



Republic of the Philippines
Supreme Court
Manila

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Wilfredo V. Dapitan
WILFREDO V. DAPITAN
Division Clerk of Court
Third Division

JUL 11 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218244

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
BERSAMIN,
LEONEN,
MARTIRES, and
GISMUNDO, JJ.

ARDIN CUESTA CADAMPOG,
Accused-Appellant.

Promulgated:

June 13, 2018

X ----- X

Wilfredo V. Dapitan

DECISION

MARTIRES, J.:

Before the Court is an appeal seeking to reverse and set aside the 29 October 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 01740, which affirmed the 3 June 2013 Decision² of the Regional Trial Court, Branch 18, Cebu City (RTC), in Criminal Case No. CBU-84765 finding accused-appellant Ardin Cuesta Cadampog (*Ardin*) guilty beyond reasonable doubt of the crime of Murder.

THE FACTS

In an Information filed by the Cebu City Prosecutor's Office on 18 November 2008, Ardin was charged with the crime of murder, the accusatory portion of which reads:

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¹ Rollo, pp. 4-14; penned by Associate Justice Edgardo L. Delos Santos, with Associate Justice Marilyn B. Lagura-Yap and Associate Justice Josep Y. Lopez, concurring.

² CA rollo, pp. 26-32; penned by Presiding Judge Gilbert P. Moises.

That on or about the 31st day of October 2008, at about 8:00 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a handgun, with deliberate intent, with intent to kill, with treachery, did then and there [shoot] one Florencio Leonor Napoles, hitting the latter on his trunk, thereby inflicting upon him gunshot wounds, and as a consequence of which Florencio Leonor Napoles died [a] few minutes later.

CONTRARY TO LAW.³

Ardin was arraigned on 15 December 2008 and, with the assistance of counsel, he pleaded not guilty. Thereafter, trial ensued.

Evidence for the Prosecution

The prosecution presented four (4) witnesses, namely: Alicia Napoles (*Alicia*), wife of the victim Florencio Leonor Napoles (*Florencio*); Mark Francis Inguito⁴ (*Mark*); Margie Tambagan (*Margie*); and Senior Police Officer 2 (*SPO2*) Rogelio Nedamo, Jr. The prosecution's evidence was summarized by the CA in this wise:

On October 31, 2008, at around 8:00 o'clock in the evening, the victim, his wife Alicia Napoles, and the latter's mother was having dinner in the kitchen of the house of Alicia's nephew when Alicia suddenly heard two gun bursts. Alicia then saw his bloodied husband fall down. Alicia then stood up, peeped through the bamboo slats and saw the accused-appellant running towards his house. Alicia was certain that it was the accused-appellant because he passed by a lighted place and having known him for two years, she was familiar with the accused-appellant's build, height and profile of the body. The accused-appellant was wearing a dark jacket, short pants and a bullcap with the firearm in his hand. When Alicia saw the accused-appellant running away, she went out of the house and shouted, "Ardin, why did you shoot my husband?" Alicia then attended to her husband and shouted for help. The victim was brought to the hospital but was declared dead on arrival.

Alicia further testified that prior to the shooting incident the victim uprooted a *kalamunggay* tree. When the accused-appellant learned about it, he told a child that he would kill whoever uprooted the tree. However, Alicia did not report to the police about what the child told her since there was no altercation between her husband and the accused-appellant involving the uprooting of the tree.

Margie Tambagan corroborated Alicia's testimony and testified that on the day of the incident, at around 8:00 o'clock in the evening, while she was inside her house, she heard two gun bursts at the victim's house. She then went to the house of the victim and saw people helping him to be brought to the hospital. She later learned from the wife of the

³ Records, p. 1.

⁴ Also referred to as "Mark Francis Enguito" in some parts of the rollo.



victim, Alicia, that the victim was shot by the accused-appellant. On her way home, the witness saw the accused-appellant, who was wearing short pants, black jacket and cap, crossing a creek and walking fast towards Cabancalan.

Mark Francis [I]nguito, another witness for the prosecution, testified that on October 31, 2008, from 7:00 to 8:00 in the evening, he was on his way home when he met the accused-appellant who was walking fast that the latter almost bumped him. According to the witness, the accused-appellant was wearing short pants, a cap and dark jacket. He later learned that the victim was shot.⁵

Evidence for the defense

The defense presented three (3) witnesses, namely: Narciso Cuesta, Corazon Cadampog, and Ardin himself. The CA summed up the defense's version of the facts, thus:

On October 31, 2008, at around 8:00 o'clock in the evening, the accused-appellant was at their house when the shooting incident happened. Previous to that, the accused-appellant was cleaning their place at the cemetery. He went home at 11:00 o'clock in the morning, helped [his] sister cook "*budbud*" and then had lunch with her. Thereafter, the accused-appellant went to the house of their neighbor where they had a conversation.

At around 8:00 o'clock of the same day the accused-appellant had supper with his sister when his uncle arrived and requested his help to butcher a pig. At around 10:00 o'clock in the evening, after helping his uncle, the accused-appellant went home and went to sleep. The following day, the accused-appellant went to the cemetery to light candles for the dead. On November 3, 2008, the accused-appellant was arrested at his workplace.

Corazon Cadampog corroborated her brother's testimony and testified that on the day of the incident, she was at her house attending to her store while the accused-appellant was cleaning in the cemetery in preparation for the All Soul's Day the next day. Around 11:00 o'clock in the morning of the same day, the accused-appellant came home and assisted her in preparing sticky rice wrapped in banana leaves locally known as "*budbud*". Then they had lunch together after which the accused-appellant conversed with their neighbors outside their house. At around 8:00 o'clock in the evening, they had supper together and after 30 minutes later the accused-appellant was fetched by their uncle to butcher a pig. At 10:00 o'clock in the evening, the accused-appellant and their uncle left and went to the house of the latter which is ten meters away from their house. The accused-appellant came back home at 10:30 in the evening, washed himself and went to sleep. Hence, the witness was surprised when her brother was arrested.



⁵ *Rollo*, pp. 5-6.

Narciso Cuesta, the accused-appellant's cousin testified that on the night of the incident, at around 8:00 in the evening, the witness was at home watching TV when somebody informed him that someone was shot. Since he was the only one nearby with a vehicle, his vehicle was borrowed to bring the victim to the hospital. Thereafter, on November 3, 2008, the policemen came and invited the accused-appellant to go with them to the station. When the witness asked the policemen what was wrong, he was told that his worker was a suspect in the shooting incident.⁶

The RTC Ruling

In its decision, the RTC found Ardin guilty beyond reasonable doubt of the crime of murder and sentenced him to suffer the penalty of *reclusion perpetua*.

The trial court gave credence to Alicia's positive identification of Ardin as the person responsible for the death of Florencio. It found worthy of belief Alicia's testimony that she saw Ardin running away from the crime scene with a gun; and that she was familiar with Ardin's build and height. Furthermore, it emphasized that prosecution witnesses Mark and Margie corroborated Alicia's description of the assailant's outfit on the night Florencio died. It pointed out that both Mark and Margie saw Ardin hurriedly walking away from the crime scene wearing a dark jacket, short pants, and a bullcap – the same set of clothes described by Alicia in her testimony.

The RTC ruled that as against positive identification, Ardin was only able to proffer denial and alibi. In finding that the crime committed was murder, it held that the killing was attended by treachery. According to the RTC, the attack was sudden and unexpected because Florencio was eating supper when Ardin shot him through the bamboo slats of the kitchen. The dispositive portion reads:

WHEREFORE, in view of the foregoing consideration, judgment is hereby rendered finding the accused ARDIN CUESTA CADAMPOG guilty beyond reasonable doubt of murder qualified by treachery and hereby sentences him to the penalty of *reclusion perpetua* with all its accessory penalties. He is likewise directed to indemnify the heirs of the victim the amount of ₱50,000.00 as civil indemnity, ₱26,500.00 as actual damages, ₱50,000.00 as moral damages and ₱25,000.00 as exemplary damages.

SO ORDERED.⁷



⁶ Id. at 6-7.

⁷ CA *rollo*, p. 32.

Unconvinced, Ardin filed an appeal before the CA.

The CA Ruling

In the assailed CA decision, the appellate court affirmed with modification the RTC ruling. It held that Alicia's positive and categorical testimony sufficiently established her identification of Ardin as the one who shot Florencio.

The appellate court observed that when Alicia saw the man who fired the gun, she even addressed him by name, shouting, "Ardin, why did you shoot my husband?" Thus, it concluded that Alicia was able to readily identify Ardin as the assailant.

