



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 4, 2021, which reads as follows:

“G.R. No. 236831 (People of the Philippines, plaintiff-appellee v. Rolando Villanueva alias “Cojim,” Rolando Lumacad alias Lingig, and Bebot Formanes y Aludo, accused; Rolando Lumacad alias “Lingig,” accused-appellant— The Court resolves to **REQUIRE** the Director General of the Bureau of Corrections, Muntinlupa City, to **CONFIRM** to the Court the confinement of accused-appellant in any of its national penal facilities, within five (5) days from notice hereof.

This is an appeal from the Decision¹ of the Court of Appeals (CA) dated July 31, 2017 in CA-G.R. CR-HC No. 02306. The Decision affirmed with modification the Judgment² dated November 12, 2015 of the Regional Trial Court (RTC) of Baybay City, Branch 14. The CA upheld accused-appellant Rolando Lumacad’s (Lumacad) guilt for Murder while accused Rolando Villanueva (Villanueva) was acquitted by the CA of the same charge based on reasonable doubt.

On January 31, 2011, Lumacad, Villanueva, and Bebot Formanes y Aludo (Formanes) were charged as follows:

That on or about the 4th day of September, 2010, in the Municipality of Albuera, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another, with deliberate intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and strike Armando Velarde with the use of bladed weapon, which they provided themselves for the purpose, thereby inflicting upon said Armando Velarde multiple hack wounds on the head which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the victim.

¹ Penned by Associate Justice Edward B. Contreras, with the concurrence of Associate Justices Edgardo L. Delos Santos (now a retired Member of this Court) and Gabriel T. Robeniol; *rollo*, pp. 4-15

² Penned by Presiding Judge Carlos O. Arguelles; *CA rollo*, pp. 40-59.

CONTRARY TO LAW.³

Lumacad and Villanueva were arrested on October 5 and October 6, 2011, respectively, while Formanes remains at large. Lumacad and Villanueva pleaded not guilty to the crime charged. During the preliminary conference, the parties stipulated on the following:

1. The identities and persons of Lumacad and Villanueva who were arraigned on November 24, 2011 are the accused in this case;
2. Formanes is Lumacad and Villanueva's co-accused;
3. Lumacad and Villanueva know each other but Formanes is unknown to them; and
4. Lumacad and Villanueva are residents of Sitio Naga, Barangay (Brgy.) Tinag-an, Albuera, Leyte.⁴

Trial on the merits then ensued.

The prosecution presented: (i) Beatriz Geronda Velarde (Beatriz); (ii) Armand Geronda Velarde (Armand); (iii) Antonio Dumandan Velarde (Antonio); (iv) Eugenio Pantallo Dorog (Dorog); and (v) Dr. Noemi D. Mencioner (Dr. Mencioner) as its witnesses.⁵

Beatriz stated that on September 4, 2010 at 3:00 p.m., she was at the back area of their home washing clothes while her husband, the victim Armando Velarde (Armando), was sleeping at their hut which was five fathoms⁶ away from their house's front porch. Armand -- Beatriz and Armando's son -- told his mother that Lumacad and Formanes arrived to buy a coconut tree from his father. Armand woke up Armando and the latter spoke with Lumacas and Formanes. Thereafter, Armando, Lumacad, and Formanes left for the coconut plantation which was half a kilometer away from their house. Since Armando has not returned as of 7:00 p.m. of the same day, Beatriz asked Armand to go to the pasture where their carabao used to graze to look for Armando. Armand, however, failed to find Armando.⁷

On the following day at 7:00 a.m., Beatriz sought her neighbors' help to find Armando. Armando's lifeless body -- with multiple wounds on his head, face, and neck -- was found at a grassy portion of the coconut plantation.⁸ Bothered by their conscience, Antonio and Dorog: (i) shared to Beatriz what they knew of the killing incident; and (ii) went with Beatriz and Armand to the police station.⁹ Beatriz testified that she personally knew Villanueva and Lumacad because they are from the same place. On the other hand, she does

³ Records, p. 1.

⁴ Id. at 47.

⁵ CA rollo, p. 41.

⁶ 1 fathom = 6 feet = 1.8288 meters.

⁷ TSN dated June 28, 2012, pp. 4-6.

⁸ Id. at 6-7.

