



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **December 2, 2020**, which reads as follows:*

“G.R. No. 232499 (*People of the Philippines v. Michael John Heteroza y Dela Cruz*). – This is an appeal¹ assailing the Decision² dated October 14, 2016 of the Court of Appeals (CA) in CA-G.R. CR HC No. 06885 finding Michael John Heteroza y Dela Cruz (accused-appellant) guilty beyond reasonable doubt of Murder.

The Facts

Accused-appellant and his co-accused, Agustin Charles Delfin (Delfin), were charged with Murder under Article 248 of the Revised Penal Code (RPC) in an Information dated October 17, 2011 which reads:

That on or about the 15th day of October 2011, in Quezon City, Philippines, the above-named accused, armed with a gun, conspiring, confederating with and mutually helping each other, did then and there willfully, unlawfully and feloniously, with intent to kill, qualified by treachery, evident premeditation and taking advantage of their superior strength, assault, attack and employ personal violence upon the person of JEROME WARRINER Y SADA[C], by then and there shooting him, hitting him at the back, thereby inflicting upon him serious and mortal wound which was the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said Jerome Warriner [y] Sadac.

The above attendant circumstances were present because accused planned the commission of the crime prior to its execution until its commission, consciously adopting the means and methods of attack done suddenly and unexpectedly to ensure commission of the crime without risk to the accused.³

¹ Rollo, pp. 34-37.

² *Id.* at 2-33; penned by Associate Justice Maria Elisa Sempio Diy with Associate Justices Ramon M. Bato, Jr. and Manuel M. Barrios, concurring.

³ *Id.* at 3.

On October 15, 2011, at around 1:00 a.m., near the basketball court in Road 9, *Brgy. Bagong Pag-asa*, Quezon City, victim Jerome Warriner (Warriner), Mark Jason Villalva, Jeffrey Damaso (Damaso), Pocholo Siazon, Chealsea Ramos, Rey Andrew Escalona, Nelson Saloy, and some other persons were having a drinking spree. Accused-appellant and his passenger, Delfin arrived at the place in a motorcycle where the group was having a drinking spree. Accused-appellant revved up the motorcycle engine that created so much noise prompting Warriner to approach him and Delfin. After talking, accused-appellant and Delfin left, while Warriner went back to his group and continued their drinking spree. After about ten minutes, accused-appellant and Delfin returned. Warriner approached them. After a brief conversation, Warriner turned away from them and went towards the motorcycle of Damaso with his back towards the direction of accused-appellant and Delfin. While Warriner was attending to Damaso's motorcycle, accused-appellant moved the motorcycle a little bit and, suddenly, Delfin pulled out a .38 caliber gun and fired a shot hitting Warriner's back. Delfin fired his gun four to five times. Thereafter, accused-appellant and Delfin sped away on board the motorcycle.⁴

Then, Warriner shouted, "*Tol, may tama ako.*"⁵ The group immediately brought him to J.P. Sioson Hospital, but transferred him later to Quezon City General Hospital where he was pronounced dead on arrival.⁶ Warriner died due to a gunshot wound in his back. The recovered slug on his left thoracic cavity, after examination, was found to have been fired from a .38 caliber homemade firearm or "*paltik.*"⁷

For their part, accused-appellant and Delfin denied the crime charged. Delfin asserted that he only fired his pen gun upward when Warriner's group approached him. Thereafter, he heard three successive gunshots. As for accused-appellant, he asserted that he did not know that Delfin was carrying a gun at that time as he merely accompanied him in buying liquor at a store in *Brgy. Bagong Pag-asa*, Quezon City.⁸

The RTC Ruling

In the Decision⁹ dated June 18, 2014, the RTC convicted accused-appellant and Delfin for Murder, sentenced them to suffer the penalty of *reclusion perpetua*, and ordered them to pay the heirs of Warriner the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as

⁴ CA rollo, p. 23.

⁵ TSN, February 23, 2012, p. 16.

⁶ Rollo, p. 5.

⁷ CA rollo, p. 24.

