



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 254881
PHILIPPINES, Plaintiff-appellee, Present:

-versus-

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,*
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

RAFAEL REY MALATE @
"AR-AR", Accused-appellant.

Promulgated:

OCT 23 2023

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DECISION

M. LOPEZ, J.:

A single and continuous attack cannot be divided into stages to make it appear that treachery was involved. Treachery cannot happen midstream of an attack.¹ The Court applies this dictum in this appeal² assailing the Decision³ dated September 8, 2020 of the Court of Appeals (CA) in CA-G.R. CR HC No. 02958.

ANTECEDENTS

On November 24, 2010, at around 7:00 p.m., Rafael Rey Malate (Rafael), Lito Jerdelis (Lito), and Ricardo Sandoval (Ricardo) were having a

* On official business.

¹ See *People v. Gonzales, Jr.*, 411 Phil. 893, 921 (2001) [Per J. Gonzaga-Reyes, *En Banc*]. See also *U.S. v. Balagtas*, 19 Phil. 164, 172-173 (1911) [Per J. Trent, *En Banc*].

² *Rollo*, pp. 23-25, Notice of Appeal dated October 29, 2020.

³ *Id.* at 6-22. Penned by Associate Justice Dorothy P. Montejo-Gonzaga, with the concurrence of Associate Justices Pamela Ann A. Maxino and Lorenza R. Bordios of the Nineteenth Division, Court of Appeals, Cebu City.

drinking session. Charlito Manla (Charlito) joined the group but got into an argument with Lito. Rafael and Ricardo pacified the squabble and went back to their seats. Charlito approached Rafael and explained that he had no grudge against him. However, Rafael grabbed a *bolo* from the doorframe. Ricardo then shouted at Charlito to run. Rafael chased Charlito and hacked him at his back. Charlito fell on the ground as a result. Gilda Quizon (Gilda) saw Charlito lying on the middle of the road and yelled at Rafael to stop the assault. Yet, Rafael hacked Charlito again on the head, resulting in his death.⁴ After three days, Rafael voluntarily surrendered to the authorities.⁵ Meanwhile, the autopsy report revealed that Charlito died of acute blood loss secondary to multiple hack wounds.⁶ Accordingly, Rafael was charged with murder committed against Charlito before the Regional Trial Court (RTC),⁷ to wit:

That on or about the 24th day of November, 2010, in the Municipality of Mahaplag, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above named accused, with deliberate intent to kill and with treachery, did then and there willfully, unlawfully and feloniously assault, attack and hack Charlito Manla with the use of a long bolo (sundang) which accused provided for the purpose, thereby hitting and inflicting upon said Charlito Manla several hack wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.⁸

Rafael pleaded not guilty⁹ and contended that he merely acted in self-defense. He narrated that Charlito was already aggressive when he joined the drinking session. Charlito then got angrier and challenged them to a fight. Rafael further recalled that, at that moment, Charlito tried to draw something from his waist but Rafael could not see what it was because of the dark. Allegedly to defend himself, Rafael grabbed his *bolo* from the doorframe and hacked Charlito until he was dead.¹⁰

On August 30, 2016, the RTC found Rafael guilty¹¹ of murder qualified by treachery since he delivered the first hacking blow on Charlito's back without any warning. The RTC also ruled out self-defense for failure to prove the indispensable element of unlawful aggression,¹² thus:

WHEREFORE, PREMISES CONSIDERED, this Court finds the accused GUILTY beyond reasonable doubt of the crime charged and he is hereby sentenced to RECLUSION PERPETUA without benefit of parole. He is further condemned to pay the heirs of the victim the amount of

⁴ *Id.* at 8; CA rollo, p. 35.

⁵ Rollo, p. 9; CA rollo, p. 36.

⁶ Rollo, p. 8.

⁷ *Id.* at 7; CA rollo, p. 34.

⁸ CA rollo, p. 34.

⁹ Rollo, p. 7; *id.* at 35.

¹⁰ Rollo, p. 9; CA rollo, p. 36.

