

SECOND DIVISION

[G.R. No. 129057, January 22, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BILLY DE LEON, DOMINADOR DE LEON AND LEOPOLDO DE LEON, ACCUSED.

DOMINADOR DE LEON AND LEOPOLDO DE LEON, ACCUSED-APPELLANTS.

DECISION

DE LEON, JR., J.:

This is an appeal from the Decision^[1] dated January 30, 1997 of the Regional Trial Court, Branch 38, Lingayen, Pangasinan, in Criminal Case No. L-5499, finding accused-appellants Leopoldo and Dominador, both surnamed de Leon, guilty of murder and sentencing them to suffer the penalty of *Reclusion Perpetua* and to pay, jointly and severally, the heirs of the deceased victim, Ignacio Jimenez, the sum of P15,000.00 as actual damages, P50,000.00 as compensatory damages and P50,000.00 as moral damages, as indemnity plus the cost of the suits.

The record shows that on July 23, 1996, Assistant City Prosecutor (on detail) Abraham L. Ramos II filed with the Regional Trial Court of Lingayen, Pangasinan an Information charging the brothers, Billy, Dominador and Leopoldo, all surnamed de Leon, with murder, allegedly committed as follows:

That on or about the 13th day of June 1996 in the afternoon, in barangay Lomboy, Municipality of Binmaley, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with a bladed instrument, with treachery and used of superior strength and intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and stab Ignacio Jimenez, inflicting upon him the following:

- multiple stab wounds chest
- multiple hacked wound head with fracture

which injuries directly caused his death, to the damage and prejudice of the heirs of the said Ignacio Jimenez.

Contrary to Article 248 of the Revised Penal Code.^[2]

Only appellants Leopoldo and Dominador de Leon were brought to trial inasmuch as co-accused Billy de Leon evaded arrest. Upon being duly arraigned, Leopoldo and

Dominador pleaded "Not Guilty".^[3]

The prosecution's case relied primarily on the testimony of prosecution witnesses, Chito (Tito) Jimenez and Annaluz Hilarion, who claimed to have personally witnessed the killing as well as on the post-mortem examination and findings of Dr. Nicanor Arzadon who testified thereon.

Chito Jimenez, son of the victim, Ignacio Jimenez, testified that on June 13, 1996 at around 3:00 o'clock in the afternoon, while watching a game of pool beside the house of Romy Castro in Barangay Lomboy, Binmaley, Pangasinan, he saw accused Billy de Leon struck his father, Ignacio with a cap. Chito called the attention of Billy to the fact that his father was already old. Instead of heeding Chito's request, Billy boxed him on the stomach, forcing Chito to retaliate, thus a fistfight ensued. Ignacio pacified Billy and Chito, after which Ignacio and Billy left while Chito remained in the said place. Ten (10) minutes later, Billy returned, and immediately boxed and slapped Chito several times and drew a 10-inch long bolo. Chito ran towards the southern direction and met his father, Ignacio who came out of their house. While he was 10 meters away from his father, he stopped and saw Billy accosting and stabbing his father on the stomach several times. At that very instant, Leopoldo and Dominador arrived, and thereupon Leopoldo held the arms of his father, Ignacio, while Dominador stabbed the back portion of Ignacio's head. Thereafter, the three (3) brothers ran away while the victim, Ignacio, walked towards his house and once near Chito, told his son to bring him to the hospital. Chito called Annaluz Hilarion who was five (5) meters away from the incident, to accompany them to the hospital. The victim was brought to the Pangasinan Provincial Hospital in Dagupan City where he later expired.^[4]

Annaluz Hilarion corroborated the testimony of Chito Jimenez on some material points. Annaluz testified that at around 3:00 o'clock in the afternoon of June 13, 1996 while she was resting in their house, she heard a startling commotion outside their house. Immediately, she stood up and looked through the window and saw Chito running southward to their house, and being chased by Billy who was followed by Leopoldo and Dominador. She also saw Chito's father, Ignacio, walking towards the opposite direction. When the de Leon brothers met Ignacio, they accosted the latter. Billy stabbed Ignacio on the stomach and then Leopoldo held the arms of Ignacio while Dominador took his turn in stabbing the said victim at the back of his head. Thereafter, Billy continued stabbing Ignacio on the right side of the stomach several times, and then the said de Leon brothers ran away. Ignacio struggled toward the direction of his house, but he fell down and was not able to reach the same. Together with Chito, they brought the victim to the Pangasinan Provincial Hospital in Dagupan City but expired while being treated.^[5] Annaluz likewise stated that neither Chito nor Ignacio was holding a stone or any weapon at the time she saw them.^[6]

Nicanor Arzadon, resident physician of the Pangasinan Provincial Hospital^[7] at Dagupan City testified on the injuries sustained by Ignacio and the cause of his death. He testified that he conducted an autopsy of the victim several hours after the latter's death and thereafter prepared an autopsy report. In his post-mortem examination,^[8] he observed the following wounds sustained and the cause of death of the victim, thus:

1. Incised wound 7 cm. angle of mandible (L) located on the left face;
2. Hacked wound 8 cm. Temporal area (L) on the left side of the head;
3. Stab wound 3 cm. (L) midaxillary line, level of the 7th ICS, penetrating, perforating middle portion lower lobe (L) lung;
4. Stab wound 4 cm., 8th ICS, ant. Axillary line, penetrating, lacerating diaphragm, penetrating, perforating greater curvature of stomach;
5. Stab wound 4 cm. mid. Hypochondria area, (L) penetrating, perforating lesser curvature;
6. Stab wound, 3 cm. Epigastric area (L) penetrating, perforating body of stomach, thru and thru, penetrating, lacerating body of pancreas;
7. Stab wound 7 cm. Intercostal space, mid-clavicular line (R) non-penetrating, right side below right nipple;
8. Stab wound 3 cm. Intercostal space, midclavicular line (R) penetrating lacerating lower lobe (R) liver;
9. Hacked wound, 6 cm. parietal area;
10. Massive intra-abdominal bleeding.

