



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
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PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 246466

Present:

- versus -

PERALTA, C.J., Chairperson,
 CAGUIOA,
 HERNANDO,*
 ZALAMEDA, and
 GAERLAN, JJ.

REYMAR MASILANG y LACISTE,
 Accused-Appellant.

Promulgated:

JAN 26 2021

X-----X

DECISION

PERALTA, C.J.:

This is an appeal from the Decision¹ of the Court of Appeals dated July 27, 2018, in CA-G.R. CR-HC No. 09416, affirming with modification the Decision of the Regional Trial Court (RTC) of Gapan City, Branch 34, Nueva Ecija, which convicted accused-appellant Reymar Masilang y Laciste of the crime of murder and imposed on him the penalty of *reclusion perpetua*.

Accused-appellant Masilang was charged with the murder of Rose Clarita A. Yuzon (Rose Yuzon) on July 26, 2015 in an Information² which reads:

* Designated additional Member per Raffle dated January 25, 2021.

¹ Decision penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Rosmari D. Carandang (now a Member of the Supreme Court) and Ma. Luisa Quijano-Padilla; *rollo*, pp. 3-15.

² Records, p. 1.

That on the 26th day of July 2015, at Brgy. Mangino, in the City of Gapan, Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being armed with a bolo, with intent to kill, qualified by evident premeditation as the attack was contrived and taking advantage of the minority of the victim and treachery, did then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of ROSE CLARITA YUZON Y ADALLA, a minor 17 years old, as follows: while the victim was inside the cemetery with the accused and while being blind-folded, and her back was turned against the accused, unarmed and completely unaware that she will be the subject of an attack by the accused, thereby, placing said victim in no position to defend herself from the sudden and unexpected attack, suddenly was attacked by the accused with the use of the said bolo by hacking the victim several times, hitting the latter on different parts of her body and banging her head in the steel gate, thereby inflicting upon her person mortal wounds which directly caused her death, to the damage and prejudice of the family of said victim.

CONTRARY TO LAW.

When arraigned on September 11, 2015, accused-appellant pleaded not guilty to the crime charged.³

During pre-trial, the prosecution and the defense stipulated on these facts: (1) accused Reyemar Masilang's identity; (2) accused Masilang and the victim, Rose Yuzon, were sweethearts prior to July 26, 2015; (3) out of the three (3) witnesses, namely, Edgardo Gamboa, Marcelo Perez, and Juanestor Yuzon, accused Masilang only knew Juanestor; and (4) the authenticity and issuance of the death certificate of Rose Yuzon and her two pictures as well as the picture of the place where she was found dead.⁴


During trial, the prosecution presented Edgardo Gamboa and Senior Police Officer 1 Edmer Portillo, the assigned police investigator, as witnesses. The defense presented Reyemar Masilang as witness, while the testimony of his aunt, Rosalie Masilang, was dispensed with after the prosecution and the defense stipulated that she requested accused-appellant's presence in the fencing of her property at P. Cruz Subdivision, Gapan City, Nueva Ecija, but accused-appellant did not come.

The evidence of the prosecution established that in the morning of July 26, 2015, Edgardo was inside the Gapan City Public Cemetery in Barangay Mangino, Gapan City. He was with two companions, Ivan Perez and John Mark Torres. They went to the cemetery to watch ("*namboboso*") couples engaging in sexual intercourse by peeping through tombs and mausoleums. Gamboa is a laborer who lives in one of the houses at the back of the cemetery.⁵

³ *Id.* at 26.

⁴ *Id.* at 39.

⁵ TSNs, December 4, 2015, pp. 5-7; April 12, 2016, p. 8.



That morning, as soon as Gamboa entered the cemetery, he noticed the arrival, on board a tricycle, of a young lady who turned out to be the victim, Rose Yuzon. The girl was holding a cell phone when she entered the place. A few moments later, Gamboa saw the girl rushing out of the cemetery only to re-enter the place through the other gate. She proceeded to the old portion of the cemetery. Fifteen minutes later, Gamboa entered the old portion of the cemetery where he saw the girl. This time, he saw her with a male companion who Gamboa later identified as the accused-appellant Reyemar Masilang. Watching from a safe distance, Gamboa, who was still with John Mark Torres, saw accused-appellant and the girl talking, then accused-appellant handed the girl a hamburger. A child approached the accused-appellant and the girl, presumably begging for food. After the child walked away, accused-appellant and the girl proceeded to a steel and concrete structure housing a tomb, which Gamboa called a "tent." The couple went inside and accused-appellant closed its iron door slightly. Gamboa and Torres moved closer to the back portion of the tented tomb. Gamboa heard accused-appellant telling the girl that he had a surprise for her. Torres made a hand signal which meant that accused-appellant and the girl were about to engage in sex. Gamboa peeped through a hole in the "tent." He saw accused-appellant hacking the girl with a small *bolo*. The girl's hands were on both sides of her face, while her eyes were covered with a red handkerchief. He heard the girl cry for help. Shocked at what he just saw, Gamboa had to lean against a concrete wall. When he looked again, he saw accused-appellant holding the girl's head and banging it against the front portion of the tomb. Gamboa and his companion ran away.⁶

The victim, Rose Yuzon, died from "severe traumatic brain injury secondary to multiple hacking wound."⁷

Accused-appellant gave a different version and put up the defense of denial and alibi. Accused-appellant testified that on July 26, 2015, at 7:30 a.m., he was on his way to the house of his aunt, Rosalie Masilang, to help build the fence of her house in P. Cruz Subdivision, Mangino, Gapan City. He brought with him a *bolo* and a handbag. Before proceeding to his aunt's house, he passed by the Gapan City Cemetery to visit his grandfather's tomb and to meet Rose Yuzon, his girlfriend. He gave Rose a hamburger and told her of his plan to visit his grandfather's tomb, but she refused to let him leave because she was afraid of a suspicious man who seemed to be following her when she entered the cemetery. After a while, appellant told Rose that he had a surprise for her and blindfolded her just as what they used to do. When the revealing of the surprise took longer than expected, Rose exclaimed "*lintik*," which irritated appellant. He walked away to look for his grandfather's tomb. Less than five minutes later, he heard Rose shouting and crying for help. He could not immediately respond to her as the place was grassy and high-rise tombs blocked his way; thus, he proceeded to the second gate of the cemetery

⁶ TSNs, December 4, 2015, pp. 9-14; April 12, 2016, pp. 9-11, 16-18.

⁷ Death Certificate, records, p. 9.

to ask for help from the guards. Before he could reach the second gate, a man approached him and asked if he knew the girl who was killed while pointing to the place where Rose was. Appellant immediately went to see Rose, but another man, later identified as Marcelo Perez, told him not to move or run away from where he was standing. Marcelo Perez, while holding a piece of wood, brought appellant to the location of Rose who was slumped on the floor. Thereafter, the policemen arrested appellant and seized his handbag with his *bolo* inside and brought him to the police station.⁸

In a Decision⁹ dated April 28, 2017, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of murder qualified by treachery, as the victim could not have defended herself from the sudden and unexpected attack on her person by accused-appellant.

The trial court did not believe accused-appellant's defense of denial and alibi in light of the positive testimony of prosecution eyewitness Edgardo Gamboa that accused-appellant was the person who hacked the victim with a *bolo* and banged her head against the front portion of a tomb.

The trial court did not award civil damages to the heirs of the victim on the ground that the parents of the victim submitted two separate affidavits¹⁰ of desistance wherein they waived their criminal and civil claims against accused-appellant. The trial court stated that prior to the submission of the affidavits of desistance, the victim's parents admitted to the court that they had agreed to settle the case with the accused-appellant for the amount of ₱100,000.00.¹¹ However, not one of the victim's parents testified for the prosecution or for the defense.

The dispositive portion of the Decision of the RTC reads:

WHEREFORE, premises considered, the court finds accused Reyemar Masilang y Laciste *GUILTY beyond reasonable doubt* of the crime of murder and hereby imposes on him the penalty of *reclusion perpetua*. No costs.

