

## FIRST DIVISION

[ G.R. No. 125895, July 04, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX RIVERA AND ROGITO RIVERA, ACCUSED-APPELLANTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This is an appeal from the decision dated January 22, 1996 of the Regional Trial Court, of Masbate, Masbate, Branch 47, in Criminal Case No. 6547, convicting brothers Alex and Rogito Rivera of two counts of murder and sentencing them as follows:

WHEREFORE, premises considered, the guilt of the accused Alex Rivera and Rogito Rivera having been established beyond reasonable doubt, each of them is convicted of the crime of murder on two counts, for the deaths of Domingo Ramos and Percelina Ramos and each is sentenced to suffer the penalty of *Reclusion Perpetua* on two counts; to indemnify the heirs of the victims Domingo Ramos and Percelina Ramos, jointly and severally, in the total sum of P100,000.00; to suffer the accessory penalties therefor and to pay the costs of the suit.

The bond posted by accused Alex Rivera, to secure his provisional liberty, is hereby ordered cancelled and the bondsmen, relieved of their obligations appurtenant thereto.

IT IS SO ORDERED.<sup>[1]</sup>

The facts, as culled from the records, are:

At 5:00 in the afternoon of March 16, 1991, spouses Domingo and Percelina Ramos, together with their seventeen year-old son, Jenny, were chatting with Erlinda Bagahilog in front of the latter's house in Barangay Bagacay, Mobo, Masbate. Their daughter, Soledad, was by the nearby river washing clothes. Suddenly, accused-appellants, the brothers Alex and Rogito Rivera, arrived. Armed with bolos, accused-appellants approached Domingo and challenged him to a fight. Domingo, then in crutches, refused to fight saying that he had done nothing wrong to the brothers. Accused-appellants grabbed Domingo by his shirt collar and dragged him towards the river. There, they took turns in hacking and stabbing Domingo Ramos, while Percelina and Jenny pleaded for them to stop. Soledad stood motionless and could only cry.<sup>[2]</sup> Domingo raised his hands in ultimate surrender and expired.

After killing Domingo, accused-appellants turned towards Percelina and Jenny. Jenny was able to run to the house of Honesto Bagahilog, where he hid. Alex Rivera caught up with Percelina and hacked her as well.<sup>[3]</sup> Soledad, who had recovered from her shock, threw a stone at Alex Rivera and hit him on the head. Alex thus chased Soledad, who ran towards the house of Rosario Bagahilog. Accused-appellants then left the scene.<sup>[4]</sup>

When the coast was clear, Soledad ran to where her parents lay. She found her father dead and her mother seriously injured. She rushed her mother to the hospital, but the latter was pronounced dead on arrival.<sup>[5]</sup>

Dr. Enrique O. Legaspi, III, the Municipal Health Officer of Mobo, Masbate, conducted a post-mortem examination on Domingo Ramos and Percelina Ramos. He testified that all of the wounds sustained by Domingo, except for one muscle-deep stab wound, were fatal as they affected vital organs of the body.<sup>[6]</sup> Considering the character of the wounds sustained by both the victims, Dr. Legaspi opined that Domingo and Percelina Ramos could never have survived even with medical attention.<sup>[7]</sup>

On March 25, 1991, Jenny Ramos filed a criminal complaint with the Municipal Circuit Trial Court of Mobo-Milagros, Mobo, Masbate, against Alex and Rogito Rivera for Murder.<sup>[8]</sup> The circuit court found probable cause and forwarded the case to the Regional Trial Court of Masbate, Masbate, for proper action.<sup>[9]</sup> Subsequently, on January 7, 1992, Alex and Rogito Rivera were formally charged with the crime of Multiple Murder in an Information which reads:

That on or about March 16, 1991, in the afternoon thereof, at Barangay Bagacay, Mobo, Municipality of Mobo, Province of Masbate, Philippines, within the jurisdiction of this Court, the said accused conspiring and helping each other, with intent to kill, evident premeditation, treachery and superiority of strength did then and there willfully, unlawfully and feloniously attack, assault, hack and stab with bolos spouses Domingo and Percelina Ramos, hitting them on the different parts of their bodies, thereby inflicting wounds which directly caused their instantaneous deaths.<sup>[10]</sup>

Alex Rivera was arraigned on July 6, 1992 and pleaded not guilty to the charge.<sup>[11]</sup> His brother, Rogito Rivera, remained at large and was arrested only on September 2, 1992.<sup>[12]</sup> On August 8, 1995, Rogito was arraigned and pleaded not guilty.<sup>[13]</sup>

