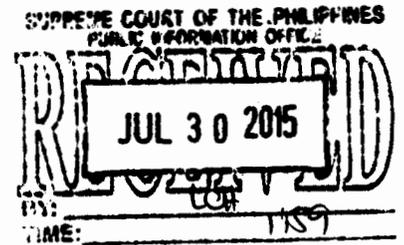




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 01 July 2015 which reads as follows:

G.R. No. 214763 – (*People of the Philippines, Plaintiff-Appellee v. Juliet Atilano [at large], Rogelio Ibañez a.k.a. “Roger,” Hernando Amparo a.k.a. “Badjao” and Rolando Famy a.k.a. “Lando,” accused; Rogelio Ibañez a.k.a. “Roger,” Hernando Amparo a.k.a. “Badjao” and Rolando Famy a.k.a. “Lando,” accused-appellants*).

This is an appeal from the May 23, 2014 Decision¹ of the Court of Appeals (CA), in CA-G.R. CR-H.C. No. 05728, which affirmed with modification the June 25, 2012 Decision² of the Regional Trial Court, Branch 152, Pasig City (RTC), in Criminal Case Nos. 124319-H and 124320-H, finding accused-appellants Rogelio Ibañez (*Ibañez*), Hernando Amparo (*Amparo*) and Rolando Famy (*Famy*) guilty beyond reasonable doubt of two (2) counts of Murder.

The Facts

The case harks back to the morning of July 18, 2002, when the lifeless bodies of Melanie Guillermo Tablit (*Tablit*) and Joan Castrence Tindugan (*Tindugan*) were found dumped in Cavite City, with their hands and feet still bound. Dr. David Cazenias, Medical Officer V of the Rural Health Unit in Dasmariñas, Cavite, conducted post mortem examinations on the cadavers of the two women and concluded that the cause of death of the victims was asphyxia secondary to strangulation. The investigation of the National Bureau of Investigation (*NBI*) pointed to Ibañez, Amparo, Famy (collectively, *accused-appellants*), and a certain Juliet Atilano (*Atilano*) as suspects in the gruesome crime.

Thereafter, two cases for Murder were filed before the RTC, docketed as Criminal Case Nos. 124319-H and 124320-H. The two similarly worded informations, both dated October 2, 2002, alleged that on or about July 17, 2002, accused-appellants, together with Atilano, conspired and helped one another in stabbing, strangling and killing the victims, Tablit and Tindugan, with treachery, evident premeditation, cruelty, and employment of craft.

¹ Penned by Associate Justice Ramon R. Garcia with Associate Justice Rebecca De Guia-Salvador and Associate Justice Edwin D. Sorongon, concurring; *rollo*, pp. 2-20.

² Penned by Judge Danilo S. Cruz; *CA rollo*, pp. 62-97.

When arraigned, accused-appellants pleaded "not guilty" to the charges. Atilano was not apprehended and to date remains at-large. After the pre-trial was terminated, the trial on the merits followed.

As synthesized by the CA, the respective versions of the prosecution and the defense are as follows:

Victims Melanie Guillermo Tablit and Joan Castrence Tindugan were the caretaker and housekeeper, respectively, of a house and lot owned by Aneth Chua, located [on] Palmetto St., Greenwood Village, Pasig City. Sometime in 2002, Chua put the subject property on sale for P6.5 Million.

On July 16, 2002, around six to seven o'clock in the evening, appellant Rogelio Ibañez approached prosecution witnesses George Bituin and Wilma Vicente at the tricycle terminal in Baclaran. He asked them if they wanted a job that would pay One Million Pesos which they and their cohorts would share. When they asked what the work was, appellant Ibañez told them that they would be serving as lookouts while he would restrain and intimidate Aneth Chua, along with her helpers and her son, to sign a deed of sale over the subject property that accused Atilano wanted to buy. When they acceded, appellant Ibañez instructed them to get on a *Mitsubishi Adventure* where a driver, accused Juliet Atilano, and appellants Rolando Famy and Hernando Amparo were already on board. At around nine o'clock in the evening, they arrived at Greenwood Village in Pasig City. They were told to spend the night at an establishment called *Archie's Parlor*.

