

FIRST DIVISION

[G.R. No. 122110, September 26, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERIGEL OLIVA, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

The Case

The case is an appeal from the decision of the Regional Trial Court, Branch 12, Sanchez Mira, Cagayan^[1] finding accused Ferigel Oliva (hereinafter referred to as "Ferigel") guilty beyond reasonable doubt of arson and murder,^[2] sentencing him to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, for arson, and to *reclusion perpetua* for murder, ordering him to pay Avelino Manguba damages of two hundred pesos (P200.00), and to pay indemnity of fifty thousand pesos (P50,000.00) to the heirs of Benjamin Estrellon.^[3]

The Facts

On August 23, 1993, at around eleven o'clock in the evening, Avelino Manguba (hereinafter referred to as "Avelino") and his family were sleeping in their house in San Jose, Claveria, Cagayan. Avelino went out of the house to urinate.^[4] He saw Ferigel set the roof of their house on fire with a lighted match.^[5]

Awakened by the loud barking of dogs, Avelino's wife sensed danger and peeped through a hole in their wall. She also saw Ferigel burn the roof of their house.^[6] She shouted, "Perry is burning our house!" and called out to the neighbors for help.^[7]

While the fire razed Avelino's house, Ferigel and three others, Dominador Oliva, Marcos Paderan and Arnel Domingo watched at a distance of about five (5) meters.^[8]

One of the neighbors, Benjamin Estrellon (hereinafter referred to as "Benjamin") went to the nearby river and fetched water with a pail. As Benjamin was helping put out the fire, he was shot by Ferigel at close range.^[9] Benjamin tried to run, but he slumped and fell to the ground. The gunshot wound caused Benjamin's death.^[10]

Avelino, his wife, and Benjamin's son, Noel, witnessed the shooting since they were only about five (5) to six (6) meters away from Ferigel when the incident occurred.^[11] The place was brightly lit by the burning roof and visibility was not a problem.

[12] On August 24, 1993, a post-mortem report was made on Benjamin's cadaver,
[13] revealing the following:[14]

"II POSTMORTEM FINDINGS:

"Cadaver is in a state of rigor mortis and with postmortem lividity at back.

"Gunshot wound of entrance 0.9 cm. at left lateral mid-scapular area going medially and anterosuperiorly, 10 cms. deep without exit."

"III. CAUSE OF DEATH

"Internal Hemorrhage due to gunshot wound at back."

On October 4, 1993, an information for murder was filed[15] against accused-appellant Ferigel Oliva and co-accused Dominador Oliva, Marcos Paderan and Arnel Domingo, to wit:[16]

"That on or about August 23, 1993, in the municipality of Claveria, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Ferigel Oliva, Dominador Oliva, Marcos Paderan and Arnel Domingo, armed with a gun, conspiring together and helping one another, with intent to kill, with treachery, with evident premeditation and with abuse of superior strength, did then and there wilfully (*sic*), unlawfully and feloniously assault, attack and shoot one Benjamin Estrellon, inflicting upon him gunshot wound on his body, which caused his death.

"CONTRARY TO LAW."

On the same day, the accused were also charged with arson, as follows:[17]

"That on or about August 23, 1993, in the municipality of Claveria, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Ferigel Oliva, Marcos Paderan, Arnel Domingo and Dominador Oliva, conspiring together and helping one another, with intent to destroy and to cause damage, did then and there wilfully (*sic*), unlawfully and feloniously set on fire the house of one Avelino B. Manguba in the total amount of FIFTY THOUSAND (P50,000.00) pesos, Philippine currency.

"Contrary to law."

On October 20, 1993, the accused were arraigned. With the assistance of their respective counsel, they pleaded "not guilty" to the two crimes.[18]

On July 21, 1994, accused Ferigel escaped while in the custody of P/G-1 Joaquin P. Garingan. At the time of his escape, Ferigel was a detention prisoner at the Provincial Jail Extension of Sanchez Mira, Cagayan.[19]

On January 3, 1995, Ferigel was apprehended at Angadanan, Isabela by prison

guards Joaquin P. Garingan and Angelino M. Cacatian, members of the Scout Ranger regiment and members of the PNP of Angadanan, Isabela.^[20]

