

EN BANC

[G.R. No. 133386, November 27, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO LLANDA (AT LARGE), ACCUSED-APPELLANT.

DECISION

QUISUMBING, J.:

For automatic review is the decision^[1] of the Regional Trial Court of Ozamiz City, Branch 15, dated May 27, 1996, in Criminal Case No. 1535, convicting appellant Romeo Llanda of murder and imposing on him the death penalty.

On October 7, 1994, the Office of the Provincial Prosecutor of Misamis Occidental charged appellant with murder in an information, which states:

That on or about the 3rd day of September, 1994, at about 6:30 o'clock in the evening, in barangay Casilak-San Agustin, municipality of Tudela, province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a caliber .38 pistol, did then and there willfully, unlawfully, feloniously and treacherously, attack, assault and shot CORNELIO E. CORONADO, thereby hitting the victim on his head, which caused his instantaneous death.

CONTRARY TO LAW.^[2]

When arraigned, appellant pleaded not guilty to the charge. But before trial could commence, appellant escaped while being escorted to Tudela, Misamis Occidental.^[3] Hence, the trial proceeded *in absentia*.

The prosecution's version, as culled from the records, shows that:

At around 6:30 p.m. of September 3, 1994, the victim Cornelio Coronado was having supper with his son Jessie, his daughter-in-law Juliet, daughter Nena, and his three (3) grandchildren at their house in Kasilak,^[4] San Agustin, Tudela, Misamis Occidental,^[5] when suddenly a shot rang out. Nena Coronado peeped through the slits between the coco slabs of which their kitchen wall was made of, and she saw appellant in the act of shooting her father.^[6] She was familiar with appellant because he had been their neighbor for six (6) years.^[7] The bullet from the appellant's gun passed through a slit between the coco slabs and struck the victim at the right side of the head, causing him to fall on the floor.^[8] Nena then saw appellant strutting around their house armed with a pistol and a bolo.^[9] Appellant was shirtless, sported tattered denims, had black gloves on, and had a towel around his head.

Immediately after the fatal shot, the victim's son, Jessie,^[10] rushed downstairs. Through the slits of the bamboo walling of the lower portion of the Coronados' house,^[11] he witnessed appellant walking around their house, carrying a handgun and a bolo.^[12] Jessie saw that appellant had a towel wrapped around his head, was stripped to the waist, and had gloves on.^[13] He hacked the window of the Coronados' house with his bolo before walking away.^[14] After he left, Jessie rushed to the Civilian Armed Force Geographical Unit (CAFGU) detachment at Canibungan, Daku,^[15] Clarin, Misamis Occidental, to report the incident.^[16]

Jessie Coronado testified as to the possible motive behind the killing. He declared that on August 25, 1994, appellant's father, Santos Llanda, had a quarrel with the victim over a parcel of land owned by a certain Nicanor Caramba.^[17] In the evening of that same day, an unidentified person took a potshot at Jessie. Jessie then reported the incident to the Barangay Captain and a certification was issued to him.^[18]

Prosecution witness Miguel Cueva, a CAFGU member, was then on duty at the CAFGU detachment in Canibungan. He testified that at sometime past 6:30 o'clock in the evening of September 3, 1994, Jessie Coronado arrived, followed shortly by his wife, Juliet, to report the fatal shooting of their father.^[19] The CAFGU members proceeded to question Jessie, after which they proceeded to the Coronados' house. They then brought the victim's corpse to the *barangay* hall.^[20] Cueva then issued Jessie a certification to the effect that he reported the victim's death to them.^[21] The CAFGU members, however, did not arrest appellant as they had no warrant of arrest.^[22]

Appellant raised the defense of denial and alibi. He claimed that the perpetrator of the crime was the victim's son, Jessie himself.

For the defense, Juan Otom testified that at around 5:00 P.M. of September 3, 1994, the victim requested him to husk his coconut harvest.^[23] The two then went to the Coronados' nipa hut to ask permission from Cornelio's son, Jessie, who was the gatherer.^[24] There, father and son had a heated argument^[25] and in the course thereof, Jessie strangled his father and pressed him to the floor.^[26] Otom then departed from the scene but as he left, he heard Nena Coronado shout, "*Manoy! Manoy! Don't kill father!*".^[27] He then heard a shot and on looking back, saw Jessie leaving the scene with a gun.^[28] He told no one about the incident except appellant's father.^[29]

Defense witness Protacio Prayles^[30] was, in turn, presented to prove appellant's alibi.^[31] Prayles declared that at around 4:00 P.M. of September 3, 1994, he was at the Canibungan, Daku, Clarin market with appellant and six other persons.^[32] They left the market at 6:30 P.M. and arrived at *Barangay* Kasilak at around 7:00 P.M. He then heard the sound of a woman weeping. The sound seemed to emanate from the Coronados' house.^[33] Prayles proceeded there and saw the victim lying lifeless in the arms of Nena Coronado.^[34] When he asked Nena who shot her father, she gave no answer.^[35] He then proceeded to the *barangay* captain to report the matter to the authorities.^[36]

