

SEVENTH DIVISION

[CA-G.R. CR-HC No. 06248, November 10, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DARREL BASINAL @ "DAR", ACCUSED-APPELLANT.**

DECISION

INTING, S.B., J.:

This is an *Appeal*^[1] from the Judgment^[2] dated May 10, 2013 of the Regional Trial Court (RTC) of Las Piñas City, Branch 255, in Criminal Case No. 09-1050 finding Darrel Basinal @ "Dar" ("ACCUSED-APPELLANT") guilty beyond reasonable doubt of the crime of MURDER defined and penalized under Article 248 of the Revised Penal Code.

The accused-appellant, Darrel Basinal, was originally charged with frustrated murder^[3] on August 6, 2009 before the Regional Trial Court of Las Piñas City in Criminal Case No. 09-1050. The information was later amended to that of murder due to subsequent death of the victim, Jay-Ar Garcia Hierro, on November 18, 2009. The information reads:

"That on or about the **2nd day of September, 2008**, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and without justifiable cause, and with evident premeditation and by means of treachery, did then and there willfully, unlawfully and feloniously attack, assault, and shoot in a sudden and unexpected manner **Jay-Ar Garcia Hierro** with a gun, hitting him on his neck inflicting injuries which subsequently caused his death.

CONTRARY TO LAW.^[4]

Upon being arraigned, the accused-appellant pleaded not guilty.

The Facts

The factual backdrop of this case, as narrated in the trial court's assailed May 10, 2013 judgment, is as follows:

"Evidence for the Prosecution

Benjie Beato testified that Jay-Ar was his best friend and he had also known accused Darrel Basinal for about a year prior to the subject

incident. Benjie further testified that at about 1:00 o'clock in the morning of September 8, 2008, (*sic*) he was with Jay-Ar and a certain Macmac Prim, having just attended a birthday party of a certain "Edward" in Patola, CAA, Las Piñas City. At about such time, they proceeded to an alley going to the market nearby when they chanced upon the accused who was with two other companions. The accused suddenly approached Jay-Ar and shot him once on the neck with a caliber .38 gun. As Jay-Ar fell down, Benjie then immediately asked help from the neighbors and ordered Macmac to run to Jay-Ar's house to tell the latter's family that Jay-Ar was shot. A person named "Nonoy", who was a neighbor of Jay-Ar, purportedly help him (Benjie) carry Jay-Ar to be brought to the Las Piñas District Hospital. Upon arrival at the Las Piñas District Hospital, such hospital refused to admit Jay-Ar for lack of facilities to do an operation on him. Thus, Jay-Ar was referred to the Philippine General Hospital (PGH). According to Benjie, Jay-Ar's father had arrived and it was the latter who went to the PGH with Jay-Ar. Benjie claimed that he was left behind as he had to prepare Jay-Ar's "Blue Card".

Benjie continued to testify that after Jay-Ar was shot, the latter was "very pale", "very weak", "could not move" and blood was oozing from his neck. He further described Jay-Ar as having difficulty breathing and talking at the time. Benjie also maintained that he was merely at an arm's length distance when the accused shot Jay-Ar and that the lighting condition in the place was bright, the light coming from a house right in front where Jay-Ar was shot. Benjie also testified that the accused immediately ran away after shooting Jay-Ar, bringing with him the gun which he had used.

Relative to the cause of death of Jay-Ar, the prosecution presented Dr. Ruperto Arafa Sombilon as an expert witness. Dr. Sombilon testified that upon request from Gemma Hierro, he conducted the autopsy examination on the cadaver of Jay-Ar and, prepared the Certificate of Post Mortem Examination (Exhibit "D") and Autopsy Report (Exhibit "M") which show that the cause of Jay-Ar's death was "*septicemia secondary to infected bed sores*". He then explained that the word "*septicemia*" is derived from the word "septic" which means "infection". He further explained that Jay-Ar had bedsores in the buttocks, thighs, waist and ankles, each as big as his clenched fist. The bedsores had puss and considering their sizes, he is definite that the bacteria in the puss had mixed with Jay-Ar's blood which in turn circulated in his body, causing multiple organ failure.

Dr. Sombilon explained that the cause of the bedsores is the long-term bedridden condition of Jay-Ar where the required changes in his position were not faithfully done. And if a person is comatose, it is highly probable that the person would indeed suffer "*septicemia secondary to infected bedsores*".

The prosecution also presented Gemma Hierro, the mother of Jay-Ar, who testified that on the night of September 2, 2008, she was working in Latero, Cavite and was staying in the house of her sibling at the said Province when her other son, Michael, and another sibling of hers, called

and informed her that Jay-Ar was shot. With this information, she hurriedly went to their house in CAA, Las Piñas City and found out that Jay-Ar was already brought to the Las Piñas District Hospital. She proceeded to the Las Piñas District Hospital only to find out that Jay-Ar had already been transferred therefrom to the Philippines General Hospital (PGH). Upon her arrival at the PGH, Gemma saw Jay-Ar at the emergency room, lying down and bloodied, the blood coming out from the left portion of the latter's neck. Jay-Ar purportedly told her, "*Mom, please help me*" (as interpreted by the court interpreter). She then allegedly asked Jay-Ar as to who had done this to him, which (sic) he answered, "*Darryl Basinal*". Gemma further testified that when she was with Jay-Ar at the PGH on the same day, about four (4) doctors were also there at the emergency room, attending to Jay-Ar. One of the said doctors, a certain Apol Val Paraiso, purportedly told her to find a way to get money as Jay-Ar needed to be operated on.

