

THIRTEENTH DIVISION

[CA-G.R. CR HC No. 06091, November 11, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DEXTER MUÑOZ, ACCUSED-APPELLANT.**

DECISION

DIAMANTE, J.:

When Arsenio Pelojero went to a wake at Guevarra Subdivision, Layon, Ligao City on March 20, 2008, little did he know that five days later, it's his own wake that people would be attending. For while thereat, three (3) men ganged up on him, stabbed him and beat him badly. The fatal injuries he sustained eventually led to his untimely death.

For the death of Arsenio Pelojero (Arsenio), herein accused-appellant Dexter Muñoz (Muñoz), Jeffrey Arnesto and Saldy Bronborac were charged with Murder in an Information^[1] which reads:

"That on March 20, 2008[,] at about 2:00 o' clock in the morning, during a wake at the Muñoz residence at Guevarra Subd., Layon, Ligao City, province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused particularly JEFFREY ARNESTO armed with a baseball bat, together with DEXTER MUÑOZ armed with an iron knuckle and SALDY BRONBORAC armed with a pointed fork, with intent to kill, taking advantage of superior strength, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and mutually helping one another, did then and there willfully, unlawfully and feloniously attack and take turns in stabbing and mauling one ARSENIO PELOJERO[,] inflicting upon said victim multiple bodily injuries that resulted in the untimely death of the latter, to the damage and prejudice of the heirs of the deceased.

ACTS CONTRARY TO LAW."

Of the three (3) accused, only accused-appellant was arraigned on November 23, 2010, as the two others remain at large. Accused-appellant entered a plea of not guilty during his arraignment.^[2]

The facts found by the trial court that led to the conviction of accused-appellant were largely sourced from the eyewitness account Christopher Torres and Garry Bonagua.

Christopher Torres (Torres) claimed that on March 19, 2008, he was at the wake of

his grandfather in Barangay Layon, helping in cooking the food. Prior to the stabbing incident, he saw Arsenio Pelojero approached the group of Dexter Muñoz, Saldy Bronborac, and Jeffrey Arnesto, pointed his fingers at them and uttered bad words. Then[,] at around 2:00 o'clock in the morning of March 20, 2008, he saw Dexter place his arms around the shoulder of Arsenio, [with] Jeffrey and Saldy following them. Then Dexter punched Arsenio, while Jeffrey Arnesto took the baseball bat from the fence of his grandfather's house and hit Arsenio on the left side of his torso. Dexter[,] who was carrying an iron knuckle[,] boxed Arsenio on his cheekbones. Dexter also got a fork from the Muñoz house and handed it over to Saldy who used it in stabbing Arsenio on the lower portion of his right eye and chest. The fork had two (2) pointed edges used in cooking "sinapot/maruya" (fried banana splits with rice flour). He saw the mauling of Arsenio outside his grandfather's house because he also went out to urinate and was about four (4) meters away from the assailants. He even tried to stop them but Dexter, his uncle, pushed him away saying, "*Tumunong ka 'mo baad isunod ta ika*" (You stop cousin, or you'll be next).^[3]

Witness Garry Bonagua (Bonagua) corroborated the testimony of Torres. He testified that on March 19, 2008[,] at around 6:00 o'clock in the evening, he was already at the wake of the deceased, Jose Antonio Muñoz, to help attend to the visitors, especially those drinking liquor. He stayed there until 6:00 o'clock in the morning of March 20, 2008. Those present at the wake whom he recognized, were the Muñoz family, composed of the widow, Ate Nene, Weng Muñoz, Jojo Muñoz, Kuya Gin Muñoz, Kuya Rolly, Ate Liza and Ate Lyka. Those drinking liquor were Pay Arsenio Pelojero, Dexter Muñoz, Jeffrey Arnesto, Saldy Bronborac and Christopher Torres.

