



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. 231122

Present:

- versus -

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

ALEX CASEMIRO and
JOSE CATALAN, JR.,
Accused-Appellants.

Promulgated:
JAN 16 2019

[Signature]

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DECISION

DEL CASTILLO, J.:

This is an appeal¹ from the October 28, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02085 which affirmed with modification the May 26, 2015 Decision³ of the Regional Trial Court (RTC) of Gandara, Samar, Branch 41 in Criminal Case No. 10-0474.

The Facts

Accused-appellants Alex Casemiro (accused-appellant Casemiro) and Jose Catalan, Jr. (accused-appellant Catalan) were charged with murder in an Information⁴ which reads:

That on or about the 16th day of April, 2010, at about 9:00 x x x in the evening in Barangay Catorse⁵ de Agosto, Municipality of Gandara, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping and aiding one another, without justifiable reason and with deliberate intent to kill and with treachery, which qualify

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¹ *Rollo*, pp. 22-23.

² *Id.* at 4-21; penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Germano Francisco D. Legaspi.

³ *Records*, pp. 242-254; penned by Presiding Judge Feliciano P. Aguilar.

⁴ *Id.* at 13.

⁵ Also spelled to as Catorce in some parts of the records.

the offense into Murder, did then and there willfully, unlawfully and feloniously attack, assault and took turn in stabbing one JEFFREY HERMO with the use of deadly weapons, which the accused had conveniently provided themselves for the purpose, thereby inflicting upon the victim serious and fatal stabbing wounds on the different parts of the victim's body which were the direct and immediate cause of his death.

Contrary to law.⁶

When arraigned, accused-appellants pleaded not guilty.⁷ After the conduct of pretrial, trial ensued.⁸

Version of the Prosecution

The evidence for the prosecution consisted of the testimonies of the victim's common-law wife, Mary Ann⁹ Hermo (Mary Ann), and of the investigating officer, Police Officer 1 Christopher M. Prudenciado (PO1 Prudenciado).

Mary Ann claimed that, on April 16, 2010, at 9:00 p.m., accused-appellants went to their house in *Barangay Catorse de Agosto* and invited her husband to butcher a duck; that accused-appellant Casemiro was already drunk when he invited the victim; that 20 minutes later, she decided to look for her husband and asked her 14-year-old brother, Christopher Belino, to accompany her; that when they were in the nearby *Barangay* of Ngoso, she witnessed at a distance of 15 meters accused-appellant Casemiro stab her husband five times on the chest using a four-inch knife and accused-appellant Catalan held her husband's arms; that her husband fell down; that accused-appellant Catalan stabbed her husband eight times at the back using an ice pick; that the place was illuminated by a big bulb atop a Samar Electric Cooperative post located eight meters from where the stabbing took place; that she shouted for help to no avail because it was already nighttime and there were no houses nearby; that her brother also witnessed the incident but only cried because he was afraid; that she reported the incident to the police of Gandara, Samar; and that she could not recall any quarrel or misunderstanding between her husband and accused-appellant Casemiro.¹⁰

PO1 Prudenciado, on the other hand, stated that items were found at the scene of the crime including a pair of black slippers identified as the victim's as well as an ice pick and a pair of white slippers both identified as

⁶ Id.

⁷ Id. at 71 (Order dated April 5, 2011) and 74 (Certificate of Arraignment).

⁸ Id. at 84-88 (Pretrial Order dated April 18, 2011).

⁹ Also referred to as Merean in some parts of the records.

¹⁰ TSN, July 21, 2011, pp. 1-32.

accused-appellant Casemiro's; that the body of the victim was immediately brought to Gandara District Hospital for an autopsy; that accused-appellant Catalan was arrested; and that accused-appellant Casemiro voluntarily went to the police station.¹¹

The Certificate of Death¹² and Autopsy Report¹³ executed by Dr. Reynaldo D. Roldan of Gandara District Hospital were also offered in evidence to prove that the victim died of hemorrhagic shock secondary to massive blood loss due to stab wounds at the back and on the chest totaling 13. The testimony of Dr. Roldan was, however, dispensed with after the genuineness and due execution of the documents were admitted by the defense.¹⁴

Version of the Defense

Accused-appellants denied the allegations and interposed the defense of alibi.

