



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **23 March 2022** which reads as follows:*

**“G.R. No. 252547 (People of the Philippines, Plaintiff-Appellee, v. Ramon Cancejo y Bartolome alias “Monching”, Accused-Appellant.)** - This appeal<sup>1</sup> seeks the reversal of the Decision<sup>2</sup> dated 25 October 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12130. The CA affirmed the Judgment<sup>3</sup> dated 01 October 2018 of Branch 3, Regional Trial Court (RTC) of Tuguegarao City in Criminal Case No. 16025, finding accused-appellant Ramon Cancejo y Bartolome alias “Monching” (accused-appellant), guilty beyond reasonable doubt of murder for the killing of Leo Abenes (Leo).

**Antecedents**

The Information charged accused-appellant with murder, defined, and penalized under Article 248 of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 7659.<sup>4</sup> The Information states:

That on or about April 12, 2014 in the municipality of Baggao, province Cagayan (sic), and within the jurisdiction of this Honorable Court, the said accused RAMON CANCEJO Y BARTOLOME ALIAS MONCHING armed with a long bolo (tabas) with intent to kill, treachery and evidence premeditation (sic), did, then and there willfully, unlawfully, feloniously attack, assault and hack, LEO A. ABENES inflicting upon him hack wounds which caused his death.

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

Upon arraignment, accused-appellant pleaded not guilty to the charge.<sup>6</sup>

<sup>1</sup> *Rollo*, pp. 19-21.

<sup>2</sup> *Id.* at 3-18; Penned by Associate Justice Mario V. Lopez (now a Member of this Court), with Associate Justices Ronaldo Roberto B. Martin and Walter S. Ong, concurring.

<sup>3</sup> *CA rollo*, pp. 34-43. Penned by Judge Marivic A. Cacatian-Beltran.

<sup>4</sup> Entitled “An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as amended, Other Special Penal Laws, and for Other Purposes,” approved on 13 December 1993 .

<sup>5</sup> *Rollo*, p. 5; *CA rollo*, p. 34.

<sup>6</sup> *Id.*

### Version of the Prosecution

The prosecution's evidence showed that on 12 April 2014, at around 6:30 p.m., Leo fetched his daughter, Vanessa, and his two nieces, Trisha Mae Leonillo (Trisha) and Kristine Joy Reyes (Kristine), from Tallang Market in Baggao, Cagayan. They boarded a motorcycle driven by Leo without a headlight. When they reached a downhill rough road in Zone 5, Tallang, Baggao, Cagayan, Trisha and Kristine alighted from the motorcycle and walked. As Leo and Vanessa reached the end of the road, accused-appellant suddenly emerged from a stockpile of gravel and hacked Leo's head with a *tabas* (a long bolo). Leo lost control of the motorcycle and fell. Vanessa managed to stand up and throw her water jug at accused-appellant but missed. Thereafter, Vanessa and her cousins ran to the house of Councilor Ariel Agustin (Councilor Agustin), about 50 meters away, and reported the hacking incident. The children contacted their mothers and later, Vanessa's mother went to the place of the incident.<sup>7</sup>

Meanwhile, Senior Police Officer 1 Leonardo Llapitan (SPO1 Llapitan) was on duty at the Community Police Assistance Center (COMPAC) when he received a phone call from *Barangay* Captain Honorato Javier (Barangay Captain Javier) informing him about a hacking incident at Zone 5. Along with Police Officer 1 Antonio Padua (PO1 Padua), SPO1 Llapitan went to the crime scene to investigate. They arrived at around 7:35 p.m. but the victim was no longer there. They then proceeded to the house of Councilor Agustin and interviewed Vanessa and her two cousins who identified accused-appellant as the hacker. Thereafter, a manhunt against accused-appellant was conducted but the police failed to locate him. At the police station, PO1 Padua recorded the hacking incident in the police blotter.<sup>8</sup>

The following day, or on 13 April 2014, Vanessa, Trisha, and Kristine, went to Tallang Hospital and found that Leo was already dead. On the same day, at about 4:00 p.m., Councilor Renato Bartolome (Councilor Bartolome) and *Barangay* Captain Javier turned over accused-appellant to COMPAC. Accused-appellant confessed to the crime and informed them where he concealed the *tabas* he used to hack Leo.<sup>9</sup>

Meanwhile, Dr. Evelyn Gamata (Dr. Gamata) conducted a post-mortem examination on the cadaver. The report showed that the victim sustained six wounds:

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<sup>7</sup> *Id.* at 3-4.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.* at 5.

