



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. 246475 (*People of the Philippines v. Robert Argarin y Bautista*)**.—This is an appeal<sup>1</sup> from the June 18, 2018 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR HC No. 07673 which affirmed the July 29, 2015 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Parañaque City, Branch 195, in Criminal Case No. 10-0563, finding accused-appellant Robert Argarin y Bautista (accused-appellant) guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code.

Accused-appellant was charged with the crime of Murder of Rex Padilla y Penuliar (Padilla). The accusatory portion of the Information<sup>4</sup> dated May 21, 2010, and docketed as Criminal Case No. 10-0563, reads:

That on or about the 20th day of March 2010, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with the use of a PVC pipe with concrete base, did then and there willfully, unlawfully and feloniously attack, assault and hit one REX PADILLA y PENULIAR, by striking the complainant on his face, thereby inflicting upon him serious physical injuries which directly caused his death, the said killing having been attended by the qualifying circumstances of treachery, evident premeditation and abuse of superior strength which qualify such killing to Murder.

CONTRARY TO LAW.<sup>5</sup>

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<sup>1</sup> *Rollo*, pp. 23-25.

<sup>2</sup> *Id.* at 3-22. Penned by Associate Justice Maria Elisa Sempio Diy and concurred in by Associate Justices Jose C. Reyes, Jr. (now a retired Member of the Court) and Pablito A. Perez.

<sup>3</sup> *CA rollo*, pp. 19-26. Penned by Judge Aida Estrella Macapagal.

<sup>4</sup> Records p. 1.

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

On arraignment, accused-appellant entered a plea of “not guilty” to the crime charged.<sup>6</sup>

Thereafter, trial ensued.

The prosecution presented the following as its witnesses: (a) Roselyn S. Gentolia (Roselyn); (b) Dr. Romer Dones (Dr. Dones); and (c) Dr. Anthony Acedillo (Dr. Acedillo).

The testimonies of Imelda Penuliar<sup>7</sup> and arresting officers Police Officer 2 (PO2) Rolly Q. Burgos and PO2 Agripino D. Cervantes regarding the arrest of accused-appellant were stipulated upon by the parties. The execution and genuineness of the affidavit of arrest<sup>8</sup> by the arresting officers was admitted by the defense.<sup>9</sup> Likewise, the testimony of Dr. Roger A. Arcanghel regarding his signature in the victim’s certificate of death was also stipulated upon.<sup>10</sup> Resultantly, the testimonies of the afore-mentioned prosecution witnesses were dispensed with.

The presentation of the testimonies of the victim’s father and brother, Rogelio Padilla (Rogelio) and Vincent Jude P. Padilla (Vincent), respectively, were also dispensed with. The defense stipulated upon the testimony of Rogelio pertaining to the claim for actual damages, presenting receipts<sup>11</sup> covering the hospital and funeral expenses,<sup>12</sup> and the testimony of Vincent<sup>13</sup> referring to the identification of his Affidavit of Complaint<sup>14</sup> as well as the victim’s Certificate of Death.<sup>15</sup>

The defense, on the other hand, presented accused-appellant.

Shortly after, pre-trial was held and terminated. Trial then ensued.

### **Version of the Prosecution**

Roselyn testified that she is the live-in partner of accused-appellant with whom she has a daughter.<sup>16</sup> On January 31, 2010, Roselyn met Rex Padilla (Padilla) at 828 Resto Bar, where she works as a dancer. Padilla eventually became her boyfriend. On March 19, 2010, Roselyn reported for work at 828 Resto Bar from 9:00 p.m. until 4:30 a.m. the following day. In the early

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<sup>6</sup> Id. at 32.

<sup>7</sup> Id. at 275-276.

<sup>8</sup> Id. at 273-274.

<sup>9</sup> Id. at 82.

<sup>10</sup> Id. at 147.

<sup>11</sup> Id. at 288-296.

<sup>12</sup> Id. at 88.

<sup>13</sup> Id. at 110.

<sup>14</sup> Id. at 279-280.

<sup>15</sup> Id. at 285.