Accused-appellant Catalan testified that he and Mary Ann were cousins; that he was a permanent resident of Catbalogan City and was merely on an extended vacation in Gandara after the 40-day *novena* of his deceased father in February; that he met the victim – his cousin's husband – only once and had no conflict with him; that he knew where the victim lived which was a mere five-minute walk from his aunt's house; that he was at his aunt's house that night watching a cartoon show until 2:00 a.m.; that Mary Ann told him about the death of her husband; that police officers fetched him and brought him to the station; that he told the police officers he did not know anything about the stabbing incident; that he was allowed to go home; that later on, he was arrested and jailed; and that he was not in the habit of drinking.¹⁵

Meanwhile, accused-appellant Casemiro stated that he was with his mother and father at their house in *Barangay* Catorse de Agosto; that he slept at 9:00 p.m. and woke up at 8:00 a.m.; that he used to see the victim because their houses were near each other; that when he found out that he was being suspected as the assailant of the victim, he went to the police station to clear his name and to state that he had done nothing wrong; that when he was at the police station, Mary Ann did not recognize him; that Mary Ann identified him as Alex Casemiro only the following day when she

¹¹ TSN, June, 22, 2011, pp. 1-17.

¹² Records, p. 118.

¹³ Id. at 24-25.

¹⁴ TSN, July 21, 2011, p. 31.

¹⁵ TSN, February 19, 2013, pp. 1-24.

must have learned of his name from the people accusing him of having killed the victim; that he did not have any altercation with the victim or Mary Ann; that he could not think of any reason for Mary Ann to accuse him; and that he was not acquainted with accused-appellant Catalan and only met him in jail.¹⁶


Accused-appellant Catalan's cousin, Irene Mañozo Dalicano, also took the witness stand and stated that accused-appellant Catalan indeed went out briefly that night but came back immediately; that accused-appellant Catalan did not smell of alcohol or have a drinking spree with accused-appellant Casemiro; that accused-appellant Catalan watched television with other relatives from 7:00 p.m. until midnight; that at 5:00 a.m., Mary Ann went to their house and stated that accused-appellants killed her husband; and, that Mary Ann came back with police officers to arrest accused-appellant Catalan.¹⁷

Ruling of the Regional Trial Court

In its Decision dated May 26, 2015, the RTC of Gandara, Samar, Branch 41, found accused-appellants guilty of the charge.¹⁸ The trial court ruled that accused-appellants' defense of alibi could not be given credence because the houses of accused-appellants and the victim were just near one another.¹⁹ The trial court convicted accused-appellants with murder after finding that treachery and abuse of superior strength attended the commission of the crime.²⁰ The victim was unarmed and without any means to defend himself while accused-appellants held an ice pick and a knife.²¹ The victim was likewise held by the arms while he was stabbed multiple times.²²

The dispositive portion of the Decision reads:

WHEREFORE, in view of all the foregoing considerations, the Court finds both above-named accused, Alex Casemiro and Jose Catalan, Jr., Guilty beyond reasonable doubt of the crime of Murder, qualified by treachery and abuse of superior strength, and sentences each accused Alex Casemiro and Jose Catalan, Jr., a penalty of Reclusion Perpetua and to pay the actual damages to the heirs of victim Jeffrey Hermo in the amount of FIFTY THOUSAND PESOS (Php50,000.00) and moral damages in the amount of TWENTY THOUSAND PESOS (Php20,000.00).



¹⁶ TSN, April 24, 2013, pp. 1-14.

¹⁷ TSN, July 3, 2014, pp. 1-15.

¹⁸ Records, p. 253.

¹⁹ Id. at 252.

²⁰ Id. at 252-253.

²¹ Id. at 253.

²² Id.

The period of their provisional detention is deducted in full of the aforesaid penalty of Reclusion Perpetua if they abide with the rules and regulations of a convicted prisoner, otherwise only 4/5 shall be credited.