⁸ *Id.*

⁹ CA rollo pp. 22-29; penned by Acting Presiding Judge Genie G. Gapas-Agbada.

moral damages, ₱25,000.00 as temperate damages, and ₱25,000.00 as exemplary damages.¹⁰

The RTC held that the prosecution was able to prove all the elements of Murder qualified by treachery. It found that accused-appellant was positively and categorically identified by the prosecution witnesses as the companion of Delfin when the latter fired a shot at Warriner. The prosecution witnesses were unanimous in testifying that Delfin suddenly and unexpectedly shot Warriner from behind. The RTC also ruled that accused-appellant is equally liable for the treacherous act of Delfin because conspiracy between them was duly proven.¹¹

Only accused-appellant appealed to the CA.

The CA Ruling

On October 14, 2016, the CA affirmed accused-appellant's conviction, but modified the amount of damages awarded. The CA ordered accused-appellant to pay ₱75,000.00 as civil indemnity, ₱25,000.00 as temperate damages, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages, with interest at the rate of 6% per *annum* on all the monetary awards from the date of finality of the Decision¹² until fully paid.¹³

Hence the appeal before the Court.

The Issue

Whether the CA erred in affirming accused-appellant's conviction for Murder.

The Court's Ruling

The well-settled rule in this jurisdiction is that the matter of ascribing substance to the testimonies of witnesses is best discharged by the trial court, and the appellate courts will not generally disturb the findings of the trial court in this respect.¹⁴ Findings of the trial court which are factual in nature and which involve the credibility of witnesses are accorded with respect, if not finality by the appellate court, when no glaring errors, gross misapprehension of facts, and speculative, arbitrary, and unsupported conclusions can be gathered

¹⁰ *Id.* at 29.

¹¹ *Id.* at 28.

¹² *Id.* at 2-33.

¹³ *Rollo*, p. 32.

¹⁴ *People v. Hernandez*, 476 Phil. 66, 84 (2004).

from such findings.¹⁵ The reason is quite simple: the trial judge is in a better position to ascertain the conflicting testimonies of witnesses after having heard them and observed their deportment and mode of testifying during the trial.¹⁶ The task of taking on the issue of credibility is a function properly lodged with the trial court.¹⁷ Thus, generally, the Court will not recalibrate evidence that had been analyzed and ruled upon by the trial court.¹⁸

After a judicious scrutiny of the records, the Court finds no compelling reason to depart from the factual findings of the RTC and the CA. The Court affirms the conviction of accused-appellant.

Accused-appellant stands charged with Murder qualified by treachery as defined and punished under Article 248 of the RPC, as amended by Republic Act 7659.¹⁹ Article 248 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.

x x x x.

For the charge of Murder to prosper, the prosecution must prove the existence of the following elements: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (4) that the killing is not parricide or infanticide.²⁰

In the instant case, all the elements of Murder were established by the prosecution: (1) Warriner was killed on October 15, 2011; (2) the prosecution witnesses positively identified accused-appellant as the one who drove the motorcycle as a getaway vehicle with Delfin as the passenger; (3) the killing was attended by treachery; and (4) the killing is not parricide or infanticide.

The qualifying circumstance of treachery was also proven by the prosecution at the time of the killing. There is treachery when the offender commits any of the crimes against person, employing means,

¹⁵ *People v. Aspa, Jr.*, G.R. No. 229507, August 6, 2018, 876 SCRA 330, 338.

¹⁶ *Id.*

¹⁷ *People v. Iluis*, 447 Phil. 517, 524 (2003).

¹⁸ *SPO2 Jamaca v. People*, 764 Phil. 683, 693 (2015).

¹⁹ Entitled "An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Laws, As Amended, Other Special, Penal Laws, And For Other Purposes" (December 13, 1993).

²⁰ *People v. Racal*, 817 Phil. 665, 677 (2017).

methods, or forms in the execution thereof which tend directly and specially to ensure its execution, without risk to himself arising from the defense which the offended party might make.²¹ The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape.²²

Both the RTC and the CA correctly appreciated the qualifying circumstance of treachery. Warriner was completely unaware of any threat to his life as he was merely attending to the motorcycle of Damaso after talking to accused-appellant and Delfin. From the testimonies of the prosecution witnesses, it can be inferred that Warriner was not aware that he will be shot in the back by Delfin. The act of shooting was so sudden that he had no opportunity to defend himself, or even run and escape. The deliberate act and intent to kill Warriner can be inferred from the wound he suffered in his back. Hence, treachery was properly appreciated.