After a while, Dexter asked Arsenio to go out and when the two passed by the front gate, Dexter had his hand over Arsenio's shoulder. Saldy and Jeffrey followed them by passing through the back gate. Afterwards, Jeffrey, Saldy and Dexter returned using the back passageway without Arsenio. Dexter then passed by him, as he was on a folding bed beside the "video singko" machine near [the] kitchen, with his white T-shirt covered with blood on the chest area. Dexter went inside the kitchen to wash his hands and entered the toilet. When Dexter came out, he was no longer wearing his bloodied shirt and instead, borrowed one from a family member of the deceased. Dexter then pointed at him (witness) and made a sign by tracing a line from his left neck up to the right neck, implying that he (witness) will be killed.^[4]

Dr. James Margallo Belgira (Dr. Belgira) testified that he conducted a post-mortem examination with autopsy on the cadaver of Arsenio C. Pelojero. Based on Medico-Legal Report^[5] he issued, he found the following: (1) INJURIES IN THE HEAD: [a] lacerated wound, 3 x 0.3 cm., left side of the forehead[;] [b] contusion, right periorbital region, 5 x 3 cm., 4 cm. from midline of the face; [c] contusion and hematoma, left periorbital region, 10 x 8 cm., 3 cm. from the anterior midline; [d] lacerated wound below the left eye, 2.5 x 0.3, 6 cm. from anterior midline; [e] contusion hematoma, 16 x 11 cm., 6 cm. from posterior midline, at the back of the left ear; [f] scalp hematoma, left temporal region; [g] the gyri of the brain was flattened and its sulci shallow; [h] maceration of the cerebellum; (2) INJURIES IN THE TRUNK: [a] multiple, shallow and non-penetrating stab wounds over the left shoulder anterior chest and proximal third of the left arm with lengths ranging from 0.2 cm. to 0.4cm.; [b] fracture on the left second, third, fourth anterior thoracic ribs and the right fifth and sixth lateral thoracic ribs; (3) INJURIES IN THE EXREMITIES:

[a] closed and complete fracture, middle third of the right humerus; and [b] contusion proximal third of the left arm, 7 x 5 cm. anterior midline.^[6]

Dr. Belgira explained that in layman's term, contusion is called "pasa" which is bluish in color, whereas, hematoma or "bukol" involves a larger blood vessel that produces a mound. The "scalp hematoma" was a hemorrhage at the left side of the head above the left ear. The seventh injury involved the brain itself that is, the gyri of the brain were flattened and its sulci shallow. The zigzag convolutions of the brain with bulging side is the gyrus, while the shallow parts in-between the gyri is the sulcus. This happens when the brain gets inflamed, it is pushed towards the skull. Next, the cerebellum which is normally gelatinous was macerated or became soft and mashed, losing its consistency. Due to the inflammation of the brain, it pushed the small cerebellum downwards near the hole of the skull that leads to the spinal cord and the back bone. The injuries on the trunk were discovered when he opened the same and found the second, third, fourth ribs on the left, fractured. There were multiple, small, non-penetrating stab wounds probably caused by barbecue sticks or pointed tips of a fork. Injuries in the extremities were closed and complete fracture of the middle third of the right humerus. It is a closed fracture since the overlying skin was intact but the bone was completely severed. Analyzing all these injuries, he concluded that the cause of death was severe or violent blunt head and trunk trauma, with the ones on the head being the most fatal. Dr. Belgira opined that the possible blunt instruments used could be a metal knuckle or baseball bat. Confronted by the defense counsel, Dr. Belgira clarified that although the victim was able to survive for a few days in hospital, he eventually died because of the blunt head injuries that made the brain swollen. He did not die due to any complications. The head injuries of the victim could be caused by mere falling or directly hitting the head on a hard object or pavement.^[7]

Relying on the defense of denial and alibi, the accused-appellant narrated the facts in this manner:

"At around 8:00 o'clock in the evening of March 19, 2008, he went to the wake of his deceased uncle, Jose Antonio Muñoz (brother of his father) at Layon, Ligao City, particularly near the swimming pool of the Vito's. There, he and Christopher Torres, Saldy Bronborac and Jeffrey Arnesto drank "cuatro cantos" gin together and occasionally sang in the "videoke" machine. About thirty (30) other persons were present at the wake. Between 11:00 to 12:00 o'clock in the evening, he stopped drinking liquor and walked home alone to Barangay Tuburan, leaving behind his drinking buddies. He did not return to the place anymore.

Confronted with the instant murder charge against him, as well as Jeffrey Arnesto and Saldy Bronborac, he vehemently denied having anything to do with said crime. In fact, he only learned about the incident on March 24, 2008, when he returned to the wake and learned that they were named as suspects. After hearing this, he left Ligao and went to his mother who works as household helper of his cousin in Manila.

