



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 197046

Present:

- versus -

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
LEONEN,* *JJ.*

GEORGE ZAPATA y VIANA,**
Accused-Appellant.

Promulgated:

JUL 21 2014 *Hon. Cabalag*

X

X

RESOLUTION

DEL CASTILLO, J.:

Appellant George Zapata y Viana was charged with the crime of parricide in an Information¹ that reads:

That on or about the 11th day of May 2002, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a .45 caliber pistol, being the husband of victim QUEENY ZAPATA Y ERESPE, with intent to kill, treachery and evident premeditation, during nighttime, did then and there willfully, unlawfully and feloniously attack, assault and [shoot] said victim QUEENY ZAPATA Y ERESPE on [her left chest] thereby causing mortal wounds which caused her death soon thereafter.

CONTRARY TO LAW.

Appellant entered a plea of not guilty when arraigned on June 25, 2002.² *Mol*

* Per Raffle dated June 13, 2014.

** Sometimes spelled as George Zapata y Viana in some parts of the records.

¹ Records, p. 1.

² Id. at 20.

Factual Antecedents

The facts of the case as summarized by the prosecution are as follows:

On May 11, 2002, around 3 o'clock in the afternoon, appellant George Zapata was having a drinking spree with his brother Manny Zapata and his cousin Edwin Bautista in their family home at Block 1, Lot II, Phase 1-C, Kasiglahan Village, San Jose, Rodriguez, Rizal. After several hours of continuous alcohol splurge or at around 7 o'clock in the evening, a gunshot was heard emanating from the bedroom of George Zapata and his wife Queeny. It appears that George killed his wife Queeny using his .45 caliber pistol with a single gunshot fired at close range [at] Queeny's chest. George brought Queeny's bloodied body [to] the sala. Seconds later, Edwin immediately left Zapata's house and proceeded to the house of his brother nearby while Manny likewise went to the house of their cousin next door. Appellant fled from the scene of the crime without seeking help for his wife. Queeny was left alone in the sala soaked in her very own blood.

x x x [T]he same gunshot alerted appellant's neighbors. Queeny's body was later discovered and brought to the Amang Rodriguez Medical Center while appellant and the victim's three (3)[-]year old daughter named Angel was brought to the Municipal Hall of San Mateo, Rizal by a certain 'Lucia' (Queeny's friend and neighbor). Lucia likewise called Queeny's brother, Edralin Erespe, to pick up Angel as Queeny specifically instructed her not to give Angel to any of appellant's relatives.

In the meantime, the police officers of Montalban, Rizal learned of the incident from the security guard of Amang Rodriguez Medical Center who called the police station to report that a gunshot victim was brought to the hospital. SPO1 Onofre C. Tavas proceeded to the crime scene. He recovered an empty shell of a caliber .45 semi-automatic pistol inside appellant's and the victim's bedroom.

Dr. Mary Ann Gajardo of the Philippine National Police Crime Laboratory testified that a single gunshot wound fired at close-range [at] the victim's chest entered her epigastric region, slightly hit her heart, fractured the sternum at the level of her 6th interior ribs and traversed downwards lacerating parts of the diaphragm, left lobe of the liver, pancreas and the left kidney, before making an exit [from] the victim's left lumbar region. Tattooing appeared on the victim's body indicating that the shot was fired at a distance of at least three (3) to four (4) inches. Cardio respiratory arrest secondary to hemorrhage and shock as a result of the same gunshot wound ultimately caused the victim's death.³

During trial, appellant claimed that the shooting of his wife was accidental. He alleged that he wanted to show his gun to his cousin but it fell when he tried to retrieve the gun from the cabinet. In his attempt to catch the gun, he accidentally squeezed the trigger hitting his wife in the process.

³ CA rollo, pp. 121-123.

Ruling of the Regional Trial Court

However, the trial court did not lend credence to his contentions. On the contrary, it found that based on the evidence presented, appellant deliberately pulled the trigger of his gun and shot his wife.

The dispositive portion of the trial court's Decision⁴ reads as follows:

WHEREFORE[,] premises considered, judgment is hereby rendered finding accused GEORGE ZAPATA Y VIAÑA guilty beyond reasonable doubt of the crime of PARRICIDE under Art. 246 of the Revised Penal Code as amended by R.A. 7659 and sentencing him to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of the victim Queeny Zapata y Erespe in the amount of ₱42,983.80 as actual damages, ₱50,000 as death indemnity, ₱50,000.00 as moral damages and the costs of suit.

