

FIRST DIVISION

[G.R. NO. 168051, September 27, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HONORATO C. BELTRAN, JR., ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Murder is one of the instances when man descends to a level lower than that of the beast, for it is non-instinctive killing, a deliberate destruction of a member of the same species for reasons other than survival.^[1]

This is an appeal from the Decision of the Court of Appeals in CA-G.R. CR No. 00755, dated 31 March 2005,^[2] affirming with modifications the Decision of the Regional Trial Court (RTC) of Pallocan, Batangas City, Branch 4, in Criminal Case No. 10525, dated 9 October 2001,^[3] convicting the accused-appellant Honorato C. Beltran, Jr., alias Jun-Jun and Junior, of the crime of murder, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the heirs of deceased Norman H. Concepcion, the amount of P75,000.00 as moral damages, P50,000.00 as civil indemnity, and P18,252.00 as actual damages.

On 3 November 1999, appellant was indicted in an Information^[4] for Murder allegedly committed as follows:

That on or about October 25, 1999 at around 10:00 o'clock in the evening at Velasquez Road, Brgy. Sta. Rita, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bolo, a deadly weapon, with intent to kill and with the qualifying circumstance of treachery, did then and there, willfully, unlawfully and feloniously attack, assault and hack with the said bolo, suddenly and without warning one Norman Concepcion y Habla while the latter was unarmed and completely defenseless, thereby hitting him on the different parts of his body, which directly caused the victim's death.

When arraigned on 9 November 1999, appellant pleaded "Not Guilty" to the charge therein.^[5] Thereafter, trial on the merits ensued.

The prosecution established its case through the testimonies of its witnesses, namely: Ever D. Sales, Rolando G. Dalisay, Dr. Dinah R. Lucero, SPO1 Julian M. de Castro and Normita H. Concepcion. Their testimonies are summarized as follows:

Ever D. Sales (Ever) was a resident of Velasquez Subdivision, Barangay Sta. Rita, Batangas City. He worked as a gasoline boy in Caltex Gasoline Station at San Pascual, Batangas City.

Ever testified that on 25 October 1999, at about 10:00 in the evening, he left his workplace and proceeded home using his bicycle. While traversing the Velasquez Road, he saw appellant holding a bolo and standing in front of his house situated at the side of Velasquez Road. On the opposite side of the same road, he saw Norman H. Concepcion (Norman) standing in front of an automobile repair shop. Exhausted by the travel, Ever decided to stop by and rest momentarily at a nipa hut near the same road. Minutes later, he saw appellant, from a distance of six meters, stalking Norman who was then walking near the automobile shop. Appellant approached Norman, and, without a warning, hacked him with a bolo. Norman tried to avoid the blow by moving backwards and shielding his face with his left arm. However, Norman's left hand was hit and wounded by the bolo. When Norman turned around and ran, appellant hacked him at the back causing him to fall down on a grassy area. Appellant repeatedly hacked Norman with a bolo.

Fearing for his own safety, Ever immediately left the nipa hut and sought help in a nearby sari-sari store. Later, he went to the crime scene and found no trace of appellant. He also discovered the bloodied and lifeless body of Norman sprawled on the ground. Afterwards, he proceeded home and narrated to a relative named Renato Sales (Renato) what he just witnessed. Later, Renato informed a certain Carmina Baliwag of the incident, who in turn, relayed the same to Normita Concepcion (Normita), the sister of Norman. Ever also declared that he did not know of any reason why appellant hacked Norman to death.^[6]

Rolando G. Dalisay (Rolando) is a resident of Velasquez Subdivision, Barangay Sta. Rita, Batangas City, where he is engaged in a carpentry business.

Rolando supported the testimony of Ever by stating that on 25 October 1999, at around 10:00 in the evening, he was walking along Velasquez Road to buy some medicines when, at a distance of about 15 meters, he saw appellant hacking Norman with a bolo. He noticed that when Norman fell on the ground, appellant continued his onslaught by relentlessly hacking the former. Afraid that he might be seen by the appellant, he immediately went home and informed his wife about the incident. When the barangay tanod and policemen arrived at the crime scene, he proceeded thereto and told them what he had witnessed. Further, he stated that he personally knows appellant as the latter was a former employee in his carpentry business. He also personally knew Norman since the latter was a relative of his wife. Lastly, he testified that appellant and Norman had a previous quarrel which, however, was subsequently settled in their barangay office.^[7]

SP01 Julian D. Mendoza was the investigating officer of the instant case. On 26 October 1999, at about 12:00 midnight, his station received an information regarding the hacking incident. He and a certain SPO3 Mario Panaligan rushed to the crime scene. Upon arriving thereat, he inquired from the people present the identity of the dead person and of the killer. Rolando approached him and narrated that the dead person was Norman and the killer was appellant. Normita also arrived at the crime scene and told him relevant information. With this lead, they proceeded to appellant's house but the latter was not there.