The following day, July 17, 2002, around seven o'clock in the morning, accused Juliet Atilano, appellants and prosecution witnesses George Bituin and Wilma Vicente went to the subject house owned by Aneth Chua. When they arrived at the house, only victim Melanie Guillermo Tablit was present, but she allowed them inside because she knew accused Atilano as a prospective buyer of the subject property. Appellants then toured the house, accompanied by Tablit, while prosecution witness Bituin stayed at the living room. Thereafter, appellant Amparo asked victim Tablit for a glass of water. After receiving the water, appellant Amparo brought out a knife and pointed it at victim Tablit who fought back and tried to wrest possession of the knife. Appellants Amparo and Ibañez boxed victim Tablit, hitting her on the stomach. Once she was overpowered, appellants Amparo and Ibañez tied her hands and feet before bringing her to the comfort room. Accused Atilano then told appellants and witnesses Bituin and Vicente that another house helper would arrive at around one in the afternoon.

At around one-thirty in the afternoon of that same day of July 17, 2002, victim Joan Castrence Tindugan arrived, accompanied by another woman and the minor son of the owner of the house. Victim Tindugan asked accused Juliet Atilano where victim Tablit was, but the latter's answer was inaudible. Later, victim Tindugan's female companion and the minor boy left the house while she guided accused Atilano and appellants around.

Victim Tindugan asked appellant Rogelio Ibañez what materials were needed to repair the property. As appellant Ibañez was answering, appellant Amparo brought out a hammer and, without warning, hit victim Tindugan's head. Appellants then took advantage of her dizziness and tied her hands and feet with a piece of cloth. She was then carried into the comfort room. Later, accused Atilano brought out black garbage bags and instructed appellants to put the two women inside. At that time, prosecution witness George Bituin saw that victim Tindugan was still moving. Thereafter, the two women were loaded into a *Tamaraw FX*, which was then boarded by accused Atilano, appellants, and a driver. Before leaving, accused Atilano instructed those left behind not to let anyone inside the house. However, prosecution witnesses Bituin and Wilma Vicente opted to return home.

The following day, July 18, 2002, the news that the bodies of two women were salvaged and were dumped in Cavite City was published on the front page of a newspaper. This prompted prosecution witnesses George Bituin and Wilma Vicente to go to the Baclaran police station to report the incident. They were advised to go to the Western Police District instead. However, they knew that accused Juliet Atilano exerted influence on some police officers there, so they opted to go directly to the National Bureau of Investigation the following day of July 19, 2002.

For the defense, all three appellants took the witness stand in their respective behalf, all of whom interposing, the twin defenses of denial and alibi.

Appellant Rogelio Ibañez testified that he was a stay-in worker in a piggery located at Sto. Niño, Pasay, owned by Marina Lopez. On July 17, 2002, he was working in the piggery. Since he worked alone, it was his duty to feed the pigs thrice a day. He also collected food from a fast food restaurant in the afternoon and mixed them with cooked rice in the evening. He claimed that he did not know accused Juliet Atilano or prosecution witnesses George Bituin and Wilma Vicente. He only met appellants Hernando Amparo and Rolando Famy in jail after being charged with the instant case.

Appellant Hernando Amparo testified that he was a pedicab driver in Baclaran. On July 17, 2002, he was plying his pedicab from morning until four o'clock in the afternoon. He likewise denied knowing accused Juliet Atilano or appellants Rogelio Ibañez and Rolando Famy. He only met the two other appellants after he was arrested by the NBI.

Appellant Rolando Famy testified that on July 17, 2002, he was at home in Tondo the entire day because he was sick. He also did not know accused Juliet Atilano, appellants Rogelio Ibañez and Hernando Amparo, or victims Melanie Guillermo Tablit and Joan Castrence Tindugan.³

[Emphasis Supplied]

³ Rollo, pp. 5-8.

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The Ruling of the RTC

On June 25, 2012, the RTC convicted the accused-appellants for two (2) counts of murder. The RTC found the testimonies of prosecution witnesses George Bituin (*Bituin*) and Wilma Vicente (*Vicente*) credible and convincing with their narration of the incident dovetailing with each other even on minor details. The trial court held that the prosecution was able to establish conspiracy among the accused-appellants in the commission of the crime charged. Further, the RTC appreciated the attendance of evident premeditation which qualified the twin killings to murder. It also considered the presence of the circumstances of treachery and taking advantage of superior strength which aggravated the criminal liabilities of the accused-appellants. Accordingly, the accused-appellants were sentenced to suffer the penalty of *reclusion perpetua* for each count of murder and were ordered to pay damages to the heirs of the victims. The criminal cases against Juliet Atilano were ordered to be archived pending her arrest. An alias warrant was issued for her immediate apprehension.

