



SUPREME COURT OF THE PHILIPPINES  
 RECEIVED  
 OCT 25 2019  
 BY: 89  
 TIME: 11:02

Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION

PEOPLE OF THE G.R. No. 232380  
 PHILIPPINES, Plaintiff-Appellee, Present:

- versus -

RONALD JAURIGUE @ "RON-  
 RON" a.k.a. RONALDO  
 VICENTE y JAURIGUE,  
 Accused-Appellant.

BERSAMIN, C.J., Chairperson,  
 PERLAS-BERNABE,  
 JARDELEZA,  
 GESMUNDO, and  
 CARANDANG, JJ.

Promulgated:

SEP 04 2019

X-----

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Ronald Jaurigue @ "Ron-Ron" a.k.a. Ronaldo Vicente y Jaurigue (Ronald) assailing the Decision<sup>2</sup> dated November 23, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06236 which affirmed the Decision<sup>3</sup> dated June 17, 2013 of the Regional Trial Court of Manila, Branch 19 (RTC) in Crim. Case No. 07-257476, finding him guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code (RPC).

<sup>1</sup> See Notice of Appeal dated December 2, 2016; *rollo*, pp. 10-11.  
<sup>2</sup> Id. at 2-9. Penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Noel G. Tijam (Ret.) and Francisco P. Acosta, concurring.  
<sup>3</sup> CA *rollo*, pp. 74-85. Penned by Presiding Judge Marlo A. Magdoza-Malagar.

✓

### The Facts

The instant case stemmed from an Information<sup>4</sup> filed before the RTC charging Ronald, Benjamin Jaurigue y Caponpon @ BJ (BJ), Alejandro Atienza, Jr. @ Aquiles (Aquiles), and Jojo Mojica (Jojo) with the crime of Murder, defined and penalized under Article 248 of the RPC, the accusatory portion of which states:

That on or about October 16, [2006], in the City of Manila, Philippines, the said accused, conspiring [and] confederating together and helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill, qualified [by] treachery [and] evident premeditation, attack, assault and use personal violence upon the person of one CHARLES NABAZA Y SERRANO, by then and there shooting the latter in the chest with a “*sumpak*”, thereby inflicting upon said CHARLES NABAZA Y SERRANO a gun shot wound which was the direct and immediate cause of his death thereafter.

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

The prosecution alleged that at around 10:30 in the evening of October 16, 2006,<sup>6</sup> Ronald, BJ, Aquiles, Jojo, a certain Juricho, and an unidentified person went to the residential compound where the victim, Charles<sup>7</sup> Nabaza y Serrano (Charles), was residing. From outside Charles' unit, Aquiles loudly challenged him to come out and threatened to kill him, but the group was driven away by Charles' relative. Relentless, the group returned after a few minutes and proceeded to the door of Charles' unit. There, Aquiles repeatedly kicked the door, demanded again for Charles to appear, and made threats to kill him, loudly shouting “*Charles, si Aquiles ito, asawa ni Michelle. Di mo kami kialala. Mamili ka ng kakatalunin mo. Ano gusto mo gawin ko sa iyo, bugbugin kita, mag-square tayo o papatayin kita.*” When the door partly opened, Aquiles went to Ronald, who was waiting at the gate with the others, and asked for a *sumpak*,<sup>8</sup> saying “*akin na nga yong sumpak, papatayin na natin,*” which the latter handed to him. Heading back to the unit, Aquiles aimed inside and pulled the trigger; however, the *sumpak* failed to fire. He then returned the weapon to Ronald, who, in turn, peeked into the opening of the door and fired a single shot. Thereafter, Ronald and his group fled. Several people who witnessed the incident later found Charles sprawled on the floor, with a wound on his chest. They then brought him to the hospital where he was pronounced dead. Ronald and BJ were eventually arrested, while the others remain at-large.<sup>9</sup>

For their part, Ronald and BJ each interposed the defenses of denial and alibi. Ronald averred that at the time of the incident, he was at his

<sup>4</sup> Records, p. 1; italics supplied.

<sup>5</sup> Id.

<sup>6</sup> Incorrectly dated as “October 16, 2007” in some parts of the records.

