



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JOSELITO RAMOS,

Petitioner,

G. R. No. 194384

Present:

- versus -

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ*.

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent.

JUN 13 2013

X ----- X

DECISION

SERENO, *CJ*:

Before this Court is a Rule 45 Petition for Review¹ assailing the Decision² and Resolution³ of the Court of Appeals (CA) in CA-G.R. CR No. 31823 which affirmed petitioner's conviction for the crime of homicide.

THE FACTS

Petitioner Joselito Ramos (Ramos) was charged with the crime of homicide in an Information dated 25 February 2002, as follows:

That on or about the 3rd day of October, 2001 in the evening at Barangay Nibaliw Sur, Municipality of Bautista, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with lead pipe and woods, with intent to kill, did then and there willfully, unlawfully and feloniously attack and maul Pedro Prestoza, inflicting upon him, "Acute Subdural Hematoma Brain

¹ *Rollo*, pp. 41-57; Petition for Review dated 29 December 2010.

² *Id.* at 9-21; CA Decision dated 30 March 2010, penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Ramon M. Bato, Jr. and Priscilla J. Baltazar-Padilla.

³ *Id.* at 24-28; CA Resolution dated 18 October 2010, penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Ramon M. Bato, Jr. and Priscilla J. Baltazar-Padilla.

Contusion,” which caused the death of said Pedro Prestoza, as a consequence, to the damage and prejudice of his heirs.

Contrary to Art. 249 of the Revised Penal Code.⁴ x x x.

The evidence for the prosecution showed that, at about 10:30 in the evening on 3 October 2001, the victim, Pedro Prestoza (Prestoza), was riding a tricycle with six other people,⁵ when another tricycle, this one driven by Ramos, cut in on their path. Petitioner and a certain Danny Alvarez (Alvarez) alighted from their tricycle and pulled down Nelson Tagulao from the other tricycle. Alvarez then struck Nelson Tagulao with a lead pipe.⁶

Prestoza alighted from his tricycle in order to stop the attack. The two assailants then turned on the victim,⁷ who was hit by Alvarez with the lead pipe and by Ramos with a piece of wood.⁸ While they were ganging up on Prestoza, Jimmy Tagulao arrived and engaged Alvarez in a fist fight. The latter and petitioner then ran away.⁹

Prestoza was brought to a hospital for treatment, but he died of his wounds after eight days.¹⁰

The defense recounted a different version of the facts.

Ramos stated that, at about 10:00 in the evening on 3 October 2001, the tricycle he was driving was trailing two other tricycles with men on board who were cursing at him.¹¹ He was about to overtake the two other tricycles when they blocked his way. The passengers of the two other tricycles alighted, and one of them thrust a knife at him, but missed. Ramos immediately alighted from his tricycle and ran away, with four other persons giving chase.¹² When they reached a well-lit place, his pursuers recognized him and concluded that he was not an enemy, so they went back to their tricycles. He was about to return to his tricycle when he saw his younger brother Edwin arrive on board another tricycle. He approached Edwin, but the latter was suddenly stabbed by Nelson Tagulao. Ramos took his brother away from the place, as seven other persons attacked them with pieces of wood. He then saw his elder brother Orlando being struck on the head with a stone by Hipolito Cervas. Ramos flagged down a tricycle and brought his brothers to a hospital, then reported the incident to the police.

⁴ Records, pp. 35-36.

⁵ *Rollo*, p. 10; CA Decision dated 30 March 2010.

⁶ *Id.* at 11.

⁷ *CA rollo*, p. 13; RTC Decision dated 4 August 2008.

⁸ *Rollo*, p. 11; CA Decision dated 30 March 2010.

⁹ *Id.*

¹⁰ Records, p. 18; Certificate of Death dated 13 October 2001.

¹¹ *Rollo*, p. 11; CA Decision dated 30 March 2010.

¹² *Id.* at 12.

