



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

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

**“G.R. No. 258051 (*People of the Philippines v. Eliseo Sahagun y De Guzman a.k.a. “Elsie”*)**. — Challenged in this appeal<sup>1</sup> is the December 4, 2019 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12033, which affirmed with modification the August 22, 2018 Decision<sup>3</sup> of the Regional Trial Court (RTC), Branch 9, Aparri, Cagayan. The RTC found accused-appellant Eliseo Sahagun y De Guzman (Sahagun), also known as “Elsie”, guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code (RPC). He was sentenced to suffer the penalty of *reclusion perpetua* and was ordered to pay the heirs of the victim, Fernando Portillo (Portillo), the amounts of ₱75,000 as civil indemnity, ₱75,000 as moral damages, and ₱75,000 as exemplary damages.

**The Antecedents:**

Sahagun was charged with Murder in an Information which reads:

That on or about JULY 18, 2012, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a handgun, with intent to kill, with evident premeditation and with treachery, did then and there willfully, unlawfully and feloniously assault, attack and shot one Fernando Portillo y Meñaña, inflicting upon the latter multiple gunshot wounds which caused his death.

That the crime was aggravated by the use of unlicensed firearm.

CONTRARY TO LAW.<sup>4</sup>

<sup>1</sup> CA *rollo*, pp. 101-103.

<sup>2</sup> Id. at 84-100. Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon M. Bato, Jr. and Ruben Reynaldo G. Roxas.

<sup>3</sup> Records, pp. 76-87. Penned by Judge Conrado T. Tabaco.

<sup>4</sup> Id. at 1.

*pete*

Upon arraignment, Sahagun pleaded not guilty to the crime charged.<sup>5</sup> Thereafter, trial on the merits ensued.

### **Evidence for the Prosecution:**

On July 18, 2012, at around 8:00 p.m., Michael Pisco (Pisco), Ruben Felipe (Felipe), Alejandro Agcaoili (Agcaoili) and victim Portillo were having a drinking spree at Clarino Aquino's (Aquino) house located in Bgy. Nabaccayan, Gattaran, Cagayan. Thereafter, Sahagun, who was Aquino's neighbor, arrived at the latter's house. Portillo, who was then lying on a woven cradle, invited Sahagun saying "*Umay ka ditoy uncle*" which means "Come here uncle." However, without uttering any word, Sahagun suddenly pulled out a gun and fired at the victim Portillo three times, which resulted to the latter's demise. After the shooting, Sahagun left the place of incident.<sup>6</sup>

Upon hearing the gunshots, *barangay tanod* Pablito Cabalar (Cabalar) went out of his house. While out on the road, Cabalar noticed a person going to the eastern direction. As this person drew nearer, Cabalar immediately recognized him to be Sahagun, who was his *barangay* mate. Cabalar asked Sahagun about the gunshots to which the latter replied "*Pinatay ko ni Fernanen Nong.*" Then, Sahagun walked away. When Sahagun turned his back, Cabalar noticed a bulging object tucked at the back of Sahagun's waist. Afterwards, Cabalar went to the western direction where he came across certain bystanders, who told him about the shooting incident. Cabalar testified that Sahagun told him before that he had a dispute with Portillo over the ownership of a certain parcel of land, which he believed to be the possible motive of Sahagun for killing Portillo.<sup>7</sup>

Upon examination, Dr. Roberto Lasam (Dr. Lasam), Medical Officer V of Gattaran Emergency Hospital, testified that Portillo sustained gunshot wounds with entry in his left second rib, patella and on his left and right foot. He declared that the gunshot wound on Portillo's left rib was the most fatal as it pierced the left rib and upper part of his heart. He further opined that based on the trajectory of the first wound sustained by Portillo, the assailant was standing in front of the victim when the gun was fired. As per the Certificate of Death, Portillo's cause of death is hypovolemic shock due to blood loss sustained from multiple gunshot wounds.<sup>8</sup>

### **Evidence for the Defense:**

On July 18, 2012, at around 6:00 p.m., Sahagun and Leonardo Daquigan (Daquigan) were on their way home after fishing at the Nabaccayan River in

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<sup>5</sup> Id.

<sup>6</sup> Id. at 9.

<sup>7</sup> TSN, March 1, 2018, pp. 5-8.

<sup>8</sup> TSN, March 18, 2018, pp. 4-5.

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Gattaran, Cagayan. Daquigan did not notice any weapon in Sahagun's possession from the time they were fishing until they were about to go home. When they reached Aquino's house, Portillo, who was alone and at Aquino's abode, called Sahagun and invited him to drop by, to which Sahagun heeded. Daquigan, on the other hand, continued his way home.<sup>9</sup>

When Sahagun approached Portillo, the latter pulled out a gun and poked it at the former. Thereafter, Portillo and Sahagun grappled for the possession of the gun. However, the gun accidentally fired. Sahagun immediately fled and ran to his own house. Sahagun testified that he did not see what happened to Portillo and denied meeting Cabalar on his way home.<sup>10</sup>

Eleanor Sahagun (Eleanor), daughter of Sahagun, corroborated the latter's testimony. She testified that she was washing the dishes when she heard a commotion outside of their house. Thus, she went out and ran towards the fence. She saw her father and Portillo grappling for the possession of a gun. Then, the gun accidentally fired in the course of their struggle. Terrified, she went back inside their house and informed her sister that their father might have been shot.<sup>11</sup>

After 20 to 30 minutes, Eleanor went out of their house to investigate. She later learned that it was Portillo who had been shot. Her father Sahagun returned to their home in the early morning and informed her that he shot Portillo in self-defense. After which, she never saw her father again as she returned to her residence in Ilocos Sur at that time. She reported to the Chief of Police of Gattaran what she knew about the incident.<sup>12</sup>

### **Ruling of the Regional Trial Court:**

On August 22, 2018, the RTC rendered its Decision convicting Sahagun of Murder. The dispositive portion of which reads:

WHEREFORE, premises considered, this Court finds accused Eliseo Sahagun alias "ELSIE" GUILTY, beyond reasonable doubt for the crime of Murder under Article 248 of the Revised Penal Code and sentences him to suffer the supreme penalty of RECLUSION PERPETUA with all the accessory penalties as provided by law and to pay the heirs of the deceased Fernan Portillo the amount of P300,000.00 which is the total amount of damages agreed upon by the prosecution and the defense in case of conviction, plus interest of 6% per annum, reckoned from the finality of this Decision until full payment and the costs of this suit.

SO DECIDED.<sup>13</sup>

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<sup>9</sup> TSN, June 25, 2018, pp. 4-5.

<sup>10</sup> TSN, April 24, 2018, pp. 3-5.

<sup>11</sup> TSN, May 10, 2018, pp. 3-5.

<sup>12</sup> TSN, May 10, 2018, pp. 6-7.

<sup>13</sup> Records, pp. 86-87.

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The RTC found that all the elements of the crime of Murder qualified by treachery were present and duly proved by the prosecution. The RTC held that the prosecution sufficiently established the fact of killing and the identity of the assailant. However, the RTC ruled out the presence of the qualifying circumstance of evident premeditation for failure of the prosecution to establish proof of the time when Sahagun decided to commit the crime, how he planned the killing of Portillo, and the time elapsed before executing his plan.<sup>14</sup>

Nonetheless, the trial court appreciated the qualifying circumstance of treachery when Sahagun consciously and deliberately adopted his mode of attack to insure the accomplishment of his criminal design without risk to himself by immediately shooting the victim at close range without any word and provocation on the victim's part. Also, the trial court noted Sahagun's unexplained flight after the incident which it ruled as an indication of guilt.<sup>15</sup>

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

On December 4, 2019, Sahagun's appeal was denied by the CA. The dispositive portion of which reads:

**WHEREFORE**, premises considered, the instant APPEAL is hereby DENIED. Hence, the assailed Decision is hereby AFFIRMED with MODIFICATION and accused-appellant is ordered to PAY the heirs of the victim the following amounts: ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

**SO ORDERED.**<sup>16</sup>

According to the CA, the qualifying circumstance of treachery is present in the case at bar. The prosecution had duly established that the attack on the unsuspecting victim was very sudden and unexpected depriving the latter of any real chance to defend themselves, thereby ensuring the commission of the crime without risk on the aggressor and without slightest provocation on the part of the victim. Sahagun, without uttering a word and any provocation from Portillo, approached and suddenly fired at the latter.<sup>17</sup>

As to the credibility of prosecution witness Felipe, the CA ruled that while Felipe may not have seen Sahagun's arrival, the former was in the position to have actually witnessed the crime. Also, prosecution witness Pisco had already rejoined Sahagun, Felipe and victim Portillo after getting a chair inside Aquino's house when suddenly Sahagun pulled the trigger at Portillo.<sup>18</sup>

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<sup>14</sup> Id. at 83-85.

