

THIRD DIVISION

[G.R. No. 175925, August 17, 2007]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE BARCENAL AND RANDY SOLIS, ACCUSED-APPELLANTS.

D E C I S I O N

CHICO-NAZARIO, J.:

For Review is the Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 02204, which affirmed the Decision^[2] of the Regional Trial Court (RTC) of Iriga City, Branch 35, finding appellants Jose Barcenal and Randy Solis guilty of the crime of murder and sentencing them to suffer the penalty of *reclusion perpetua*.

On 17 April 2000, appellants, together with accused Jimmy Barcenal and two other John Does, were charged before the RTC with the crime of murder under Article 248 of the Revised Penal Code, as amended. The accusatory portion of the Information reads:

That on or about the 17th day of January, 2000 at about 3:30 o'clock in the afternoon, in the Municipality of Baao, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating and helping one another, did then and there, with malice aforethought and with deliberate intent to take the life of one NELSON B. MOLINA, willfully, unlawfully, feloniously, suddenly, unexpectedly, and treacherously attack the latter with bolos, thereby inflicting several mortal wounds on the different parts of his body, which caused the direct and immediate death of the said Nelson B. Molina, to the great damage and prejudice of the latter's heirs.^[3]

During the arraignment on 15 May 2000, appellants, with the assistance of counsel *de officio*, entered their respective pleas of not guilty.^[4] Thereafter, trial ensued. Accused Jimmy Barcenal (Jimmy) and the two unidentified accused remained at large.

The evidence of the prosecution, as culled from the combined testimonies of Jasam Barcenal (Jasam), an 8-year old boy; Zacarias Barcenal (Zacarias), the father of witness Jasam Barcenal; Joseph Molina (Joseph), brother of the victim; Medy Molina, spouse of the victim; and Dr. Wilson Moll Lee (Dr. Lee), a medico-legal of the National Bureau of Investigation, Naga City, who conducted the autopsy of the victim's body, is as follows:

In the afternoon of 17 January 2000, Zacarias was looking after his children asleep at his abode located in Barangay Perpetual Help, Iriga City. At around 3:30 p.m., Nelson Molina (Nelson) arrived at Zacarias' home. Nelson, who was then wearing a striped short pants and a *sando*, was carrying a bolo which he usually brought with

him whenever he went to his banana plantation. Nelson asked Zacarias on the whereabouts of appellants Jose Barcenal and Randy Solis. Zacarias answered that he did not know where the appellants were. In the course of their conversation, Nelson requested Zacarias to watch over him, as he might share the fate of a certain Popoy who was killed recently. Nelson likewise insinuated that appellants were mad at him, as he caught them stealing bananas.

Nelson then proceeded to his banana plantation.

Worried by what Nelson had just disclosed, Zacarias followed him. While Nelson was treading the path towards the plantation, he met his brother Joseph Molina. Nelson proceeded to the plantation, while Joseph headed for his home. Zacarias was trailing Nelson for about 10 to 15 minutes when he decided to stop following the latter and instead started to work. Meanwhile, Jasam was looking for his father, Zacarias, to fetch him for merienda. While searching for Zacarias, Jasam saw Nelson being attacked. Upon seeing his father, who was then removing dried coconut leaves, Jasam beckoned him and informed him that Nelson was being mauled. Zacarias went near Jasam, and the two sought cover under a tree located at the upper portion of a hill. Nelson, appellants and the other assailants were on the lower portion of the hill about 20 meters from Zacarias and Jasam. Jasam then heard Nelson shouting as the two men with masks hit Nelson with a piece of bamboo. They dragged Nelson to a grassy place and tied his hands. The two masked men called appellants and accused Jimmy Barcenal to come out from where they were hiding. Appellants and Jimmy, who were armed with bolos, appeared. The masked men tied Nelson to a coconut tree. Suddenly, Jimmy hacked the right hand of Nelson, almost separating it from his arm. Appellant Jose Barcenal, on the other hand, hacked Nelson's left hand, almost cutting it off. Randy Solis, in turn, struck Nelson's right foot with his bolo, nearly detaching it from his leg. Then, the masked men picked a short piece of wood and gave the same to Jimmy, who plucked out Nelson's eyes. The excruciating pain made Nelson shout. With his bolo, Jimmy attacked again by ripping Nelson's head off his body. Not satisfied, the masked men stabbed Nelson with a "*veinte nueve*" (fan knife) on his chest. Finally, Jimmy made his final stroke by scalping Nelson's head. Jimmy told the group that if ever Nelson's mother or Nelson's brother would pass by, they should also be assaulted. Jimmy covered the dismembered body of Nelson with coconut leaves. The group hurriedly left the crime scene.