¹¹ CA rollo, pp. 34-37. The Judgment in Criminal Case No. B-11-02-19 was penned by Presiding Judge Carlos O. Arguelles of Branch 14, Regional Trial Court, Baybay City.

¹² *Id.* at 36-37.

P75,000 as civil indemnity, P30,000.00 as exemplary damages and P25,000 as temperate damages.

SO ORDERED.¹³

Aggrieved, Rafael elevated the case to the CA.¹⁴ He argued that the prosecution failed to allege the specific facts constituting the qualifying aggravating circumstance of treachery and to prove the essential elements of murder.¹⁵ In contrast, the Office of the Solicitor General countered that treachery qualified the killing to murder because the weapon used, coupled with the location and number of Charlito's wounds, showed Rafael's clear intent to kill the unsuspecting victim.¹⁶

On September 8, 2020, the CA affirmed Rafael's conviction for murder, with modification as to the award of damages.¹⁷ The CA explained that the Information sufficiently informed Rafael of the nature and cause of the accusation against him.¹⁸ The CA also held that the prosecution proved treachery considering that the attack was carried out suddenly and unexpectedly. Rafael hacked Charlito at his back while the latter was attempting to leave. The mode of attack deprived the victim of any real opportunity to defend himself.¹⁹ Lastly, the CA discounted the theory of self-defense absent proof of unlawful aggression.²⁰ As to the penalty, the CA imposed the lesser punishment of *reclusion perpetua* given the mitigating circumstance of voluntary surrender.²¹

WHEREFORE, in view of the foregoing, *We* find no error committed by the trial court and, hence, **DENY** the appeal for lack of sufficient merit. The *Decision* dated 30 August 2016 of the Regional Trial Court (RTC) of Baybay City, 8th Judicial Region, Branch 14, in Criminal Case No. B-11-02-19 is **AFFIRMED with MODIFICATION**. Accused-appellant is ordered to pay the heirs of Charlito Manla PhP75,000.00 as civil indemnity; PhP75,000.00 as moral damages; and PhP75,000.00 as exemplary damages. He shall pay an interest of six percent (6%) per annum on the aggregate amount of the monetary awards computed from the time of finality of this Decision until full payment.

SO ORDERED.²² (Emphasis in the original)

Hence, the present appeal.²³ The parties opted not to file supplemental briefs considering that all issues have already been exhaustively discussed in

¹³ *Id.* at 37.

¹⁴ *Id.* at 16-33.

¹⁵ *Id.* at 22-31.

¹⁶ *Id.* at 52-55.

¹⁷ *Rollo*, p. 21.

¹⁸ *Id.* at 18-20.

¹⁹ *Id.* at 17-18.

²⁰ *Id.* at 11-17.

²¹ *Id.* at 20-21.

²² *Id.* at 21.

²³ *See id.* at 23-25, Notice of Appeal dated October 29, 2020.

their pleadings before the CA.²⁴ Thus, Rafael reiterates his position that the prosecution failed to establish the elements of murder and its qualifying circumstance.²⁵

RULING

The appeal is partly meritorious.

We stress that the CA and the RTC's assessment of the credibility of the prosecution witnesses and the veracity of their testimonies are given the highest degree of respect,²⁶ especially if there is no fact or circumstance of weight or substance, which could affect the result of the case, that was overlooked, misunderstood, or misapplied.²⁷ Moreover, the trial court had the best opportunity to determine the credibility of the prosecution witnesses, having evaluated their emotional state, reactions, and overall demeanor in open court.²⁸ Here, Ricardo and Gilda positively identified Rafael as the perpetrator of the crime. Ricardo and Gilda were familiar with Rafael because he is their friend and nephew, respectively. More importantly, Ricardo and Gilda were at the crime scene at the time the killing happened.²⁹ Ricardo and Gilda also had no motive to perjure against Rafael other than to see that justice was done. The earnest desire to seek justice will not be served should Ricardo and Gilda abandon their conscience and prudence to blame one who is innocent of the crime.