SO ORDERED.²³

Accused-appellants filed their appeal²⁴ assailing their conviction. They stated that the prosecution failed to prove their guilt beyond reasonable doubt.²⁵ They specifically assailed the testimony of Mary Ann which they claimed to be “unreliable, uncorroborated, and incredible.”²⁶ They argued that when Mary Ann confronted accused-appellant Catalan, she was clueless as to who had killed her husband and when Mary Ann saw accused-appellant Casemiro, she initially did not recognize him and was able to pinpoint him as the culprit only the following day.²⁷ They also claimed that Mary Ann did not really witness the killing of her husband.²⁸ They stated that it was impossible for her to witness the killing due to the condition of visibility at the time of the incident.²⁹ They also questioned Mary Ann’s reaction after the incident – she left her husband without even checking if he was still alive.³⁰ They also imputed error on the trial court in having qualified the crime as murder.³¹

The People of the Philippines, through the Office of the Solicitor General, on the other hand, posited that Mary Ann’s positive identification of accused-appellants as the perpetrators, without any showing of ill motive to falsely testify against them, should prevail over accused-appellants’ defense of denial and alibi.³² Furthermore, accused-appellants were correctly pronounced guilty beyond reasonable doubt of the crime of murder because of the presence of treachery – they lured the victim to go with them to supposedly butcher a duck but ended up killing him in another *barangay* at an ungodly hour.³³

The People also asked that the award of moral damages be increased to ₱75,000.00; in addition, the amounts of ₱75,000.00 as civil indemnity and ₱30,000.00 as exemplary damages be awarded; and interest at the legal rate of 6% *per annum* be imposed on all monetary awards from the date of finality of the resolution until fully paid.³⁴

²³ Id. at 253-254.

²⁴ Id. at 256.

²⁵ CA *rollo*, pp. 38-39.

²⁶ Id. at 39.

²⁷ Id.

²⁸ Id. at 39-40.

²⁹ Id.

³⁰ Id.

³¹ Id. at 43.

³² Id. at 77.

³³ Id. at 79.

³⁴ Id. at 81-82.

Ruling of the Court of Appeals

The appellate court affirmed the conviction of accused-appellants. It held that all the elements of the crime were proven by the prosecution.³⁵ It also held that treachery attended the commission of the crime.³⁶ It held that accused-appellants chose a strategic location, pretended that they would only be butchering a duck, and employed sudden attacks on the victim who was caught unaware of the impending danger to his life that fateful night.³⁷ However, it ruled that even if abuse of superior strength was proven, such could not be appreciated as a generic aggravating circumstance because it would only be absorbed by treachery.³⁸ The appellate court thus upheld the assailed ruling of the trial court subject only to minor modifications in the penalty as follows:

WHEREFORE, the Judgment of the Regional Trial Court, Branch 41, Gandara, Samar dated May 26, 2015 finding accused-appellants Alex Casemiro and Jose Catalan Jr., guilty of Murder is AFFIRMED with MODIFICATION on the civil aspect. Accused-appellants are jointly and severally liable to pay the heirs of the victim, civil indemnity in the amount of ₱75,000.00, moral damages in the amount of ₱75,000.00, exemplary damages in the amount of ₱75,000.00, and temperate damages in the amount of ₱50,000.00. The award of actual damages is DELETED. Interest at 6% shall be imposed on the damages awarded to be reckoned from the time of finality of the Decision until fully paid.

SO ORDERED.³⁹

Hence, the present appeal.⁴⁰

After being required to file supplemental briefs if they so desired,⁴¹ the parties instead submitted Manifestations⁴² in which they stated that they were adopting their Briefs⁴³ submitted earlier before the appellate court and were dispensing with the filing of Supplemental Briefs.⁴⁴

Our Ruling

There is no merit in the appeal.



³⁵ *Rollo*, p. 13.

³⁶ *Id.* at 15.

³⁷ *Id.*

³⁸ *Id.* at 16.

³⁹ *Id.* at 20.

⁴⁰ *Id.* at 22.

⁴¹ *Id.* at 27-28 (July 5, 2017 Resolution).

⁴² *Id.* at 29-31 (Plaintiff-Appellee) and 40-41 (Accused-Appellants).

⁴³ *CA rollo*, pp. 32-47 (Brief for the Accused-Appellants) and 68-83 (Brief for the Appellee).

⁴⁴ *Rollo*, pp. 29 and 40.