Upon promulgation of this judgment, the warden of the Bureau of Jail Management and Penology (BJMP) Gapan City Jail is hereby *ORDERED* to commit the accused to the National Bilibid Prisons, Muntinlupa City for the service of his sentence.

SO ORDERED.¹² (*Italics in the original*)

⁸ TSNs, March 3, 2017, pp. 5-19; March 10, 2017, pp. 3-15.

⁹ CA rollo, pp. 48-58.

¹⁰ *Sinumpaang Salaysay ng Pag-uurong ng Habla at Gawad ng Kapangyarihan and Sinumpaang Salaysay ng Pagbawi sa mga Salaysay at Pag-uurong ng Habla*, records, pp. 73-74, 78.

¹¹ CA rollo, p. 57.

¹² *Id.* at 58.

Accused-appellant appealed the decision of the RTC to the Court of Appeals, contending that the trial court erred: (1) in convicting the accused-appellant of murder despite his doubtful identification as culprit; (2) in finding the accused-appellant guilty of murder despite the prosecution's failure to prove the qualifying circumstance of treachery; and (3) in convicting the accused-appellant of murder despite the prosecution's failure to prove his guilt beyond reasonable doubt.¹³

In its Decision dated July 27, 2018, the Court of Appeals affirmed the decision of the RTC with modification as it awarded civil, moral and exemplary damages to the heirs of the victim. The appellate court stated that although the victim's parents executed the *Sinumpaang Salaysay ng Pag-uurong ng Habla at Gawad ng Kapangyarihan* and *Sinumpaang Salaysay ng Pagbawi sa mga Salaysay at Pag-uurong ng Habla*, the records do not show that they appeared in court to confirm the execution of their affidavits of desistance or their alleged receipt of ₱100,000.00 from accused-appellant. In view of the failure to present the affiants as witnesses, the Court of Appeals held that no probative value can be given to the said affidavits. It cited *People v. Castillo*,¹⁴ wherein the error of the trial court in absolving accused-appellant of any civil liability on the basis of the affidavits of desistance executed by the victim's relatives was rectified.

The *fallo* of the Decision of the Court of Appeals reads:

WHEREFORE, the instant appeal is hereby DENIED. The April 28, 2017 Decision of the Regional Trial Court, Branch 34, Gapan City, Nueva Ecija in Criminal Case No. 18767-15 is AFFIRMED with MODIFICATIONS in that accused-appellant Reymar Masilang y Laciste is hereby ordered to pay the heirs of Rose Clarita Yuzon y Adalla civil indemnity, moral damages, and exemplary damages in the amount of ₱75,000.00 each, which shall be subject to 6% interest *per annum* from the finality of this Decision until fully paid.

SO ORDERED.¹⁵

The case was elevated to this Court on appeal. In a Resolution¹⁶ dated June 3, 2019, the Court notified the parties that they may file their respective Supplemental Briefs, if they so desire, within 30 days from notice. Both parties filed their respective Manifestation,¹⁷ informing the Court that they were no longer filing a Supplemental Brief as they had already discussed exhaustively all relevant issues in their respective Appellant's Brief/Appellee's Brief.

¹³ *Id.* at 106.

¹⁴ 402 Phil. 779, 794 (2001).

¹⁵ *Rollo*, pp. 14-15.

¹⁶ *Id.* at 21.

¹⁷ *Id.* at 25 and 29.

The main issue is whether or not the Court of Appeals erred in affirming the trial court's decision that accused-appellant is guilty beyond reasonable doubt of the crime of murder.

The crime of murder, under Article 248¹⁸ of the Revised Penal Code (*RPC*), is committed by any person who, not falling within the provisions of Article 246¹⁹ (*parricide*) of the *RPC*, shall kill another with any of the attendant circumstances enumerated in Article 248, which include treachery. The crime of murder is punishable by *reclusion perpetua* to death.

