



Republic of the Philippines  
Supreme Court  
Manila

**FIRST DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated September 21, 2022, which reads as follows:*

**“G.R. No. 252280 (*People of the Philippines v. Ruben Recon y Sotero*)**. — This is an appeal<sup>1</sup> from the September 18, 2019 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11414 affirming the May 16, 2018 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Santa Cruz, Laguna, Branch 91, in Criminal Case Nos. SC-13699-700, finding accused-appellant Ruben Recon y Sotero guilty beyond reasonable doubt of Murder and Attempted Murder.

On September 8, 2009, accused-appellant was charged with the crime of Murder in Criminal Case No. 13699 and Frustrated Murder in Criminal Case No. 13700. The accusatory portions of the Informations state:

Criminal Case No. 13699

That on or about 10:150 [sic] o’clock in the evening of August 9, 2009, at Barangay Mojon, Municipality of Liliw, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, without any just motive, while being armed with a knife and under the influence of alcohol, with intent to kill, and with treachery, attacked and stabbed one ADELWESA CORDON, thereby inflicting stab wounds on the head, chest and left arm of the latter, causing the death of said Adelwesa Cordon, to the damage and prejudice of his surviving heirs.”

Contrary to law.<sup>4</sup>

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<sup>1</sup> *Rollo*, p. 16.

<sup>2</sup> *Id.* at 3-15. Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Perpetua Susana T. Atal-Paño and Walter S. Ong.

<sup>3</sup> *CA rollo*, pp. 61-70. Penned by Presiding Judge DivinaGracia G. Bustos-Ongkeko.

<sup>4</sup> *Records*, p. 2.

Criminal Case No. 13700

That on or about 10:150 [sic] o'clock in the evening of August 9, 2009, at Barangay Mojon, Municipality of Liliw, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, without any just motive, while being armed with a knife and under the influence of alcohol, with intent to kill, and with treachery, attacked and stabbed one BONIFACIO CORDON, thereby inflicting stab wounds on the latter in the following: left shoulder, 3rd intercostal space mid clavicular line, 5th intercostal space mid clavicular line, right thigh, left infraclavicular area and left forearm, thus the accused had performed all the acts of execution which could have produced the felony of Murder as a consequence but which did not produce it by reason of a cause independent of his will, that is, the timely medical assistance given to BONIFACIO CORDON.

Contrary to law.<sup>5</sup>

Accused-appellant pleaded not guilty to the charges during the arraignment.<sup>6</sup>

**Version of the Prosecution**

The prosecution presented (1) Rochelle Cordon de Rama (Rochelle), (2) Bonifacio P. Cordon (Bonifacio), and (3) Zenaida C. Sandoval (Zenaida) as witnesses. While the testimony of Bonifacio Cordon's (Bonifacio) attending physician, Dr. Bonifacio Flores (Dr. Flores), was stipulated upon by the parties, viz.:

(1) that Dr. Flores is an expert witness and presently employed at the Laguna Provincial Hospital, Provincial Health Office of Santa Cruz, Laguna;

(2) that said doctor is the attending physician who examined private complainant Bonifacio on August 10, 2009;

(3) that he found several stab wounds on different parts of the body of Bonifacio who was confined at the hospital from August 10-13, 2009 as stated in his Medical Certificate;

(4) that said doctor reduced his findings and conclusions into writing as embodied in the Medical Certificate and another Medico Legal Certificate; and

(5) the existence and due execution of the Certificate of Death of one Adelwesa Derama Cordon.<sup>7</sup>

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<sup>5</sup> Id. at 3-4.

<sup>6</sup> Id. at 43-44.

<sup>7</sup> Id. at 126-127.

The witnesses' testimonies, taken together, paint the fateful day as follows:

