



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218209

Present:

CARPIO, J., Chairperson,
PERLAS-BERNABE,*
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

- versus -

Promulgated:

ROMEO ASENIERO,
Accused-Appellant.

10 APR 2019
[Signature]

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DECISION

CAGUIOA, J.:

Before this Court is an appeal¹ filed under Section 13, Rule 124 of the Rules of Court from the assailed Decision² dated October 30, 2014 (Decision) of the Court of Appeals, Nineteenth (19th) Division (CA), in CA-G.R. CEB CR-HC No. 01422, which affirmed the Decision³ dated April 27, 2010 of the Regional Trial Court, Branch 18, Hilongos, Leyte (RTC), in Criminal Case No. H-1263, finding herein accused-appellant Romeo Aseniero (Romeo) guilty of the crime of Murder under Article 248 of the Revised Penal Code (RPC).

The Facts

Accused Romeo was charged for the crime of Murder under the following Information:

“That on or about the 24th day of August 2003, in the Municipality of Bato, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent to kill employing treachery and evident premeditation, did then and there

* On leave.

¹ See Notice of Appeal dated January 5, 2015, *rollo*, pp. 24-26.

² *Rollo*, pp. 4-23. Penned by Associate Justice Marilyn B. Lagura-Yap with Associate Justices Edgardo L. Delos Santos and Jhosep Y. Lopez, concurring.

³ CA *rollo*, pp. 38-45. Penned by Presiding Judge Ephrem S. Abando.

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willfully and feloniously attack, assault, hack[,] stab DOMINADOR RANES with a long bolo which the accused had provided himself for the purpose[,] thereby causing and inflicting upon the victim multiple stabbed [sic] and hacked [sic] wounds on the different parts of his body causing the immediate death of Dominador Ranes.”⁴

Upon arraignment, Romeo pleaded not guilty.⁵

Version of the Prosecution

The version of the prosecution, as summarized by the CA, is as follows:

Roel Pilo, 19 years of age, married and a resident of Domagocdoc, Bato, Leyte is the first witness for the prosecution. He testified that he is a friend of the victim, Dominador Reyes. He knew the accused Romeo Aseniero because the latter lived in a neighboring barangay. On August 23, 2003, at approximately 4:00 in the afternoon, he was at Barangay Imelda, Bato, Leyte to attend a fiesta celebration. He was accompanied by his friend Jimmy Garong. At about 7:00 in the evening, they went to the barangay hall to see the operator of the sound system, who was their close friend. At about 2:00 in the morning, he went to the dancing hall located inside the plaza, just 10 meters from the barangay hall. He saw Dominador Ranes, Mario Pelago, Analyn Gomez and Mira Pagay occupying one table. At about 5:00 in the morning, he left the dancing hall together with the group of Dominador Ranes. On their way home, they passed by a road in Brgy. Imelda, Bato, Leyte. Since the road was too narrow, they did not walk side by side. Mira Pagay trailed first, followed by Mario Pelago, then Roel, and behind him were Dominador Ranes and Analyn Gomez. Suddenly, he heard Dominador say “*Aray*” (*Ouch!*). At that instant, he saw Dominador run past him followed by the accused Romeo Aseniero, who was carrying a long bolo. More or less four (4) meters from where he was, Dominador stumbled, with his back on the ground. The accused caught up with the victim and hacked him multiple times. Prior to the stabbing, Roel Pilo did not notice that the accused was around. He recalled that on both sides of the narrow trail, there were a lot of plants such as bamboo and coconut trees. He was so shocked by the incident that he just stood there and watched. He asked the accused why he stabbed the victim, to which the accused replied that he was jealous. At the trial, Roel identified the murder weapon (long *bolo*) used in [the] killing of the victim.

On cross-examination, Roel Pilo admitted that it was only during the fiesta celebration that he met the accused. At the place where the incident occurred, the grasses were short such that any person on both sides of the narrow trail can readily be seen. He also admitted that since the victim was walking behind him, he did not know if it was the accused who assaulted the victim first.

The second witness for the prosecution is Analyn Gomez, single, 24 years of age, and a resident of Brgy. Domagocdoc, Bato, Leyte. She testified that the victim was her current boyfriend at the time of the

⁴ Id. at 38.