<sup>16</sup> TSN, May 4, 2011, p. 4.

morning of March 20, 2010, Roselyn was picked up by Padilla and they decided to go to a motel before Roselyn heads home. While walking along Airport Road, Baclaran, accused-appellant suddenly appeared from behind Padilla and hit the latter on the left side of his nape. Padilla fell on the ground while accused-appellant continued the attack. Roselyn tried to intervene and pacify accused-appellant but to no avail. Thereafter, accused-appellant saw a polymerizing vinyl chloride (PVC) pipe with concrete base (PVC pipe)<sup>17</sup> nearby. Accused-appellant took hold of the PVC pipe and started hitting Padilla with the blows landing on the latter's face. The attack resulted in Padilla lying on the ground face up and unconscious with his eyes bulging, his nose broken and oozing with blood, and his mouth bleeding. When Roselyn tried to intervene again, accused-appellant muttered, "*Ano, ikaw din?*" Accused-appellant then left the scene and Roselyn called for help. Padilla was rushed to the hospital but succumbed to death on March 21, 2010.<sup>18</sup>

Dr. Dones was the physician in charge of Padilla when the latter was rushed to the emergency room. He testified that Padilla arrived in the hospital in a comatose state and suffering from multiple facial deformities on the left side of the face and on the right mandibular area with an injury on the chin area.<sup>19</sup>

Dr. Acedillo was the attending physician of the victim who performed the neurologic examination. He testified that when Padilla was brought to the hospital, he had multiple facial fractures as well as bleeding and multiple contusions in the brain. He opined that judging from the location and severity of the injuries, they were most likely caused by being hit multiple times by a "very hard object." He reduced his findings in writing in the Medico-Legal Certificate<sup>20</sup> which stated that Padilla's cause of death was severe trauma to the head.<sup>21</sup>

### Version of the Defense

Accused-appellant admitted to hitting Padilla but interposed that he merely acted in the heat of passion and obfuscation. He testified that at about 5:00 a.m. of March 20, 2010, accused-appellant went to fetch Roselyn from the bar. He was shocked to find Roselyn with another man (Padilla). He got furious and attacked Padilla causing the latter to fall and hit his head on the pavement. Seeing that Padilla was trying to get up, accused-appellant took a PVC pipe with concrete base (PVC pipe) and used it to hit Padilla's face. Upon seeing a security guard reaching for a gun, he stopped his attack and left

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<sup>17</sup> Records, p. 283.

<sup>18</sup> TSN, February 20, 2011, p. 6-12, 19-26, 29.

<sup>19</sup> TSN, September 16, 2013, p. 8-9, 16.

<sup>20</sup> Records, p. 237.

<sup>21</sup> TSN, February 24, 2014, p. 6, 10, 14.

the scene.<sup>22</sup>

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

On July 29, 2015, the trial court rendered the assailed Decision,<sup>23</sup> the decretal portion of which reads:

WHEREFORE, this court finds the evidence adduced by the prosecution sufficient to prove the GUILT of accused Roberto Argarin Y Bautista BEYOND REASONABLE DOUBT, for the crime of murder, and hereby sentences him to suffer the penalty of reclusion perpetua which carries with it the accessory penalties of civil interdiction for life and that of perpetual absolute disqualification which he shall suffer even though pardoned unless the same shall have been expressly remitted therein.

Accused is likewise ordered to pay the heirs of the victim the amounts of Forty Four Thousand Eight Hundred Ninety Seven and 5/100 (Php44,897.05) Pesos, as actual damages; Seventy Five Thousand (Php75,000.00) Pesos, as civil indemnity ex delicto; Fifty Thousand (Php50,000.00) Pesos, as moral damages; and Thirty Thousand (Php30,000.00) Pesos, as exemplary damages.

The City Jail Warden of Para[ñ]aque City is hereby ordered to transfer the custody of said accused to the Bureau of Corrections, National Bilibid Prisons, Muntinlupa City, immediately upon receipt of this Decision.

SO ORDERED.<sup>24</sup>

Aggrieved by the RTC's Decision, accused-appellant appealed to the CA.<sup>25</sup>

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

Accused-appellant assailed his conviction stating that the prosecution failed to prove treachery since there was no evidence to prove that his attack on Padilla was deliberately planned. He posits that upon seeing Roselyn in the arms of another man, he was blinded by passion and obfuscation pushing him to assault Padilla but never intended to kill him. Thus, he averred that he should only be convicted of a lesser crime of homicide with the mitigating circumstance of passion and obfuscation.<sup>26</sup>

On June 18, 2018, the appellate court affirmed accused-appellant's conviction and held that the prosecution was able to prove his guilt beyond reasonable doubt for Murder. The CA likewise modified the amounts of moral

<sup>22</sup> Judicial Affidavit, Robert Argarin, records, pp. 356-358.

<sup>23</sup> CA *rollo*, pp. 19-26.

<sup>24</sup> Id. at 25-26.

<sup>25</sup> Id. at 27-28.

<sup>26</sup> Accused-Appellant's Brief, id. at 47-63.

and exemplary damages and imposed legal interest on the damages awarded. The dispositive portion of the CA's Decision<sup>27</sup> reads:

WHEREFORE, premises considered, the instant Appeal filed by herein accused-appellant Robert Argarin y Bautista is DENIED. The assailed Decision dated July 29, 2015 of Branch 195, Regional Trial Court of Parañaque City in Criminal Case No. 10-0563 is AFFIRMED with MODIFICATION.

Accused-appellant Robert Argarin y Bautista is hereby found GUILTY beyond reasonable doubt of the crime of Murder as defined and punished under Article 248 of the Revised Penal Code (RPC) and is accordingly sentenced to suffer the penalty of reclusion perpetua with all its accessory penalties. Accordingly, accused-appellant shall not be eligible for parole. Furthermore, accused-appellant Robert Argarin y Bautista is hereby ORDERED to pay the heirs of the victim, Rey Padilla y Penuliar, the following:

- (1) forty-four thousand eight hundred ninety-seven pesos and 5/100 centavos (PhP44,897.05) as actual damages;
- (2) seventy-five thousand pesos (PhP75,000.00) as civil indemnity;
- (3) seventy-five thousand pesos (PhP75,000.00) as moral damages; and
- (4) seventy-five thousand pesos (PhP75,000.00) as exemplary damages.

All monetary awards for damages shall earn interest at the legal rate of 6% per annum from the date of the finality of this Decision until such amounts shall have been fully paid. Costs against accused-appellant.

SO ORDERED.<sup>28</sup>

Hence, this appeal.

### **Issue**

The issue before the Court is whether the CA erred in affirming accused-appellant's conviction for the crime of Murder.

### **Our Ruling**

Accused-appellant adopts the arguments that he raised before the appellate court, that is, 1) there is no treachery involved in the attack as the same was not pre-planned but spontaneous and was a result of seeing Roselyn in the arms of another man; and 2) even assuming that the prosecution was

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<sup>27</sup> *Rollo*, pp. 3-22.

<sup>28</sup> *Id.* at 20-21.

able to prove the elements of Murder, the appellate court should have taken into consideration the mitigating circumstance of passion and obfuscation in his conviction.

The appeal is without merit.

Accused-appellant was charged with Murder qualified by treachery. Art. 248 of the RPC states:

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, x x x.

In order to successfully prosecute Murder, the following elements must be proven, to wit: (1) a person was killed; (2) the accused killed him; (3) the killing was attended by any of the qualifying circumstances mentioned in Art. 248 of the RPC; and (4) the killing is not parricide or infanticide.<sup>29</sup>

In the case at bar, the only point of contention is whether the qualifying circumstance of treachery was proven.

For treachery to be appreciated, two requirements must be present: (1) the victim was in no position to defend himself or herself when attacked; and (2) the assailant consciously and deliberately adopted the methods, means, or form of one's attack against the victim.<sup>30</sup>

The essence of treachery consists of the sudden and unexpected attack on an unguarded and unsuspecting victim without any ounce of provocation on his or her part. The Court has held that the qualifying circumstance of treachery does not require that the perpetrator attack his or her victim from behind. Even a frontal attack could be treacherous when unexpected and on an unarmed victim who would be in no position to repel the attack or avoid it.<sup>31</sup> Treachery cannot be presumed, it must be proven by clear and convincing evidence.<sup>32</sup>

In this case, the presence of treachery was sufficiently proven. The prosecution established that accused-appellant attacked Padilla from the back while the latter was walking with Roselyn along Airport Road. As testified to by accused-appellant, his attack was brought about by him witnessing Roselyn

<sup>29</sup> *People v. Bendecio*, G.R. No. 235016, September 8, 2020.

<sup>30</sup> *People v. Natindim*, G.R. No. 201867, November 4, 2020.

<sup>31</sup> *People v. Bendecio*, *supra*.

<sup>32</sup> *People v. Menil*, G.R. No. 233205, June 26, 2019.

walking with Padilla in what he described as “tila naglalambingan.”<sup>33</sup> In other words, Padilla’s attention was with Roselyn and he was not anticipating that he will be assaulted. In addition, the very testimony of accused-appellant disclosed that he ensured that Padilla was not able to defend himself. When accused-appellant first landed a punch on the face of Padilla, the latter fell on the ground during which time accused-appellant continued attacking the victim. Seeing Padilla trying to get up, accused-appellant picked up a PVC pipe with a concrete base and started hitting his victim.<sup>34</sup>

The attack resulted in Padilla suffering from multiple facial fracture and severe traumatic brain injury.<sup>35</sup> Thus, the claim of accused-appellant that he did not intend to kill Padilla is belied by the the severity of the injuries that the victim sustained. As testified to by Dr. Acedillo, in his almost 30 years of experience as a doctor, he had not seen a victim survive or recover from such a severe injury.<sup>36</sup>

Taking these instances into account, the sudden and unexpected attack on Padilla rendering him unable to react or defend himself and the extent of the injuries he suffered constitute treachery.

