



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated September 7, 2020, which reads as follows:

“G.R. No. 234688 – (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. JERRY MANGYAO ENOCERTA, *accused-appellant*; ESPEDITA SEDILLO ENOCERTA, JIMMY MANGYAO ENOCERTA AND MICHAEL GARSULA, *accused*). – This is an appeal by Jerry Mangyao Enocerta (accused-appellant) from the Decision¹ dated May 25, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01894, which affirmed with modification the Decision² dated July 25, 2014 of the Regional Trial Court (RTC) of Dumaguete City, Branch 39, holding the accused-appellant guilty beyond reasonable doubt of the crime of murder in Criminal Case No. 2012-20914.

The Antecedent Facts

Accused-appellant is the husband of accused Espedita Enocerta (Espedita). Together with their co-accused Jimmy Mangyao Enocerta (Jimmy) and Michael Garsula (Garsula), they were charged with murder in an Information, the accusatory portion of which reads:

That on October 20, 2011, at Sibulan, Negros Oriental, and within the jurisdiction of the Honorable Court, accused, helping and confederating with each other, with intent to kill, with treachery, aggravated with use of unlicensed firearms, did then and there wilfully, unlawfully and feloniously attack and assault Demetrio T. Larena III, by shooting him with the use of unlicensed firearms hitting him on different parts of the body, thus causing his death, to the damage and prejudice of the heirs of said victim.

¹ *Rollo*, pp. 4-30; penned by Associate Justice Pablito A. Perez, with Associate Justices Pamela Ann Abella Maxino and Gabriel T. Robeniol, concurring.

² *CA rollo*, pp.48-81; rendered by Presiding Judge Arlene Catherine A. Dato.

Contrary to Article 248, Revised Penal Code.³

Only the accused-appellant and Espedita were arrested while Jimmy and Garsula remained at large.⁴ During their arraignment, the accused-appellant and Espedita pleaded not guilty to the charge against them.⁵

Version of the Prosecution

On October 20, 2011, at around 7:00 a.m., prosecution witness Ramil T. Dongcoy (Dongcoy) went to a beach house in Sibulan, where the accused-appellant and Espedita were working as caretakers. Dongcoy came to visit his girlfriend who is Espedita's cousin. In Dongcoy's conversation with the accused-appellant, the latter confided that Espedita was having an affair with Demetrio Larena III (Larena), the owner of the beach house.⁶

The accused-appellant then asked Dongcoy if he could pick up Espedita at a waiting shed along the national highway in Sibulan. Dongcoy agreed and rode his motorcycle to the location. As Dongcoy approached the spot, he saw the accused Jimmy shove Espedita to the side and began firing a handgun on the right side of a red Pajero that was parked in front of the waiting shed. Simultaneously, Garsula rushed to the driver's side of the vehicle and shot the driver.⁷

Disconcerted with what he saw, Dongcoy turned around and went to Camp Leon Kilat Army Brigade where he was assigned as a Citizen Armed Forces Geographical Unit member. Later, he received a call from the accused-appellant who said that Larena was dead.⁸

Meanwhile, PO3 Crisanto Garet, Jr. and PO1 Angelo Yabres were aboard a bus traversing the highway when they heard the sound of gunshots. They alighted from the bus and exchanged fire with Jimmy and Garsula. However, the two gunmen quickly boarded a motorcycle and fled the scene.⁹

When Larena's remains were brought to the funeral home, his cellular phone which was in his pocket was turned over to the National Bureau of Investigation (NBI) as evidence. Upon checking the text messages in the cellular phone, they discovered that in the morning of October 20, 2011, Larena received a series of text messages from one "Cangmating Espi", which reads:

³ Id. at 12.

⁴ *Rollo*, p. 6.

⁵ Id. at 12.

⁶ Id. at 6-7.

⁷ Id. at 7.

⁸ Id.

⁹ *CA rollo*, p. 114.

