

FIFTH DIVISION

[CA-G.R. CR-HC NO. 04907, March 18, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO COMELET Y MARIO ALIAS "UKA", ACCUSED-APPELLANT.

DECISION

GARCIA-FERNANDEZ, J.:

This is an appeal from the decision of the Regional Trial Court (RTC) of La Trinidad, Benguet, Branch 10 on February 23, 2011 finding accused-appellant Pedro Comelet guilty beyond reasonable doubt of the crime of murder under Art. 248 of the Revised Penal Code, in Crim. Case No. 05-CR-6078.

On December 7, 2005, accused-appellant and Crispin Longey were charged with murder for the death of William Lapaan y Paleyan.^[1] Upon arrest, Crispin Longey filed a motion to suspend proceedings and to remand case for preliminary investigation, which was granted by the RTC based on the order dated January 17, 2006.^[2] On February 27, 2006, the Assistant Provincial Prosecutor of La Trinidad, Benguet issued a resolution dismissing the case against Crispin Longey without prejudice to further investigation if additional evidence is presented.^[3] On February 27, 2006, an Amended Information was filed charging accused-appellant as follows:

"That on or about the 15th day of October 2005, at Ataki, Camp 4, Municipality of Tuba, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with TREACHERY and EVIDENT PREMEDITATION, did then and there willfully, unlawfully and feloniously attack, assault and inflict fatal wounds in the vital parts in the body of one WILLIAM LAPAAN(sic) y PALIYAN causing his death immediately thereafter.

Contrary to law."^[4]

On October 21, 2008, accused-appellant was arraigned and pleaded not guilty to the charge.^[5] During the pre-trial on November 11, 2008, the prosecution and defense stipulated that:

- 1) The identity of the accused, Pedro Comelet, who was charged and arraigned is the same as the accused in the above-entitled case;
- 2) The accused Pedro Comelet was arrested on May 12, 2008 at Poblacion, Sabangan, Mountain Province;
- 3) The accused Pedro Comelet is an employee or laborer of a certain Mr. Dacyon; and,

4) Among the laborers of Mr. Dacyon is Crispin Longey.^[6]

The prosecution presented Herminia Lapaan, David Calisog, Crispin Longey, Dr. Ronald Bandonill, PO3 Andres Calaowa, PO3 Espina Reyes and Jesus Dacyon as witnesses. The prosecution's version of the facts is summarized as follows:

Victim William Lapaan, an amputee, was a resident of San Vicente, Baguio City and operated a fishpond at Ataki, Camp 4, Tuba, Benguet. He lived in a cabin and maintained a sari-sari store adjacent to the fishpond just beside Kenon Road. Across the cabin of Lapaan, was a newly renovated house owned by one Johnny Dacyon, who employed Crispin Longey as caretaker and accused-appellant as handyman. Beside the Dacyon house was also the house of David Calisog.^[7]

On Saturday afternoon of October 15, 2005, Johnny Dacyon brought his father Jesus Dacyon to his house in preparation for the moving in rites of the Dacyon family under their tribal custom in Sabangan, Mountain Province. Prior to the said date, Crispin Longey and accused-appellant worked on the finishing of the house and butchered a pig for the rites the following day. On the evening of the same day, Johnny Dacyon left while Jesus Dacyon, Crispin Longey and accused-appellant shared a bottle of gin before going to bed.^[8] Meanwhile, neighbor David Calisog and victim William Lapaan were also drinking Red Horse beer in front of the latter's house and at around 10 p.m., the former left for his house across the road.^[9]

On October 16, 2005, David Calisog woke up around 6 or 7 am and decided to buy cigarettes at William Lapaan's sari-sari store. He looked for Lapaan in the cabin and at the fishpond but could not find him. Calisog observed that Lapaan's things were scattered in front of the house; that he noticed blood along the pathway, broken glass and bottles in the cabin, one pair of Lapaan's crutches on the porch while the other pair was near the fishpond, and a blue slipper among the litter in front of the cabin. When Calisog failed to find Lapaan in the house, he went to look for Crispin Longey to ask for assistance in finding him. Thereafter, he decided to report the matter to the police in Tuba Police Station in Camp 6 and inform Lapaan's family of the incident in San Vicente, Baguio city.^[10]