⁹ Id. at 7-9.

not know Formanes personally but only knows him as someone who passes by their place to buy coconut lumber.¹⁰ She presented a receipt showing that she spent ₱50,000.00 for the funeral services of her husband Armando, a tenant-farmer.¹¹

On cross-examination, she revealed that although she did not see Formanes and Lumacad when they passed by their house on September 4, 2010, she heard their voices when they were talking. On re-direct examination, she stated that she was familiar with Lumacad's voice but not with Formanes'.¹²

Armand corroborated Beatriz' narration of events. He disclosed that it was Formanes who approached him and told him that Formanes and Lumacad intended to buy coconut lumber. His father and Formanes talked briefly before Armando, Formanes, and Lumacad left and went uphill the mountain towards the coconut plantation.¹³ His father's corpse, full of blood and with a deformed face, was found at a grassy area underneath coconut trees 400 meters away from their house. From that distance, Armand stated that one can no longer hear anyone screaming or yelling even at the top of their voice.¹⁴ Armand recognized and identified Formanes, as the same person who went to their house with Lumacad on September 4, 2010, after going through pictures at the police station.¹⁵

On cross-examination, Armand stated that he was the one who discovered the body of his father. On clarificatory questions by the RTC, Armand shared that he witnessed Armando with Lumacad and Formanes to the coconut plantation and the latter were the last persons he saw with the victim. Lumacad and Villanueva went twice to their home. Beatriz saw them the first time they came, and it was Armand who saw them the second time around. Armand revealed that the police authorities have on file pictures of Formanes because the latter is a known hired killer and a fugitive from justice.¹⁶

Antonio testified that at 8:00 p.m. of August 30, 2010, he was doing carpentry work at Villanueva's house when he saw Villanueva handing money to Lumacad and Formanes, and ordering them to "kill that person."¹⁷ On cross-examination, Antonio divulged that Armando is his uncle. He admitted that when Villanueva handed money to Lumacad, Villanueva did not mention the name of the person whom Lumacad and Formanes were going to kill.¹⁸

¹⁰ Id. at 9.

¹¹ Id. at 12-13.

¹² Id. at 15-17.

¹³ TSN dated March 12, 2013, pp. 4-5.

¹⁴ Id. at 7-9.

¹⁵ TSN dated June 26, 2013, pp. 22-23.

¹⁶ Id. at 28-34.

¹⁷ TSN dated August 28, 2013, pp. 39-47.

¹⁸ Id. at 46-47.

Dorog testified that at 3:30 p.m. of September 4, 2010, he was attending to his rice field when the group of Armando, Lumacad, and Formanes passed by walking uphill. Lumacad told Dorog that he will be killed next. Fearful for his life and safety, Dorog decided to go home and saw – from three fathoms away – Lumacad hack Armando's shoulders using a long bolo. Dorog shared that at that moment, Armando tried to defend himself using his hand. Dorog hurriedly went home. Lumacad is his neighbor while he does not personally know Formanes.¹⁹

On cross-examination, Dorog confirmed that he immediately went home after Lumacad threatened his life. The place where Armando's body was found is three fathoms away from his rice land. On re-direct examination, Dorog divulged that he heard a cry and instead of investigating what it was, he hid out of fear.²⁰

Dr. Mencidor conducted the post-mortem examination on the victim at 2:00 p.m. of September 5, 2010 and found 15 wounds thereon:²¹

1. Hacking wound, 4.5cm x 1cm, bone deep, forehead, left side.
2. Hacking wound, 10cm x 2cm, with bone and tooth fracture, face, left side, lateral to the nose.
3. Hacking wound, 9cm x 1.5cm with bone fracture, forehead, left side, above the eyebrow, penetrating the cranial cavity, exposing the brain tissues.
4. Hacking wound, 4cm x 2cm, left ear.
5. Hacking wound, 11cm x 2cm, with bone fracture, forehead, right side, penetrating the cranial cavity, exposing the brain tissues.
6. Hacking wound, 5cm x 1.5cm, with bone fracture, face, right side, medial to right eye.
7. Hacking wound, 10cm x 3cm, with bone fracture, face, right side, [a]lateral to right eye, penetrating the cranial cavity, exposing the brain tissues.
8. Hacking wound, 7cm x 1.5cm, with bone fracture, face, right side, parallel to wound # 7, penetrating the cranial cavity, exposing the brain tissues.
9. Hacking wound, 12cm x 2cm, with bone fracture, head, left side, penetrating the cranial cavity, exposing the brain tissues.
10. Hacking wound, 12cm x 2cm, bone deep, head, left side, occipital area.
11. Hacking wound, 14cm x 2cm x 2.5cm, head, left side, occipital area.
12. Hacking wound, 10cm x 3cm x 5cm, neck, left side, with bone fracture, cutting the blood vessels and muscles.
13. Incised wound, 5cm x 1.5cm, skin deep, neck anterior, right side.