To successfully prosecute the crime of murder under Article 248⁴⁵ of the Revised Penal Code (RPC), the following elements must be established: “(1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) that the killing is not parricide or infanticide.”⁴⁶

In this case, the prosecution was able to clearly establish that the victim was stabbed to death and accused-appellants were the perpetrators.

The witness for the prosecution, Mary Ann, categorically identified accused-appellants. Contrary to the protestations of accused-appellants that her testimony was “unreliable, uncorroborated, and incredible,” the records disclose that it was clear and unwavering. In her direct examination, she stated as follows:

Q: And while you were looking for your husband what have you observed?

A: Jeffrey was stabbed by Alex Casemiro.

Q: How about the other accused Jose Catalan, Jr. what did he do with your husband?

A: He held Jeffrey.⁴⁷

x x x x

Q: So, what part of the body of your husband was being held by Jose Catalan, Jr. while he was being stabbed by Alex Casemiro?

A: He was holding both arms of my husband.

Q: Where did Jose Catalan, Jr. position himself in relation to your husband Jeffrey Hermo while holding the arms of your husband?

A: He was at the back of my husband.

Q: And how about this Alex Casemiro where was [his position] while he was stabbing your husband?

A: He was facing my husband.

Q: Was your husband hit by the stabbing blow by Alex Casemiro?

A: Yes, sir. 

⁴⁵ Article 248. *Murder*. — Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With **treachery**, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity[.] (Emphasis supplied)

⁴⁶ *People v. Gaborne*, 791 Phil. 581, 592 (2016), citing *People v. Dela Cruz*, 626 Phil. 631, 639 (2010).

⁴⁷ TSN, July 21, 2011, p. 45.

- Q: Can you still recall what part of the body was hit?
A: He was hit on his chest.
- Q: How many stabbing blows did your husband receive, if you know?
A: 5 stabbing blows.
- Q: Are you sure of that?
A: Yes, sir.
- Q: Now, what weapon was used by Alex Casemiro in stabbing your husband?
A: A knife locally known as “kutsilyo”.
- Q: Aside from holding your husband what did Jose Catalan, Jr. do, if you know?
A: He stabbed my husband on his back.
- Q: Do you know what weapon was used by Jose Catalan, Jr. in stabbing your husband at his back?
A: Ice pick.⁴⁸

When she was subjected to cross-examination, she was resolute and unwavering as follows:

- Q: Who stabbed first your husband, was it Alex Casemiro or Jose Catalan, Jr.?
A: Alex stabbed first my husband.
- Q: What happened to your husband after he was stabbed by Alex?
A: He fell down.
- Q: But you said that while Alex was stabbing your husband, Jose was behind your husband who was at that time also stabbing your husband at his back, did [I] get you right?
A: Yes, Ma’am. Alex stabbed first.
- Q: And after Alex stabbed your husband he fell on the ground?
A: My husband fell down after Alex and Jose stabbed him.⁴⁹

This Court thus finds no error in the affirmance by the appellate court of the trial court’s finding of conviction of accused-appellants based on the sole testimony of the prosecution witness. It is elementary that alibi and denial are outweighed by positive identification that is categorical, consistent and untainted by any ill motive on the part of the eyewitness testifying on the matter.⁵⁰ Aside from that, where there is the least

⁴⁸ Id. at 47-49.

⁴⁹ Id. at 64-65.

⁵⁰ *People v. Rarugal*, 701 Phil. 592, 600-601(2013) citing *Malana v. People*, 573 Phil. 39, 53 (2008).

possibility of the presence of the accused at the crime scene, the alibi will not hold water.⁵¹

The arguments raised by accused-appellants which assail Mary Ann's testimony lack merit. They argued that, when Mary Ann saw accused-appellant Casemiro, she initially did not recognize him and was able to pinpoint him as the culprit only the following day. However, the claim that Mary Ann only positively identified them through what other people said was uncorroborated and self-serving.

