



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

REYNALDO ARBAS RECTO,
 Petitioner,

G.R. No. 236461

Present:

- versus -

CARPIO, J., Chairperson,
 PERLAS-BERNABE,
 CAGUIOA,
 A. REYES, JR., and
 CARANDANG, JJ.

THE PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

05 DEC 2018

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 HHCabalayPerlas

DECISION

CAGUIOA, J.:

Before the Court is a petition for review on *certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated June 29, 2017 and Resolution³ dated January 11, 2018 issued by the Thirteenth Division and Former Thirteenth Division, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 146120.

The Facts

An Information⁴ for Murder was filed against petitioner Reynaldo Arbas Recto (Recto) for the death of Margie Carlosita (Carlosita), the accusatory portion of which reads:

That on or about the 18th day of February, 2011 in the Municipality of Gen. Mariano Alvarez, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with a hard object, with intent to kill, qualified by treachery and evident premeditation, abuse of superior strength, did then and there, wilfully, unlawfully and feloniously attack, assault and hit one **Margie Carlosita** on the head and on the parts of her body with the use of said

¹ Rollo, pp. 11-28, excluding Annexes.

² Id. at 29-34. Penned by Associate Justice Danton Q. Bueser, with Associate Justices Apolinario D. Bruselas, Jr. and Marie Christine Azcarraga-Jacob concurring.

³ Id. at 35-36.

⁴ Id. at 39-40.

hard object, thereby inflicting upon the latter traumatic injuries on the head and on her trunk, which caused her instantaneous death, to the damage and prejudice of the heirs of said Margie Carlosita.

CONTRARY TO LAW.⁵

Thereafter, on May 23, 2011, Recto's former counsel filed a Petition for Bail⁶ with the Regional Trial Court of Bacoor City, Branch 89 (RTC). However, on April 11, 2014, the RTC issued an Order⁷ denying Recto's Petition for Bail as it gave credence to the testimony of prosecution witness Joshua Emmanuel Rabillas (Rabillas), son of Carlosita, that Recto was the one who killed his mother. The RTC, in denying the Petition for Bail, noted that "without, however, prejudging in any way the result of the case, the Court is of the impression that the evidence of guilt is strong, and it is incumbent on the part of the accused to take the witness stand to show otherwise."⁸

Trial on the merits then ensued. After the prosecution rested its case, Recto filed a Demurrer to Evidence⁹ on June 22, 2015 for insufficiency of evidence to hold him guilty of the crime of Murder. The RTC, however, denied the Demurrer to Evidence through an Order¹⁰ dated December 22, 2015. In the said Order, the RTC stated:

Considering, therefore, the testimony of Joshua pointing to the accused as the perpetrator of the crime compared with the mere allegations of the accused that the victim committed suicide, it is imperative on the part of the accused to take the witness stand, that is, if he so desires, to support his claim that he is not guilty as charged.¹¹

Subsequently, on April 27, 2016, petitioner filed a Motion to Fix Bail¹² alleging that the prosecution was able to show that the crime charged should be Homicide only and not Murder. He pointed out that Rabillas, who was five years old at the time of the incident, testified that Carlosita was hit by the bottle during a quarrel over money. Citing *People v. Rivera*,¹³ a case with substantially the same facts wherein the common-law wife was killed by the common-law husband during a heated argument, Recto argued that the case established by the prosecution was thus merely Homicide due to the absence of the qualifying circumstance of treachery.

On June 8, 2016, the RTC issued an Order¹⁴ denying the Motion to Fix Bail. The RTC reiterated that it was of the impression that the evidence

⁵ Id. at 39.

⁶ Id. at 41-44.

⁷ Id. at 45-46. Penned by Executive Judge Eduardo Israel Tanguanco.

⁸ Id. at 46.

⁹ Id. at 47-61.

¹⁰ Id. at 62-65.

¹¹ Id. at 65.

¹² Id. at 66-70.

¹³ 356 Phil. 409 (1998).

¹⁴ *Rollo*, pp. 37-38.

of guilt is strong and that it was incumbent on Recto to take the witness stand and show otherwise. As Recto had not taken the witness stand, then the RTC ruled against the Motion to Fix Bail. Recto moved for reconsideration, but the same was denied by the RTC on January 29, 2016.¹⁵

Aggrieved by the Order of the RTC denying his Motion to Fix Bail, Recto then filed a petition for *certiorari*¹⁶ under Rule 65 of the Rules of Court with the CA.

Ruling of the CA

In the assailed Decision dated June 29, 2017, the CA affirmed the denial of Recto's Motion to Fix Bail. The CA reasoned that Recto failed to show that the RTC's issuance of the Order was attended by grave abuse of discretion amounting to lack or excess of jurisdiction. Furthermore, the CA held that "the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination."¹⁷ The CA, thus, deferred to the RTC's assessment of the credibility of Rabillas' testimony, and also relied on its judgment that the evidence of guilt was strong. The CA ultimately dismissed the case.

Recto then sought reconsideration of the Decision, but the same was denied by the CA in a Resolution dated January 11, 2018.

Recto thus filed this Petition on February 26, 2018. The People, through the Office of the Solicitor General (OSG), filed its Comment¹⁸ on September 13, 2018. Recto then filed his Reply¹⁹ on October 5, 2018.

Issue

The sole issue to be resolved in this case is whether the CA erred in dismissing Recto's petition for *certiorari*.

The Court's Ruling

The Petition is meritorious.

A petition for *certiorari* under Rule 65 of the Rules of Court is the proper remedy when (1) any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction or with

¹⁵ Id. at 30.

¹⁶ Id. at 72-92.

¹⁷ Id. at 32-33, citing *People v. Abat*, 731 Phil. 304, 312 (2014).

¹⁸ Id. at 109-124.

¹⁹ Id. at 127-134.



grave abuse of discretion amounting to lack or excess of jurisdiction and (2) there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the proceeding.²⁰ Grave abuse of discretion exists when there is an arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or a whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.²¹

In this case, the denial of the Motion to Fix Bail by the RTC amounted to an evasion or refusal to perform a positive duty enjoined by law. The Order denying the Motion to Fix Bail was thus issued with grave abuse of discretion amounting to lack or excess or jurisdiction.

Section 13, Article III of the Constitution provides:

SECTION 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.

The following Constitutional provision is implemented by the following provisions of the Rules of Court:

SEC. 4. *Bail, a matter of right; exception.* — All persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognizance as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment.

x x x x

SEC. 7. *Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable.* — No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.²²

Thus, as a rule, all persons charged with a criminal offense have the right to bail. However, persons charged with an offense punishable by *reclusion perpetua* cannot avail of this right **if the evidence of guilt is strong.**

²⁰ *Ang Bian Huat Sons Industries, Inc. v. Court of Appeals*, 547 Phil. 588, 594 (2007).

²¹ *Badiola v. Court of Appeals*, 575 Phil. 514, 531 (2008).

²² RULES OF COURT, Rule 114.

In the present case, Recto was charged with Murder – an offense punishable by *reclusion perpetua*. Thus, the RTC was acting within its powers or jurisdiction when it denied Recto's initial Petition for Bail. The RTC possesses sufficient discretion to determine, based on the evidence presented before it during the bail hearing, whether the evidence of guilt is strong.

However, after the prosecution had rested its case, Recto filed a Motion to Fix Bail on the ground that bail had become a matter of right as the evidence presented by the prosecution could only convict Recto of Homicide, not Murder. This Motion to Fix Bail was denied by the RTC, reiterating its earlier finding that, in its judgment, the evidence of guilt is strong. This is where the RTC committed grave abuse of discretion, and the CA thus erred in upholding the RTC's Order denying the Motion to Fix Bail.

As correctly pointed out by Recto, the evidence of the prosecution could, at best, only convict him of Homicide and not Murder. The testimony of the main prosecution witness, Rabillas, was to the effect that his mother and Recto had an argument prior to her death. Specifically, Rabillas testified as follows:

PROSECUTOR DUMAUAL: You said a while ago that your mother had a quarrel with Recto?

WITNESS: Yes, sir.

PROSECUTOR DUMAUAL: What did Recto do when he quarreled with your mother Margie?

WITNESS: Pinalo po.

INTERPRETER: Make it of record that the witness is touching his forehead with his right hand.²³

Jurisprudence provides that treachery cannot be appreciated if the accused **did not make any preparation** to kill the deceased in such manner as to insure the commission of the killing or to make it impossible or difficult for the person attacked to retaliate or defend himself.²⁴ Mere suddenness of the attack is not sufficient to hold that treachery is present, where the mode adopted by the aggressor does not positively tend to prove that they thereby **knowingly intended** to insure the accomplishment of their criminal purpose without any risk to themselves arising from the defense that the victim might offer.²⁵ Specifically, it must clearly appear that the method of assault adopted by the aggressor was **deliberately chosen** with a view to accomplishing the act without risk to the aggressor.²⁶

²³ TSN, May 8, 2012, p. 6; *rollo*, p. 103.

²⁴ *People v. Bautista*, 325 Phil. 83, 92 (1996).

²⁵ See *People v. Delgado*, 77 Phil. 11, 15-16 (1946).

²⁶ *People v. Bacho*, 253 Phil. 451, 458 (1989).