Unfazed, accused-appellants appealed the RTC judgment of conviction before the CA.

The Ruling of the CA

In its assailed decision, the CA found no reason to reverse the findings of the RTC. The CA held that credible and sufficient circumstantial evidence proved accused-appellants' involvement in the murder of victims Tablit and Tindugan. The appellate court enumerated specific factual circumstances relative to their whereabouts and actuations, and held that the totality of the circumstantial evidence on record inexorably led to the conclusion that they were the perpetrators of the twin murder and that the killings were qualified by treachery. The CA further observed that accused-appellants did not cite any ill motive which could have compelled Bituin and Vicente to falsely accuse or implicate them in such heinous crime. Hence, there is neither cause nor reason to withhold credence on the testimonies of the said prosecution witnesses. The CA, however, modified the award of damages to the heirs of each of the victims by: a) deleting the award of actual damages in the amount of ₱20,000.00; b) increasing the amounts for civil indemnity and moral damages to ₱75,000.00 each; and c) ordering the award of ₱25,000.00 as temperate damages and ₱30,000.00 as exemplary damages. The CA also imposed interest on all the damages awarded at the rate of six percent (6%) per annum reckoned from the date of the finality of its judgment until fully paid.

The Issues

Bewailing their conviction for two (2) counts of murder, Ibañez, Amparo and Famy filed the present appeal and submitted for review the following

ASSIGNMENT OF ERRORS

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN THEIR FAVOR.

II

THE PROSECUTION FAILED TO ADDUCE ANY EVIDENCE TO PROVE THE QUALIFYING CIRCUMSTANCES OF TREACHERY AND EVIDENT PREMEDITATION.⁴

The conviction of accused-appellants for two (2) counts of murder must stand.

It is a well-established doctrine that the factual findings of the trial court, its assessment of the credibility of witnesses, the probative weight of their testimonies, and the conclusions based on these factual findings, are to be given the highest respect. As a rule, the Court will not weigh anew the evidence already passed on by the trial court and affirmed by the CA. Though the rule is subject to exceptions, no such exceptional ground obtains in this case.⁵ In the absence of any showing that certain facts of substance and significance have been overlooked by the trial court, or that its findings have been arbitrary, the conclusion it arrives at must be respected and its judgment based thereon must be affirmed. In fine, the Court sees no compelling reason to disturb the findings of the RTC as affirmed by the CA.

In every criminal case, the task of the prosecution is always two-fold: (1) to prove beyond reasonable doubt the commission of the crime charged; and (2) to establish with the same *quantum* of proof the identity of the person or persons responsible therefor, because, even if the commission of the crime is a given, there can be no conviction without the identity of the malefactor being likewise clearly ascertained.⁶

⁴ CA rollo, pp. 47-48.

⁵ *People v. Biglete*, G.R. No. 182920, June 18, 2012, 673 SCRA 546, 557.

⁶ *People v. Bacalso*, 395 Phil. 192, 199 (2000).

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In the case at bench, the prosecution relied on circumstantial evidence to discharge its burden of proving the guilt of accused-appellants. It must be emphasized, however, that the lack of direct evidence does not *ipso facto* bar the finding of guilt against the accused who may be convicted on the basis of credible and sufficient circumstantial evidence, provided that the proven circumstances lead to the inescapable and reasonable conclusion that the accused committed the imputed crime.

The settled rule is that a judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.⁷ The corollary rule is that the circumstances proven must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.⁸ It is on the basis of these principles that this case shall be resolved.

After a careful review of the records of the case, the Court finds that the circumstantial evidence presented by the prosecution is sufficient to identify Ibañez, Amparo and Famy as the authors of the twin killings. When viewed as a whole, this evidence effectively establishes their guilt beyond reasonable doubt.

Specifically, the combination of the following established facts and circumstances affirm the finding of guilt by the RTC and the CA:

- 1] Accused-appellant Ibañez approached prosecution witnesses Bituin and Vicente with a job to serve as lookouts while the victims would be tied up and intimidated.
- 2] After accused-appellants and prosecution witnesses Bituin and Vicente entered the subject house owned by their target Aneth Chua by pretending to be carpenters, Amparo, assisted by Ibañez, poked a knife at victim Tablit, and when she resisted, Amparo punched her. After Tablit was overpowered, her hands and feet were tied before she was locked up in the comfort room.

