



Republic of the Philippines
Supreme Court
Bacolod City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 29, 2022, which reads as follows:

“G.R. No. 232305 (*People of the Philippines v. Rio Magdaluyo y Dela Cruz*).—For this Court’s resolution is an appeal¹ filed by accused-appellant Rio Magdaluyo y Dela Cruz (Magdaluyo) assailing the January 9, 2017 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07400. The CA affirmed the December 1, 2014 Decision³ of the Regional Trial Court (RTC), Branch 73, Antipolo City in Criminal Case No. 04-29038 insofar as it found Magdaluyo guilty beyond reasonable doubt of the crime of Murder.

The Information⁴ alleged:

That on or about the 19th day of December 2004, in the City of Antipolo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring with Alex Librula, who is still at large and mutually helping and aiding with one another, while both armed with a fan knife, “balisong” with treachery and use of superior strength, did, then and there willfully, unlawfully and feloniously attack, assault, and stab with said fan knife “balisong” one Marites Marquez y Ranzi in disregard of her being a woman thereby inflicting upon the latter stab wound which directly caused her death.

CONTRARY TO LAW.⁵

During arraignment, Magdaluyo pleaded “not guilty” to the crime charged.⁶ Thereafter, pre-trial and trial ensued. The prosecution presented the

¹ *Rollo*, pp. 12-14.

² *Id.* at 2-10. Penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Ricardo R. Rosario (now a Member of this Court) and Marie Christine Azcarraga-Jacob.

³ *CA rollo*, pp. 48-53. Penned by Executive Judge Ronaldo B. Martin.

⁴ Records, p. 1.

⁵ *Id.*

eyewitness accounts of Rommel Marquez (Rommel),⁷ the victim's son, and Salvacion Ranzi (Ranzi), the victim's mother.⁸ It likewise presented the testimony of Police Superintendent Jose Arnel Marquez (PSupt. Marquez),⁹ the medico-legal officer who conducted the examination on the remains of the deceased victim, and Police Officer 3 Manuel Padlan (PO3 Padlan),¹⁰ the police officer who conducted the investigation on the victim's death. The defense, on the other hand, presented the testimony of the accused-appellant.¹¹

Version of the Prosecution

On December 19, 2004, at around 8:00 p.m., Rommel arrived at his house in Sitio Sapinit, *Barangay* Sapin, Antipolo City.¹² After being advised that his mother Marites Marquez (Marites) was not in the house since she proceeded to the *barangay* hall to report an incident, Rommel decided to follow his mother to the *barangay* hall.¹³

While walking, he saw from a distance of about six meters accused-appellant and the latter's father-in-law, Alex Librula (Librula), each armed with a knife, stabbing Marites at her back, front and upper armpit.¹⁴ Fearful, he rushed back to their house to secure his siblings and sought the help of his uncle Rommel de Mesa (De Mesa), who immediately asked assistance from the soldiers in the neighboring *barangay*.¹⁵ However, the soldiers were unable to assist since it was outside of their jurisdiction.¹⁶ Rommel learned later on that Marites went to the *barangay* hall to report accused-appellant and Librula, who caused trouble at their house in connection with an earlier occurrence where the accused-appellant's dog bit Rommel's nephew.¹⁷

Marites was found dead the day after the fatal stabbing.¹⁸ Based on the medico-legal report, the victim sustained six stab wounds on her trunk, one stab wound each on her right arm and forearm, and incised wounds on the other parts of her body.¹⁹ PSupt. Marquez testified that based on his examination of the victim's body and as indicated in the medico-legal report, the causes of death are the six stab wounds on the trunk caused by a sharp

⁶ Id. at 18.

⁷ TSN, May 22, 2008, pp. 3-12.

⁸ TSN, February 11, 2009, pp.2-7; August 19, 2009, pp. 2-10.

⁹ TSN, August 16, 2007, pp. 2-12.

¹⁰ TSN, April 23, 2008, pp. 2-10.

¹¹ TSN, March 10, 2011, pp. 2-10; TSN, May 10, 2011, pp. 3-7; TSN, February 1, 2012, pp. 2-12.

¹² TSN, May 22, 2008, p. 4.

¹³ Id. at 5.

¹⁴ Id. at 5-7; TSN, November 27, 2008, p. 10.

