

THIRD DIVISION

[G.R. NO. 174194, March 20, 2007]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDWIN AUSA,
APPELLANT.**

DECISION

YNARES-SANTIAGO, J.:

This is an appeal from the Decision^[1] of the Court of Appeals dated March 27, 2006 in CA-G.R. CR-H.C. No. 00411, affirming with modification the Decision^[2] of the Regional Trial Court of Caloocan City, Branch 128, in Criminal Case Nos. C-51108 and C-51109 finding appellant Edwin Ausa y Cona guilty beyond reasonable doubt of the crimes of Murder and Homicide, respectively.

On October 25, 1996, two informations were filed against appellant. The Information in Criminal Case No. C-51108 for the killing of Rosendo Pascual, Jr. y Gadia reads as follows:

That on or about the 19th day of September, 1996 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with deliberate intent to kill, with treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack and stab one ROSENDO PASCUAL, JR. Y GADIA, with the use of bladed instrument on the right back portion of his body, thereby inflicting upon the latter serious physical injuries, which injuries eventually caused his death.^[3]

The information in Criminal Case No. C-51109 for the killing of Cerio David y Austria reads as follows:

That on or about the 23rd day of October, 1996 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with deliberate intent to kill, with treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack and stab one CERIO DAVID Y AUSTRIA, with [the] use of a fan knife on the back portion of his body, thereby inflicting upon the latter serious physical injuries, which injuries eventually caused his death.^[4]

Appellant pleaded "not guilty" to both charges.^[5]

The prosecution established that:

On September 19, 1996 at 1:30 a.m., Teresita Libao and the victim Rosendo Pascual, Jr. were conversing at the carinderia located at the corner of J.P. Rizal

Street, Maypajo, Caloocan City when appellant suddenly appeared and stabbed Pascual at the back. Thereafter, appellant fled from the crime scene. Pascual attempted to walk but fell down on the street. Libao rushed Pascual to the nearest hospital but the latter was pronounced dead on arrival.^[6]

Two days later, Libao met appellant who explained to her, "*Tol, pasensiya ka na kung naganoon ko ang bata[,] napagkamalan ko lang kasi[.] Trip ko, nag-aaway kaming mag-asawa.*" He also warned her not to testify against him.^[7]

On September 23, 1996, upon being summoned by a *barangay* official, Libao disclosed that appellant was the culprit; however, she requested not to inform the family of the victim because she was afraid of appellant and his brother.^[8]

On October 23, 1996 at 7:30 p.m., Libao was walking with appellant along J.P. Rizal Street, Maypajo, Caloocan City when they passed a group of *pedicab* drivers. Appellant approached the group and extorted money from one Cerio David who refused. Appellant slapped David who retaliated by pushing the appellant. The latter then stabbed David with a double-bladed instrument hitting him on the back, breast, neck, and arm. David ran towards the highway, asking for help; but he fell and died on the spot.^[9]

Reynante Aguas, who was four meters away from the group, claimed that he saw appellant stab David in the stomach, neck, and on the left side of the body.^[10]

Libao reported the incident to their *barangay* official. Thereafter, the policemen arrested appellant.

The autopsy report^[11] indicated the cause of death of Pascual as a stab wound at the back which penetrated the lower lobe of the right lung. On the witness stand, Dr. Vargas opined that the wound could have been caused by a single-bladed pointed instrument.^[12] On the other hand, the cause of death of David as indicated in the autopsy report^[13] was six stab wounds caused by a sharp pointed single-edged instrument like a *balisong* or a kitchen knife, three of which were fatal because they punctured the left lung, the large intestine, and the liver.^[14]

Remedios Pascual testified as to their loss and the expenses they incurred in connection with the death of Pascual,^[15] amounting to P36,404.00.^[16]

Appellant denied killing either Pascual or David. He claimed that he was asleep in his house on the night of September 19, 1996, while on October 23, 1996, he was buying barbecue from Maribeth Humilda when a policeman arrived and asked if he was Bitugo;^[17] that when he replied in the negative, the policeman arrested him and brought him to the precinct where he was detained and charged with killing David.^[18]

Maribeth Humilda testified that appellant was buying from her barbecue stand when David was stabbed;^[19] and that she was about an arm's length away from the *pedicab* drivers,^[20] including David.

The two cases were jointly heard and tried. On July 16, 2002, the trial court rendered its Decision, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, in Criminal Case No. C-51108, this Court finds accused Edwin Ausa Guilty beyond reasonable doubt of the crime of Murder and he is hereby sentenced to suffer the penalty of reclusion perpetua with all the attendant penalties. He is further adjudged to pay the heirs of Rosendo Pascual the amount of P36,404.00 representing actual damages, and to indemnify them the amount of P50,000.00.

In Criminal Case No. C-51109, this Court finds Edwin Ausa Guilty beyond reasonable doubt of the crime of Homicide and he is hereby sentenced to suffer the penalty of reclusion temporal in its medium period with all the attendant penalties. He is likewise adjudged to indemnify the heirs of Cerio David the amount of P50,000.00.

Service of his sentence shall be simultaneous. The period of his preventive detention during trial shall be credited in his favor. There shall be no subsidiary imprisonment in case of insolvency.

The City Jail Warden of Caloocan City is hereby ordered to immediately commit the accused Edwin Ausa to the New Bilibid Prisons, Muntinlupa City, for the service of his sentence.

