



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 248202

Present:

GESMUNDO, C.J.,  
Chairperson,  
CAGUIOA,  
LAZARO-JAVIER,  
LOPEZ, M.,\* and  
LOPEZ, J., JJ.

-versus-

Promulgated:

LEONARDO  
MACALINDONG y  
ANDALLON,  
Accused-Appellant.

OCT 13 2021

[Signature]

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision<sup>1</sup> dated April 4, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09196 entitled *People of the Philippines v. Leonardo Macalindong y Andallon* which affirmed appellant's conviction for murder, thus:

\* On official leave.

<sup>1</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Remedios A. Salazar-Fernando and Henri Jean Paul B. Inting (now a member of the Court), all members of the Special Second Division, *rollo*, pp. 3-18.

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**WHEREFORE**, premises considered, the instant appeal is hereby **DENIED**.

Accordingly, the *Decision dated 10 December 2015* of the Regional Trial Court of Oriental Mindoro, Branch 40, City of Calapan, in Criminal Case No. CR-07-8753, finding accused-appellant Leonardo Macalindong guilty beyond reasonable doubt of the crime of murder is **AFFIRMED** with the **MODIFICATION** that treachery and abuse of superior strength qualified the murder, that accused-appellant is sentenced to *reclusion perpetua* without eligibility for parole, and that the awards of moral and exemplary damages are increased in the amount of P100,000.00 each.

Pursuant to the pronouncement in *Nacar v. Gallery Frames and Felipe Bordey, Jr.*, appellant is further **ORDERED** to pay legal interest on all awarded damages at 6% per annum from the filing of the Information on 12 February 2007 until the finality of this *Decision*, and another 6% *per annum* from such finality until full payment.

SO ORDERED.<sup>2</sup>

### Antecedents

#### The Charge

Appellant Leonardo Macalindong (appellant) was charged with the murder of his live-in partner Jovelina Malinao y Panot (Jovelina), *viz.*:

That on or about the 10th day of February 2007, at around [sic] 8:00 o'clock in the evening, at Sitio Riverside, Barangay Pakyas, Municipality of Victoria, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with treachery and evident premeditation and with a decided purpose to kill and while armed with a bladed instrument, attack, assault[,] and stab one JOVELIA MALINAO y PANOT, his live-in partner while the latter was unaware, unarmed[,] and defenseless, inflicting upon the latter multiple stab wounds at the different parts of the body causing her instantaneous death.

That in the commission of the offense, the qualifying circumstances of superior strength and evident premeditation are attendant.

CONTRARY TO LAW.<sup>3</sup>

The case was raffled to the Regional Trial Court (RTC) – Branch 40, Calapan City, Oriental Mindoro. On arraignment, appellant pleaded not guilty.<sup>4</sup> Trial ensued.

### Proceedings before the Trial Court

#### Version of the Prosecution

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<sup>2</sup> *Id.* at 16-17.

<sup>3</sup> *CA rollo*, p. 53.

<sup>4</sup> *Id.* at 54.

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Seven (7)-year old Lyn Joy Macalindong (Lyn Joy) testified that in the evening of February 10, 2007, she heard her father, herein appellant, and her mother, Jovelina, quarreling inside their home in Barangay Pakyas, Victoria, Oriental Mindoro. At that time, her brother Jonard was sound asleep. She cried when she saw appellant stab Jovelina. She approached Jovelina but the latter was already dead. Appellant then went out of the house.<sup>5</sup>

Her grandfather Ofring and several policemen arrived. The police investigated her and took photos of the crime scene. She was shown a photo of a knife which she recognized to be the same knife appellant used to stab Jovelina.<sup>6</sup>

On cross, she stated that she saw appellant stab Jovelina many times. She later heard her grandmother Nanay Nina saying that Jovelina was stabbed twenty-two (22) times.<sup>7</sup>

The prosecution and the defense stipulated on the following matters:

- 1) The proposed testimony of Senior Police Officer 4 Henry Malitao (SPO4 Malitao) regarding the sworn statement he and Police Officer 3 Rhoda Macabata (PO3 Macabata) had jointly executed stating that they received information that a woman was killed by her live-in partner; they recorded the incident in the police blotter; they proceeded to Sitio Riverside, Barangay Pakyas, Victoria, Oriental Mindoro; there they saw appellant embracing his two (2) children; they were able to talk to appellant's daughter Lyn Joy, who informed them that it was appellant who killed her mother, Jovelina, and they arrested appellant and informed him of his Miranda rights.<sup>8</sup>
- 2) The proposed testimony of another daughter of appellant and Jovelina named Jealavia Malinao pertaining to the execution and contents of her sworn affidavit that around three o'clock in the morning of February 10, 2007, inside their home, her sister Lyn Joy told her that while their parents were fighting, appellant stabbed their mother in different parts of her body.<sup>9</sup>
- 3) The proposed testimony of PO3 Macabata pertaining to the sworn statement she jointly executed with SPO4 Malitao.<sup>10</sup>
- 4) The proposed testimony of Dr. Ma. Virginia Valdez (Dr. Valdez), Municipal Health Officer of Victoria, Oriental Mindoro pertaining to her examination of Jovelina's body, her findings, and her issuance of Jovelina's death certificate.<sup>11</sup>

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

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

<sup>8</sup> *Id.* at 54-55.

<sup>9</sup> *Id.* at 56.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

### Version of the Accused

Appellant testified that he could not remember what happened in the morning of February 10, 2007 because he blacked out and when he woke up, he was already inside the provincial jail. Before that, the only thing he could remember was that he, Jovelina, and their two (2) children were inside their family home. He could not tell with certainty whether he was responsible for Jovelina's death.<sup>12</sup>

He submitted in evidence the Initial Report dated March 10, 2008 from the National Center for Mental Health (NCMH) and a Medical Certificate dated November 9, 2007 issued by Dr. Florecita Lindo (Dr. Lindo), both certifying that he was suffering from schizophrenia.<sup>13</sup>

### The Trial Court's Ruling

By Decision<sup>14</sup> dated December 10, 2015, the trial court found appellant guilty of the murder of Jovelina. It gave credence to Lyn Joy's positive identification of appellant as the person who stabbed Jovelina multiple times. Treachery attended the killing because appellant suddenly attacked Jovelina who was unaware of the impending attack and was utterly defenseless. The trial court, however, did not appreciate the qualifying circumstance of evident premeditation for lack of evidence. Thus:

ACCORDINGLY, finding herein accused Leonardo Macalindong y Andallon guilty beyond reasonable doubt as principal by direct participation of the crime of Murder punishable under Article 248 of the Revised Penal Code, with the attending qualifying circumstance of treachery, said accused is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA** with all the accessory penalties as provided by law. Said accused Leonardo Macalindong y Andallon is hereby directed to indemnify the heirs of the victim Jovelina Malinao y Panot the amount of Php100,000.00 as civil indemnity, Php75,000.00 as moral damages and Php50,000.00 as exemplary damages.

SO ORDERED.<sup>15</sup>

### Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for: a) appreciating the qualifying circumstance of treachery despite the alleged absence of evidence that the attack was sudden and that Jovelina was unaware of the impending attack, thus, rendering her defenseless; and b) not giving credence to his claim that he had been afflicted with a mental illness notwithstanding that the trial court itself had deferred his arraignment, referred him to the Oriental Mindoro Provincial Hospital, received Dr. Lindo's finding that he had been afflicted

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<sup>12</sup> *Id.* at 57.

<sup>13</sup> *Id.*

<sup>14</sup> Penned by Judge Romas C. Leynes, *id.* at 53-60.