Dre jud ko kuhaa sa mai eskwelahan sa Magsaysay kay wala taga cangmatiing kaau w8ing shed sa Magsaysay hult q.”(You pick me up at the school in Magsaysay because there are only few who are from Cangmating there. I’ll be waiting for you at the waiting shed at Magsaysay)- sent at 8:33 in the morning

Anha ra ko eskwelehan hulat.” (I will wait for you at the vicinity of the school- sent at 8:40 in the morning

Naa ko gahulat sa waiting shed unahan sa eskwelahan sa Magsaysay crossing.” (I am waiting at the waiting shed beyond Magsaysay school crossing)- sent at 8:50 in the morning¹⁰

According to Larena’s family, they believe that “Cangmating Espi” was the accused Espedita. Relying on this information, the NBI team, accompanied by Larena’s son, went to the beach house where they came upon the accused-appellant and his wife, Espedita. Larena’s son observed that Espedita appeared to be uneasy so he followed her when she went to the bedroom. He saw her trying to conceal a pink cellular phone in a box. He asked her to step aside and retrieved the cellular phone. When he checked the sent messages on the phone, he found these correspond to the messages received in Larena’s phone. The accused-appellant and Espedita were then brought to the NBI’s office for investigation.¹¹

In the NBI office, Neil Rio and Florence Baesa, broadcasters of DYGB FM and DYEM-FM respectively, were able to interview the accused-appellant. In his interview, the accused-appellant admitted sending text messages to Larena using Espedita’s cellular phone to invite him to meet up in the morning of October 20, 2011, whereas Jimmy and Garsula were the ones who actually shot him.¹²

A post-mortem examination on Larena’s remains revealed that he sustained four gunshot wounds and the cause of his death was hemorrhage due to gunshot wounds on his head.¹³

Version of the Defense

For the defense, there were only two witnesses: Julius Sedillo (Sedillo), Espedita’s cousin and accused-appellant himself.¹⁴

Early in the morning of October 20, 2011, Espedita was at the beach property sweeping dried leaves beneath the trees. Afterwards, she ate

¹⁰ Id. at 114-115.

¹¹ Id. at 114-116.

¹² Id. at 117.

¹³ *Rollo*, p. 8.

¹⁴ *CA rollo*, p. 31.

breakfast with Sedillo and then went on with her chores. She stayed at the beach house and did not leave the entire morning.¹⁵

The accused-appellant was also at the beach house that morning when Dongcoy visited to ask the whereabouts of Espedita's cousin. However, the accused-appellant told him that Espedita's cousin no longer stayed there. Eventually, Dongcoy left. The accused-appellant took a nap after taking his breakfast. At around 2:00 in the afternoon, Larena's driver dropped by to look for Larena. When the accused-appellant told him that he has not seen Larena since May 14, 2011, the driver left the compound. According to the accused-appellant, he merely learned of Larena's death from the news in the television.¹⁶

At 7:30 in the evening, officers from the NBI arrived at the beach house. Special Inspector (SI) Nicanor Tagle went inside the accused-appellant's room and conducted a search. When SI Tagle came out, he was already holding a pink cellular phone and asked the accused-appellant to surrender its SIM card. However, the accused-appellant denied owning the cellular phone. Hearing this, one of the NBI agents took out a SIM card from his own pocket and placed it inside the cellular phone.¹⁷

On cross examination, the accused-appellant admitted that Espedita's cousin told him of Larena's affair with his wife but Espedita had denied the same. He claimed that he disclosed this matter to his brother Jimmy. Because of the affair, he harboured ill-feelings against Larena and even thought of resigning as caretaker.¹⁸

The RTC Ruling

On July 25, 2014, the RTC rendered a Decision¹⁹ finding the accused-appellant guilty beyond reasonable doubt of the crime of murder. The RTC ruled that although there was no direct evidence against the accused-appellant, the confluence of circumstances comprises the chain of circumstantial evidence against him and his cohorts.²⁰ The RTC concluded that the accused-appellant was a principal by indispensable cooperation inasmuch as he conspired and cooperated in the criminal resolution to kill Larena. He was the one who sent the messages to Larena as bait for the latter to go to the meeting place so that Jimmy and Garsula could consummate

¹⁵ Id.

¹⁶ Id. at 32.

¹⁷ Id. at 32-33.

¹⁸ *Rollo*, p. 14.

¹⁹ *CA rollo*, pp. 48-81.

²⁰ Id. at 73.

their pre-arranged plan to kill him. It is clear that the accused-appellant performed acts indispensable to the commission of the murder.²¹

As for Espedita, she was adjudged liable as an accomplice given that: first, she knew of her husband's intention to have Larena killed when their co-accused Jimmy and Garsula went to the beach house for final preparations; second, Espedita was seen at the crime scene with Jimmy and Garsula; and last, she tried to hide the cellular phone that her husband used in luring Larena to the vicinity through text messages.²²

The RTC also found that treachery attended the commission of the crime since the attack was deliberate and sudden. The victim was fatally shot while he was merely waiting inside his vehicle and oblivious to the criminal designs of the accused. According to the RTC, the suddenness of the assault to an unsuspecting victim, without the slightest provocation from him who had no opportunity to parry the attack, certainly qualifies the killing to murder.²³ Thus, the RTC disposed of the case in this wise:

WHEREFORE, premises considered, accused Jerry Mangyao Enocerta is hereby found guilty beyond reasonable doubt of the crime of murder, defined under Article 248 of the Revised Penal Code, and is hereby sentenced to suffer the penalty of *reclusion perpetua*.

