

THIRD DIVISION

[G.R. No. 137806, December 14, 2000]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOHN KENNETH DE GUZMAN AND JASPER DESIDERIO, ACCUSED,
JOHN KENNETH DE GUZMAN, APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

The probative value of the testimonies of eyewitnesses is not diminished by the mere fact that they are the brothers of the victim. Indeed, relatives are interested in vindicating the crime, and it would be unnatural for them to accuse someone other than the real culprit.

The Case

John Kenneth de Guzman appeals the January 25, 1999 Decision^[1] of the Regional Trial Court of Malolos, Bulacan (Branch 12) in Criminal Case No. 527-M-97, finding him guilty of murder and sentencing him to *reclusion perpetua*.

In an Information dated April 4, 1997, Assistant Provincial Prosecutor Renato T. Santiago charged appellant and one Jasper Desiderio^[2] with murder allegedly committed as follows:

"That on or about the 15th day of March 1997, in the Municipality of Baliuag, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, armed with a gun and with intent to kill one William Estrella Y Kliatchko, did then and there willfully, unlawfully and feloniously, with evident premeditation and treachery attack, assault and shoot the said William Estrella Y Kliatchko with the said gun, hitting the latter on the upper left shoulder which penetrated his body, thereby inflicting upon him serious physical injuries which directly caused death."^[3]

When arraigned on May 8, 1997, appellant, assisted by Counsel *de Oficio* Julio Contreras, pleaded not guilty.^[4] Trial proceeded in due course. Thereafter, the court *a quo* rendered its Decision, the dispositive portion of which reads as follows:

"WHEREFORE, finding herein accused John Kenneth de Guzman y Baluyot guilty as principal of the crime of murder beyond reasonable doubt, he is hereby sentenced to suffer the penalty of reclusion perpetua, to

indemnify the heirs of the victim in the amount of P75,000.00 as actual damages and to pay the costs of the proceedings."

Hence, this appeal.^[5]

The Facts
Version of the Prosecution

In its Brief,^[6] the Office of the Solicitor General relates the prosecution's version of the facts in this manner:

"On March 15, 1997, at around 11:00 o'clock in the evening, while William Estrella y Kliatchko and his two brothers, Herminio, Jr. and [Leander], together with three others, were drinking beer and telling stories in front of Alicia Store, which is located at J. Buizon Street, Sto. Cristo, Baliuag, Bulacan, a scooter driven by accused Jasper Desiderio @ Jugi arrived and slowly passed by the group. Suddenly and without any provocation, appellant, the scooter's other passenger who was armed with a pistol, fired six (6) shots at the group. William, who was at that time standing and whose back was facing the road, was hit at the back portion of his left shoulder. Immediately thereafter, the scooter sped away.

"Julius Silva, who was with William's group minutes earlier, and who was then walking home, heard gun shots coming from the direction of the Alicia Store. This prompted him to go back to the store and, in the process, he met appellant on board a scooter which was driven by another person whom Julius came to know as accused Desiderio.

"Meanwhile, upon seeing William fall after having been shot by appellant, Leander lifted William and brought him to their house, which is located along the same street as the Alicia Store. On the other hand, Herminio, Jr., who had gone to the house ahead of Leander, informed their father that William was shot by appellant. This prompted the father to call up by telephone the Baliuag Police Station and report the shooting incident. Thereafter, PO1 Filemon Tomas was dispatched to the crime scene where he was able to recover a deformed slug. PO1 Tomas also went to the house of the Estrellas and even accompanied them in bringing William to the Carpa District Hospital at Baliuag, Bulacan.

"Unfortunately, as the x-ray machine of the aforesaid hospital was out of order, William was brought to the Provincial Hospital of Bulacan at Malolos which, for lack of doctors who could treat William, referred William to the Jose Reyes Memorial Hospital in Manila, [where] William expired.

x x x

x x x

x x x

"[O]n the morning of March 17, 1997, SPO1 Celso Cruz of the Baliuag Police Station conducted further investigation of the shooting incident.

From his interview of Herminio Estrella, Jr., SPO1 Cruz was able to prepare a sketch showing the relative positions of, among others, Herminio, Jr., Leander and William *vi[s] a vi[s]* appellant at the time the latter shot William while appellant was on board the scooter driven by accused Desiderio. Later that morning, SPO1 Cruz took the sworn statement of Herminio, Jr. SPO1 Cruz took the sworn statement of Leander [o]n the afternoon of March 17, 1997.

"On March 22, 1997, SPO2 Renato Santos, together with two others of the Baliuag Police Station, were sent to Imus, Cavite where, at 6:30 o'clock in the morning, appellant was arrested pursuant to a warrant of arrest which was issued in connection with the shooting of William Estrella."^[7]

Version of the Defense

In his Brief,^[8] appellant interposes denial and alibi as he narrates the facts as follows:

"x x x [W]hen the defense presented its evidence, there were five (5) witnesses who testified, including the accused-appellant, namely, Rizel Alarcon, Michelle de Guzman, Rolando Romero, Jesus Mallari and accused-appellant himself.