1. Hacked wound, approximately 14 cms length (sic) traversing the face horizontally from right cheek, mid of nose to the left cheek. Tip of the wound at the right is 3.5 cms below the right lower eyelid and the tip at the left is 1.5 cms below the left lower eyelid. Depth of the wound at the right tip is 3.5 cms, at the middle is 5 cms (nose), tip of wound at the left is 1.5 cms. The nasal bone and maxillary bone right and left is fractured.

2. Hacked wound, parieto-occipital area, right, with avulsion of the scalp approximately 13 cms in diameter, fracture and avulsion of the skull approximately 12 cms in diameter, injury of the meninges exposing the brain approximately 11 cms.

3. Hacked wound, approximately 14 cms in length, from the temple about 5cms below the eye, diagonally traversing the base of ear down to the lateral part of the neck, right. The angle of the mandible is fractured, blood vessels were injured. Depth of wound is measured as follows: at the upper tip approximately 2 cms, at the middle part is 3 cms, at the neck part is 5 cm [sic] and lower tip is 1.5 cms.

4. Hacked wound, approximately 9cms (sic) in length, right shoulder. Depth measured as follows; upper portion is approximately 1cms (sic), middle of wound is approximately 6 cms, with injured muscles, lower portion of wound is approximately 3cms (sic).

5. Multiple abrasions dorsal aspect of fingers and hand[,] left.

6. Multiple abrasions knee and lateral aspect of leg, left.<sup>10</sup>

Further, Dr. Gamata testified that the first, second, and third wounds were fatal.<sup>11</sup> The cause of death is “severe hemorrhage secondary to multiple hacked wounds.”<sup>12</sup> In court, Vanessa and Kristine identified accused-appellant as the person who hacked Leo.<sup>13</sup>

### Version of the Defense

Accused-appellant invoked self-defense. Prior to the incident, accused-appellant and Leo had a standing land dispute. Armed with a gun, Leo and his wife would allegedly pound on accused-appellant’s door and window and spray teargas every night while accused-appellant was sleeping. There was also an instance when Leo and his wife fired their guns at accused-appellant’s window five times.

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<sup>10</sup> *Id.* at 4–5, 11–12.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 9–11.

On 12 April 2014, accused-appellant was on his way home from cleaning his farm when he saw Leo on board a motorcycle. While accused-appellant was crossing the road, Leo tried to bump him with his motorcycle. Accused-appellant was able to evade Leo. Then, accused-appellant brought out his bolo and pointed it at Leo, who fell down from his motorcycle. Accused-appellant became nervous, angry, and confused, and hacked Leo twice. Then, he ran. He sought refuge at Councilor Bartolome's house and stayed there for the night. Later, Councilor Bartolome accompanied accused-appellant to the police station where the latter confessed to the hacking.<sup>14</sup>

### Decision of the RTC

After trial, the RTC rendered the Judgment<sup>15</sup> dated 01 October 2018 finding accused-appellant guilty beyond reasonable doubt of murder for the killing of Leo, thus:

WHEREFORE, premises considered, the court renders judgment finding the accused guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code, as amended, and sentence him:

1. To suffer the penalty of *reclusion perpetua*; and
2. To pay the heirs of Leo A. Abenes:
  - a. Civil indemnity of P75,000.00;
  - b. Moral damages of P75,000.00;
  - c. Exemplary damages of P75,000.00;
  - d. Temperate damages of P50,000.00; and
  - e. Interest at the rate of six percent (6%) *per annum* on all monetary awards from the date of finality of this judgment until fully paid.

SO ORDERED.<sup>16</sup>

The RTC held that the hacking was qualified by treachery. It noted that accused-appellant admitted that he hacked Leo twice. Physical evidence shows that the victim suffered three hack wounds, which were all fatal. The gravity of the wounds significantly manifests the determined effort of the accused to kill his victim, not just to defend himself. Except for the say-so of the accused-appellant, there was no evidence that the victim was the unlawful aggressor. Even if Leo attempted to bump accused-appellant from

<sup>14</sup> *Id.* at 6.

<sup>15</sup> CA Rollo, pp. 34-43. Penned by Judge Marivic A. Cacatian-Beltran.

