



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 231359  
PHILIPPINES,

Plaintiff-Appellee,

Present:

- versus -

CARPIO, J., Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

CRISANTO CIRBETO y  
GIRAY,

Accused-Appellant.

Promulgated:

07 FEB 2018

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Crisanto Cirbeto y Giray (accused-appellant) assailing the Decision<sup>2</sup> dated February 9, 2016 rendered by the Court of Appeals (CA) in CA-G.R. CR-HC No. 06481, which affirmed with modification the Decision<sup>3</sup> dated October 24, 2013 of the Regional Trial Court of Marikina City, Branch 193 (RTC) in Criminal Case No. 2011-12719-MK 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 with Compliance dated February 29, 2016; *rollo*, pp. 17-18.

<sup>2</sup> Id. at 2-16. Penned by Associate Justice Ramon A. Cruz with Associate Justices Marlene Gonzales-Sison and Henri Jean Paul B. Inting concurring.

<sup>3</sup> CA *rollo*, pp. 16-23. Penned by Judge Alice C. Gutierrez.

### The Facts

On December 31, 2010, at around 3:15 in the afternoon, while prosecution eyewitness Roger Dalimoos<sup>4</sup> (Dalimoos) was outside a fast food restaurant in front of Marikina Sports Center at the corner of Sumulong Highway and Toyota Avenue, Marikina City, he saw his friend Ferdinand Casipit (Casipit) together with accused-appellant walking towards a nearby mall.<sup>5</sup> Dalimoos was on his way home then, so he boarded a jeepney by hanging on to its end railings.<sup>6</sup>

Upon reaching the stoplight at the corner of Sumulong Highway and Tuazon St., from which vantage point he could still see Casipit and accused-appellant who were already in front of the mall, Dalimoos saw the latter suddenly pull a knife from the right side of his back, hold Casipit's shirt with his left hand, and stab him with the knife using his right hand.<sup>7</sup> Accused-appellant was able to stab Casipit once before the latter managed to run away. However, accused-appellant ran after Casipit and caught up to him.<sup>8</sup> Thereafter, the former held the latter's shirt again, pulled him to the ground, and stabbed him repeatedly, resulting in the latter's death.<sup>9</sup>

Shortly after the incident, accused-appellant tried to flee, but he was seized by Police Officer 1 (PO1) Jayson Rael and Police Senior Inspector (P/Sr. Insp.) Fabian Ribad of the Marikina City Police Station, who responded to a radio message relaying the stabbing incident.<sup>10</sup> They were also able to recover the knife used to stab the victim.<sup>11</sup>

The result<sup>12</sup> of the autopsy conducted by Medico-Legal Officer Police Inspector Ma. Annalissa G. Dela Cruz (P/Insp. Dela Cruz) showed that Casipit sustained five (5) stab wounds caused by a bladed weapon, the most fatal of which was the one on the posterior neck or nape region.<sup>13</sup> The stab wounds on the trunk portion injured the right lung and the stab wound on the chest portion caused severe bleeding.<sup>14</sup>

Consequently, accused-appellant was charged with the crime of Murder in an Information<sup>15</sup> that reads:

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<sup>4</sup> Also referred to as "Roger Dalimuos," "Roger Dalimos," and "Roger Dalimas" in some parts of the records.

<sup>5</sup> *CA rollo*, p. 17. See also TSN, May 5, 2011, pp. 3-4.

<sup>6</sup> See *id.* See also TSN, May 5, 2011, p. 5.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> See Certificate of Death; Folder of Exhibits, pp. 7-8.

<sup>10</sup> See *CA rollo*, p. 18. See also TSN, September 15, 2011, pp. 16-18.

<sup>11</sup> See *id.*

<sup>12</sup> See Folder of Exhibits, pp. 5-6.

<sup>13</sup> TSN, September 15, 2011, pp. 7-8.

<sup>14</sup> *Id.* at 8-9.

<sup>15</sup> Records, p. 1.

That on or about the 31<sup>st</sup> day of December 2010, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a knife, with intent to kill, did, then and there willfully, unlawfully and feloniously repeatedly stab one FERDINAND CASIPIT y BASTO on his back and neck, the said killing having been attended by the qualifying circumstances of treachery, evident premeditation, and abused [sic] of superior strength which changes the nature of the felony qualifying such killing to the more serious capital crime of MURDER.

