



Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 207397\*

Present:

- versus -

LEONARDO-DE CASTRO, C.J.,  
 BERSAMIN,  
 DEL CASTILLO,  
 REYES, A. JR.,\*\* *and*  
 GISMUNDO,\*\* JJ.

CARPIO MARZAN y LUTAN,  
*Accused-Appellant*

Promulgated:

SEP 24 2018

X-----X

DECISION

DEL CASTILLO, J.:

On appeal is the March 5, 2012 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04451 affirming with modification the April 8, 2010 consolidated Decision<sup>2</sup> of the Regional Trial Court (RTC) of Camiling, Tarlac, Branch 68 convicting herein accused-appellant Carpio Marzan y Lutan (accused-appellant) of the crime of murder in Criminal Case No. 04-36 and frustrated homicide in Criminal Case No. 04-37.

At the outset, it must be stated that accused-appellant does not deny that he stabbed his brothers Apolonio<sup>3</sup> Marzan (Apolonio) and Bernardo Marzan (Bernardo) with a bolo on May 22, 2003 at Camiling, Province of Tarlac. Nonetheless, accused-appellant interposes the defense of insanity.

\* Re-raffled on August 9, 2017.

\*\* Designated additional members per September 25, 2017 raffle.

<sup>1</sup> CA *rollo*, pp. 93-104; penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Noel G. Tijam (now a Member of this Court) and Romeo F. Barza.

<sup>2</sup> Id. at 13-18; penned by Presiding Judge Jose S. Vallo.

<sup>3</sup> Apolinario in some parts of the records.

***Factual Antecedents***

Accused-appellant was charged in two separate Informations for murder and frustrated murder the accusatory portions of which read:

***Criminal Case No. 04-36***

That on or about [the] 22<sup>nd</sup> day of May, 2003 at around 1:30 o'clock in the afternoon at Bonifacio St., Poblacion 1, Municipality of Camiling, Province of Tarlac, and within the jurisdiction of this Honorable Court, the said accused with treachery and evident [premeditation,] did then and there willfully, unlawfully and feloniously with the use of a bladed weapon, stab to death of [sic] Apolonio Marzan.

Contrary to law.<sup>4</sup>

***Criminal Case No. 04-37***

That on or about [the] 22<sup>nd</sup> day of May, 2003 at around 1:30 o'clock in the afternoon [in] Municipality of Camiling, Province of Tarlac, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously stab several times Bernardo Marzan with a bladed weapon hitting him on the vital parts of his body, with the accused having performed all the acts of execution which would [produce] the crime of Murder but did not produce it by reason independent of his will.

Contrary to law.<sup>5</sup>

When arraigned, accused-appellant entered a plea of not guilty.

***Version of the Prosecution***

To prove accused-appellant's guilt, the prosecution presented Bernardo, Erlinda Cabiltes (Erlinda), Lolita Rombaoa (Lolita), and Dr. Valentin Theodore Lumibao (Dr. Lumibao). Their testimonies can be summarized as follows:

On May 22, 2003, at around 1:30 p.m., Erlinda saw accused-appellant enter the house of her bedridden father, Apolonio, while uttering "*agda kalaban ko*" (I have an enemy). Not long after, Erlinda heard her father screaming "*apay Aping?*" (why Aping?) and "*uston Aping!*" (enough Aping). Thereafter, Erlinda saw accused-appellant emerge from her father's house

<sup>4</sup> Records, p. 1.

<sup>5</sup> Id. at 16.

wearing a blood-stained shirt and holding a bladed instrument dripping with blood. Erlinda ran to the *barangay* captain's house to ask for help.

Lolita also saw accused-appellant come out from Apolonio's house holding a blood-stained weapon. Out of fear, however, Lolita hid herself in the comfort room.

Bernardo tried to placate accused-appellant but the latter furiously said, "you are also one of them" and stabbed Bernardo in the stomach.

Dr. Lumibao conducted an autopsy of Apolonio's body. In an Autopsy Report,<sup>6</sup> Dr. Lumibao declared that the cause of death was hypovolemic shock secondary to massive internal bleeding due to multiple penetrating stab wounds.

