



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 271154
PHILIPPINES,

Plaintiff-appellee,

Present:

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

- versus -

Promulgated:

FEB 24 2025

FRANCIS PATRICIO y TORDA
@ "KIKO,"

Accused-appellant.

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This Appeal¹ seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. CR-HC No. 13351:

¹ Rollo, pp. 3-4.

1. Decision² dated March 17, 2022 affirming with modification the conviction of accused-appellant Francis Patricio y Torda @ “Kiko” (Francis) for murder under Article 248 of the Revised Penal Code; and

2. Resolution³ dated October 7, 2022 denying the Motion for Reconsideration of Francis.

Antecedents

On February 9, 2016, Francis, together with Nicholas Dimagiba y Patricio a.k.a. “Nikki” (Nicholas) and Don Diego Pastrana y Masangya a.k.a. “Diego” (Diego), was charged with murder for the death of Jeffrey De Castro y Alviz (Jeffrey):

That on or about the 13th day of November, 2015, in Quezon City, Philippines, [Francis, Nicholas, and Diego], conspiring together, confederating with and mutually helping one another, did then and there willfully, unlawfully[,] and feloniously, with intent to kill and with treachery, attack, assault, and use [of] personal violence upon the person of **JEFFREY DE CASTRO [y] ALVIZ [(Jeffrey)]**, by then and there stabbing him on the different parts of his body, thereby inflicting upon him mortal wounds which were the direct and immediate cause of his untimely death.

That [Francis, Nicholas, and Diego] consciously adopted [the] sudden and unexpected attack upon the victim to ensure that he will not be able to defend himself, thus [Francis, Nicholas, and Diego] committed the crime with the attendance qualifying circumstance of treachery.

CONTRARY TO LAW.⁴ (Emphasis in the original)

On October 6, 2017, Diego was arraigned and he pleaded not guilty. On September 5, 2018, Francis voluntarily surrendered at the Sampaloc Police Station, Manila Police District. He was detained at the Quezon City Jail the next day, September 6, 2018. On October 12, 2018, he was arraigned, and he also pleaded not guilty. Trial ensued. Meanwhile, Nicholas remains at large.⁵

The prosecution presented the following witnesses: (1) Consuelo De Castro (Consuelo), Jeffrey’s mother; (2) Jennifer Alviz De Castro (Jennifer), Jeffrey’s younger sister; (3) Roy Espinosa, Jr. (Roy), a neighbor of Jeffrey and all the accused; and (4) Dr. Rupero J. Sombilon, Jr. (Dr. Sombilon), a

² *Id.* at 7–24. Penned by Associate Justice Perpetua Susana T. Atal-Paño and concurred in by Associate Justices Edwin D. Sorongon and Michael P. Ong of the Ninth Division, Court of Appeals, Manila.

³ *Id.* at 26–28. Penned by Associate Justice Perpetua Susana T. Atal-Paño and concurred in by Associate Justices Edwin D. Sorongon and Michael P. Ong of the Former Ninth Division, Court of Appeals, Manila.

⁴ *Id.* at 8.

⁵ *Id.* at 8–9.

Senior Medico-Legal Officer of the National Bureau of Investigation.⁶ The defense, on the other hand, presented the following witnesses: (1) Francis; (2) Diego; (3) Rommel Dimagiba (Rommel), Nicholas' nephew and a neighbor of Jeffrey and all the accused; and (4) Barangay Chairman Cornelio Pabustan of Barangay Del Monte, Quezon City.⁷

Version of the Prosecution

Jennifer testified that her brother Jeffrey, Francis, Nicholas, and Diego were neighbors and childhood friends. Nicholas is her former boyfriend. They remained friends despite breaking up. She was friends with all the accused and did not harbor any ill-feelings against them.⁸

On November 13, 2015, around 3:00 a.m., their neighbor, Nelia Espinosa (Nelia), rushed to their home and told Consuelo that Jeffrey was being stabbed. She overheard this since their house was fairly small. She hurriedly went to the place of the incident—the nearby “*cara y cruz-an*.” From about two meters away, she saw Francis stabbing Jeffrey, while Jeffrey was being held by Nicholas and Diego. Francis repeatedly stabbed Jeffrey with a knife. Jeffrey struggled and tried to defend himself by raising his lower arms, but was ultimately unable to resist the attack. Jennifer got scared and ran to call for help from her relatives at home. Francis, Nicholas, and Diego did not notice her since they were all too busy with their evil acts.⁹

When Jennifer and Consuelo returned to the place of the incident, they were prevented by the Barangay Security Police Officers from looking at Jeffrey's bloodied body. Consuelo then fainted.¹⁰

Roy testified that he was awakened by the noise coming from a brawl at the place of the incident. His house was beside the river and about five meters away from the “*cara y cruz-an*.” He heard the voices of Jeffrey, a certain Edwin Bana (Edwin), Francis, Nicholas, and Diego. He then went to the terrace of his house and witnessed Jeffrey being stabbed by Francis while being held by Nicholas and Diego. Afterwards, Jeffrey crawled on the ground and uttered, “*Bakit ako?*,” to Francis. Unfazed, Francis continued stabbing Jeffrey while the latter was still crawling. Eventually, Jeffrey fell into the river. Nicholas and Diego were just standing there. Francis then said, “*Edwin, wala kang nakita*,” and all the accused fled. Edwin called for help while preventing Jeffrey from further falling deep into the river. Roy hurriedly went down to help Edwin.¹¹

⁶ *Id.* at 9.

⁷ *Id.* at 11.

⁸ *Id.* at 9.

⁹ *Id.* at 10.

¹⁰ *Id.* at 10–11.

¹¹ *Id.* at 10.

Dr. Sombilon performed the autopsy on Jeffrey's body. He testified that Jeffrey sustained injuries in the face and head and 14 stab wounds in different parts of his body, particularly the chest, abdomen, shoulder blade, base of neck, upper arm, forearm, and back. The stab wounds were caused by a double bladed weapon and inflicted very close to each other. He further opined that nine of the 14 stab wounds were fatal since they hit vital organs such as the liver and lungs. He then concluded that Jeffrey's death was due to multiple stab wounds.¹²

Version of the Defense

Francis averred that on November 13, 2015, around 3:00 a.m., he just left a drinking session at the house of Nicholas. He and Nicholas left to buy noodles at the nearby store in order to sober up since he was still going to Antipolo. Along the way, they met Diego. When they reached the store, it was already closed. They decided to go to the "*looban*" and play "*cara y cruz*" instead. There, they found people already playing. Francis immediately placed his bet worth PHP 50.00. A few moments later, Jeffrey ordered him to buy a few things. When he protested, Jeffrey said, "*Bakit, papalag ka ba?*" Francis decided to delegate Jeffrey's orders to a kid, which angered Jeffrey. At that moment, when Francis retrieved the money from the kid, Jeffrey told him, "*Gusto mo suntukin kita?*," to which he replied, "*Bakit mo po ako susuntukin? Wala naman ako ginagawa?*" Jeffrey then punched him, which left him feeling groggy. Then he saw Jeffrey take something from his pocket. Thinking that his life was in danger, he lunged at him. They grappled for the object from Jeffrey's pocket, which turned out to be a knife. While still fighting, they both fell on the floor. The entire struggle lasted for about a minute.¹³

Francis further claimed that Jeffrey intended to kill him, since the latter repeatedly said, "*Pag nakawala ako dito, papatayin kita! Papatayin kita!*" He feared for his life since Jeffrey was notoriously known as a "*siga*" in their neighborhood. When he was able to snatch the knife from Jeffrey, he stabbed him. He cannot recall how many times he stabbed Jeffrey, but he stopped when Jeffrey was no longer moving. He believed that at that moment the threat to his life was over.¹⁴

On cross-examination, Francis admitted that he stabbed Jeffrey near the shoulder blade while he (Jeffrey) was holding his neck. He admitted that he made sure that Jeffrey was already dead when he left him. He thought that if he left Jeffrey still alive, he (Jeffrey) might still be able to kill him.¹⁵

¹² *Id.* at 11.

¹³ *Id.* at 11-12.

¹⁴ *Id.* at 12-13.

¹⁵ *Id.* at 13.

Francis, however, denied the allegations that he, Nicholas, and Diego planned to kill Jeffrey. Had they planned to do so, then Jeffrey could not have punched him. He admitted though that there was no medical certificate to prove his injuries supposedly caused by Jeffrey's punch. Also, he did not see Jennifer at the place of the incident, but he saw Rommel. As he was leaving, Diego arrived and asked him why they were fighting. Nicholas then met with him and asked, "*Sino kaaway mo? Bakit ka nakikipag away?*," then he (Nicholas) scolded, punched, and kicked him. He clarified that Diego and Nicholas had no participation in the crime he committed.¹⁶ Afterwards, he ran from the place of the incident since he was scared that Jeffrey's family might kill him. He decided to surrender to the police because he felt guilty for involving Diego and Nicholas.¹⁷

Ruling of the Regional Trial Court

By Decision¹⁸ dated July 26, 2019, the trial court convicted Francis as charged. It ruled that the prosecution sufficiently proved beyond reasonable doubt all the elements of murder under Article 248 of the Revised Penal Code. Notably, it appreciated the presence of treachery as it was proven that Diego and Nicholas were holding Jeffrey while the latter was being continuously stabbed by Francis. Too, Jeffrey was still being stabbed by Francis while he was crawling on the ground until he eventually fell down the river. The attack by Francis, Nicholas, and Diego was so sudden and unexpected that Jeffrey was unable to defend himself. He had no weapon and was unable to escape because Nicholas and Diego were holding him.¹⁹ Further, the trial court ruled that there existed a conspiracy among Francis, Diego, and Nicholas since they acted in concert to ensure Jeffrey's death.²⁰

The trial court did not consider Francis's claim of self-defense. Jeffrey's supposed threat to kill Francis, if not followed by external acts, was not enough to be considered an unlawful aggression. More, Francis's testimony that Jeffrey attacked him was not supported by medical records showing any injury inflicted on him by Jeffrey. It was unnecessary for Francis to stab Jeffrey multiple times when the former purportedly snatched the knife from the latter. Also, records show that it was actually Francis who instigated the fight and approached Jeffrey with a knife.²¹

Finally, in determining the proper penalty, the trial court did not appreciate the mitigating circumstance of voluntary surrender in Francis's

¹⁶ *Id.* at 13–14.

¹⁷ *Id.* at 14.

¹⁸ *Id.* at 31–65. Penned by Presiding Judge Juris S. Dilinila-Callanta, Branch 85, Regional Trial Court, Quezon City.

¹⁹ *Id.* at 47–58.

²⁰ *Id.* at 58–59.

²¹ *Id.* at 59–62.

favor. It noted that Francis surrendered on September 6, 2018, or almost three years after the commission of the crime.²² Thus:

WHEREFORE, in view of the foregoing disquisition, accused **FRANCIS PATRICIO [y] TORDA @ KIKO and DON DIEGO PASTRANA [y] MASANGYA @ DIEGO** are hereby found **GUILTY** beyond reasonable doubt of the crime of MURDER defined and penalized under Article 248 of the *Revised Penal Code*.

They are both sentenced to suffer an imprisonment of twenty (20) years and one (1) day to forty (40) years of *reclusion perpetua*; and are ordered to pay jointly and severally the victim's legal heirs of One Hundred Thousand Pesos ([PHP] 100,000.00) as civil indemnity, One Hundred Thousand Pesos ([PHP] 100,000.00) as moral damages, and One Hundred Thousand Pesos ([PHP] 100,000.00) as exemplary damages. An interest at the rate of six percent (6%) per annum shall be imposed on all the damages awarded from the date of the finality of this Judgment until fully paid; and to pay the costs of suit.

Meanwhile, send this case to the archives in so far as accused **NICHOLAS DIMAGIBA [y] PATRICIO @ NIKKI** is concerned.

SO ORDERED.²³ (Emphasis in the original)

Ruling of the Court of Appeals

On appeal,²⁴ Francis faulted the trial court for rendering a verdict of conviction despite the prosecution's alleged failure to prove his guilt beyond reasonable doubt. Essentially, he pleaded that his claim of self-defense be considered since there was no sufficient provocation on his part. Rather, it was Jeffrey who started the fight and provoked him. Too, treachery did not attend Jeffrey's killing.²⁵

The People, through Assistant Solicitor General Eric Remegio O. Panga and State Solicitor Jennifer P. Hernandez, countered that the prosecution had proven all the elements of murder under Article 248 of the Revised Penal Code.²⁶ There was no sufficient provocation on the part of Jeffrey since the latter's statements that he would kill Francis, sans any action at all, did not endanger Francis's safety nor constitute unlawful aggression. Also, Francis's claim that he only acted in self-defense was not commensurate to the number of stab wounds he inflicted on Jeffrey. Finally, treachery was present since Jeffrey had no opportunity to resist the attack. Diego and Nicholas held him while he was being stabbed by Francis, and when he was already crawling on the ground, Francis still continued stabbing him.²⁷

²² *Id.* at 62–64.

²³ *Id.* at 64.

²⁴ *CA rollo*, pp. 22–38.

²⁵ *Id.* at 32–37.

²⁶ *Id.* at 98–109.

²⁷ *Id.* at 104–108.

By Decision²⁸ dated March 17, 2022, the Court of Appeals affirmed with modification. It sustained Francis's conviction for murder under Article 248 of the Revised Penal Code, concurring with the trial court's finding that treachery attended the killing of Jeffrey. Too, in the absence of any unlawful aggression on the part of Jeffrey, self-defense cannot be appreciated in Francis's favor.²⁹ It likewise agreed that the mitigating circumstance of voluntary surrender cannot be appreciated. As borne by the records, Francis fled and hid for almost three years. Obviously, his surrender was not spontaneous and cannot be deemed as a voluntary surrender contemplated under Article 13(7) of the Revised Penal Code.³⁰

The Court of Appeals, however, decreased the amounts of civil indemnity, moral damages, and exemplary damages from PHP 100,000.00 to PHP 75,000.00 each, in accordance with prevailing jurisprudence.³¹ Thus:

WHEREFORE, the appeal is **DENIED** for lack of merit. The Decision dated July 26, 2019, of the Regional Trial Court, National Capital Judicial Region, Branch 85, Quezon City, in Criminal Case No. R-QZN-16-03249-CR finding accused-appellant Francis "Kiko" Patricio y Torda **GUILTY** beyond reasonable doubt of the crime of murder under Article 248 of the Revised Penal Code is hereby **AFFIRMED WITH MODIFICATION** that the awards of civil indemnity, moral damages, and exemplary damages imposed are reduced from P100,000.00 each to P75,000.00 each. All monetary awards shall earn legal interest at the rate of six (6%) per annum from the date of finality of the decision until fully paid.

SO ORDERED.³² (Emphasis in the original)

Francis's motion for reconsideration was denied through Resolution³³ dated October 7, 2022.

The Present Appeal

Francis now seeks affirmative relief from the Court and prays anew for his acquittal. By Resolution³⁴ dated April 11, 2024, the Court required both parties to submit their respective supplemental briefs. Both Francis³⁵ and the Office of the Solicitor General³⁶ manifested that, in lieu of supplemental briefs, they are adopting their respective briefs filed before the Court of Appeals.

²⁸ *Rollo*, pp. 7–24.

²⁹ *Id.* at 16–22.

³⁰ *Id.* at 22.

³¹ *Id.* at 22–23.

³² *Id.* at 23.

³³ *Id.* at 26–28.

³⁴ *Id.* at 66–67.

³⁵ *Id.* at 68–70.

³⁶ *Id.* at 71–72.

Our Ruling

The appeal must fail.

Murder is defined and penalized under Article 248 of the Revised Penal Code.³⁷ To sustain a conviction for murder, the prosecution must establish the following elements: (i) a person was killed; (ii) the accused killed them; (iii) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (iv) the killing is not parricide or infanticide.³⁸

There is no question here pertaining to the presence of the first and fourth elements.

The second element of murder—*that the accused killed the person*—was proven by the prosecution through the positive testimony of Jennifer. She narrated in detail how she saw Francis stab Jeffrey several times:

SACP JOEL P. ATANACIO

Q: Ano yung nakita mo?

A: Hawak po ni Diego at ni Nikki yung kuya ko.

Q: Si Diego yung isa sa mga akusado?

A: Opo.

Q: Tapos si Nikki yung isa rin sa mga akusado dito?

A: Opo.

Q: Hawak hawak sino?

A: Yung kuya ko po hawak sa magkabilang kamay eh tapos (interrupted)

Q: Ibig mong sabihin si Diego hawak yung isang kamay tapos si Nikki hawak yung isang kamay?

A: Si Nikki rin po nasa kabilang kamay din po.

Q: Tapos?

A: Tapos nakita ko po na sinasaksak. Ang dami po.

Q: Sinong sumasaksak sa kapatid mo?

A: Si Kiko po.

Q: Anong ginagamit sa pagsaksak?

A: Hindi ko po alam basta po kutsilyo po eh. Basta ginaganon niya po kasi eh.

³⁷ REV. PEN. CODE, art. 248 provides: 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 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; . . .

³⁸ *People v. Toro*, 894 Phil. 569, 574 (2021) [Per J. Lazaro-Javier, Second Division].

Q: Sinasaksak?

A: Opo.

Q: Mga saang parte ng katawan mo nakitang sinasaksak yung kapatid mo?

A: Hindi ko na po ma ano eh, basta kung saan saan po. Siguro gumaganon nga po yung kuya ko eh. Hawak siya tapos gumaganon po yung kuya ko. Tapos natakot na po ako.

Q: Yung kuya mo ay pumipiglas pa non?

A: Opo pumipiglas pa rin po siya.

Q: Saan siya sinasaksak sa katawan, puro sa katawan?

A: Sa katawan po, sa leeg.

Q: Si Francisco ang sumasaksak?

A: (the witness failed to give an answer)

Q: Mga ilang beses sinaksak?

A: Madami po kasi para po siyang umaano ng yelo, parang ganon po.

Q: Tuloy tuloy?

A: Tuloy tuloy po. Doon nga po ako natakot.³⁹ (Emphasis supplied)

Jennifer's testimony was corroborated by Roy, who also positively identified Francis as the person who killed Jeffrey:

SACP JOEL P. ATANACIO

Q: Okay. Ano ngayon yung nasaksihan mo?

A: Nung pagsilip ko po, nakita ko na sinasaksak ni Francis si Jeck-Jeck po.

Q: Sinasaksak ni Francisco Patricio si Jeffrey?

A: Opo.

Q: Kapag sinabi mong Jeffrey, siya yung biktima dito?

A: Opo.

Q: Mga gaano ka kalayo doon sa pinagsaksakan?

A: Malapit lang, sir. Mga parang ganyan lang, limang metro lang po mula sa taas po.

Q: Limang metro. Pero nasa taas ka?

A: Opo. Parang ganyan lang.

Q: Okay. So si Francisce ang sumaksak?

A: Opo.

Q: Anong ginagamit niya sa pananaksak?

A: Hindi ko po alam. Kasi nung una parang sinuntok lang eh. Akala ko nga sinuntok lang siya pero iyon pala, kasi nung rumesponde na

³⁹ Rollo, pp. 49–50. TSN of prosecution witness Jennifer De Castro dated December 12, 2017.

1

kami doon ko na nalaman na sinasaksak nga po talaga siya kasi talagang tumumba na si Jeck non.

Q: So nakita mo talaga na sinaksak?

A: Opo.

Q: Na may ginagamit na panaksak?

A: Opo.

Q: Okay. Ngayon, sabi mo sa Salaysay mo nakita mo na sinusugod pa rin nang saksak ni Francisco si Jeffrey?

A: Nakita ko.

Q: Okay. At sina Nicholas at Don Pastrana ang tumutulong na rin sa pagsasaksak kay Jeffrey, tama?

A: Ganon na nga po.⁴⁰

....

Q: Mga ilang beses sinasaksak ni Francisco si Jeck-Jeck?

A: Hindi ko po alam kung gaano pero alam ko marami.

Q: Maraming beses?

A: Opo.⁴¹ (Emphasis supplied)

The respective testimonies of Jennifer and Roy on how Jeffrey was killed were further corroborated by the medical findings of Dr. Sombilon. The Postmortem Findings⁴² and Anatomical Sketch⁴³ issued by Dr. Sombilon revealed that Jeffrey sustained abrasions on his right shoulder, face, and head. Fourteen spindle-shaped stab wounds were also inflicted, nine of which were fatal because the weapon used hit several vital organs such as the liver and both lungs. Indeed, the multiple stab wounds inflicted on the victim constitute physical evidence which further establish the truth of the eyewitness accounts of the witnesses. Too, their evidentiary value far outweighs any corroborative testimony which Francis requires of the prosecution.⁴⁴

Anent the third element—that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code—the Court affirms the finding of the lower courts that treachery attended the killing of Jeffrey.

There is treachery when offenders commit any of the crimes against a person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to themselves arising from the defense which the offended party might make.⁴⁵ It requires:

⁴⁰ *Id.* at 52; TSN of prosecution witness Roy Espinosa dated February 15, 2018.

⁴¹ *Id.* at 54.

⁴² Records, p. 355. Exhibit “F-1.”

⁴³ *Id.* at 361. Exhibit “K.”

⁴⁴ *See People v. Aleman*, 715 Phil. 107, 123 (2013) [Per J. Leonardo-De Castro, First Division].

⁴⁵ *People v. Abina*, 830 Phil. 352, 360–361 (2018) [Per J. Del Castillo, First Division].

(i) the employment of means of execution which gives the person attacked no opportunity to defend or retaliate; and (ii) the said means of execution were deliberately or consciously adopted.⁴⁶ The essence of treachery consists of the sudden and unexpected attack on an unguarded and unsuspecting victim without any ounce of provocation on their part.⁴⁷ Further, the means adopted must have been the result of a determination to ensure success in committing the crime.⁴⁸

We reckon that a witness' testimony regarding the commencement of the assault is important only for the purpose of determining the merit of an accused's claim of self-defense, specifically as to who initiated the unlawful aggression. In *People v. Costin*,⁴⁹ the Court found that the absence of unlawful aggression was clear from the witnesses' unequivocal and positive testimonies that appellant Costin chased the victim, Alcasoda, and hacked him several times.⁵⁰ Another, in *People v. Pantorilla*,⁵¹ the witness, Cablayan, identified appellant Pantorilla and two other persons as the initial aggressors who dragged the victim, Bello, inside a house, and stabbed him incessantly to his death.⁵²

As for the presence of treachery, we highlight the case of *People v. Casela*⁵³ where the Court appreciated the same based on the testimony of a witness who saw the attack already happening. In this case, witness Makabenta saw the victim, Rañin, being successively stabbed by Casela and Insigne inside a videoke place. He saw them deliver more stabbing blows to Rañin until the latter eventually fell to the ground.⁵⁴

Much like here, both witnesses—Jennifer and Roy—testified that when they saw the incident, Francis was already stabbing Jeffrey. They also saw how Francis delivered the blows continuously such that even after Jeffrey had already fallen and crawling on the ground, Francis still persisted in stabbing him.⁵⁵ Totally helpless, Jeffrey obviously had no means to resist the attacks, let alone, run away from his assailant.

Likewise, in *People v. Tacla and Tabios*,⁵⁶ the witness testified that she heard the victim Clarissa scream for help. From her location, she saw Clarissa already being restrained by appellant Tabios and Tabula by the hands and feet, while appellant Tacla was stabbing her (Clarissa) eight to nine times.⁵⁷

⁴⁶ *People v. Toro*, 894 Phil. 569, 583 (2021) [Per J. Lazaro-Javier, Second Division].

⁴⁷ *People v. Bendecio*, 882 Phil. 649, 660 (2020) [Per J. Lazaro-Javier, First Division].

⁴⁸ *People v. Macalindong*, 913 Phil. 551, 563 (2021) [Per J. Lazaro-Javier, First Division].

⁴⁹ G.R. No. 202186, January 25, 2016 [Notice, Second Division].

⁵⁰ *Id.*

⁵¹ 379 Phil. 352 (2000) [Per J. Pardo, First Division].

⁵² *Id.* at 360–361.

⁵³ 547 Phil. 690 (2007) [Per J. Tinga, Second Division].

⁵⁴ *Id.* at 705.

⁵⁵ *Rollo*, p. 21.

⁵⁶ G.R. No. 256735, July 6, 2022 [Notice, First Division].

⁵⁷ *Id.*

As here, we recall that Jennifer and Roy both saw Francis' co-accused Nicholas and Diego restraining each of Jeffrey's arms, thus preventing the latter from defending himself against the fatal knife blows of Francis.⁵⁸

Certainly, the straightforward testimonies of Jennifer and Roy positively identified Francis as the one who stabbed the unsuspecting Jeffrey multiple times in different parts of the body, while being held by Diego and Nicholas. Jeffrey was undoubtedly left with no other way to defend himself. If the Court can sustain a finding of treachery based on a positive and credible testimony of a lone witness,⁵⁹ more so can it rule the same based on positive, credible, and corroborated testimonies of two witnesses.

With these considerations, we conclude that the attendant circumstances showed a conscious choice of the mode of attack precisely to facilitate the killing of Jeffrey, without exposing Francis and his cohorts to any danger of retaliation or resistance that may originate from the victim himself.⁶⁰ The means, method or manner of execution of the attack was deliberately and consciously adopted by Francis, Nicholas, and Diego, to ensure that Jeffrey had no opportunity to defend himself or to retaliate.⁶¹

Further, we stress that a prior altercation may, in some cases, negate treachery only insofar as it forewarned the victim about the impending danger.⁶² *People v. Vallespin*,⁶³ however, underscored that treachery may still be appreciated even if the victim was put on guard about any impending danger to their person *so long as the execution of the attack made it impossible for the victim to defend themselves or to retaliate*.⁶⁴ Again, the essence of treachery is the swift and unexpected attack by an aggressor on an unarmed and unsuspecting victim who does not give the slightest provocation, depriving the latter of any real chance to defend themselves.⁶⁵ Applied here, the treachery lies on the fact that Jeffrey was unarmed, and worse, immobilized as Nicholas and Diego held his arms while Francis stabbed him 14 times. Undoubtedly, restraining the victim while another stabbed him or her proves the existence of treachery. The concerted efforts of the assailants leave the victim with no chance to defend themselves, let alone retaliate.⁶⁶

More, we note that the attack on Jeffrey persisted even after he had already fallen on the ground. All he could do was muster the strength to crawl, plead for his life, and cry "*Bakit ako?*" Obviously, the stand taken by Jeffrey

⁵⁸ *Rollo*, p. 21.

⁵⁹ *See People v. Casela*, 547 Phil. 690, 700 (2007) [Per J. Tinga, Second Division].

⁶⁰ *See People v. Araza*, G.R. No. 248324, August 31, 2022 [Notice, First Division].

⁶¹ *People v. Narit, Jr.*, G.R. No. 242023, June 21, 2023 [Notice, Third Division].

⁶² *People v. Junio*, G.R. No. 219853, June 28, 2021 [Notice, Third Division].

⁶³ 439 Phil. 816 (2002) [Per J. Corona, Third Division].

⁶⁴ *Id.* at 828.

⁶⁵ *People v. De Guzman*, 418 Phil. 625, 641–642 (2001) [Per J. Panganiban, Third Division].

⁶⁶ *See People v. Astudillo*, 449 Phil. 778, 795–796 (2003) [Per J. Ynares-Santiago, First Division]; *People v. Casemiro, et al.*, 845 Phil. 838, 851 (2019) [Per J. Del Castillo, First Division]; *People v. Tacla and Tabios*, G.R. No. 256735, July 6, 2022 [Notice, First Division].

posed no risk to Francis, Diego, and Nicholas. Indeed, treachery is present where the victim was attacked while being helpless and pleading for his or her life.⁶⁷

Lastly, the number, nature, and location of the wounds inflicted on Jeffrey are strong indications that his assailants had ensured the success of their effort to kill him without risk to themselves.⁶⁸ The 14 spindle-shaped stab wounds inflicted on Jeffrey, nine of which were fatal since they hit several vital organs, undoubtedly proved their intent to kill him.⁶⁹

In fine, we sustain the concurrent findings of the trial court and the Court of Appeals that qualifying circumstance of treachery was sufficiently alleged and proved, hence, making Francis liable for murder.

As for Francis's claim of self-defense, it is hornbook doctrine that where the accused admit full responsibility for the killing of the victim but invokes self-defense, it is incumbent upon them to prove by clear and convincing evidence that the killing was justified and that they incurred no liability therefor. As the burden of evidence is shifted to them, they must rely on the strength of their own evidence and not on the weakness of that of the prosecution, for even if the latter were weak, it would not be disbelieved after their open admission of responsibility for the killing. Being a weak defense, self-defense must be proven with certainty. 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 it; and (3) lack of sufficient provocation on the part of the person defending himself.⁷⁰

To recall, Francis testified that Jeffrey had intended to kill him since the latter repeatedly said "*Pag nakawala ako dito, papatayin kita! Papatayin kita!*" Knowing that Jeffrey was a notorious "*sigá*" in the neighborhood, Francis feared for his life. Thus, when he was able to snatch the knife from Jeffrey, he stabbed him.⁷¹ On cross examination, Francis admitted that he made sure that Jeffrey was already dead, thinking that if he left Jeffrey still alive, he (Jeffrey) might still be able to kill him.⁷²

As aptly noted by the Court of Appeals, the lone testimony of Francis on his theory of self-defense is self-serving. He did not proffer any clear and specific explanation on why Jeffrey allegedly attacked him. Surely, his testimony cannot be considered as clear and convincing proof that he acted in

⁶⁷ *People v. Jutie*, 253 Phil. 578, 588 (1989) [Per J. Medialdea, First Division]; *People v. Lebumfacil*, 185 Phil. 407, 417 (1980) [Per Curiam, En Banc]; *People v. Lasafin*, 92 Phil. 668, 670 (1953) [Per J. Jugo, En Banc].

⁶⁸ See *People v. Alas*, 340 Phil. 423, 439–440 (1997) [Per J. Panganiban, Third Division].

⁶⁹ *People v. Manzano*, 827 Phil. 113, 123 (2018) [Per J. Martires, Third Division].

⁷⁰ *People v. Hubilla, Jr.*, 322 Phil. 520, 531 (1996) [Per J. Davide, Jr., Third Division].

⁷¹ *Rollo*, pp. 12–13.

⁷² *Id.* at 13.

self-defense.⁷³ Also, Francis's narration was rejected by the trial court, which ruled that Jeffrey's act of saying that he would kill Francis, not followed by any other acts, was insufficient to constitute unlawful aggression. There was no evidence proving the gravity of these utterances that would have indicated his wrongful intent to harm Francis.⁷⁴ This is a factual finding which the Court will not disturb on appeal absent any showing that the trial judge overlooked facts of relevant value which, if considered, may affect the outcome of the case.⁷⁵

In any event, it bears stress that from the moment Francis successfully gained possession of the knife, the supposed unlawful aggression had already ceased.⁷⁶ *Miranda v. People*⁷⁷ is enlightening:

It, likewise, bears stressing that Miranda cannot seek exoneration on the simple pretext that the attack was initiated by Pilo. Suffice to say, in the case of *People v. Dulin*, the Court held that the fact that the victim was the initial aggressor does not *ipso facto* show that there was unlawful aggression. The Court elucidated that *although the victim may have been the initial aggressor, he ceased to be the aggressor as soon as he was dispossessed of the weapon. Whatever the accused did thereafter is no longer self-defense, but retaliation, which is not the same as self-defense. In retaliation, the aggression that the victim started already ceased when the accused attacked him, but in self-defense, the aggression was still continuing when the accused injured the aggressor.* In the instant case, Miranda continued to hack Pilo even after the latter stopped throwing stones. Plainly, Miranda's act constituted a retaliation against Pilo. Certainly at this point, Miranda was no longer motivated by the lawful desire of defending himself, but of the evil intent of retaliating and harming Pilo.⁷⁸ . . . (Emphasis supplied)

Indeed, the pith and soul of the justifying circumstance of self-defense is the presence of unlawful aggression. Its absence readily converts the claim of self-defense into nothingness even with the existence of the other elements. The two other essential elements of self-defense would have no factual and legal bases without any unlawful aggression to prevent or repel.⁷⁹ There can be no self-defense unless the victim committed unlawful aggression against the person who resorted to self-defense.⁸⁰

More, the Court notes that the means employed by Francis was not reasonably commensurate to the nature and extent of the alleged attack, which he sought to avert. The means employed by the person invoking self-defense contemplates a rational equivalence between the means of attack and the

⁷³ See *People v. Doca*, 865 Phil. 1077, 1089 (2019) [Per J. Lazaro-Javier, Second Division].

⁷⁴ *Rollo*, pp. 59–60.

⁷⁵ *People v. Siccuan*, 337 Phil. 617, 623 (1997) [Per J. Romero, Second Division].

⁷⁶ *People v. De Castro*, G.R. No. 260776, August 2, 2023 [Notice, Third Division].

⁷⁷ 846 Phil 125 (2019) [Per J. A. Reyes, Jr., Third Division].

⁷⁸ *Id.* at 137–138.

⁷⁹ *People v. Manzano*, 827 Phil. 113, 138 (2018) [Per J. Martires, Third Division].

⁸⁰ *People v. Casas*, 755 Phil. 210, 219 (2015) [Per J. Perlas-Bernabe, First Division].

defense. It must be rationally necessary to prevent or repel an unlawful aggression.⁸¹ Certainly, the 14 stab wounds inflicted by Francis on Jeffrey was beyond commensurate. The nature and number of wounds easily show that there was no danger to the life of Francis or, if at all, it immediately ceased.⁸² Succinctly put, Francis failed to prove that he was acting in self-defense at the time of the commission of the crime.

All told, Francis is guilty of murder under Article 248 of the Revised Penal Code, as amended. Article 248 of the Revised Penal Code penalizes murder with *reclusion perpetua* to death. Except for treachery, which qualified the killing to murder, no other aggravating or mitigating circumstances are present. The lower courts, thus, correctly sentenced Francis to *reclusion perpetua*.

Further, in line with *People v. Juguetta*,⁸³ the Court of Appeals correctly imposed the following monetary awards: (a) PHP 75,000.00 as civil indemnity; (b) PHP 75,000.00 as moral damages; and (c) PHP 75,000.00 as exemplary damages.⁸⁴

In addition, the Court deems it necessary to award temperate damages in lieu of actual damages. The award of temperate damages is sanctioned when proof of pecuniary loss cannot be offered, as in this case.⁸⁵ Case law instructs that the award of temperate damages in the amount of PHP 50,000.00 in homicide or murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court, as it cannot be denied that the heirs of the victims suffered pecuniary loss although the exact amount was not proved.⁸⁶ As elucidated in *People v. Racal*,⁸⁷ it would be anomalous and unfair for the victim's heirs, who tried and succeeded in presenting receipts and other evidence to prove actual damages, to receive an amount which is less than that given as temperate damages to those who are not able to present any evidence at all. These monetary awards shall earn 6% interest *per annum* pursuant to *Nacar v. Gallery Frames*.⁸⁸

ACCORDINGLY, the Appeal is **DENIED**. The Decision dated March 17, 2022 and Resolution dated October 7, 2022 of the Court of Appeals in CA-G.R. CR-HC No. 13351 are **AFFIRMED with MODIFICATION**.

⁸¹ *Dela Cruz v. People*, 747 Phil 376, 391 (2014) [Per J. Peralta, Third Division].

⁸² *Rollo*, p. 20.

⁸³ 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

⁸⁴ *Id.* at 847-848.

I. For those crimes like, Murder, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties: . . .

2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:

a. Civil indemnity — PHP 75,000.00

b. Moral damages — PHP 75,000.00

c. Exemplary damages — PHP 75,000.00

⁸⁵ See *Almodiel v. People*, G.R. No. 265786, July 25, 2023 [Notice, First Division].

⁸⁶ *People v. Gallegar*, G.R. No. 258598, August 9, 2023 [Notice, Third Division].

⁸⁷ 817 Phil. 665, 685 (2017) [Per J. Peralta, Second Division].

⁸⁸ 716 Phil. 267, 283 (2013) [Per J. Peralta, *En Banc*].

Accused-appellant Francis Patricio y Torda @ “KIKO” is found **GUILTY** beyond reasonable doubt of murder under Article 248 of the Revised Penal Code, and sentenced to *reclusion perpetua*. He is further ordered to **PAY** the heirs of Jeffrey De Castro y Alviz the following amounts:

- (a) PHP 75,000.00 as civil indemnity;
- (b) PHP 75,000.00 as moral damages;
- (c) PHP 75,000.00 as exemplary damages; and
- (d) PHP 50,000.00 as temperate damages.

These monetary awards shall earn 6% interest per annum from finality of this Decision until fully paid.

SO ORDERED.



AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:




MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

Pls. see concurring and dissenting opinions.



MARIO N. LOPEZ
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

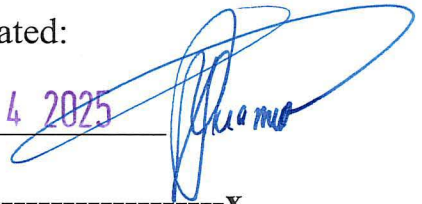


SECOND DIVISION

**G.R. No. 271154 – PEOPLE OF THE PHILIPPINES, Plaintiff-appellee,
v. FRANCIS PATRICIO y TORDA @ “KIKO”, Accused-appellant.**

Promulgated:

FEB 24 2025



X-----X

CONCURRING AND DISSENTING OPINION

LOPEZ, M., J.:

I register my concurrence with the *ponencia* which affirmed the conviction of the accused but for the lesser crime of homicide. For proper reference, there is a need to revisit the facts of the case.

The prosecution witnesses Jennifer De Castro (Jennifer) and Roy Espinosa, Jr. (Roy) testified that **they saw Francis Patricio (Francis) stabbing Jeffrey De Castro (Jeffrey) while being held by Nicholas Dimagiba (Nicholas) and Don Diego Pastrana (Diego)** in the nearby “*cara y cruz-an*” where people are already playing. Francis repeatedly stabbed Jeffrey with a knife. Jeffrey struggled and tried to defend himself by raising his lower arms, but was ultimately unable to resist the attack. Afterwards, Francis continued stabbing Jeffrey who was already crawling on the ground until he fell into the river. Jennifer got scared and ran to call help from her relatives. At the crime scene, Francis threatened Edwin Bana (Edwin) and said “*Edwin, wala kang nakita*” before all the accused fled. Yet, Edwin still called for help and prevented Jeffrey from further falling deep the river. The autopsy report revealed that Jeffrey sustained 14 stab wounds hitting vital organs such as liver and lungs resulting in his death.¹ Accordingly, Francis, Nicholas, and Diego were charged with murder before the Regional Trial Court (RTC), to wit:

That on or about the 13th day of November, 2015, in Quezon City, Philippines, [Francis, Nicholas, and Diego], conspiring together, confederating with and mutually helping one another, did then and there willfully, unlawfully[,] and feloniously, **with intent to kill and with treachery, attack, assault, and use personal violence upon the person of JEFFREY DE CASTRO y ALVIZ [(Jeffrey)], by then and there stabbing him on the different parts of his body, thereby inflicting upon him mortal wounds which were the direct and immediate cause of his untimely death.**

That [Francis, Nicholas, and Diego] consciously adopted sudden and unexpected attack upon the victim to ensure that he will not be able

¹ *Ponencia*, pp. 2–3.



to defend himself, thus [Francis, Nicholas, and Diego] committed the crime with the attendance qualifying circumstance of treachery.

CONTRARY TO LAW. (Emphasis supplied)

The RTC convicted the accused of murder and ruled that Francis, Nicholas, and Diego conspired to kill Jeffrey in a sudden and unexpected manner affording him no defense. The Court of Appeals (CA) also held that treachery was present since Jeffrey had no opportunity to resist the attack. Moreover, Diego and Nicholas held Jeffrey while he was being stabbed by Francis. The *ponencia* affirmed the judgment of conviction on the ground that “both witnesses – Jennifer and Roy – testified that when they saw the incident, Francis was already stabbing Jeffrey. They also saw how Francis delivered the blows continuously such that even after Jeffrey had already fallen and crawling on the ground, Francis still persisted in stabbing him.” The *ponencia* added that the conduct of Francis, Nicholas, and Diego “showed a conscious choice of the mode of attack precisely to facilitate the killing of Jeffrey, without exposing Francis and his cohorts to any danger of retaliation or resistance that may originate from the victim himself.”²

I disagree that treachery attended the commission of the crime.

There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms which tend directly and specifically to insure its execution, without risk to himself arising from the defense which the offended party might make. The essence of treachery is the unexpected and sudden attack without the slightest provocation on the part of the victim.³ What is decisive in treachery is that the execution of the attack rendered it impossible or difficult for the victim to defend himself or herself, counter the attack, or retaliate.⁴ 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.⁵ Contrary to the CA and the RTC’s findings, treachery should be ruled out for failure of the prosecution to demonstrate how the accused commenced and executed the attack upon the victim, thus:

In a catena of cases, the Court has consistently ruled that treachery cannot be appreciated where the prosecution only proved the events after the attack happened, but not the manner of how the attack commenced or how the act which resulted in the victim’s death unfolded. In treachery, there must clear and convincing evidence on how the aggression was made, how it began, and how it developed. Where no particulars are known as to the manner in which the aggression was made or how the act which resulted in the death of the victim began and developed, it cannot be established from the suppositions drawn only from the circumstances prior to the very

² *Id.* at 9–10.

³ *People v. Gutierrez*, 429 Phil. 124, 136 (2002) [Per J. Ynares-Santiago, *En Banc*].

⁴ *People v. Almedilla*, 456 Phil. 719, 725 (2003) [Per J. Puno, Third Division].

⁵ *People v. Abina*, 830 Phil. 352, 361 (2018) [Per J. Del Castillo, First Division].

moment of the aggression, that an accused perpetrated the killing with treachery. *Accordingly, treachery cannot be considered where the lone witness did not see the commencement of the assault.*⁶ (Emphasis supplied)

Here, the prosecution witnesses neither saw the commencement of the assault nor the unfolding of the events that ultimately resulted in the death of the victim. The prosecution witnesses testified that “*when they saw the incident, Francis was already stabbing Jeffrey.*” This gap opens a wide possibility that the aggression might be initiated by the victim or that the attack happened during a chance encounter or at the spur of the moment, or preceded by heated altercations, or that the victim has been forewarned of the danger to his life.⁷ It is a fundamental principle in criminal law that all doubts should be resolved in favor of the accused. It is the prosecution’s duty to prove beyond reasonable doubt each and every element of the crime charged.⁸ Inarguably, there was reasonable doubt on how the aggression started, developed and ended. 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.⁹ In *People v. Canete*,¹⁰ the crime committed is homicide absent treachery at the inception of the continuous assault although the final fatal blow may be delivered under conditions exhibiting some of the features of *alevosia*.¹¹ The Court observed that “[o]ne continuous attack, xxx, 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.” In *People v. Canillo*,¹² the Court reiterated that treachery must be present at the inception of an attack to qualify a killing to murder. A treacherous act that happens during an attack or subsequent to it cannot be appreciated as a qualifying or generic aggravating circumstance.¹³

In any event, 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. In *People v. Caliao*,¹⁴ the Court found the accused guilty of homicide only, 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.¹⁵ The Court explained that “*when aid was easily available to the victim, such as when the attendant circumstances show that there were several eyewitnesses to the incident,*

⁶ *People v. Enriquez*, 854 Phil. 609, 616 (2019) [Per J. Caguioa, Second Division].

⁷ *People v. Alegre*, 919 Phil. 413, 420–421 (2022) [Per J. Caguioa, Second Division]. *See also People v. Aquino*, 475 Phil. 427 (2004) [Per J. Callejo, Second Division]; *People v. Flores*, 304 Phil. 674 (1994) [Per J. Puno, Second Division].

⁸ *Oliveros, Jr. v. People*, 897 Phil. 916, 916 (2021) [Per J. Caguioa, First Division].

⁹ *People v. Gonzales*, 411 Phil. 893, 921 (2001) [Per J. Gonzaga-Reyes, *En Banc*].

¹⁰ 44 Phil. 478 (1923) [Per J. Street].

¹¹ *Id.* at 481.

¹² 901 Phil. 454 (2021) [Per J. Leonen, Third Division].

¹³ *Id.* at 454.

¹⁴ 836 Phil. 966 (2018) [Per J. Martires, Third Division].

¹⁵ *Id.* at 976.

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." In *People v. Gayon*,¹⁶ the Court 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 are related to the victim. The victim was with people who could have helped her repel the attack.¹⁷

In this case, it is difficult to agree with the CA and the RTC's conclusions that Francis, Nicholas, and Diego deliberately chose a particular mode of attack that purportedly ensured the execution of the criminal purpose without any risk to themselves arising from the defense that Jeffrey might offer. Notably, the attack happened where there are several eyewitnesses which made external help easily available to repel the aggression. The facts revealed that Jennifer and Edwin called for help, and that the crime happened in a nearby *cara y cruz-an* where people are already playing. Had the accused deliberately intended that no risk would come to them, they should have chosen another time and place to attack the victim. The prosecution witnesses also did not establish with moral certainty that the victim was utterly oblivious to the impending attack, or that he had no opportunity to mount a meaningful defense. Jennifer testified that "*Jeffrey struggled and tried to defend himself by raising his lower arms...*" Taken together, treachery did not attend the killing of the victim, and the accused are liable only for homicide.

At most, the facts show that the killing of the victim was qualified with abuse of superior strength which is present when there is "*inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor, and the latter takes advantage of it in the commission of the crime.*"¹⁸ On this point, it bears emphasis that to take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked. Unlike in treachery, where the victim was not given opportunity to defend himself/herself or repel the aggression, taking advantage of superior strength does not mean that the victim was completely defenseless. This qualifying aggravating circumstance is determined by the excess of the aggressor's natural strength over that of the victim, considering the momentary position of both and the employment of means weakening the defense, although not annulling it.¹⁹ Here, during the stabbing incident, Francis had a clear advantage over Jeffrey as the latter was being restrained by Nicholas and Diego. Francis even prevented Edwin from coming to Jeffrey's aid. By their actions, the accused clearly made sure that they had the advantage when attacking Jeffrey. The balance of strength excessively tilted in favor of the accused who overwhelmed the victim with their synchronized

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

¹⁷ *Id.* at 1037.

¹⁸ *People v. Cabiling*, 165 Phil. 887, 609 (1976) [Per J. Antonio, *En Banc*].

¹⁹ *People v. Batulan*, 858 Phil 77, 95 (2019) [Per J. Lazaro-Javier, Second Division].

assault. The autopsy report also corroborated the purposeful use of excessive force out of proportion to the means of defense available to the person attacked.²⁰ The number of stab wounds revealed the relative disparity in strength or force between Francis, Nicholas, and Diego, as assailants, and Jeffrey as the lone unarmed victim.

Nevertheless, the information only alleged treachery and not abuse of superior strength. It is fundamental that qualifying and aggravating circumstances are integral components of a crime that must be sufficiently alleged in the information and established during trial with proof beyond reasonable doubt.²¹ The purpose is to give life to the accused's constitutional rights to be informed of the nature and cause of the accusation and to be presumed innocent.²² This will also avoid surprise on the part of the accused and afford him or her the opportunity to suitably prepare his or her defense.²³ No matter how conclusive and convincing the evidence of guilt may be, the accused cannot be held liable for the qualified nature of a crime and be condemned to suffer a higher penalty.

To reiterate, the prosecution has the burden to prove all the elements of murder beyond reasonable doubt.²⁴ The Court cannot rely on mere suspicion. Accordingly, I vote to affirm the conviction of the accused but for the lesser crime of homicide sans allegation and proof of the aggravating circumstances of treachery and abuse of superior strength.


MARIO V. LOPEZ
Associate Justice

²⁰ *People v. Villanueva*, 807 Phil. 245, 253 (2017) [Per J. Reyes, Third Division].

²¹ RULES OF COURT, Rule 110, sec. 8 provides that:

Section 8. *Designation of the offense*. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and **specify its qualifying and aggravating circumstances**. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it." Also, Section 9 provides that: "Section 9. *Cause of the accusation*. — The acts or omissions complained of as constituting the offense and **the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute** but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (Italics in the original, emphasis supplied)

²² *People v. Aquino*, 435 Phil. 417, 425 (2002) [*Per Curiam, En Banc*].

²³ *Pielago v. People*, 706 Phil. 460, 469 (2013) [Per J. Reyes, First Division].

²⁴ *People v. Peña*, 353 Phil. 782, 794 (1998) [Per J. Davide, Jr., First Division].