At 10:00 a.m. of the same day, SPO1 Espina Reves together with PO3 Andres Calawa and PO1 Voltaire Away arrived at Lapaan's cabin where Lapaan's neighbors and relatives had already gathered. They found Lapaan's body a few meters from the cabin submerged in the river in between two (2) boulders with the right foot sticking out of the water. They fished out the body and carried it to the cabin. SPO1 Reves interviewed the victim's neighbor David Calisog at the crime scene. One of the relatives of the victim turned over a piece of Island slipper to SPO1 Reves, who in turn brought it to the police station and turned it over to evidence custodian SPO4 Rodrigo Kitongan.^[11]

At 3:30 p.m., Dr. Ronald Bandonillo of the Medico-Legal Division, National Bureau of Investigation, Baguio conducted a post mortem examination and issued a report stating that the victim sustained multiple injuries, i.e., 7 abrasions, 2 contusions, 7 lacerations, 4 hematomas, massive and generalized hemorrhage; that the cause of death was massive intracranial hemorrhage secondary to multiple traumatic head injuries caused by a hard blunt instrument; and that the estimated time of death was about 3:00 a.m. of October 16, 2005.^[12] Dr. Bandonillo testified that about 20 blows were inflicted on the different parts of the victim's body, 15 of which were blows on the head; that the injuries were inflicted simultaneously or almost at the same time or within one (1) minute apart, probably by more than one (1) assailant.^[13]

David Calisog testified that prior to the incident, he went to the Dacyon house on Thursday, October 13, 2005 and found Crispin Longey and accused-appellant drinking and chatting; and that he heard Crispin Longey say, "*Man ayak sas ipogaw. Patenga en tayan dayta.*" (Translation: "That person practices witchcraft. Let's kill him."); and that the person Longey was referring to was the victim.^[14]

The victim's widow Herminia Lapaan testified that she buried her husband on October 17, 2005 according to their tribe's burial customs; that she incurred a total amount of P286,000.00 as burial expenses; and that she had no idea who killed her husband and relied on the police to investigate the crime.^[15]

After the prosecution rested its case, accused-appellant, thru counsel, filed a motion on September 24, 2009, for leave of court to file demurrer to evidence, however, the trial court denied the motion in its order dated September 29, 2009 on the ground that the motion was filed two (2) days late, contrary to Sec. 23, Rule 119 of the Revised Rules of Criminal Procedure which prescribes a non-extendible period of 5 days after the prosecution rests its case.^[16] On January 6, 2010, the trial court issued a resolution reiterating the denial of the demurrer to evidence and directed the defense to present its evidence.^[17] On February 2, 2010, accused-appellant thru counsel manifested in open court that he was waiving his right to present evidence, thus, the trial court submitted the case for decision.^[18]

On February 23, 2011, the RTC rendered a decision finding accused-appellant guilty beyond reasonable doubt of murder and sentenced him to suffer the penalty of reclusion perpetua and to indemnify the heirs of William Lapaan the amounts of P30,000.00 as temperate damages, P50,000.00 as civil indemnity and P50,000.00 as moral damages. In convicting accused-appellant, the RTC held as follows:

"xxx Combining these sources, this court finds that the following circumstances have been established by the prosecution:

- Crispin Longey made a comment to the accused Pedro Comelet heard by David Calisog regarding the alleged witchcraft practiced by the victim William Lapaan (sic) and they had idle talk about putting an end to the latter's life on October 13 two or three days before his death;