Gemma continued that Jay-Ar stayed at the PGH for two months after he was operated on. There was an order for them to come back at the said hospital for medical check up but they were not able to do so for lack of money. She claimed that after Jay-Ar was discharged from PGH, he was bedridden until he died on November 18, 2009 at 18 years old. Jay-Ar's wake purportedly lasted for two (2) weeks as they had no money to spend for his burial.

Anent her medical expenses in connection with Jay-Ar's confinement in PGH, she stated that she incurred a total of Php42, 540.00. She also testified that during the time when Jay-Ar was still bedridden, the expenses spent for his care totaled to Php212,500.00, particularly for his diapers, food and medicines. Further, his wake and burial expenses totaled to Php12,000.00 and Php15,000.00, respectively.

Evidence for the Defense

The defense presented the accused who denied the charge against him. Accused claimed that more or less between 12:00 midnight and 1:00 o'clock in the morning of September 2, 2008, he was at Durian Street, CAA, Las Piñas City, which place was just about three (3) meters away from his home, having a chat with his friends, namely, Jimmy Entero, Gary Sanchez, a certain Baroti and Konyo. During this time, upon request of a resident thereat, a barangay official by the name of Ferdinand Guevarra requested them to go home because it was already late and because they were noisy. Heeding Guevarra's request, each of them went to their respective homes. Accused maintained that he also went home, slept and woke up at 8:00 o'clock in the morning of the same day. When he awoke, he went out of the house where an unnamed friend of his approached and told him that there was a shooting incident near the market. He then replied, "wala po akong pakialam sa pangyayaring iyon" (I don't have anything to do with that incident) and continued to walk towards the bakery.

To corroborate the testimony of the accused, the defense presented Guevarra who testified that between 12:30 a.m. and 1:00 a.m. on

September 2, 2008, he was buying cigarette near Durian and Sampaguita Streets, CAA, Las Piñas when a neighbor requested him to check on the noisy group nearby. He confirmed that the group was composed of the accused with three (3) others, namely, Garey, Anthony and Jimmy. And being a former barangay tanod, he did, as requested on him by a neighbor, check on the group of the accused and ask them to go home. The accused and his group heeded his request and each of them purportedly went to their respective homes. According to Guevarra, the house of the accused was just about four (4) arm's length from where they had been talking.

Guevarra continued to testify that about such time, he heard a gunshot. He saw a barangay tanod who was running and asked him (barangay tanod) what had happened. Unfortunately, he was neither able to find out who was shot nor who had fired the shot."^[5]

After trial was concluded, a guilty verdict was handed down by the trial court finding accused-appellant guilty beyond reasonable doubt of murdering Jay-Ar Hierro. The dispositive portion reads:

"WHEREFORE, in view of all the foregoing, the Court finds the accused DARREL BASINAL **GUILTY** beyond reasonable doubt of the crime of **Murder** and is hereby sentenced to suffer the indeterminate penalty of ***reclusion perpetua***.

Darrel Basinal is further directed to indemnify the heirs of Jay-Ar Garcia Hierro the following—a) Seventy-Five Thousand Pesos (**P75,000.00**) as civil indemnity; b) Fifty Thousand Pesos (**P50,000.00**) as moral damages; c) Thirty Thousand Pesos (**P30,000.00**) as exemplary damages; d) Twenty Thousand Eight Hundred Sixty-Four Pesos and Ninety-Six Centavos (**P20,864.96**); and e) interest on all damages awarded at the rate of 6% per annum from the date of finality of this judgment.

SO ORDERED."^[6]

Hence, accused-appellant interposed this present appeal.

The Issues

In his Brief, accused-appellant imputed the following errors^[7] committed by the trial court:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

ASSUMING THAT THE ACCUSED-APPELLANT COMMITTED THE ACT COMPLAINED OF, THE TRIAL COURT GRAVELY ERRED IN CONVICTING HIM OF MURDER.

The Court's Ruling

The appeal fails.

Accused-appellant attacks the trial court's verdict convicting him of murder, claiming that the prosecution failed to discharge its function of proving his guilt beyond reasonable doubt. The defense argues that the testimonies of the witnesses for the prosecution were marked with inconsistencies, thus, making them of doubtful veracity.

The argument does not persuade.

As in most criminal cases, the issues raised by accused-appellant hinge on the credibility of the prosecution witnesses. The age-old rule is that the task of assigning values to the testimonies of witnesses on the witness stand and weighing their credibility is best left to the trial court which forms its first-hand impressions as a witness testifies before it. It is thus no surprise that findings and conclusions of trial courts on the credibility of witnesses enjoy, as a rule, a badge of respect, for trial courts have the advantage of observing the demeanor of witnesses as they testify.^[8]

As borne out by the records of this case, the trial court did not err in giving credence to the testimonies of the prosecution witnesses, particularly of Benjie Beato, who was an eyewitness to the crime. There is not a slight indication that the trial court acted with grave abuse of discretion, or that it overlooked any material fact or circumstance, which if considered, might affect the result of the case.

Benjie Beato's testimony does not suffer from any serious and material inconsistency that could possibly affect his credibility. He (Benjie Beato) positively identified the accused-appellant as the perpetrator of the crime. He saw the shooting of Jay-Ar Hierro and was categorical and frank in his testimony. He stated that he could not be mistaken as to the identity of accused-appellant as he was just an arm's length from Jay-Ar Hierro when the latter was shot by the accused-appellant. We quote in this regard the pertinent portions Benjie Beato's testimony:

"QUESTION –

And, why do you know the accused in this case, Darrel Basinal?

ANSWER –

He shot my best friend.

QUESTION –

How long have you known Darrel Basinal?

ANSWER –

I have known him for a long time also.

x x x x