### ***Version of the Accused-Appellant***

The defense claimed that accused-appellant was insane at the time of the incident. To prove accused-appellant's insanity, the defense presented his wife Isabel Marzan (Isabel). Isabel testified that her husband had behavioral problems and suffering from a mental condition. She said that her husband would often appear to be nervous and *tulala*. As regards the stabbing incident, Isabel recounted that, on that fateful day, she saw her husband going back and forth mumbling something. She, together with her mother-in-law and brother-in-law Eduardo Marzan, tried to calm accused-appellant but the latter suddenly ran towards Apolonio's house while holding a bolo and uttering the words, "*kesa ako ang maunahan nila, unahan ko na sila*". According to Isabel, accused-appellant, after stabbing his brothers Apolonio and Bernardo, just sat down and remained *tulala* until the police arrived and handcuffed him.

### ***Ruling of the Regional Trial Court***

The RTC found accused-appellant guilty beyond reasonable doubt of the crime of murder with respect to the killing of Apolonio. However, as to the stabbing of Bernardo, the RTC held that accused-appellant was guilty of frustrated homicide as the attack, albeit without warning, was not deliberate. The dispositive portion of the RTC Decision reads:



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<sup>6</sup> Id. at 13.

WHEREFORE, premises considered, [accused-appellant] is found guilty beyond reasonable doubt of the offense of Murder (Criminal Case No. 04-36) and hereby sentences him to a penalty of Reclusion Perpetua, there being no attendant mitigating nor aggravating circumstances.

In Criminal Case No. 04-37 for Frustrated Murder however, [accused-appellant] is only found guilty beyond reasonable doubt of the lesser offense of Frustrated Homicide and hereby sentences him to an indeterminate prison term of five [5] years of prison correccional as minimum to eight (8) years and one (1) day of prison mayor as maximum, there being no attendant mitigating nor aggravating circumstances.

[Accused-appellant] is likewise ordered to pay the heirs of Apolonio Marzan the amount of ₱75,000.00 as moral damages, the amount of ₱75,000.00 as civil indemnity, the amount of ₱25,000.00 as exemplary damages and the amount of ₱50,000.00 as temperate damages.

As regards the private complainant [Bernardo], the [accused-appellant] is ordered to pay him the amount of ₱20,000.00 as temperate damages and the amount of ₱10,000.00 as moral damages.

SO ORDERED.<sup>7</sup>

### ***Ruling of the Court of Appeals***

The CA sustained the RTC in finding accused-appellant guilty beyond reasonable doubt of the crimes of murder and frustrated homicide. Nevertheless, the CA held that the RTC failed to consider the mitigating circumstance of voluntary surrender. Thus, in the herein assailed Decision,<sup>8</sup> the CA modified the RTC Decision, *viz.*:

WHEREFORE, premises considered, the assailed Decision dated April 8, 2010 of the Regional Trial Court (RTC) of Camiling, Tarlac, Branch 68 in Criminal Case No. 04-36 is **AFFIRMED** and Criminal Case No. 04-37 is **AFFIRMED with MODIFICATION** as to the penalty imposed in that accused-appellant is hereby sentenced to suffer the indeterminate penalty of [four] 4 years, [two] 2 months and [one] 1 day of *Prision Correccional* as minimum to eight (8) years of *Prision Mayor* as maximum. The rest of the appealed judgment **STANDS**.

SO ORDERED.<sup>9</sup>

Hence, this appeal.



<sup>7</sup> CA *rollo*, pp. 17-18.

<sup>8</sup> Id. at 93-104.

<sup>9</sup> Id. at 103. (Emphasis in the original)

The Court required<sup>10</sup> both parties to file their respective supplementary briefs, but they merely opted to adopt their briefs before the CA.

### Issues

In his Brief,<sup>11</sup> accused-appellant assigns the following errors:

#### I

THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S PLEA OF INSANITY.

