



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 23, 2021**, which reads as follows:

“G.R. No. 238621 (People of the Philippines v. Manuel Mahinay, Jr. y Ordañel a.k.a. ‘Jr Duza/Jr Buraot’). - On appeal is the September 29, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 08562 which affirmed with modifications the August 19, 2016 Judgment² of the Regional Trial Court (RTC) Manila, Branch 20, in Criminal Case No. 14-310314 finding accused-appellant Manuel Mahinay, Jr. y Ordañel @ “Jr Duza/ Jr Buraot” (Jay-R) guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of *reclusion perpetua*.

The Antecedents:

On June 6, 2013, Jay-R was charged with the crime of Murder in an Information³ which reads:

That on or about January 4, 2013, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously, with intent to kill, qualified by treachery and evident premeditation, attack, assault and use personal violence upon the person of one ALEXANDER PASTRAMA y CARLOS, by then and there shooting the latter with a gun, hitting him on the face, thereby inflicting upon the said ALEXANDER PASTRAMA y CARLOS a mortal gunshot wound on the head which was the direct and immediate cause of his death thereafter.

Contrary to law.⁴

Upon arraignment⁵, Jay-R pleaded not guilty to the offense charged. Trial on the merits thereafter ensued. The prosecution presented as witnesses

¹ *Rollo*, pp. 2-14; penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Jose C. Reyes, Jr. and Maria Filomena D. Singh.

² *CA rollo*, pp. 39-49; penned by Presiding Judge Marivic Balisi-Umali.

³ *Records*, pp 1-2.

⁴ *Id.* at 1.

⁵ *Id.* at 53.

the following, namely: (1) Aileen Villa (Aileen), the live-in partner of the victim; (2) Anastacia Pastrana (Anastacia), the mother of the victim; and (3) Police Inspector Jesille Cui Baluyot (Dr. Baluyot), the medico-legal officer of the Manila Police District Crime Laboratory. On the other hand, the defense presented the accused-appellant Jay-R himself.

Evidence for the Prosecution:

Aileen is the lone eyewitness of the incident. She narrated that at the time of the incident, she and the victim Alexander were resting outside of their house when Jay-R suddenly arrived.⁶ Jay-R then approached Alexander and apologized over their past misunderstanding involving a DVD unit. Aileen claimed that Alexander did not respond to Jay-R but the latter kept on talking with the former while smoking a cigarette.⁷ Thereafter, to her surprise, Jay-R suddenly stood up, took out a gun from his clutch bag and fired at the face of Alexander.⁸ Jay-R then fled towards the alley while Aileen ran towards the house of Alexander's mother to ask for help. However, when they reached the hospital, Alexander was declared dead on arrival.

Anastacia, the mother of the victim, testified that they incurred expenses relative to the hospitalization and burial of Alexander which amounted to ₱42,000.00; however, she was able to present proof only for the amount of ₱13,680.00.⁹

Dr. Baluyot, the medico-legal officer of the Manila Police District Crime Laboratory, testified on the post-mortem examination conducted by Dr. Romeo Salen (Dr. Salen) on the victim Alexander. She presented the following documents before the court, to wit: Autopsy Report, Anatomical Sketch, Certification of Identification and Consent for Autopsy, Death Certificate, Result of Ballistic Examination, and Medico-legal Report.¹⁰ The Medico-Legal Report No. M-2013-006¹¹ showed that the cause of death of the victim Alexander was a gunshot wound on the head.

In addition, Firearms Identification Report No. FAIS-030-2013¹² showed that the bullet which hit Alexander was fired from a caliber .45 firearm. Dr. Baluyot testified that based on the trajectory of the bullet, the accused-appellant was standing in front of the victim while the muzzle of the gun was more than two feet away from the victim.¹³

⁶ TSN, September 28, 2015, p. 7.

⁷ *Id.* at 8.

⁸ *Id.* at 9.

⁹ TSN, November 11, 2015, pp. 7-8.

¹⁰ TSN, July 8, 2015, pp. 4-5.

¹¹ Records, p.60.

¹² *Id.* at 63.

¹³ TSN, November 11, 2015, p. 10.

Evidence for the Defense:

Accused-appellant Jay-R, however, presented a different account of the incident and denied that he was the assailant in the killing of Alexander. He narrated that at the time of the incident he was in Paombong, Bulacan.¹⁴ In fact, he was in Bulacan since August 2012 and he returned to Manila only in July or August 2013. He admitted that he had a prior misunderstanding with the victim regarding a portable DVD that he tried to redeem from the latter.¹⁵

On cross-examination, Jay-R testified that Aileen asked for his forgiveness for testifying against him and admitted that she was just forced by Anastacia to do the same.¹⁶ According to Jay-R, he went to Aileen's house to ask the latter why he received a subpoena from the Office of the City Prosecutor for allegedly killing Alexander. Jay-R further claimed that Alexander owned a .38 caliber gun which the latter offered to the former's father for sale. When Jay-R, however, was asked by the court on his whereabouts on the day of the incident, he gave a different statement and admitted that he was selling clothes in Divisoria, a ride away from C.P. Garcia St., Tondo, Manila, where the shooting incident took place.¹⁷

Ruling of the Regional Trial Court:

In its Judgment¹⁸ dated August 19, 2016, the RTC found the accused-appellant guilty as charged. The dispositive portion of the RTC Judgment reads:

PREMISES CONSIDERED, the Court morally convinced that the guilt of the accused was established and proven beyond reasonable doubt for the crime of murder charged against him, hereby convicts accused MANUEL MAHINAY, JR. y ORDAÑEL @ "JR DUZA/ JR BURAOI" of the crime of MURDER and is hereby imposed the penalty of *RECLUSION PERPETUA*.

He is also adjudged liable to compensate the heirs of Alexander Pastrana the following amounts, to wit:

1. ₱25,000.00 for actual or compensatory damages
2. ₱75,000.00 for civil indemnity
3. ₱75,000.00 for moral damages
4. ₱40,000.00 for exemplary damages.

The said amounts shall earn 6% per annum to be reckoned from the finality of this Judgment until fully paid.

¹⁴ TSN, February 17, 2016, p.4.

¹⁵ Id. at 9.

¹⁶ TSN, March 2, 2016, pp. 9-10.

¹⁷ Id. at 18-19.

¹⁸ CA rollo, pp. 39-49.

SO ORDERED.¹⁹

The RTC relied heavily on the testimony of Aileen and her positive identification of the accused-appellant Jay-R as the assailant in the killing of Alexander. The trial court also appreciated the qualifying circumstance of treachery to have attended the killing. This was premised on the fact that the victim had no opportunity to defend himself when shot by the accused-appellant. Moreover, the trial court disregarded accused-appellant's defenses of denial and alibi in view of his positive identification as Alexander's assailant.

Aggrieved, accused-appellant appealed his conviction before the CA.

Ruling of the Court of Appeals:

The CA, in its Decision²⁰ dated September 29, 2017, affirmed with modifications the conviction of the accused-appellant for the crime of murder. It sustained the ruling of the RTC that all the elements for the crime of murder were established by the prosecution. It further held that the qualifying circumstance of treachery, as correctly found by the RTC, attended the killing of Alexander. Aileen categorically testified that the accused-appellant suddenly and without warning shot Alexander in the face. Thus, it was clear that accused-appellant gave Alexander no opportunity to defend himself. The appellate court likewise rejected the defenses of alibi and denial professed by the accused-appellant since he failed to present other evidence to corroborate the same.

Finally, the CA held that the trial court correctly meted upon the accused-appellant the penalty of *reclusion perpetua*. However, the appellate court modified the awards of civil indemnity, moral damages, and exemplary damages to P100,000.00 each as well as temperate damages to P50,000.00, with 6% interest on all the monetary awards from the date of finality of the judgment until the monetary awards be fully paid.²¹

Thus, the dispositive portion of the CA Decision reads:

WHEREFORE, the instant appeal is DENIED. The *Judgment* dated 19 August 2016 of the Regional Trial Court of Manila, Branch 20, in Criminal Case No. 14-310314 is hereby AFFIRMED with MODIFICATION, in that the monetary awards in favor of Alexander Pastrana's heirs are increased as follows:

- a) P50,000.00 as temperate damages;
- b) P100,000.00 as civil indemnity;
- c) P100,000.00 as moral damages; and
- d) P100,000.00 as exemplary damages.

¹⁹ *Id.* at 49.

²⁰ *Rollo*, pp. 2-14.

²¹ *Id.* at 13-14.

All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this *Decision* until fully paid.

SO ORDERED.²²

Hence, the instant appeal.

Both parties opted not to file their supplemental briefs manifesting that they had already exhaustively discussed their positions in their respective briefs filed before the CA.²³

Issue

Whether or not the CA erred in affirming the conviction of accused-appellant for the crime of Murder.

Our Ruling

The appeal is bereft of merit.

Article 248 of the Revised Penal Code (RPC), as amended, defines and penalizes the crime of Murder, to wit:

ART. 248. Murder. – Any person, who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, 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; (Emphasis supplied)

X X X X

Thus, to be convicted of the crime of Murder, the following elements must be established, to wit: (1) a person was killed; (2) the accused killed him; (3) the killing was with the attendance of any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code as amended; and (4) the killing constitutes neither parricide nor infanticide.²⁴

In this case, the foregoing elements of the crime of murder were duly established by the prosecution. It is certain that Alexander was killed on January 4, 2013.²⁵ Accused-appellant Jay-R was positively identified as the one who shot Alexander at the head which caused the latter's instantaneous death. Further, the prosecution established that the qualifying circumstance of treachery attended the killing of Alexander. Lastly, it is indubitable that the

²² Id. at 14.

²³ CA *rollo*, pp. 22-23.

²⁴ *People v. Babor*, 772 Phil 252, 259-260 (2015).

²⁵ Records, p. 4.

killing of the victim Alexander was neither parricide nor infanticide.

Under paragraph 16, Article 14 of the RPC, there is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.

In *People v. Calinawan*,²⁶ the Court held that the following elements must be established before the existence of treachery may be appreciated: (a) at the time of the attack, the victim was not in a position to defend himself; and (b) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.

We therefore sustain the ruling of the lower courts that treachery is present in the case at bar. Aileen categorically testified that accused-appellant suddenly and without any warning or provocation shot Alexander in the face, giving the latter no opportunity to defend himself.

Aileen narrated the incident in this wise:

- FISCAL AGUILA: So on January 4, 2013, going back to the incident, you said that Jay-R arrived and asked for an apology. So what was the response of Alexander Pastrana?
- WITNESS: Alexander did not say a word Sir.
- FISCAL AGUILA: So while Alexander did not say a word, what happened next if any?
- WITNESS: I know that they were talking to each other Sir.
- FISCAL AGUILA: So while they were talking, what happened next if any?
- WITNESS: **I saw the accused stand up and get something from his clutch bag which he pointed to the face of Alexander and fired it.**²⁷ (Emphasis supplied)

The above testimony of Aileen clearly established the treacherous manner by which the shooting was executed.

As regards accused-appellant's defenses of denial and alibi, the same is insufficient to overthrow Aileen's positive identification of Jay-R as the one who shot Alexander. Accused-appellant failed to present evidence that would corroborate his defenses of denial and alibi.

*People v. Sibbu*²⁸ holds that aside from denial and alibi being the weakest of all defenses, the accused must also prove not only that he was at some other place when the crime was committed and that it was physically

²⁶ 805 Phil 673, 683 (2017).

²⁷ *Supra* note 7.

²⁸ 808 Phil. 276, 291 (2017).

impossible for him to be at the scene of the crime or its immediate vicinity through clear and convincing evidence.

In this case, accused-appellant admitted that he was selling clothes in Divisoria when the incident took place, which is a jeepney ride away from the place of the incident. Thus, as correctly pointed out by the CA, there was no physical impossibility on the part of the accused-appellant to be at the place where the incident happened.

Further, the accused-appellant's attack on Aileen's credibility must fail. Aileen's failure to immediately execute her sworn statement right after the shooting incident did not affect or impair her credibility as a witness. Well settled is the rule that the Court is generally bound by the findings of the trial court, especially when affirmed by the appellate court, as in this case, with regard to the determination of the credibility of witnesses.

As declared in *People v. Tuardon*,²⁹ the findings of the trial court on the credibility of witnesses deserve a high degree of respect and will not be disturbed on appeal in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could have altered the conviction of the appellant.

Finally, both courts below properly imposed the penalty of *reclusion perpetua* on the accused-appellant. However, with respect to the amount of damages, the same must be modified pursuant to our ruling in *People v. Juguet*.³⁰ Thus, the awards of civil indemnity, moral damages, and exemplary damages are each reduced to ₱75,000.00. The award of ₱50,000.00 as temperate and the imposition of interest on the monetary awards at the rate of six percent (6%) from the date of finality of this Resolution until full payment are proper.

WHEREFORE, the instant appeal is **DISMISSED** for lack of merit. The Decision dated September 29, 2017 of the Court of Appeals in CA-G.R. CR HC No. 08562, finding accused-appellant Manuel Mahinay, Jr. y Ordañel @ "Jr Duza/ Jr Buraot" guilty beyond reasonable doubt of the crime of Murder and sentencing him to *reclusion perpetua* is hereby **AFFIRMED** with **MODIFICATION** that the awards of civil indemnity, moral damages, and exemplary damages are reduced to ₱75,000.00 each.

SO ORDERED."

By authority of the Court:

MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court
7/14/21

²⁹ 806 Phil 667, 681 (2017).

³⁰ 783 Phil 806, 847 (2016).

Atty. Marlowe Doms R. Tajon
PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Service
DOJ Agencies Building
East Avenue cor. NTA Road
Diliman, 1104 Quezon City

COURT OF APPEALS
CA G.R. CR IIC No. 08562
1000 Manila

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

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 20, Manila
(Crim. Case No. 14-3103 (4))

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 238621 *for*

for

CA
(306)
URES