CONTRARY TO LAW.<sup>16</sup>

When arraigned, accused-appellant entered a plea of “not guilty”<sup>17</sup> with the assistance of counsel *de officio* and raised the defenses of denial and alibi, disclaiming liability for the killing of Casipit and even denying that he knew the latter or the witness, Dalimoos.<sup>18</sup> He claimed that he was assisting a car parked in front of a fastfood restaurant in the area when the police officers arrested him for allegedly killing Casipit.<sup>19</sup>

During the trial, the victim’s brother, Isidro Casipit, testified that he incurred expenses for his brother’s wake amounting to P5,000.00 “more or less,” and P8,000.00 for the burial.<sup>20</sup> He presented receipts<sup>21</sup> to support his allegation.

### The RTC Ruling

In a Decision<sup>22</sup> dated October 24, 2013, the RTC convicted accused-appellant as charged and sentenced him to suffer the straight penalty of *reclusion perpetua* and to pay the heirs of Casipit the amounts of ₱13,000.00 as actual damages, ₱50,000.00 as moral damages, and ₱50,000.00 as civil indemnity.<sup>23</sup>

In finding accused-appellant guilty beyond reasonable doubt of murder, the RTC found that he failed to prove his innocence even with his denial that he knew Casipit, as during his testimony, he referred to the victim by his nickname, “Ferdie”.<sup>24</sup> Moreover, the RTC found the attendance of treachery as a qualifying circumstance, the mode of assault having been deliberately and consciously adopted to insure the execution of the crime without risk to accused-appellant.<sup>25</sup> Likewise, the RTC appreciated the qualifying circumstance of evident premeditation, which it inferred from the

<sup>16</sup> Id.

<sup>17</sup> See Order dated March 1, 2011; *id.* at 31.

<sup>18</sup> See *CA rollo*, p. 19.

<sup>19</sup> Id. See also TSN, September 11, 2012, pp. 3-7.

<sup>20</sup> Id.

<sup>21</sup> See Folder of Exhibits, pp. 10-11.

<sup>22</sup> *CA rollo*, pp. 16-23.

<sup>23</sup> Id. at 23.

<sup>24</sup> See *id.* at 20-21.

<sup>25</sup> Id. at 22.

act of accused-appellant in bringing with him a knife and waiting for the perfect moment to consummate the plan to kill Casipit.<sup>26</sup>

Aggrieved, accused-appellant appealed<sup>27</sup> to the CA.

### The CA Ruling

In a Decision<sup>28</sup> dated February 9, 2016, the CA affirmed accused-appellant's conviction with modifications, increasing the award of civil indemnity to ₱75,000.00 and moral damages to ₱75,000.00.<sup>29</sup> Additionally, it awarded the amount of ₱30,000.00 by way of exemplary damages. Likewise, all monetary awards shall earn an interest at the rate of six percent (6%) per annum from date of finality of judgment until fully paid.<sup>30</sup>

The CA found that the prosecution was able to clearly establish that: (1) Casipit was stabbed and killed; (2) accused-appellant was the one who killed him; (3) the victim's killing was attended by the qualifying circumstances of treachery and evident premeditation; and (4) the killing was neither parricide nor infanticide.<sup>31</sup> Moreover, accused-appellant was positively identified by Dalimoos, the eyewitness, whose testimony was straightforward and direct. Contrary to accused-appellant's contention, Dalimoos's testimony did not suffer from any serious and material inconsistency sufficient to destroy his credibility.<sup>32</sup>

As regards the attendant qualifying circumstance of treachery, the CA found that Casipit was caught off-guard when he was stabbed by accused-appellant, which act reeks of treachery.<sup>33</sup> It further observed that the victim had no way of defending himself, and thus, the mode of attack was deliberately and consciously adopted by accused-appellant to insure the execution of the crime without risk to himself.<sup>34</sup>

The CA likewise sustained the RTC's finding that evident premeditation was attendant in this case, as the same may be inferred from the outward act of accused-appellant in bringing a knife with him and thereafter, patiently waiting for the right moment to consummate his plan. The CA found that from the time accused-appellant and Casipit began walking towards the mall until the time they stopped to wait for a jeepney,

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<sup>26</sup> Id. at 23.

<sup>27</sup> See Brief for the Accused-Appellant dated November 19, 2014; id. at 42-52.

<sup>28</sup> *Rollo*, pp. 2-16.

<sup>29</sup> Id. at 14.

<sup>30</sup> Id.

<sup>31</sup> Id. at 8.

<sup>32</sup> See id. at 7-8.

<sup>33</sup> Id. at 9.

<sup>34</sup> Id.

the former had time to ponder whether to pursue his plan to kill Casipit or not.<sup>35</sup>

Finally, the CA rejected accused-appellant's defenses of denial and alibi, as he failed to show that it was physically impossible for him to be at the scene of the crime at the time of the incident.<sup>36</sup>

Dissatisfied, accused-appellant lodged this appeal<sup>37</sup> before the Court.

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

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

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

The appeal has no merit.

Murder is defined and punished under Article 248 of the RPC, as amended by Republic Act No. 7659, to wit:

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

5. With evident premeditation[.]

x x x x

To successfully prosecute the crime of Murder, the following elements must be established: (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 of the RPC; and (4) that the killing is not parricide or infanticide.<sup>38</sup>

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<sup>35</sup> Id. at 10.

<sup>36</sup> Id. at 10-11.

<sup>37</sup> Id. at 17-18.

<sup>38</sup> *People v. Las Piñas*, 739 Phil. 502, 524 (2014); citation omitted.

In this case, and as correctly found by the courts *a quo*, the prosecution was able to establish a confluence of the foregoing elements, considering the following: (1) the victim Casipit was killed; (2) accused-appellant was positively identified as the one who killed him; (3) Casipit's killing was attended by treachery, a qualifying circumstance; and (4) the killing is neither parricide nor infanticide.

Accused-appellant's defense is focused on the possible uncertainty over his identification by Dalimoos, the eyewitness, as the victim's assailant. He insists that Dalimoos was mistaken in identifying him and may even have been coached to lie in his testimony. The Court is not convinced.

It should be emphasized that the testimony of a single witness, if positive and credible, as in the case of Dalimoos, is sufficient to support a conviction even in a charge of murder.<sup>39</sup> On the witness stand, Dalimoos testified thus:

Assistant City Prosecutor Conos – Do you know a person by the name [of] Ferdinand Casipit?

Dalimoos – Yes, ma'am, he is my childhood friend.

Q – In the afternoon of December 31, 2010, where were you then?

A – I was at the parking lot of Mc. Do, ma'am.

Q – Do you know where Ferdinand Casipit was?

A – He was with Crisanto [Cirbeto] at Marquinton, ma'am.

Q – What particular place in Marquinton?

A – In front of Robinsons, ma'am.

Q – How did you know that Ferdinand Casipit and Crisanto [Cirbeto] were in front of Robinsons Marikina?

A – I was in front of Mc. Do, ma'am.

Q – In going to the front of Robinsons, what mode of transportation did they ([Cirbeto] and Casipit) take?

A – They were just walking, ma'am.

Q – By the way, where is Ferdinand Casipit now[?]

A – He is already dead, ma'am.

Q – When did he died [sic]?

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<sup>39</sup> *People v. Zeta*, 573 Phil. 125, 145 (2008); citation omitted.

A – December 31, 2010, ma'am.

Q – How did he died, if you know?

A – I was on my way home and I boarded a jeepney going home, ma'am.

Q – Where were you going home?

A – Sapa, ma'am.

Q – Where were you seated on that passenger jeepney?

A – “*Nakasabit lang po*”

Q – What about [Cirbeto] and Casipit, where were they?

A – They were already in front of Robinsons, ma'am.

Q – What happened next while you were on board the passenger jeepney and accused and the deceased were in front of Robinsons?

A – Crisanto suddenly pulled a knife, ma'am.

Q – How far were you when you saw Crisanto suddenly pulled [sic] a knife?

A – At the stop light in front of Jollibee, ma'am.

Q – When Crisanto suddenly pulled a knife, where was Casipit?

A – He was beside Crisanto, ma'am.

Q – What happened after Crisanto pulled a knife?

A – “*tyumempo po siya habang nag aabang sila ng jeep at bigla na lang tinraydor nya bigla na lang pinagsasaksak*”

Q – Who was stabbed?

A – Ferdinand Casipit, ma'am.

Q – What do you mean by “*tyumempo po sya habang nag aabang sila ng jeep at bigla nyang sinaksak si Ferdie*?”

A – “*tinraydor po*”

Q – What do you mean by “*bigla na lang nyang sinaksak*”?

A – They were waiting then for a jeepney, ma'am.

Q – How far where you from the jeepney that you were riding was on stop position from where you saw Crisanto suddenly pulled a knife and stabbed the deceased, what is the distance?

A – About 25 meters, ma'am.

Q – Will you please stand up and demonstrate how the two, the accused and the deceased standing, where was the accused in relation to where the deceased was standing at the time you saw them?

A – (the witness is demonstrating his distance from the deceased about a meter while the accused was behind the deceased towards the right, the accused looking towards the deceased and the deceased was looking on the left side towards the stop light)

x x x x

Q – How many times did you see the accused stabbed [sic] the victim?

A – Only once and then he suddenly run, ma'am.

Q – Who run [sic]?

A – Ferdie, ma'am.

Q – Where did Ferdinand, the victim run?

A – Going to Sapa, ma'am.

Q – What about the accused where did he go?

A – He run after Ferdie, ma'am.

Q – What about you what did you do?

A – I can't cross the street because the traffic light was on green light, ma'am.

Q – What did you do next?

A – “*bumaba po ako sa jeep hinintay ko pong mag-stop tsaka ako humabol*”

Q – What did you see when you run after the accused?

A – The accused reached Ferdinand again and he hold Ferdinand's shirt and repeatedly stabbed him, ma'am.

x x x x<sup>40</sup>

Based on the foregoing testimony, Dalimoos had consistently, straightforwardly, and positively identified accused-appellant as the person who was walking with the victim Casipit and who later on stabbed the latter. Dalimoos's testimony did not waver; neither did it suffer from any grave or material inconsistency as would strip away his credibility as an eyewitness to the crime.

Time and again, the Court has held that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its

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<sup>40</sup> TSN, May 5, 2011, pp. 4-8.



conclusions anchored on said findings, are accorded high respect, if not conclusive effect. This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether or not they are telling the truth. Hence, it is a settled rule that appellate courts will not overturn the factual findings of the trial court unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case. The foregoing rule finds an even more stringent application where the findings of the RTC are sustained by the CA.<sup>41</sup> As such, the Court finds no reason to depart from the assessment of the RTC, as affirmed by the CA, with respect to the probative value of Dalimoos's testimony in this case.

As regards the appreciation of the qualifying circumstance of treachery, the Court likewise concurs with the courts *a quo* in finding its presence in the commission of the crime.

Treachery is the direct employment of means, methods, or forms in the execution of the crime against persons which tends directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make. 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. In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.<sup>42</sup>

The evidence in this case clearly show that the attack against Casipit was sudden, deliberate, and unexpected. He was completely unaware of any threat to his life as he was merely walking with accused-appellant on the date and time in question. Moreover, deliberate intent to kill Casipit can be inferred from the location and number of stab wounds he sustained, and even though he was able to run after the first stab wound, accused-appellant was able to subdue and stab him further, rendering him defenseless and incapable of retaliation. Hence, treachery was correctly appreciated as a qualifying circumstance in this case.

However, the Court is of a different view with respect to the purported presence of evident premeditation.

For evident premeditation to be considered as a qualifying or an aggravating circumstance, the prosecution must prove: (a) the time when the

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<sup>41</sup> See *People v. Dayaday*, G.R. No. 213224, January 16, 2017; citation omitted.

<sup>42</sup> *People v. Las Piñas*, supra note 38 at 524-525; citation omitted.

offender determined to commit the crime; (b) an act manifestly indicating that the culprit has clung to his determination; and (c) a sufficient lapse of time between the determination and execution, to allow him to reflect upon the consequences of his act and to allow his conscience to overcome the resolution of his will.<sup>43</sup>

In this case, there is dearth of evidence to prove that accused-appellant had previously planned the killing of Casipit. Nothing has been offered to establish *when* and *how* he planned and prepared for the same, nor was there a showing that sufficient time had lapsed between his determination and execution. The Court stresses the importance of the requirement in evident premeditation with respect to the sufficiency of time between the resolution to carry out the criminal intent and the criminal act, affording such opportunity to coolly and serenely think and deliberate on the meaning and the consequences of what accused-appellant had planned to do, where the interval should be long enough for the conscience and better judgment to overcome the evil desire and scheme.<sup>44</sup> In the stabbing of Casipit, this requirement is clearly wanting.

With respect to the defenses of denial and alibi proffered by accused-appellant, the Court – as with the courts *a quo* – rejects the same. Denial is an intrinsically weak defense that further crumbles when it comes face-to-face with the positive identification and straightforward narration of the prosecution witness, Dalimoos. Between an affirmative assertion which has a ring of truth to it and a general denial, the former generally prevails.<sup>45</sup> On the other hand, for the defense of alibi to prosper, appellant must prove through clear and convincing evidence that not only was he in another place at the time of the commission of the crime but also that it was physically impossible for him to be at the scene of the crime.<sup>46</sup>

Accused-appellant himself testified that on the date and time material to this case, he was outside a fastfood restaurant standing beside a parked car within the vicinity of the stabbing incident.<sup>47</sup> As such, he failed to prove that it was physically impossible for him to be at the scene of the crime when the incident occurred. Therefore, his denial and alibi do not deserve credence.

In view of the foregoing disquisitions, the Court affirms the conclusion of the courts *a quo* that accused-appellant is indeed guilty beyond reasonable doubt of the crime of Murder, for which he is accordingly meted the penalty of *reclusion perpetua*. Furthermore, and conformably with prevailing

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<sup>43</sup> See *People v. Racal*, G.R. No. 224886, September 4, 2017; citation omitted.

<sup>44</sup> *People v. Dela Cruz*, 551 Phil. 406, 422-423 (2007).

<sup>45</sup> *Ibañez v. People*, G.R. No. 190798, January 27, 2016, 782 SCRA 291, 312.


<sup>46</sup> *Escamilla v. People*, 705 Phil. 188, 197 (2013).

<sup>47</sup> TSN, September 11, 2012, pp. 3-7.

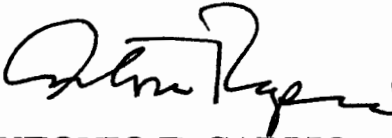
jurisprudence,<sup>48</sup> the amount of exemplary damages is increased from ₱30,000.00 to ₱75,000.00. All other monetary awards are affirmed.

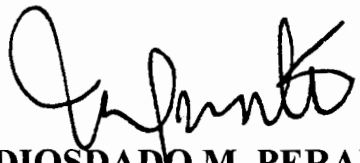
**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated February 9, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06481 finding accused-appellant Crisanto Cirbeto y Giray guilty beyond reasonable doubt of Murder, defined and penalized under Article 248 of the Revised Penal Code, is hereby **AFFIRMED** with **MODIFICATION** as to the amount of exemplary damages, which is increased to ₱75,000.00 in accordance with prevailing jurisprudence. The rest of the assailed Decision stands.

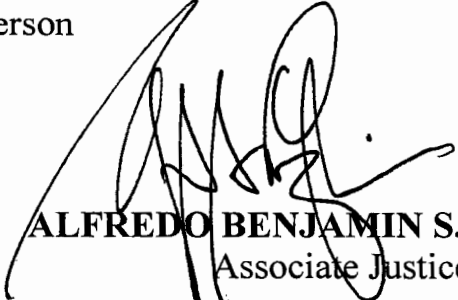
**SO ORDERED.**

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

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**ANDRES B. REYES, JR.**  
Associate Justice

<sup>48</sup> See *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331.

**A T T E S T A T I O N**

I attest 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.

**ANTONIO T. CARPIO**

Associate Justice  
Chairperson

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

**MARIA LOURDES P. A. SERENO**

Chief Justice