#### II

THE COURT A QUO GRAVELY ERRED IN TAKING INTO ACCOUNT THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

#### III.

THE COURT A QUO GRAVELY ERRED IN FAILING TO APPRECIATE THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER.<sup>12</sup>

### Ruling

The appeal is unmeritorious.

The Court upholds the ruling of the RTC, which was affirmed by the CA, that accused-appellant was not completely deprived of intelligence immediately prior to or at the time of the commission of the crime and that treachery was present. It is settled that factual findings of the trial court, especially when affirmed by the appellate court, are entitled to great respect and generally should not be disturbed on appeal unless certain substantial facts were overlooked which, if considered, may affect the outcome of the case. After a careful review of the records, the Court finds no cogent reason to overturn the findings of fact made by both the RTC and the CA that led to their uniform conclusion that accused-appellant was guilty of murder and frustrated homicide.

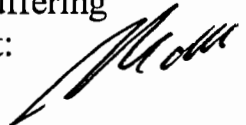
In rejecting the accused-appellant's argument that he should be declared criminally exempt from the murder charge, considering that he was suffering from psychosis when he stabbed his brothers, the RTC correctly held that:

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<sup>10</sup> See Resolution dated August 5, 2013, *rollo*, pp. 19-20.

<sup>11</sup> CA *rollo*, pp. 32-53.

<sup>12</sup> Id. at 34.



Even assuming that the testimony of the wife of the accused is true, [accused-appellant]'s abnormal behavior immediately prior [to] the stabbing incident and at the time of the incident, while suggestive of an aberrant behavior[,] can not be equated with a total deprivation of will or an absence of the power to discern. On the contrary, accused was even sane enough to help his mother stand up after falling on the ground and seated her in front of a house and surrender himself and his bolo to the responding policemen. x x x<sup>13</sup>

The testimony of the defense's lone witness, Isabel, taken during the hearing before the RTC on September 3, 2009 is enlightening:

ATTY. ABELLERA [defense counsel]

x x x x

Q And for how long did your husband stay inside the house of your brother-in-law at that time?

A Only for a while, sir, and then he came out

Q When he came out, what did your husband do at that time?

A He came out as if nothing happened, sir, and when one of my brothers-in-law approached to help, he stabbed him.

Q And who is that second brother-in-law who was stabbed by your husband?

A [Bernardo], sir.

Q And after hitting [Bernardo], what happened next?

A [Bernardo] ran away and my mother-in-law ran to the house of Apolonio and when she embraced my husband, she fell down on the ground, sir.

Q When your mother-in-law fell down on the ground, what happened to [accused-appellant]

A He helped his mother get up and let her sit in front of the house, sir.<sup>14</sup>

Moreover, Isabel herself testified that her husband had worked as a tricycle driver and possessed the necessary license therefor, viz.:

PROS. GUARDIANO [prosecution upon cross examination]

x x x x

Q And as you said, x x x your husband [worked as] a tricycle driver

A Yes, sir.



<sup>13</sup> Id. at 16.

<sup>14</sup> TSN dated September 3, 2009, p. 12.

Q So he possessed a license, am I correct?

A Yes, sir.

Q And am I correct that he was never involved in any accident?

A Yes, sir.

Q And he was never involved with any quarrel with anybody?

A Yes, sir.<sup>15</sup>

x x x x

Like the RTC, the CA found the defense of insanity as unavailing in this case, viz.:

In questioning the propriety of the [RTC Decision], accused-appellant relied heavily on the findings of Dr. Roxas of the NCMH that he was suffering from psychosis classified as schizophrenia. x x x

We are not convinced. It is settled that the moral and legal presumption is always in favor of soundness of mind; that freedom and intelligence constitute the normal condition of a person. Otherwise stated, the law presumes all acts to be voluntary, and that it is improper to presume that acts were done unconsciously. Therefore, whoever invokes insanity as a defense has the burden of proving its existence. In short, to be entitled to this exempting circumstance under Article 12 of the Revised Penal Code, the defense must prove that the accused was deprived of intelligence immediately prior [to] or at the time of the commission of the crime.

