

THIRD DIVISION

[G.R. No. 144052, March 06, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CONRADO DE LEON, ANDRING DE LEON, JOHN DOE (AT LARGE), ACCUSED.

CONRADO DE LEON, APPELLANT.

DECISION

PANGANIBAN, J.:

Minor inconsistencies between sworn statements and testimonies do not affect the credibility of witnesses. The assessment of these inconsistencies is best left to the discretion of the trial judge who had the unique opportunity to observe their demeanor and conduct while they were testifying.

The Case

Before this Court is an appeal from the June 5, 2000 Decision^[1] of the Regional Trial Court (RTC) of Malabon (Branch 170) in Criminal Case No. 16265-MN, convicting Conrado de Leon of murder and sentencing him to *reclusion perpetua*.

The decretal portion of the RTC Decision reads as follows:

“WHEREFORE, premises considered, the Court finds accused CONRADO DE LEON guilty beyond reasonable doubt of the crime of MURDER qualified by treachery and hereby imposes upon him the penalty of *reclusion perpetua*. Likewise, accused is hereby ordered to indemnify heirs of Crispin dela Peña in the amount of P50,000.00 by way of civil indemnity for the death of said victim, P30,000.00 by way of moral damages, P30,000.00 by way of exemplary damages and cost of the suit.

“In the meantime, send the record of this case to the archives until and after the arrest of the other two (2) accused.”^[2]

The Information^[3] dated October 19, 1995, charged appellant and his co-accused Andring de Leon and one John Doe, as follows:

“That on or about the 23rd day of June 1995, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring [and] confederating [with] and mutually helping x x x one another, with intent to kill, treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab with the said weapon one CRISPIN DELA PEÑA y AGUILAR, hitting the victim on the different

parts of his body, thereby inflicting upon the victim stab wounds, which caused his immediate death.”^[4]

On October 30, 1995, the trial court issued a warrant of arrest^[5] against the accused. Appellant was arrested on April 21, 1997^[6] but his co-accused, Andring de Leon and one John Doe, remained at large. When arraigned on July 3, 1997, appellant pleaded^[7] not guilty after the Information had been read and interpreted to him in a language that he fully understood.^[8] After pretrial, trial on the merits ensued against him alone. Thereafter, the lower court promulgated its assailed Decision. The Public Attorney’s Office, counsel for appellant, filed directly with this Court, the Notice of Appeal dated July 7, 2000.^[9]

The Facts

Version of the Prosecution

In its Brief,^[10] the Office of the Solicitor General adopts the version of the facts “synthesized by the trial court,” as follows:

“Simeona de la Peña narrated that around 3:00 o’clock in the early morning of June 23, 1995, the bloodied body of her son, Crispin de la Peña was brought to their house at Emergency Relocation Center in Tangos, Navotas, Metro Manila. She immediately embarked Crispin on a tricycle before transferring him into a jeepney to bring him to the nearest hospital. Passing along Bacog Street, Crispin related to her that he was ganged up and stabbed by three persons at the corner of M. Naval Street, Tangos near a videoke joint. He was at that time urinating and in fact his zipper was still open when apparently somebody tapped his shoulder. It turned out, however, that it was a stab thrust. When Crispin backslided, he was again stabbed on the stomach while his hands were being held as the battering continued. Crispin identified accused Conrado de Leon, along with the other accused, as among the persons who stabbed and ganged up [on] him. From the time Crispin was brought to her and on board the tricycle, he was repeatedly mentioning the names of the persons who assaulted him without any apparent reason. Crispin told her that he did not quarrel with anyone of the three (3) accused who ganged up on him. While traversing Bacog Street, Crispin was already having difficulty in saying a word because he was speaking very softly and in fact ha[d] to move his mouth near her ears in order to communicate. His eyes were drooping close unlike earlier [when] the same were wide open when he was brought home.

“Sometime in the month of May prior to the incident, Crispin went home crying because he was slapped by accused Rudy R. Manlapaz alias Talakitok who was asking fish out of their catch entrusted to Crispin by their manager. Nonetheless, the victim told accused Manlapaz that he [would] give them fish some other time. Accused Manlapaz got mad and slapped Crispin before threatening to kill him.

“Rudy dela Peña related that he was drinking inside MC Kitchenette/Snack House at Naval Street, Tangos, Navotas when his

brother Crispin and Apollo Natividad arrived. The latter ordered and consumed two bottles of beer, [after which], he gave them another bottle, which they did not drink anymore. Crispin and Apollo told him that they could no longer drink more because they ha[d] each consumed one bottle of beer so he told them to go home. When Crispin and Apollo proceeded outside the MC Kitchenette, a commotion ensued which he did not bother to see because a melee [was] a natural occurrence in the place. However, the trouble reached the kitchenette. It was there when he saw a man x x x being held in both hands while accused Andring de Leon grabbed him by the chin and delivered a stab thrust on his neck. At that juncture, the man turned his head to the right. He readily recognized him to be his brother Crispin whose shirt was already tainted with blood because of the several stab wounds he had sustained. On his recognition of his brother, he immediately rushed towards him as Crispin was saying to his assailants 'Bakit, talu-talo na ba tayo?' He then carried his brother with his left hand and us[ed] his right hand to parry x x x several stab thrusts thrown by the assailants. He was able to destroy the wall of the comfort room despite the presence of all the accused blocking their escape. The door led them outside the MC Kitchenette. Seeing a pedicab, he immediately boarded his wounded brother therein. However, the driver was hesitant to drive them away because of the trouble that took place so he decided to look for another pedicab and brought Crispin home. His brother was still stable inside the pedicab because he managed to divulge to him the names of his assailants. He immediately noticed the blood oozing from the left side of the neck of Crispin as he was speaking. Upon reaching home, he woke up his mother and they transferred Crispin to another vehicle. Two policemen later on blocked and asked them where they were taking the victim. One of their companions instead uttered 'Putang-ina ninyo, mamamatay na ang tao pinipigilan pa ninyo.' He knew the assailants of his brother because he was once a fisherman like them. Accused Andring de Leon frequents the billiard hall in their place. He remembers the incidents that transpired between Crispin and accused Rudy Manlapaz alias Talakitok when his brother denied the request of the accused for some fish catch. Accused Manlapaz threatened Crispin that should they see each other again he would kill him."^[11] (Citations omitted)