After the assailants left, Zacarias and Jasam also left the place. Instead of proceeding to their home, they stayed in the house of Zacarias's parents, and they did not tell anyone about the incident for fear that they might be involved, or, worse they might suffer the same fate as that of the victim.

In the morning of 18 January 2000, appellants met the two witnesses. Appellants asked Zacarias if he would engage in a cockfight. Although Zacarias did not tell anyone what he and Jasam witnessed on that fateful day, he entertained the idea that appellants might have seen them witness the crime because of appellants' gestures.

On 24 January 2000, the body of the victim was found by a man grazing his carabao, who then asked the policemen to bury the body. The policemen buried the body at the Baao Municipal Cemetery in Baao, Camarines Sur. After hearing the news, Joseph went to Baao and inquired from the policemen about the body. Joseph

requested the policemen to allow him to exhume the body, but they refused to grant said request. It was through the intercession of the Municipal Health Officer of Baao that the body was exhumed and autopsied on 25 January 2000.

It was only after the victim's body was discovered that Zacarias disclosed the killing incident to the family of the deceased. He was forced to do so since Jasam had revealed the incident earlier to his "*ninong*" and the victim's brother, Manuel Molina, Jr.

Dr. Lee conducted an autopsy of the body and made the following findings:

The cadaver is buried underground, wearing T-shirt and shorts.

He is in the advanced stage of postmortem decomposition.

Head, skeletonized.

All internal organs have been converted into a pultaceous mass.

Hands, absent.

Feet, absent.

No antemortem bone injury noted on the remaining bones examined.

CAUSE OF DEATH: Cannot be determined due to the advanced stage of postmortem decomposition, in the absence of bone injuries.^[5]

The medico-legal officer found that Nelson has been dead for more than three days and that the cadaver was already in an advanced stage of decomposition. Maggots were eating up the whole body. The head was already "skeletonized," which means that the skull was devoid of any soft tissue and that the eyes, ears and muscles no longer adhered to the skull. Only the side part of the head contained hair, and it was possible that the hair had been scalped or removed. He, likewise, found that the hands and feet were missing. The head was separated from the body. He stated that a sharp bladed-instrument could have severed the bone connecting the body and the head.

Appellants denied participating in the killing of the victim. They interposed the defense of denial and alibi.

Randy Solis testified that he was a truck helper loading sand at the Hillside Construction. That at 7:00 o'clock in the morning of 17 January 2000, he and appellant Jose Barcenal reported for work at the Hillside Construction. The truck driver was Armando Botor. They got sand from Oas, Albay and delivered three truckloads of sand, two in Springfield and the other one, in Sto. Domingo, Iriga City. They finished their work at 7:00 p.m. of that day. He denied taking part in the victim's death.

Jose Barcenal confirmed the testimony of appellant Randy Solis that the two of them reported for work on that fateful day. However, he declared he and Randy Solis finished the delivery at about 4:00 to 5:00 p.m. of the same day.

Ramon Solis, father of appellant Randy Solis, testified that his son worked at the Hillside Construction on 17 January 2000. He bared that on the same day, the victim told him that he (victim) caught Zacarias Barcenal butcher a stolen cow, and that he (victim) would no longer be alive the next day because Zacarias threatened him.

Evelyn Solis, appellant Randy Solis's mother, testified that Nelson confided to her

that he caught Zacarias, together with his brothers, butchering a cow owned by a certain Romeo Baracena. Zacarias and his brothers were asking money from Nelson, with a threat that if the latter would not meet their demand, he would be slaughtered soon.