In any event, Rafael admitted that he authored Charlito's death but invoked the justifying circumstance of self-defense.³⁰ Verily, the admission of self-defense frees the prosecution from the burden of proving that the accused committed the crime. The burden is shifted to the accused to prove that his or her act was justified. Self-defense must be clearly established through convincing evidence. The justifying circumstance cannot be appreciated if it is uncorroborated by competent evidence or is patently doubtful.³¹ In self-defense, the following elements must concur: (1) unlawful aggression on the part of the victim, (2) reasonable necessity of the means employed to prevent or repel such aggression, and (3) lack of sufficient provocation on the part of the person resorting to self-defense.³²

The first requisite of "*unlawful aggression on the part of the victim*" is an indispensable element of self-defense.³³ If unlawful aggression attributed to the victim is not established, the defense is unavailing for there is nothing

²⁴ *Id.* at 39-42, Manifestation in lieu of Appellant's Brief; 33-35, Manifestation in lieu of Appellee's Brief. CA rollo, pp. 22-31.

²⁶ *People v. Maignas*, 428 Phil. 834, 868-869 (2002) [Per J. Panganiban, *En Banc*].

²⁷ *People v. Orosco*, 757 Phil. 299, 310 (2015) [Per J. Villarama, Jr., Third Division].

²⁸ *People v. Begino*, G.R. No. 251150, March 16, 2022 [Per J. M. Lopez, Third Division].

²⁹ TSN, Ricardo Sandoval y Amamangpang, January 27, 2016, pp. 47-50; TSN, Gilda Amadar Quizon, May 19, 2014, pp. 4-8; rollo, p. 9.

³⁰ CA rollo, p. 24.

³¹ *Labosta v. People*, 875 Phil. 506, 514-515 (2020) [Per J. J. Reyes, Jr., First Division].

³² *People v. Antonio*, 869 Phil. 773, 785 (2020) [Per J. Leonen, Third Division].

³³ *People v. Fontanilla*, 680 Phil. 155, 165 (2012) [Per J. Bersamin, First Division].

to prevent or repel.³⁴ For unlawful aggression to be present, there must be a real danger to one's life or personal safety.³⁵ Here, there was no actual or imminent unlawful aggression on the part of Charlito. The records do not show that Charlito used actual physical force or a weapon that placed Rafael's life or limb in danger. There was likewise no offensive or positively strong impending attack which would have shown Charlito's wrongful intent to inflict injury. Rafael claimed that Charlito challenged him to a fight and tried to draw something from his waist.³⁶ However, mere threatening or intimidating attitude is not unlawful aggression.³⁷ Similarly, Rafael's belief that Charlito was about to attack when he tried to draw something from his waist is uncertain, premature, and speculative. No external acts showed the commencement of an actual and material attack. Rafael even admitted that he did not see what Charlito was trying to draw from his waist.³⁸ As the CA and the RTC aptly observed, after the squabble was pacified, Charlito merely approached Rafael and told him that there was no personal grudge between them.³⁹ Consequently, Rafael had absolutely no basis for pleading self-defense because he had not been subjected to either actual or imminent threat to his life. Rafael had nothing to prevent or to repel considering that Charlito committed no unlawful aggression towards him. Without unlawful aggression, it is superfluous to still determine whether the remaining requisites of self-defense were attendant.

Notably, Rafael raised for the first time on appeal that treachery was not properly alleged in the Information. He claimed that this deprived him of the right to be informed of the nature and cause of the accusation against him.⁴⁰ In *People v. Solar*,⁴¹ the Court held that it is insufficient for prosecutors to indicate in the Information that the act supposedly committed by the accused was done "with treachery" without specifically describing the acts done by the accused that made such circumstance present.⁴² Nevertheless, in *Solar*, the accused was deemed to have waived any objection against the sufficiency of the Informations for his failure to question during trial any defect in the charges through a motion to quash or a bill of particulars,⁴³ to wit:

In sum, the Court, continually cognizant of its power and mandate to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, hereby lays down the following guidelines for the guidance of the Bench and the Bar:

³⁴ *Calim v. Court of Appeals*, 404 Phil. 391, 403 (2001) [Per J. Gonzaga-Reyes, Third Division].