On the evening of August 9, 2009 at around 10:00 pm, Zenaida woke up and saw her son-in-law, accused-appellant, standing over her while holding a kitchen knife and his eyes were glaring (“*nanlilisik*”).<sup>8</sup> She asked him what was wrong to which he answered that his wife, Zenaida’s daughter, was not answering his messages. Zenaida assured him that she would talk to her daughter and excused herself to go to the bathroom. Fearing that something bad might happen, Zenaida did not go to the bathroom but instead proceeded to her brother Bonifacio’s house which is located one house away.<sup>9</sup> When she reached Bonifacio’s house, she frantically knocked on the door until it was answered by Bonifacio’s daughter, Rochelle.<sup>10</sup> Once inside, Zenaida pleaded that her grandchildren be fetched for fear that accused-appellant might do something to them. Bonifacio’s wife, Adelwesa, decided that she and Rochelle will be the ones who will pick up the children.<sup>11</sup> On their way out, Adelwesa saw accused-appellant making his way to their house while holding a knife, prompting her to immediately close the door. Accused-appellant then barged into their house and attacked Rochelle but the latter was able to evade the same. It was at this point that Bonifacio tried to wrestle the knife from accused-appellant but he was overpowered by the latter which resulted to Bonifacio being stabbed continuously by accused-appellant. After Bonifacio sustained several stab wounds, accused-appellant proceeded to attack Adelwesa, who was in a corner shaking in fear, and stabbed her multiple times.<sup>12</sup> During the assault, Rochelle was able to seek help from their neighbors.<sup>13</sup> Moments later, Rochelle saw accused-appellant leave their house, bloodied and still holding the kitchen knife.<sup>14</sup> Rochelle proceeded to their house and upon entering, she saw Adelwesa unconscious and lying on the floor in a pool of blood.<sup>15</sup> Upon checking her pulse, the neighbors concluded that Adelwesa was already dead.<sup>16</sup> Bonifacio, who suffered from multiple stab wounds specifically on his left shoulder, 3<sup>rd</sup> intercostal space mid clavicular line, 5th intercostal space mid clavicular line, right thigh, left infravicular area, and left forearm,<sup>17</sup> was taken to the hospital.<sup>18</sup> Based on the Adelwesa’s Medico-Legal Certificate, she died from multiple stab wounds on her head, chest, and left arm.<sup>19</sup>

<sup>8</sup> TSN, August 31, 2010, pp. 6.; TSN, December 3, 2013, p. 5.

<sup>9</sup> TSN, December 3, 2013, p. 5.

<sup>10</sup> TSN, August 31, 2010, p. 5.

<sup>11</sup> TSN, December 3, 2013, p. 9.

<sup>12</sup> TSN, November 17, 2011, p. 7.

<sup>13</sup> TSN, August 31, 2010, pp. 7-12.

<sup>14</sup> Id. at 13.

<sup>15</sup> TSN, May 12, 2011, pp. 7-8.

<sup>16</sup> Id. at 9.

<sup>17</sup> Records, p. 25.

<sup>18</sup> Id. at 10.

<sup>19</sup> Id. at 17.

### Version of the Defense

Accused-appellant admitted to stabbing Adelwesa and Bonifacio but interposed the plea of self-defense. He narrated the events in this wise:

On August 9, 2009, at around 10:00 p.m., accused-appellant noticed that his son Totoy was not at the house. Upon asking his daughter Nene, he was told that Totoy was at the house of Bonifacio. Accused-appellant then went to the house of Bonifacio and fetched Totoy. When they returned to the house, accused-appellant fell asleep. A while later, he woke up and noticed that Totoy was again missing. Nene told him that Totoy was with Zenaida at Bonifacio's house. Thus, accused-appellant proceeded to Bonifacio's house. Once Bonifacio opened the door, he hurled invectives to accused-appellant and shouted "*umalis ka dito pupugutan kita ng ulo.*"<sup>20</sup> He insisted in entering the house as he wanted to retrieve his son but Bonifacio pushed him back and punched his chest causing him to fall on the ground. Accused-appellant was about to stand when he saw Bonifacio ran towards the kitchen. Upon Bonifacio's return, he saw that the former was already wielding a knife and began to attack him. He was able to evade the attack and a struggle between the two of them ensued. During their physical altercation, Adelwesa began punching his back. After he was able to wrest control of the knife, he stabbed Bonifacio and later on, Adelwesa. Thereafter, he went out of the house where he crossed path with Bonifacio's brother, Melchor Cordon, whom he told to bring Bonifacio to the hospital.<sup>21</sup>

### Ruling of the Regional Trial Court

On May 16, 2018, the RTC issued a Decision convicting accused-appellant of Murder for killing Adelwesa and Attempted Murder for stabbing Bonifacio. The trial court did not give credence to the accused-appellant's plea of self-defense as the same was uncorroborated. The prosecution was able to prove all the elements of Murder in the case of Adelwesa but only Attempted Murder in the case of Bonifacio as there was no testimony from Dr. Flores that the wounds sustained by Bonifacio would have caused his death had it not been for the timely medical intervention. The decretal part of the trial court's Decision states:

WHEREFORE, in view of all the foregoing—

(1) In Criminal Case No. SC-13699, accused RUBEN RECON Y SOTERO is hereby found GUILTY of the crime of MURDER and is hereby sentenced to suffer the penalty of *reclusion perpetua*. Said accused is hereby ordered to INDEMNIFY the heirs of Adelwesa Cordon the following amounts: (a) ₱75,000.00 as mandatory civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱50,000.00 as temperate damages.

<sup>20</sup> TSN, August 11, 2016, pp. 2-6.

<sup>21</sup> TSN, December 6, 2016, pp. 3-10.

(2) In Criminal Case No. SC-13700, accused RUBEN RECON Y SOTERO is hereby found GUILTY of the crime of ATTEMPTED MURDER and is hereby sentenced to suffer the indeterminate penalty of four (4) years, two (2) months, and one (1) day of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum. Said accused is also hereby ordered to INDEMNIFY Bonifacio Cordon the following amounts: (a) ₱25,000.00 as mandatory civil indemnity; and (b) ₱25,000.00 as moral damages.

SO ORDERED.”<sup>22</sup>

Aggrieved by the RTC’s Decision, accused-appellant appealed to the CA.<sup>23</sup>

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

Accused-appellant maintained that he acted in self-defense as Bonifacio was the one who first attacked him, and that the prosecution failed to prove the existence of treachery to qualify the felony to Murder.

On September 18, 2019, the CA sustained accused-appellant’s conviction but modified the amount of the awarded damages.<sup>24</sup>

WHEREFORE, the appeal is DENIED. The Decision dated 16 May 2018 of the Regional Trial Court of Santa Cruz, Laguna – Branch 91 in Criminal Case Nos. SC-13699-700 is AFFIRMED with MODIFICATIONS in that:

1. In Criminal Case No. 13699, Accused-Appellant Ruben Recon y Sotero is ordered to indemnify the heirs of Adelwesa Cordon P75,000.00 as exemplary damages, in addition to the P75,000.00 mandatory civil indemnity, P75,000.00 moral damages, and P50,000.00 temperate damages awarded by the RTC;

2. In Criminal Case No. 13700, Accused-Appellant is ordered to indemnify Bonifacio Cordon P25,000.00 as exemplary damages, in addition to the P25,000.00 mandatory civil indemnity and P25,000.00 moral damages awarded by the RTC; and

3. Accused-Appellant is ordered to pay legal interest at the rate of 6% per annum on all the amounts granted as civil liabilities, reckoned from the finality of this Decision until full settlement.

SO ORDERED.”

Hence, this appeal.

<sup>22</sup> CA rollo, pp. 52.

<sup>23</sup> Records, p. 208.

<sup>24</sup> Rollo, pp. 4-16.

### Our Ruling

The appeal is bereft of merit.

In order to be convicted of the crime of Murder under Article 248 of the Revised Penal Code (RPC), as amended, the following elements must be established: (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 Art. 248 of the RPC, as amended; and (4) the killing constitutes neither parricide nor infanticide.<sup>25</sup>

In this case, there is no question that the first, second, and fourth elements are present. Accused-appellant admitted that on August 9, 2009 he stabbed Adelwesa resulting to her death. Said killing is not parricide or infanticide as his relationship with Adelwesa does not qualify the act for such crime. The only issue herein is the presence of the qualifying circumstance of treachery in the commission of the crime.

Art. 14, par. 16 of the RPC states that 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. The essence of treachery is the sudden and unexpected attack without the slightest provocation on the part of the person being attacked.<sup>26</sup> What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate. In that sense, even frontal attacks may be considered treacherous if it was so sudden and unexpected that the deceased had no time to prepare for self-defense.<sup>27</sup>

The Court has previously held that in order for treachery to be appreciated, the following elements must be established, to wit: (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.<sup>28</sup>

Here, the prosecution sufficiently established the presence of treachery as a qualifying circumstance. Records reveal that at the time of the stabbing, Adelwesa and Bonifacio did not have any inkling that accused-appellant was on his way to their house wielding a knife. They were caught unaware when

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<sup>25</sup> 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;

x x x x

<sup>26</sup> *People v. Ordon*, 818 Phil. 670, 681 (2017). Citation omitted.

<sup>27</sup> *Id.*

<sup>28</sup> *People v. Natindim*, G.R. No. 201867, November 4, 2020. Citation omitted.

accused-appellant suddenly barged into their house and attacked them. The suddenness of accused-appellant's attack and the helpless position of the victims deprived them of any opportunity to mount a defense. The helplessness of the victims is further evidenced by the number of stab wounds inflicted on them, eight for Bonifacio and 10 for Adelwesa. These wounds rendered them incapable of retaliation.

The contention of accused-appellant that the inconsistent testimonies of the prosecution witnesses belie the presence of treachery has no merit. We stress that the lower court's assessment on the credibility of the prosecution witnesses and the veracity of their testimonies are given the highest degree of respect, especially if there is no fact or circumstance of weight or substance that was overlooked, misunderstood, or misapplied, which could affect the result of the case. Moreover, the trial court had the best opportunity to determine the credibility of the prosecution witnesses. Its unique vantage point allows it to observe the conduct and demeanor of a witness, putting the trial court in the best position to determine whether the witness is telling the truth.<sup>29</sup>

In this case, the prosecution witnesses' testimonies corroborated each other on all material points. They all testified that accused-appellant barged into the house of Bonifacio wielding a knife; accused-appellant first attacked Bonifacio and stabbed him multiple times; after Bonifacio, accused-appellant turned his sight to Adelwesa and proceeded to stab her; thereafter, accused-appellant left the house.

The inconsistencies raised by accused-appellant as to whether Adelwesa and Bonifacio were about to sleep when they were attacked or whether Adelwesa was on her way out of the house at that time are immaterial because these are not elements of the crime and do not detract from the credibility of the witnesses. Inconsistencies on minor details and collateral matters do not affect the veracity, substance, or weight of the witness' testimony, and do not necessarily render the testimony incredible. In fact, a variance in minor details has the effect of bolstering, instead of diminishing, the witness' credibility because they discount the possibility of a rehearsed testimony. What is imperative is the witness' coherence in relating the principal elements of the crime, and the positive and categorical identification of the accused as the perpetrator.<sup>30</sup>

Accused-appellant's plea of self-defense is likewise without merit. Self-defense is an affirmative allegation wherein the burden is shifted to accused-appellant to prove by clear and convincing evidence, that there was unlawful aggression on the part of the victim, reasonable necessity of the means employed to prevent or repel the aggression, and lack of sufficient provocation

<sup>29</sup> *People v. Juare*, G.R. No. 234519, June 22, 2020.

<sup>30</sup> *People v. Lumikid*, G.R. No. 242695, June 23, 2020.

on the part of the accused.<sup>31</sup>

Unlawful aggression is an indispensable requisite of self-defense. While all the three elements must concur, self-defense relies on the proof of unlawful aggression on the part of the victim.<sup>32</sup> Unlawful aggression refers to “an actual physical assault, or at least a threat to inflict real imminent injury, upon a person.” Without unlawful aggression, the justifying circumstance of self-defense has no leg to stand on and cannot be appreciated.<sup>33</sup>

Accused-appellant avers that unlawful aggression was duly proven by his testimony that Bonifacio shouted “*Putang ina mo, umalis ka dito pupugutan kita ng ulo*” when he went to the house to fetch his son, hit his chest causing him to fall down, and attacked him with a kitchen knife while Adelwesa was hitting his back.

Aside from the lone testimony of accused-appellant however, no other evidence was presented to substantiate this claim. Juxtaposed with the testimonies of the prosecution witnesses who uniformly identified accused-appellant as the perpetrator of the crimes without any provocation from the victims, accused-appellant’s plea of self-defense falls.

As to accused-appellant’s conviction for Attempted Murder, the CA correctly upheld the same.

Art. 6 of the RPC defines the stages in the commission of felonies:

Art. 6. *Consummated, frustrated, and attempted felonies.* — Consummated felonies as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator. There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.<sup>34</sup>

In Attempted or Frustrated Murder, the principal and essential element of the offense is the intent on the part of the assailant to take the life of the person attacked. Such intent must be proved in a clear and evident manner to exclude every possible doubt as to the homicidal intent of the aggressor. Intent to kill

<sup>31</sup> *People v. Guarin*, G.R. No. 245306, December 2, 2020.

<sup>32</sup> *Id.*

<sup>33</sup> *People v. Aguila*, G.R. No. 238455, December 9, 2020. Citations omitted.