"Witness Rizel Alarcon substantially testified that he personally saw the accused-appellant on the 20th of March 1997 in their house in Las Piñas City, although accused-appellant actually went to Las Piñas City [o]n the afternoon of March 19, 1997, accompanied by his Aunt Loly from Baliuag, Bulacan, and their seeing [each other] was [o]n the 20th of March, 1997 since he did not sleep in their house on the 19th. They talked on the 20th about a motorcycle which can be used for [a] tricycle, in exchange [for] a two-way radio owned by the accused appellant. On the 21st of March, 1997, it was only Alarcon who went to Anabu, Imus, Cavite leaving accused-appellant in Las Piñas City. Alarcon informed accused-appellant that the owner of the motorcycle, a certain Lando, [was] agreeable to exchange his motorcycle with the two-way radio and so they proceeded to Anabu, Imus, Cavite and it was in Anabu, Imus, Cavite where accused-appellant was apprehended by Baliuag, Bulacan policemen.

"Michelle de Guzman, the common-law wife of accused-appellant with two children now testified substantially that on the night of March 15, 1997, about 10:00 post meridian, the accused-appellant and child and herself, ha[d] just finished viewing TV program and by 11:00 o'clock post meridian they were already asleep in their house. The accused-appellant did not leave Baliuag, Bulacan and stayed in the house caring for the child and looking after a pregnant pig which was then [about] to deliver piglets on March 16, 17 and 18, 1997, and on said three (3) days, no policeman arrived in their home to invite the accused-appellant for

investigation.

"Witnesses Rolando Romero and Jesus Mallari both substantially testified that they both knew the accused-appellant. On the night of March 15, 1997, at or about 11:00 o'clock post meridian, they saw a scooter with two persons on board, and after the shots were heard, they were sure that it was not the accused-appellant who was riding on the scooter, because according to them, the person at the back of the driver was with long hair and quite big than the physical feature of the accused-appellant.

"And lastly, the accused-appellant testified substantially, that on the night of March 15, 1997, at or about 9:00 o'clock nighttime he was watching [a] TV program together with Michell(e), his common law wife and their child (by then they ha[d] only one child) and they finished viewing TV at or about 10:00 o'clock post meridian and by about 11:00 o'clock p.m. they were already asleep until the morning of the next day.

"On March 16, 17 and 18, 1997, he did not leave his home, instead he cared for his child and attended to a pregnant pig which was [about] to deliver piglets.

"[O]n the afternoon of March 19, 1997, he was told by his Aunt Loly that there was a motorcycle in Anabu, Imus, Cavite, the owner of which was willing to x x x exchange [it] for his two-way radio.

"On the 22nd day of March, 1997, he went with Alarcon to Anabu, Imus Cavite for a negotiation between said motorcycle owned by a certain Lando and the two-way radio owned by accused-appellant.

"It did not push through because he was apprehended by Baliuag Policemen in Anabu, Imus, Cavite."^[9]

Trial Court's Ruling

In convicting the accused, the trial court gave credence to the testimonies of the prosecution eyewitnesses and ratiocinated in this wise:

"As earlier observed by the Court in denying the motion of the accused for bail `it is just hard to believe that these eyewitness[es], who are brothers of the slain victim, would point to the accused as the persons who shot their brother, if indeed they were not the real culprits, and [thereby] let x x x the true killers go scot-free.' Maybe their word could be doubted if they took some considerable time to identify accused de Guzman. But the facts show that they immediately recognized him when he fired at them even if that resulted in their scampering for cover, most of them inside the store. That is why when Herminio, Jr. rushed towards home to report that William was shot by the accused Boyet de Guzman, their father immediately called the police and relayed that information

which was entered in the police blotter (Exh. "H"). And these eyewitnesses could not just have been mistaken in recognizing accused de Guzman. They were familiar with him x x x for years.

x x x

x x x

x x x

"For whatever reason he committed that dastardly crime, only he knows for sure. But motive is not also that important as long as the identity of the killer is positively established, like in this case of accused de Guzman. And he committed with his co-conspirator, who is still at large, the killing with complete surprise and treachery qualifying the homicide to murder as correctly charged in the information. Fortunately for him the evidence fails to prove the other alleged circumstance of evident premeditation. Neither is any mitigating circumstance attendant in the commission of the offense."^[10]

Assignment of Errors

Appellant alleges that the trial court committed the following errors:

"I

The lower court erred in holding that the prosecution evidence virtually overcame the presumption of innocence of the accused pursuant to Sec. 14 (2), Art. III of the Constitution.

"II

The lower court erred in rejecting the defense of alibi of the accused in spite [of the] credible corroboration of disinterested defense witnesses."^[11]

In fine, the Court will resolve two issues: (1) the sufficiency of the prosecution evidence and (2) the defense of alibi.

The Court's Ruling

The appeal is bereft of merit.

First Issue:

Sufficiency of Prosecution Evidence

As a rule, findings of the trial court on the credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal, absent any clear showing that it has overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could have altered the conviction of the accused.^[12] In the present case, it accorded credence to the testimonies of the