⁵ Id.



incident and that the suspect was her former boyfriend. On August 23, 2003, she went to Brgy. Imelda to attend the fiesta celebration. She stayed at the house of a *Sangguniang Kabataan* Chairman and at about 11:30 in the evening, she went to the dance hall, together with Mira Bagay, Dominador Ranes, Lita Reyes and Gleen Reyes. At the dance hall, [s]he saw the accused Romeo Aseniero and his companions. Analyn and her group went out of the dance hall at about 5:00 in the morning. On their way home to Brgy. Domagocdoc, they passed upon a narrow road. She was walking behind Dominador on th[e] trail when Romeo Aseniero suddenly came from behind her and stabbed Dominador in the back with a bolo. Dominador tried to run but stumbled down twenty-five (25) feet from where he was stabbed. The accused was able to catch up with the victim and he continued to stab the latter several times. She shouted "No!" but the accused continued hacking the victim and even chopped off the latter's feet. The rest of the group ran away while she hid herself behind a coffee tree, as the accused was looking for her. She then ran towards the house of the barangay chairman of Brgy. Domagocdoc where she reported the incident. She narrated that the reason why Romeo killed Dominador is jealousy. She also identified the bolo used in killing the victim.

Upon clarificatory questioning by the judge, Analyn revealed that just one month after her break-up with the accused, she started a relationship with the victim. And that based on her observations, the accused was uneasy with her new love affair.

On cross-examination, she propounded that the reason why she broke up with the accused was because the latter courted her cousin. She admitted that on both sides of the narrow trail are cliffs. Before the accused stabbed the victim, the former pushed her aside but she did not fall down the cliff as there was a rock on the side of the trail. She shouted but it was already too late as Dominador was already stabbed in the back. During the stabbing incident, the rest of the group ran away except for Roel Pilo. She also admitted that the accused voluntarily surrendered to the barangay chairman.

The prosecution's third witness is Dr. Provo Quijano, 34 years of age, a resident of Brgy. Bagumbayan, Bato, Leyte, and the Municipal Health Officer of Bato, Leyte. At the trial, he identified the medical certificate which he issued in connection with the death of Dominador Ranes. Since the counsel for the defense admitted the due execution of the medical certificate, Dr. Quijano merely identified the said certificate and no longer testified as to the circumstances surrounding the death of the victim.⁶

Version of the Defense

The version of the defense, as summarized by the CA, is as follows:

The first witness for the defense is Loreto Gomez Papa, 42 years of age, married, a *tuba* gatherer and a resident of Brgy. Marcelo, Bato, Leyte. He testified that he knows the accused as they are neighbors and childhood playmates. On August 23, 2003, he was at Brgy. Imelda, Bato, Leyte attending the barrio fiesta. He was with his cousins, namely, Julie and

⁶ *Rollo*, pp. 5-8.



Bobby Papas. They stayed at the house of their friend and went to the dance hall at about 10:00 in the evening. He noticed that the accused and Analyn Gomez were inside the dance hall, occupying different tables with their respective groups. At about 5:00 in the morning, he left the dance hall together with his two cousins and the accused, Romeo Aseniero. Analyn and her group were walking ahead of them at a distance of about ten (10) arms-length. Analyn Gomez and the accused were still sweethearts and have not broken up yet, but they were quarreling at that time. When the accused saw Analyn, he tried to go after her and her companion. He told the accused to just leave them alone but the latter did not heed his advice. When the accused approached Analyn, he was kicked by Dominador. Instantly, Dominador unsheathed his knife and Romeo, in turn, unsheathed his bolo. Loreto feared that a bloody fight was forthcoming so he ran way. His other companions also took off. Later that day, he received word that the companion of Analyn died.

On cross-examination, he admitted that Analyn Gomez and her group left the dance hall ahead of their group, but the accused followed them. Romeo Aseniero caught up with Analyn and her group. He was jealous and he wanted to confront Analyn. Loreto admitted that until the time the accused and the victim unsheathed their weapons, no altercation occurred.