The cases for arson and murder were tried jointly.^[21] In view of the common evidence presented coupled with the difficulty of distinguishing which evidence was for a particular case, only one decision was rendered.^[22]

On August 23, 1995, the trial court rendered a decision, the dispositive portion of which reads:^[23]

"WHEREFORE, premises all considered, judgment is hereby rendered as follows, to wit:

"1. Acquitting accused Marcos Paderan, Arnel Domingo and Dominador Oliva of the crime of Arson and Murder for lack of evidence and hereby orders for their immediate release from detention;

"2. Finding the accused Ferigel Oliva guilty beyond reasonable doubt of the crime of Arson penalized under par. 2, Sec. 3 of PD 1613 and hereby sentences him to suffer imprisonment of seventeen (17) years, four (4) months and one (1) day of reclusion temporal;

"3. Finding the accused Ferigel Oliva guilty beyond reasonable doubt of the crime of Murder penalized under Art. 248 of the Revised Penal Code and hereby sentences him to suffer imprisonment of reclusion perpetua;

"4. Ordering the accused Ferigel Oliva to pay P200 to Avelino Manguba as damages for the burning of the roof of his house that was burned (sic);

"5. Ordering the accused Ferigel Oliva to pay P50,000 to the heirs of Benjamin Estrellon as indemnity for the latter's death.

"SO ORDERED."

The Appeal

Hence, this appeal.^[24]

Ferigel argues that the trial court erred when: first, it ignored glaring inconsistencies in the testimonies of prosecution witnesses;^[25] second, it totally disregarded the defense of *alibi*; and third, it took into account the qualifying circumstance of treachery in the commission of murder and the fact that the house was inhabited when it was burned.^[26]

The Court's Ruling

We find no reversible error and affirm the conviction.

Whether or not Benjamin was shot while he was on the street^[27] or when he was in the act of pouring water on the burning roof^[28] is irrelevant to the crime. We agree with the Solicitor General that Benjamin could have been on the street while

pouring water on the burning roof.^[29] The two testimonies were not inconsistent.

Also whether or not Benjamin immediately fell or tried to run away after he was shot is not important. The fact is that he was shot; any act of his after he was shot would not change the shooting, which at that point was *fait accompli*.

Equally insignificant is whether the gun used was a long firearm or a short firearm. Identification of the weapon only becomes critical when there is doubt as to the identity of the assailant. In this case, the trial court did not doubt the identity, and neither would we.

The fact is that Benjamin was shot and that it was Ferigel who shot him. This was the categorical, straightforward and unbiased testimony of the prosecution witnesses. The settled rule is that the trial court's assessment of the credibility of witnesses is entitled to great respect.^[30] Absent any indication that the trial court overlooked some material fact or gravely abused its discretion, we find no compelling reason to interfere with its assessment of the credibility of the eyewitnesses.^[31]

The "inconsistencies" pointed out by accused-appellant are on minor details. To acquit one who was positively identified on the basis of inconsequential matters would result in mischief and injustice.^[32] We have held that minor inconsistencies are not enough to impair the essential integrity of the prosecution's evidence as a whole.^[33]

Ferigel harps on the testimony of acting Barangay Captain of Filomena, Calanasan, Kalinga-Apayao, which he avers must not be disregarded. He feebly argues that the testimony of Barangay Captain Isabel Ramos conclusively established the impossibility of the presence of accused Dominador Oliva at the time of the commission of the crimes. From this, accused-appellant reasons that it "follows that the testimonies of prosecution witnesses pointing to the accused-appellant as the assailant should not be believed." This is *non-sequitur*.

Even assuming that Dominador Oliva's presence was impossible, such has no bearing in this appeal. Here, it is the guilt of Ferigel Oliva that is in issue. The trial court acquitted Dominador of the charges, but convicted Ferigel. Ferigel's innocence cannot be deduced from Dominador's acquittal.

Further, we note that Ferigel escaped during the trial. Flight is an indication of guilt.^[34]

The Conviction for Arson

When Ferigel burned Avelino's house, the law applicable was P. D. No. 1613.^[35] Under Section 3 (2) of the law, the penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed if the property burned is "any inhabited house or dwelling." Under the amendment, it is the fact that the house burned is inhabited that qualifies the crime. There is no need to prove that the accused had actual knowledge that the house was inhabited.^[36]