



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 229859

Present:

- versus -

BERSAMIN, C.J.,
 DEL CASTILLO,
 JARDELEZA,
 GESMUNDO, and
 CARANDANG,* JJ.

JOJIT ARPON y PONFERRADA
@ “Modio”,
Accused-Appellant.

Promulgated:

JUN 10 2019

X -----

DECISION

DEL CASTILLO, J.:

This is an appeal¹ from the September 26, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 02013 which affirmed the November 13, 2014 Decision³ of the Regional Trial Court (RTC) of Carigara, Leyte, Branch 13, in Criminal Case No. RTC-2010-071-CR.

The Facts

Accused-appellant Jojit Arpon y Ponferrada @ “Modio” (Arpon) and Dindo Lanante (Lanante) were charged with murder in an Information⁴ which reads:

That on or about the 27th day of May 2010, in the Municipality of Barugo, Leyte, Philippines, within the jurisdiction of this Honorable Court, the said accused, conspiring and mutually helping each other, did then and there willfully, unlawfully and feloniously, with intent to kill and treachery, attack one Rodolfo⁵ Moriel y Robenta, stabbing the latter without any warning with the use of bladed weapons, inflicting mortal wounds, thereby causing the direct and immediate death of the said victim. Contrary to law.⁶

* On leave.

¹ CA rollo, pp. 78-79.

² Id. at 71-77; penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap.

³ Records, pp. 120-132; penned by Presiding Judge Emelinda R. Maquilan.

⁴ Id. at 3; dated July 23, 2010.

⁵ Also spelled as Rodolfo in some parts of the records.

⁶ Id.

A warrant of arrest was issued for their apprehension.⁷ On September 3, 2010, Lanante was arrested.⁸ While he was arraigned on September 30, 2010, the case against him was provisionally dismissed upon motion⁹ by the prosecution and execution of an affidavit of desistance¹⁰ of the mother of the victim, Melita R. Moriel (Melita); meanwhile, the case against Arpon was archived.¹¹ Arpon was eventually arrested two years after or on September 20, 2012 and ordered committed on September 24, 2012.¹² When arraigned on November 13, 2012, he pleaded not guilty.¹³

Pre-trial was conducted and terminated; trial ensued thereafter.¹⁴

The Version of the Prosecution

The evidence for the prosecution revealed that, at 3:00 a.m. on May 27, 2010, the victim, Rodolfo R. Moriel (Rodolfo) and Bernardo S. Insigne (Bernardo) were headed home walking side by side (from *Barangay* Guindaohan, Barugo, Leyte where they attended the vespers, to *Barangay* Sagkahan, Carigara, Leyte where they resided – a 30 minute-walk) when they were accosted by accused-appellant Arpon.¹⁵ Using a short bladed weapon, Arpon stabbed Rodolfo on the left chest.¹⁶ Rodolfo tried to run, but he was stabbed for a second time on the right chest by Arpon until he fell to the ground.¹⁷ Fearing for his own life, Bernardo fled the scene. On the same day, Bernardo went to the police accompanied by Melita and reported the incident.

Rodolfo died due to hypovolemic shock resulting from acute blood loss caused by three multiple stab wounds – two of which were deemed fatal.¹⁸ His family incurred ₱40,000.00 as burial and funeral expenses.¹⁹

⁷ Id. at 19; dated August 26, 2010.

⁸ Id. at 120.

⁹ Id. at 49.

¹⁰ Id. at 50.

¹¹ Id. at 52-53; Order dated April 7, 2011 issued by Presiding Judge Crisostomo L. Garrido.

¹² Id. at 56.

¹³ Id. at 59; Order dated November 13, 2012 issued by Presiding Judge Emelinda R. Maquilan.

¹⁴ Id. at 66-68; Pretrial Order dated March 5, 2013.

¹⁵ TSN, March 14, 2013, pp. 3-4.

¹⁶ Id. at 4.

¹⁷ Id. at 14-15.

¹⁸ TSN, June 20, 2013, p. 6; Records, p. 17. The findings in the Post Mortem Examination Report prepared by Dr. Lourdes Avila Calzita reveal three stab wounds as follows:

1. Stab wound on the chest, located 1 inch below the sternal notch, measuring 1x0.5 inch subcutaneous deep.
2. Stab wound on the chest, measuring 1x0.5 inch, located at the level of right nipple, penetrating thoracic cavity wounding the right lung.
3. Stab wound 1x0.5 inch, located at left posterior thoracic region, penetrating thoracic cavity wounding the heart, left lung, and large blood vessels.

CAUSE OF DEATH:

Hypovolemic Shock due to Acute Blood Loss due to Multiple Stab Wounds

¹⁹ TSN, August 8, 2013, p. 3.

The Version of the Defense

Arpon testified that he went to *Barangay* Guindaohan on May 26, 2010.²⁰ He, along with his friend, Kevin Ponferrada, stayed at the house of Meldy Lucelo,²¹ the mother-in-law of his brother, Edjel Arpon, from 8:00 p.m. on May 26, 2010 to 4:00 a.m. on May 27, 2010.²²

The Ruling of the Regional Trial Court

The RTC found Arpon guilty as charged. It gave credence to the positive identification of the prosecution eye witness, Bernardo, who was only two yards away from Rodolfo when the latter was stabbed, over Arpon's defense of alibi.²³ It noted that the defense failed to show any ill motive on the part of Bernardo to testify against Arpon whom the former knew prior to the incident.²⁴ It likewise brushed aside the trivial inconsistencies in Bernardo's testimony in light of the complete narration of the principal occurrence and positive identification of the perpetrator.²⁵

On the qualifying circumstance of treachery, the RTC noted that Arpon – who came out of nowhere – deliberately, suddenly, and unexpectedly attacked Rodolfo – who was then unarmed and completely unaware of the danger to his life.²⁶

The dispositive portion of the Decision reads:

WHEREFORE, finding accused JOJIT ARPON y PONFERRADA, GUILTY, beyond reasonable doubt, of the crime of MURDER, this Court hereby sentences him [to] a penalty of RECLUSION PERPETUA.

Further, accused is hereby ordered to pay the heirs of the victim, civil indemnity, in the amount of Seventy Five Thousand (Php75,000.[00]) Pesos, moral damages in the amount of Seventy Five Thousand (Php75,000.00) Pesos, and temperate damages in the amount of Twenty Five Thousand (Php25,000.00) Pesos.

No costs.

SO ORDERED.²⁷



²⁰ TSN, March 10, 2014, p. 3.

²¹ Id.

²² Id.

²³ Records, p. 128.

²⁴ Id.

²⁵ Id.

²⁶ Id. at 130.

²⁷ Id. at 131-132.

Arpon filed his appeal.²⁸ In his Brief,²⁹ he specifically assailed the credibility of Bernardo for his failure to report the incident not only to his parents but also to Rodolfo's parents.³⁰ He also banked on the inconsistencies in Bernardo's written and verbal testimony. He pointed out that Bernardo initially claimed arriving at *Barangay* Guindaohan at 10:00 a.m. but later changed it to 10:00 p.m. and that the latter originally stated in his affidavit that Rodolfo was attacked by Arpon and Lanante but eventually declared in open court that he only saw Arpon stab Rodolfo.³¹ He also argued that treachery was not present because the victim was not alone at that time but accompanied by his friend and both could have easily subdued the attacker.³² Finally, he insisted that the court should have upheld his testimony rather than the confusing and inconsistent testimony of the prosecution eye witness.³³

On the other hand, the plaintiff-appellee averred that the RTC did not err in convicting accused-appellant whose guilt was proven beyond reasonable doubt;³⁴ that no standard behavior can be expected from people who had just witnessed a frightful experience;³⁵ that assuming that there had been inconsistencies in Bernardo's testimony, these only referred to minor details which did not impair his credibility.³⁶ Plaintiff-appellee likewise contended that the RTC correctly appreciated the circumstance of treachery considering the time and manner of the attack which clearly indicated that the killing was deliberately and carefully planned to ensure the death of Rodolfo.³⁷ Finally, it maintained that the RTC did not err in discrediting the defense of alibi in light of accused-appellant's revelation that he was in the vicinity of the crime scene.³⁸

The Ruling of the Court of Appeals

The CA affirmed *in toto* the ruling of the RTC. It held that Bernardo's failure to immediately inform his and Rodolfo's parents about the incident did not render his testimony undeserving of faith and credit.³⁹ Moreover, the CA held that the inconsistencies, if any, pertained only to collateral matters, and not to the elements of the crime.⁴⁰ It concurred with the RTC in giving more credence to the positive identification of the perpetrator by the prosecution witness, who had no ill

²⁸ Id. at 135-136; dated December 11, 2014.

²⁹ CA *rollo*, pp. 10-22; dated August 7, 2015.