¹⁹ TSN dated February 25, 2014, pp. 4-7.

²⁰ Id. at 10-12.

²¹ TSN dated September 1, 2014, pp. 17-18

14. Incised wound, 3.5cm x 1.5cm, skin deep, chest anterior, right side, anterior axillary area.
15. Hacking wound, 6cm x 1cm, left hand, dorsum, cutting the tendons and muscles.²²

On cross-examination, Dr. Mencidor bared that she found maggots on the victim's body and she did not anymore conduct an autopsy examination thereon. On re-direct examination, she mentioned that at the time she examined the body, it has not yet decomposed. When asked by the RTC, she declared that wound numbers 3, 5, 7, 8, 9, and 12 were fatal because they caused fractures exposing the brain tissues. Nobody would survive those wounds even if given immediate medical attention.²³

For their defense: (i) Vicente Cretesio Blansa (Blansa); (ii) Lumacad; and (iii) Villanueva took the witness stand.²⁴

Blansa testified on the events that happened on September 4, 2010. At 2:00 p.m. of that day, he went to the cockpit of Brgy. Antipolo, Albuera, Leyte with Lumacad and the latter's wife. The three of them left the cockpit later at 4:00 p.m. and proceeded to Blansa's home and cooked the fighting cock that they had won. Lumacad and his wife left his house at 7:00 p.m. Blansa admitted that Lumacad and Villanueva are his friends.²⁵

On cross-examination, Blansa claimed to have forgotten what day September 4, 2010 was when there was a cockfight in his barangay. Blansa was unaware that the body of the victim was found in Brgy. Tinag-an although the latter and Brgy. Antipolo are adjacent to each other. On clarificatory questions by the RTC, he imparted that he and Lumacad heard that someone was killed in Brgy. Tinag-an while they were at the cockpit. Blansa stated that he is single.²⁶

For his defense, accused-appellant Lumacad corroborated Blansa's narration of events. He alleged, however, that they were joined by Blansa's wife while they were at Blansa's home. On cross-examination, he alleged that he attended the victim's vigil before he left for Caloocan City on September 8, 2010 since his brother offered him work. He knew Dorog for a very long time and they are in good terms with each other. He is friends with his co-accused Villanueva but they are not close. He professed that Blansa is his brother-in-law that is why he requested the latter to testify in his favor.²⁷

On clarificatory questions by the RTC, Lumacad maintained that he did not know that he was charged for the death of Armando until he was arrested a year after while working in Caloocan. None of his relatives informed him of

²² Records, p. 54.

²³ TSN dated September 1, 2014, pp. 20-24.

²⁴ CA *rollo*, p. 45.

²⁵ TSN dated March 11, 2015, pp. 4-6.

²⁶ *Id.* at 6-13.

²⁷ TSN dated April 29, 2015, pp. 18-23.

that fact although is able to communicate with his father-in-law using a cellular phone.²⁸

On the other hand, Villanueva alleged that he left for Manila on August 12, 2010 to look for work and stayed thereat until his arrest on October 6, 2011. He knew that Armando is already dead and claimed that he had no quarrel with the latter prior to his death. On cross-examination, he averred that he went to Manila on different occasions. He does not know why Antonio, a carpenter he used to hire for house repair, would testify against him. He denied knowing Formanes but admitted knowing Lumacad as an acquaintance.²⁹

Ruling of the Regional Trial Court

On November 12, 2015, the RTC found Lumacad and Villanueva guilty beyond reasonable doubt of Murder. They were each sentenced to suffer the penalty of reclusion perpetua without the benefit of parole. They were further ordered to pay in solidum ₱50,000.00 as actual damages, ₱75,000.00 as civil indemnity, and ₱50,000.00 as moral damages.³⁰

For the RTC, there was no eyewitness to the commission of the crime but circumstantial evidence pointed to Lumacad and Villanueva's culpability. Antonio saw and heard Villanueva: (i) talking to Lumacad and Formanes; (ii) handing them money; and (iii) instructing them to kill Armando. Prior to Armando's killing, Lumacad threatened Dorog that he will be killed next. Armando's lifeless body was found at the place where he, Lumacad, and Formanes were supposed to go for coconut lumber. Lumacad and Formanes were the last persons seen with the victim when the latter was still alive and they both left Albuera, Leyte after the victim's killing. Their unexplained flight is a badge of guilt.³¹