³⁵ *Andal v. Sandiganbayan*, 258-A Phil. 591, 596 (1989) [Per J. Padilla, *En Banc*].

³⁶ CA rollo, p. 24.

³⁷ *People v. Nugas*, 577 Phil. 168, 178 (2011) [Per J. Bersamin, First Division].

³⁸ Rollo, p. 9.

³⁹ *Id.* at 13; CA rollo, p. 35.

⁴⁰ CA rollo, pp. 27-30.

⁴¹ 858 Phil. 884, 928 (2019) [Per J. Caguioa, *En Banc*].

⁴² *Id.* at 928.

⁴³ *Id.* at 924.

1. Any Information which alleges that a qualifying or aggravating circumstance — in which the law uses a broad term to embrace various situations in which it may exist, such as but are not limited to (1) treachery; (2) abuse of superior strength; (3) evident premeditation; (4) cruelty — is present, must state the ultimate facts relative to such circumstance. Otherwise, the Information may be subject to a motion to quash under Section 3 (e) (*i.e.*, that it does not conform substantially to the prescribed form), Rule 117 of the Revised Rules of Criminal Procedure, or a motion for a bill of particulars under the parameters set by said Rules.

Failure of the accused to avail any of the said remedies constitutes a waiver of [their] right to question the defective statement of the aggravating or qualifying circumstance in the Information, and consequently, the same may be appreciated against [them] if proven during trial.

Alternatively, prosecutors may sufficiently aver the ultimate facts relative to a qualifying or aggravating circumstance by referencing the pertinent portions of the resolution finding probable cause against the accused, which resolution should be attached to the Information in accordance with the second guideline below.

2. Prosecutors must ensure compliance with Section 8 (a), Rule 112 of the Revised Rules on Criminal Procedure that mandates the attachment to the Information the resolution finding probable cause against the accused. Trial courts must ensure that the accused is furnished a copy of this Decision prior to the arraignment.

3. Cases which have attained finality prior to the promulgation of this Decision will remain final by virtue of the principle of conclusiveness of judgment.

4. For cases which are still pending before the trial court, the prosecution, when still able, may file a motion to amend the Information pursuant to the prevailing Rules in order to properly allege the aggravating or qualifying circumstance pursuant to this Decision.

5. For cases in which a judgment or decision has already been rendered by the trial court and is still pending appeal, the case shall be judged by the appellate court depending on whether the accused has already waived [their] right to question the defective statement of the aggravating or qualifying circumstance in the Information, (*i.e.*, whether they previously filed either a motion to quash under Section 3 (e), Rule 117, or a motion for a bill of particulars) pursuant to this Decision.⁴⁴ (Emphasis supplied; citations omitted)

In this case, the Information against Rafael was defective absent factual details describing the qualifying circumstance of treachery. However, Rafael waived such defect when he failed to avail of the proper remedies under the Rules of Court. Rafael did not question the insufficiency of the Information either through a motion to quash or a motion for bill of particulars. Rafael

⁴⁴ *Id.* at 930-932.

only raised the issue during appeal and not in trial. Accordingly, treachery may be appreciated against Rafael if proven during trial.

Corollarily, treachery exists when the offender commits any of the following crimes against the victim, employing means, methods, or forms in the execution thereof, which tend directly and specially to insure its execution, without risk to himself or herself arising from the defense which the offended party might make.⁴⁵ In order for treachery to be appreciated, two requirements must be established: (1) the victim was in no position to defend himself or herself when attacked; and (2) the assailant consciously and deliberately adopted the methods, means, or form of one's attack against the victim.⁴⁶ The essence of treachery is the unexpected and sudden attack on the victim sans the slightest provocation on his or her part.⁴⁷ What is decisive in treachery is that the execution of the attack rendered it impossible or difficult for the deceased to defend himself or herself, counter the attack, or retaliate.⁴⁸