<sup>7</sup> “Charlie” in some parts of the records.

<sup>8</sup> An improvised handgun. See CA *rollo*, p. 75.

<sup>9</sup> See *rollo*, pp. 2-4. See also CA *rollo*, pp. 74-77.

cousin's house in Las Piñas; while on the other hand, BJ maintained that at the time of the incident, he was just at home watching television with his friends.<sup>10</sup>

### The RTC Ruling

In a Decision<sup>11</sup> dated June 17, 2013, the RTC found Ronald guilty beyond reasonable doubt of the crime of Murder, and accordingly sentenced him to suffer the penalty of imprisonment of *reclusion perpetua* to death and ordered him to pay Charles' heirs the amounts of ₱6,466.00<sup>12</sup> as actual and compensatory damages, ₱50,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages, plus costs of suit. On the other hand, BJ was acquitted on the ground of reasonable doubt.<sup>13</sup>

The trial court ruled that the prosecution sufficiently proved all the elements of the crime charged based on the testimonies of no less than three (3) witnesses who categorically stated that it was Ronald who shot Charles. It also held that the killing was qualified to Murder, considering that Charles was shot when he was trapped in his unit without any means of escape. On this note, the RTC found Ronald's defense of denial and alibi unavailing in light of such positive identification of him as the culprit. On the other hand, there was no showing that BJ assented to the killing, opining that he was merely present at the scene of the crime, there being no overt act on his part, thereby warranting his acquittal.<sup>14</sup>

Aggrieved, Ronald appealed to the CA.<sup>15</sup>

### The CA Ruling

In a Decision<sup>16</sup> dated November 23, 2016, the CA affirmed Ronald's conviction with the following modifications: (a) he is sentenced to suffer the penalty of *reclusion perpetua*; and (b) ordered to pay Charles' heirs the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱50,000.00 as temperate damages, with legal interest at the rate of six percent (6%) per annum on all amounts from the finality of the decision until full payment.<sup>17</sup> It held that there was no reason to disturb the RTC's factual findings, and that Ronald's culpability was clear based on the positive identification of the witnesses.<sup>18</sup>

---

<sup>10</sup> See *rollo*, p. 4. See also *CA rollo*, pp. 78-81.

<sup>11</sup> *CA rollo*, pp. 74-85.

<sup>12</sup> Based on receipts showing payment of funeral expenses in the aggregate amount of ₱6,466.00; see *id.* at 84.

<sup>13</sup> *Id.* at 84-85.

<sup>14</sup> See *id.* at 81-83.

<sup>15</sup> See *rollo*, p. 2.

<sup>16</sup> *Id.* at 2-9.

<sup>17</sup> *Id.* at 8-9.

<sup>18</sup> See *id.* at 5-8.

Hence, this appeal.

### **The Issue Before the Court**

The issue before the Court is whether or not the CA correctly affirmed accused-appellant's conviction for the crime of Murder.

### **The Court's Ruling**

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment, whether they are assigned or unassigned.<sup>19</sup> The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine the records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>20</sup>

Guided by the foregoing considerations, the Court modifies Ronald's conviction, as will be explained hereunder.

Article 248 of the RPC reads:

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;
2. In consideration of a price, reward, or promise;
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin;
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity;
5. With evident premeditation;
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

---

<sup>19</sup> See *People v. Dahil*, 750 Phil. 212, 225 (2015).

<sup>20</sup> *People v. Comboy*, 782 Phil. 187, 196 (2016).

To successfully prosecute the crime of Murder, the following elements must be established, namely: (a) that a person was killed; (b) the accused killed him or her; (c) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (d) the killing is not Parricide or Infanticide.<sup>21</sup> If the foregoing qualifying circumstances are not present or cannot be proven beyond reasonable doubt, the accused may only be convicted of Homicide, as defined and penalized under Article 249 of the RPC.<sup>22</sup>

In the instant case, the courts *a quo* correctly found that through the positive and categorical testimonies of no less than three (3) eyewitnesses, the prosecution had established beyond reasonable doubt that it was Ronald who shot and killed Charles. Since there is no indication that the trial court and the CA overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.<sup>23</sup>

However, after a judicious perusal of the records, there is doubt as to the existence of the qualifying circumstance of treachery, as found by the courts *a quo*, or even the qualifying circumstance of evident premeditation which was alleged in the Information.

Under the RPC, “[t]here is treachery when the offender commits any of the crimes against the 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.”<sup>24</sup> Case law explains that the essence of treachery is that the attack was deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape.<sup>25</sup> For treachery to exist, two (2) conditions must be present: (a) at the time of the attack, the victim was not in a position to defend himself; and (b) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.<sup>26</sup> Conversely, the Court has held that there can be no treachery when the victim was “forewarned of the danger he was in,”<sup>27</sup> “put on guard,”<sup>28</sup> or otherwise “could anticipate aggression from the assailant”<sup>29</sup> as when “the assault is preceded by a heated exchange of words between the accused and

---

<sup>21</sup> See *Ramos v. People*, 803 Phil. 775, 783 (2017), citing *People v. Las Piñas*, 739 Phil. 502, 524 (2014).

<sup>22</sup> See *Cirera v. People*, 739 Phil. 25, 39 (2014).

<sup>23</sup> See *People v. Maylon*, G.R. No. 240664, March 11, 2019, citing *Cahulogan v. People*, G.R. No. 225695, March 21, 2018.

<sup>24</sup> See Article 14 (16) of the RPC.

<sup>25</sup> See *People v. Cirbeto*, G.R. No. 231359, February 7, 2018, 855 SCRA 234, 246-247.

<sup>26</sup> *Id.* at 247.

<sup>27</sup> *People v. Casas*, 755 Phil. 210, 221 (2015).

<sup>28</sup> See Court’s Resolution in *People v. Cabalce*, G.R. No. 208280, March 16, 2015.

<sup>29</sup> See Court’s Resolution in *People v. Buen*, G.R. No. 208408, July 4, 2016.

the victim; or when the victim is aware of the hostility of the assailant towards the former.”<sup>30</sup>

On the other hand, the circumstance of evident premeditation can be taken into account only when there has been a cold and deep meditation, and a tenacious persistence in the accomplishment of the criminal act. Its essence is that the execution of the criminal act be preceded by cool thought and reflection upon the resolve to carry out the criminal intent during the space of time sufficient to arrive at a calm judgment. Verily, the requisites for the appreciation of evident premeditation are: (a) the time when the accused determined to commit the crime; (b) an act manifestly indicating that the accused had clung to his determination to commit the crime; and (c) the lapse of a sufficient length of time between the determination and execution to allow him to reflect upon the consequences of his act.<sup>31</sup>

In this case, records show that the killing of the victim was preceded by two (2) noisy episodes, particularly: (a) when Aquiles initiated a noisy raucous in the compound by loudly shouting for Charles to come out and threatening to kill him; and (b) after being driven away by Charles’ relative, the group returned moments later to instigate another raucous where Aquiles, once again, challenged Charles to come out and face him in a fight.<sup>32</sup> Evidently, the attack was not sudden nor unexpected since, from the inception of the first raucous, Charles was already put on guard and had been forewarned of the danger he was in. Moreover, it cannot be said that Ronald deliberately nor consciously adopted particular means of carrying out the attack as the evidence on record reveals that his companion, Aquiles, initially wanted to have a mere face-off with Charles, and it was only when the latter failed to come out that Aquiles and Ronald tried to shoot the victim with their *sumpak*.<sup>33</sup>

Similarly, there is nothing on the records that would show that Ronald’s attack on Charles was premeditated, *i.e.*, that his commission of the crime was preceded by cool thought and a reflection with the resolution to carry out the criminal intent during a span of time sufficient to arrive at the hour of judgment.<sup>34</sup> Verily, evident premeditation cannot be appreciated absent any proof as to how and when the plan to kill was hatched or the amount of time elapsed before it was carried out.<sup>35</sup>

In light of the foregoing, the Court deems it proper to convict Ronald only for Homicide, which is necessarily included in the crime of Murder.<sup>36</sup>

<sup>30</sup> See *People v. Aseniero*, G.R. No. 218209, April 10, 2019, citing *People v. Escarlos*, 457 Phil. 580, 599 (2003).

<sup>31</sup> See *People v. Macaspac*, 806 Phil. 285, 293-294 (2017).