On 27 October 1999, a certain Tomas Dimacuha surrendered the appellant. Later, the brother of appellant, Sherman Beltran, brought before him the bolo, about three

palms in length, used by appellant in hacking Norman to death.^[8]

Dr. Dinah R. Lucero, Medical Officer IV of the Batangas City Health Office, testified that she conducted the post mortem examination on the cadaver of Norman on 26 October 1999 at the Eternal Memorial Chapel. She declared that, aside from the fact that Norman's body was almost decapitated, the latter suffered seven stab wounds and his cause of death was "massive blood loss secondary to multiple hacking wound."^[9] The death certificate issued by Lucero shows that Norman was twenty-two (22) years of age at the time of his demise.^[10]

Lastly, Normita, sister of Norman, testified that on the evening of 25 October 1999, Carmina Baliwag called her on the telephone and instructed her to proceed to Velasquez Road. Upon arriving thereat, she was shocked to discover the dead body of Norman lying on the ground. She claimed that appellant had a motive to kill Norman since an altercation occurred between the two on 22 October 1999, which, however, was settled later on 25 October 1999. In establishing her claim for damages, she stated that she spent an amount of P61,000.00 in connection with Norman's death, and that the latter worked as an assistant to the electrician at First Gas Company with a monthly income of P6,000.00. She also claimed that she was "shocked" at the sudden and gruesome death of Norman, and that she felt "pity" for him.^[11]

On the other hand, the defense argued its case by presenting the testimony of the appellant himself and a certain Dr. Luisito Briones.

Appellant admitted that he hacked Norman with a bolo but insisted that he did the same in self- defense. He narrated that on 25 October 1999, at about 10:00 in the evening, he and his mother were resting inside their house when suddenly, he heard Norman shouting and insulting him outside their house and challenging him to a fight. When he came out of the house, he noticed that Norman was accompanied by several unidentified persons. Thereafter, he tried to pacify Norman but the latter slapped the back of his head and pulled out an ice pick from his pocket. He retreated and looked for something to defend himself. He found a bolo near a tamarind tree in front of their house and took the same. When Norman was about to enter appellant's house, the latter hacked him with the bolo. Norman tried to avoid the blow but the same hit his left arm. Appellant lost grip of the bolo and the same fell on the ground. While appellant was reaching for the bolo, Norman grabbed his head and tried to stab him with the ice-pick. Appellant, however, eluded the counter-attack but he sustained a minor wound on the forehead. Upon gaining control of the scuffle, appellant took the bolo and hacked Norman four consecutive times, most of them landed on the head. When appellant noticed that Norman was no longer moving, he fled therein and went to his brother, Sherman Beltran, in Bauan, Batangas, where he stayed that same night and hid therein the bolo. The next day, he went to his sister's house in Lipa City. Later that day, he went to the Granja Hospital, also in Lipa City, for treatment of his wound on the forehead.

Appellant also claimed that on 22 October 1999, he was mauled by Norman near a sari-sari store; that Norman is taller than him since he is only 5'4 in height; that he was forced to kill Norman because the latter insulted him and his mother; and that he was on his way to Bauan City to surrender to police when he was apprehended by the barangay officers in Lipa City.^[12] Appellant was twenty-nine years (29) of

age at the time of his arrest.^[13]

Dr. Luisito D. Briones testified that he treated appellant on the morning of 26 October 1999 at Granja Hospital in Lipa City for a lacerated wound on the forehead. He also claimed that the wound was possibly caused by a knife and that it was already on the healing stage. He also issued a medical certificate attesting to the same.^[14]

On 9 October 2001, the RTC rendered its Decision^[15] finding appellant guilty beyond reasonable doubt of the crime of murder. It reasoned that appellant's claim of self-defense cannot be sustained in view of the positive and credible testimonies of the prosecution witnesses. In closing, the trial court ruled:

In the light of all the foregoing consideration and upon the evidence, accused Honorato Beltran, Jr. y Casia alias "Jun-Jun" is hereby found GUILTY beyond reasonable doubt of the crime of Murder charged in the information. Consequently, the accused is hereby sentenced to Reclusion perpetua together with all the accessory penalties inherent therewith and to pay the costs. He is further directed to indemnify the heirs of Norman Concepcion in the sum of P61,000.00 as actual damages and the sum of P75,000.00 as moral damages.^[16]

Aggrieved, appellant filed a notice of appeal therein on 22 October 2001.^[17] Subsequently, on 3 January 2003, appellant filed his Appellant's Brief with this Court assailing the Decision of the RTC dated 9 October 2001. ^[18] Pursuant to our ruling in the case of *People v. Mateo*,^[19] we issued a Resolution dated 8 November 2004, transferring the instant case to the Court of Appeals for disposition.^[20] On 31 March 2005, the Court of Appeals promulgated its Decision affirming with modifications the assailed RTC Decision. Aside from reducing the amount of actual damages awarded by the RTC, it also ordered appellant to pay the heirs of Norman an amount of P50,000.00 as civil indemnity. The dispositive portion thereof reads:

WHEREFORE, the appealed Decision is AFFIRMED with MODIFICATION. Aside from moral damages in the amount of P75,000.00, appellant is ordered to pay the heirs of the deceased, Norman Concepcion, the following amounts: (a) Fifty Thousand (P50,000.00) as civil indemnity; and (b) Eighteen Thousand Five Hundred Twenty-Five (P18,525.00) as actual damages.^[21]

Dismayed, appellant appealed the afore-quoted Decision before this Court by adopting and invoking the same arguments stated in his Appellant's Brief dated 3 January 2003, to wit:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF EVER SALES DESPITE OF ITS BEING UNBELIEVABLE AND BIASED, INSTEAD OF THE SELF-DEFENSE INTERPOSED BY THE APPELLANT.

II.

THE TRIAL COURT GRAVELY ERRED IN CONSIDERING THE QUALIFYING CIRCUMSTANCE OF TREACHERY DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE SAME BEYOND REASONABLE DOUBT.

III.

ASSUMING THAT ACCUSED-APPELLANT IS NOT ENTITLED TO THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE, THE TRIAL COURT ERRED IN NOT CONSIDERING IN HIS FAVOR THE MITIGATING CIRCUMSTANCES OF SUFFICIENT PROVOCATION ON THE PART OF THE OFFENDED PARTY WHICH IMMEDIATELY PRECEDED THE ACT AND VOLUNTARY SURRENDER.

IV.

THE TRIAL COURT GRAVELY ERRED IN AWARDING EXCESSIVE ACTUAL DAMAGES.^[22]

Anent the first issue, appellant argued that the testimony of prosecution witness, Ever, is biased, unbelievable and confusing; that the trial court should not have considered them; that his acquittal is proper on the ground of self-defense; and that the elements of self-defense are present in the instant case.

The contention is without merit.

Prosecution eyewitness, Ever, testified that on 25 October 1999, at about 10:00 in the evening, he left his workplace and proceeded home using his bicycle. While traversing Velasquez Road, he saw appellant holding a bolo and standing in front of his house situated at the side of Velasquez Road. On the opposite side of the same road, he saw Norman standing in front of an automobile repair shop. Exhausted by the travel, he decided to stop by and rest momentarily at a nipa hut near the same road. Minutes later, he saw appellant, from a distance of six meters, stalking Norman who was walking then near the automobile repair shop. Appellant approached Norman, and without a warning, repeatedly hacked him with a bolo. Although it occurred late in the evening, the light coming from the moon and the electric post therein provided him with good visibility to identify appellant and Norman, and to witness how the heinous act was executed.^[23] This testimony was corroborated by another prosecution eyewitness, Rolando. Thus, the positive identification and categorical declarations of Ever on the witness stand under solemn oath deserves full faith and credence.

Appellant, however, posited that there were inconsistencies between the testimony of Ever in open court and his sworn statements before the investigators. According to appellant, Ever testified during his direct examination that he was at a distance of about six meters, more or less, from appellant and Norman when the hacking occurred; that the place where the killing occurred was "lighted" by the moon; and that during his cross-examination, he stated that there was no other person within the area when he witnessed the hacking. On the other hand, appellant claimed that Ever declared in his sworn statements before the investigators that he was more or less 20 meters from the place where the hacking took place; that there was light coming from the electric post and the moon; and that during his cross-examination,