A careful scrutiny of the applicable law and jurisprudential rule on the matter reveals that for insanity to be appreciated in favor of the accused, there must be complete deprivation of intelligence in committing the act, that is, the accused is deprived of reason or there is a complete absence of the power to discern or a total deprivation of the will. Mere abnormality of the mental faculties will not exclude imputability. x x x

x x x x

Clearly, schizophrenia does not fall within the stringent standard contemplated by law as an exempting circumstance. In fact, even accused-appellant's psychological report supports this conclusion. The salient portion of which provides:

ASSESSMENT AND REMARKS:

Based on the history, mental status examinations, observations and psychological test, the patient was found to be suffering from psychosis classified as Schizophrenia. This mental disorder is characterized by the presence of delusions, hallucinations, disorganized/irrelevant speech, disorganized/



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<sup>15</sup> Id. at 16-17.

bizarre behavior and disturbance in [e]ffect. Likewise, the patient's impulse control, frustration tolerance and judgment are affected. In addition, there is a significant impairment in functioning in areas of work, social relations and self-care. This psychiatric disorder runs a chronic course marked by periods of remissions and exacerbations.

The foregoing findings evidently show that accused-appellant's alleged sickness is merely temporary and occurs only intermittently. x x x<sup>16</sup>

As regards the presence of treachery, the RTC pronounced that, at the time of the attack, the now deceased Apolonio was lying in bed, recuperating from illness, unprepared and hapless. Unquestionably, Apolonio had no opportunity nor the strength to resist the attack coming from accused-appellant and defend himself.

Jurisprudence tells us that the assessment 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 first hand and note their demeanor, conduct and attitude while under examination. Such rule is binding and conclusive upon this Court especially when affirmed by the appellate court, as in this case.

According to Article 14, paragraph 16 of the Revised Penal Code (RPC), “[t]here is treachery when the offender commits any of the crimes against person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.” Thus, two conditions must necessarily occur before treachery or *alevosia* may be properly appreciated, namely: “(1) the employment of means, methods, or manner of execution that would insure the offender's safety from any retaliatory act on the part of the offended party, who has, thus, no opportunity for self-defense or retaliation; [and] (2) deliberate or conscious choice of means, methods, or manner of execution.”<sup>17</sup> The essence therefore of treachery is the suddenness and unexpectedness of the attack on an unsuspecting victim thereby depriving the latter of any chance to defend himself and thereby ensuring its commission without risk to the aggressor.

Here, as correctly found by the RTC and the CA, both requisites were present. The sudden attack on the victim who was then at home, bedridden, recuperating from sickness, completely unaware of any danger and unable to defend himself constituted treachery because the accused-appellant was thereby

<sup>16</sup> CA rollo, pp. 97-100.

<sup>17</sup> *People v. Guzman*, 542 Phil. 152, 170 (2007).



ensured that the victim would not be in any position to ward off or evade his blows, or strike back at him. Evidently, the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate. There is thus no doubt that treachery attended the killing. Hence, the Court is in accord with the RTC and the CA in giving credence to the testimony of the prosecution witnesses and finding that the prosecution has aptly discharged its burden of proving, with moral certainty, the guilt of accused-appellant for the crime of murder.

Nevertheless, contrary to the ruling of the CA, voluntary surrender should not be appreciated. In the case at bar, there was no showing that accused-appellant unconditionally and voluntarily surrendered himself to the authorities either because he acknowledged his guilt or because he wished to save them the trouble and expense in looking for and capturing him. Accused-appellant was just nonchalantly sitting at the curb when the police force responded and handcuffed him. In any case, as the Court ruled in *People v. Lota*,<sup>18</sup> “the consideration of any mitigating circumstance in [accused-appellant’s] favor would be superfluous because, although the impossible penalty under Article 248 of the *Revised Penal Code* is *reclusion perpetua* to death, the prohibition to impose the death penalty pursuant to Republic Act No. 9346 rendered *reclusion perpetua* as the only penalty for murder, which penalty, being indivisible, could not be graduated in consideration of any modifying circumstances.” In fine, there being no modifying circumstance, the proper penalty for the crime of murder is *reclusion perpetua*.