³⁰ Id. at 16.

³¹ Id. at 17.

³² Id. at 19.

³³ Id. at 20.

³⁴ Id. at 53.

³⁵ Id. at 55.

³⁶ Id. at 56.

³⁷ Id. at 58.

³⁸ Id. at 59.

³⁹ Id. at 75.

⁴⁰ Id.

motive to testify, over the alibi and denial of accused-appellant.⁴¹ Finally, it declared that treachery attended the commission of the crime in light of the circumstances on record.⁴²

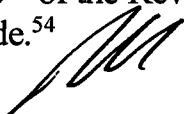
Hence, the present appeal.⁴³ In compliance with the directive to file a supplemental brief, if it so desired,⁴⁴ plaintiff-appellee submitted a Manifestation⁴⁵ in which it stated that it would be adopting the Brief⁴⁶ submitted earlier before the CA and would be dispensing with the filing of Supplemental Brief before this Court.⁴⁷

Accused-appellant, through counsel, submitted his Supplemental Brief,⁴⁸ wherein he insisted that no motive was proven by the prosecution as to why he would attack and kill Rodolfo.⁴⁹ He claimed that this failure to establish motive would make anyone suspect, including Bernardo; hence, possibly the ill motive on the part of Bernardo to fabricate a story and implicate Arpon.⁵⁰ He further claimed that treachery was not present, because Rodolfo was then accompanied by Bernardo.⁵¹ He finally claimed that Bernardo's testimony was of doubtful veracity because the latter failed to immediately report the incident.⁵²

Our Ruling

The appeal has no merit.

In order to successfully prosecute the crime of murder, the following elements must be established: (a) that a person was killed; (b) the accused killed him or her; (c) the killing was attended by any of the qualifying circumstances mentioned in Article 248⁵³ of the Revised Penal Code (RPC); and (d) the killing is not parricide or infanticide.⁵⁴



⁴¹ Id. at 76.

⁴² Id.

⁴³ *Rollo*, pp. 11-12.

⁴⁴ Id. at 16-17 (Resolution dated April 25, 2017).

⁴⁵ Id. at 24-25; Manifestation In Lieu of Supplemental Brief, August 24, 2017.

⁴⁶ CA *rollo*, pp. 50-61; December 16, 2015.

⁴⁷ *Rollo*, p. 24.

⁴⁸ Id. at 24-27; Supplemental Brief dated August 18, 2017.

⁴⁹ Id. at 25.

⁵⁰ Id.

⁵¹ Id.

⁵² Id. at 26.

⁵³ Article 248 of the Revised Penal Code 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 *reclusión 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;

⁵⁴ *Ramos v. People*, 803 Phil. 775, 783 (2017).

Here, the fact that Rodolfo was killed and that accused-appellant killed him were both sufficiently established by the prosecution. Upon this point, the testimony of Bernardo is clear and categorical:

Q Will you please tell the Honorable Court the incident that transpired on said time and said place?

A We were accosted and he was stabbed.

Q Who was stabbed?

A Rodolfo Moriel.

Q Who stabbed Rodolfo Moriel?

A Jojit Arpon.

Q How far were you from Rodolfo Moriel when he was stabbed by Jojit Arpon?

A About an arm's length.

Q Do you know this Jojit Arpon prior to the stabbing incident?

A Yes, sir.

Q Why do you know this person of Jojit Arpon?

A Because I already saw him.

Q Saw him where?

A Brgy. Balire.

x x x x

Q How were you able to identify Jojit Arpon when he stabbed Rodolfo Moriel?

A Because the moon at that time was shining brightly.

Q What weapon did Jojit Arpon utilize in stabbing Rodolfo Moriel?

A Short bolo.

Q Can you still recall what part of the body of Rodolfo was hit when Jojit Arpon stabbed him?

A Witness at this juncture is pointing [to] his left chest.

Q How many times did you see Jojit Arpon stab Rodolfo?

A Three times.

Q In what particular part of the body of Rodolfo was hit when he was stabbed for the second time by Jojit Arpon?

A Right chest.

Q How about the last one, where was he hit if you could still recall?

A I cannot recall anymore because after he died I ran.

x x x x



- Q When the second stabbing blow was delivered by Jojit Arpon how far were you then?
A Not so far.⁵⁵

Given the foregoing categorical testimony, there is no doubt that treachery attended the commission of the crime.

