

THIRD DIVISION

[CA-G.R. CR-HC No. 06461, March 16, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMMEL REYES Y OCAMPO @ "MEL, RAM", ACCUSED-
APPELLANT.**

D E C I S I O N

REYES-CARPIO, A., J.:

This is an Appeal,^[1] filed under Rule 122 of the 2000 Revised Rules of Criminal Procedure, filed by the accused-appellant, Rommel Reyes y Ocampo, seeking the reversal of his conviction in Criminal Case No. MC04-8516-H rendered by the Regional Trial Court of Mandaluyong City, Branch 213 on June 25, 2013.

THE CASE

In two (2) separate Informations,^[2] dated September 13, 2004, accused-appellant Rommel Reyes y Ocampo was charged with murder and illegal possession of ammunition committed as follows: ***Criminal Case No. MC04-8516-H*** –

"That on or about the 11th day of September 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a fan knife (balisong), with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously stabbed (sic) one Dionesio (sic) But y Barrientos on the neck, thorax and abdomen, thereby inflicting upon the latter mortal wounds which directly caused his death.

CONTRARY TO LAW."^[3]

Criminal Case No. MC-04-8517 –

"That on or about the 11th day of September 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without any legal authority and/or license to possess ammunitions, being then a private person, did there and then willfully, unlawfully and feloniously possess, two (2) pcs of live ammunitions of 12 Gauge Shot Gun, in violation of the above-cited law.

CONTRARY TO LAW."^[4]

Upon arraignment, accused-appellant entered his plea of not guilty to both charges.^[5] Trial then proceeded.

PROSECUTION'S VERSION

On September 11, 2004, at around 11:00 o'clock in the evening, Bantay Bayan Reonilo Estrella was walking toward the barangay outpost along Nueve de Pebrero Street, Barangay Mauway whereupon he noticed four (4) men, including the accused-appellant, on a drinking spree at a store near Block 3. He also overheard accused-appellant say "*sabihin nyo lang kung gusto nyo titirahin ko.*"

Meanwhile, Asuncion Monilla, a resident of Nueve de Pebrero St., Mandaluyong City, was inside her living room when she heard a thud sound coming from her bedroom.^[6] She went to check the same and when there was nothing out of the ordinary in the room, she peeped through her bedroom window which faced the alley.^[7] She then saw the victim, Barangay Tanod Dionisio But lying on the ground while being stabbed by a tall man with curly hair.^[8]

According to Monilla, she saw a man stabbing the victim with a "Batangueño's" knife for approximately five minutes, hitting the latter on the chest, neck and other parts of the body.^[9] She also described the knife to be around six (6) to seven (7) inches in height, including the handle with a width of approximately one and a half (1 ½) inches.^[10] When the man was done stabbing the victim, he kicked the latter and left the place passing by the witness's bedroom window.^[11] Monilla also noticed that the man still held the knife, which was wrapped in a bloody handkerchief.^[12] When the man was gone, she reported the incident to the police who took her statement at the Mandaluyong Police Station.^[13]

At around 11:35 p.m., Lucia But, wife of the victim, was at home when she heard a commotion.^[14] She went outside to see what was happening and saw several people about seven (7) to (8) meters away from their house.^[15] The crowd was gathered around her husband, victim Dionisio But, who was sprawled on the ground with several stab wounds.^[16] Lucia's son rushed the victim to the Mandaluyong Medical Center^[17] but she was later informed that efforts to save his life were futile.^[18]

PO1 Elmer Tatco received a radio call regarding the incident sometime between 11:45 p.m. and midnight while he was on duty.¹⁹ He responded to the call together with PO1 Macutay and Bantay Bayan Arnold.^[20] When they reached the scene of the crime, the victim and the assailant were already gone. ^[21] PO1 Tatco was informed that the assailant was a tall, thin man with a fair complexion who went toward the direction of Torres Street. ^[22] Following this tip, the officers proceeded to Torres Street where they saw two (2) men boarding a cab which they were able to stop.^[23] PO1 Tatco noticed that there was one other passenger inside the cab who was tall, thin and fair-skinned who was then changing his clothes inside the cab.^[24] This prompted the police officers to search the car, resulting to the recovery of a pair of short pants, a shirt with bloodstains and an eight-inch fan knife with ragged edges stained with blood.^[25] They were also able to recover two (2) pieces of live 12-gauge shotgun ammunitions from the pocket of accused-appellant.^[26] Since accused-appellant fit the description of But's assailant, the police officers proceeded with his arrest. The recovered items were surrendered to PO1 Nerito Lebrido of the CIU who forwarded the same to the Scene of the Crime Operatives

(SOCO).

P/Supt. Pierre Paul F. Carpio, Chief of the PNP Crime Laboratory Office of the Southern Police District conducted the post-mortem examination on the victim and prepared a medico-legal report thereon. He determined the cause of death to be hemorrhagic shock secondary to multiple stab wounds of the neck, thorax and abdomen, as reflected in Medico-Legal Report No. M-3999-04, particularly detailed as follows:

"POST-MORTEM FINDINGS:

Fairly nourished, fairly developed, male cadaver in rigor mortis with postmortem lividity of the dependent portion of the body. Conjunctive are pale, Skin and nailbeds are cyanotic.

HEAD AND NECK:

- 1) Stab wound with 8 stitches, right lateral neck region, measuring 3.0 x 1.6 x 3.0 cms from the anterior midline.