- Pedro Comelet had easy access to the victim as he stayed in a house 30 meters away;
- In the evening of October 15, 2005, Pedro Comelet had no face injury but had a blackeye and a gash on his right eyebrow the following morning. When asked by the police investigations he told them he got them from a boxing bout due to a head butt at San Carlos, Baguio City and declined to have his injuries examined by a physician at the suggestion of the police;
- He gave another lame explanation to Crispin Longey and Jesus Dacyon for his injuries: he fell down the stairs before he went to bed the evening of October 15, 2005 and was nursing the same that morning of October 16, 2005 when the victim was found dead in the river;
- The pair of blue "Islander" slippers (Exhibit "G") found at the scene of the crime had blood stains. One piece was noticed by David Calisog at the front of the cabin and the other was found floating in the river where the body was found. Crispin Longey stated that he saw Pedro Comelet wearing those slippers on October 14 and 15. The police investigators asked him to wear the same as the size seems to fit him but he refused. He was then wearing a pair that seemed much larger than his feet. In effect the police was accusing him as a suspect in the killing of Lapaan. His silence on this accusation is deemed an admission under Section 32, Rule 130 of the Rules of Court that reads: "Admission by silence. - - An act or declaration made in the presence and within the hearing observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, and when proper and possible for him to do so, may be given in evidence against him."
- He left the Dacyon house in Ataki, Tuba, Benguet right after the police asked him to shed light on the incident and disappeared. Despite the issuance of a warrant of arrest on December 14, 2005, he eluded arrest until the police captured him on May 12, 2008 in Sabangan, Mountain Province. Verily here, flight is an indication of guilt;
- Crispin Longey in his sworn statement (Exhibit "C-2" on page 390, records) given to the police on October 25, 2005 on paragraph 4 averred: "I personally know that one of the perpetrators who killed Mr. William Lapaan was Pedro Comelet y Mario alias "Uka;"

xxx

xxx

xxx

For the guidance of bar and bench, the standard postulated in appreciating circumstantial evidence is well set out in the following passage from People vs. Ludday: "No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice. All the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rationally hypothesis except that of guilty."

In short, it is the quality of the circumstances, rather than the quantity, that will draw the line on whether the circumstances presented, consist of an unbroken chain that will inevitably lead to the conclusion that he appellant is guilty without an iota of doubt. In assessing the circumstances with the end in view of a conviction, it is, however, important to note that to preclude the possibility of any error is unattainable. Moral certainty is sufficient or that certainty which produces conviction is an unprejudiced mind.

Applying the above "guidance" to the mind of this court, the prosecution in this instant case has overcome the accused's constitutional right to presumption of innocence and has proven the guilt beyond reasonable doubt of Pedro Comelet with the above-enumerated circumstantial evidence.

As to Damages

Herminia Lapaan, the widow of William Lapaan, testified that she spent the amount of P286,000.00 for burial expenses and food for the hundreds of people who attended the burial ceremony of her deceased husband. Aside from uncertified photocopies of receipts for the coffin and embalming services (Exhibit "H" and "H-1"), no other written official receipts were submitted however to support her claim for actual damages required under Art. 2224 of the Civil Code. In lieu of actual damages, temperate damages under Art. 2224 may be recovered as it has been shown that the victim's family suffered some pecuniary loss but the amount thereof cannot be proved with certainty. An award of P30,000.00 by way of temperate damages is awarded.

The heirs of the victim William Lapaan are entitled to an indemnity ex delicto of P50,000.00 which is awarded without need of further proof other than the death of the victim.

Lastly, it has been proven by the prosecution that the widow of the victim suffered mental anguish to justify moral damages that current jurisprudence has set the amount at P50,000.00.

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Pedro Comelet guilty beyond reasonable doubt of the crime of murder and hereby sentences him to suffer the penalty of reclusion perpetua and to indemnify the heir of William Lapaan the amount of P30,000.00 as temperate damages, the amount of P50,000.00 as civil indemnity ex delicto, and P50,000.00 as moral damages.

SO ORDERED.^[19]

On March 1, 2011, accused-appellant filed a notice of appeal, which was given due course by the RTC.^[20] Pending resolution of this appeal, accused-appellant's counsel on October 14, 2014, filed a Notice of Withdrawal of Appeal stating that due to accused-appellant's medical condition, i.e., he suffered a stroke on April 17, 2014, he was incapable of affixing his conformity to the withdrawal of the appeal, but