In his Appellant's Brief, accused-appellant contends that the trial court erred: (1) in convicting him of murder despite his doubtful identification as culprit; (2) in finding him guilty of murder despite the prosecution's failure to prove the qualifying circumstance of treachery; and (3) in convicting him of murder despite the prosecution's failure to prove his guilt beyond reasonable doubt.²⁰

Accused-appellant asserts that his identification as the culprit is doubtful as it was established only through the lone testimony of prosecution witness Edgardo Gamboa, with no other corroborating evidence. In addition, the name and identity of appellant as culprit was not reflected in Gamboa's affidavit and Gamboa testified that he did not remember the faces of the people he "watched" in the cemetery.

The assertion is untenable. An accused is convicted, not on the basis of the number of witnesses against him, but on the credibility of the testimony of even one witness who is able to convince the court of the guilt of the accused beyond a shadow of a doubt; in other words, not quantitatively but qualitatively.²¹ Although prosecution eyewitness Edgardo Gamboa did not know accused-appellant before the incident, Gamboa was able to identify the accused-appellant because of the length of time he watched the accused-

¹⁸ Art. 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 *reclusión 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 a street car or locomotive, 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.

¹⁹ Art. 246. Parricide. — Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of *reclusión perpetua* to death.

²⁰ *CA rollo*, p. 36.

²¹ *Bautista v. Court of Appeals*, 351 Phil. 411, 418-419 (1998).

appellant and the victim in broad daylight and his proximity to them. Gamboa testified, thus:

COURT:

Q: You said that you and Mr. Masilang, the accused in this case did not know each other before the incident. Is that correct?

A: Yes, your Honor.

Q: So, that was the first time you saw him?

A: Yes, your Honor.

Q: So, how can you be sure that he was the one who killed the victim in this case if that is the only time you saw him?

A: Because before the killing, they talked for some time so I was able to recognize his face, your Honor.

Q: How long did they talk before the girl was killed?

A: About half an hour, your Honor.

Q: So, what happened within this period of half an hour or thirty minutes? What was the first thing you saw the accused and the victim were doing?

A: They were talking, your Honor.

Q: Did you hear what they were talking about?

A: No, your Honor, because at first, we were a little bit far.

Q: So, after talking, what else did you see?

A: After talking, the accused gave the girl the burger and that time we were already close to them, your Honor.

Q: So, after being close to them, what did you witness?

A: The accused invited the girl inside the musoleo, your Honor.

Q: And did you see them inside the musoleo?

A: Yes, your Honor.

COURT:

Q Why did you see these people inside when you were outside?

A We placed ourselves in a position that we would have a clear view of them, your Honor.

Q So what did you witness inside the musoleo?

A They again talked and while they were doing that, I walked to the back of the musoleo, your Honor.

Q You were saying that you were at the back of the musoleo. So how close was that to the accused and the victim?

A About four meters away, your Honor.

Q And what did you see from your position?

A I heard the man telling the girl that he has a surprise, your Honor.

COURT:

Q After saying that, what did he do?

WITNESS:

A According to my companions, they would start having sex, your Honor. And when I look at them, I saw the man hacking the victim.²²

As noted by the Court of Appeals, the killing occurred in broad daylight and Edgardo Gamboa was only four (4) meters away from accused-appellant and the victim when he was peeping through a small hole at the back of the mausoleum.²³ Before the incident, Gamboa also watched accused-appellant and the victim conversing for 30 minutes. Thus, Gamboa was able to recognize the face of accused-appellant.

Accused-appellant contends that Gamboa testified that he could not remember the faces of all the people he “watched” in the cemetery. However, in this particular case, it is evident from Gamboa’s testimony that he remembered the face of accused-appellant and the victim because his attention was focused on them as sweethearts on a date, and he and his companion were following them to see what would happen next, which led Gamboa to witnessing the killing of Rose Yuzon by the accused-appellant.

As regards Gamboa’s failure to state accused-appellant’s name when he executed his affidavit, the Court of Appeals aptly stated:

Similarly, Edgardo's failure to state Reymar's name when he executed his Malaya at Kusang Loob na Salaysay does not diminish his credibility as a witness. It only shows that at the time of the execution of the sworn statement, Reymar's name was not yet known to Edgardo. However, during Edgardo's direct testimony, he positively and categorically identified Reymar as the person who killed Rose Clarita. It bears stressing that identification of a person is not solely through knowledge of his name. In fact, familiarity with physical features, particularly those of the face, is the best way to identify a person. One may be familiar with the face but not necessarily the name. It does not follow therefore that to be able to identify a person, one must necessarily know him by his name.²⁴

²² TSN, April 12, 2016, pp. 15-18.

²³ *Id.* at 17.

²⁴ *Rollo*, p. 108.

Indeed, although Gamboa failed to stated accused-appellant's name in his affidavit; nevertheless, he knew him by face and positively identified appellant in court as the one who was with Rose Yuzon in the cemetery and the one who hacked her.²⁵

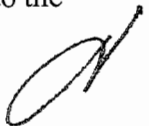
Moreover, accused-appellant claims that Gamboa's testimony is not credible because: (1) appellant and Rose Yuzon had been in a relationship for four years prior to the incident; (2) appellant's bicycle was padlocked to the fence of the museleo where Rose's body was found, which suggests his innocence and that he had no intention to escape; (3) he returned to the crime scene and voluntarily participated in the police investigation; and (4) Rose's body was hacked 13 times but appellant did not have any trace of blood on his hands, other external part of his body or on his clothes.

In the matter of credibility of witnesses, well-entrenched is the rule that the factual findings of the trial court should be respected. The trial court gave credence to the testimony of prosecution eyewitness Edgardo Gamboa who positively identified the accused-appellant as the one who killed Rose Yuzon.

The trial court stated:

Gamboa's testimony as an eyewitness' account of the shocking murder of the young victim left too little to be desired. Gamboa narrated his experience confidently despite his reluctance to conclude his testimony. There was hardly any doubt that he was talking about an incident he had personal knowledge of. He remembered the small details of the incident such as the gesture of the accused in offering a piece of hamburger to the victim. He specifically remembered that at [the] very moment the girl was hacked with a bolo, her eyes were covered with a handkerchief that was colored red. He vividly recalled that when the girl was hacked, her hands were on her face. Finally, Gamboa recalled the victim's faint cry for help while her head was being banged against the tomb by the accused.

The accused's testimony did not completely depart from that of Gamboa. Accused admitted that he offered the victim a piece of hamburger. He likewise announced to her that he had a surprise gift for her. The gift was allegedly a necklace. The handkerchief must have been used to cover the eyes of the victim to add drama to the promise of giving her the alleged surprise gift. Most importantly, accused admitted that he was carrying a bolo that was concealed inside a hand bag or "back pack" that he carried. The bolo was brought to the court by Police Officer Portillo who testified that the weapon was turned over to him by one of the policemen who went to the crime scene.²⁶



²⁵ TSN, December 4, 2015, p. 8.

²⁶ *Rollo*, p. 55.

It is doctrinally settled that the evaluation of the testimony of the witnesses by the trial court is received on appeal with the highest respect, because it had the direct opportunity to observe the witnesses on the stand and detect if they were telling the truth.²⁷ This assessment is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court had plainly overlooked certain facts of substance or value that if considered might affect the result of the case.²⁸ In this case, the Court of Appeals confirmed the findings of the trial court. This Court finds no cogent reason to overturn the decision of the Court of Appeals.

Further, accused-appellant argues that the qualifying circumstance of treachery was not proven by the prosecution.

The Court is not persuaded. There 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.²⁹ The essence of treachery is the sudden and unexpected attack without the slightest provocation on the part of the person being attacked.³⁰ As found by the trial court, the circumstance of treachery was established, viz.:

Here, the accused lured his young sweetheart to meet him in [a] very secluded place which was [the] cemetery on a promise that he was giving her a surprise gift which he claimed to be a necklace. It appears that once they were in that place, he blindfolded the victim. At this juncture, instead of giving the girl a gift, he hacked her with a bolo and then banged her head against a concrete tomb. Clearly, the victim did not even know what hit her. There was no way the girl could have defended herself from the sudden and unexpected attack on her person. She did not even have the chance to run away because she was blindfolded.³¹

It is well-settled that an unexpected and sudden attack under circumstances which render the victim unable and unprepared to defend himself/herself, as in the case of herein victim Rose Yuzon, constitutes treachery.³²

Finally, accused-appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt.