The second witness for the defense is Gregorio Pol, 49 years of age, married, a *tuba* gatherer, and a resident of Brgy. Marcelo, Bato, Leyte. He testified that he knew the accused because the latter lives near their barangay. In the early morning of August 24, 2003, he was walking behind Alin (Analyn) Gomez and accused, along with other persons. Dominador was following the group of the accused. Suddenly, Dominador kicked the accused and stabbed him with a knife. The accused then leaned back, unsheathed his bolo and stabbed Dominador. Gregorio immediately ran away and did not know what happened next after the accused stabbed the victim.

On cross-examination, Gregorio admitted that while Analyn and Dominador were walking side by side, the accused trailed behind them and was walking fast. On re-direct, he clarified that he saw the victim stab the accused in the chest.

The third witness for the defense is SPO3 Wilfredo Vargas, 48 years of age, married, a police officer assigned at Matalom, Leyte, and a resident of Brgy. Tinago, Bato, Leyte. He testified that in the early morning of August 24, 2003, the accused, accompanied by one person, surrendered at the police station of Matalom. He personally received the accused and caused the recording of the incident in the police blotter.

The accused did not testify in his own behalf.⁷

Ruling of the RTC

In its Decision dated April 27, 2010, the RTC found Romeo guilty of Murder, to wit:

⁷ Id. at 8-10.



WHEREFORE, in view of the foregoing, accused **ROMEO ASENIERO** is found **GUILTY** of **MURDER** under the Revised Penal Code as amended beyond reasonable doubt and [is] hereby sentenced to suffer the imprisonment of **RECLUSION PERPETUA**. And to indemnify the heirs of Dominador Ranés the amount of **FIFTY THOUSAND PESOS (P50,000.00)**; and to pay the amount of **FIFTY THOUSAND PESOS (P50,000.00)**, as moral damages.

SO ORDERED.⁸

The RTC ruled that treachery attended the killing of the victim.⁹ The victim was suddenly and unexpectedly hacked from behind by the accused.¹⁰ It further ruled that the testimonies of the defense witnesses are incomplete and unconvincing.¹¹ Lastly, it held that although the accused voluntarily surrendered to the police authorities, such mitigating circumstance cannot be applied to lower an indivisible penalty.¹²

Aggrieved, Romeo appealed to the CA.

Ruling of the CA

In the assailed Decision dated October 30, 2014, the CA affirmed the conviction by the RTC:

WHEREFORE, the April 27, 2010 Decision rendered by the Regional Trial Court (RTC), Branch 18, Hilongos, Leyte finding accused-appellant Romeo Aseniero guilty of murder is **AFFIRMED** with **MODIFICATION** of his civil liability. Accused-appellant is **ORDERED** to pay to the Heirs of Dominador Ranés the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P30,000.00 as exemplary damages, P25,000.00 as temperate damages, interest on all the damages herein awarded at the legal rate of 6% from the date of the incident to the finality of the judgment and 12% from the finality hereof until fully paid, and to pay costs.

x x x x

SO ORDERED.¹³

The CA held that the accused's attack on the victim was treacherously carried out.¹⁴ At the time of the attack, the victim was just walking with his girlfriend and companions when he was suddenly hacked from behind by the accused.¹⁵ It further held that the testimony of Analyn Gomez (Analyn), the

⁸ CA rollo, p. 45.

⁹ Id. at 44.

¹⁰ Id.

¹¹ Id. at 43.

¹² Id. at 45.

¹³ Rollo, p. 22.

¹⁴ Id. at 17.

¹⁵ Id.

victim's girlfriend, is credible and sufficient as it is corroborated by the other witnesses in some material points.¹⁶ Lastly, it held that the mitigating circumstance of voluntary surrender should be considered in the imposition of the penalty.¹⁷

Hence, this appeal.

Issue

Whether the CA erred in affirming Romeo's conviction for Murder despite the fact that the prosecution failed to establish his guilt for Murder beyond reasonable doubt.

The Court's Ruling

The appeal is partly meritorious.

It is settled that findings of fact of the trial courts are generally accorded great weight; except when it appears on the record that the trial court may have overlooked, misapprehended, or misapplied some significant fact or circumstance which if considered, would have altered the result.¹⁸ This is axiomatic in appeals in criminal cases where the whole case is thrown open for review on issues of both fact and law, and the court may even consider issues which were not raised by the parties as errors.¹⁹ The appeal confers the appellate court full jurisdiction over the case and renders such competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.²⁰

After a careful review and scrutiny of the records, the Court affirms the conviction of Romeo, but only for the crime of Homicide, instead of Murder, as the qualifying circumstance of treachery was not proven in the killing of the victim.