CAUSE OF DEATH: Hypovolemia 2^o to multiple stab wound.

Dr. Nicanor Arzadon declared that a sharp bladed instrument caused the said wounds, and based on the sizes of the wounds, it is likely possible that two (2) or more kinds of weapons were used in hacking or stabbing the victim.^[9]

Rita Jimenez, wife of victim Ignacio, testified regarding the expenses incurred by the family in connection with her husband's death, as follows: for the 9 days vigil, P4,500.00; for coffin and funeral services, P7,500.00; for the autopsy examination, P1,000.00; for wreath, P1,000.00; for the last night vigil, P3,500.00; for food and fish, P2,000.00; for church rites, P600.00; for the novena, P500.00; and for the lompos, P1,500.00.^[10]

On their part, both accused-appellants Leopoldo and Dominador invoked the defense of denial and alibi. They claimed that in the afternoon of June 13, 1996, they went to Manat, Binmaley upon the invitation of Modesto Reyes, to harvest fish in the latter's fishpen. They arrived at around 1:00 o'clock in the afternoon and left the said place at around 3:00 o'clock in the afternoon of the same day. At around 4:00 o'clock, they were already home. Mercedes, wife of Leopoldo, informed them that their brother, Billy, stabbed Ignacio. Mercedes told Leopoldo not to go out of the house as Ignacio's sons might retaliate against them. When the policemen arrived, Leopoldo and Dominador were invited to the police station. After some questioning by SPO4 Crispin Cancino, they were asked to go out of the room and made to sign

the police blotter. They were not allowed to leave the police station, and on the following day, they were placed behind bars.^[11]

Mercedes de Leon, wife of Leopoldo, Dina de Leon, wife of Dominador and Modesto Reyes, owner of the fishpen where accused-appellants have allegedly harvested fish, tried to corroborate accused-appellants' alibi. Those three (3) defense witnesses declared that at the time of the stabbing incident, Leopoldo and Dominador were at Manat, Binmaley, Pangasinan, harvesting fish; and that accused-appellants arrived home from Manat at 4:00 o'clock in the afternoon, or after the stabbing incident.

On January 30, 1997, a Decision was rendered by the trial court finding accused-appellants guilty of murder. The judgment reads:

Accordingly, in the light of all the considerations discussed above, the court finds and holds the accused, Dominador de Leon and Leopoldo de Leon, guilty beyond reasonable doubt of the crime of Murder charged in the Information filed against them, and pursuant to law, hereby sentences each of the above-named accused to suffer the penalty of *Reclusion Perpetua* and to pay proportionately the cost of the proceedings.

The court further directs the accused to indemnify jointly and severally the heirs of the deceased, the sum of P15,000.00 as actual damages; P50,000.00 as compensatory damages and P50,000.00 as moral damages, without subsidiary imprisonment in case of insolvency.

And considering that accused, Billy de Leon is still at large and has not yet been arrested up to the present, let the record of the case insofar as said accused is concerned be sent to the files, without prejudice on the part of the prosecution to prosecute him after he is arrested or has surrendered to the court.

Meantime, let an order of arrest be issued against accused Billy de Leon, to be served upon him by the PNP, Binmaley, CIG, Dagupan City and NBI, Dagupan City.

SO ORDERED.

Hence, this appeal.

Accused-appellants, in their appeal prayed for acquittal by (1) impugning the credibility of the two (2) main prosecution witnesses, Chito Jimenez and Annaluz Hilarion, and (2) claiming alibi that they were somewhere else when the crime happened.

On the first issue for resolution, *i.e.* whether the trial court erred in giving credence to the prosecution's version of the incident that not only Billy de Leon, but also accused-appellants Leopoldo and Dominador were guilty of stabbing the victim, Ignacio Jimenez, to death, well settled is the rule that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner

while testifying during the trial, unless the trial court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.

[12] No cogent reasons exist to disturb the factual findings of the trial court, more particularly on its assessment of the credibility of the prosecution witnesses.

The trial court correctly ascertained that the testimonies of the prosecution witnesses Chito and Annaluz clearly and adequately proved how the killing happened and the extent of accused-appellants' participation in that incident. Both witnesses testified in a straightforward, clear and positive manner and the court finds no valid and plausible reason to discredit the truth and veracity of their narration. As recounted by Annaluz in her testimony -

ATTY. BASBAS

Will you kindly tell the Honorable Court what was that incident that called your attention, Madam Witness?

A They said that there is trouble, sir.

Q What, if any, did you do when you heard the word in Pangasinan dialect, "gulo", which means trouble?

A I stood up and looked out the window, sir.

Q What, if any, did you see when you looked out the window?

A I saw Chito Jimenez running, then, Ignacio Jimenez passed by, sir.

COURT

Passed by your house?

A Yes, sir.

ATTY. BASBAS

To what direction was Chito Jimenez proceeding when you saw him running?

A Towards their house, south direction, sir.

Q How about Ignacio Jimenez?

A While Ignacio Jimenez was running towards the north direction, sir.

Q By the way, do you know the relation between Ignacio Jimenez and Chito Jimenez?

A They are father and son, sir.

Q What happened next after you saw Chito Jimenez running towards their house going to southern direction and Ignacio Jimenez on the northern direction?