SO ORDERED.⁵

Aggrieved, appellant filed a Notice of Appeal.⁶

Ruling of the Court of Appeals (CA)

In his Brief,⁷ appellant argued that the trial court erred in finding him guilty of the charge considering the prosecution's failure to prove criminal intent on his part. He asserted that the shooting of his wife was accidental, *i.e.*, he unintentionally pulled the trigger while in the act of catching the gun when it fell from the cabinet.

The appellate court, however, did not lend credence to appellant's assertion that the killing was accidental. Just like the trial court, it found that the evidence presented satisfactorily showed that appellant intentionally shot his wife. The dispositive portion of the appellate court's Decision⁸ reads as follows:

WHEREFORE, the appealed Decision dated December 9, 2004 of the trial court is affirmed, subject to the modification that accused-appellant is further ordered to pay the victim's heirs exemplary damages in the amount of ₱25,000.00.

⁴ Records, pp. 151-165; penned by Judge Elizabeth Balquin-Reyes.

⁵ Id. at 165.

⁶ Id. at 168-169.

⁷ CA *rollo*, pp. 78-90.

⁸ Id. at 140-160; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Priscilla J. Baltazar-Padilla and Manuel M. Barrios.

SO ORDERED.⁹

Hence, this appeal.

On July 18, 2011, we required the parties to file their respective supplemental briefs.¹⁰ Both parties, however, found no necessity to file supplemental briefs as they have already exhaustively discussed all the issues in the briefs they filed before the CA.¹¹

Our Ruling

Appellant does not dispute having killed his wife. However, he insists that the shooting was accidental.

We are not persuaded.

There is no doubt that appellant intentionally killed his wife; the shooting was not accidental. Both the trial court and the appellate court correctly found appellant guilty beyond reasonable doubt of the crime of parricide.

Appellant's claim that he accidentally pulled the trigger while attempting to catch the same when it fell from the cabinet is incredible. *First*, as correctly noted by the CA, appellant was a former Corporal in the Philippine Marines and is thus "assumed to know and undertake all safety precautions in storing his firearm."¹² In this case, appellant apparently threw caution to the wind when he placed the gun on top of a cabinet and not inside a locked drawer or cabinet. *Second*, the gun was loaded. *Third*, the gun is equipped with several safety measures. Interestingly, all these safety measures were not in place at the time of the shooting making appellant's claim of accident highly unbelievable. As aptly noted by the trial court:

x x x The gun including the magazine in this case was carelessly placed on top of a cabinet and not on a locked drawer or shelf. x x x Secondly, the gun was loaded. x x x Third, the gun was cocked. The hammer of the gun was set to a firing position. Accused argued that the gun may have been cocked when the same hit the side of the cabinet when it slipped while he was getting it. x x x How convenient that the gun had by plain mishap of hitting the side [of] the cabinet x x x cocked itself. Fourth, the accused accidentally squeezed the trigger when he tried to catch the gun to prevent it from falling on the ground. There is physical impossibility for the accused to have squeezed the trigger when he was

⁹ Id. at 159.

¹⁰ *Rollo*, pp. 28-29.

¹¹ Id. at 30-33, 38-40.

¹² CA *rollo*, p. 149.

allegedly trying to catch the gun. Instinct dictates that to be able to catch a falling object, you have to catch it with both hands or at least with an open hand with fingers spread or moved apart. It is surprising that the finger x x x found itself on the gun trigger and instinctively squeezed the same. The probability that the finger would accidentally slip on the minute hole of the trigger at such spur of the moment and at an awkward position is very remote, if not virtually impossible.

It is astoundingly impossible for all safety features of the gun to go off at precisely the same time or in succession. As admitted by the accused, a .45 caliber pistol has four or five safety features to prevent any accidental discharge of the firearm. First, the user must load the magazine. Second, you have to put a round in the firing chamber. Third, the gun must be cocked. Fourth, the safety grip was held and was put off. Fifth, the user must be able to squeeze the trigger despite the presence of a trigger guard. Considering that herein accused is a soldier, adept or skilled in the handling of guns, it is highly disturbing why he allowed all safety features of the gun to falter causing it to fire [accidentally]. With all safety mechanisms installed in the gun, the occurrence of such a misfortune is only possible if there is human intervention, purposely done and not by mere chance or stroke of bad luck.¹³

Fourth, the trajectory of the bullet and the point of entry negate appellant's claim that he pressed the trigger when the gun fell on the floor. As correctly pointed out by the CA, "[i]f the shot came from the floor where the gun allegedly fell, the shot should have been in an upward direction."¹⁴ However, as testified to by the medico-legal officer, the bullet's point of entry was at the breast region and it exited at the lower back of the body.¹⁵ In short, the assailant was in front of the victim and the shot was directed posteriorwards.