Xxx."^[8]

The trial court upheld the version of the prosecution in a Judgment dated March 18, 2013 and sentenced accused-appellant, *viz*:

"WHEREFORE, under the foregoing premises, this court renders judgment as follows:

a. Finding the accused, DEXTER MUÑOZ, **GUILTY** beyond reasonable doubt of the crime of **MURDER**, for the felonious killing of Arsenio Pelojero, as defined and penalized under Article 248 of the Revised Penal Code, as amended; thereby, sentencing him to suffer the indivisible penalty of *reclusion perpetua*, with all the accessory penalties thereof, as provided by law;

b. As civil liability *ex delicto*, accused DEXTER MUÑOZ is ORDERED to PAY the heirs of Arsenio Pelojero these amounts, to wit:

- 1) Php.50,000.00 as civil indemnity for the commission of the crime of Murder;
- 2) Php.50,000.00 by way of moral damages; and
- 3) Php.25,000.00 as temperate damages.

SO ORDERED."

Petitioner assails his conviction raising the lone assignment of error^[9] allegedly committed by the trial court:

"THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT."

Accused-appellant vehemently insists that he did not commit the crime imputed to him. Accused-appellant averred that while the defense of denial and alibi were all he could proffer in order to exonerate himself from the charge of Murder, he argued that the same are the only plausible defense available to an innocent man like himself. He maintained that he headed home straight after a drinking spree at the wake; that it is not far-fetched that he was near or at the place of the incident considering that his residence is just a walking distance away. Nonetheless, accused-appellant argued that assuming *ex-gratia argumenti* that he killed the victim, the trial court erred in imposing the penalty of *reclusion perpetua* as the qualifying circumstance of abuse of superior strength was not proven by the prosecution. Thus, the crime committed was Homicide and not Murder.

After a thorough review of the facts and evidence on record, this Court agrees with the trial court that the evidence, as gleaned from the testimonies of the witnesses

for the prosecution, inexorably led to the conclusion that accused-appellant was responsible for the death of Arsenio Pelojero.

In the case at bench, the issue of accused-appellant's identification boils down to one of credibility. Assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its opportunity, not available to the appellate court, to observe the witnesses firsthand, and note their demeanor under questioning. These are the most significant factors in evaluating the sincerity of witnesses and ferreting out the truth, especially in the face of conflicting testimonies. Verily, findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted which would otherwise materially affect the disposition of the case.^[10] We do not see any reason to depart from this established rule in the case at bench.

We note that one of the witnesses who testified against accused-appellant is his nephew, a son of his cousin. Moreover, there is paucity of unswerving evidence on record that would establish that witness Torres was motivated by ill-motive in testifying against accused-appellant or that his testimony was offered for purposes other than securing justice for the death of Arsenio.

The other witness for the prosecution, Bonagua, testified that accused-appellant passed by him when the latter returned to the house, after leaving earlier with Arsenio, with blood on his shirt. He was even threatened by accused-appellant by pointing at him and making a sign by tracing a line from his left neck up to his right neck, implying that the witness will be killed. It inspires disbelief that Bonagua would testify to the presence of the accused at the scene of the crime if he was not present thereat. Moreover, after having been impliedly threatened that he would be killed, there is no doubt that Bonagua would have been mistaken in naming accused-appellant as the one he saw leaving with Arsenio, only to return afterwards with bloodstained shirt.

As to accused-appellant's defense of denial and alibi, We find the the same to be lacking in truth and candor. Despite his stance that he was somewhere else, accused-appellant failed to present a disinterested witness to support his claim.

Accused-appellant claimed that he only learned of what happened to Arsenio when he returned to the wake on March 24, 2008. It was also at that time that it came to his knowledge that he is one of the suspects in the stabbing and mauling of Arsenio. It did not escape Our attention that despite having learned of his implication in the incident, accused-appellant did nothing to clear his name. Instead, he went to Manila and stayed with his mother, totally ignoring the accusation against him. His mother was not even called to testify to the truth of accused-appellant's claim that he stayed with her in Manila. Most important of all, no other witnesses were presented that would bolster accused-appellant's claim that he was no longer around when the incident happened. For a charge as grave as Murder, the natural reaction on the part of the accused would be to look for witnesses that would corroborate his own version of facts. In the case at bench, accused-appellant was the lone witness for the defense.

Hence, We are of the view that the denial interposed by accused-appellant is an inherently weak defense, not to mention, easily fabricated and thus, cannot prevail