<sup>15</sup> *Id.* at 59-60.

with schizophrenia, and referred him to the National Center for Mental Health (NCMH) whose initial finding confirmed his schizophrenia.<sup>16</sup>

The Office of the Solicitor General (OSG), through Assistant Solicitor General Bernard Hernandez and Associate Solicitor Jasmine Logroño, countered: Lyn Joy's testimony was sufficient to convict appellant of murder; the qualifying circumstance of treachery was proven by the fact that appellant stabbed Jovelina with a knife multiple times and the killing was committed in their home and in the presence of their children; and the qualifying circumstance of abuse of superior strength could also be appreciated in this case.<sup>17</sup>

### **The Ruling of the Court of Appeals**

By its assailed Decision<sup>18</sup> dated April 4, 2019, the Court of Appeals affirmed with modification. In addition to treachery, it also appreciated abuse of superior strength on account of appellant being an adult male armed with a knife, increased the awards of moral and exemplary damages to ₱100,000.00 each, directed appellant to pay interest on all monetary awards at six percent (6%) *per annum* from the filing of the Information on February 12, 2007 until the finality of its decision, and another six percent (6%) *per annum* from finality of its decision until full payment.

### **The Present Appeal**

Appellant now seeks anew a verdict of acquittal. Both appellant<sup>19</sup> and the OSG<sup>20</sup> manifested that, in lieu of their supplemental briefs, they were adopting their respective briefs in the Court of Appeals.

### **Issues**

- 1) Can appellant be credited with the exempting circumstance of insanity?
- 2) Was appellant properly convicted of murder?

### **Ruling**

#### ***Appellant's defense of insanity must fail***

Article 12 of the Revised Penal Code (RPC) provides that insanity can exempt one from criminal liability, thus:

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<sup>16</sup> *Id.* at 32-51.

<sup>17</sup> *Id.* at 74-82.

<sup>18</sup> *Supra* note 1.

<sup>19</sup> *Rollo*, pp. 60-61.

<sup>20</sup> *Id.* at 34-36.

Article 12. Circumstances which exempt from criminal liability. - the following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

When the imbecile or an insane person has committed an act which the law defines as a felony (*delito*), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

x x x x

Insanity exists when there is a complete deprivation of intelligence while committing the act, *i.e.*, when the accused is deprived of reason, he or she acts without the least discernment because there is a complete absence of power to discern, or there is total deprivation of freedom of the will. The legal teaching consistently maintained in our jurisprudence is that the plea of insanity is in the nature of confession and avoidance. Hence, if the accused is found to be sane at the time he or she perpetrated the offense, a judgment of conviction is inevitable because he or she had already admitted that he or she committed the offense.<sup>21</sup> *People v. Madarang*<sup>22</sup> elucidates:

**In the Philippines, the courts have established a more stringent criterion for insanity to be exempting as it is required that there must be a complete deprivation of intelligence in committing the act, *i.e.*, the accused is deprived of reason; he acted without the least discernment because there is a complete absence of the power to discern, or that there is a total deprivation of the will. Mere abnormality of the mental faculties will not exclude imputability.**

The issue of insanity is a question of fact for insanity is a condition of the mind, not susceptible [of] the usual means of proof. As no man can know what is going on in the mind of another, the state or condition of a person's mind can only be measured and judged by his behavior. **Establishing the insanity of an accused requires opinion testimony which may be given by a witness who is intimately acquainted with the accused, by a witness who has rational basis to conclude that the accused was insane based on the witness' own perception of the accused, or by a witness who is qualified as an expert, such as a psychiatrist. The testimony or proof of the accused's insanity must relate to the time preceding or coetaneous with the commission of the offense with which he is charged.** (Emphases supplied)

Verily, the exempting circumstance of insanity requires two (2) elements: (1) the insanity of the accused constitutes a complete deprivation of intelligence, reason, or discernment; and (2) such insanity existed at the time of, or immediately preceding, the commission of the crime.<sup>23</sup>

<sup>21</sup> *People v. Salvador*, 834 Phil. 632, 645 (2018).

<sup>22</sup> 387 Phil. 846, 859 (2000).

<sup>23</sup> *People v. Pantoja*, 821 Phil. 1052, 1061-1062 (2017).