⁷ Section 4, Rule 133 of the Rules of Court, *People v. Cantas*, 423 Phil. 665, 677 (2001).

⁸ *People v. Flores*, 389 Phil. 532, 541 (2000).

- 3] Thereafter, the victim Tindugan arrived at the house. Later, while discussing the repairs needed to be done for the subject house, Amparo suddenly hit Tindugan with a hammer. Once she was dizzy, her hands and feet were bound. She was also locked up inside the comfort room with Tablit.
- 4] Atilano later brought out black garbage bags. Accused-appellants placed Tablit and Tindugan into separate garbage bags. At that time, Bituin saw Tindugan still moving.
- 5] Accused-appellants loaded the victims into an awaiting *Tamaraw FX*.
- 6] Accused-appellants, along with Atilano, boarded the same *Tamaraw FX* with the plan of bringing Tablit and Tindugan to Cavite while Bituin and Vicente were left at the subject house with the instruction not to let anyone get inside the premises.
- 7] Tablit and Tindugan were found dead in Cavite the following morning, July 18, 2002, with their hands and feet still bound.

The Court agrees with the findings of the RTC and the CA that the foregoing pieces of circumstantial evidence, when analyzed and taken together, would definitely lead to no other conclusion except that accused-appellants committed the dastardly acts in conspiracy with each other. Records revealed that their acts were directed towards a joint and common purpose and criminal design.

It is worth noting that the failure of the prosecution to present eyewitnesses who had actually seen accused-appellants strangle the victims does not immediately dispel their guilt. Otherwise, the prosecution of vicious felons who commit heinous crimes in secret or secluded places would be hard, if not impossible, to prove. Indeed, resorting to circumstantial evidence becomes essential when insisting on direct testimony would invariably result in setting felons free.⁹ To be sure, conviction in a criminal case does not entail absolute certainty.¹⁰ What is required only is that degree of proof which, after an examination of the entire records of the case, produces moral certainty in an unprejudiced mind moral certainty of the culpability of the accused.¹¹

⁹ *People v. Salas*, 384 Phil. 54, 64 (2000).

¹⁰ *People v. Carillo*, 388 Phil. 1010, 1020 (2000).

¹¹ *People v. Casitas, Jr.*, 445 Phil. 407, 420 (2003).

The defense of denial and alibi interposed by accused-appellants were correctly disregarded by the RTC and the CA. Aside from being inherently weak, they were not substantiated by competent and independent evidence and, thus, self-serving. Besides, for their alibis to prosper, they must prove that they were somewhere else when the crime was committed, and that it was physically impossible for each of them to have been at the crime scene at the time of its commission. Accused-appellants miserably failed to discharge this burden. Evidence on record shows that it was not totally impossible for each of the accused-appellants to be at the *situs criminis* at the time of the commission of the crime.

The RTC qualified the killing to murder by appreciating the circumstance of evident premeditation. For evident premeditation to be considered, the following must be established: (1) the time when the accused determined (conceived) to commit the crime; (2) an overt act manifestly indicating that he clung to his determination to commit the crime (kill his victim); and (3) a sufficient lapse of time between the decision to commit the crime and the execution thereof to allow the accused to reflect upon the consequences of his act.¹² Premeditation presupposes a deliberate planning of the crime before executing it. If it is not shown as to how and when the plan to kill was hatched or what time had elapsed before it was carried out, evident premeditation cannot be considered.

Here, the records are barren of any proof, direct or circumstantial, that would show a plan or preparation to kill by accused-appellants as well as the moment when they meditated and reflected upon their decision to kill Tablit and Tindugan and the intervening time that elapsed before this plan was carried out. Besides, their supposed participation in the incident was merely to restrain Aneth Chua, along with her helpers and son, and intimidate her to sign a deed of sale over the property that Atilano wanted to purchase. Accordingly, the circumstance of evident premeditation cannot be presumed against accused-appellants. To qualify a killing to murder, the circumstances invoked must be proven as indubitably as the killing itself. It cannot be deduced from mere supposition.¹³

Notwithstanding the foregoing disquisition, the Court finds that the crime committed by accused-appellants was murder because of the presence of the qualifying circumstance of treachery in the commission of the twin killings. There is treachery when the following essential elements are present, *viz*: (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.¹⁴ The

¹² *People v. Sanchez*, 636 Phil. 560, 582 (2010).