Victor Tactacon, a *barangay kagawad*, also took the stand for the defense. Tactacon declared that at around 7:00 P.M. of September 3, 1994, appellant, with three other persons, came to his house to report that there had been a killing at the Coronados' house. Tactacon directed them to the military detachment while he and two others proceeded to the Coronados'.^[37] There they saw the victim's corpse. Jessie pointed at appellant as the assailant,^[38] so Tactacon barred appellant from entering the Coronados' house. Tactacon stated that appellant cried in protest at being suspected as the assailant.^[39] Tactacon then issued a certification to appellant's father that he found no evidence to support the claim of the Coronados that appellant hacked different parts of their house with a bolo.^[40]

Finally, the defense presented the testimony of Nereo Betito, a provincial jail guard, who declared that at one of the hearings, Jessie Coronado admitted to him that although he suspected appellant as his father's killer, he did not clearly see the shooting because it happened from a distance.^[41]

The trial court found the prosecution's version more worthy of credence and convicted appellant. Its *fallo* reads:

WHEREFORE, finding the accused Romeo Llanda guilty beyond reasonable doubt of killing the victim Cornelio Coronado, qualified by treachery and aggravated by dwelling, this Court sentences him to death, and to indemnify the heirs P50,000.00. With costs.

SO ORDERED.^[42]

Hence, this automatic review.

On November 17, 1998, we ordered the arrest of appellant, who was still at large and directed the Philippine National Police Station Commander in Ozamis City and/or Chief Superintendent Lucas Managuelod, CIDG Director of Camp Crame, Quezon City to serve the said warrant of arrest.^[43] On June 29, 2000, the warrant of arrest was returned to this Court unserved,^[44] as appellant continues to elude the authorities.

Notwithstanding appellant's fugitive status, we shall proceed to review the case as it involves the imposition of the death penalty. Automatic review by this Court is mandatory, for this constitutionally vested power includes the bounden duty to review all death penalty cases.^[45]

Before us, appellant assigns the following errors:

I

THE LOWER COURT ERRED IN APPRECIATING THE CIRCUMSTANCES OF TREACHERY AND DWELLING AGAINST THE ACCUSED WHICH WAS NOT PROVEN BY THE PROSECUTION.

II

THE LOWER COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER AS DEFINED AND

PENALIZED UNDER ART. 248 OF THE REVISED PENAL CODE AS
AMENDED BY RA 7659 INSTEAD OF THE CRIME OF HOMICIDE.^[46]

The core issues in the instant case concern (1) the sufficiency of the prosecution's evidence to sustain a conviction for murder; and (2) the propriety of the death sentence imposed.

Appellant through counsel argues that the lower court erred in finding him guilty with moral certainty of the crime of murder, aggravated by the circumstances of treachery and dwelling. He theorizes that the trial court had no sufficient reason to discredit his denial and alibi, much less to believe the prosecution witnesses who pointed at him as the perpetrator of the crime.

For the appellee, the Office of the Solicitor General (OSG) contends that the prosecution has established the guilt of appellant beyond reasonable doubt.^[47] The OSG stresses that the prosecution's evidence overwhelmingly points to appellant as the malefactor. Even the mere perusal of the testimonies of the prosecution witnesses clearly shows that they dovetail on every material circumstance, says the OSG, particularly with respect to the positive identification of appellant as the person who shot the victim on that fateful night of September 3, 1994.

The assailed decision shows that the trial court anchored its judgment of conviction for murder primarily on the testimonies of the victim's immediate family, namely: Jessie, Nena, and Juliet Coronado. Their testimonies were found by the court below to be credible, and their respective accounts of the event consistent. Before us now, appellant points to no convincing, much less compelling, reason to discredit or discard their testimonies. Nor could he show any motive why the prosecution witnesses should falsely and maliciously impute so serious a crime to him.

The established rule is that where the question is one of credibility of witnesses, reviewing courts generally will not disturb the finding of the trial court, unless it can be shown that the latter overlooked certain facts of substance and value that, if considered, might affect the result of the case.^[48] The matter of assigning values to declarations on the witness stand is best done by the trial judge who, unlike appellate magistrates, can weigh first-hand the testimony of a witness in the light of his demeanor, conduct and attitude, and is thereby placed in a more competent position to discriminate between the true and the false.^[49] In the present case, we see no error committed by the trial court in giving full faith and credit to the testimonies of the prosecution witnesses, absent any evidence to indicate that the witnesses against the accused have been actuated by any improper motive, and absent any compelling reason to conclude otherwise.^[50]

In contrast, the testimony of the defense witnesses, in our considered view, hardly deserves serious consideration. As found by the trial court, the defense evidence, grounded mainly on the testimony of Juan Otom, appears highly incredible.^[51] On this assessment, we see no reason to take exception. Perusal of the records, particularly, of Otom's testimony implicating Jessie Coronado as the assailant, strains one's credulity. For one, he admitted that he and appellant's father were very close friends and neighbors,^[52] confirming in effect his bias for the appellant. His actuation after the incident raises doubt and disbelief, considering that he told no one about the alleged shocking incident except appellant's father.^[53] The trial court