



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 233319

Present:

PERALTA, *C.J.*, *Chairperson*,
 CAGUIOA,
 REYES, J. JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

- versus -

**PEDRO ATAMOSA, RENE P.
 ALCALA, RENATO MARTIZANO
 alias BOBONG and TEDDY
 BENEDICTO,**

Accused,

RENE P. ALCALA,
 Accused-Appellant.

Promulgated:

JUL 07 2020

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DECISION

REYES, J. JR., J.:

Before us for review is the Decision¹ of the Court of Appeals-Cagayan de Oro City (CA) in CA-G.R. CR-HC No. 01337-MIN dated March 29, 2017 which affirmed with modification the Judgment of the Regional Trial Court (RTC) of Panabo City, Branch 34, in Criminal Case No. 356-2008 finding accuse-appellant Rene P. Alcala (Alcala) and his co-accused Teddy A. Benedicto (Benedicto) guilty beyond reasonable doubt of the crime of murder.

¹ Penned by Associate Justice Perpetua T. Atal-Paño, with Associate Justices Romulo V. Borja and Oscar V. Badelles, concurring; *rollo*, pp. 3-24.

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Martizano, whom he knew since 1989.⁴ After talking to Lanie, Richard, with Martizano still seated at the back of the motorcycle, left. He and Richard were traversing the same route until they arrived at the terminal in Peñaplata market at past 6:00 p.m., where Richard drove to the direction of Aundanao. At past 7:00 p.m., he heard the news of the killing of Richard about 8 to 9 kilometers away from where he last saw him and Martizano.⁵

Lipusan who lived near the scene of the crime testified that on November 24, 2007, at around 4:00 p.m., while she was feeding her pigs outside their house, she saw two people on a motorcycle stop under the mango tree. Thinking that it was her husband, she peeped outside to check. She was able to identify the two men as she intentionally glanced at them as she thought that it was her husband.⁶ When her husband arrived at around 6:30 p.m., she told him of the two men she saw earlier. Together, they went out to verify as theft of pigs are rampant in their place. They were able to see them but did not confront the two men out of fear.⁷

When they were about to leave, they heard the arrival of a second motorcycle prompting them to hide due to the light coming from it. When the driver and the passenger alighted from the second motorcycle, she saw the passenger (Martizano) stab the driver (Richard). The two other persons (Alcala and Benedicto) who arrived earlier helped in clubbing the victim. The victim shouted as if asking for help, but he was gunned down by Alcala. After he was stabbed and shot, he rolled down the hill while his attackers boarded their motorcycle and left the scene.

Lipusan added that he was able to see the faces and can identify the three persons involved because of the light coming from the motorcycle and that she was merely 10 meters away from the crime scene.⁸ She pointed Benedicto and Alcala as the persons who first arrived, but added that the passenger of the second motorcycle Martizano was not in court. She further added that it was Alcala who shot the victim.⁹

Dr. Amasol testified on the medical examination she conducted on the body of Richard that she found to have sustained multiple gunshot wounds and multiple incise wounds on different parts of the body.¹⁰

The prosecution also presented Alcala as its rebuttal witness to testify on the circumstances surrounding the death of Richard and to rebut the

⁴ TSN, November 17, 2009, p. 3.

⁵ Id. at 3-5.

⁶ TSN, August 3, 2010, p. 9.

⁷ Id. at 19-24.

⁸ Id. at 10-12.

⁹ Id. at 14-15, 30.

¹⁰ TSN, March 9, 2010.

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Atamosa maintained that on the date material to this case, he was just in his house tending to his fighting cock with his brother Carlos and Navaja, his laborer. He admitted knowing the prosecution witness Daluno, but he denied that the latter was at his house on said date and neither were his co-accused Alcala and Benedicto, although, he knew them. He also denied knowing his other co-accused Martizano.¹³

Atamosa also declared that he knew the victim Richard because they were neighbors and the latter used to drive him when he sells *copra* until he filed a case against the latter.¹⁴ The case arose when Richard removed his fence made up of 30 *madre de cacao* trees. No settlement was arrived at, but according to him even if he lost the case, he did not feel aggrieved and was even happy because he no longer needs to spend for the case. After that, he no longer hired the victim as his driver.¹⁵

During his cross-examination, Atamosa recalled that the last time he saw Daluno was on September 1, 2007. Daluno owed him money and when he tried to collect it, Daluno got angry.¹⁶

Najava was presented as a witness to corroborate the testimony of Atamosa regarding the fact that the latter's co-accused, Benedicto and Alcala were not in Atamosa's residence the whole day of November 21 to November 23, 2007. On cross-examination, however, he admitted that most of the time, he was at Atamosa's piggery doing repairs which was quite far from the house, thus, he cannot really see visitors coming inside the house.