¹⁵ TSN, May 22, 2008, p. 8.

¹⁶ Id. at 9.

¹⁷ Id. at 7-8. Records, p. 5.

¹⁸ Records, p. 5.

¹⁹ Id. at 177-178.

pointing object.²⁰ Ranzi testified that the victim's family spent a total of PHP 20,000.00 for funeral and transportation expenses.²¹ Ranzi also testified that a few days prior to her death, the victim told her that her grandchild and the victim's nephew was bitten by the accused-appellant's dog and that they were always being challenged by both the accused.²²

Version of the Defense

Magdaluyo, on the other hand, averred that he knew nothing about Marites' death. He testified that at around 8:00 p.m. of December 19, 2004, he and his family were at their house and were about to sleep when several relatives of the victim arrived and called him out.²³ He claimed that the victim's relatives were angry at Librula since his dog had bitten one of their relatives, but they directed their anger to Magdaluyo instead.²⁴ Thereafter, his father-in-law and co-accused, Librula, arrived and was chased by the victim's relatives. Librula then returned bloodied, prompting him and a *kagawad* to bring Librula to the hospital.²⁵ The next morning, several police officers arrived at his house and informed him that he was a suspect in the killing of Marites.²⁶

Ruling of the Regional Trial Court

In its December 1, 2014 Decision,²⁷ the RTC found Magdaluyo guilty of the crime of Murder. The dispositive portion of the RTC's Decision reads:

WHEREFORE, premises considered, accused Rio Magdaluyo y Dela Cruz is found GUILTY of the crime of MURDER and is sentenced to suffer the maximum sentence under the law and is hereby sentenced to the penalty of RECLUSION PERPETUA. He is also ordered to pay the heirs of the deceased Maritess Marquez y Ranzi P75,000.00 in Exemplary Damages, P50,000.00 in Moral Damages and P20,000.00 in Actual Damages with costs against suit.

x x x x

SO ORDERED.²⁸

The trial court found that Rommel's categorical identification of accused-appellant and Librula as the persons who stabbed Marites several times was

²⁰ Id. at 9.

²¹ TSN, February 11, 2009, p. 7; TSN, August 19, 2009, p. 3.

²² TSN, February 11, 2009, p. 4-5.

²³ TSN, March 10, 2011, pp. 4-6.

²⁴ TSN, February 1, 2012, p. 7.

²⁵ Id. at 6-9.

²⁶ TSN, May 4, 2011, p. 5.

²⁷ CA *rollo*, pp. 48-53.

²⁸ Id. at 52-53.

credible and consistent with PSupt Marquez' findings in the medico-legal report and his testimony that a pointed instrument was used in the stabbing of the victim. On the other hand, the trial court observed that accused-appellant's sweeping denial of any knowledge or participation in the fatal stabbing of the victim is an intrinsically weak defense which Magdaluyo failed to substantiate.²⁹

The trial court opined that the crime was attended by treachery since they stabbed the unarmed victim without any warning or provocation on her part.³⁰ The trial court likewise noted that the accused took advantage of their superior strength since they repeatedly stabbed the hapless victim out of proportion to the means of defense available to her.³¹

Ruling of the Court of Appeals

The CA upheld accused-appellant's conviction for Murder.³² Rommel's positive testimony on the stabbing of the victim and his positive identification of the accused-appellant and Librula as the perpetrators of the victim's stabbing were credible. The alleged inconsistencies in his testimony touched merely on minor details which do not diminish the probative value of his testimony, and that accused-appellant's denial of any knowledge of the victim's death is unsubstantiated and deserves scant consideration.³³

However, the CA held that the crime was not attended by treachery, since the prosecution failed to establish how the attack upon the victim began and whether the accused-appellant deliberately adopted a treacherous mode of attack to deprive the victim a chance to fight or retreat. Nevertheless, the appellate court appreciated the qualifying circumstance of abuse of superior strength since the victim was alone and unarmed while the accused were armed with fan knives.³⁴ The dispositive portion of the January 9, 2017 CA Decision provides:

WHEREFORE, premises considered, the present appeal is **DENIED**. The December 1, 2014 *Decision* of the Regional Trial Court of Antipolo City, Branch 73, in Criminal Case No. 04-29038 is hereby **AFFIRMED** with the **MODIFICATIONS** that: (1.) the qualifying circumstance of treachery is absent; (2.) the amount of ₱75,000.00 shall be awarded to the heirs of Marites Marquez as civil liability *ex delicto*; and (3.) interest at the legal rate of 6% *per annum* on all the monetary awards for damages from date of finality of this Decision until fully paid is hereby imposed.