Moreover, appellant's actions immediately after the shooting is contrary to his assertion that he did not intend to harm his wife. Indeed, if the shooting was accidental, appellant would have immediately sought help from his relatives and neighbors to bring the victim to the hospital. Instead, he just left her sitting on a chair soaked in her blood. Appellant would not have become alarmed by the arrival of the police authorities. Instead, he fled from the crime scene leaving his neighbors to tend to his bleeding wife. We concur with the observation of the trial court that -

It was this accidental firing that accused x x x had allegedly hit his wife fatally. According to the accused, upon seeing his wife, he embraced her and let her sit. He saw that his daughter was crying so he first brought her to his cousin Edwin. He went back to his wife and let her [sit] on a plastic chair. He shouted to his companions to get a vehicle. His wife was already motionless. His wife fell down and his brother [seated] her again. When he got impatient, he went out of the house. He heard a siren so he got confused and left the house and proceeded to Fort Bonifacio. x x x Having seen his wife bleeding, it baffles the Court why he did not immediately carry and rush his own wife to the hospital for

¹³ Records, pp. 162-163.

¹⁴ CA *rollo*, p. 151.

¹⁵ Id. at 152.

immediate medical care and attention. It was a most unusual reaction for a man who has accidentally shot his wife to just [seat] her on a chair and leisurely wait for a vehicle to bring his wife to a hospital. x x x Being the husband, he is expected to come to the succor of his wife. Laying seriously ill and hovering between life and death, x x x accused even left his wife. x x x Such actuations of the accused is a clear manifestation that he intended all the consequences of his nefarious acts. x x x If he was truly innocent, he would not have fled. By having opted to escape instead of attending to his wife, accused's guilt had been indubitably established. Accused's flight from the scene of the crime sealed his fate. x x x

It is likewise noteworthy to point out that neither one of the relatives of the accused, Manny Zapata (brother) and Edwin Bautista (cousin) who were at the scene volunteered to bring the victim to the hospital. x x x¹⁶

In the crime of parricide, only the following elements need to be satisfactorily established: “(1) the death of the deceased; (2) that he or she was killed by the accused; and (3) that the deceased was a legitimate ascendant or descendant, or the legitimate spouse of the accused.”¹⁷ All these elements have been proven beyond doubt.

Both the trial court and the appellate court properly sentenced appellant to suffer the penalty of *reclusion perpetua*. Appellant, however, is not eligible for parole.¹⁸ The award of ₱42,983.80 as actual damages is likewise proper as the same is supported by receipts. The award of ₱50,000.00 as moral damages is also proper. However, the awards of civil indemnity must be increased to ₱75,000.00 and exemplary damages to ₱30,000.00 in line with prevailing jurisprudence.¹⁹ In addition, all monetary awards shall earn interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The assailed December 8, 2010 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01376 is **AFFIRMED with MODIFICATIONS** that appellant is not eligible for parole; the awards of civil indemnity are increased to ₱75,000.00 and exemplary damages to ₱30,000.00; and all monetary awards shall earn interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid.

¹⁶ Records, pp. 162-164.

¹⁷ *People v. Castillo*, 341 Phil. 751, 754 (1997).

¹⁸ Pursuant to Section 3 of Republic Act No. 9346 (An Act Prohibiting The Imposition of Death Penalty In The Philippines) which provides:

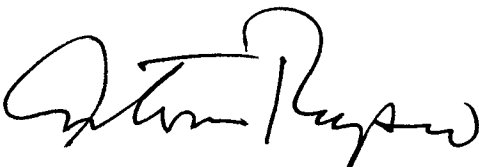
Sec. 3. Person convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

¹⁹ *People v. Sales*, G.R. No. 177218, October 3, 2011, 658 SCRA 367, 384.


SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Associate Justice

Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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

Chief Justice