Applying the same principles, the Court in *People v. Rivera*²⁷ concluded that treachery is not present when the killing was preceded by a heated argument:

Applying these principles to the case at bar, we hold that the prosecution has not proven that the killing was committed with treachery. Although accused-appellant shot the victim from behind, the fact was that this was done during a heated argument. Accused-appellant, filled with anger and rage, apparently had no time to reflect on his actions. It was not shown that he consciously adopted the mode of attacking the victim from behind to facilitate the killing without risk to himself. Accordingly, we hold that accused-appellant is guilty of homicide only.²⁸

The other qualifying circumstances alleged in the Information filed against Recto – evident premeditation and abuse of superior strength – are likewise negated by the foregoing fact. For the circumstance of evident premeditation to be properly appreciated, it must first be shown that there was a **sufficient lapse of time** between the decision to commit the crime and the execution thereof to allow the accused to reflect upon the consequences of his act.²⁹ Similarly, for abuse of superior strength to be properly appreciated, there must be evidence showing that the assailants “**consciously sought the advantage**”³⁰ or that “there was **deliberate intent** on the part of the malefactor to take advantage thereof.”³¹

Based on the foregoing, there is thus merit in Recto’s claim that the evidence presented by the prosecution could, at most, convict him only of Homicide and not Murder. The RTC thus gravely abused its discretion when it denied Recto’s Motion to Fix Bail.

In the case of *Bernardez v. Valera*,³² the Court emphasized that the “evidence of guilt is strong” standard **should be applied in relation to the crime as charged**. Thus:

While the charge against petitioner is undeniably a capital offense, it seems likewise obvious that the evidence submitted by the prosecution to the respondent judge for the purpose of showing that the evidence of petitioner’s guilt is strong, is not sufficient to establish that the offense committed by petitioner, if any, was that of murder. On the basis of the sworn statement of Benedito himself petitioner could only be held liable for homicide. **It must be observed in this connection that a person charged with a criminal offense will not be entitled to bail even before conviction only if the charge against him is a capital offense and the evidence of his guilt of said offense is strong.** In the present case, as already stated, the evidence submitted by the prosecution in support of its opposition to the motion for bail could prove, at most, homicide and not

²⁷ Supra note 13.

²⁸ Id. at 426.

²⁹ *People v. Abadies*, 436 Phil. 98, 105-106 (2002).

³⁰ *Valenzuela v. People*, 612 Phil. 907, 917 (2009).

³¹ *People v. Escoto*, 313 Phil. 785, 799 (1995).

³² 114 Phil. 851 (1962).



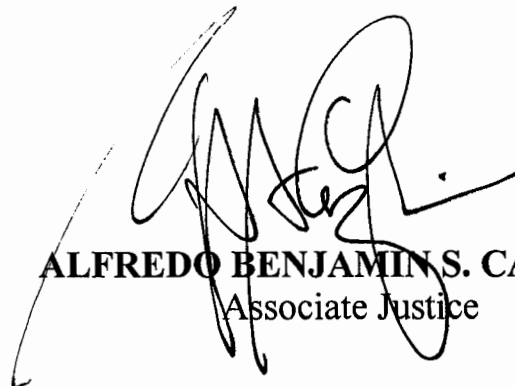
murder, because it does not sufficiently prove either known premeditation or alevosia.³³ (Emphasis supplied)

In *People v. Plaza*,³⁴ the accused also filed a demurrer to evidence after the prosecution had rested its case. After a finding that the qualifying circumstance of treachery could not be appreciated in the case, the accused also filed a motion to fix bail. The RTC granted the motion, and its validity was upheld by the CA. Upon appeal to the Court, it likewise upheld the grant of bail, ratiocinating that the grant of bail to an accused charged with a capital offense depends on whether the evidence of guilt is strong.

Applying the foregoing principles to the case at bar, the RTC should have determined whether the evidence of guilt is strong **for Murder**, as opposed to simply determining if the evidence that he was responsible for Carlosita's death was strong. As previously illustrated above, the evidence of Recto's guilt — for Murder — was not strong. In sum, the RTC should have granted Recto's Motion to Fix Bail.

WHEREFORE, premises considered, the Petition for Review on *Certiorari* is hereby **GRANTED**. The Decision dated June 29, 2017 and Resolution dated January 11, 2018 issued by the Thirteenth Division and Former Thirteenth Division, respectively, of the Court of Appeals in CA-G.R. SP No. 146120 are **REVERSED** and **SET ASIDE**. Accordingly, the Regional Trial Court of Bacoor City, Branch 89 is **ORDERED** to fix the bail of Reynaldo Arbas Recto in relation to Criminal Case No. B-2011-226.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


³³ Id. at 855-856.

³⁴ 617 Phil. 669 (2009).

WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



ANDRES B. REYES, JR.
Associate Justice



ROSMARI D. CARANDANG
Associate Justice

ATTESTATION

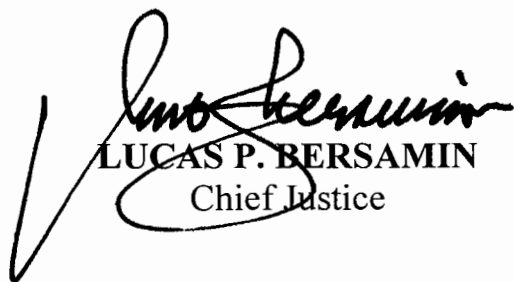
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