<sup>32</sup> See *rollo*, p. 3. See also *CA rollo*, p. 75.

<sup>33</sup> See *id.*

<sup>34</sup> See *People v. Escabarte*, 242 Phil. 295, 306 (1988).

<sup>35</sup> See *People v. Peñones*, 277 Phil. 713, 724 (1991).

<sup>36</sup> See Sections 4 and 5, Rule 120 of the Rules of Court, which read:

Anent the proper penalty to be imposed, Article 249 of the RPC imposes the penalty of *reclusion temporal* for the crime of Homicide; and considering that there are neither aggravating nor mitigating circumstances in this case, the penalty should be imposed in its medium period. Therefore, applying the Indeterminate Sentence Law, Ronald should be sentenced to suffer the penalty of imprisonment for an indeterminate period of eight (8) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

As to Ronald's civil liability *ex delicto*, case law instructs that when the actual damages proven by receipts during trial is less than the sum allowed by the Court as temperate damages, the award of the latter in lieu of the former is justified. The rationale for this rule is that it would be anomalous and unfair for the victim's heirs, who tried and succeeded in presenting receipts and other evidence to prove actual damages, to receive an amount which is less than that given as temperate damages to those who are not able to present any evidence at all.<sup>37</sup> Here, in light of the fact that the actual damages proven in this case is only ₱6,466.00 and the prevailing award for temperate damages is now ₱50,000.00,<sup>38</sup> the Court deems it appropriate to award the latter amount to Charles' heirs. Further, in line with prevailing jurisprudence,<sup>39</sup> the Court also deems it proper to further award to the said heirs the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages. Finally, all monetary awards shall earn legal interest at the rate of six percent (6%) per annum on all amounts from the finality of this Decision until full payment.

**WHEREFORE**, the Court **AFFIRMS** with **MODIFICATION** the Decision dated November 23, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06236. Accordingly, accused-appellant Ronald Jaurigue @ "Ron-Ron" a.k.a. Ronaldo Vicente y Jaurigue is found **GUILTY** beyond reasonable doubt of the crime of Homicide, defined and penalized under Article 249 of the Revised Penal Code. He is sentenced to suffer the penalty of imprisonment for an indeterminate period of eight (8) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum. Further, he is also ordered to pay the victim's heirs the following amounts: (a) ₱50,000.00 as civil indemnity; (b) ₱50,000.00 as moral damages; (c) ₱50,000.00 as temperate

---

Section 4. *Judgment in case of variance between allegation and proof.* — When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.

Section 5. *When an offense includes or is included in another.* — An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

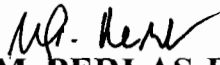
<sup>37</sup> *People v. Racal*, G.R. No. 224886, September 4, 2017, 838 SCRA 476, 498.

<sup>38</sup> See *People v. Jugueta*, 783 Phil. 806 (2016).

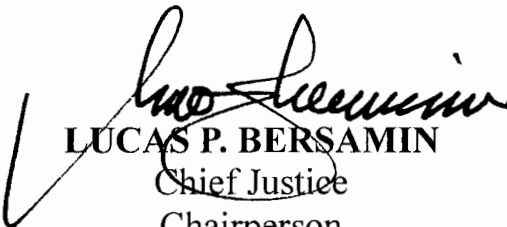
<sup>39</sup> See *id.* at 852-853.

damages; and (d) costs of suit. All monetary awards shall earn legal interest at the rate of six percent (6%) per annum from the finality of this Decision until full payment.

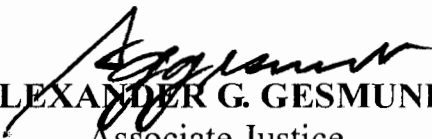
**SO ORDERED.**

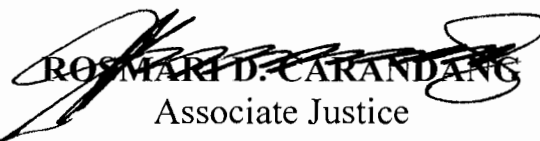
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**LUCAS P. BERSAMIN**  
Chief Justice  
Chairperson

  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

  
**ROSMAR 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