Here, appellant's plea of insanity – that he was suffering from schizophrenia – at the time he killed Jovelina was unsubstantiated. More specifically, though he claimed to have blacked out on the day in question, there was no showing that the same happened at the time of, or immediately preceding, the killing of Jovelina. All he said was he blacked out and was not sure whether it was he who killed the victim. True, there was an Initial Report dated March 10, 2008 from the NCMH and a Medical Certificate dated November 9, 2007 issued by Dr. Lindo. Yet, Dr. Lindo was not even called to identify the medical certificate, let alone, expound on the contents of the NCMH initial report specifically the extent and the specific time frame of appellant's illness. Consequently, appellant's defense of insanity cannot be credited as an exempting circumstance.

***Appellant is guilty of  
homicide only***

Seven (7)-year old Lyn Joy positively testified that it was her father, herein appellant, who stabbed her mother Jovelina to death with a knife on February 10, 2007, thus:

PROS. DOLOR:

Q. You live in Pakyas, Victoria, Oriental Mindoro, right?

A. Yes, sir.

Q. Who is your mother?

A. Jovy, sir.

Q. Do you have siblings?

A. Yes, sir.

Q. How many? Tell us who are your siblings?

A. Jonard, only Jonard, sir.

Q. Who is your father?

A. Joel, sir.

Q. Where is your father now?

A. He is there. He killed my mom, sir.

Q. When your father killed your mom where were you?

A. I was in the house, sir.

COURT:

Q. Did you see your father actually killed [sic] your mother?

A. Yes, [y]our Honor.

Q. What kind of instrument did your father use in killing your mother?

A. A knife, [y]our Honor.

Q. Now, what is again the name of your father?

A. Joel, [y]our Honor.

Q. And that Joel is Leonardo Macalindong who is the accused in this case?

A. Yes, [y]our Honor.

**Q. If he is inside the courtroom, can you point at him?**

**A. Yes, [y]our Honor.**

**Q. Will you please stand up and point to the accused where is he now?**

**INTERPRETER:**

**Witness points at a person inside the courtroom who identified his name as Leonardo Macalindong.**

**COURT:**

Proceed now.

**PROS. DOLOR:**

**Q. Where in the house were you?**

**A. I was in the room, sir.**

**Q. How far were you from your mother when she was stabbed by your father?**

**A. I was on a cemented part of the house, sir.**

**COURT:**

**Q. Do you know how many times did (sic) your father stab (sic) your mother with a knife?**

**A. Yes, [y]our Honor.**

**Q. How many times?**

**A. Twenty-two (22) times, [y]our Honor.**

**Q. Do you know why your father stabbed to death your mother?**

**A. Because they quarreled, [y]our Honor.**

**Q. And did you hear what your father was saying before he stabbed your mother?**

**A. Yes, [y]our Honor.**

**Q. Now, after your father stabbed your mother, what did you do?**

**A. I just looked at them, [y]our Honor.**

**Q. And did you cry?**

**A. Yes, [y]our Honor.**

**Q. Did you go to your mother after she was already stabbed to death?**

**A. Yes, [y]our Honor.**

**Q. And you were able to talk to your mother at the time that you approached her or she was already dead?**

**A. She was already dead, [y]our Honor.**

**PROS. DOLOR:**

We put on record that the witness is crying.

**COURT:**

**Q. After your father repeatedly stabbed your mother which[,] according to you, you saw 22 times, where did your father go after that?**

**A. He was able to escape, [y]our Honor.**

**Q. So your father went out of your house at that time?**

**A. Yes, [y]our Honor. (Emphases supplied)**

Lyn Joy narrated that she was with appellant and Jovelina in a room inside their house. Appellant and Jovelina were quarreling when appellant suddenly stabbed Jovelina with a knife twenty-two (22) times. After stabbing Jovelina, appellant just left the house.