Edwin and Orlando filed a complaint for frustrated murder against prosecution witnesses John Tagulao, Gerardo Gloria, Ernesto Ydia and eight others, but the complaint was dismissed.¹³

After trial, the Regional Trial Court (RTC), Branch 50, Villasis, Pangasinan, found Ramos guilty beyond reasonable doubt of the crime of homicide. In arriving at this conclusion, the lower court relied on the physical evidence that Prestoza's death was due to a "brain contusion,"¹⁴ and on the testimonies of prosecution witnesses John Tagulao and Gerardo Gloria. These two witnesses positively identified Ramos as the perpetrator of the assault and categorically stated that he had hit the victim on the head and back with a piece of wood.¹⁵ The trial court then disposed of the case as follows:

WHEREFORE, judgment is hereby rendered finding accused Joselito Ramos GUILTY beyond reasonable doubt of the crime of Homicide and, there being no modifying circumstance, is hereby sentenced to an indeterminate prison term of EIGHT (8) YEARS and ONE (1) DAY of prision mayor, as minimum, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal, as maximum, and ordered to pay the heirs of Pedro Prestoza ₱50,000.00 as death indemnity, ₱50,000.00 as moral damages and ₱55,019.14 as actual damages.

On ground of insufficiency of evidence, accused Edwin Ramos, Orlando Ramos and Jordan Baladad are ACQUITTED of the crime charged.

SO ORDERED.¹⁶

On appeal, the CA reviewed the records and affirmed the decision of the trial court. In reaching its conclusion, the appellate court found that the identity of Ramos as one of the assailants had been indubitably established by credible eyewitness testimony.¹⁷ Thus, petitioner's denial could not prevail over this positive identification.¹⁸ The CA then ruled as follows:

FOR THESE REASONS, We **AFFIRM** the August 4, 2008 Decision of the Regional Trial Court convicting Joselito Ramos of Homicide under Article 249 of the Revised Penal Code.

SO ORDERED.¹⁹

¹³ Id.

¹⁴ CA *rollo*, pp. 20-21; RTC Decision dated 4 August 2008.

¹⁵ Id. at 18-19.

¹⁶ Id. at 27.

¹⁷ *Rollo*, pp. 14-15; CA Decision dated 30 March 2010.

¹⁸ Id. at 18.

¹⁹ Id. at 20-21.

Petitioner moved for a reconsideration,²⁰ but his motion was denied by the CA.²¹ He then filed the instant Petition for Review²² before this Court.

THE ISSUES

In seeking a reversal of the decisions of the appellate and the lower courts, petitioner Ramos mainly argues the following:

1. The testimonies of the prosecution witnesses should not have been given credence, because the testimony of Ernesto Ydia contradicts the testimonies of the other witnesses,²³ and because they were impelled by an improper motive, as petitioner's brothers had filed a complaint for frustrated murder against them.²⁴
2. Alvarez, who remains at large, is the culprit in Prestoza's death.²⁵
3. Assuming Ramos physically assaulted the victim, petitioner did not deliver the lethal blow, and hence, did not commit the crime of homicide.²⁶

THE COURT'S RULING

We deny the instant petition and affirm the RTC's finding of guilt.

At the outset, we note that based on the records, we are faced with two different versions of the facts leading to Prestoza's death. The trial court opted to give credence to the prosecution's version. On appeal, the CA affirmed the findings of fact of the trial court.

The record supports the choice of the trial and appellate courts to give decisive weight to the prosecution's version of the facts. The testimonies of John Tagulao and Gerardo Gloria clearly pointed to petitioner as the perpetrator of the offense. In contrast, Ramos was inconsistent in his statements, and his testimony on the witness stand contradicted his counter-affidavit, as found by the trial court:

x x x. Joselito testified that he did not see Pedro Prestoza in the evening of October 3, 2001.

x x x x

Q How about Pedro Prestoza, do you know him personally?

²⁰ CA *rollo*, pp. 130-137; Motion for Reconsideration dated 6 May 2010.

²¹ *Rollo*, p. 28; Resolution dated 18 October 2010.

²² Id. at 41-57; Petition for Review dated 29 December 2010.

²³ Id. at 49.

²⁴ Id. at 47-48.

²⁵ Id. at 47.

²⁶ Id. at 52-53.

A Yes, we see him that he is from Nandacan, that he is a coconut climber, Your Honor.

Q Did you see him on that evening of October 3, 2001?

A No, sir.

Q You did not see him with the group of the persons who were then on board of the 2 tricycles you were then following?