Contrary to the CA⁴⁹ and the RTC's⁵⁰ findings, the mere suddenness of the attack is not sufficient to hold that treachery is present. There must be a showing that the means of execution was deliberately or consciously adopted by the accused with a view of accomplishing the act without risk to the aggressor.⁵¹ In *People v. Caliao*,⁵² the Court found the accused guilty of only homicide, not murder, because there was no showing that he made any preparation to kill the victim in such a manner as to insure the commission of the crime or make it impossible or difficult for the victim to retaliate or defend himself.⁵³ The Court reiterated a previous ruling and held that "*when aid was easily available to the victim, such as when the attendant circumstances show that there were several eyewitnesses to the incident, including the victim's family, no treachery could be appreciated because if the accused indeed consciously adopted means to insure the facilitation of the crime, he could have chosen another place or time.*"⁵⁴ In *People v. Gayon*,⁵⁵ the Court likewise ruled that there is no showing that the accused carefully and deliberately planned the killing in the manner that would ensure his safety and success. The testimony of the eyewitness confirmed that the victim was attacked at the place familiar to her and in the presence of other people who were related to the victim. The victim was with people who could have helped her repel the attack.⁵⁶

⁴⁵ REV. PEN. CODE, art. 14(16).

⁴⁶ *People v. Abina*, 830 Phil. 352, 361 (2018) [Per J. Del Castillo, First Division].

⁴⁷ *People v. Gutierrez*, 429 Phil. 124, 136 (2002) [Per J. Ynares-Santiago, *En Banc*].

⁴⁸ *People v. Almedilla*, 456 Phil. 719, 725 (2003) [Per J. Puno, Third Division].

⁴⁹ *Rollo*, p. 18.

⁵⁰ CA *rollo*, p. 37.

⁵¹ *People v. Gayon*, 851 Phil. 1028, 1036 (2019) [Per J. Caguioa, Second Division].

⁵² 836 Phil. 966, 976-977 (2018) [Per J. Martires, Third Division].

⁵³ *Id.* at 976-977.

⁵⁴ *Id.* at 976, citing *People v. Vilbar*, 680 Phil. 767, 786 (2012) [Per J. Leonardo-De Castro, First Division].

⁵⁵ 851 Phil. 1028 (2019) [Per J. Caguioa, Second Division].

⁵⁶ *Id.* at 1037.

Here, the Court finds it difficult to agree with the CA⁵⁷ and the RTC's⁵⁸ conclusions that Rafael deliberately chose a particular mode of attack that purportedly ensured the execution of the criminal purpose without any risk to himself arising from the defense that the victim might offer. To be sure, Charlito was with Ricardo and Lito when the attack happened,⁵⁹ which made external help easily available to repel the aggression. Had Rafael deliberately intended that no risk would come to him, he would have chosen another time and place to attack Charlito. More telling is that Rafael's choice of weapon was purely incidental. Rafael just grabbed a *bolo*, which belies the conscious adoption of a treacherous mode of attack to secure an unfair advantage. The entire incident likewise happened in a matter of minutes and Rafael had no time to reflect on the mode of attack to ensure lack of retaliation from Charlito. The prosecution also did not establish with moral certainty that Charlito was utterly oblivious to the impending attack, or that he had no opportunity to mount a meaningful defense. Remarkably, Charlito ran as soon as he heard Ricardo's warning that Rafael had a *bolo* in his hands.⁶⁰