Indeed, the testimony of a single witness, when positive and credible, is sufficient to support a conviction even for murder.<sup>24</sup> More so because Filipino children have great respect and reverence for their elders and would not casually point to one of their parents as the killer of the other, if it were not true. For this reason, great weight is given to an accusation children direct against a close relative, especially their father or mother.<sup>25</sup>

Against such positive and categorical identification made by his own seven (7)-year old daughter, appellant merely interposed denial – specifically that he blacked out and could not tell whether he killed Jovelina. The defense of denial itself is ambivalent compared to the positive identification of appellant as the perpetrator of the crime. Denial, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law.<sup>26</sup> Further, *People v. Domingo*<sup>27</sup> disregarded an accused's claim that he had no recollection of the crime because of schizophrenia, thus:

Appellant offers his uncorroborated testimony as the only proof that he was insane at the time he committed the crime. He testified that nine days before he committed the crime, he suffered from lack of appetite, sleeplessness, and anxiety. In addition, he allegedly heard voices ordering him to kill bad people. He claims that he does not remember anything that happened on 29 March 2000, when the crimes were committed, and that he was already detained when he became conscious of his surroundings.

The law presumes every man to be of sound mind. Otherwise stated, the law presumes that all acts are voluntary, and that it is improper to presume that acts are done unconsciously. Thus, a person accused of a crime who pleads the exempting circumstance of insanity has the burden of proving beyond reasonable doubt that he or she was insane immediately before or at the moment the crime was committed.

x x x x

**It is also remarkable that appellant's testimony is not supported by his family's or intimate friends' accounts of his purported insanity. Appellant testified that he had been suffering from symptoms of insanity nine days before the incident. Insanity may be shown by the surrounding circumstances fairly throwing light on the subject, such as evidence of the allegedly deranged person's general conduct and appearance, his conduct consistent with his previous character and habits, his irrational acts and beliefs, as well as his improvident bargains. It is difficult to believe that appellant's behavior, conduct and appearance, which would denote mental disturbance, escaped the notice of his family and friends. (Emphasis supplied)**

<sup>24</sup> *People v. Avila*, 787 Phil. 346, 358 (2016).

<sup>25</sup> *People v. Marmol*, 800 Phil. 813, 827 (2016).

<sup>26</sup> *People v. Golidan*, 823 Phil. 548, 577-578 (2018).

<sup>27</sup> 599 Phil. 589, 605-607 (2009).

As in *Domingo*, appellant here did not offer corroborating evidence that he indeed blacked out or was not himself before, during, and after the killing of Jovelina. Verily, his claim, which amounts to a denial, deserves scant consideration.

Since it had been established beyond any shadow of doubt that appellant did kill Jovelina, the next question hinges on whether the killing is murder or homicide.

The elements of murder are: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248<sup>28</sup> of the RPC; and (4) the killing is not parricide or infanticide.<sup>29</sup>

Here, we focus on whether the killing was attended by treachery and/or by abuse of superior strength.

Treachery requires the following elements: 1) the employment of means, method, or manner of execution which will ensure the safety of the malefactor from defensive or retaliating acts on the part of the victim, no opportunity being given to the latter to defend himself or herself or to retaliate; and 2) deliberate or conscious adoption of such means, method, or manner of execution.

A finding of treachery should be based on clear and convincing evidence. The same ought to be as conclusive as the fact of killing itself. Its existence cannot be presumed. As with the finding of guilt of the accused, any doubt as to the existence of treachery should be resolved in favor of the accused. The fact that the attack was unexpected cannot be the sole basis of a finding of treachery even if the attack was intended to kill another so long as the victim's position was merely accidental. The means adopted must have been the result of a determination to ensure success in committing the crime.<sup>30</sup>

Here, based on Lyn Joy's testimony, while appellant and Jovelina were fighting, appellant got caught in the heat of the moment, and suddenly attacked Jovelina with a knife and stabbed her multiple times. Everything

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<sup>28</sup> 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 temporal* in its maximum period 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 street car or locomotive, 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 of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or 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.

<sup>29</sup> *People v. Maron*, G.R. No. 232339, November 20, 2019.

<sup>30</sup> *Cirera v. People*, 739 Phil. 25, 45 (2014).

happened so fast indicating that appellant acted impulsively and on a spur of the moment, rather than with logic, cunning, deliberateness, or strategy. Surely, the suddenness of the attack, standing alone, did not immediately equate to treachery. We, therefore, hold that treachery did not attend the killing of Jovelía.

