



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 232338

Present:

BERSAMIN, C.J.,
Chairperson,
 DEL CASTILLO,
 JARDELEZA,
 GESMUNDO, and
 CARANDANG, JJ.

- versus -

RAMON QUILLO y ESMANI,
 Accused-Appellant.

Promulgated:

JUL 08 2019

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DECISION

CARANDANG, J.:

This is an appeal¹ from the August 30, 2016 Decision² of the Court of Appeals (CA) finding accused-appellant Ramon Quillo y Esmani (Ramon) guilty beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, the dispositive portion of which reads:

WHEREFORE, premises considered, the appealed 29 June 2015 Decision of the Regional Trial Court in Criminal Case No. R-QZN-14-0548 is hereby **AFFIRMED with modification** that the total awarded damages shall be subject to interest at the legal rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

SO ORDERED.³

The Antecedents

The Information⁴ against Ramon alleges:

¹ Rollo, p. 18, Notice of Appeal.

² Penned by Associate Justice Renato C. Francisco, with Associate Justices Apolinario D. Bruselas, Jr. and Danton Q. Bueser, concurring; id. at 2-17.

³ Id. at 16.

⁴ Records, pp. 1-2, Information.

That on or about the 28th day of May 2014, in Quezon City Philippines, the above-named accused, with intent to kill, qualified with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one **VIVIEN YAP-DE CASTRO**, by then and there shooting her twice on her head, thereby inflicting upon her serious and grave wounds which were the direct and immediate cause of her untimely death, to the damage and prejudice of the heirs of said offended party.

The accused persistently planned the commission of the crime prior to the execution and adopted sudden and unexpected attack thereby assaulting the victim to ensure the commission of the crime without risk to himself therefore committing the attendant circumstances of evident premeditation and treachery.

CONTRARY TO LAW.⁵

During trial, the prosecution presented the following witnesses, namely: (1) Audrey Phoebe Yap-Lopez (Audrey); (2) Michael M. Marinas⁶ (Michael); (3) Gina A. Besmonte (Gina); (4) Corazon D. Dasig (Corazon); and (5) PO2 Jogene Hernandez (PO2 Hernandez).

According to the testimony of the companions of the victim, at about 6:30 p.m. of May 28, 2014, Michael, Gina, Corazon, and the victim, Vivien Yap-De Castro (Vivien), were walking along Ilang-Ilang Street towards IBP Road when a black motorcycle of an unknown plate number with two persons onboard stopped beside them. The back rider shouted “*ate!*”, pointed a gun towards Vivien, and fired two (2) successive shots immediately killing the victim.⁷ The witnesses alleged that they saw the face of the back rider as he was not wearing any helmet.⁸ After about one (1) minute from the time Vivien was shot, the tandem proceeded to Litex Street. Ramon was later identified as the back rider in Camp Karingal and in court.⁹

The Medico-Legal Report No. QCA-14-202,¹⁰ issued by Police Chief Inspector Palima MD, and the Autopsy Report¹¹ dated May 29, 2014, revealed that the victim sustained two (2) gunshot wounds and the one on her head caused her death.¹²

Ramon maintained that on May 28, 2014, at the time Vivien was shot, he was initially in Water Hall, Barangay Payatas B, Quezon City to look for money for his son's school shoes. Thereafter, he went to Montalban because his first wife, Charito Quillo, was confined at Rodriguez Hospital.¹³ He also averred that at about 9:30 p.m. on June 3, 2014, there was a commotion

⁵ Id. at 1.
⁶ Also referred to as Mariñas in some parts.
⁷ Records, p. 5.
⁸ TSN, August 28, 2014, p. 262.
⁹ Records, p. 5.
¹⁰ Id. at 76.
¹¹ Id. at 77.
¹² Id. at 76-77.
¹³ TSN, October 29, 2014, pp. 359-360.



