348 Phil. 395

SECOND DIVISION

[G.R. No. 125906, January 16, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANITO AQUINO, ACCUSED-APPELLANT

D E C I S I O N

PUNO, J.:

Accused Juanito Aquino was charged before the Regional Trial Court of Cabanatuan City with Murder for allegedly killing Primitivo Lazatin on March 22, 1991. The Information dated May 17, 1991 states:

> "That on or about the 22nd day of March, 1991, in the Municipality of Llanera, Province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an armalite rifle, with intent to kill, taking advantage of the darkness of the night and with evident premeditation and treachery, did then and there, wilfully, unlawfully, criminally and feloniously shoot to death one PRIMITIVO LAZATIN, JR., with an armalite, thereby hitting him on the different parts of his body which caused his instantaneous death.
>
> **CONTRARY TO LAW**.[1]

The accused pleaded not guilty upon arraignment on December 12, 1991.[2] Hence, trial ensued.

The prosecution showed that at around ten oclock in the evening of March 22, 1991, Primitivo Lazatin was already in bed when he heard somebody knocking at the door. Primitivo stood up, turned on the light and opened the window to see the visitor. A man standing outside the window fired successive shots on Primitivo. Primitivo was hit on the throat, chest and finger. He fell on the floor. The assailant then switched on his flashlight and focused it on the victim to see if he was dead. The assailant thereafter left the premises. Primitivo died on the spot.[3]

Florida Lazatin, Primitivos wife, identified the assailant as Juanito Aquino, the common-law husband of her sister, Nenita Aquino. She testified that she was beside Primitivo when he was shot and she saw the accused fire at her husband. The spot where the assailant stood was illuminated by a trouble light and by light coming from the neighbors house. She recognized him through his eyes, nose, the shape of his face, and through his physical built and gait.[4] Dominador Rosete, a neighbor of the Lazatins, also testified that he saw the accused holding a gun inside the premises of the Lazatin residence immediately after the shooting.[5]

The accused, however, denied the charge. He testified that on March 22, 1991, he was at Imelda Valley Camp in Palayan City, Nueva Ecija, more than thirty (30)

kilometers from the scene of the crime in San Felipe, Llanera, Nueva Ecija. He was then working as an informer of the 79th Infantry Batallion headed by Col. Juanito Sibayan.[6] His testimony was corroborated by his common-law wife, Nenita Aquino.[7]

The trial court convicted the accused for murder and imposed on him an indeterminate penalty of ten (10) years and one (1) day of prision mayor as minimum to eighteen (18) years and eight (8) months and one (1) day of *reclusion temporal* as maximum. It also ordered him to pay the heirs of the victim P50,000.00 as indemnity, P20,000.00 as funeral and burial expenses and P10,000.00 as moral damages.

Accused appealed to the Court of Appeals, contending that:

> 1) the trial court erred in giving probative value to the testimonies of the prosecution witnesses despite the fact that they had not positively identified accused Juanito Aquino as the assailant; and
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> 2) the trial court erred in finding the accused guilty beyond reasonable doubt of the crime of murder. [8]

The Court of Appeals affirmed the judgment of conviction but found the penalty imposed by the trial court to be erroneous. It held:

> In sum, we find no reversible error in the trial courts conclusion that the offense committed by the accused is Murder qualified by treachery as the attack was sudden and the victim was attacked while he was defenseless and at nightime (sic). We are of the opinion, however, that the penalty imposed is not in accordance with law and jurisprudence. The penalty for murder under Article 248 of the Revised Penal Code is *reclusion temporal* in its maximum period to death. As the commission of the crime was not attended by any mitigating or aggravating circumstance, the applicable sentence is the medium period of the penalty prescribed, which is *reclusion perpetua.* Peculiar in this particular instance is the fact that at the time the offense was committed, the Constitutional prohibition to (sic) the imposition of the death penalty was still in force. This should not be taken to mean, however, that the death penalty had then been abolished. The Constitution did not change the periods of the penalty prescribed by Article 248 except only that it prohibited the imposition of the death penalty and reduced it to *reclusion perpetua*. The range of the medium and minimum penalty remained unchanged. x x x[9]

The Court of Appeals thus modified the decision of the trial court and changed the penalty to *reclusion perpetua,* in accordance with Article 248 of the Revised Penal Code.[10]

The Court of Appeals elevated the instant case to this Court pursuant to the second paragraph of Section 13 of Rule 124 of the Revised Rules of Court which states:

> Whenever the Court of Appeals should be of the opinion that the penalty of reclusion perpetua or higher should be imposed in a case, the Court after discussion of the evidence and the law involved, shall render judgment imposing the penalty of reclusion perpetua or higher as the circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review.

We accepted the case on December 4, 1996.[11]

> There are three issues in this case:

1. Whether the guilt of the accused has been proved beyond reasonable doubt;

2. Whether the crime committed was murder or homicide; and

3. Whether the penalty imposed by the trial court is correct.

We resolve the first issue in the affirmative. Factual findings of the trial court are accorded great weight and respect, unless patent inconsistencies are ignored or where the conclusions reached are clearly unsupported by evidence.[12] In the instant case, the conclusion reached by the lower courts as regards the guilt of accused-appellant is well-supported by testimonies of witnesses who positively identified him as the assailant. Witness Florida Lazatin who was beside Primitivo Lazatin when the latter was shot saw the accused-appellant fire at the victim. Florida identified accused-appellant through his facial features and physical built. She easily identified the accused-appellant because he is the common-law husband of her sister and she had known him for at least seven (7) years. Furthermore, the site where the assailant stood was sufficiently illuminated. Floridas testimony was corroborated by witness Dominador Rosete, a neighbor of the Lazatins. Dominadors house is only four (4) meters away from the Lazatin residence. On the night of the murder, he heard successive gun reports coming from the direction of Lazatins house. He looked out the window and saw accused-appellant holding a gun in front of Lazatins house. These circumstances sufficiently prove the guilt of accused-appellant.

Accused-appellants defense of alibi crumbles in the face of the positive identification made by these witnesses. Alibi is inherently a weak defense because it can be easily fabricated. Thus, it cannot prevail over the positive identification of the accused by witnesses.[13] For alibi to prosper, the accused must show that he was at such place for such period of time that it was physically impossible for him to be at the place where the crime was committed at the time of its commission.[14] Accused-appellant claimed that he was in Imelda Valley Camp in Palayan City, Nueva Ecija at the time of the commission of the crime. Imelda Valley Camp, however, is only thirty kilometers away from San Felipe, Llanera and one can travel to and from these points by land. Hence, it is not a remote possibility for accused-appellant to go to San Felipe, Llanera on the evening of March 22, 1991 to carry out his evil deed.

Accused-appellant contends that the lower courts erred in giving credence to the testimonies of prosecution witnesses. We, however, find no cogent reason to disturb the trial courts ruling as regards their credibility, as well as the veracity of their testimonies. After thoroughly examining the records, we find their testimonies to be