<sup>15</sup> Id. at 85-86.

<sup>16</sup> CA *rollo*, p. 99.

<sup>17</sup> Id. at 30.

<sup>18</sup> Id. at 89-91.

Also, Sahagun's claim of self-defense is belied by the multiple gunshot wounds sustained by Portillo. The CA also held that based on Dr. Lasam's testimony, the first wound inflicted on the victim was fired by an assailant standing in front of the victim. Prosecution witnesses also positively identified Sahagun as the one who shot Portillo. In addition, Sahagun already admitted that he fled after the shooting incident and did not surrender immediately to the police authorities which is indicative of a guilty conscience.<sup>19</sup>

The CA modified the damages awarded by the RTC as per recent jurisprudence.<sup>20</sup>

### Issue:

The lone issue raised for consideration of this Court is:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER DESPITE THE INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.<sup>21</sup>

### Our Ruling

After due consideration, we sustain Sahagun's conviction.

Sahagun argues that the courts *a quo* relied heavily on the testimonies of prosecution witnesses Pisco and Felipe which were unreliable and full of doubts. Sahagun claims that Pisco did not actually witness the shooting incident because he went inside Aquino's house to get a chair when the shooting incident happened. This is why when asked what happened to Portillo, Pisco testified "They shot him," which appellant implies that more than one person shot Portillo, and that Pisco did not really witness the whole incident.<sup>22</sup>

As to Felipe, Sahagun avers that the former's position was that his back was facing the road which means that he could not have seen Sahagun coming towards them. Felipe did not testify that he turned his back or move his face at a vantage point towards Sahagun. Also, Sahagun insists that Felipe could not have seen Sahagun holding a gun and firing at Portillo. Thus, he opines that Pisco and Felipe's testimonies are not credible and full of reasonable doubts.<sup>23</sup>

Sahagun's arguments are devoid of merit.

The crime of Murder is defined under Article 248 of the RPC, as amended, to wit:

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<sup>19</sup> Id. at 95-96.

<sup>20</sup> Id. at 97-98.

<sup>21</sup> Id. at 30.

<sup>22</sup> Id. at 36.

<sup>23</sup> Id. at 36-37.

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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;

“To successfully prosecute the crime of [M]urder, the following elements must be established: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide.”<sup>24</sup>

The prosecution had duly established that Portillo died of hypovolemic shock due to blood loss sustained from multiple gunshot wounds<sup>25</sup> and that Sahagun fired his gun three times at Portillo which resulted to the latter’s demise.

A review of the evidence presented shows that Pisco and Felipe’s eyewitness accounts are consistent with the evidence on record, and, therefore, worthy of belief. Pisco and Felipe recounted in their joint affidavit that Portillo was lying on a woven cradle when, upon noticing the arrival of Sahagun, invited the latter to join them in their drinking spree. Sahagun accepted Portillo’s invitation after which he suddenly pulled out a gun and fired at Portillo, without any provocation on Portillo’s part. Then, Sahagun immediately left the place of incident.

Contrary to Sahagun’s contention that Pisco and Felipe did not personally witness the killing of Portillo, both Pisco and Felipe categorically identified Sahagun as the one who fired the gun three times aiming at Portillo, to wit:

TSN of Michael Pisco

Q: So, he came from the road?

A: Yes, ma’am.

Q: You mentioned that when he pulled a handgun tucked at his back, Mister witness, do you confirm that?

A: Yes, ma’am.

Q: But when he was just approaching you did not see any handgun, am I correct?

A: None yet, ma’am.

x x x x

Q: So, you are not certain if there were another shot made, am I correct?

A: When he was able to fire three (3) shots he left already, ma’am.

<sup>24</sup> *Casilac v. People*, G.R. No. 238436, February 17, 2020.

<sup>25</sup> Records, p. 16.

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Q: Did he make that three (3) shots one after the other immediately, Mister witness?  
A: Yes, ma'am.

Q: He did not bring down the gun, is that what you are saying?  
A: Yes, ma'am.

x x x x

Q: You claimed to have seen accused Eliseo Sahagun shot Fernan [Portillo], how far were you in terms of meters from the accused?  
A: Around four (4) meters away, sir.

Q: From the place where you are now seated, kindly point to a distance of four meters?  
A: The witness pointed to a distance from where he is seated to the person seated at the first benches of the Court which is four meters.<sup>26</sup>

TSN of Ruben Felipe

Q: So, Eliseo Sahagun was able to reach your location, am I correct?  
A: Yes, ma'am.

Q: And he joined your drinking spree?  
A: No, ma'am.

Q: And he took you[r] seat?  
A: No, ma'am.

Q: And what did he do?  
A: He immediately shot Fernan [Portillo], ma'am.

Q: How far away was Eliseo Sahagun when he shot Fernan [Portillo]?  
A: Two (2) meters away, ma'am.

x x x x

Q: Where did he get the handgun of Eliseo Sahagun?  
A: At this back, ma'am.<sup>27</sup>

Sahagun's argument that both Pisco and Felipe could not have witnessed that he fired a gun at Portillo as Pisco was getting a chair inside Aquino's house at that time, and Felipe did not categorically state that he turned his face towards Sahagun, while claiming that his witness Eleanor saw the alleged altercation and grappling for the gun between him and Portillo by peeping through the fence of the next house, is not only absurd and illogical but also clearly unfounded. It bears noting that the prosecution witnesses were having a drinking spree with Portillo which means that they were in close proximity in the place of incident than defense witness Eleanor. Thus, as between Pisco and Felipe, and the alleged eye-witness account of Eleanor, the prosecution witnesses are more credible, convincing and plausible.

<sup>26</sup> TSN, January 16, 2018, pp. 10-13.

<sup>27</sup> TSN, March 22, 2018, pp. 7-8.

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Besides, Cabalar corroborated the testimonies of Pisco and Felipe when he testified that he heard gunshots while he was at his house watching television at around 8:00 p.m. of July 18, 2012. When he went out to check the source of the gunshots, he met Sahagun and asked the latter about it. Sahagun replied that he killed Portillo.

Q: Did you go out of the highway?

A: At the shoulder of the road we stand there.

Q: And you saw Elisco Sahagun?

A: Yes, ma'am as he passed by.

Q: He just casually walking?

A: Yes, ma'am.

x x x x

Q: And there were no other persons in the highway?

A: None, ma'am.

x x x x

Q: And you noticed a bulging object tucked on his back, according to you?

A: As if there was a bulging object in his back but I do not know that one, ma'am.

x x x x

Q: You did not talk to him?

A: When he passed by I asked him what is that.

x x x x

Q: And did he answer back to you?

A: Yes, ma'am.

Q: What did he say?

A: "Pinatay ko ni Fernan nen Nong" meaning I killed Fernan, Nong.<sup>28</sup>

Apropos, We find no reason to disturb the findings of the RTC especially when affirmed by the CA. Settled is the rule that the findings of the trial court on the credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of showing that the said court overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance.<sup>29</sup>

Furthermore, We agree with the lower courts in appreciating treachery as a qualifying circumstance. The essence of treachery is the sudden and unexpected attack on an unsuspecting victim by the perpetrator of the crime,

<sup>28</sup> TSN, March 1, 2018, pp. 6-7.

<sup>29</sup> *People v. Paragua*, 326 Phil. 923, 929 (1996), citing *People v. Turda*, 304 Phil. 103, 113 (1994).

depriving the victim of any chance to defend himself or repel the aggression, thus, insuring its commission without risk to the aggressor and without any provocation on the part of the victim.<sup>30</sup> The sudden attack of Sahagun by firing three gun shots at Portillo without any declaration nor provocation on the part of the victim was undoubtedly treacherous. Portillo was lying on a woven cradle and was having a drinking spree when he invited Sahagun to join them. Out of nowhere, Sahagun pulled out a gun and shot Portillo. The fact that Sahagun did not utter any word and suddenly fired his gun on Portillo while the latter was oblivious and unaware of any aggression implies that Sahagun ensures the means employed without risk on his part and an opportunity for Portillo to escape.

Sahagun's claim that he grappled with Portillo for the possession of the gun was belied by the multiple shots sustained by Portillo and Sahagun being unharmed during the alleged struggle. Also, it bears noting that the location of one of the gunshots sustained by Portillo was fatal, *i.e.*, left rib which denotes that the shot was fired by the assailant facing the victim as per Dr. Lasam. Also, it bears noting that the other two gunshots were fired at Portillo's left and right legs which would necessarily deprive the victim of any chance to defend himself or repel Sahagun's aggression. The suddenness of the attack without the slightest provocation on Portillo's part and the location of the gunshot wounds which effectively immobilized Portillo are plainly treacherous.