<sup>16</sup> Rollo, p. 6.

behind, the latter could have evaded being hit and avoided confronting the victim altogether. Instead, accused-appellant pointed his *tabas* at the victim; then, when the victim fell from his motorcycle, accused-appellant took advantage of the victim's position and hacked him.<sup>17</sup>

Moreover, accused-appellant admitted to hacking Leo, but maintained that the same was justified. The RTC noted that accused-appellant's behavior of fleeing from the scene of the crime instead of reporting the incident is highly indicative of guilt and negates his claim of self-defense. A righteous individual will not cower in fear and unabashedly admit the killing at the earliest opportunity if he/she were morally justified in doing so.<sup>18</sup>

Thus, the RTC concluded that the crime was attended by treachery, which qualified the crime to murder. The suddenness of the attack without provocation from Leo, who was traversing a hilly portion of the road, and without the slightest inkling of the fate that would befall him, demonstrate the treacherous manner of the attack. Clearly, Leo was not in a position to defend himself from the mode of attack. The RTC also held that even assuming that Leo was forewarned of the danger to his person when he saw the accused-appellant as he was driving his motorcycle, treachery may still be appreciated. What is decisive is that at the time the blow was struck, the victim was helpless and unable to defend himself, as in this case.<sup>19</sup> However, the qualifying circumstance of evident premeditation was not sufficiently proven.<sup>20</sup>

The RTC also ruled that accused-appellant failed to prove the mitigating circumstances of passion and obfuscation, and voluntary surrender; thus these cannot be credited in his favor.<sup>21</sup>

### Decision of the CA

The CA denied the appeal and affirmed the RTC's Judgment dated 01 October 2018, to wit:<sup>22</sup>

**ACCORDINGLY**, the appeal is **DENIED**. The October 1, 2018 Decision of the Regional Trial Court of Tuguegarao, Branch 3, is **AFFIRMED**.

<sup>17</sup> *CA Rollo*, pp. 38-40.

<sup>18</sup> *Id.* at 39.

<sup>19</sup> *Id.* at 40-41.

<sup>20</sup> *Id.* at 41.

<sup>21</sup> *Id.* at 40-42.

<sup>22</sup> *Rollo*, p. 17.

**SO ORDERED.**<sup>23</sup>

The CA found no reason to acquit accused-appellant. Accused-appellant himself admitted that he hacked the victim with his *tabas* but maintained that the aggression originated from the victim when the latter attempted to bump him with a motorcycle. However, accused-appellant failed to present proof to support this self-serving claim. Self-defense cannot be justifiably appreciated when it is uncorroborated by independent and competent evidence, or when it is extremely doubtful by itself. On the contrary, the witnesses uniformly testified that accused-appellant suddenly emerged from the stockpile of gravel and hacked the victim's head with a *tabas*.<sup>24</sup> More importantly, the severity, location, and number of wounds suffered by the victim belie the accused-appellant's claim of self-defense.<sup>25</sup>

The CA agreed with the RTC that Leo's killing was attended by treachery considering that: (1) the victim was fatally hacked; (2) the victim was looking at his two nieces when the accused-appellant, who was hiding in a stockpile of gravel, suddenly came out and hacked the victim's head with a *tabas*; (3) the victim had his daughter as a passenger in a faulty motorcycle traversing a rocky road; and (4) the incident happened at about 7:30 p.m., so it was already dark. The totality of these circumstances shows that the method of the attack was deliberately adopted, and Leo was deprived of the opportunity to defend himself.<sup>26</sup> The CA also agreed with the RTC that the qualifying circumstance of evident premeditation cannot be appreciated against accused-appellant.<sup>27</sup>

The CA also ruled that the mitigating circumstance of voluntary surrender cannot be appreciated in favor of accused-appellant because he did not present himself voluntarily to Councilor Bartolome. In fact, the police conducted a manhunt against him during the whole night of 12 April 2014, and had incurred expenses to locate him. Likewise, passion and obfuscation cannot be appreciated here for failure of accused-appellant to prove its elements. Even considering the long-standing dispute between the victim and the accused-appellant, the latter cannot be credited with this mitigating circumstance because it likely meant that he was acting in the spirit of revenge.<sup>28</sup>

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<sup>23</sup> *Id.* at 17.

<sup>24</sup> *Id.* at 8-11.

<sup>25</sup> *Id.* at 12.

<sup>26</sup> *Id.* at 13-14.

<sup>27</sup> *Id.* at 14-15.

<sup>28</sup> *Id.* at 15-16.