The claim of the mitigating circumstance of passion and obfuscation deserves scant consideration.

For passion and obfuscation to exist, the following must concur:

1. that there be an act, both unlawful and sufficient to produce such condition of mind; and
2. that said act which produced the obfuscation was not far removed from the commission of the crime by a considerable length of time, during which the perpetrator might recover his normal equanimity.<sup>37</sup>

There is passional obfuscation when the crime was committed due to an uncontrollable burst of passion provoked by prior unjust or improper acts, or due to a legitimate stimulus so powerful as to overcome reason. The obfuscation must originate from lawful feelings. The turmoil and unreason which naturally result from a quarrel or fight should not be confused with the sentiment or excitement in the mind of a person injured or offended to such a degree as to deprive him or her of his or her sanity and self-control. The excitement which is inherent in all persons who quarrel and come to blows does not constitute obfuscation.<sup>38</sup>

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<sup>33</sup> Judicial Affidavit, Robert Argarin, Question No. 17, records p. 356.

<sup>34</sup> Id. at p. 357, Question Nos. 24-27.

<sup>35</sup> Medico-Legal Certificate, records, p. 297.

<sup>36</sup> TSN, February 24, 2014, p. 16.

<sup>37</sup> *People v. Lobino*, 375 Phil. 1065, 1074 (1999).

<sup>38</sup> *People v. Sabalberino*, G.R. No. 241088, June 3, 2019.

We note that when accused-appellant saw Padilla and Roselyn, the two were just walking along Airport Road allegedly acting sweetly with each other. Given that accused-appellant was well aware of the nature of Roselyn's job as a dancer in a bar, seeing her walk in the arms of another person, even if accused-appellant considered them to be sweet with each other, will not cause the passion or obfuscation contemplated under the law.

As to penalty, We find that the proper imposable penalty is *reclusion perpetua*. The phrase "without eligibility for parole" should be deleted as there is no aggravating circumstance proven in this case. As clarified in A.M. No. 15-08-02,<sup>39</sup> "without eligibility for parole" is used to qualify the penalty of *reclusion perpetua* only if the accused would have been sentenced to suffer the death penalty were it not for the enactment of Republic Act No. 9346.<sup>40</sup>

As regards the award of damages, the CA correctly affirmed the award of civil indemnity and modified the awards of moral damages and exemplary damages as well as impose legal interest in accordance with jurisprudence.<sup>41</sup>

However, We deem it proper to award temperate damages instead of actual damages. The settled rule is that when actual damages proven by receipts during the trial amount to less than the sum allowed by the Court as temperate damages, the award of temperate damages is justified in lieu of actual damages. In the case at bench, prosecution was able to prove actual damages in the amount of ₱44,897.05. Since prevailing jurisprudence now fixes the amount of ₱50,000.00 as temperate damages in Murder cases, the Court finds it proper to award temperate damages in the amount of ₱50,000.00.<sup>42</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The June 18, 2018 Decision of the Court of Appeals in CA-G.R. CR HC No. 07673 is **AFFIRMED with MODIFICATIONS** in that accused-appellant Robert Argarin y Bautista is found **GUILTY** of Murder and sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay the heirs of deceased Rex P. Padilla the following:

1. ₱75,000.00 as civil indemnity;
2. ₱75,000.00 as moral damages;

<sup>39</sup> Entitled "GUIDELINES FOR THE PROPER USE OF THE PHRASE 'WITHOUT ELIGIBILITY FOR PAROLE' IN INDIVISIBLE PENALTIES." Signed: August 4, 2015.

<sup>40</sup> *People v. YYY*, G.R. No. 252865, August 4, 2021.

Republic Act No. 9346 entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES." Approved on June 24, 2006.

<sup>41</sup> *People v. Jugueta*, 783 Phil. 806, 848 (2016).

<sup>42</sup> *People v. Bendecio*, supra note 29.

3. ₱75,000.00 as exemplary damages; and

4. ₱50,000.00 as temperate damages.

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

**SO ORDERED.”** *Marquez, J., on official business.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *off 12/4*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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DEC 15 2022

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(CA-G.R. CR-HC No. 07673)

The Hon. Presiding Judge  
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