SO ORDERED.^[21]

In view of the penalty of *reclusion perpetua* imposed on appellant, the case was brought to this Court for automatic review. Thereafter, this case was referred to the Court of Appeals pursuant to our ruling in *People v. Mateo*.^[22]

On March 27, 2006, the appellate court affirmed with modification the Decision of the trial court, thus:

WHEREFORE, premises considered, the present appeal is hereby DISMISSED for lack of merit. The appealed Decision dated July 16, 2002 of the Regional Trial Court of Caloocan City, Branch 128 in Criminal Case Nos. C-51108 and C-51109 is hereby AFFIRMED with MODIFICATIONS in that: (1) accused-appellant, in Criminal Case No. C-51109, is instead sentenced to suffer an indeterminate prison term of eight (8) years and one (1) day of *prision mayor* as minimum, to fourteen (14) years, eight (8) months and one (1) day or reclusion temporal, as maximum; (2) in addition to civil indemnity awarded to the respective heirs of the victims Rosendo Pascual, Jr. and Cerio David, accused-appellant is further ordered to pay moral damages in the sum of P50,000.00 each; and (3) the award of P36,404.00 by way of actual damages to the heirs of Rosendo Pascual, Jr. is hereby DELETED and instead, said heirs are entitled to temperate damages in the amount of P25,000.00.

With costs against the accused-appellant.

SO ORDERED.^[23]

Hence, this appeal.

Appellant claims that Aguas had ill-motive to testify against him because of his previous refusal to lend the latter his *pedicab*; [24] that Aguas admitted to him that he was paid to identify appellant as the killer of David; [25] and that he does not personally know prosecution witness Libao. [26]

Appellant labels as unbelievable Libao's testimony that she saw appellant wearing a bloodied shirt two days after he allegedly stabbed Pascual; [27] that she and Pascual's brother looked for him after the September 19, 1996 stabbing incident, considering her alleged plea to the barangay official not to tell the family of Pascual that he was the culprit; [28] that she was afraid of him due to his alleged warning for her not to testify about the September 19, 1996 stabbing incident, yet, she continued to join his company; [29] and that Libao did nothing to help Pascual after he allegedly stabbed him. [30]

Appellant also alleges that the testimonies of Libao and the medico-legal officers were inconsistent as to the type of weapon he allegedly used in killing Pascual and David. The former claimed he used a double-bladed knife, while the latter declared that the victims' wounds were caused by a single-bladed instrument. [31]

The appeal lacks merit.

It is doctrinal that the trial court's evaluation of the credibility of a witness and his/her testimony is accorded the highest respect because of the latter's untrammelled opportunity to observe directly the demeanor of a witness and thus, to determine whether he/she is telling the truth. [32] It is also settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court. [33]

In the instant case, the trial court and the Court of Appeals accorded full faith and credence to the testimony of Libao, who described with reasonable certainty the fact of the killings, as well as identified appellant as the assailant. There was no indication or proof that she was impelled by ill motives in her narration of the stabbing incidents and in identifying appellant. Where there is nothing to indicate that a witness was actuated by improper motives on the witness stand, his/her positive declarations made under solemn oath deserve full faith and credence. [34]

As correctly noted by the Court of Appeals, there was no inconsistency in Libao's narration. Libao did not testify that she saw appellant "still wearing his bloodied shirt" two days after the stabbing incident. What she said was that she was able to talk with the appellant two days after the incident.

The Court of Appeals also correctly found as credible Libao's testimony that she and Pascual's brother went looking for the appellant on September 19, 1996, and that when she was summoned by the barangay official on September 23, 1996, she requested the latter not to relay what she reported to the victim's family. Libao's actions as found by the appellate court were understandable considering appellant's

warning not to implicate him in the crimes.^[35] The testimony of Libao reads as follows:

Q: When you said you went home where did you proceed?

A: At Sawata along J.P. Rizal St., Maypajo, Kalookan City, sir.

Q: Why did you proceed at Sawata?

A: ***So that I can see Edwin, sir.***

Q: ***Were you able to see Edwin?***

A: ***I saw him and his t-shirt was blood[i]ed.***

Q: What was the color of his t-shirt at that time?

A: Light blue t-shirt, sir.

Q: Which part of his t-shirt was blood[i]ed?

A: At the lower part of his t-shirt, sir.

Q: ***When you saw the t-shirt of Edwin to be blood[i]ed rather (sic) did you talk to him?***

A: ***No, sir.***

Q: And did Edwin see you when you went to see him?

A: Yes, sir.

Q: Did Edwin talk to you?

A: Yes, sir.

Q: And what did he tell you?

A: He told me. "Trip lang daw po niya."

Q: Will you tell exactly how did Edwin tell you the word, "Trip lang daw po niya."?

A: "Tol, pasensya ka na kung naganoon ko ang bata napagkamalan ko lang kasi Trip ko, nag-aaway kaming mag-asawa."

Q: And did you reply when Edwin told you those things that you mention?

A: Yes, sir.

Q: What did you reply?

A: ***I told him that it is not easy to get in to trouble and he told me if I will testify there will be a trouble (magkakaperwisuhan) as if there is threats (sic).***

Q: ***After Edwin told you or threatened you as you mentioned what else happened after conver[s]ing with Edwin?***

A: After that we play tong-its, sir.

x x x x

Q: You said that the people whom you sought help brought Rosendo to