Armando Botor, the truck driver of the Hillside Construction, affirmed that his truck helpers on 17 January 2000 were the appellants and that they finished their deliveries at about 4:00 p.m. of that day. He admitted that he did not have permanent truck helpers but that he had hired many of them. Of those he had hired, he only remembered the names of his truck helpers on 17 January 2000 - the appellants.

The trial court was convinced that the prosecution mustered the requisite quantum of evidence to prove the guilt of the appellants of the crime charged. It gave full credence to the version of the prosecution and brushed aside the defense of alibi of the appellants. Thus, it convicted the appellants of murder, qualified by treachery, and imposed upon them the penalty of *reclusion perpetua*. Appellants were also ordered to indemnify their victim in the amounts of P50,000.00 as civil indemnity, P60,000.00 as actual damages and to pay the costs. The dispositive portion of the RTC decision reads:

WHEREFORE, finding accused, RANDY SOLIS and JOSE BARCENAL guilty beyond reasonable doubt for the crime of Murder under Article 248 of the Revised Penal Code, they are sentenced to *reclusion perpetua*; pay an indemnity of P50,000.00 and actual damages of P60,000.00 and to pay the cost.^[6]

Appellants filed a notice of appeal.^[7] The trial court ordered the transmittal of the entire records of the case to this Court. Thereafter, this Court ordered the referral of the case to the Court of Appeals conformably with the ruling in *People v. Mateo*.^[8]

The Court of Appeals, on 28 August 2006, promulgated its Decision affirming the judgment of the trial court convicting the accused. It, however, modified the award of damages by deleting the actual damages imposed by the trial court and ordering the appellants, in addition to the award of P50,000.00 as civil indemnity, to pay the amount of P50,000.00 as moral damages, P25,000.00 as exemplary damages and another P25,000.00 as temperate damages in lieu of actual damages. The Court of Appeals decreed:

WHEREFORE, premises considered, the assailed decision of the Regional Trial Court of Iriga City, Branch 35 dated November 15, 2002 is hereby AFFIRMED with MODIFICATIONS that the award of actual damages is deleted. However, appellants are ordered to indemnify the heirs of the victim, in addition to the award of P50,000.00 as civil indemnity, the further amounts of P50,000.00 as moral damages, P25,000.00 as exemplary damages and P25,000.00 as temperate damages in lieu of actual damages.^[9]

Hence, the instant case.

In their Brief, the appellants assign the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE AND INCONSISTENT TESTIMONY OF THE PROSECUTION WITNESSES.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE FACT THAT THEIR GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT GRAVELY ERRED IN CONCLUDING THAT THERE WAS A CONSPIRACY AND IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

IV

THE TRIAL COURT GRAVELY ERRED IN AWARDING ACTUAL DAMAGES.

[10]

On the first and second assignment of errors, appellants disagree with the trial court's assessment of the evidence before it and the weight and credence given to the testimony of the prosecution witnesses, Zacarias and Jasam. According to appellants, the testimonies of these two witnesses were "riddled with incredibilities, inconsistencies and doubts which should have been seriously considered by the trial court."^[11] In support of such claim, the appellants make reference to the testimony of Zacarias on direct examination, wherein he stated that he was about 25 meters from the place where Nelson Molina and Joseph Molina met. But on cross-examination, he averred that he was about 15 meters away from Nelson and Joseph. Appellants also put forward another testimony of Zacarias where, on direct examination, he testified that he followed Nelson from his house to the latter's banana plantation for about 10 to 15 minutes; yet, on cross, Zacarias stated that he followed Nelson for about 3 minutes only.

Appellants find it incredible for an eight-year old boy to vividly testify on every detail of what he witnessed, including those who hacked the victim and on what specific part of the victim's body. They likewise find suspect Zacarias' silence and his failure to report the incident to the victim's family or to the police authorities. Such silence, according to appellants, is contrary to human experience. They suggest that Zacarias pretended to be an eyewitness of the incident and pointed an accusing finger at them in order not to cast any suspicion on his person and his possible participation in the crime. They allege that Jasam's testimony was coached by Zacarias.

The long-established rule is 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.^[12] Thus, appellate courts will not disturb the credence, or lack of it, accorded by the