Finally, the CA upheld the amounts of damages awarded by the RTC.<sup>29</sup>

Thus, the accused-appellant appealed before this Court.<sup>30</sup> For purposes of this appeal, the Office of the Solicitor General<sup>31</sup> and the Public Attorney's Office<sup>32</sup> manifested they were no longer filing their respective supplemental briefs, and prayed that the briefs submitted to the CA be considered in resolving the appeal.

### Issue

The issue is whether the CA erred in affirming accused-appellant's conviction for murder.

### Ruling of the Court

The appeal has no merit.

This Court has consistently ruled that an accused who pleads a justifying circumstance under Article 11<sup>33</sup> of the RPC admits to the commission of acts, which would otherwise engender criminal liability. In cases where the accused admits to causing the death of the victim, and their defense is anchored on self-defense, it becomes incumbent upon them to prove the justifying circumstance to the satisfaction of the court. The admission shifts the burden of evidence to the appellant to prove that all the essential elements of self-defense are present.<sup>34</sup> In order for self-defense to be appreciated, accused-appellant must be able to prove by clear and convincing evidence the following elements: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself.<sup>35</sup>

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<sup>29</sup> *Id.* at 17.

<sup>30</sup> *Id.* at 19.

<sup>31</sup> *Id.* at 32–35.

<sup>32</sup> *Id.* at 27–31.

<sup>33</sup> Article 11. Justifying circumstances. - The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur;

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself. [...].

<sup>34</sup> *People v. Manzano*, G.R. No. 217974, 05 March 2018 [Per J. Martires].

<sup>35</sup> *People v. Inciong y Orense*, 761 Phil. 561 (2015), G.R. No. 213383 (Resolution), 22 June 2015 [Per J. Perlas-Bernabe].

Both the RTC and the CA correctly found that, except for accused-appellant's self-serving claims, no evidence was shown that the victim was the unlawful aggressor. Instead, what the evidence shows is that accused-appellant emerged behind a pile of gravel pointing his *tabas* at the victim, and when the latter's motorcycle fell, the former took advantage of his superior position and then struck the victim. The physical evidence shows that the victim suffered three hack wounds, all of which were fatal. The location, gravity, and number of the wounds significantly manifest the determined effort of the accused-appellant to kill his victim, not just to defend himself.<sup>36</sup> Moreover, as aptly pointed out by the RTC, the accused-appellant's behavior of fleeing from the scene of the crime instead of reporting the incident is highly indicative of guilt and negates his claim of self-defense.<sup>37</sup>

Similarly, treachery as a qualifying circumstance was correctly appreciated. Treachery is present when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to ensure its execution, without risk to the offender arising from the defense which the offended party might make.<sup>38</sup>

In this case, the RTC and CA found that the totality of circumstances shows that the execution of the attack was deliberately adopted and that Leo was deprived of the opportunity to defend himself. Based on the narration of the witnesses, the incident took place thus: (1) accused-appellant hacked the victim several times and the wounds turned out to be fatal; (2) at the time of the attack, Leo was looking behind him at his two nieces who had just alighted from the motorcycle; (3) the accused-appellant, who was hiding behind a pile of gravel, suddenly came out and hacked the victim's head with a *tabas*; (4) the victim had his daughter as a passenger in a faulty motorcycle traversing a downhill rocky road; and (5) the incident happened at night, or about 7:30 p.m.<sup>39</sup>

We are aware that in *People v. Solar*,<sup>40</sup> the Court made a pronouncement that in a criminal Information, the State must specify in detail the crime and any circumstance that may qualify the crime or aggravate an accused's liability. Hence, it is no longer sufficient to merely allege the qualifying circumstances of "treachery" or "evident premeditation" without including supporting factual averments. The prosecution must now include in the

<sup>36</sup> *Rollo*, pp. 8–11.

<sup>37</sup> See *People v. Macuha*, 369 Phil. 257 (1999), G.R. No. 110085, 06 July 1999 [J. Pardo].

<sup>38</sup> *People v. Inciong y Orense*, 761 Phil. 561 (2015), G.R. No. 213383 (Resolution), 22 June 2015 [Per J. Perlas-Bernabe].

<sup>39</sup> CA *Rollo*, p. 41; *Rollo*, pp. 14–15.

<sup>40</sup> G.R. No. 225595, 06 August 2019 [Per J. Caguioa].