As regards the monetary awards, the RTC and the CA properly awarded ₱75,000.00 as moral damages, ₱75,000.00 as civil indemnity and ₱50,000.00 as temperate damages. The amount awarded as exemplary damages must, however, be increased from ₱25,000.00 to ₱75,000.00.<sup>19</sup>

Both the RTC and the CA also properly found accused-appellant guilty of the crime of frustrated homicide for the stabbing of Bernardo. The following elements of frustrated homicide were proved during trial: (1) the accused intended to kill Bernardo as manifested by his use of a deadly weapon in his assault; (2) the victim sustained fatal or mortal wound/s but did not die because of timely medical assistance; and (3) none of the qualifying circumstances for murder under Article 248 of the RPC exist. Records show that Bernardo was only trying to placate accused-appellant but was immediately stabbed. Bernardo sustained a stab wound in his stomach caused by a sharp pointed object. Accused-appellant even uttered the words “you are also one of them” before stabbing Bernardo. The nature, circumstances and location of the wound

<sup>18</sup> G.R. No. 219580, January 24, 2018.

<sup>19</sup> *People v. Jugueta*, 783 Phil. 806 (2016).

sustained by Bernardo demonstrated accused-appellant's intent to kill. He would have succumbed to death due to the said injury if he were not brought to the hospital immediately thereafter.

Under Article 249 of the RPC, the penalty for homicide is *reclusion temporal*. For frustrated homicide, the imposable penalty is one degree lower than that imposed in homicide<sup>20</sup> or *prision mayor*. There being no modifying circumstance, the maximum imposable penalty is within the range of *prision mayor* in its medium period or eight (8) years and one (1) day to ten (10) years. Applying the Indeterminate Sentence Law, the minimum term of the penalty is *prision correccional* in any of its periods. Thus, as modified, accused-appellant is hereby sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

As regards the award of damages, the same must likewise be modified. Pursuant to prevailing jurisprudence,<sup>21</sup> Bernardo is entitled to moral damages and civil indemnity in the amount of ₱30,000.00 each. However, the award of temperate damages in the amount of ₱20,000.00 is deleted.

Finally, all monetary awards shall earn interest at the rate of 6% *per annum* from date of finality of this Decision until full payment.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04451 finding accused-appellant Carpio Marzan y Lutan **GUILTY** beyond reasonable doubt of murder in Criminal Case No. 04-36 and frustrated homicide in Criminal Case No. 04-37 is hereby **AFFIRMED with MODIFICATIONS** that, in Criminal Case No. 04-36, the amount of exemplary damages is increased to ₱75,000.00, while in Criminal Case No. 04-37, accused-appellant is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum and to pay civil indemnity and moral damages each in the amount of ₱30,000.00. The award of temperate damages is deleted. Finally, all damages awarded shall earn interest at the rate of six (6%) percent *per annum* from date of finality of this Decision until full payment.



<sup>20</sup> REVISED PENAL CODE, Article 250 – *Penalty for frustrated parricide, murder or homicide*. – The courts, in view of the facts of the case, may impose upon the person guilty of the frustrated crime of parricide, murder or homicide, defined and penalized in the preceding articles, a penalty lower by one degree than that which should be imposed under the provisions of article 50.

The courts, considering the facts of the case, may likewise reduce by one degree the penalty which under article 51 should be imposed for an attempt to commit any of such crimes.

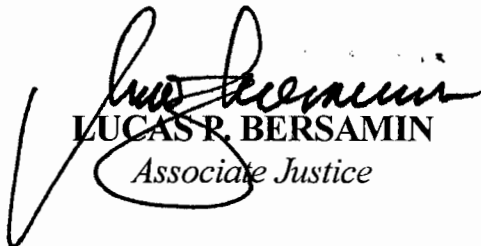
<sup>21</sup> *People v. Jugueta*, supra note 19.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Chief Justice*

  
**LUCAS R. BERSAMIN**  
*Associate Justice*

(On leave)  
**ANDRES B. REYES, JR.**  
*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.

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Chief Justice*