This Court likewise finds accused, Espedita Sedillo Enocerta, guilty beyond reasonable doubt as an accomplice in the crime of murder and is hereby sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of *prision mayor* maximum as minimum, to twelve (12) years and one (1) day of *reclusion temporal* minimum as maximum.

Both accused are hereby ordered jointly and severally to indemnify the heirs of the victim following amounts: Fifty Thousand (P50,000.00) Pesos as indemnity for his death; Fifty Thousand (P50,000.00) as moral damages; Thirty thousand (P30,000.00) as exemplary damages; Three Hundred Fifty Thousand (P350,000.00) Pesos as actual damages for funeral expenses, and the amount of Fifty Thousand (P50,000.00) Pesos for attorney's fees and expenses of litigation.

With costs against the accused.

SO ORDERED.²⁴

The award of actual damages was granted in view of documentary evidence consisting of receipts presented by the prosecution to substantiate their claim of funeral expenses. The prosecution likewise presented statements of account for the payment of attorney's fees, including plane

²¹ Id. at 76-77.

²² Id. at 78-79

²³ Id. at 77.

²⁴ Id. at 81.

tickets of the private prosecutor who appeared during the trial. But since not the entire amount being claimed was substantiated by actual receipts, the RTC deemed it proper to award the amount of ₱50,000.00 as attorney's fees out of the half a million pesos being claimed by Larena's heirs.²⁵

The CA Ruling

In its Decision²⁶ dated May 25, 2017, the CA affirmed the verdict of the RTC with modification on the award of damages. The decretal portion of the CA judgment reads:

WHEREFORE, the appeal is hereby DENIED.

The Decision dated 21 July 2014 of the Regional Trial Court, 7th Judicial Region, Branch 39 of Dumaguete City, Negros Oriental finding accused-appellant Jerry Mangyao Enocerta guilty beyond reasonable doubt of the crime of murder and imposing the penalty of *reclusion perpetua* is AFFIRMED with MODIFICATION that the accused-appellant is not eligible for parole and is DIRECTED to pay the heirs of Demetrio Larena 1) civil indemnity of P75,000.00; 2) moral damages of P75,000.00; 3) exemplary damages of P75,000.00; 4) actual damages of P350,000.00; 5) attorney's fees and expenses of litigation of P50,000.00.

SO ORDERED.²⁷

Issue

Whether the CA erred in affirming the accused-appellant's conviction for the crime of murder

The Court's Ruling

The Court upholds the findings of the courts *a quo*.

It is a basic rule that a trial judge's assessment of witnesses' testimonies and findings of fact are accorded with great weight and respect by virtue of their unique position that allows them to observe crucial and often incommunicable evidence of witnesses' deportment while testifying.²⁸ Unless there are some facts or circumstances which the trial court has overlooked, misapprehended or misinterpreted that could affect the outcome of the case, the findings of the trial court shall not be disturbed on appeal.²⁹

²⁵ Id.

²⁶ *Rollo*, pp. 4-30.

²⁷ Id. at 30.

²⁸ *People v. Esugon*, 761 Phil. 300, 311 (2015).

²⁹ *People v. Domingo, et al.*, 616 Phil. 261, 269 (2009).

With greater reason should this rule apply in this case, considering that the CA affirmed the conviction of the accused-appellant.

The accused-appellant failed to establish that the RTC and the CA misapprehended or overlooked crucial facts that could affect the result of the trial. Likewise, his defenses of denial and alibi do not convince. “Denial and alibi are inherently weak defenses because they can easily be fabricated.”³⁰

An examination of the records in this case will readily show that the prosecution has indeed established, beyond reasonable doubt, all the elements of the crime charged against the accused-appellant. Article 248 of the Revised Penal Code (RPC) provides:

ART. 248. *Murder.* Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With **treachery**, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity; x x x

The fact that Larena was shot and killed as a result of the accused-appellant’s indispensable cooperation has been indubitably shown by the prosecution. Under Article 17 of the RPC, those who cooperate in the commission of the offense by another act, without which it would not have been accomplished, are considered as principals. To recall, the accused-appellant sent messages to Larena in order to get the latter to go to the place where Espedita, Jimmy, and Garsula would be waiting to kill him. Without the accused-appellant’s participation, Larena would not have been at the *locus criminis* and the accused-appellant’s cohorts would not have been able to realize their plan.