Benedicto testified that he knew Atamosa although they are not friends, but merely an acquaintance. That the whole day of November 24, 2007, he was in his own house taking care of his two children. He denied knowing his co-accused except Atamosa.

Avila, Benedicto's neighbor was presented to support the latter's claim that he was in his own house the whole day of November 24, 2007. According to Avila, he saw Benedicto doing the laundry in the morning and at around 5:00 p.m., the latter went to his own house and watched the local news on *TV Patrol*. However, on cross-examination, it was established that November 24, 2007 was a Saturday, thus, there was no *TV Patrol* or any local news on weekends. Yet, Avila insisted that he and Benedicto were watching *TV Patrol* on that date.

¹³ TSN, October 25, 2011, pp. 4-9.

¹⁴ Id. at 21-22.

¹⁵ TSN, March 13, 2012, pp. 7-10.

¹⁶ TSN, October 25, 2011, pp. 20-21.

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WHEREFORE, the appeal is DISMISSED. The February 12, 2014 Decision of the Regional Trial Court, Branch 34, Panabo City, in Criminal Case No. 356-2008 is AFFIRMED with MODIFICATIONS. In addition to the award of moral damages and civil indemnity of P75,000.00 each in favor of Richard Tomaquin's heirs, the award of exemplary damages of P30,000.00 is also GRANTED. All monetary awards shall earn an interest of 6% per annum from the finality of this judgment until fully paid.

SO ORDERED.¹⁸

Appellant appealed the decision of the CA. The Notice of Appeal was given due course and the records were ordered elevated to this Court for review. In a Resolution dated November 6, 2017, this Court required the parties to submit their respective supplemental briefs.¹⁹ Both parties manifested that they are no longer filing their supplemental briefs, as they are adopting all the arguments contained in their respective briefs.²⁰

In his Brief, Alcalá raises this lone assignment or error:

THE COURT *A QUO* GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE OFFENSE CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.²¹

In asserting his innocence, accused-appellant avers that the trial court erred in giving full credence to the testimony of the prosecution witness Lipusan to establish the fact of the case. He insists that his testimony on rebuttal should carry more weight as the prosecution had utilized him to establish the case against his co-accused. Also, he maintains that the elements of murder were not completely proven because the prosecution witness Lipusan failed to identify if the motorcycle driver she saw was really the victim and that the police officer who confirmed that Lipusan indeed verified the victim was not presented as a witness in court. Moreover, Lipusan could not have identified the assailants because it was dark.

On the other hand, the Office of the Solicitor General counters that the prosecution proved beyond reasonable doubt the guilt of Alcalá. The trial court did not err in giving credence to the testimony of Lipusan over Alcalá's accounts emphasizing that the matter of credibility is best left for the trial court to determine and its finding should be respected absent glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions.

¹⁸ *Rollo*, p. 24.

¹⁹ *Id.* at 30.

²⁰ *Id.* at 32-35, 37-38.

²¹ *CA rollo*, p. 37.

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the CA, are accorded with finality unless a fact or circumstance was overlooked, misunderstood or misappreciated which, if properly considered, would alter the results of the case.²³ Such does not exist in this case.

A review of the evidence presented shows that as between Alcala and Lipusan's testimony, the Court is constrained to give due weight and credit to the latter's testimony, as found by the RTC and affirmed by the CA. In this connection, the Court quotes with approval the following disquisition by the CA on the credibility of the testimony of eyewitness Lipusan:

In the case of witness Lipusan, there is no sufficient basis to doubt the veracity of her testimony. There is no indication that she was moved by [ill motive] in testifying against the accused-appellant. The defense failed to show any reason why the said witness would concoct such grievous charge against Alcala considering the gravity of the offense. Neither was there any noted material inconsistency in her testimony that could raise questions on its reliability thus, strongly negating any claim that her recount of events was mere speculation. It would be implausible for someone to make up such kinds of stories against another considering the consequences it would bring against the person accused. As held in *People v. Marcina*, it would be highly unusual, likewise contrary to human nature, for a man to impute such serious crime to another person if there were no truth to his testimony.

The fact that Alcala was used as a rebuttal witness does not necessarily mean that the prosecution has taken all of his statements as absolute truth. It bears noting that Alcala's testimony was offered to rebut the categorical denial of all the accused with respect to their participation in the killing of the victim. In essence, his testimony was only to contradict the denials made by his co-accused, to whom he completely attributes the crime but maintaining that he had nothing to do with it. It is settled, however, that statements from a co-conspirator should be received with caution because it is considered as coming from a polluted source. As is usual with human nature, a culprit, confessing a crime, is likely to put the blame as far as possible on others rather than himself.

Accordingly, as between the straightforward testimony of witness Lipusan and Alcala's version of events, this Court is constrained to give due weight and credit to the former. Sans [ill will] imputed on her and considering the trial court's observation on her demeanor while testifying, which it finds suitable of belief, then there is no ground to doubt Lipusan's testimony. The absence of evidence of improper motive tends to indicate that the testimony is worthy of full faith and credence.²⁴ (Citation omitted)

With regard to the contention of Alcala that Lipusan was not able to identify the victim, we are not swayed.

²³ *Balasta v. People*, G.R. No. 242912, February 13, 2019 (Minute Resolution).

²⁴ *Rollo*, pp. 15-16.

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just 10 meters away, but because of the light coming from the victim's motorcycle.

The Court also concurred with the findings of the RTC and the CA that the killing was attended by treachery.

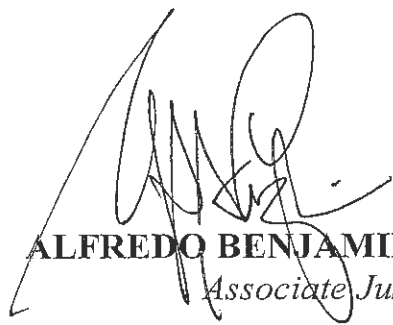
The essence of treachery lies in the nature of an attack done deliberately and without warning — it must be done in a swift and unexpected manner, giving the hapless, unarmed and unsuspecting victim no chance to resist or escape.²⁶ Based on the testimony of Lipusan, when the motorcycle driven by the victim arrived, her back seat passenger alighted from the motorcycle and suddenly stabbed the victim from behind. Then the passengers of the motorcycle who arrived earlier, helped in clubbing the victim. Later on, Alcala shot the victim. This was supported by the medical report finding incised wounds on the victim's back scapular area or shoulder blade, lumbar area and at the level of his back retinae. Also, there was a gunshot on the victim's back occipital area at the base of his skull. Inasmuch as the wounds were directed at the back of the victim, it is then apparent that the attacks were made while the victim was not facing the assailants and, thus, was made in a sudden and unexpected manner. The number of wounds inflicted on the victim and the way they attacked underscores not only the culprits' intent to kill him, but also their intention to deny him the chance to defend himself or escape the attack.

In fine, the Court finds no error in the conviction of Alcala.

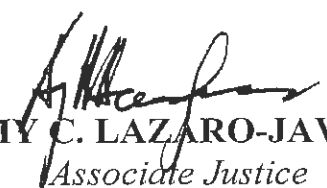
As to the penalty imposed, we affirm the penalty of *reclusion perpetua* imposed upon Alcala. Under Article 248 of the RPC, as amended, the crime of murder qualified by treachery is penalized with *reclusion perpetua* to death. The lower courts were correct in imposing the penalty of *reclusion perpetua* in the absence of any aggravating and mitigating circumstances that attended the commission of the crime. The Court likewise affirms the award of civil indemnity and moral damages in the amount of ₱75,000.00 each. However, the award of exemplary damages should be modified in accordance with the prevailing jurisprudence. In *People v. Jugueta*,²⁷ the Court ruled that civil indemnity, moral damages, and exemplary damages should be awarded at ₱75,000.00 each in cases involving murder wherein the penalty imposed is *reclusion perpetua*, as in this case. As such, the Court deems it proper to increase the amount of exemplary damages from ₱30,000.00 to ₱75,000.00.

²⁶ *People v. Matias*, G.R. No. 225504, January 19, 2018 (Minute Resolution).

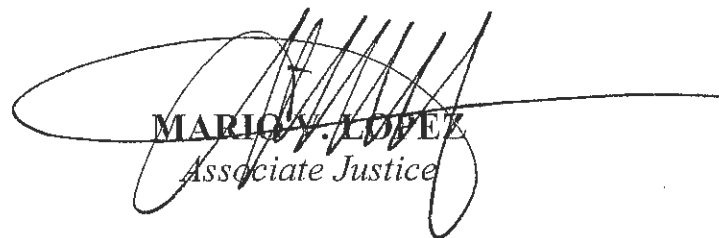
²⁷ 783 Phil. 806 (2016).



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



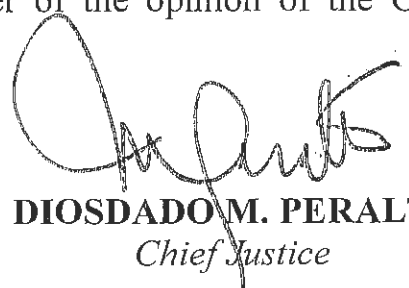
AMY C. LAZARO-JAVIER
Associate Justice



MARICEL V. LOPEZ
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.



DIOSDADO M. PERALTA
Chief Justice

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