More importantly, Rafael's conduct of hacking Charlito at the back and on his head was spontaneous and was just a continuation of an attack which did not commence with treachery. In *People v. Cañete*,⁶¹ the accused assaulted the victim with a knife and in the course of the ensuing fight inflicted a serious cut on the latter's thigh. The victim turned to flee and was pursued by the accused. After going a short distance, the victim fell to the ground face downwards. The accused then ran up and fatally thrust the knife in the back of the victim before he could recover his equipoise and resume his flight. The Court held that the crime committed was homicide absent treachery at the inception of the continuous assault, although the final fatal blow might have been delivered under conditions exhibiting some of the features of *alevosia*.⁶² The Court further observed that "[o]ne continuous attack. . . cannot be broken up into two or more parts and made to constitute separate, distinct, and independent attacks so that treachery may be injected therein and considered as a qualifying or aggravating circumstance."⁶³ In *People v. Canillo*,⁶⁴ where the attack on the victim on the street was a continuation of the altercation inside the house, the Court held that the accused's act of waylaying an escaping victim out on the street, even if he appeared to have deliberately positioned himself right in the victim's path to catch him off guard, could not be appreciated as treachery. The Court reiterated that treachery must be present at the inception of an attack to qualify a killing to murder. It further emphasized that a treacherous act that happens during an attack or subsequent to it cannot be appreciated as a qualifying or generic aggravating circumstance. Similarly, it is undisputed that Charlito ran and Rafael promptly

⁵⁷ *Rollo*, pp. 17–18.

⁵⁸ *CA rollo*, p. 37.

⁵⁹ *Rollo*, p. 9.

⁶⁰ *Id.* at 16.

⁶¹ 44 Phil. 478 (1923) [Per J. Street, First Division].

⁶² *Id.* at 482–483.

⁶³ *Id.* at 483, citing *United States v. Batagtas*, 19 Phil. 164, 172–173 (1911) [Per J. Trent, *En Banc*].

⁶⁴ G.R. No. 244051, April 28, 2021 [Per J. Leonen, Third Division].

gave chase.⁶⁵ Obviously, Rafael, as a matter of course, hit Charlito's back. Again, treachery is not present when the mode of attack sprung from an unexpected turn of events, or done on impulse, or as a reaction to an actual or imagined provocation offered by the victim.⁶⁶ With these considerations, we find that no treachery attended the killing. Taken altogether, Rafael is liable only for homicide.

Under Article 249 of the Revised Penal Code (RPC), the prescribed penalty for homicide is *reclusion temporal*. It must be recalled that Rafael voluntarily surrendered to the authorities—a fact which the prosecution did not refute. Applying the Indeterminate Sentence Law⁶⁷ and considering the presence of one mitigating circumstance,⁶⁸ the maximum term of the indeterminate sentence should be taken from the minimum period of the prescribed penalty or between 12 years and one day to 14 years and eight months.⁶⁹ On the other hand, the minimum term must be within the range of the penalty next lower in degree from that prescribed for the crime or *prision mayor*, in any of its periods, which has a range of six years and one day to 12 years.⁷⁰ Thus, the Court modifies the penalty and imposes upon the accused the indeterminate sentence of six years and one day of *prision mayor*, as minimum, to 12 years and one day of *reclusion temporal*, as maximum.

On this point, Article 89, paragraph 2 of the RPC is explicit that criminal liability is totally extinguished by service of the sentence. The records show that Rafael was incarcerated on November 27, 2010,⁷¹ when he voluntarily surrendered, and was issued the commitment order on February 16, 2011.⁷² Both translate to a period more than the maximum penalty of 12 years and one day. The policy is to release detainees who have been imprisoned for a period equivalent or longer than the maximum penalty. A contrary stance downgrades the basic principles under the United Nations Standard Minimum Rules for the Treatment of Prisoners, popularly known as the *Nelson Mandela Rules*, which provides that “[t]he purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.”⁷³ Hence, Rafael must now be set free. Any further delay is nothing but unjust.

All of this is without prejudice to Rafael's civil liability arising from the commission of the crime, which subsists notwithstanding service of

⁶⁵ *Rollo*, p. 16.

⁶⁶ *People v. Santillana*, 367 Phil. 373, 389–390 (1999) [Per J. Melo, First Division].

⁶⁷ Act No. 4103 (1933), sec. 1.

⁶⁸ REV. PEN. CODE, art. 64(2).

⁶⁹ REV. PEN. CODE, art. 76.