Treachery, as defined in Article 14, paragraph 16⁵⁶ of the RPC, is present when at the time of the attack, the victim was not in a position to defend himself, or when the offender consciously adopted the particular means of attack employed.⁵⁷

In the instant case, Rodolfo and Bernardo were walking side by side when they were accosted by accused-appellant who suddenly stabbed Rodolfo with a short bolo. Both Rodolfo and Bernardo were unarmed and were totally unaware of the impending assault from the accused-appellant.

Accused-appellant's argument that he should be acquitted since the prosecution had not established motive as to why he would attack and kill Rodolfo does not persuade because:

[m]otive is not an essential element of a crime and hence the prosecution need not prove the same. As a general rule, proof of motive for the commission of the offense charged does not show guilt and absence of proof of such motive does not establish the innocence of [the] accused for the crime charged such as murder. The history of crimes shows that murders are generally committed from motives comparatively trivial. Crime is rarely rational. In murder, the specific intent is to kill the victim.⁵⁸ (citations omitted)

Likewise untenable is the accused-appellant's contention that treachery should not have been appreciated to have attended the commission of the crime considering that Rodolfo was then accompanied by Bernardo. In *People v. Cagas*,⁵⁹ the Court held that treachery was present when accused-appellant stabbed the victim, even if the latter had been talking or conversing with his companion.⁶⁰ The Court in said case placed emphasis on the fact that the victim

⁵⁵ TSN, March 14, 2013, pp. 4-5.

⁵⁶ ART. 14. *Aggravating Circumstances*. — The following are aggravating circumstances:

x x x x

16. That the act be committed with treachery (*alevosia*).

There is treachery when the offender commits any of the crimes against the person, 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.

⁵⁷ *People v. Pulgo*, G.R. No. 218205, July 5, 2017, 830 SCRA 220.

⁵⁸ *People v. Delim*, 444 Phil. 430, 448-449 (2003).

⁵⁹ 477 Phil. 338, 349 (2004).

⁶⁰ *Id.*

was truly clueless about the fatal attack that was to befall him.⁶¹ The same situation obtains in the case at bar.

The accused-appellant makes capital of the fact that Bernardo failed to report the incident to the authorities, suggesting the possibility of a prior confrontation between Rodolfo and Arpon – a happenstance that negates treachery. This argument is neither here nor there.

Case law teaches that –

Delay in revealing the identity of the perpetrators of a crime does not necessarily impair the credibility of a witness, especially where sufficient explanation is given. No standard form of behavior can be expected from people who had witnessed a strange or frightful experience. Jurisprudence recognizes that witnesses are naturally reluctant to volunteer information about a criminal case or are unwilling to be involved in criminal investigations because of varied reasons. Some fear for their lives and that of their family; while others shy away when those involved in the crime are their relatives or townmates. And where there is delay, it is more important to consider the reason for the delay, which must be sufficient or well-grounded, and not the length of delay.⁶²

Anent the penalty, no aggravating circumstance other than the qualifying circumstance of treachery having attended the murderous assault, the RTC correctly imposed the penalty of *reclusion perpetua* which the CA properly affirmed. Nonetheless, the amount of damages must be increased in light of prevailing jurisprudence.⁶³

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The September 26, 2016 Decision of the Court of Appeals in CA-G.R. CEB-CR-HC No. 02013 is hereby **AFFIRMED** with **MODIFICATIONS**. Accused-appellant Jojit Arpon y Ponferrada @ “Modio” is hereby declared **GUILTY** beyond reasonable doubt of murder defined under Article 248 of the Revised Penal Code. He is hereby sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay the heirs of Rodolfo Moriel the following amounts: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; (c) ₱75,000.00 as exemplary damages; (d) ₱50,000.00 as temperate damages; and (e) legal interest at the rate of 6% *per annum* from the finality of this Decision until fully paid.



⁶¹ Id.

⁶² *People v. Berondo*, 601 Phil. 538, 544-545 (2009).

⁶³ *People v. Jugueta*, 783 Phil. 806 (2016).

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

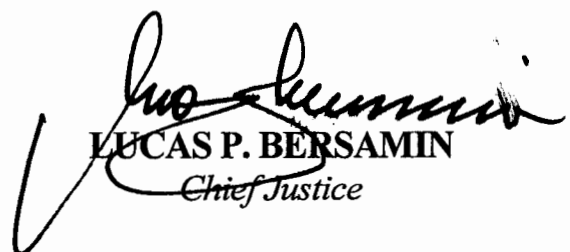

FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

(On leave)
ROSMARI D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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