



Republic of the Philippines
Supreme Court
 Manila

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 WILFREDO V. LADITAN
 Division Clerk of Court
 Third Division

JUN 28 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 216728

Present:

VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO, JJ.

- versus -

DECITO FRANCISCO Y VILLAGRACIA,
 Accused-Appellant.

Promulgated:

June 4, 2018

X

X

DECISION

MARTIRES, J.:

This is an appeal from the 23 June 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01362 which affirmed with modification the 11 April 2011 Decision² of the Regional Trial Court, Branch 6, Tacloban City (RTC), in Criminal Case No. 2001-09-646 finding Decito Francisco y Villagracia (*accused-appellant*) guilty of Murder.

THE FACTS

In an Information, dated 24 September 2001, accused-appellant was charged with murder, as follows:

¹ *Rollo*, pp. 4-16; penned by Associate Justice Gabriel T. Ingles, and concurred in by Associate Justices Pamela Ann Abella Maxino and Renato C. Francisco.

² Records, pp. 176-183; penned by Assisting Judge Lauro A.P. Castillo, Jr.

That on or about the 23rd day of September 2001, in the City of Tacloban, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with intent to kill and with treachery and evident premeditation armed with a deadly weapon did, then and there wilfully, unlawfully and feloniously attack, assault and stab one Jaime Noriega III on his body, thereby inflicting upon said Jaime Noriega III stab wounds which caused his death.³

Upon arraignment, accused-appellant pleaded not guilty to the charge.

Version of the Prosecution

The prosecution presented Pacifico Daantos (*Daantos*) and Francis Elias (*Elias*) as its witnesses. Their combined testimonies sought to prove the following:

On 23 September 2001, at around 10:00 o'clock in the evening, Jaime Noriega III (*the victim*) was watching a game of Lucky Nine at the wake of the daughter of Anacleto Noriega at Baybay, San Jose, Tacloban City.⁴ During the game, accused-appellant suddenly came from behind the victim and, without warning, stabbed him on the left side of his body with a 13-inch knife, locally known as "pisao." The victim, who was then seated at the table, fell down.⁵ Accused-appellant pulled out the knife from the victim's body. The victim was able to utter the words, "I am wounded." Accused-appellant then fled while still holding the knife he used to stab the victim.⁶

Daantos, the victim's uncle, who was sitting near him at the time, chased accused-appellant but the latter managed to escape.⁷ On the same evening, however, accused-appellant was apprehended by the responding officers while he was crossing a street at Manlurip, San Jose, Tacloban City.⁸

Meanwhile, the victim was brought to the hospital where he expired in the early morning of 24 September 2001, due to massive blood loss as a result of the stab wound.⁹



³ Id. at 1.

⁴ TSN, 26 August 2002, pp. 5-9.

⁵ TSN, 26 November 2002, pp. 5-7.

⁶ TSN, 26 August 2002, pp. 10-11.

⁷ Id. at 11.

⁸ TSN, 10 December 2003, p. 5.

⁹ Records, p. 7.

Version of the Defense

On 23 September 2001, at around 6:30 p.m., accused-appellant was at McArthur Park when two persons boarded his pedicab and told him to bring them to VicMar Beach Resort. Upon arrival at the resort, the two persons disembarked and asked him to wait for them. At around 7:00 o'clock in the evening, with no sign of the two persons, accused-appellant left. Thereafter, a certain Martin, his friend, called him up and invited him to drink tuba at the former's place. At around 10:00 o'clock in the evening, accused-appellant left Martin's place. While he was riding his pedicab, two strangers accosted him. One of them suddenly stabbed him in his left arm. Accused-appellant then jumped to the right side of his pedicab, but the other assailant hit his back with an iron pipe. Accused-appellant was able to stab one of his assailants with his short bolo. Thereafter, his assailants ran away.¹⁰

The RTC Ruling

In its decision, the RTC found accused-appellant guilty of murder, ruling that accused-appellant failed to prove that he had acted in self-defense. While he claimed that he was stabbed and then hit by an iron pipe, he did not offer any proof to show that he had indeed suffered injuries. The trial court observed that accused-appellant was arrested almost immediately after the stabbing incident and that following established police procedure, he would have been subjected to a body search at the police station. Whatever injuries the policemen may have seen on his body would have been recorded in the police logbook and he would have been brought by the arresting officers to the hospital for treatment. Further, the trial court declared that the attack was attended by treachery because accused-appellant suddenly came from behind the victim and immediately stabbed him, concluding that there was no way for the victim to defend himself from the attack. The *fallo* reads:

WHEREFORE, premises considered, Judgment is hereby rendered, finding the accused **DECITO FRANCISCO y VILLAGRACIA**, Guilty beyond reasonable doubt for the murder of Jaime Noriega III. He is hereby sentenced to suffer the penalty of *reclusion perpetua*. His preventive detention shall be credited in full if he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners. Otherwise, he shall be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment. The accused is also **ORDERED** to indemnify the Heirs of Jaime Noriega III the sum of **Php75,000.00** for civil indemnity arising out of the felony; **Php75,000.00** for moral damages and **Php30,000.00** for exemplary damages.

No costs.¹¹



¹⁰ TSN, 21 September 2006, pp. 4-12.

¹¹ CA *rollo*, p. 20.

Aggrieved, accused-appellant elevated an appeal before the CA.

The CA Ruling

In its decision, the CA affirmed the conviction of accused-appellant. As regards the contention that the prosecution witnesses could not have identified him, it held that Daantos positively affirmed that he saw accused-appellant. The CA noted that the table where the victim was seated at collapsed and that such peculiar occurrence would naturally divert a person's attention to the source of the commotion, such that when Daantos turned his gaze towards the victim, accused-appellant was already pulling out a short bolo from the left side of the victim. It added that from Elias' account, the victim was sitting at the edge of the table while he was standing; and that from such elevated position, he could clearly see what transpired. The appellate court opined that the attack on the victim came from the rear showing that accused-appellant had consciously adopted such means of execution to prevent any risk to himself. The CA disposed the case in this wise:

WHEREFORE, the appeal is hereby **DENIED**. The Decision of the Regional Trial Court, Branch 6 of Tacloban City promulgated on April 11, 2011, in Criminal Case No. 2001-09-646 in finding accused-appellant Decito Francisco y Villagrancia guilty of the crime of murder is **AFFIRMED IN TOTO**.¹²

Hence, this appeal.

ISSUE

WHETHER THE GUILT OF ACCUSED-APPELLANT FOR MURDER HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

Accused-appellant argues that Daantos could not have identified him because his view was obstructed by the body of the victim; that Daantos did not notice the presence of accused-appellant prior to the stabbing incident; that Elias could not have seen his face because it was likewise obstructed by the victim's body; and that the prosecution failed to discharge its burden of proving that accused-appellant consciously adopted such means and methods to ensure that the victim could not defend himself from the unlawful attack.



¹² Rollo, p. 15.

THE COURT'S RULING

Murder is defined and penalized under Article 248 of the Revised Penal Code (*RPC*), as amended, which provides:

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 *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;
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 railroad, 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 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.

Generally, the elements of murder are: 1) that a person was killed; 2) that the accused killed him; 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.¹³

That the victim died, that accused-appellant killed him, and that the killing is neither parricide nor infanticide remain undisputed. These circumstances have already been established by the trial and appellate courts. Accused-appellant did not offer any substantial reason to deviate from the well-known rule that findings of fact and assessment of credibility of witnesses are matters best left to the trial court.¹⁴ No facts of substance and value were overlooked by the trial court which, if considered, might affect the result of the case.¹⁵ The testimonies of the prosecution witnesses are clear and straightforward. Moreover, they are supported by medical findings and they stand the test of reason. Accused-appellant contends that Daantos could not have seen him because he was not facing the victim at the exact time of the stabbing incident. However, it was precisely because of the commotion that Daantos' attention was drawn to the victim and the accused-appellant. Consequently, it was not impossible for Daantos not to see accused-appellant's face. It is worthy to note that accused-appellant was not

¹³ Luis B. Reyes, *The Revised Penal Code Criminal Code*, Book Two, 17th Ed., p. 496 (2008).

¹⁴ *People v. Mamaruncas*, 680 Phil. 192, 198 (2012).

¹⁵ *Id.*

wearing any mask at the time of the incident and the place was well-lit. Daantos' testimony was even corroborated by Elias who was then in front of the victim. Thus, accused-appellant's allegation that the witnesses could not have seen him is nothing but a futile attempt to reverse his conviction. He did not aver, much less prove, any ill motive on the part of the witnesses to testify against him. Hence, the Court finds no compelling reason to disturb the findings of the trial court which were affirmed by the appellate court.

What remains to be resolved is the appreciation of treachery as a qualifying circumstance.

Treachery is present when the offender commits any of the crimes against persons, 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.¹⁶

To constitute treachery, two conditions must be present: 1) the employment of means of execution that gave the person attacked no opportunity to defend himself or to retaliate; and 2) the means of execution were deliberately or consciously adopted.¹⁷

In this case, the victim was stabbed suddenly and he was totally unprepared for the unexpected attack as he was watching a card game at the precise time of the incident. He had absolutely no chance to defend himself.

The prosecution, however, failed to prove the existence of the second condition. The mere fact that the attack was inflicted when the victim had his back turned will not in itself constitute treachery.¹⁸ It must appear that such mode of attack was consciously adopted with the purpose of depriving the victim of a chance to either fight or retreat.¹⁹

Treachery cannot be appreciated where there is nothing in the record to show that the accused had pondered upon the mode or method to insure the killing of the deceased or remove or diminish any risk to himself that might arise from the defense that the deceased might make.²⁰ When there is no evidence that the accused had, prior to the moment of the killing, resolved to commit the crime, or there is no proof that the death of the victim was the result of meditation, calculation or reflection, treachery cannot be considered.²¹

¹⁶ Revised Penal Code, Article 14.

¹⁷ *People v. Villalba*, 746 Phil. 270, 289 (2014).

¹⁸ *People v. Albao*, 383 Phil. 873, 882 (2000).

¹⁹ *People v. Academia, Jr.*, 366 Phil. 690, 696 (1999).

²⁰ *People v. Catbagan*, 467 Phil. 1044, 1082 (2004).

²¹ *Tuburan v. People*, 479 Phil. 1009, 1018 (2004).

The suddenness of attack does not, of itself, suffice to support a finding of treachery, even if the purpose was to kill, so long as the decision was made all of a sudden and the victim's helpless position was accidental.²² It does not always follow that because the attack is sudden and unexpected, it is tainted with treachery.²³ Indeed, it could have been done on impulse, as a reaction to an actual or imagined provocation offered by the victim.²⁴ Where no particulars are known as to the manner in which the aggression was made or how the act which resulted in the death of the deceased began and developed, it can in no way be established from mere suppositions that the accused perpetrated the killing with treachery.²⁵

In this case, Daantos testified that his attention was drawn to the victim and accused-appellant only when the table where the victim was seated at collapsed. At that moment, Daantos only saw accused-appellant pulling out a short bolo from the victim's left side.²⁶ Elias, on the other hand, narrated that accused-appellant approached the victim from behind and stabbed him.²⁷ Aside from showing that accused-appellant's attack on the victim was sudden and unexpected, there is nothing in the record which would prove that such method or form of attack was deliberately chosen by accused-appellant. Thus, treachery cannot be appreciated in order to qualify the killing to murder.

Penalty and Award of Damages

The Court downgrades accused-appellant's conviction to the crime of Homicide. In consequence, accused-appellant is instead meted with the penalty of imprisonment with an indeterminate period of six (6) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years of *reclusion temporal*, as maximum, with all the concomitant accessory penalties.

The downgrading of accused-appellant's conviction results in the deletion of the award of ₱30,000.00 in exemplary damages.²⁸ Further, in line with prevailing jurisprudence,²⁹ the Court reduces the awards of civil indemnity and moral damages from ₱75,000.00 to ₱50,000.00.

WHEREFORE, the appeal is **PARTIALLY GRANTED**. The 23 June 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01362 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Decito

²² *People v. Escoto*, 313 Phil. 785, 802 (1995).

²³ *People v. Flores*, 466 Phil. 683, 694 (2004).

²⁴ *People v. Templo*, 400 Phil. 471, 492 (2000).

²⁵ *People v. Bahenting*, 363 Phil. 181, 191 (1999).

²⁶ TSN, 26 August 2002, p. 10.

²⁷ TSN, 26 November 2002, p. 6.


²⁸ *People v. Jugueta*, 783 Phil. 806, 852 (2016).

²⁹ *Id.*

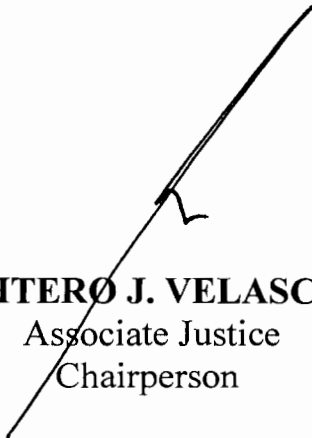
Francisco y Villagracia is found **GUILTY** beyond reasonable doubt of the crime of **HOMICIDE** for the killing of Jaime Noriega III and is hereby sentenced to suffer the penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years of *reclusion temporal*, as maximum. He is ordered to pay the heirs of Jaime Noriega III the amount of Fifty Thousand Pesos (₱50,000.00) as civil indemnity and Fifty Thousand Pesos (₱50,000.00) as moral damages.

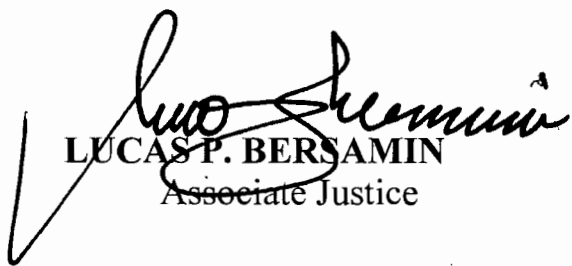
All monetary awards shall earn interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

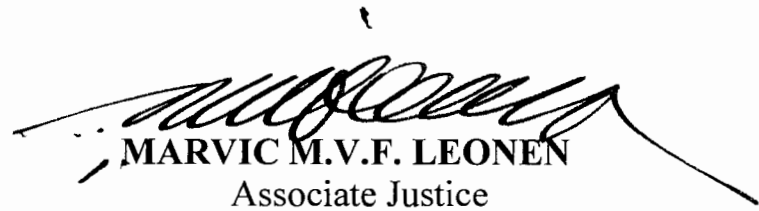
SO ORDERED.



SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

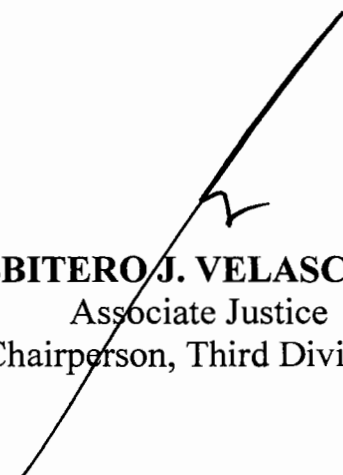

LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION


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.



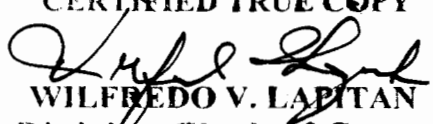
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

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.



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. No. 296,
The Judiciary Act of 1948, as amended)

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUN 28 2018