A No, Your Honor.

x x x x.

In his counter-affidavit (Exh. "G" and Exh. "6"), however, Joselito categorically declared:

2. We saw Jaime Tagulao holding a piece of wood which he used in striking Pedro Prestoza who fell down to the ground; there was a fight among the group of Jaime Tagulao; Pedro Prestoza was just a passenger in their tricycle;

The foregoing contradictions and inconsistencies render the narration of Joselito Ramos of doubtful veracity.²⁷

Findings of fact of the RTC, particularly when affirmed by the CA, are accorded great weight and respect.²⁸ Thus, these findings are not to be disturbed in the absence of clear proof that the trial and the appellate courts overlooked, misunderstood or misapplied some facts or circumstances of weight and substance.²⁹ In this case, petitioner failed to adduce sufficient proof that the trial and the appellate courts so erred.

During trial, the prosecution presented three witnesses – namely, John Tagulao, Gerardo Gloria and Ernesto Ydia – to testify on the events that led to Prestoza's death.

Petitioner Ramos ascribes reversible error on the part of the CA when it affirmed his conviction, because parts of Ernesto Ydia's testimony were allegedly inconsistent with the testimonies of John Tagulao and Gerardo Gloria.³⁰ As petitioner pointed out, John Tagulao testified that petitioner, Alvarez and a certain Jordan Baladad mauled the victim. On the other hand, Ernesto Ydia stated that petitioner, his brothers Edwin and Orlando, and Jordan Baladad were the ones who had beat up Prestoza.³¹

The CA and the RTC correctly refused to give credence to the testimony of Ernesto Ydia.³² As explained by the appellate court:

²⁷ CA rollo, pp. 22-23; RTC Decision dated 4 August 2008.

²⁸ *People v. Abedin*, G.R. No. 179936, 11 April 2012, 669 SCRA 322, 336.

²⁹ *People v. Basao*, G.R. No. 189820, 10 October 2012, 683 SCRA 529, 543.

³⁰ CA rollo, pp. 12-14; RTC Decision dated 4 August 2008.

³¹ Rollo, p. 49; Petition for Review dated 29 December 2010.

³² Id. at 15; CA Decision dated 30 March 2010, *citing* the records, pp. 535-537; RTC Decision dated 4 August 2008.

Significantly, the points of recall and circumstances of the witnesses were different. Ydia was a passive eyewitness, being a passenger from another tricycle. Tagulao and Gloria, on the other hand, directly witnessed the incident as they were riding the same tricycle ridden by Prestoza. As such, Tagulao and Gloria were able to observe events that Ydia might have overlooked or failed to see.³³

Thus, the CA and the RTC relied on the testimonies of John Tagulao and Gerardo Gloria to establish the facts that led to Prestoza's death. A review of the records shows that their testimonies clearly identified petitioner as one of the perpetrators of the mauling incident and were consistent on material points.

On direct examination, John Tagulao testified as follows:

Q Where was Joselito Ramos then while Danilo Alvarez was hitting [Prestoza] with a lead pipe?

A He was with him, sir.

Q What did [he] do?

A He also struck him, sir.

Q With what?

A A piece of wood, sir.³⁴

Geraldo Gloria likewise testified:

Q Where was Joselito Ramos when Danilo Alvarez hit Pedro Prestoza with a lead pipe?

A He also came closer to Pedro Prestoza sir.

Q And what happened next after Joselito Ramos went near Pedro Prestoza while Danilo Alvarez was hitting him with a lead pipe?

A He also hit him using a piece of wood sir.

Q Who was hit with a piece of wood by Joselito Ramos?

A Pedro Prestoza sir.³⁵

The mauling incident led to the victim's death, as evidenced by the Certificate of Death³⁶ and by Dr. Ferdinand Florendo's testimony, as follows:

Q What was the injury sustained by the patient, Doctor?

A The patient has sustained brain injury, sir, which is called contusion and followed by the bleeding of the brain.

x x x x

³³ Id.

³⁴ TSN, 31 March 2003, p. 9.

³⁵ TSN, 18 February 2004, p. 13.

³⁶ Records, p. 18; Certificate of Death dated 13 October 2001. The Certificate of Death states that the cause of death is "Brain Herniation, Acute Subdural Hematoma, Mauling Victim."