Treachery not established beyond reasonable doubt

In the assailed Decision, the CA affirmed the RTC's finding that the qualifying circumstance of treachery was present, thereby making Romeo liable for Murder instead of Homicide.

¹⁶ Id. at 19.

¹⁷ Id. at 20.

¹⁸ *People v. Duran, Jr.*, G.R. No. 215748, November 20, 2017, 845 SCRA 188, 211.

¹⁹ Id.

²⁰ *Ramos v. People*, 803 Phil. 775, 783 (2017).



On the other hand, Romeo posits that the RTC misappreciated the qualifying circumstance of treachery. He argues that the prosecution failed to prove that treachery was employed in the killing of the victim.²¹ The fact that the attack was sudden *per se* does not bespeak the circumstance of *alevosia*.²² He further argues that it was the victim who first assaulted him by kicking him.²³ This was the substance of Loreto Gomez Papa's (Loreto) testimony, which was corroborated by Gregorio Pol (Gregorio).²⁴

On this issue, the Court rules in favor of Romeo.

There is treachery when the offender commits any of the crimes against persons, employing means and methods or forms in the execution thereof which tend to directly and specially ensure its execution, without risk to himself arising from the defense which the offended party might make.²⁵ To qualify an offense, the following conditions must exist: (1) the assailant employed means, methods or forms in the execution of the criminal act which give the person attacked no opportunity to defend himself or to retaliate; and (2) said means, methods or forms of execution were deliberately or consciously adopted by the assailant.²⁶ The essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself.²⁷

In the case at bar, the prosecution failed to prove the presence of the elements of treachery in the killing of the victim.

To start, based on the testimonies of the two defense witnesses, the attack was preceded by an altercation between Romeo and the victim.²⁸ Both Loreto and Gregorio testified that it was the victim who first assaulted the accused.²⁹ This should prevail over the testimony of the prosecution witness, Analyn, that Romeo immediately stabbed the victim, more so considering that Analyn's testimony is uncorroborated by the other prosecution witness, Roel Pilo (Roel), who testified that he did not see how the attack began as he was walking in front of the victim.³⁰

There is no treachery if the attack was preceded by an altercation between the accused and the victim. Each of them is forewarned of an impending attack by either of them. Thus, in one case, the Court held, "[t]here is no treachery when the assault is preceded by a heated exchange of

²¹ *Rollo*, p. 11.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *People v. Duran, Jr.*, *supra* note 18, at 205-206.

²⁶ *Id.* at 206, citing *People v. Dulin*, 762 Phil. 24, 40 (2015).

²⁷ *Id.*, citing *People v. Escote, Jr.*, 448 Phil. 749, 786 (2003).

²⁸ *Rollo*, p. 9.

²⁹ *Id.*

³⁰ *Id.* at 6-7.



words between the accused and the victim; or when the victim is aware of the hostility of the assailant towards the former.”³¹

Certainly, the attack made by the accused was not sudden or unexpected as it was the victim who first attacked the former. Even assuming that the version of the events as narrated by Analyn is to be considered, she also narrated that she was pushed by the accused prior to his attack on the victim.³² Thus, this event should have made the victim aware that there was an impending attack on him. In addition, the victim was able to defend himself from the initial stabbing act as he had his own weapon and was able to run away from the accused.³³ The only reason why he was not able to escape was because he stumbled down and the accused caught up with him.³⁴ In another case, the Court ruled that the qualifying circumstance of treachery cannot be appreciated where the victim was forewarned of the impending attack and he could have in fact escaped had he not stumbled.³⁵

***Mitigating circumstance of voluntary
surrender properly appreciated***

For voluntary surrender to mitigate the penal liability of the accused, the following requisites must be established: *first*, the accused has not been actually arrested; *second*, the accused surrenders himself to a person in authority or the latter's agent; and *third*, the surrender is voluntary.³⁶ The said requisites were sufficiently proven by the defense.