Version of the Defense

Denial and alibi are alleged by appellant.^[12] He faults the trial court for having given probative value to the supposed dying declaration of the victim. The court *a quo*, he adds, erred in giving too much weight and credence to the allegedly doubtful testimony of the prosecution's principal witness. Appellant presents the following version of the facts:^[13]

"Accused CONRADO DE LEON testified that on June 23, 1995, he was in Montalban, Rizal with his in-laws. He was particularly with his mother-in-law, his wife and his children. He started living in Montalban since he was released from jail in July 31, 1994 up to August 1996 when he and his wife separated. After his separation from his wife, he then went home to Navotas. On April 21, 1997, he was arrested at Petron Gas station at Tangos, allegedly in connection with a stabbing incident that

took place in Navotas. He [did] not know at all, the victim in this case. He came to know that he was being implicated in this case when the parole officer went to him at Montalban to inform him that he was being accused of the stabbing incident in Navotas. Thereafter, he went to see Barangay Captain Armando Roque and the latter told him that the killers of the victim at the Navotas stabbing incident were already known and he (accused) was not involved. According to Brgy. Captain Armando Roque, the killers were Alejandro de Leon, his (accused[’s]) cousin and a certain Rudy Talakitok whom he [did] not know personally at all.

“ARMANDO ROQUE testified that on June 23, 1995, at around 3:00 o’clock a.m., his attention was called by the Barangay tanods regarding a stabbing incident that took place at M. Naval St., Tangos, Navotas, Metro Manila. He went to the scene of the incident. There, he conducted an investigation of the vicinity. A waitress at the KC Snack House told him that it was Andring de Leon and Talakitok who stabbed the victim Crispin dela Peña. After he conducted the investigation, he went home as it was already early morning. He was not able to prepare a report because their secretary was no longer present at that time. He disclosed that he [was] related to Andring de Leon since the wife of Andring de Leon [was] her relative. Two months after the incident, Conrado de Leon dropped by at the Barangay to inquire about his alleged involvement in the stabbing incident. He told Conrado de Leon that what he (appellant) was thinking [was] not true because he (witness) conducted his own investigation and only 2 persons were implicated namely Andring de Leon and Talakitok.

“ELENITA LIRIO y VILLACARTA testified that she knows the accused Conrado de Leon because he was her common law husband since 1986. They lived together in Montalban. On June 23, 1995, he was in Montalban together with the accused Conrado de Leon, her mother and children.”^[14] (Citations omitted)

Ruling of the Trial Court

In finding appellant guilty of murder, the RTC gave full faith and credence to the testimony of the prosecution’s witness, Reynaldo de la Peña, who had positively identified the former as one of the perpetrators of the crime. It likewise accepted the dying declaration of the victim regarding his death and deemed such declaration to have been made under the consciousness of his impending death. These circumstances were held to prevail over appellant’s defense of denial and alibi. Finally, the lower court also ruled that the killing was attended by treachery.

Not satisfied with the judgment, appellant has lodged this appeal.^[15]

The Issues

In his appeal, appellant assigns the following errors for our consideration:

“I

The trial court erred in giving probative value to the supposed dying declaration of the victim despite the fact that the same was not made

under the consciousness of an impending death.

"II

The trial court erred in giving credence to the testimony of prosecution eyewitness Reynaldo Dela Peña.

"III

The trial court erred in not giving any probative value to the defense of alibi interposed by accused-appellant.

"IV

The trial court erred when it directly participated in the active cross-examination of defense witness Armando Roque.

"V

Assuming *in arguendo* that the accused-appellant is guilty, the trial court erred in convicting him as a principal instead of just [as] an accomplice, in view of the fact that there is no evidence which shows that he acted in conspiracy with his co-accused.

"VI

The trial court committed reversible error when it ruled that treachery attended the commission of the crime."^[16]

We shall discuss the assigned errors in the following sequence: (1) credibility of prosecution witnesses, appellant's defenses and the alleged wrongful participation of the trial judge; (2) validity of the antemortem statement; (3) proof of conspiracy; and (4) presence of treachery.

The Court's Ruling

The appeal is partly meritorious. Appellant is guilty of homicide only, not murder.

First Issue:
Credibility of the Witness

As in most criminal cases, the ultimate resolution of this case depends upon the evaluation of the credibility of the prosecution witnesses vis-à-vis the denial presented by the defense.^[17]

Appellant casts doubts on the testimony of Prosecution Witness Reynaldo de la Peña, arguing that since the latter was in a state of excitement due to the incident in question, "he could have been disillusioned as to what he observed, thus, the failure to see clearly what transpired and discern the respective participation of each of the accused."^[18]