Q What could have caused the injury, Doctor?

A The sudden acceleration and sudden [deceleration]. Meaning to say that you either have a head that is moving and all of a sudden it hits something that is stationary, or not moving. That is acceleration. The skull stops but the skull and the brain do not move at the same time. As in the same way if the jeepney stops and the passengers [bump] a wall [,] the passengers will continuously [move]. That is [deceleration].

Q What would be the effect?

A The effect is the same, sir, and the third cause is the rotation of the head that added injuries to the brain. There was displacement in the compartment within the skull, sir. There was brain swelling. There was bleeding and [it] formed [a] clot that [pierced] the brain and skull.

Q In this particular case, what was the cause of death of the victim?

A As has been stated, the cause of death was the displacement in the compartment within the skull. There was brain swelling and brain bleeding, sir.³⁷

Based on these testimonies, we rule that the prosecution has successfully established the causal link between Prestoza's death and the mauling incident perpetrated by petitioner Ramos.

Petitioner submits that assuming he physically assaulted the victim, it was not he but Alvarez who inflicted the mortal blow. Thus, petitioner argues that he should not be held liable for committing the crime of homicide.

We do not agree.

First, we refrain from making a finding of guilt against Alvarez, since he has remained at large and has not been arrested. Thus, this Court does not have jurisdiction over his person.

Second, neither the records nor the medical findings indicate whether it was Alvarez's lead pipe or Ramos' piece of wood that inflicted the fatal blow. However, evidence shows that petitioner repeatedly hit the victim with a piece of wood on the latter's head³⁸ and back.³⁹ Even when Prestoza was already lying on the street, petitioner did not cease the attack.⁴⁰ We therefore rule that petitioner's contention that he did not inflict the mortal blow is of no moment.

Petitioner finally argues that the testimonies of John Tagulao and Gerardo Gloria should not be given credence because the witnesses bear a grudge against him. He attributes the supposed grudge to a complaint for

³⁷ TSN, 14 November 2002, pp. 6-8.

³⁸ TSN, 31 March 2003, p. 9.

³⁹ TSN, 18 February 2004, p. 13.

⁴⁰ TSN, 31 March 2003, p. 17.

frustrated murder filed against them by petitioner's brothers Edwin and Orlando.

Again, we disagree.

The rule is that "where there is no evidence to indicate that the prosecution witness was actuated by improper motive, the presumption is that he was not so actuated and that he would not prevaricate and cause damnation to one who brought him no harm or injury."⁴¹

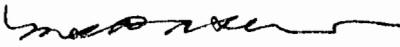
In this case, while petitioner's brothers did in fact file a criminal complaint for frustrated murder against John Tagulao, Gerardo Gloria, and some other individuals, the complaint was eventually dismissed.⁴² Nothing on record shows any other circumstance that could have impelled the prosecution witnesses to testify falsely against petitioner. In fact, John Tagulao was a son-in-law of the victim.⁴³ Thus, the reasonable presumption is that, as a family member, he was interested in the prosecution of the real perpetrator of the crime.

We therefore rule that, in the absence of evidence that the prosecution witnesses were moved by an improper motive in testifying against petitioner, the presumption that they were not so moved prevails, and their testimonies are entitled to full faith and credit.⁴⁴

All told, we conclude that the CA and the RTC did not commit any reversible error in ruling that Ramos is guilty beyond reasonable doubt of homicide for killing Pedro Prestoza.

WHEREFORE, the instant Rule 45 Petition is hereby **DENIED**. The challenged Decision and Resolution of the Court of Appeals in CA-G.R. CR No. 31823 dated 30 March 2010 and 18 October 2010, respectively, are hereby **AFFIRMED**.

SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

⁴¹ *Juliano v. Sandiganbayan*, 336 Phil. 49, 56 (1997).

⁴² *Rollo*, pp. 11-12; CA Decision dated 30 March 2010.

⁴³ TSN, 31 March 2003, p. 6.

⁴⁴ *People v. Belibet*, 276 Phil. 641, 647 (1991).

WE CONCUR:

Teresita Leonardo de Castro
TÉRESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice