

BY: YCA
TIME: 1:46 PM

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **January 15, 2020**, which reads as follows:

“G.R. No. 225594 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. CRISPIN BALONZO SAMAR, *accused-appellant*). — For this Court’s resolution is a Notice of Appeal¹ challenging the Decision² of the Court of Appeals, which affirmed the Regional Trial Court’s Judgment³ convicting Crispin Balonzo Samar (Samar) of murder for the killing of Carlo Sibulo Buitizon (Carlo), and of frustrated murder for the injury he inflicted on Roberto Tanio Gemi, Jr. (Gemi).⁴

In 2004, two (2) separate Informations were filed against Samar:

CRIMINAL CASE No. 4334-C

That on or about the 20th day of May 2003, at Barangay Sta. Cecilia, Municipality of Tagkawayan, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a pointed and bladed weapon, with intent to kill, qualified by treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one CARLO BUITIZON, thereby inflicting upon him multiple stab wounds on different parts of his body, which directly caused his death.

CONTRARY TO LAW.⁵

¹ *Rollo*, pp. 19–21.

² *Id.* at 2–18. The June 26, 2015 Decision in CA-G.R. CRHC No. 05137 was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Ramon R. Garcia and Maria Elisa Sempio Diy of the Sixteenth Division, Court of Appeals, Manila.

³ *CA rollo*, pp. 29–51. The July 15, 2011 Judgment in Crim. Case Nos. 4334-C and 4404-C was penned by Presiding Judge Manuel G. Salumbides of Branch 63, Regional Trial Court, Calauag, Quezon.

⁴ The Regional Trial Court and the Court of Appeals invariably spell the last name as Gime or Gemi. For this Court’s ruling, Gemi shall be used.

⁵ *CA rollo*, p. 29.

CRIMINAL CASE No. 4404-C

That on or about the 20th day of May 2003, at Sitio San Jose Ilaya, Barangay Sta. Cecilia, Municipality of Tagkawayan, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with intent to kill, qualified by treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one ROBERTO GEMI, JR., thereby inflicting upon him wound on his body, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, by the timely and able medical attendance rendered to said Roberto Gemi, Jr., which prevented his death.

CONTRARY TO LAW.⁶

When arraigned, Samar pleaded not guilty to the crimes charged. Thus, pre-trial ensued. The parties stipulated on Samar's identity and the Regional Trial Court's jurisdiction.⁷

During the joint trial, the prosecution, through witnesses Gemi,⁸ Evangelina Sibulo Buitizon,⁹ Dr. Emerita Masaganda,¹⁰ and Dr. Potenciano Rocafort (Dr. Rocafort),¹¹ narrated the following:

At around 2:00 a.m. on May 20, 2003, during a fiesta in Barangay Sta. Cecilia, Tagkawayan, Quezon, Carlo and Gemi began drinking with Samar, Rex Oblina, Michael Oniala, and two (2) others. An hour into their drinking spree, Samar and his companions, who were visibly drunk, left Carlo and Gemi.¹²

At about 3:30 a.m., Carlo and Gemi walked home. While they were passing along Maharlika Highway, a man from a nearby waiting shed called their attention. This man turned out to be Samar, who was with the same people they had been drinking with earlier.¹³

As soon as the two approached the waiting shed, Samar stood and stabbed them both; Carlo first, then Gemi, who was "less than an arm's

⁶ Id. at 29-30.

⁷ Id. at 30.

⁸ Id. at 31.

⁹ Id. at 34.

¹⁰ Id. at 35.

¹¹ Id. at 36.

¹² *Rollo*, p. 4.

¹³ Id. at 4-5.

length away from Carlo”¹⁴ then. Already wounded, Gemi managed to run away, leaving Carlo for Samar to stab again.¹⁵

Carlo died from a “cardio-pulmonary arrest due to hypovolemic shock and injury to great blood vessels due to multiple stab wounds.”¹⁶

Solely testifying for the defense, Samar denied the charges against him. He claimed that at the time the incident happened, he was sleeping in his house in Barangay Talisay, Tiaong, Quezon, and not in Tagkawayan. However, he stated that no one could corroborate his testimony.¹⁷

Samar also denied knowing either his supposed companions or those he allegedly stabbed.¹⁸

In its July 15, 2011 Decision,¹⁹ the Regional Trial Court convicted Samar as charged. Among others, it found that treachery attended Carlo’s killing and Gemi’s stabbing.²⁰

The dispositive portion of the ruling read:

WHEREFORE, premises considered, the court is morally convinced that the crime of Murder has been committed in the treacherous killing of Carlo Sibulo Buitizon and that herein accused **CRISPIN BALONZO SAMAR** is **GUILTY** thereof beyond reasonable doubt.

Crispin Balonzo Samar is hereby sentenced to **RECLUSION PERPETUA without eligibility of parole** in view of the provisions of R.A. 9346 which prohibited the imposition of death penalty. He is likewise ordered to indemnify the family of Carlo Sibulo Buitizon, as follows: PhP75,000.00 as civil indemnity; PhP50,000.00 for and as moral damages; PhP25,000.00 for and as exemplary damages; and another PhP25,000.00 for and as temperate damages.

On the second charge of Frustrated Murder, the court likewise found **CRISPIN BALONZO SAMAR** to be **GUILTY** thereof beyond reasonable doubt. He is hereby sentenced to Six (6) Months of *Arresto Mayor* as minimum to Four (4) Years and Two (2) Months of *Prision Correccional* as maximum after applying the provisions of Article 250 of the Revised Penal Code and the Indeterminate Sentence Law. Said accused is further ordered to indemnify Roberto Gime (*sic*) the amount of Php25,000.00 for and as temperate damages and Php5,000.00 as exemplary damages.

¹⁴ Id. at 5.
¹⁵ Id.
¹⁶ Id. at 15.
¹⁷ CA *rollo*, pp. 41–42.
¹⁸ Id. at 42.
¹⁹ Id. at 29–51.
²⁰ Id. at 49.

SO ORDERED.²¹ (Emphasis in the original)

Aggrieved, Samar appealed before the Court of Appeals.²²

In his Brief,²³ Samar contended that the Regional Trial Court erred in convicting him of the crimes charged. He maintained that the prosecution failed to prove that treachery attended Carlo's killing.²⁴

Samar also assailed Gemi's testimony, calling it "highly doubtful and unreliable."²⁵ He argued that, as Dr. Rocafort's testimony showed, the fatal wounds were those inflicted on Carlo's back, not on his chest.²⁶ He asserted that since nothing in Gemi's testimony showed that he saw Samar stab Carlo's back,²⁷ it did not corroborate the physical evidence.²⁸

In its June 26, 2015 Decision,²⁹ the Court of Appeals affirmed the Regional Trial Court's Decision with modifications. It found that the testimony of Gemi, who positively identified Samar as the assailant,³⁰ was direct, candid,³¹ and consistent.³² It also held that the elements of treachery were sufficiently proved.³³

In modifying the ruling, the Court of Appeals imposed a legal rate of six percent (6%) on the monetary award for damages. The dispositive portion of its Decision read:

WHEREFORE, the foregoing considered, the appeal is hereby **DENIED** and the decision of the trial court convicting **Crispin Balonzo Samar for Murder in Criminal Case No. 4334-C** with the attendant sentence of **RECLUSION PERPETUA without eligibility of parole in view of the provisions of R.A. 9346** and for **Frustrated Murder in Criminal Case No. 4404-C** with the attendant sentence of **Six (6) Months of Arresto Mayor as minimum to Four (4) Years and Two (2) Months of Prision Correccional as maximum** after applying the provisions of Article 250 of the Revised Penal Code and the Indeterminate Sentence Law is hereby **AFFIRMED with modification**.

²¹ Id. at 50-51.
²² *Rollo*, p. 5.
²³ *CA rollo*, pp. 77-96.
²⁴ Id. at 91-93.
²⁵ Id. at 85.
²⁶ Id.
²⁷ Id. at 87.
²⁸ Id. at 88.
²⁹ *Rollo*, pp. 2-18.
³⁰ Id. at 14.
³¹ Id. at 6.
³² Id. at 10.
³³ Id. at 15.

As **MODIFIED**, the amount of P75,000.00 as civil indemnity and P50,000.00 as moral damages, P25,000.00 as exemplary damages and P25,000.00 as temperate damages shall be imposed a legal rate of 6% interest from the date of finality of this Decision until fully paid by Samar to the heirs of the deceased Carlo Sibulo Buitizon and the temperate damages in the amount of P25,000.00 and exemplary damages in the amount of P5,000.00 which Samar is ordered to pay Roberto Gemi shall also be assessed at the legal rate of 6% interest from date of finality of this Decision until full payment.

SO ORDERED.³⁴ (Emphasis in the original)

Thus, Samar filed a Notice of Appeal.³⁵

The Court of Appeals, having given due course to the appeal, elevated the case records to this Court. In its August 24, 2016 Resolution,³⁶ this Court noted the records and directed the parties to file their respective supplemental briefs.

Both plaintiff-appellee People of the Philippines, through the Office of the Solicitor General,³⁷ and accused-appellant³⁸ manifested that they would no longer file supplemental briefs. Their Manifestations were respectively noted by this Court in its November 16, 2016³⁹ and September 25, 2017⁴⁰ Resolutions.

The sole issue for this Court's resolution is whether or not the Court of Appeals erred in finding accused-appellant Crispin Balonzo Samar guilty beyond reasonable doubt of the crimes of murder and frustrated murder.

This Court affirms accused-appellant's conviction with some modifications on the imposed penalty.

Unless the trial court had overlooked or misinterpreted significant facts or circumstances, this Court generally does not disturb its evaluation of facts and the witnesses' credibility.⁴¹ This Court explained the rationale in *People v. Quijada*:⁴²

Settled is the rule that the factual findings of the trial court, especially on the credibility of witnesses, are accorded great weight and respect.

³⁴ Id. at 17–18.

³⁵ Id. at 19–21.

³⁶ Id. at 23–24.

³⁷ Id. at 27–29.

³⁸ Id. at 32–35.

³⁹ Id. at 30–31.

⁴⁰ Id. at 37.

⁴¹ *People v. Gabrino*, 660 Phil. 485, 493 (2011) [Per J. Velasco, Jr., First Division].

⁴² 328 Phil. 505 (1996) [Per J. Davide, En Banc].

For, *the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood*, such as the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply; or the furtive glance, the blush of conscious shame, the hesitation, the sincere or the flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien.⁴³ (Emphasis supplied, citations omitted)

A scrutiny of the records shows no reversible error in the assailed Court of Appeals Decision. There is no cogent reason to disturb the Regional Trial Court's factual findings, as affirmed by the Court of Appeals.

The Regional Trial Court convicted accused-appellant with the crime of murder, which is defined and penalized under Article 248 of the Revised Penal Code:

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 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;
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 railroad, 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 any 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.

For an accused to be convicted, the prosecution must sufficiently show that "a person was killed, that the accused killed him, that the killing

⁴³ Id. at 530-531.

was not parricide or infanticide, and that the killing was attended by any of the qualifying circumstances mentioned under this Article.”⁴⁴

Here, it is undisputed that Carlo was killed, that accused-appellant stabbed him, and that the killing was neither parricide nor infanticide. Despite this, accused-appellant asks this Court to acquit him, contending that Gemi had no personal knowledge of who delivered the fatal blow on Carlo’s back. He claims that Gemi’s testimony indicating that he stabbed Carlo’s chest was inconsistent with Dr. Rocafort’s narration that what were fatal were the wounds on Carlo’s back.⁴⁵

While a positive identification that accused-appellant inflicted the fatal wound may be decisive in a murder charge, this is not an element of the crime that must be proved. The alleged inconsistency as to where Carlo was stabbed is trivial and, ultimately, cannot absolve accused-appellant from liability. As this Court in *People v. Bagua*⁴⁶ ruled:

[W]e have time and again said that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen their credibility because they discount the possibility of their being rehearsed.⁴⁷ (Citation omitted)

Accused-appellant’s position that “there was a possibility that two (2) or more assailants may have assaulted the victim”⁴⁸ is improbable and deserves no consideration. Material is Gemi’s positive identification of accused-appellant, whom he has known for years before the incident,⁴⁹ as the assailant. Gemi, whom accused-appellant also wounded, witnessed how the man stabbed Carlo twice.

Accused-appellant also disputes the finding that treachery attended Carlo’s killing.⁵⁰ In *People v. Abadies*,⁵¹ this Court discussed the qualifying circumstance:

There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. The

⁴⁴ *People v. Castro*, G.R. No. 211053, November 29, 2017, 847 SCRA 232, 245 [Per J. Leonen, Third Division] citing *People v. De la Cruz*, 626 Phil. 631, 639 (2010) [Per J. Velasco, Third Division].

⁴⁵ CA rollo, pp. 85–88.

⁴⁶ 442 Phil. 245 (2002) [Per J. Ynares-Santiago, First Division].

⁴⁷ Id. at 255.

⁴⁸ CA rollo, p. 89.

⁴⁹ Id. at 32.

⁵⁰ Id. at 91.

⁵¹ 436 Phil. 98 (2002) [Per J. Ynares-Santiago, En Banc].

qualifying circumstance of treachery attended the killing as the two conditions for the same are present, *i.e.*, (1) that at the time of the attack, the victim was not in a position to defend himself, and (2) that the offender consciously adopted the particular means, method or form of attack employed by him. The essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on his part.⁵² (Citations omitted)

As the Court of Appeals found, the prosecution sufficiently proved that treachery attended Carlo's killing:

A scrutiny of the evidence on record established these elements of treachery. One early dawn of May 20, 2003, Carlo and Roberto were walking home after a drinking spree in a barangay fiesta, *unarmed and unaware of the danger* that lurked along Maharlika Highway when they heard a "sitsit" sound coming from the waiting shed by the road. When they went over to the waiting shed, they found appellant there together with his companions with whom Carlo and Roberto had just had a drinking session. *Suddenly, appellant stood up and attacked his victims by stabbing them successively with a bladed weapon.* Carlo was stabbed on the first and third blow of appellant, while Roberto was stabbed on the second blow.

It is crystal clear that the manner of attack employed by appellant on the two victims was undoubtedly deliberate and unexpected leaving no opportunity for Carlo and Roberto to defend themselves. Like a crafty hunter, appellant lured his victims toward him and swiftly and unexpectedly stabbed them when they were already at a striking distance using a bladed weapon. *The suddenness of the attack by the appellant without any provocation on the part of the victims, who were on their way home, and the fact that they were unarmed, left them with no chance to defend themselves.* This is the essence of treachery -- a deliberate and sudden attack, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape. In treachery, what is decisive is that the attack was executed in such a manner as to make it impossible for the victim to retaliate. Appellant consciously and deliberately adopted his mode of attack, making sure that the deceased Carlo and Roberto would have no opportunity to defend themselves by reason of the surprise attack.

The fact that the victims were stabbed facing the appellant does not negate treachery. . . .

Treachery can exist even if the attack is frontal, as long as the attack is sudden and unexpected, giving the victim no opportunity to repel it or to defend himself. What is decisive is that the execution of the attack, without the slightest provocation from an unarmed victim, made it impossible for the victim to defend himself or retaliate.⁵³ (Emphasis supplied, citations omitted)

⁵² Id. at 104-105.

⁵³ *Rollo*, pp. 15-16.

This Court finds no reason to deviate from this finding, as supported by the evidence on record. Accordingly, we affirm accused-appellant's guilt beyond reasonable doubt of frustrated murder for the injury he inflicted on Gemi.

However, this Court modifies the imposed penalty similar to the penalty imposed in *Esqueda v. People*.⁵⁴ As in this case, the penalty for frustrated murder when there is no modifying circumstance is eight (8) years and one (1) day of *prision mayor* medium, as minimum, to 14 years, eight (8) months, and one (1) day of *reclusion temporal* medium, as maximum.

To conform to recent jurisprudence,⁵⁵ this Court deems it proper to increase the amounts of civil indemnity, moral damages, and exemplary damages in Criminal Case No. 4334-C to ₱75,000.00 each, and in Criminal Case No. 4404-C, to ₱50,000.00 each.

WHEREFORE, the appeal is **DISMISSED**. The Court of Appeals' June 26, 2015 Decision in CA-G.R. CRHC No. 05137 is **AFFIRMED with MODIFICATIONS**.

In Criminal Case No. 4334-C, accused-appellant Crispin Balonzo Samar is found **GUILTY** beyond reasonable doubt of murder, and is sentenced to suffer the penalty of *reclusion perpetua*. He is also **DIRECTED** to pay the heirs of the victim, Carlo Sibulo Buitizon, moral damages, civil indemnity, and exemplary damages in the amount of ₱75,000.00 each.

In Criminal Case No. 4404-C, accused-appellant is also found **GUILTY** beyond reasonable doubt of frustrated murder, and is sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor* medium, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal* medium, as maximum. He is also **DIRECTED** to pay the victim, Roberto Tanio Gemi, Jr., moral damages, civil indemnity, and exemplary damages in the amount of ₱50,000.00 each.

All damages awarded shall be subject to interest at the rate of six percent (6%) per annum from the finality of this Resolution until their full satisfaction.⁵⁶

⁵⁴ 607 Phil. 480 (2016) [Per J. Peralta, Third Division].

⁵⁵ See *People v. Jugueta*, 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

⁵⁶ See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

SO ORDERED.”

Very truly yours,

Mis PDC Batt
MISAEAL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court

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PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Service
DOJ Agencies Building
East Avenue cor. NIA Road
Diliman, 1104 Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 05137
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 63, Calauag, Quezon
(Criminal Case Nos. 4334-C & 4404-C)

CSSupt. Gerardo F. Padilla
Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Mr. Crispin Balonzo Samar
c/o The Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

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