²⁹ Id at 50-51.

³⁰ Id. at. 51-52.

³¹ Id. at 52.

³² *Rollo*, pp. 2-10.

³³ Id. at 6.

³⁴ Id. at 8-9.

SO ORDERED.³⁵

Aggrieved, accused-appellant brought the case before Us, asserting the same arguments he raised before the CA. ³⁶

Issue

The sole issue for resolution is whether the accused-appellant is guilty beyond reasonable doubt of Murder.

Accused-appellant alleges that the court *a quo* gravely erred in (a) finding the accused-appellant guilty of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt; (b) giving full weight and credence to the prosecution witnesses' highly inconsistent and incredible testimonies; and (b) qualifying the crime to Murder.³⁷

Our Ruling

The instant appeal is dismissed.

Magdaluyo was charged with Murder qualified by treachery and use of superior strength. Article 248 of the Revised Penal Code (RPC) states:

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* in its maximum period 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.

Jurisprudence dictates that the elements of Murder are the following: (a) that a person was killed, (b) that the accused killed him or her, (c) that the killing was attended by any of the qualifying circumstances mentioned in Art. 248, and (d) that the killing is not parricide or infanticide. Thus, for the charge of Murder to prosper, the prosecution must prove beyond reasonable doubt that: (1) the offender killed the victim, (2) through treachery or by any of the other qualifying circumstances, duly alleged in the Information.³⁸

Marites' death is undisputed and the killing is neither parricide nor infanticide. The remaining points of contentions are whether Magdaluyo was

³⁵ *Id.* at 10.

³⁶ *Rollo*, p. 12; *CA rollo*, p. 32.

³⁷ *Rollo*, p. 27. *CA rollo*, p. 32.

³⁸ *People v. Manansala*, G.R. No. 233104, September 2, 2020.

the perpetrator or one of the perpetrators of the crime and whether the killing was attended by the qualifying circumstances alleged in the information, *i.e.*, treachery and use of superior strength.

Anent the first point of contention, and based on a careful examination of the record, We affirm the findings of the courts *a quo* that Magdaluyo is one of the perpetrators in the killing of Marites. It is settled that the testimony of a single eyewitness to a crime, even if uncorroborated, produces a conviction beyond reasonable doubt as long as it is credible and positive.³⁹

In the case at bar, prosecution witness Rommel positively identified accused-appellant and Librula as the perpetrators of the crime. Rommel's testimony does not appear to be tainted with any irregularity; he narrated in a straightforward manner how the victim was killed by accused-appellant and Librula by stabbing her at the front, back, and armpit, at a distance not far from where the victim and the accused-appellant were standing when the stabbing occurred. Moreover, his testimony is bolstered by the findings of the medico-legal officer relative to the location of the injuries sustained by the victim which resulted in her death, and his testimony that a sharp pointing object was used to inflict the injuries. Finally, there was no showing that the witness was impelled by any improper motive to implicate upon the accused-appellant the commission of the crime.

In turn, both the RTC and CA found Rommel to be a credible and reliable witness. Trial courts have the advantage of personally scrutinizing the conduct and attitude of witnesses when giving their testimonies. Thus, assignment of values to the testimony of a witness is virtually left, almost entirely, to the trial court which has the opportunity to observe the demeanor of the witness on the stand. Due to their unique position, the trial courts' factual findings and appreciation of the witnesses' testimonies are given much respect, more so when their conclusions are affirmed by the CA. Factual findings of trial courts will only be disturbed on appeal if it is convincingly shown that they overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.⁴⁰

Accused-appellant discredits the testimony of the prosecution witnesses on the ground of conflicting statements made by Rommel in open court, specifically as to his distance from Marites when he witnessed the commission of the crime, and the number of times the victim was stabbed.⁴¹ In particular, Rommel stated during his direct examination that he was six meters away from his mother and the accused when he witnessed the crime but on cross-

³⁹ *People v. Balao*, 821 Phil. 407, 409 (2017).

⁴⁰ *People v. Magallano, Jr.*, G.R. No. 220721, December 10, 2018.

⁴¹ CA rollo, pp. 38-40.

examination, he stated that he was about 10 meters away.⁴² Moreover, he testified on direct examination that he was not able to count the number of times Magdaluyo stabbed his mother but during cross examination, he claimed that the two accused stabbed his mother 11 times.⁴³

Suffice it to state that slight variations in the testimony of a witness as to minor details or collateral matters do not affect his or her credibility as these variations are in fact indicative of truth and show that the witness was not coached to fabricate or dissemble. An inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction.⁴⁴ Here, the inconsistencies cited by the defense are minor and irrelevant to the essential elements of the crime of Murder, and do not detract from Rommel's positive identification of accused-appellant and his co-accused as the assailants responsible for the fatal stabbing of the victim.

Moreover, We stress that the defense of denial, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law. Thus, positive identification, when categorical and consistent and without ill motive on the part of the eyewitness testifying on the matter, prevails over the former.⁴⁵ Considering that Rommel's positive identification of the accused-appellant and the other co-accused as the perpetrators of the fatal stabbing of the victim is reliable and corroborated by the evidence on record, the same must prevail over the unsubstantiated and bare denial by the accused-appellant of any knowledge or participation in the killing of Marites.

Qualifying Circumstances

The RTC observed that Marites' killing was attended by treachery and use of superior strength, thereby qualifying it to Murder. For its part, the CA only appreciated use of superior strength and ruled that there was a want of evidence for treachery.

We agree with the CA. The essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on his or her part. For treachery to be appreciated as a qualifying circumstance, two things must be proven: (1) that during the attack, the victim could not have defended himself or herself from the offender, and (2) that the offender deliberately chose a form of attack which would render him or her immune from risk or retaliation by the victim.⁴⁶

⁴² TSN, May 22, 2008, pp. 5-6; TSN, November 27, 2008, p. 8.

⁴³ TSN, May 22, 2008, p. 6; TSN, November 27, 2008, p. 9-10.

⁴⁴ *People v. Nelmidia*, 694 Phil. 529, 559 (2012).

⁴⁵ *People v. Masilang*, G.R. No. 246466, January 26, 2021.

⁴⁶ *People v. Magallano, Jr.*, *supra*.

For treachery to qualify a killing to Murder, it must be present at the inception of the attack. Thus, We explained in *People v. Enriquez, Jr.*⁴⁷ that treachery cannot be considered when the lone witness did not see the commencement of the assault, viz.:

In a catena of cases, the Court has consistently held that treachery cannot be appreciated where the prosecution only proved the events after the attack happened, but not the manner of how the attack commenced or how the act which resulted in the victim's death unfolded. In treachery, there must be clear and convincing evidence on how the aggression was made, how it began, and how it developed. **Where no particulars are known as to the manner in which the aggression was made or how the act which resulted in the death of the victim began and developed, it cannot be established from suppositions drawn only from circumstances prior to the very moment of the aggression, that an accused perpetrated the killing with treachery. Accordingly, treachery cannot be considered where the lone witness did not see the commencement of the assault.**⁴⁸ (Emphasis supplied)

Here, Rommel was the sole witness who testified as to the commission of the crime. However, he did not witness the commencement of the assault; he arrived at the scene while the accused was already in the act of stabbing his mother, as reflected in his testimony in open court:

Q: What did you do when you learned that your mother made a blotter in the Barangay?

A: I followed her at the barangay hall.

Q: Were you able to arrive at the barangay hall?

A: No, sir. Because I already met them along the way.

Q: Who did you meet?

A: My mother, Rio Magdaluyo and Alex Libura.

Q: Where were they when you met these two (2) persons and your mother?

A: On the road, the way towards our house.

Q: What were they doing?

A: They were helping each other in stabbing my mother.⁴⁹ (Emphasis supplied)

Thus, the prosecution failed to present any evidence to show how the aggression started, and whether the victim was indeed deprived of the opportunity to defend herself. Without knowing how the aggression started, the Court has no way to ascertain whether the sudden attack was preconceived and deliberately adopted, or was just triggered by a sudden infuriation on the part of the accused as a result of a provocative act of the victim, or

⁴⁷ G.R. No. 238171, June 19, 2019.