By way of defense, accused-appellant Alex Rivera testified that at 5:00 p.m. of March 16, 1991, he and his wife, Teresita Sanay Rivera, were walking along the feeder road of Bagacay, Mobo, Masbate, when they were attacked by Domingo Ramos and his son, Jenny Ramos. Alex Rivera surmises that the attack was provoked by an earlier incident wherein Domingo and Jenny asked him for money to buy liquor from a store but he refused to give them any.<sup>[14]</sup> He further testified that Domingo stabbed him and Jenny pelted him with stones, prompting him to defend himself. Thus, he drew a knife from his handbag, stabbed Domingo, then ran away. Jenny pursued him but failed to catch up with him.<sup>[15]</sup>

For his part, Rogito Rivera testified that at 5:20 p.m. of March 16, 1991, he was walking along the feeder road on his way to the barangay proper when he met Domingo Ramos, who was bloodied, and Jenny Ramos. Jenny threw a stone at him while Domingo attacked him with a knife. Rogito hit Domingo with his bolo while trying to parry the latter's knife thrusts.<sup>[16]</sup> He denied killing Percelina Ramos, saying that it was Domingo who stabbed his wife to death.<sup>[17]</sup>

The brothers presented the corroborative testimonies of their friend, Francisco Almocera,<sup>[18]</sup> and brother-in-law, Jose Carmen.<sup>[19]</sup> Alex's wife, Tessie Rivera, was also scheduled to testify, but the prosecution stipulated that her testimony if presented will be merely corroborative with that of her husband.<sup>[20]</sup>

On January 22, 1996, the trial court rendered the assailed decision. Hence, this appeal raising the following errors, to wit:

I

THE TRIAL COURT ERRED IN FINDING THAT CONSPIRACY EXISTS BETWEEN ACCUSED ALEX RIVERA AND ROGITO RIVERA IN THE KILLING OF THE VICTIMS DOMINGO RAMOS AND PERCELINA RAMOS.

II

THE TRIAL COURT ERRED IN CONVICTING ACCUSED ALEX RIVERA AND ROGITO RIVERA FOR THE CRIME OF MURDER ON TWO COUNTS QUALIFIED BY ABUSE OF SUPERIOR STRENGTH INSTEAD OF HOMICIDE.<sup>[21]</sup>

The appeal has no merit.

It is evident at the outset that the resolution of this appeal hinges on the issue of credibility of witnesses. Once more, we stress that the manner of assigning values to declarations of witnesses on the witness stand is best and most competently performed by the trial judge who had the unmatched opportunity to observe the witnesses and assess their credibility by the various *indicia* available but not reflected on record. The demeanor of the person on the stand can draw the line between fact and fancy or evince if the witness is telling the truth or lying through his teeth.<sup>[22]</sup> We have consistently ruled that when the question arises as to which of the conflicting versions of the prosecution and the defense is worthy of belief, the assessment of the trial courts are generally viewed as correct and entitled to great weight.<sup>[23]</sup> Furthermore, in an appeal, where the culpability or innocence of the accused depends on the issue of credibility of witnesses and the veracity of their testimonies, findings of the trial court are given the highest degree of respect if not finality.<sup>[24]</sup>

Equally important is the trial court's assessment of the substance and quality of the testimony of the witnesses. In this light, magistrates have always been guided by the legal truism that evidence to be believed must not only proceed from the mouth of a credible witness, but must be credible in itself.<sup>[25]</sup>

After a circumspect study of the records, we find that the trial court did not err in its appreciation of the credibility of the witnesses. Truly, the version of the defense is less plausible when juxtaposed with that of the prosecution's.

We agree with the trial court when it pronounced that the version of the defense does not inspire belief, thus:

The defense' version of the incident pointing to the victim Domingo Ramos as the aggressor, does not inspire belief. It must be noted that the prosecution witnesses repeatedly claimed that at the time of the incident, Domingo Ramos was nursing an injury and in fact he was in crutches having met an accident. This particular point, remains up to this day, uncontradicted. There is, therefore, no reason for this court to disbelieve such claim. x x x

And if Domingo Ramos was in crutches during the incident, the possibility of him initiating the attack against the person accused, Alex Rivera, appears nil. x x x.<sup>[26]</sup>

Accused-appellant Alex Rivera admitted on cross-examination that Domingo Ramos was in crutches at the time of his death, but nonetheless proposed that the latter was able to run and stab him.<sup>[27]</sup>