It cannot also be gainsaid that the attendance of treachery in the killing was sufficiently demonstrated, qualifying the killing to murder. Under paragraph 16, Article 14 of the RPC, “there is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.”

Here, as found by both the RTC and the CA, the attack was carried out in such manner that the victim was not given any chance to defend himself. It appears that Larena was at the vicinity with the expectation to only meet Espedita. Falling for the ruse employed by the perpetrators,

³⁰ *People v. Mancao*, G.R. No. 228951, July 17, 2019.

Larena was shot while he was inside his vehicle. He undoubtedly did not anticipate the attack and had no opportunity to escape or to protect himself.

The accused-appellant's participation was clearly established by prosecution witnesses whose credibility remains unimpaired. The defense has failed to establish any ill-will or malice on their part which could have impelled them to testify falsely against the accused-appellant. More importantly, the accused-appellant himself made an admission to the media personnel. In *People v. Andan*,³¹ the Court ruled that "statements spontaneously made by a suspect to news reporters on a televised interview are deemed voluntary and are admissible in evidence."³²

Furthermore, Rule 133, Section 3 of the Rules of Court provides that an extrajudicial confession shall not be a sufficient ground for conviction, unless corroborated by evidence of *corpus delicti*. In this case, the confession made by the accused-appellant was corroborated by other evidence such as the fact that Larena was killed, the text messages sent to Larena and the testimonies of other witnesses. Thus, the accused-appellant was correctly held liable for murder.

As to the penalty imposed, the accused-appellant was properly sentenced to suffer the penalty of *reclusion perpetua* as prescribed under Article 248 of the RPC. While the use of unlicensed firearm was alleged in the Information, the CA appropriately ruled that the prosecution failed to present evidence that the firearm recovered from the beach house was the same firearm used in shooting Larena. Thus, the aggravating circumstance of the use of unlicensed firearm was not proven beyond reasonable doubt.³³

With respect to the accused-appellant's civil liabilities, the CA was correct in modifying the damages awarded by the RTC in conformity with *People v. Jugueta* (Jugueta).³⁴ In *Jugueta*, the Court held that:

When the circumstances surrounding the crime call for the imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, the Court rules that the proper amounts should be ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 exemplary damages, regardless of the number of qualifying aggravating circumstances present.³⁵

The RTC awarded ₱350,000.00 as actual damages for Larena's funeral expenses. However, only the amount of ₱311,500.00 was duly

³¹ 336 Phil. 91 (1997).

³² Id. at 101-102.

³³ *Rollo*, p. 28.

³⁴ 783 Phil. 806 (2016).

³⁵ Id. at 840.

supported by receipts evidencing the expenses for his funeral and burial.³⁶ Thus, a reduction of the award for actual damages is in order.

While attorney's fees and litigation expenses in criminal cases are not awarded as a matter of course, the Court allowed the recovery thereof in *Ngo v. People*³⁷ under the concept of actual or compensatory damages, taking note of the years it took to conclude the trial and the stipulated attorney's fees between the private prosecutor and the complainant.³⁸ Under Article 2208 of the Civil Code, attorney's fees may be awarded in certain circumstances, such as when exemplary damages are awarded or where the court deems it just and equitable that litigation expenses should be recovered. Bearing in mind that the heirs of Larena had indeed engaged the services of a private prosecutor, and had presented proof of expenses for the same; and that the RTC had already considerably reduced the amount being claimed as attorney's fees, the Court finds the amount of ₱50,000.00 as litigation expenses just and equitable under the circumstances.

All amounts due shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of the decision until full payment as enunciated in *Nacar v. Gallery Frames*.³⁹

WHEREFORE, the appeal is hereby **DISMISSED**. The Decision dated May 25, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 01894 finding the accused-appellant Jerry Mangyao Enocerta **GUILTY** beyond reasonable doubt of the crime of murder under Article 248 of the Revised Penal Code is **AFFIRMED with MODIFICATION**. He is sentenced to suffer the penalty of *reclusion perpetua* and is ordered to pay the heirs of Demetrio Larena III ₱311,500.00 as actual damages, ₱50,000.00 as litigation expenses, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

SO ORDERED."

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
GER
513121

³⁶ Records, pp. 246, 248.

³⁷ 478 Phil. 676 (2004).

³⁸ Id. at 690.

³⁹ 726 Phil. 267 (2013).

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