The CA also upheld the RTC's appreciation of the qualifying aggravating circumstance of treachery. It observed that the killing was carried out in a manner that rendered the victim defenseless and unable to retaliate. The *fallo* reads:

WHEREFORE, the decision of the Regional Trial Court, Branch 18, Cebu City dated June 3, 2013 finding accused-appellant Ardin Cuesta Cadampog guilty beyond reasonable doubt of the crime of MURDER is hereby **AFFIRMED** with the following **MODIFICATIONS** –

- (1) Civil indemnity is increased to Seventy-Five Thousand Pesos (₱75,000.00);
- (2) Exemplary damages is likewise increased to Thirty Thousand Pesos (₱30,000.00); and
- (3) Interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of the finality of this judgement until fully paid.

SO ORDERED.⁸

Hence, this appeal.

In the main, Ardin impugns Alicia's credibility as a witness and contends that there was no positive identification. He argues that Alicia did not see his face when she peeped through the bamboo slats. As the assailant was allegedly running away at the moment Alicia peeped, Ardin insists that she could not have possibly seen his face.

⁸ Rollo, p. 13.

ISSUE

WHETHER IT WAS PROVEN BEYOND REASONABLE DOUBT THAT ARDIN IS GUILTY OF MURDER.

THE COURT'S RULING

The first duty of the prosecution is not to prove the crime but to prove the identity of the criminal; for, even if the commission of the crime is established, there can be no conviction without proof of the identity of the criminal beyond reasonable doubt.⁹

After a careful evaluation of the records, the Court is convinced that Alicia positively identified Ardin as the perpetrator. The case for the prosecution was adequately woven by Alicia's clear and straightforward narration of events, to wit:

Pros. Macabaya on direct examination:

Q: And then while you were eating with your mother and your husband, what happened next?

A: I heard two (2) gunbursts.

Q: Then what did you do?

A: When I saw my husband fell down bloodied I stood up immediately.

Q: By the way, where did the gunburst come from?

A: At the back of the kitchen.

Q: How did you know that it came from the back of the kitchen?

A: Because I saw the gunburst where it came from because I noticed a fire.

Q: You mentioned "*kalayo*" what do you mean by that?

A: I noticed or I saw somewhat circle fire.

Q: How did you see it?

A: I saw it with my two (2) eyes because I was facing towards that portion.

Q: Where did you see that circle fire?

A: It was something placed in between the bamboo strips and then I saw a circling fire.



⁹ *People v. Caliso*, 675 Phil. 742, 752 (2011).

- Q: And what did you do next?
A: I stood up and peeped through in between the bamboo strips.
- Q: After peeping, what did you observe or see?
A: Then I saw Ardin Cadampog.
- Q: What was he doing at that time?
A: He ran.
- Q: What was he wearing at that time?
A: Dark jacket and a short pants and he was bringing with him a firearm and he was also wearing a [bull]cap.
- Q: How were you able to see him considering the fact that the incident happened on October 31, 2008 at around 8:00 o'clock in the evening?
A: While he was running he passed through a lighted place.
- Q: How far was Ardin Cadampog from you when you saw him?
A: About three (3) fathoms.¹⁰

The foregoing readily establishes the fact that Alicia had the opportunity to observe the circumstances surrounding her husband's death. It is not in conflict with common experience and human behavior that after seeing the muzzle flashes, Alicia's instincts made her immediately peep through the bamboo slats to see who fired the shots. This natural and spontaneous reaction enabled her to catch a glimpse of the shooter's face. The gaps between the bamboo slats permitted adequate observation of the surroundings outside the house. At the moment Alicia peeped, she was positive that it was Ardin whom she saw.

First, Alicia recounted that Ardin passed by a place where there was illumination; thus, although the incident happened at about 8:00 o'clock in the evening, it was not impossible for Alicia to recognize Ardin's face.

Second, after seeing Ardin, Alicia even called him by name, viz:

Pros. Macabaya on direct examination:

- Q: And you said after seeing, you said he was running towards what direction?
A: Towards his house.
- Q: Then after that what happened next?
A: When I saw him I went out from the kitchen and shouted.



¹⁰ TSN, dated 22 April 2009, pp. 6-7.

Q: What did you shout?
A: I shouted Ardin why did you shoot my husband.

Q: Then what happened next?
A: Then I went back to the kitchen.¹¹

Finally, two other disinterested witnesses, Mark and Margie, corroborated Alicia's description of the assailant's attire. Alicia recounted that Ardin was wearing a dark jacket, short pants, and a bullcap. This matched Mark and Margie's description of Ardin's attire when they saw the latter on the night Florencio was killed.

Ardin failed to show that the prosecution witnesses were prompted by any ill motive to falsely testify or accuse him of so grave a crime as murder. Besides, as widow of the victim, it is consistent with reason that Alicia would desire punishment for the real perpetrator of the crime. It is unnatural for a victim's relative interested in vindicating the crime to accuse somebody other than the real culprit. Human nature tells us that the aggrieved relatives would want the real killer punished for their loss, and would not accept a mere scapegoat to take the rap for the real malefactor. Concomitantly, the Court adheres to the established rule that, in the absence of any evidence showing reason or motive for witnesses to perjure, their testimony and identification of the assailant should be given full faith and credit.¹²

Time and again, this Court has deferred to the trial court's factual findings and evaluation of the credibility of witnesses, especially when affirmed by the CA, in the absence of any clear showing that the trial court has overlooked or misconstrued cogent facts and circumstances that would justify altering or revising such findings and evaluation. This is because the trial court's determination proceeds from its first-hand opportunity to observe the demeanor of the witnesses, their conduct and attitude under grilling examination, thereby placing the trial court in the unique position to assess the witnesses' credibility and to appreciate their truthfulness, honesty, and candor.¹³

Both the RTC and the CA found that the killing was attended by treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend to directly and specially insure the execution of the crime without risk to himself arising from the defense which the offended party might make. The essence of treachery is the sudden and unexpected attack

¹¹ Id. at 10.

¹² *People v. Togahan*, 551 Phil. 997, 1011 (2007).

¹³ *Medina v. People*, 724 Phil. 226-234-235 (2014).

by the aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor and without the slightest provocation on the part of the victim.¹⁴

There is no doubt that the act of Ardin in shooting the victim through the bamboo slats qualifies the crime with *alevosia*. Florencio was having supper when he was shot. He had no suspicion that he was to be assaulted; and the sudden, swift attack gave him no opportunity to defend himself.¹⁵ Therefore, this Court agrees with the tribunals *a quo* that the crime committed was murder.

Anent the award of damages, the Court deems it proper to modify the amount in order to conform to recent jurisprudence. Following the ruling in *People v. Jugueta*,¹⁶ Ardin shall be liable for the following: civil indemnity of ₱75,000.00; moral damages of ₱75,000.00; and exemplary damages of ₱75,000.00. Civil indemnity in the amount of ₱75,000.00 was properly awarded by the CA. Thus, the Court modifies the assailed decision only with respect to the amount of moral and exemplary damages.

WHEREFORE, the instant appeal is **DISMISSED**. The CA Decision dated 29 October 2014 in CA-G.R. CR HC No. 01740 is **AFFIRMED** with the following **MODIFICATIONS**:

- (1) Exemplary damages is increased to ₱75,000.00.
- (2) Moral damages is likewise increased to ₱75,000.00.

The assailed decision is affirmed in all other aspects.

SO ORDERED.


SAMUEL R. MARTIRES
Associate Justice

¹⁴ *People v. Lovedorial*, 402 Phil. 446, 461 (2001).

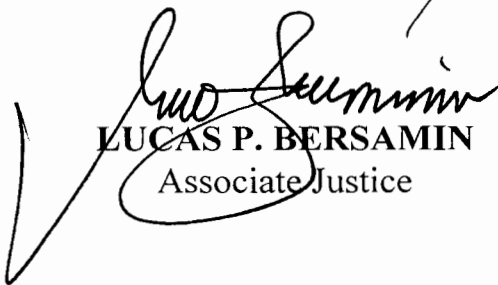
¹⁵ *Id.*

¹⁶ *People v. Jugueta*, 783 Phil. 806 (2016).

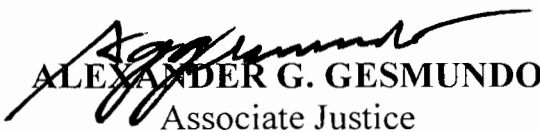
WE CONCUR:

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

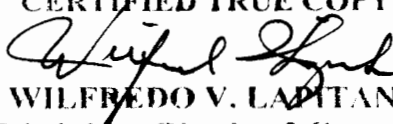
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

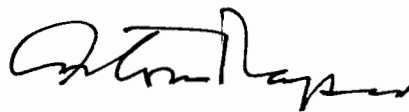
PRESBITERO J. VELASCO, JR.

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.

CERTIFIED TRUE COPY

WILFREDO V. LAPID
Division Clerk of Court
Third Division


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

JUL 11 2018