Information the specific acts and circumstances constituting the attendant circumstances in the crime committed.<sup>41</sup>

Here, the Information merely stated that the killing was attended by treachery and evident premeditation without the required factual averments. Notwithstanding, We note that there is no showing that accused-appellant raised any objection to the sufficiency of the allegations in the Information at any stage of the proceedings. Neither did accused-appellant move for a bill of particulars or to quash the Information before the arraignment. Thus, it is now too late in the proceedings to invalidate the Information without unduly prejudicing the State, which was also deprived of the opportunity to amend the Information or submit a bill of particulars in the trial court.<sup>42</sup>

On the other hand, We uphold the finding of the courts *a quo* that the qualifying circumstance of evident premeditation cannot be appreciated against accused-appellant because the prosecution was not able to prove that the elements are present here. As aptly pointed out by the RTC, there is nothing in the records that will show how and when accused-appellant hatched his plan to kill Leo, or how much time had elapsed before accused-appellant carried out his plan.<sup>43</sup>

Likewise, the mitigating circumstance of voluntary surrender cannot be credited in favor of accused-appellant. For voluntary surrender to be considered, the following requisites must concur: (1) the offender was not actually arrested; (2) he surrendered to a person in authority or to an agent of a person in authority; and (3) his surrender was voluntary. A surrender to be voluntary must be spontaneous, showing the intent of the accused to submit himself unconditionally to the authorities either because he acknowledges his guilt, or he wishes to save them the trouble and expense necessarily incurred in his search and capture.<sup>44</sup>

In this case, accused-appellant did not present himself voluntarily to Councilor Bartolome. It was the councilor who contacted him because the Abeneses were allegedly looking for him. In fact, the police conducted a stakeout for him on the night of 12 April 2014, and had incurred expenses to locate him.<sup>45</sup>

In view of the foregoing, the RTC and the CA correctly found accused-appellant guilty of murder and sentenced him to *reclusion perpetua*.

<sup>41</sup> *People v. Capongol*, G.R. No. 239783, 12 January 2021 [Per J. Zaiameda].

<sup>42</sup> *Id.*

<sup>43</sup> *Rollo*, p. 14; *CA rollo*, p. 85. *People v. Sebastian y Sindol*, 428 Phil. 622 (2002), G.R. No. 131734, 07 March 2002 [Per J. Ynares-Santiago].

<sup>44</sup> *People v. Rabanillo*, G.R. No. 130010, 26 May 1999 [Per C.J. Davide].

<sup>45</sup> *CA rollo*, pp. 41-42.

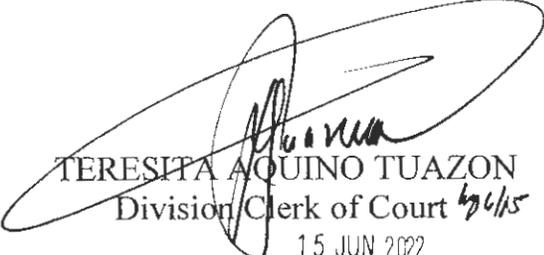
This Court also affirms the awards for civil indemnity and damages by the RTC, as affirmed by the CA, in line with the prevailing jurisprudence.<sup>46</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated 25 October 2019 of the Court of Appeals in CA-G.R. CR-HC No. 12130 is hereby **AFFIRMED**. Accused-appellant **RAMON CANCEJO Y BARTOLOME ALIAS MONCHING** is **GUILTY** beyond reasonable doubt of the crime of Murder. He is sentenced to suffer the penalty of *reclusion perpetua*, and ordered to pay the heirs of Leo Abenes the sums of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, Php75,000.00 as exemplary damages, and Php50,000.00 as temperate damages.

...All monetary awards shall earn interest at the legal rate of six percent (6%) per *annum* from the date of finality of this Resolution until fully paid.<sup>47</sup>

**SO ORDERED.**" (SAJ E. B. Perlas-Bernabe, on Official Leave.)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court *by 6/15*  
15 JUN 2022

<sup>46</sup> *People v. Bernardo*, G.R. No. 216056, 02 December 2020 [Per J. Zalameda], citing *People v. Juguet*, G.R. No. 202124, 05 April 2016 [Per C.J. Peralta].

<sup>47</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013), G.R. No. 189871, 13 August 2013 [Per C.J. Peralta].

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RAMON CANCEJO y BARTOLOME ALIAS "MONCHING" (reg)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 3  
Tuguegarao City, Cagayan  
(Crim. Case No. 16025)

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