The contention is unmeritorious because the prosecution established the essential elements of murder: (a) that a person was killed; (b) that the accused

²⁷ *People v. Dinglasan*, 334 Phil. 691, 704 (1997).

²⁸ *Id.*

²⁹ Revised Penal Code, Article 14, No. 16, paragraph 2.

³⁰ *People v. Sebastian*, 428 Phil. 622, 626 (2002).

³¹ *Rollo*, p. 57.

³² *Supra* note 27, at 711.

killed him; (c) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (d) that the killing is not parricide or infanticide.³³

In this case, the prosecution proved the first element that Rose Yuzon was killed by submitting in evidence her death certificate,³⁴ and presenting eyewitness Edgardo Gamboa who testified that he saw the killing of Rose Yuzon. The accused-appellant admitted the death of the victim during pre-trial.³⁵ The prosecution also proved the second and third elements that the accused-appellant killed Rose Yuzon and that the killing was attended by treachery through the testimony of eyewitness Edgardo Gamboa, which was given credence by the trial court and the Court of Appeals and sustained by this Court. The fourth element of murder was proved by the prosecution through the stipulation³⁶ of the prosecution and the defense at the pre-trial that accused-appellant and the victim were sweethearts, which was also admitted by appellant during his testimony; hence, their relationship would show that the killing is not parricide or infanticide. In fine, the prosecution established all the essential elements of murder to warrant the conviction of appellant.

Accused-appellant's defense of denial and alibi is weak and cannot prevail over the positive identification of the prosecution eyewitness that accused-appellant killed the victim.³⁷ For the defense of alibi to prosper, the accused must prove not only that he was at some other place when the crime was committed, but also that it was physically impossible for him to be present at the scene of the crime or in its immediate vicinity at the time the crime was committed.³⁸ In this case, accused-appellant testified that he was just within the Gapan City Public Cemetery allegedly looking for the tomb of his grandfather when he heard Rose Yuzon's cry for help in the same cemetery.³⁹ Hence, it was not physically impossible for him to have been present at the crime scene and prosecution eyewitness Edgardo Gamboa testified that he saw appellant hacking Rose Yuzon and banging her head against the front portion of a tomb. Positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial, which if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.⁴⁰

Moreover, the non-flight of accused-appellant is not proof of his innocence. The Court has repeatedly held that there is no law or principle which guarantees that non-flight is a conclusive proof of the innocence of the

³³ See *People v. Manzano*, 827 Phil. 113 (2018).

³⁴ Records, p. 9.

³⁵ RTC Decision; CA rollo, p. 54.

³⁶ *Id.* at 39.

³⁷ See *People v. Reduca*, 361 Phil. 444 (1999).

³⁸ *People v. Manchu, et al.*, 593 Phil. 398, 410 (2008); *People v. Dinglasan*, *supra* note 27, at 708.

³⁹ TSN, March 3, 2017, pp. 7-14.

⁴⁰ *People v. De Guzman*, 352 Phil. 304, 313 (1998), citing *Bautista v. Court of Appeals*, *supra* note 21, at 418.

accused and, as in the case of alibi, such a defense is unavailing when there is positive identification of the accused as the perpetrator of the crime.⁴¹

Based on the foregoing, the Court holds that the Court of Appeals did not err in affirming the decision of the trial court that accused-appellant is guilty beyond reasonable doubt of the crime of murder and penalized with *reclusion perpetua*.

As regards the award of damages, the Court of Appeals correctly rectified the trial court's failure to award damages to the heirs of the victim because of the separate affidavits of desistance⁴² dated December 30, 2015 and February 11, 2016 executed by the victim's parents, Juanestor and Rosalia Yuzon. The affidavits of desistance both stated that Juanestor and Rosalia Yuzon were desisting from continuing with the case against accused-appellant upon knowing the whole story about the death of their daughter and the filing of the case against appellant was due to a misunderstanding of what truly happened. Rosalia Yuzon also authorized her husband to enter into an agreement on the civil aspect of the case, since she could not attend the hearings of the case on February 2 and 12, 2016, because she was scheduled to leave the country on February 16, 2016.⁴³ However, the defense failed to present any of the affiants as witness; hence, no probative value can be given to the said affidavits.⁴⁴ Significantly, the victim's parents were not eyewitnesses to the commission of the crime. Moreover, there is no evidence on record of the alleged agreement to settle the case for ₱100,000.00. It must be stressed that executing an affidavit of desistance is not one of the modes of extinguishing criminal liability under Article 89⁴⁵ of the RPC. Private complainants are not allowed to compromise or to waive the criminal aspect of a case,⁴⁶ which affects public interest. As the accused-appellant is found guilty beyond reasonable doubt of the crime of murder, he is civilly liable for indemnification for consequential damages caused to the victim's family. Every person criminally liable for a felony is also civilly liable.⁴⁷ Thus, when death occurs due to a crime, the following damages may be awarded: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory

⁴¹ See *People v. Amania*, 318 Phil. 579 (1995).

⁴² *Sinumpaang Salaysay ng Pag-uurong ng Habla at Gawad ng Kapangyarihan and Sinumpaang Salaysay ng Pagbawi sa mga Salaysay at Pag-uurong ng Habla*, records, pp. 73-74 and p. 78.

⁴³ Records, p. 73.

⁴⁴ See *People v. Castillo*, 402 Phil. 779 (2001).

⁴⁵ Revised Penal Code, Art. 89. How criminal liability is totally extinguished. — Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment;

2. By service of the sentence;

3. By amnesty, which completely extinguishes the penalty and all its effects;

4. By absolute pardon;

5. By prescription of the crime;

6. By prescription of the penalty;

7. By the marriage of the offended woman, as provided in Article 344 of this Code.

⁴⁶ *Bautista v. Court of Appeals*, *supra* note 21, at 419.


⁴⁷ Article 100, Revised Penal Code.

damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.⁴⁸

In accordance with *People v. Jugueta*,⁴⁹ the Court of Appeals correctly awarded to the heirs of the victim: (1) civil indemnity *ex delicto* in the amount of ₱75,000.00 for the death of the victim; (2) moral damages in the amount of ₱75,000.00 for mental anguish and wounded feelings suffered by the heirs of the victim; and (3) exemplary damages of ₱75,000.00 as deterrent from similar conduct in the future.

WHEREFORE, the appeal is **DENIED**. The Decision of the Court of Appeals dated July 27, 2018, in CA-G.R. CR-HC No. 09416, finding accused-appellant Reyamar Masilang y Laciste guilty beyond reasonable doubt of the crime of murder is hereby **AFFIRMED**. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua*, and ordered to pay the heirs of the victim Rose Clarita A. Yuzon ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages. All damages awarded shall be subject to an interest of six percent (6%) *per annum* to be computed from the date of finality of this Decision until fully paid.

SO ORDERED.



DIOSDADO M. PERALTA
Chief Justice

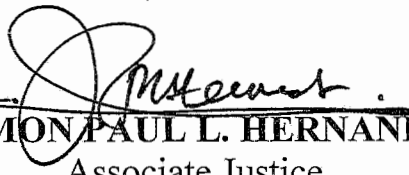
⁴⁸ *People v. Camat, et al.*, 692 Phil. 55, 87 (2012).

⁴⁹ 783 Phil. 806, 848 (2016).

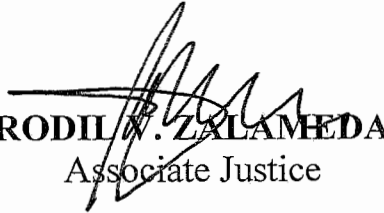
WE CONCUR:




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



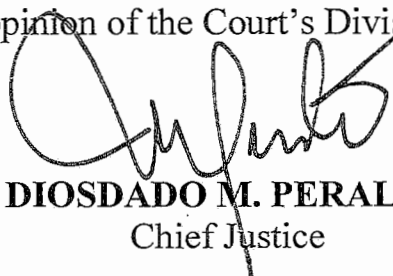
RODIL N. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
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