between tricycle drivers and teenagers. When he scolded them for being noisy, they turned to him and hit him with a bottle of wine on his right eyebrow. He was then brought to Police Station 6 in Batasan where he saw the persons who mauled him. They accused him of starting the fight. He was brought back to Barangay Payatas B and was instructed by the police officer to file a complaint because he sustained an injury. Instead of filing a complaint, he went to the house of his cousin Jun Bonifacio (Jun) where he slept until about 8:00 a.m. the next day, June 4, 2014, until a barangay mobile arrived at the house of Jun. He was brought to the house of Capt. Guarin who turned him over to Major Marcelo and Monsalve in Camp Karingal. They allegedly forced him to admit that he was “Bunso”, hit his head about six (6) times with his elbow, and punched him on his left side.¹⁴

Ruling of the Regional Trial Court

After trial, the Regional Trial Court (RTC) rendered its judgment on June 29, 2015,¹⁵ the dispositive portion of which reads:

WHEREFORE, premises considered, this Court finds accused Ramon Quillo y Esmani guilty beyond reasonable doubt of the offense of Murder and hereby sentences him to suffer the penalty of *reclusion perpetua*.

Likewise, said accused is hereby ordered to pay the heirs of the deceased-victim, the following:

- 1) The amount of Php75,000.00 as civil indemnity;
- 2) The amount of Php50,000.00 as moral damages;
- 3) The amount of Php30,000.00 as exemplary damages;
- 4) The amount of Php79,000.00 as actual damages.

No pronouncement as to costs.

SO ORDERED.¹⁶

The RTC found that: (1) Vivien was killed on May 28, 2014 by a gunshot wound on her head; (2) Ramon, the back rider of the motorcycle, delivered the fatal shot upon Vivien; (3) Treachery is present as the assault was so sudden and quick as it took Ramon only a brief moment to accomplish his mission on the unsuspecting victim and consummate the crime; and (4) the present case is neither parricide nor infanticide.¹⁷

On appeal,¹⁸ Ramon impugned the findings of the trial court and insisted that the trial court gravely erred: (a) in finding him guilty of murder despite the prosecution witnesses' failure to positively identify him as the perpetrator; (b) in convicting him on the basis of insufficient circumstantial evidence; and (c) assuming arguendo that he could be held liable for killing

¹⁴ Id. at 337-350.

¹⁵ Penned by Presiding Judge Editha G. Mina-Aguba; *CA rollo*, pp. 18-26.

¹⁶ Id. at 26.

¹⁷ Id. at 22-25.

¹⁸ Id. at 49-62.

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Vivien, in finding that treachery existed.¹⁹ He maintained that he had never seen Vivien and that, at the time she was killed, he was in Montalban because his first wife was at the hospital.²⁰

Ruling of the CA

In a Decision²¹ dated August 30, 2016, the CA upheld Ramon's conviction but modified the monetary award. The CA imposed the legal interest rate of six percent (6%) *per annum* from the date of finality of the judgment until fully paid on the total awarded damages.²² In affirming Ramon's conviction, the CA found that the evidence of the prosecution sufficiently established Ramon's culpability in the crime charged and, thus, outweighs his mere denial. The qualifying circumstance of treachery was supported by the fact that at the time the incident happened, Vivien and her friends were merely walking along Ilang-Ilang Street, totally unaware and unsuspecting of the forthcoming violence to be committed on the victim's person by Ramon who was armed with a gun.²³

On September 15, 2016, Ramon filed a Notice of Appeal.²⁴ The Court notified the parties to file their supplemental briefs.²⁵ However, Ramon opted to adopt his Appellant's Brief as his supplemental brief. For its part, the Office of the Solicitor General manifested that it will not file a supplemental brief considering that all relevant factual and legal issues and arguments had been adequately discussed in its Appellee's Brief.

Issues

The issues to be resolved in this case are as follows:

1. Whether the prosecution witnesses positively identified Ramon as the assailant; and
2. Whether treachery was present in the killing of Vivien to qualify the crime as murder.

Ruling of the Court

The lower courts committed reversible error in ruling that the positive identification of Ramon by the prosecution witnesses established his guilt beyond reasonable doubt. In *People v. Teehankee, Jr.*,²⁶ the Court explained the concept of out-of-court identification and the factors to consider in determining its admissibility and reliability, thus:

¹⁹ Id. at 49.
²⁰ TSN, October 29, 2014, pp. 359-360.
²¹ *Rollo*, pp. 2-17.
²² Id. at 16.
²³ Id.
²⁴ Id. at 18.
²⁵ Id. at 21-22.
²⁶ 319 Phil. 128 (1995).

Out-of-court identification is conducted by the police in various ways. It is done thru **show-ups** where the suspect alone is brought face to face with the witness for identification. It is done thru **mug shots** where photographs are shown to the witness to identify the suspect. It is also done thru **line-ups** where a witness identifies the suspect from a group of persons lined up for the purpose. Since corruption of **out-of-court** identification contaminates the integrity of **in-court** identification during the trial of the case, courts have fashioned out rules to assure its fairness and its compliance with the requirements of constitutional due process. In resolving the admissibility of and relying on out-of-court identification of suspects, courts have adopted the **totality of circumstances test** where they consider the following factors, viz: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification procedure.²⁷ (Citation omitted and emphasis in the original)

In this case, the identification was done through a police line-up. Applying the totality of circumstances test, We find that the out-of-court identification made by Michael, Gina, and Corazon is unreliable and cannot be made the basis for Ramon's conviction. A comprehensive analysis of their testimonies reveals that such are dubious and lack probative weight.

During Gina's redirect examination, she testified that she identified the assailant based on his height and his complexion.²⁸ When prodded further about her answer during re-cross examination, the physical impossibility of assessing the height of the assailant, taking into account his position when the crime was committed, was highlighted in the following exchange between the witness and Atty. Estoesta, counsel *de officio* of Ramon:

- Q Was this backrider still in the motorcycle?
A He is in the motorcycle, ma'am.
- Q So he was actually sitting down on the same motorcycle with the driver of the motorcycle?
A **Yes, ma'am.**
- Q And you were able to tell the height and the complexion while the alleged gunman was sitting down, is that what you are saying from the start? **You are able to identify or described [sic] a gunman of his height while sitting down?**
A **Yes, ma'am.**²⁹ [Emphasis supplied]

Likewise, when asked whether she was able to see the face of the back rider, Gina categorically admitted that:

- A *Naaninag ko lang po siya kasi nakafocus po ang aking paningin sa baril.*

²⁷ Id. at 180.

²⁸ TSN, August 20, 2014, p. 249.

²⁹ Id. at 250.

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- Q Did you notice the get up or the attire of the backrider when [sic] shot Vivien?
 A **No. sir.**³⁰

x x x x

- Q And am I correct, Madam Witness, when you mentioned that you only saw a shadow of the gunman? So, am I correct that **you did not actually saw[sic] his face but only a shadow?**
 A **Yes, ma'am.**³¹ [Emphasis supplied]

Considering Gina's quoted statements above, We cannot rely on her identification of the assailant. She acknowledged seeing only the shadow of the assailant. She could not have known the height of the assailant as the latter was sitting the whole time as the back rider of a running motorcycle. Hence, her identification of Ramon during the line-up and in court cannot be given credence.

Michael's testimony likewise failed to corroborate Gina's statements. It was only after Vivien was shot that he allegedly saw the assailant because he was walking ahead of her during the incident.³² He described the assailant whom he claims was about two (2) meters away from him, and stopped in front of him for about one (1) minute after shooting Vivien, as follows:

- Q By the way, let me go back at [sic] the time that you saw the face of this back rider, what else did you notice from the back rider when you first saw him?
 A "Noong una ko po siya nakita, hindi gaanong katangkaran" (interrupted)

PROS. DEL ROSARIO: Come again? What... okay, just proceed.

- A "Hindi katangkaran, yung kulay, di naman gaanong maputi, fair complexion lang po siya, tapos medyo lubog yung..." (interrupted)
 Q Aside from the physical appearance, what else did you notice from him if any?
 A "Yun lang po, yung pananamit niya, yung nakawhite t-shirt siya, yun lang po yung physical niya, color niya."³³

The statements of Michael quoted above lead this Court to question how he was able to give an accurate description for the composite illustration when he only recalled the rider's skin complexion, height, and the color of the shirt he was wearing. These are general descriptions that fail to provide a definitive account of the physical appearance of the accused-assailant sufficient to convince the Court that Ramon is the assailant.

In addition, it is worthy to note that Michael gave his description for the composite illustration only on June 2, 2014 or approximately five (5) days after the shooting incident.³⁴ Prior to said date, Michael, Gina and Corazon

³⁰ Id. at 233.
³¹ Id. at 246-247.
³² TSN, August 14, 2014, p. 175.
³³ Id. at 177-178.
³⁴ Records, p. 90.

did not give any statement to the police regarding the identity of the assailant. Considering his testimony on the appearance of the assailant, We find Michael's description of the assailant, given during the trial and the composite illustration prepared through his assistance, doubtful.

Gina and Michael maintained that the assailant stayed at the scene of the crime for approximately one (1) to two (2) minutes after Vivien was shot before proceeding to Litex Road³⁵ which allowed them to remember his face, and, later on, identify him. However, the Court finds this alleged conduct of the assailant contrary to ordinary human experience. The instinct of any person under the same condition as the assailant is not to be recognized. If Ramon really shot Vivien, he would have immediately fled the scene of the crime in order to prevent being identified and accosted by the authorities. It is illogical for him to stay for a minute just to watch the victim die while there were many bystanders who could recognize him. It is expected that the riding-in-tandem would immediately get away and not linger for a minute or so just to be susceptible to identification by the bystanders. Assuming *arguendo* that the assailant stayed for another minute after shooting Vivien, that period would have been sufficient for them to recall the plate number of the motorcycle, if there was any, along with distinguishing facial features of the assailant to enable them to accurately recall his identity. We find the prosecution witnesses' story unbelievable and a mere convenient excuse to conceal the fact that they did not see the face of the assailant at the time of the incident and that they had no knowledge of the identity of the true assailant.

We also point out that, unlike Gina and Michael, Corazon admitted that the motorcycle only stopped for "seconds" before the riders fled from the scene of the crime.³⁶ Corazon's admission negates Michael's and Gina's story and makes their testimonies even more doubtful. Their respective narrations of the incident fail to create a coherent account of the incident on May 28, 2014 because they are inconsistent with each other on substantial matters and contrary to ordinary human experience.

The natural reaction of victims of criminal violence is to strive to see the appearance of their assailants and observe the manner the crime was committed. As the Court held in *People v. Esoy*:³⁷

It is known that the most natural reaction of a witness to a crime is to strive to look at the appearance of the perpetrator and to observe the manner in which the offense is perpetrated. Most often the face of the assailant and body movements thereof, create a lasting impression which cannot be easily erased from a witness's memory. Experience dictates that precisely because of the unusual acts of violence committed right before their eyes, eyewitnesses can remember with a high degree of reliability the identity of criminals at any given time.³⁸ (Citations omitted)

³⁵ TSN, August 14, 2014, p. 189.; TSN, August 20, 2014, pp. 229-230.

³⁶ TSN, August 28, 2014, p. 270.

³⁷ 631 Phil. 547 (2010).

³⁸ Id. at 555-556.

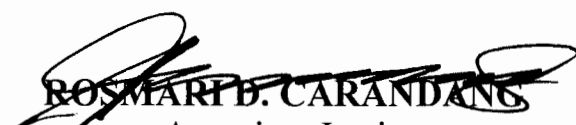
Due to 1) the unusual situation that Michael, Gina and Corazon just witnessed, 2) the brief period they allegedly saw the assailant's face,³⁹ and 3) their position relative to where the assailant was, We find it difficult to believe that they were able to accurately identify the assailant. We cannot disregard the possibility that the prosecution witnesses committed an error in identifying the assailant. The interim period of about one (1) week from the time of the incident and the time they gave their sworn statement to the authorities and identified Ramon from the police line-up could have affected their ability to recall the assailant's identity. The prosecution witnesses did not testify about any distinguishing mark nor significant feature of Ramon's physical appearance, other than his height and skin complexion, that they relied on in recognizing the assailant during the police line-up and trial. They also admitted that they have never met nor seen the assailant prior to the incident⁴⁰ which compels the Court to doubt the accuracy of their recollection. To Our mind, these factors, when taken as a whole, diminish the credibility of the witnesses and raise doubt on the truthfulness of their testimonies and their identification of Ramon as the assailant.

We have settled that although the defense of alibi is inherently weak, the prosecution is not released from its burden of establishing the guilt of the accused beyond reasonable doubt. It is necessary to first establish beyond question the credibility of the eyewitness as to the identification of the accused before a court can apply the rule that positive identification prevails over alibi.⁴¹ The serious and inexplicable discrepancies and inconsistencies in the testimonies of the prosecution witnesses hardly lend credence to their supposed positive testimony and casts serious doubt on the credibility of their charge. Having failed to indubitably prove the identity of Ramon as the assailant, We cannot sustain Ramon's conviction.

In view of these findings, the Court no longer deems it necessary to discuss the other issue raised by Ramon.

WHEREFORE, the Decision dated August 30, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07692 is **REVERSED** and **SET ASIDE**. Accused-appellant Ramon Quillo y Esmani is **ACQUITTED** on reasonable doubt and is ordered to immediately be released unless he is being held for some other valid or lawful cause. The Director of Prisons is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

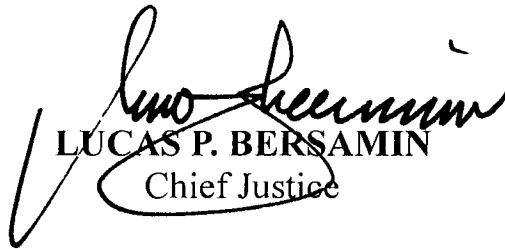

ROSMARIE B. CARANDANG
Associate Justice

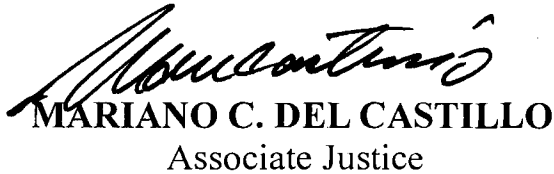
³⁹ TSN, August 20, 2014, p. 251.

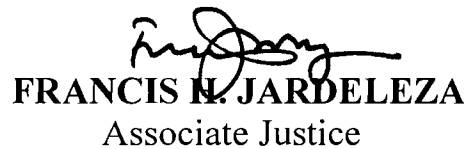
⁴⁰ TSN, August 28, 2014, p. 290.

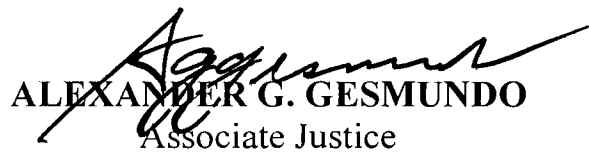
⁴¹ *People v. Maguing*, 452 Phil. 1026, 1044 (2003).

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

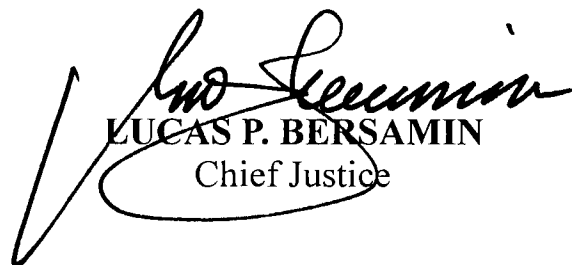

MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS N. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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.


LUCAS P. BERSAMIN
Chief Justice