THORAX AND ABDOMEN:

- 1) Stab wound with 3 stitches, left pectoralis region, deep =3.0 cm measuring 3 x 1.2, 8.0 cm from the anterior midline, directed posteriorwards and to the right. Piercing the underlying soft tissues and muscle underneath, thoracic aorta, right ventricle of the heart.
- 2) Stab wound with 2 stitches, left pectoralis region, deep=7.5 cm, measuring 1.7 x 0.6, 12.0 cm from the anterior midline, directed posteriorwards and upwards. Fracturing the 2nd left anterior rib and piercing the underlying soft tissues and muscle underneath and upper lobe of the left lung and fracturing 6-7th left anterior ribs.
- 3) Area of multiple stab wound, right lateral abdominal region, with largest diameter measuring 2.3 x 0.5 and smallest diameter measuring 2.0, 0.5, 2.3 cm from the anterior midline. Piercing the underlying soft tissues and muscle underneath, liver, diaphragm and gallbladder.
- 4) Stab wound, right lateral abdominal region, deep = 7.5cm, measuring 2.0, 0.7, 19 cm from the anterior midline.
- 5) Area of multiple abrasion, left suprascapular region, measuring 4.0 x 1.0, 13 cm from the posterior midline.
- 6) Abrasion, right suprascapular region, measuring 1.0 x 1.0, 24 cm from posterior midline.
- 7) Stab wound-superficial, lumbar region, measuring 1.7, 0.5, 7.0 cm from posterior midline with a point of exit at the adjacent region, measuring 1.5 x 0.5, 7.0 cm from the posterior midline."^[27]

According to Dr. Carpio's findings, there were no defense wounds and the victim's injuries indicated that the weapon used was a single-bladed pointed instrument. The recovered ammunitions, meanwhile, were examined by P/Supt. Enrique Agtarap who prepared the corresponding ballistics report which were determined to be serviceable/live cartridges.^[28]

The prosecution presented the testimonies of Lucia But, Reonillo Estrella, PO1 Tatco, PO1 Lebrido, Dr. Carpio, P/Supt. Enrique Agtarap and Asuncion Monilla who, identified accused-appellant as the perpetrator.^[29] To support the testimonies of the witnesses, the following, among other things, were also formally offered as evidence: (1) Arrest Report and Affidavit of Arrest,^[30] dated September 11, 2004; (2) Certificate of Death^[31] of the victim; (3) official receipts^[32] of expenses for the funeral and burial of the victim; (4) Medico-Legal Report No. M-3999-04,^[33] dated September 28, 2004; (3) the shotgun cartridges recovered from accused-appellant; (4) Firearms Identification Report No. FAIS-113-2004,^[34] dated September 14, 2004; and (5) a Certification^[35] from the Firearms and Explosives Division of the PNP, dated June 4, 2009, stating that accused-appellant was not a registered holder of any kind and caliber of firearm.

VERSION OF THE DEFENSE

The defense, meanwhile, offered the testimony of accused-appellant Rommel Reyes who denied knowing the victim or the latter's wife prior to September 11, 2004.^[36] Accused-appellant admitted that he was engaged in a drinking session by a friend of his neighbor in Brgy. Mauway.^[37]

Accused-appellant also stated that he did not have any grudge against the victim, not being acquainted with the latter.^[38] According to accused-appellant, he was not used to drinking too much and on occasions that he did, he could not recall his actions and sometimes cannot say how he got home,^[39] which was what happened on the night the victim was stabbed. Accused-appellant also could not recall the events leading up to his arrest but stated that he was not totally unconscious.^[40] All he could remember was that he was arrested while he was inside a taxi on his way home to his father's house in Rosario, Pasig.^[41]

FINDINGS OF THE TRIAL COURT

After weighing the evidence presented before it, the trial court rendered the appealed Joint Judgment,^[42] dated June 25, 2013, ruling in this wise:

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

a) in Criminal Case No. MC04-8516-H, accused, **ROMMEL REYES y OCAMPO, GUILTY** for the murder of Dionisio But y Barrientos hence, he is sentenced to suffer the penalty of imprisonment of **RECLUSION PERPETUA**.

Further, accused **ROMMEL REYES y OCAMPO** , is ordered to pay to the heir of the victim the following:

1. actual damages in the amount of twenty-eight thousand and two hundred eighty pesos (28,280.00);
2. moral damages in the amount of fifty thousand pesos (P50,000.00);
3. civil indemnity in the amount of fifty thousand pesos (P50,000.00); and
4. exemplary damages in the amount of thirty thousand pesos (P30,000.00).

Likewise, interest of six percent (6%) *per annum* from finality of judgment shall likewise be imposed on the award of damages in line with the case of ***People v. Paling***.

b) in Criminal Case No. MC04-8517, the charge for Violation of Republic Act No. 8294 (illegal possession of ammunitions), the same is ordered **DISMISSED**.

Finally, the period of detention of accused at the Mandaluyong City Jail is fully credited in his favor while the pieces of evidence subject of both cases are forfeited in favor of the government to be disposed of in accordance with the existing rules.

SO ORDERED.”^[43]

Hence, this appeal on his conviction in Criminal Case No. MC04-8516-H.

ASSIGNMENT OF ERRORS

Accused-appellant raises the following errors on the part of the trial court:

I.

The Lower Court committed reversible error when it convicted the Appellant of Murder.

II.

The Lower Court committed reversible error when it ruled in favor of the prosecution's evidence on positively (sic) identification of the Accused.

III.

The Lower Court committed reversible error in not acquitting Accused of Murder amidst the infirmity and doubtful character of the prosecution's evidence.^[44]

Accused-appellant points out alleged inconsistencies in the testimony of eyewitness Asuncion Monilla regarding the circumstance leading her to peer through her window. Accused-appellant also tries to cast doubt on the validity of the search and