Lastly, Sahagun argued that he acted in self-defense to protect himself from Portillo's attack. Sahagun's act of invoking self-defense shifted the burden of proof from the prosecution to him. In *People v. Gonzales*,<sup>31</sup> we held that:

Self-defense as a justifying circumstance under Article 11 of the Revised Penal Code, as amended, implies the admission by the accused that he committed the acts which would have been criminal in character had it not been for the presence of circumstances whose legal consequences negate the commission of a crime. By invoking self-defense in this case, the appellant admitted that he shot the victim. With this admission, the burden of evidence shifted to the appellant to prove that he acted in accordance with the law. The appellant, in this regard, must satisfactorily prove the concurrence of the following requisites under the second paragraph of Article 11 of the Revised Penal Code, as amended, to relieve him of any criminal liability:

**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.<sup>32</sup>

The existence of unlawful aggression is the basic requirement in a plea of self-defense.<sup>33</sup> For unlawful aggression to be present, the one attacked must be

<sup>30</sup> *People v. Esquibel*, 666 Phil. 673, 680 (2011).

<sup>31</sup> 687 Phil. 556, 560-561 (2012).

<sup>32</sup> *Id.* at 561.

<sup>33</sup> *Id.*

facing a real and immediate threat to his life.<sup>34</sup> To prove the presence of unlawful aggression justifying the gunshot wounds, the defense offered the testimonies of Eleanor to prove that Portillo and Sahagun were wrestling for the possession of the gun. Sahagun claimed that Portillo started the altercation and pointed a gun at him. In retaliation, Sahagun grappled for the possession of the gun which allegedly accidentally fired at Portillo three times and eventually led to the latter's death.

We find that the elements of self-defense are not present in the instant case. Aside from Sahagun's mere allegations, no other proof was presented by the defense to show that there was unlawful aggression on Portillo's part. Besides, the testimonies of Pisco and Felipe totally negated Sahagun's allegation that Portillo threatened him with a gun. As between Pisco and Felipe's narration of the events that transpired, corroborated by evidence on record, *i.e.*, Certificate of Death, disproved Sahagun's theory of self-defense.

Unlawful aggression is a *condition sine qua non* for upholding the justifying circumstance of self-defense.<sup>35</sup> If there is nothing to prevent or repel, the other two requisites of self-defense will have no basis.<sup>36</sup> The number of shots sustained by the victim raises a doubt that the means employed by Sahagun was reasonable to prevent or repel the alleged unlawful aggression on Portillo's part.

Finally, the CA correctly affirmed the conviction of Sahagun qualified only by treachery. There being no aggravating or mitigating circumstance, the penalty of *reclusion perpetua* was properly imposed in accordance with Article 63 of the RPC. To conform with prevailing jurisprudence,<sup>37</sup> an award of ₱50,000 temperate damages is proper in the absence of evidence of burial and funeral expenses presented in the trial court. All monetary awards shall earn six percent (6%) interest rate per *annum* from the time of finality of this Resolution until fully paid.

**WHEREFORE**, the appeal is **DISMISSED**. The December 4, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 12033 is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant Eliseo Sahagun y De Guzman is found **GUILTY** beyond reasonable doubt of the crime of Murder for the killing of Fernando Portillo, and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay the heirs of Fernando Portillo the following amounts: (a) ₱75,000 as civil indemnity; (b) ₱75,000 as moral damages; (c) ₱75,000 as exemplary damages; and (d) ₱50,000 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>34</sup> Id.

<sup>35</sup> *Casilac v. People*, supra note 24, citing *People v. Tica*, 817 Phil. 588, 596 (2017).

<sup>36</sup> Id.

<sup>37</sup> *People v. Jugueta*, 783 Phil. 806, 848 (2016).

**SO ORDERED.”** (*Perlas-Bernabe, S.A.J., on official leave; Hernando, J., Acting Chairperson per Special Order No. 2882 dated March 17, 2022*).

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court *by 4/4*  
04 APR 2022

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THE DIRECTOR (reg)  
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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 9  
Aparri, Cagayan  
(RTC Case No. II-11553)

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