⁴⁸ Id.

⁴⁹ TSN, May 22, 2008, p. 5.

whether the killing was done at the spur of the moment.⁵⁰ In this regard, treachery cannot be appreciated as a qualifying circumstance in the case at bar.

Nevertheless, the aggravating circumstance of taking advantage of superior strength qualified the killing to Murder. Abuse of superior strength is present whenever there is inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor, and the latter takes advantage of it in the commission of the crime. In connection thereto, an attack made by a man with a deadly weapon upon an unarmed and defenseless woman constitutes abuse of superior strength, which his sex and the weapon used in the act afforded him and from which the woman is unable to defend herself.⁵¹

In the same vein, We have previously ruled that abuse of superiority is attendant where two accused, both armed with knives, had cooperated in such a way as to secure advantage from their combined superiority in strength and took turns in stabbing the victim who was unarmed.⁵² The same squarely applies to this case since the two male assailants who were both armed with knives surrounded the unarmed Marites and stabbed her multiple times, which led to her death.

Based on the foregoing, the Court holds that the appellate court did not err in affirming the decision of the trial court that accused-appellant is guilty beyond reasonable doubt of the crime of Murder and penalized with *reclusion perpetua*.

Proper Indemnities

It is jurisprudentially settled that when death occurs due to a crime, the following may be recovered: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.⁵³ For crimes like Murder where the penalty imposed is *reclusion perpetua*, the nature and amount of damages that may be awarded are: PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 75,000.00 as exemplary damages, among others.⁵⁴ In line thereto, We sustain the awards of PHP 75,000 as civil indemnity and PHP 75,000.00 exemplary damages. In addition, an award of PHP 75,000.00 as moral damages is proper.

⁵⁰ *People v. Toro*, G.R. No. 245922, January 25, 2021.

⁵¹ *People v. Serafin*, G.R. No. 246197, July 29, 2020.

⁵² *People v. Corsales*, 472 Phil. 61, 71 (2004).

⁵³ *People v. Moreno*, G.R. No. 191759, March 2, 2020.

⁵⁴ *People v. Jugueta*, 783 Phil. 806, 851 (2016).

Further, this Court finds it proper to award temperate damages in the amount of PHP 50,000.00 in lieu of actual damages. The settled rule is that when the amount of actual damages proven by receipts during the trial is less than the sum allowed by the court as temperate damages, the award of temperate damages in lieu of actual damages is justified.⁵⁵ In connection thereto, prevailing jurisprudence fixes the amount of PHP 50,000.00 as temperate damages in cases where the penalty imposed is *reclusion perpetua*.⁵⁶ Since Marites' heirs were only able to prove, and were awarded actual damages in the amount of PHP 20,000.00, this Court finds it proper to award temperate damages to Marites' heirs, in lieu of actual damages, in the amount of PHP 50,000.00.

Finally, all damages awarded shall earn 6% interest per *annum* from the date of finality of this Resolution until full payment.

WHEREFORE, the appeal is **DISMISSED**. The January 9, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07400 is **AFFIRMED** with **MODIFICATION**. Accused-appellant RIO MAGDALUYO y DELA CRUZ is found **GUILTY** of Murder and sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay the heirs of deceased Marites Marquez the following:

1. PHP 75,000.00 as civil indemnity;
2. PHP 75,000.00 as moral damages;
3. PHP 75,000.00 as exemplary damages; and
4. PHP 50,000.00 as temperate damages.


Interest at the rate of 6% per *annum* shall be imposed on the aggregate amount of the monetary awards computed from the finality of this Resolution until full payment.

⁵⁵ *People v. Moreno*, supra.

⁵⁶ *People v. Jugueta*, supra at 853.

SO ORDERED.” *Inting, J., designated additional Member per Raffle dated November 2, 2022, vice Rosario, J., who recused due to prior participation in the Court of Appeals; Marquez, J., on official business.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *off PH*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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DEC 15 2022

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Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 07400)

The Hon. Presiding Judge
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Antipolo City, 1870 Rizal
(Crim. Case No. 04-29038)

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