The RTC and the CA were likewise correct in ruling that accused-appellant is a co-principal in the killing of Warriner by reason of conspiracy. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony, and decide to commit it.²³ The essence of conspiracy is the unity of action and purpose.²⁴ Direct proof is not essential to prove conspiracy for it may be deduced from the acts of the accused before, during, and after the commission of the crime charged, from which it may be indicated that there is common purpose to commit the crime.²⁵

In the case at bench, accused-appellant's acts before, during, and after the shooting indicated that he conspired with Delfin in the killing of Warriner. The following acts of accused-appellant show that he had a common design with Delfin in killing Warriner:

First, accused-appellant, who was then driving the motorcycle with Delfin as the passenger, drove to the place where Warriner and his friends were having a drinking spree;

Second, while accused-appellant and Delfin were at the place, accused-appellant was revving up his motorcycle engine which caused disturbance to the group and prompted Warriner to approach them. Afterwards, accused-appellant and Delfin drove away;

Third, after 10 minutes, accused-appellant and Delfin returned to the place where the group was drinking. Accused-

²¹ Article 14 of the RPC.

²² *People v. Cirbeto*, 825 Phil. 793, 806 (2013).

²³ *People v. Evasco*, G.R. No. 213415, September 26, 2018; Article 8, RPC.

²⁴ *Office of the Ombudsman v. Petrasanta*, G.R. No. 227268, August 28, 2019.

²⁵ *People v. Verona*, G.R. No. 227748, June 19, 2019.

appellant was again revving up his motorcycle engine which prompted Warriner to approach and talk to them. After a brief conversation, Warriner attended to Damaso's motorcycle;

Fourth, after Warriner turned his back from accused-appellant and Delfin, accused-appellant slowly moved the motorcycle he was driving, while Delfin pulled out a gun and shot Warriner in the back;

Fifth, after Delfin fired the shots, accused-appellant sped away with Delfin in the motorcycle;

Sixth, after the shooting incident, accused-appellant and Delfin returned to the former's house and drank some liquor;

Lastly, accused-appellant did not tell anyone or reported the shooting incident to the police.²⁶

There is no doubt that accused-appellant's actions showed a unity of purpose with Delfin in the killing of Warriner. By driving the motorcycle before, during, and after the shooting incident, accused-appellant ensured the consummation of the crime. Were it not for his participation, Delfin would not have easily escaped from the crime scene. If accused-appellant had no intention to participate in the killing, he could have stopped the motorcycle and helped bring Warriner to a hospital. Also, he could have immediately reported the incident to the authorities for the apprehension of Delfin. In other words, accused-appellant participated in the material execution of the crime by lending moral support and assistance to Delfin. Hence, conspiracy exists.

Considering all of the foregoing, accused-appellant's conviction for the crime of Murder must stand.

As regards the monetary awards, the CA properly awarded ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages, with 6% interest per *annum* on all the monetary awards from the date of finality of the Resolution until fully paid. The amount awarded as temperate damages must, however, be increased in line with *People v. Jugueta*.²⁷

In *Jugueta*, the Court held:

Aside from those discussed earlier, the Court also awards temperate damages in certain cases. The award of P25,000.00 as temperate damages in homicide or murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court. Under Article 2224 of the Civil Code, temperate damages may be recovered, as it cannot be denied that the heirs of the victims

²⁶ *Rollo*, pp. 28-29.

²⁷ 783 Phil. 806 (2016)

suffered pecuniary loss although the exact amount was not proved. In this case, the Court now increases the amount to be awarded as temperate damages to P50,000.00.²⁸

Accordingly, the temperate damages shall be in the amount of P50,000.00.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated October 14, 2016 of the Court of Appeals in CA-G.R. CR HC No. 06885 is **AFFIRMED** with **MODIFICATION** in that the award of temperate damages is increased to P50,000.00.

SO ORDERED."

By authority of the Court:

Misael Domingo C. Battung III
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Division Clerk of Court
GER
1/27/21

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²⁸ *Id.* at 846.