The trial court also entertained doubts as to the veracity of the alleged second attack on accused-appellant Rogito Rivera by the deceased, Domingo Ramos.<sup>[28]</sup> Indeed, considering that the victim was limp and in crutches, it was highly improbable that he was able to launch the second attack considering that he had already sustained a fatal wound and was then profusely bleeding from the stab wound inflicted earlier by Alex Rivera.<sup>[29]</sup>

Evidence to be believed must be credible in itself, such that common experience and observation of mankind lead to the inference of its probability under the circumstances.<sup>[30]</sup> We share the trial court's view that it was highly improbable for Domingo Ramos, who was at that time physically handicapped and later on fatally wounded, to be able to engage himself in a violent scuffle.

With respect to the manner in which Percelina Ramos was stabbed, Rogito Rivera had an even more curious story to tell:

ATTY. APOYA

Q: When you hit Domingo Ramos while you were parrying what happened to Domingo Ramos?

A: He shouted.

Q: What did he shout?

A: "Help me!"

Q: What did you do next after Domingo Ramos shouted for help?

A: His wife approached him and pulled him and dragged him.

Q: What happened next, if any?

A: **When his wife pulled him, he hit his wife when his wife was about to pull him.** (*emphasis ours*).

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Q: You said the wife helped and lent assistance to Domingo Ramos, and then the wife was hit by Domingo Ramos, is that right?

A: Yes, Your Honor.

Q: Was the wife hit while she was dragging her husband?

A: Yes, Your Honor.

Q: **You want to convey to the court that the wife came to the assistance of the husband and she was hit by her husband?**

A: **Yes, Your Honor.** (*emphasis ours*)<sup>[31]</sup>

Rogito Rivera and defense witness Francisco Almocera<sup>[32]</sup> insist that Domingo Ramos, despite having sustained three lethal and penetrating wounds and one muscle-deep wound, without discounting the fact of his disability, had the strength to inflict a deadly penetrating stab wound on his wife who was, after all, trying to help him. We are certainly not persuaded.

Another defense witness, Jose Carmen, in a vain attempt to corroborate the story of Rogito Rivera, testified that it was impossible for either Alex or Rogito Rivera to have stabbed Percelina, surmising that it was Domingo Ramos who stabbed his wife.<sup>[33]</sup> His testimony, however, consists of an opinion and not what he actually perceived. By his own admission, he did not see who stabbed Percelina Ramos.<sup>[34]</sup> Well-entrenched is the rule that witnesses must state facts and not draw conclusions or draw opinions unless otherwise permitted and excepted by the rules.<sup>[35]</sup> Jose Carmen's testimony does not fall under any of the recognized exceptions. Hence, his testimony cannot be relied upon.

In contrast, the testimonies of Soledad and Jenny Ramos bear the earmarks of truth, sincerity, and candidness. Their testimonies were spontaneously and naturally delivered, and they withstood attempts of the defense to discredit them. During her cross-examination, fourteen year-old Soledad Ramos even shed tears as she was forced to recount the brutal slaying of her father and the helplessness with which she and her brother witnessed it.<sup>[36]</sup>

It has been held time and again that relatives of the victim have a natural knack for remembering the faces of the attackers. They, more than anybody else, would be concerned with obtaining justice for the victims by ensuring that the felons are brought to justice.<sup>[37]</sup> This is especially true in the case at bar where minor children witnessed the killing of their own parents. No doubt, this kind of witnesses usually strive harder to remember the faces of the assailants<sup>[38]</sup> and recall the manner in which the crime was committed. It is unnatural for the victim's children, who are interested only in vindicating the crime perpetrated against their parents, to accuse somebody other than the real culprits.<sup>[39]</sup> If an accused really had nothing to do with a crime, it would be against the natural order of events and of human nature, and against the presumption of good faith, that such a prosecution witness would falsely testify against him.<sup>[40]</sup>

Neither can the witnesses' relationship to the victims impair their credibility, where no improper motive has been convincingly and reasonably brought up by the defense.<sup>[41]</sup> In this case, no such ill motive was ever proffered by the accused-appellants.

In their brief,<sup>[42]</sup> accused-appellants assert that Alex Rivera was not positively identified by Jenny Ramos. The defense cites the following testimony of Jenny Ramos when he was asked to point to the two accused-appellants:

PROSECUTOR:

Q: By the way, you mentioned of the two (2) names Alex and Rogito Rivera, if both of them are inside the court would you point to them?

A: Yes, Sir.

Q: Please point to Rogito Rivera.