SPO3 Wilfredo Vargas testified that the accused voluntarily surrendered at the Matalom Police Station on August 24, 2003.³⁷ This was corroborated by Analyn who admitted that indeed Romeo immediately surrendered to the authorities after the incident.³⁸ Roel likewise testified that he accompanied the accused to the police station.³⁹ Thus, the mitigating circumstance of voluntary surrender should be considered in the imposition of the penalty.

***Proper penalty and award of
damages***

Therefore, with the removal of the qualifying circumstance of treachery, the crime is Homicide and not Murder. Under Article 249 of the RPC, any person found guilty of homicide shall be meted the penalty of *reclusion temporal*, a penalty which contains three (3) periods.⁴⁰ Given that

³¹ *People v. Escarlos*, 457 Phil. 580, 599 (2003), citing *People v. Reyes*, 420 Phil. 343, 353 (2001).

³² *Rollo*, pp. 8 and 18.

³³ *Id.* at 7, 9, 18.

³⁴ *Id.* at 18.

³⁵ *People v. Dela Cruz*, 461 Phil. 471, 478 (2003).

³⁶ *People v. Ramelo*, G.R. No. 224888, November 22, 2017, p. 10, citing *Roca v. Court of Appeals*, 403 Phil. 326, 337-338 (2001).

³⁷ *Rollo*, p. 20.

³⁸ *Id.*

³⁹ *Id.*

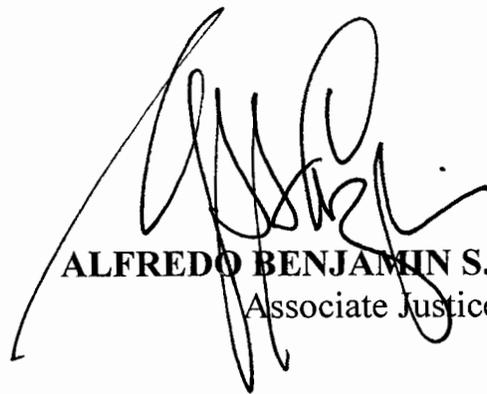
⁴⁰ *People v. Endaya, Jr.*, G.R. No. 225745, February 28, 2018, p. 9.

Romeo voluntarily surrendered, Article 64(2) states that when only a mitigating circumstance attended the commission of the felony, the penalty shall be imposed in its minimum period.⁴¹ Thus, applying the Indeterminate Sentence Law, the maximum penalty shall be *reclusion temporal* in its minimum period, while the minimum penalty shall be *prision mayor* in any of its periods.⁴² Thus, he is to suffer the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum.⁴³

Finally, in view of the Court's ruling in *People v. Jugueta*,⁴⁴ the damages awarded in the questioned Decision are hereby modified to civil indemnity, moral damages, and temperate damages of ₱50,000.00 each.

WHEREFORE, in view of the foregoing, the appeal is hereby **PARTIALLY GRANTED**. The Court **DECLARES** accused-appellant **Romeo Aseniero GUILTY** of **HOMICIDE**, with the mitigating circumstance of voluntary surrender, for which he is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum. He is further ordered to pay the heirs of the victim the amount of Fifty Thousand Pesos (₱50,000.00) as civil indemnity, Fifty Thousand Pesos (₱50,000.00) as moral damages, and Fifty Thousand Pesos (₱50,000.00) as temperate damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

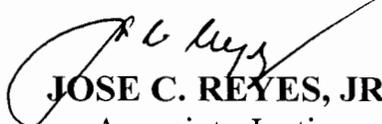
⁴¹ Id.

⁴² Id.

⁴³ Id. at 10.

⁴⁴ 783 Phil. 806 (2016).

(On leave)
ESTELA M. PERLAS-BERNABE
Associate Justice


JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

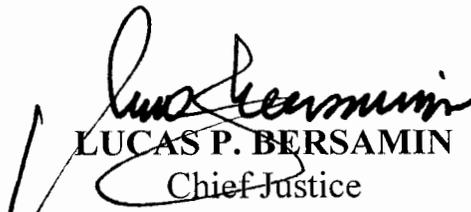
ATTESTATION

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.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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.


LUCAS P. BERSAMIN
Chief Justice