<sup>34</sup> *Quijano v. People*, G.R. No. 202151, February 10, 2021.



is a specific intent that the State must allege and prove, as differentiated from a general criminal intent, which is presumed from the commission of a felony by *dolo*. Being a state of mind, intent to kill is appreciated by the courts only through external manifestations, *i.e.*, the acts and conduct of the accused at the time of the assault and immediately thereafter. However, the inference that intent to kill existed should not be drawn in the absence of circumstances sufficient to prove this fact beyond reasonable doubt.<sup>35</sup>

In this case, accused-appellant's intent to kill Bonifacio is evident from the treacherous manner of the attack as well as the number of stab wounds sustained by Bonifacio. As previously discussed, when accused-appellant attacked Bonifacio, he did so in a sudden and unexpected manner that gave Bonifacio no time to defend himself. Accused-appellant only stopped when in his words "*makita kong tumumba si Bonifacio.*"<sup>36</sup> Nevertheless, despite the injuries sustained by Bonifacio, there was no testimony as to the nature of the injuries to the effect that he would have died had it not been for the timely medical intervention. It is important to note that there must be evidence showing that the wound inflicted would have been fatal were it not for a timely medical intervention,<sup>37</sup> in order for a prosecution for Frustrated Murder to prosper. There being none in this case, accused-appellant was correctly convicted of Attempted Murder.

As to the penalty, accused-appellant was properly sentenced to *reclusion perpetua* in consonance with Art. 248 of the RPC. The awards of ₱75,000.00 as exemplary damages, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱50,000.00 as temperate damages are, likewise, affirmed.<sup>38</sup>

As to the penalty for Attempted Murder, Art. 51 of the RPC states that "[a] penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony."<sup>39</sup> Given that Art. 248 of the RPC, as amended, prescribes the penalty of *reclusion perpetua* to death for the crime of Murder, the penalty for Attempted Murder is *prision mayor*, which is two degrees lower from *reclusion perpetua* to death.<sup>40</sup>

Under the Indeterminate Sentence Law, the maximum of the sentence shall be that which could be properly imposed in view of the attending circumstances, and the minimum shall be within the range of the penalty next lower than that prescribed by the RPC.<sup>41</sup> Hence, the minimum period should

<sup>35</sup> *Etino v. People*, 826 Phil. 32, 45 (2018). Citation omitted.

<sup>36</sup> TSN, December 6, 2016, p. 9

<sup>37</sup> *Quijano v. People*, *supra*.

<sup>38</sup> *People v. Jugueta*, 783 Phil. 806, 848 (2016).

<sup>39</sup> Article 51. Penalty to be imposed upon principals of attempted crimes. - A penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony.

<sup>40</sup> *Quijano v. People*, *supra*.

<sup>41</sup> *Id.*

be taken from *prision correccional* medium ranging from two years, four months and one day to four years, and two months while the maximum penalty is taken from *prision mayor* medium ranging from eight years and one day to 10 years.

Accordingly, in Criminal Case No. SC-13700, accused-appellant should suffer the indeterminate penalty of four years and two months of *prision correccional*, as minimum, to 10 years of *prision mayor*, as maximum.

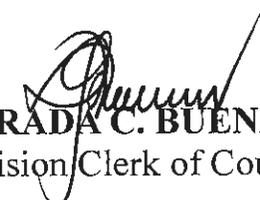
The awards of ₱25,000.00 as exemplary damages, ₱25,000.00 as civil indemnity, and ₱25,000.00 as moral damages, are all in accord with recent jurisprudence.<sup>42</sup>

Imposition of legal interest of six percent (6%) per *annum* on all monetary awards for damages from the finality of the Court's ruling until full satisfaction is affirmed as well.<sup>43</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The assailed September 18, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11414 is **AFFIRMED with MODIFICATION** in that in Criminal Case No. SC-13700, accused-appellant is sentenced to suffer the indeterminate penalty of four years and two months of *prision correccional*, as minimum, to 10 years of *prision mayor*.

**SO ORDERED.**” *Gesmundo, C.J., on official business.*

By authority of the Court:

  
LIBRADA C. BUENA  
Division Clerk of Court

by:

MARIA TERESA B. SIBULO  
Deputy Division Clerk of Court

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OCT 10 2022

The Solicitor General  
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(CA-G.R. CR-HC No. 11414)

<sup>42</sup> *People v. Jugueta*, supra.

<sup>43</sup> *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

The Hon. Presiding Judge  
Regional Trial Court, Branch 91  
Santa Cruz, 4008 Laguna  
(Crim. Case Nos. SC-13699 to 700)

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