As for abuse of superior strength, it must be proved that there was a notorious inequality of forces between the victim and the aggressor that was plainly and obviously advantageous to the latter who purposely selected or took advantage of such inequality in order to facilitate the commission of the crime. The assailant must be shown to have consciously sought the advantage, or to have the deliberate intent to use his or her superior advantage. In this context, to take advantage of superior strength means to purposely use force excessively out of proportion to the means of defense available to the person attacked. The appreciation of the attendance of this qualifying or aggravating circumstance depends on the age, size, and strength of the parties.<sup>31</sup>

Here, Lyn Joy testified that while appellant and Jovelía were fighting, appellant suddenly grabbed a knife which he used to stab Jovelía several times in different parts of her body. Even though appellant is an adult male who was armed with a knife, he cannot be automatically said to have abused his superior strength. In *People v. Miraña*,<sup>32</sup> the difference in age and sex of the victim (73-year-old female) and the accused (male in early 20s) was considered insufficient to conclude the presence of abuse of superior strength. Further, the fact that an assailant was armed with a knife does not *ipso facto* indicate abuse of superior strength.<sup>33</sup> To repeat, appellant acted impulsively and on a spur of the moment, not with logic, cunning, deliberateness, or strategy. Thus, the qualifying circumstance of abuse of superior strength cannot be appreciated in this case.

Consequently, since Jovelía's killing was not attended by any qualifying circumstance that would elevate the crime to murder, appellant is only guilty of homicide as defined and penalized under Article 249 of the RPC, *viz.*:

Art. 249. Homicide. - Any person who, not falling within the provisions of Article 246, shall kill another, without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

The elements of homicide are: (a) a person was killed; (b) the accused killed him without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.<sup>34</sup>

<sup>31</sup> *People v. Evasco*, G.R. No. 213415, September 26, 2018, 881 SCRA 79, 91.

<sup>32</sup> 831 Phil. 215, 226 (2018).

<sup>33</sup> *People v. Beduya*, 641 Phil. 399, 411 (2010).

<sup>34</sup> *Wacoy v. People*, 761 Phil. 570, 578 (2015).

Here, as previously discussed, appellant's defense of insanity was not sufficiently substantiated by credible expert testimony. Additionally, he was positively identified by his own seven (7)-year old daughter as the one who stabbed Jovelina to death. Intent to kill was sufficiently proved. *People v. Espina*<sup>35</sup> elucidates on the external manifestations of intent to kill, viz.:

Intent to kill, being a state of mind, is discerned by the courts only through external manifestations. In *Rivera v. People*, We held that intent to kill must be proved by either direct or circumstantial evidence which may consist of: (1) the means used by the malefactor; (2) the nature, location, and number of wounds sustained by the victim; (3) the conduct of the malefactor before, during, or immediately after the killing of the victim; and (4) the circumstances under which the crime was committed. We have also considered as determinative factors the motive of the offender and the words he uttered at the time of inflicting the injuries on the victim.

There is certainly no doubt that appellant intended to kill Jovelina when he stabbed her about twenty-two (22) times.

### ***Imposable Penalty and Damages***

The crime of homicide is punishable by *reclusion temporal* under Article 249 of the RPC. Applying the Indeterminate Sentence Law,<sup>36</sup> in the absence of any mitigating or aggravating circumstances, appellant should be sentenced to eight (8) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.<sup>37</sup>

On the award of damages, prevailing jurisprudence<sup>38</sup> ordains the grant of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages to the heirs of Jovelina. Additionally, the heirs of Jovelina are entitled to ₱50,000.00

<sup>35</sup> G.R. No. 219614, July 10, 2019.

<sup>36</sup> Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (As amended by Act No. 4225.)

<sup>37</sup> *People v. Galam*, G.R. No. 224222, October 09, 2019.