The argument that Mary Ann could not have witnessed the incident likewise deserves scant consideration since no proof was shown that Mary Ann's vision was hindered by the lighting condition. There was no allegation that the vision of the eyewitness had been obstructed, or that her distance from the crime scene had effectively impaired her ability to identify the perpetrators.⁵² Normally, where conditions of visibility are favorable and the witness does not appear to be biased, her assertion as to the identity of the malefactors should be accepted.⁵³ This is more so when the witness is a near relative because witnesses such as she usually strive to remember the faces of the assailants.⁵⁴

Finally, their argument regarding Mary Ann's reaction after the incident – she left her husband without even checking if he was still alive – is similarly bereft of merit in light of the pronouncement of this Court that there is no standard behavior or reaction for people who witness traumatic events such as the death of a common-law husband, as in this case. For it is settled “that different people react differently to a given situation or type of situation, and there is no standard form of human behavioral response when one is confronted with a strange or startling or frightful experience.”⁵⁵

Accused-appellants also assail their conviction for murder after the lower courts found the qualifying circumstance of treachery.

For this Court to appreciate treachery, it must be shown that offenders employed means, methods, or forms in the execution of the crime that tend directly and especially to ensure its execution without risk to themselves arising from the defense which the victim might make.⁵⁶ In the instant case, the accused-appellants invited the victim under the pretense of butchering a duck and brought him to a place where there were no houses nearby in the

⁵¹ *People v. Golidan*, G.R. No. 205307, January 11, 2018. Citation omitted.

⁵² *People v. Alas*, G.R. No. 118335-36, June 19, 1997, 274 SCRA 310, 321-322.

⁵³ *Id.*

⁵⁴ *People v. Jacolo*, 290-A Phil. 422 (1992).

⁵⁵ *People v. Mamaruncas*, 680 Phil. 192, 207 (2012).

⁵⁶ *People v. Japag*, G.R. No. 223155, July 23, 2018.

middle of the night; the victim was unarmed while accused-appellants wielded a knife and an ice pick; the victim was stabbed multiple times on the chest, held by the arms by the other, and again stabbed multiple times on the back even after he had fallen down. These circumstances indubitably prove treachery; execution of the attack gave the victim no opportunity to defend himself or to retaliate, and said means of execution was deliberately adopted by accused-appellants.⁵⁷

Meanwhile, the trial court made a pronouncement on the presence of abuse of superior strength. The CA also stated that there was abuse of superior strength but that this would only be absorbed by treachery. This Court finds the pronouncements unnecessary considering that abuse of superior strength was not even alleged in the Information. An aggravating circumstance, even if proven during trial, cannot affect an accused-appellant's liability when the Information fails to allege such circumstance.⁵⁸ Thus, it was not proper for the lower courts to make a pronouncement on the presence of the circumstance of abuse of superior strength. Be that as it may, the crime was already qualified by the circumstance of treachery which was alleged and proven by the prosecution.

The crime of murder qualified by treachery is penalized under Article 248 of the RPC, as amended by Republic Act No. 7659, with *reclusion perpetua* to death. Accused-appellants were meted the penalty of *reclusion perpetua* by the trial court which the CA affirmed. This Court finds the imposition and subsequent affirmance thereof in order.

As to the award of damages, prevailing jurisprudence⁵⁹ directs the payment to the heirs of the victim the amounts of ₱75,000.00 as moral damages; ₱75,000.00 as civil indemnity; ₱75,000.00 as exemplary damages; and ₱50,000.00 as temperate damages, as well as the payment of interest at 6% *per annum* on all amounts from finality of the Decision until full payment. These amounts have been properly decreed by the appellate court when it affirmed the ruling of the trial court with modification. Thus, we see no reason to modify further the assailed ruling of the appellate court.

WHEREFORE, the instant appeal is **DISMISSED** for lack of merit. The October 28, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 02085 is hereby **AFFIRMED in toto**.



⁵⁷ Id.

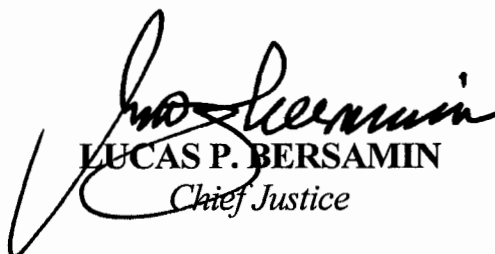
⁵⁸ *People v. Tigle*, 465 Phil. 368, 383 (2004).

⁵⁹ *People v. Jugueta*, 783 Phil. 806 (2016).

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARI D. CARANDANG
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