

8  
P/O



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE  
**RECEIVED**  
SEP 08 2014  
BY: Janet  
TIME: 11:15

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated August 11, 2014 which reads as follows:*

**“G.R. No. 192227 (*People of the Philippines v. Rommel Falcon y Meneses*).**– We resolve the appeal filed by accused-appellant Rommel Falcon y Meneses (accused-appellant) from the Court of Appeals (CA) Decision<sup>1</sup> dated 29 August 2009 and Resolution<sup>2</sup> dated 23 November 2009 issued by its Special First Division in CA-G.R. CR-H.C. No. 03407.

**THE FACTS**

Accused-appellant Rommel Falcon y Meneses was charged with murder and frustrated murder in two sets of Information<sup>3</sup>:

Criminal Case No. SC-10557

That on or about May 29, 2003, in the Municipality of Sta. Cruz, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, while conveniently armed and provided with Cal. 45 pistol, with intent to kill, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack and shoot with the said firearm one GENER LLERENA y DE LUNA thereby inflicting upon the latter multiple gunshot wounds on the different parts of his body which directly caused his death, to the damage and prejudice of his surviving heirs.

Criminal Case No. SC-10558

That on or about May 29, 2003, in the Municipality of Sta. Cruz, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, while conveniently armed and provided with Cal. 45 pistol, with intent to kill, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack and shoot with the said firearm one VIRGILIO LLERENA y DE LUNA thereby inflicting upon the latter a gunshot wound on his right knee;

<sup>1</sup> Penned by Associate Justice Apolinario D. Bruselas, Jr., and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Vicente S.E. Veloso; CA rollo, pp. 138-150.

<sup>2</sup> CA rollo, p. 169.

<sup>3</sup> Rollo, p. 3; records, p. 2.

thus, the accused had performed all acts of execution which would have produced the felony of "murder" as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the accused.

When arraigned on 05 November 2003, accused-appellant pleaded not guilty.<sup>4</sup> After the mandatory pre-trial conference, a joint trial on the merits ensued.<sup>5</sup>

#### VERSION OF THE PROSECUTION

The prosecution presented four witnesses: (1) Virgilio Llerena, (2) Dr. Darvi Mag-iba, (3) Police Senior Inspector Donna Villa P. Huelgas, and (4) Alfredo Magaro.

Their testimonies reveal that about 4:30 a.m. on 29 May 2003 in Villa Silangan Subdivision, Sta. Cruz, Laguna, brothers Virgilio and Gener Llerena were riding their bicycles on their way to work as janitors in the provincial capitol when Virgilio was hit by a gunshot in the knee causing him to lose his balance.<sup>6</sup> He heard two more gunshots coming from the back and saw his brother fall to the ground.<sup>7</sup> Virgilio looked towards the direction where the shots came from and saw accused-appellant inside a nipa hut, more or less six (6) meters away, holding a .45 caliber firearm.<sup>8</sup> Virgilio was again shot in the left portion of his body, and so he ran away to seek help from the police station at Mabini St., Sta. Cruz, Laguna.<sup>9</sup> On his way back to the place of the incident, he was accompanied by police investigators Jaylet Castillo and John Salonga. There he saw his brother, Gener, on board a jitney bound for the Laguna Provincial Hospital.<sup>10</sup> Virgilio went with his brother to the hospital, where they were both treated; after an hour, Gener was declared dead.<sup>11</sup>

According to Dr. Mag-Iba, Virgilio's gunshot wound in the knee did not completely pierce the skin and was not fatal unless infection seeped in, while Gener's wounds in the back and the buttocks led to "hypovolemic shock secondary to massive hemorrhage," which caused his death.<sup>12</sup>

Meanwhile, Police Senior Inspector Huelgas testified that the paraffin test conducted on the day of the shooting incident yielded a positive result for gun powder nitrate on accused-appellant's right hand.<sup>13</sup>

---

<sup>4</sup> Records, p. 28.

<sup>5</sup> CA *rollo*, p. 139.

<sup>6</sup> *Id.* at 140.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

Finally, Alfredo Magaro - Ballistician 1, Chief of Firearms, Records Section of the Regional Crime Laboratory Office - testified that the four cartridges recovered from the scene of the crime and submitted for examination had been fired from one and the same .45 caliber pistol.<sup>14</sup>

#### VERSION OF THE DEFENSE

Accused-appellant invoked the defenses of alibi and denial. He claimed that he was sleeping with his family at their house in *Barangay San Pablo Norte, Sta. Cruz, Laguna*, at the time the incident occurred.<sup>15</sup> He also claimed that at 7:00 a.m., while he was cleaning their front yard, Police Officer Salonga informed him of the shooting incident and invited him to the police station.<sup>16</sup> At the police station, accused-appellant claimed that before undergoing a paraffin test at the crime laboratory, he lit a "katol" inside the Sta. Cruz prison because it was dark and there were mosquitoes, which caused him to test positive.<sup>17</sup> He further stated that he was only implicated because of the existing enmity between him and the two brothers.<sup>18</sup> Finally, while he claimed that he is a licensed owner of a .45 caliber pistol, he nevertheless denied that the spent shells had come from his pistol.<sup>19</sup>

#### THE RULING OF THE RTC

On 20 September 2007, the Regional Trial Court (RTC) of Sta. Cruz, Laguna, Branch 28, rendered a Consolidated Judgment,<sup>20</sup> the dispositive portion of which reads:

WHEREOF, the court finds accused Rommel Falcon y Meneses, GUILTY beyond reasonable doubt of the crime of Murder in SC-10507 with the qualifying circumstance of treachery defined and penalized under Article 248 of the Revised Penal Code, as amended, and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, and to indemnify the heirs of Gener Llenera the sum of ₱50,000 as civil indemnity, ₱50,000 as moral damages and to pay the costs.

Likewise, the same accused Rommel Falcon y Meneses is found GUILTY beyond reasonable doubt of the crime of Attempted Murder in SC-10508 with the qualifying circumstance of treachery, defined and penalized in Article 248 in relation to Article 51 of the Revised Penal Code, as amended, and is hereby sentenced to suffer the indeterminate penalty of 4 years 2 months and 1 day of *prision correccional* as minimum to 8 years 2 months and 1 day of *prision mayor* as maximum, there being no mitigating or ordinary aggravating circumstances, without

<sup>14</sup> Id. at 141.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Penned by Judge Maryann E. Corpuz-Mañalac.; CA rollo, pp. 21-28.

pronouncement as to civil indemnity considering the prosecution's waiver of its claim thereto.

So ordered.

### THE RULING OF THE CA

Accused-appellant filed an appeal<sup>21</sup> with the CA. In his Brief,<sup>22</sup> he alleged that the trial court erred in convicting him despite failure of the prosecution to prove his guilt beyond reasonable doubt; in not conclusively showing the identity of the accused-appellant as the assailant in the shooting incident; and in sustaining a judgment of conviction despite the adduced circumstantial evidence.<sup>23</sup>

The CA denied the appeal in a Decision, the dispositive portion of which reads:

WHEREFORE, in the light of the foregoing, the decision appealed from is AFFIRMED with the modification that the award of civil indemnity is increased from ₱50,000.00 to ₱75,000.00 and the appellant is ordered to pay an additional award of ₱25,000.00 as exemplary damages, in favor of the heirs of the deceased Gener Llerena.

IT IS SO ORDERED.<sup>24</sup>

The Motion for Reconsideration<sup>25</sup> of the accused-appellant was denied for lack of merit.<sup>26</sup>

Hence, this appeal in which accused-appellant reiterates the following in his Supplemental Brief<sup>27</sup>: (1) an error was committed by the RTC in convicting him and the CA in sustaining his conviction despite the failure of the prosecution to prove his guilt beyond reasonable doubt; (2) his identity as assailant in the shooting incident was not conclusively shown as the case was filed on the basis of a mere suspicion; and (3) the circumstantial evidence adduced cannot sustain a judgment of conviction, as the ballistic and paraffin tests do not conform to the theory of the prosecution.<sup>28</sup>

### THIS COURT'S RULING

We sustain accused-appellant's conviction.

***The prosecution established  
accused-appellant's guilt beyond  
reasonable doubt.***

---

<sup>21</sup> CA rollo, p. 172.

<sup>22</sup> Id. at 46-67.

<sup>23</sup> Id. at 48.

<sup>24</sup> Rollo, p. 13.

<sup>25</sup> CA rollo, p. 153-162.

<sup>26</sup> Id. at 169.

<sup>27</sup> Rollo, p. 31-55.

<sup>28</sup> Id. at 33-34.

To be convicted of murder, the following must be established: (1) a person was killed; (2) the accused killed him; (3) the killing was attended by any of the qualifying circumstances under Article 248 of the Revised Penal Code; and (4) the killing neither constitutes parricide nor infanticide.<sup>29</sup>

Meanwhile, when the accused intended to kill his victim, as shown by his use of a deadly weapon and the wounds he inflicted, but the victim did not die because of timely medical assistance, the crime is frustrated murder or frustrated homicide; but if the victim's wounds are not fatal, the crime is only attempted murder or attempted homicide.<sup>30</sup>

As found by the RTC<sup>31</sup> and sustained by the CA,<sup>32</sup> treachery with intent to kill attended the assault against the Llerena brothers.

Treachery is defined as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make.<sup>33</sup> The "essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself."<sup>34</sup> In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position for self-defense; and (2) the accused consciously and deliberately adopted the particular means, methods or forms of attack employed.<sup>35</sup>

It is clear from the testimony of Virgilio that while he and his brother were innocently riding their bicycles to work around 4:30 a.m., they were suddenly and unexpectedly shot from behind without warning by accused-appellant, who was hiding in a nearby *nipa* hut. They had no means to defend themselves against his armed attack. Gener's gunshot wounds would later reveal the external points of entry at the back and the buttocks. These circumstances indicate that the assault was indeed treacherous.

Gener Llerena died as a consequence of the gunshot wounds he sustained. Virgilio Llerena, on the other hand, sustained wounds in the knee, which were not fatal. Clearly, the fact that accused-appellant was guilty of murder and attempted murder was proven by the prosecution beyond reasonable doubt.

<sup>29</sup> *People v. Aquino*, G.R. No. 201092, 15 January 2014.

<sup>30</sup> *Palaganas v. People*, 533 Phil. 169, 193 (2006).

<sup>31</sup> CA rollo, p. 88.

<sup>32</sup> Rollo, p. 11.

<sup>33</sup> REVISED PENAL CODE, Art. 14, par. 16.

<sup>34</sup> *People v. Escote, Jr.*, 448 Phil. 749, 786 (2003).

<sup>35</sup> *People v. Reyes*, 350 Phil. 683, 693 (1998).

***Private complainant positively identified accused-appellant as the perpetrator of the crimes charged.***

Meanwhile, accused-appellant assails the credibility of Virgilio as a witness for the following reasons: (1) Virgilio could not have had “the nerve to look and gazed (sic) at the accused”; (2) Virgilio “did not bother to seek help”; (3) he did not mention the name of accused-appellant upon arriving at the police station where the former had sought help; (4) Virgilio demonstrated how he saw accused-appellant aiming at them in a way that was contrary to how a .45 caliber pistol would be held;<sup>36</sup> and (5) Virgilio could not have observed the event through a small window with enough clarity to be able to identify accused-appellant, who was then in an enclosed and unlighted nipa hut.<sup>37</sup>

These arguments are clearly futile attempts to discredit a witness whose testimony the lower court has already described as “candid, straightforward, and unshaken”<sup>38</sup>; and whose demeanor before the lower court impressed his statements with credibility.<sup>39</sup> It is a well-settled doctrine that trial courts’ findings on the credibility of witnesses deserve a high degree of respect in the absence of any clear showing that the courts have overlooked, misunderstood, or misapplied some facts or circumstances that could alter the conclusion of conviction. This Court will not interfere in that assessment, absent any indication that the lower court has overlooked some material facts or gravely abused its discretion.<sup>40</sup>

Virgilio positively identified accused-appellant as the assailant who was holding a .45 caliber pistol with his right hand inside a nipa hut six meters away. Virgilio was “resolute and unflinching” in his testimony before the lower court as his testimony:

Q: Where was the assailant when you looked at him?

A: He was inside the nipa hut, sir.

Q: Was he inside or outside the hut?

A: Inside, sir.

Q: Was it not a fact that the place was not lighted and at 4:30 A.M., it was still dark?

A: The surrounding houses as well as the post had lights on, sir.

Q: If the Honorable Court would conduct an ocular inspection in that place, at 4:30 in the morning, will you still maintain the same answer?

<sup>36</sup> CA rollo, pp. 50-51.

<sup>37</sup> Id. at 55.

<sup>38</sup> Id. at 26.

<sup>39</sup> Id. at 89.

<sup>40</sup> *People v. Gado*, 358 Phil. 956 (1998).

A: Yes, sir.

Q: And despite the fact that the gunman was inside the nipa hut, you were able to easily identify him?

A: I stared at him, for which reason, I recognized him.<sup>41</sup>

Accused-appellant insists on a particular behavior of Virgilio as a witness to the crime. But it has been held that witnesses to a crime react in different ways.<sup>42</sup> Witnesses to startling occurrences react differently depending upon their situation and state of mind, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.<sup>43</sup> Suffice it to say that even if Virgilio failed to name the assailant when the former sought help at the police station, Virgilio nonetheless executed an Affidavit<sup>44</sup> on the same day, identifying accused-appellant as the perpetrator.

Furthermore, even if the nipa hut was dark, records reveal that the surrounding houses and the lamppost two meters away were lit and were thus able to shed enough light for Virgilio to identify the assailant. Illumination from a lamppost has been held as sufficient for purposes of identification.<sup>45</sup> Virgilio was also familiar with accused-appellant's face, as they were neighbors in Sta. Cruz, Laguna.

Finally, also unpersuasive is the insistence of accused-appellant on the dying declaration of Gener Llerena that the latter did not know who the assailant was, as it was Virgilio – not Gener – who saw accused-appellant as their assailant.

***The evidence adduced is enough to warrant a judgment of conviction.***

Accused-appellant argues that the paraffin and ballistic tests were not in accord with the theory of the prosecution. But the CA already passed upon this issue when it held that “the presence of nitrates or nitrites should be taken only as an indication of possibility but not of infallibility that the person tested has fired a gun.”<sup>46</sup> The same observation applies to the ballistic test, which shows that the shells did not come from his licensed gun. The conviction of accused-appellant rests on other pieces of evidence already delineated, which are consistent with his guilt.

<sup>41</sup> TSN, 11 August 2004, pp. 6-7.

<sup>42</sup> *People v. Paynor*, 330 Phil. 336 (1996).

<sup>43</sup> *People v. Galano*, 384 Phil. 206, 215 (2000).

<sup>44</sup> Records, p.14; CA rollo, p. 144.

<sup>45</sup> *People v. Galano*, supra.

<sup>46</sup> *People v. Melchor*, 366 Phil. 633, 645 (1999).

With respect to the penalty, upon repeal of the death penalty, the only penalty prescribed by law for the crime of murder is *reclusion perpetua*. Hence, accused-appellant has been properly sentenced to suffer the penalty of *reclusion perpetua* for the murder of Gener Llerena in Criminal Case No. SC-10557.

The award of damages to Gener's heirs has also been correctly modified by the CA consistent with pronouncements in recent jurisprudence. Hence, the amounts of ₱75,000 as civil indemnity, ₱50,000 as moral damages, and ₱30,000 as exemplary damages are proper. We, however, modify the CA decision by imposing the payment of interest on all amounts at 6% per annum from the finality of this Decision until full payment.

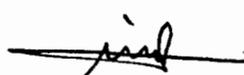
Meanwhile, for the crime of attempted murder, absent any mitigating or aggravating circumstance, the maximum of the sentence should be within the range of *prision mayor* in its medium term, which has a duration of eight (8) years and one (1) day to ten (10) years; and that the minimum should be within the range of *prision correccional*, which has a duration of six (6) months and one (1) day to six (6) years. Hence, accused-appellant was correctly sentenced in Criminal Case No. SC-10558 to suffer imprisonment of 4 years 2 months and 1 day of *prision correccional* as minimum to 8 years 2 months and 1 day of *prision mayor* as maximum.

**WHEREFORE**, the appeal is DENIED, and the assailed Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03407 is hereby AFFIRMED with MODIFICATIONS, such that accused-appellant is ordered to pay interest at 6% per annum on all amounts awarded from the finality of this Decision until full payment. In all other respects, the CA Decision is affirmed.

The handwritten letter dated May 25, 2014 (in the vernacular) by accused-appellant himself, for reasons stated therein, seeking assistance and thorough review of his appeal is **NOTED**.

**SO ORDERED.** LEONARDO-DE CASTRO, J., on leave;  
MENDOZA, J., acting member per S.O. No. 1738 dated July 31, 2014.

Very truly yours,

  
EDGAR O. ARICHETA  
Division Clerk of Court

46

The Solicitor General (x)  
Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR H.C. No. 03407)

The Director  
Bureau of Corrections  
1770 Muntinlupa City

The Hon. Presiding Judge  
Regional Trial Court, Br. 28  
4009 Sta. Cruz, Laguna  
(Crim. Case Nos. SC-10557-58)

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

Atty. Winston T. Hipe  
Counsel for Accused-Appellant  
7L-B, K-8, Kamias St.  
1100 Quezon City

Judgment Division (x)  
Supreme Court

Mr. Rommel M. Falcon  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

SR