¹³ *People v. Baltar, Jr.*, 401 Phil. 1, 14 (2000); and *People v. Casitas, Jr.*, supra note 11.

¹⁴ *People v. Villarico, Sr.*, 662 Phil. 399, 422 (2011).

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essence of treachery lies in the suddenness of the attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring the commission of the offense without risk to the offender arising from the defense which the offended party might make.¹⁵

In this case, victims Tablit and Tindugan were absolutely unaware of the imminent deadly assaults against them and, for that reason, they were in no position to defend themselves or to repel their assailants. The fact that accused-appellants bound the hands and feet of Tablit and Tindugan clearly revealed their deliberate design to ensure the accomplishment of their purpose to kill the said victims without any possibility of the latter's escape or of any retaliation from them.

Article 248 of the Revised Penal Code (*RPC*), as amended, provides for the penalty of *reclusion perpetua* to death for the crime of murder. There being no aggravating or mitigating circumstance, the RTC, as affirmed by the CA, properly imposed the penalty of *reclusion perpetua* for each count of murder, pursuant to Article 63, paragraph 2¹⁶ of the *RPC*.

The Court also modifies the damages awarded to the heirs of the victims by the CA, keeping in mind that the imposable penalty upon accused-appellants is *reclusion perpetua*. In line with recent jurisprudence,¹⁷ they are ordered to pay the heirs of each of the victims ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages. The awards of temperate damages of ₱25,000.00 and exemplary damages of ₱30,000.00 are proper and in accord with prevailing jurisprudence.¹⁸ Further, interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of the finality of this resolution until fully paid.¹⁹

WHEREFORE, the appeal is **DISMISSED**. The May 23, 2014 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05728 is **AFFIRMED with MODIFICATION**.

In Criminal Case No. 124319-H, accused-appellants Rogelio Ibañez a.k.a. "Roger," Hernando Amparo a.k.a. "Badjao" and Rolando Famy a.k.a. "Lando" are found **GUILTY** beyond reasonable doubt of the crime of

¹⁵ *People v. Escote, Jr.*, 448 Phil. 749, 786 (2003).

¹⁶ ART. 63. *Rules for the application of indivisible penalties.* - x x x.

x x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

¹⁷ *People v. Nelmda*, G.R. No. 184500, September 11, 2012, 680 SCRA 386, 437.

¹⁸ *People v. Malicdem*, G.R. No. 184601, November 12, 2012, 685 SCRA 193, 207; *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 249.

¹⁹ *People v. Linsie*, G.R. No. 199494, November 27, 2013, 711 SCRA 125, 140.

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Murder, defined and penalized under Article 248 of the Revised Penal Code, as amended, and are sentenced to suffer the penalty of *reclusion perpetua*. The accused-appellants are ordered to pay the heirs of the victim, Melanie Guillermo Tablit, the amount of Fifty Thousand Pesos (₱50,000.00) as civil indemnity, Fifty Thousand Pesos (₱50,000.00) as moral damages; Twenty-Five Thousand Pesos (₱25,000.00) as temperate damages; and Thirty Thousand Pesos (₱30,000.00) as exemplary damages.

In Criminal Case No. 124320-H, accused-appellants Rogelio Ibañez a.k.a. "Roger," Hernando Amparo a.k.a. "Badjao" and Rolando Famy a.k.a. "Lando" are found **GUILTY** beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, as amended, and are sentenced to suffer the penalty of *reclusion perpetua*. The accused-appellants are ordered to pay the heirs of the victim, Joan Castrence Tindugan, the amount of Fifty Thousand Pesos (₱50,000.00) as civil indemnity, Fifty Thousand Pesos (₱50,000.00) as moral damages, Twenty-Five Thousand Pesos (₱25,000.00) as temperate damages; and Thirty Thousand Pesos (₱30,000.00) as exemplary damages.

Further, the accused-appellants are ordered to pay interest on all monetary awards for damages at the rate of Six Percent (6%) per annum from the date of finality of this resolution until fully satisfied. (*Brion, J., on leave; Bersamin, J., designated Acting Member, per Special Order No. 2079, dated June 29, 2015*)

SO ORDERED.

Very truly yours,


 MA. LOURDES C. PERFECTO
 Division Clerk of Court *file 7127*