<sup>38</sup> *People v. Jugueta*, 783 Phil. 806, 852 (2016).

x x x x

V. In other crimes that result in the death of a victim and the penalty consists of divisible penalties, *i.e.*, Homicide, Death under Tumultuous Affray, Infanticide to conceal the dishonour of the offender,[127] Reckless Imprudence Resulting to Homicide, Duel, Intentional Abortion and Unintentional Abortion, etc.:

1.1 Where the crime was consummated:

a. Civil indemnity - ₱50,000.00

b. Moral damages - ₱50,000.00

x x x x

If an aggravating circumstance was proven during the trial, even if not alleged in the Information,[128] in addition to the above mentioned amounts as civil indemnity and moral damages, the amount of ₱50,000.00 exemplary damages for consummated; ₱30,000.00 for frustrated; and ₱20,000.00 for attempted, shall be awarded.

as temperate damages for burial or funeral expenses.<sup>39</sup> Exemplary damages though are not warranted in the absence of aggravating circumstances.

Lastly, the Court of Appeals erred when it ruled that “[p]ursuant to the pronouncement in *Nacar v. Gallery Frames*, appellant is further ORDERED to pay legal interest on all awarded damages at 6% per annum from the filing of the Information on 12 February 2007 until the finality of this Decision, and another 6% per annum from such finality until full payment.”

The awards of civil indemnity, moral damages, and temperate damages are in the form of unliquidated damages, thus, the six percent (6%) interest shall begin to run from finality of the judgment. *Nacar v. Gallery Frames*<sup>40</sup> is very clear on this:

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

x x x x

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the *discretion of the court* at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages, except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code), **but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.**

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 6% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit. (Emphasis supplied)

In fine, the monetary awards here shall earn six percent (6%) legal interest *per annum* from finality of this Decision until fully paid.

<sup>39</sup> *Id.* at 853-854.

VII. In all of the above instances, when no documentary evidence of burial or funeral expenses is presented in court, the amount of ₱50,000.00 as temperate damages shall be awarded.

To reiterate, Article 2206 of the Civil Code provides that the minimum amount for awards of civil indemnity is ₱3,000.00, but does not provide for a ceiling. Thus, although the minimum amount cannot be changed, increasing the amount awarded as civil indemnity can be validly modified and increased when the present circumstance warrants it.

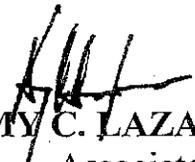
<sup>40</sup> 716 Phil. 267, 278-279 (2013).

**ACCORDINGLY**, the appeal is **DISMISSED**. The assailed Decision dated April 4, 2019 in CA-G.R. CR-HC No. 09196 is **AFFIRMED** with **MODIFICATION**.

Appellant **LEONARDO MACALINDONG y ANDALLON** is found **GUILTY** of **HOMICIDE** and sentenced to eight (8) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum. He is directed **TO PAY** the **HEIRS OF JOVELIA MALINAO y PANOT** ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as temperate damages.

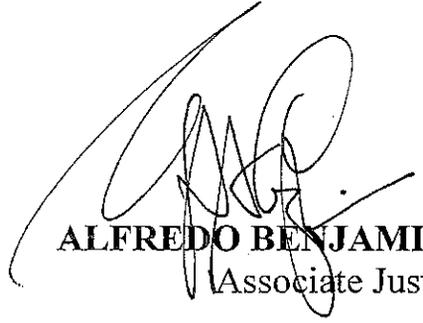
All monetary awards are subject to six percent (6%) legal interest *per annum* from finality of this Decision until fully paid.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson

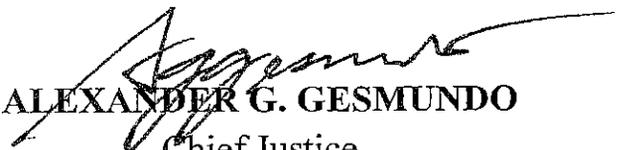
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

(On official leave)  
**MARIO V. LOPEZ**  
Associate Justice

  
**JHOSEP V. LOPEZ**  
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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice



