doubt of murder, and sentencing him to suffer the penalty of *reclusion perpetua*, is **AFFIRMED** with **MODIFICATION**. The civil aspect of the case of **MODIFIED** to read: the accused-appellant is hereby **ORDERED** to pay the heirs of the victim the amounts of P50,000.00 as civil indemnity, P20,900.00 as actual damages, P50,000.00 as moral damages, and P25,000.00 as exemplary damages. Costs shall also be assessed against the accused-appellant.

SO ORDERED.^[51]

Undaunted, appellant took the present recourse.

Issues

In his final bid to seek reversal of his conviction, appellant imputes to the trial court the following errors, to wit:

I.

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE ACCOUNT OF THE PROSECUTION WITNESS ANENT THE SUBJECT INCIDENT.

II.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN REASONABLE DOUBT.

III.

ON THE ASSUMPTION THAT THE ACCUSED-APPELLANT IS GUILTY, THE CRIME COMMITTED IS ONLY HOMICIDE.^[52] (Underscoring supplied)

The first and second issues, being related, will be resolved jointly.

Our Ruling

I. The trial court did not err in convicting appellant. It did not also err in giving full faith and credence to the account of the prosecution witness. Positive identification prevails over denial and alibi. Flight is an indication of guilt.

In support of the first and second assigned errors, appellant claims that the testimony of Viscaya leaves much to be desired. According to him, there is a "gaping hole in Viscaya's testimony"[53] that seriously militates against his conviction. Although Viscaya testified about the presence of appellant at the scene of the crime, he, nonetheless, categorically admitted that he did not see the weapon used in stabbing the victim.[54]

The contention is untenable. The emphasis, gesture and inflection of the voice are potent aids in understanding the testimony of witnesses. The trial court has the opportunity and is presumed to take advantage of these aids in weighing the testimony of the witnesses. But as they cannot be incorporated into the record, this Court has no assistance in the examination of the testimony and must, therefore, rely upon the good judgment of the trial court.[55] Thus, in the absence of any showing that the trial court's calibration of credibility was flawed, We are bound by its assessment.[56]

More than that, a reading of the testimony of Viscaya would show that the trial court did not, in any way, err in calibrating the credibility of his testimony:

MANNY VISCAYA'S DIRECT EXAMINATION CONDUCTED
BY PUBLIC PROSECUTOR FILOMENO BAJAR

X X X X

Fiscal: On August 7, 1995 at around 7:00 o'clock in the evening, do you still remember your whereabouts?

Witness: I was there at the side of the *barangay* hall.

X X X X

Q: Now, were you alone then or do you have companion with you on said place?

A: Mario Pader was with me and we were talking.

Q: **Who else were there, if you know?**

A: **We were 3 then, Rafael Santarin, Mario Pader and myself.**

X X X X

Q: **While the 3 of you were conversing on August 7, 1995 at around 7:00 p.m., do you remember if any unusual incident that transpired?**

A: **While we were conversing, I spotted Rommel dela Cruz on our back.**

Q: **How far was Rommel dela Cruz from you when you saw him?**

A: **He was about two (2) meters away from us.**

Q: What was he doing when you saw him for the first time in that distance for two (2) meters?