⁷⁰ REV. PEN. CODE, art. 76.

⁷¹ RTC records, p. 44.

⁷² *Id.* at 13.

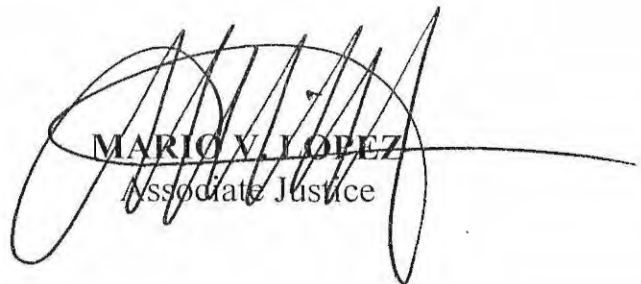
⁷³ The United Nations Standard Minimum Rules for the Treatment of Prisoners, Basic Principles, Rule 4, available at https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf (last accessed on September 8, 2023).

sentence.⁷⁴ Applying prevailing jurisprudence, the Court deems it proper to award the heirs of the victim the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages,⁷⁵ and PHP 50,000.00 as temperate damages, there being no documentary evidence of burial or funeral expenses presented in court. However, the grant of exemplary damages is deleted in the absence of any aggravating circumstance. The award of damages shall all earn interest at the rate of 6% per annum from finality of this Decision until fully paid.⁷⁶

ACCORDINGLY, the appeal is **DENIED**. The Decision dated September 8, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 02958 is **AFFIRMED** with **MODIFICATION** in that accused-appellant Rafael Rey Malate @ “Ar-ar” is **GUILTY** of homicide and is sentenced to suffer the indeterminate penalty of six years and one day of *prision mayor*, as minimum, to 12 years and one day of *reclusion temporal*, as maximum. Accused-appellant is **DIRECTED** to pay the heirs of Charlito Manla PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as temperate damages, all with interest at the rate of 6% per annum from the date of finality of this Decision until fully paid. Lastly, the grant of exemplary damages is **DELETED** for lack of factual and legal basis.

Accused-appellant is **ORDERED IMMEDIATELY RELEASED** from detention due to service of sentence, unless he is being lawfully held for another cause. Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director General is directed to report to this Court the action taken within five days from receipt of this Decision.

SO ORDERED.


MARIO V. LOPEZ
Associate Justice

⁷⁴ *Monsanto v. Factoran, Jr.*, 252 Phil. 192, 204 (1989) [Per C.J. Fernan, *En Banc*].

⁷⁵ *People v. Jugueta*, 783 Phil. 806, 852 (2016) [Per J. Peralta, *En Banc*].

⁷⁶ *Id.* at 856.

WE CONCUR:


MARVIC M.V.F. LEONEN

Senior Associate Justice

On official business



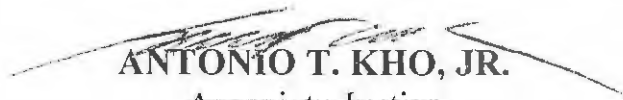
AMY C. LAZARO-JAVIER

Associate Justice



JHOSEP V. LOPEZ

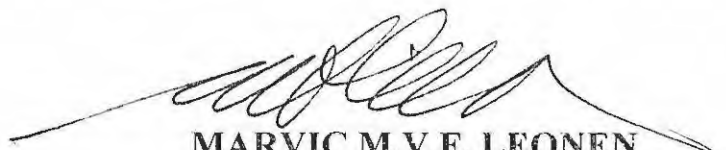
Associate Justice


ANTONIO T. KHO, JR.

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.



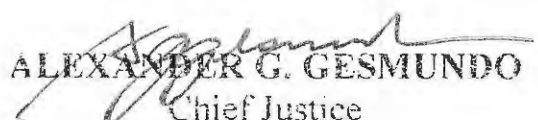
MARVIC M.V.F. LEONEN

Senior Associate Justice

Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.


ALEXANDER G. GESMUNDO
Chief Justice