Villanueva's guilt as a principal by inducement was established by Antonio's testimony. Villanueva was the author of the crime and he conspired with and induced Lumacad and Formanes to commit the same using money. Lumacad and Formanes treacherously killed Armando because they consciously brought him to a secluded place pretending that they will be buying coconut lumber. Unknown to Armando, it was part of a plan to deceive and prevent him from putting up a defense to an impending attack.³²

Aggrieved, Lumacad and Villanueva appealed their conviction to the CA. In their Brief,³³ they argued that while they agree that there were no eyewitnesses who saw the actual commission of the crime, the circumstantial

²⁸ Id. at 24-29.

²⁹ TSN dated August 6, 2015, pp. 30-37.

³⁰ CA *rollo*, p. 59.

³¹ Id. at 48-53.

³² Id. at 54-57.

³³ Id. at 18-38.

evidence was insufficient to convict them of the crime.³⁴ Just because Lumacad was the last person seen with the victim does not make him the latter's killer. The RTC erroneously concluded that Villanueva ordered Lumacad and Formancs to kill Armando since Antonio admitted that he did not hear the name of the person to be killed. The supposed eyewitness, Dorog, consistently declared that he went home after Lumacad allegedly threatened him. If that were so, he wouldn't have seen Lumacad as the victim's slayer.³⁵ The information did not sufficiently allege the factual circumstances or particular acts describing how treachery attended the victim's killing.³⁶

The Office of the Solicitor General (OSG), appearing for the prosecution, asserted that the RTC "found that the prosecution witnesses had credibly and clearly described the interconnected factual circumstances that absolutely incriminated the accused-appellant in the brutal slaying of the victim."³⁷ Their accounts "were positive, clear and consistent in establishing the chain of events leading to the hacking of the victim."³⁸ The OSG noted that the assessment of the witnesses' credibility is best undertaken by the trial court. The OSG added that assuming that the circumstantial evidence presented was insufficient, Dorog positively identified Lumacad as the one who delivered the first blow to Armando. The OSG reminded that an information needs only to state ultimate facts, and the details thereof will be proved during trial. Children of tender age cannot be expected to react or respond like adults. The OSG opined that "the victim was completely helpless and defenseless against the sudden and treacherous attack of the assailants"³⁹ since the latter's pretext as buyers of coconut lumber prevented the unsuspecting victim from putting "up any defense to save his life or retaliate."⁴⁰

Ruling of the Court of Appeals

On July 31, 2017, the CA affirmed Lumacad's conviction while Villanueva was acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt. The CA: (i) affirmed the ₱50,000.00 actual damages award; (ii) increased civil indemnity and moral damages to ₱100,000.00 each; and (iii) imposed exemplary damages in the amount of ₱100,000.00.⁴¹

The CA declared "that the prosecution failed to prove that Villanueva authored the crime"⁴² since the only piece of evidence in proving the latter's participation "is the biased and uncorroborated testimony"⁴³ of the victim's nephew, Antonio. From Antonio's testimony, "it is unclear as to who or what

³⁴ Id. at 26.

³⁵ Id. at 29.

³⁶ Id. at 32, 35.

³⁷ Id. at 82.

³⁸ Id. at 83.

³⁹ Id. at 89.

⁴⁰ Id.

⁴¹ *Rollo*, pp. 13-14.

⁴² Id. at 12.

⁴³ Id.

Villanueva was referring to when he uttered to Lumacad and Formanes, ‘You kill that.’”⁴⁴ Even Dorog’s belated revelation on re-cross examination that Villanueva was following Lumacad and Formanes towards the hill cannot be given weight since Villanueva’s mere presence at the crime scene is not indicative of his guilt. The CA noted the lack of motive on Villanueva’s part to kill Armando since “[t]he prosecution witnesses did not establish that there exists an animosity between Villanueva and the victim.”⁴⁵

For the CA, the prosecution was able to prove the elements of the crime to convict Lumacad of Murder “not only by sufficient circumstantial evidence but also by direct evidence in the person of a disinterested witness,”⁴⁶ Dorog who saw how Lumacad hacked the victim using a long bolo. The CA highlighted the inconsistency between Lumacad and Blansa’s respective testimonies. Lumacad claimed that he and his wife was with Blansa and his wife at Blansa’s home after the cockfight in Brgy. Antipolo. However, Blansa testified that during that time, he was with Lumacad and the latter’s wife only since he is single. Related thereto, Lumacad failed to clearly establish that it would have been physically impossible for him to be at the scene of the crime – Brgy. Tinag-an – since the same is only walking distance from the cockpit where he and Blansa went to in Brgy. Antipolo.⁴⁷

The CA observed that “Lumacad’s act of leaving Brgy. Tinag-an, Leyte, barely three days after the victim’s body was discovered, is suspicious and indicative of guilt. While Lumacad explained that he went to Caloocan City as he was called by his brother who allegedly had a job for him, he was not able to substantiate the same.”⁴⁸ The CA concluded that treachery attended Armando’s killing since Lumacad and Formanes planned the same to guarantee that it will be impossible for Armando to defend himself. From the nature, number and location of the wounds inflicted on the deceased and as testified to by Dr. Mencidor, “6 out of the 15 wounds were fatal and even if there was immediate medical attendance, Armando would still not have survived the hacking.”⁴⁹

Lumacad filed a Notice of Partial Appeal.⁵⁰ Both the OSG and accused-appellant manifested that they will no longer file any supplemental brief.⁵¹

The appeal is without merit.

This Court repeats that “an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or

⁴⁴ Id.
⁴⁵ Id. at 13.
⁴⁶ Id. at 9.
⁴⁷ Id. at 8-10.
⁴⁸ Id. at 10.
⁴⁹ Id. at 11-12.
⁵⁰ Id. at 16-17.
⁵¹ Id. at 24-25, 28-29.

unassigned.”⁵² “The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.”⁵³

Lumacad maintains that the prosecution’s circumstantial evidence is insufficient to convict him. He reasons that just because he was the last person seen with the victim does not equate to him being the victim’s assailant. Dorog, the supposed eyewitness to the hacking incident, lacks credibility since he contradicted his own testimony. Dorog stated that he went home after Lumacad allegedly threatened him – a threat that purportedly happened before Armando was attacked. Lumacad posits the impossibility of Dorog’s identification of him as the killer since Dorog was not there to witness what happened.

It is well-settled “that the assessment of the credibility of witnesses and their testimonies is best undertaken by a trial court, whose findings are binding and conclusive on appellate courts. Matters affecting credibility are best left to the trial court because of its unique opportunity to observe the elusive and incommunicable evidence of that witness’ deportment on the stand while testifying, an opportunity denied to the appellate courts which usually rely on the cold pages of the silent records of the case.”⁵⁴

The RTC was “impressed” with Dorog as a witness although he was of “low intelligence.”⁵⁵ The CA portrayed Dorog as a “disinterested witness” who provided direct evidence to implicate Lumacad as the victim’s assailant.⁵⁶ We find no persuasive reason to overturn these findings.

A careful scrutiny of Dorog’s testimony reveals that there is no inconsistency in his statements that he saw Lumacad strike the victim and that he went home after Lumacad threatened him. Pieced together, Dorog’s declarations paint a picture that before hastily going downhill to go home after Lumacad threatened his well-being, he saw – from three fathoms away – the latter deliver a hacking blow to the victim’s left and right shoulders using a long bolo. Dorog heard a cry and he hid because he was afraid. Based on the Post Mortem Exam Report, Armando suffered hack wounds on the neck, head, and face areas. Dorog likewise disclosed that Armando tried to defend himself using his hand. The Post Mortem Exam Report disclosed that Armando suffered a hack wound on his left hand that severed the tendons and muscles. Indeed, these particular details are known only to someone who witnessed the assault on the victim. The physical evidence reinforces the credibility of Dorog’s narrative.

⁵² *Rivac v. People*, 824 Phil. 156, 166 (2018), citing *People v. Dahil*, 750 Phil. 212 (2015). Citation omitted.

⁵³ *Id.* See *People v. Comboy*, 782 Phil. 187, 196 (2016).

⁵⁴ *Randina v. People*, 687 Phil. 274 (2012) citing *People v. Dahilig*, 677 Phil. 92 (2011).

⁵⁵ CA rollo, p. 52.

⁵⁶ Rollo, p. 9.

A review of the CA decision shows that it did not commit any reversible error in affirming Lumacad's conviction. To successfully prosecute the crime of murder under Article 248⁵⁷ of the Revised Penal Code, 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 Revised Penal Code; and (4) that the killing is not parricide or infanticide.⁵⁸

In this case, the prosecution was able to clearly establish that: (1) the victim was hacked to death; (2) the accused was the principal perpetrator; (3) killing was attended with treachery; and (4) the killing is not parricide or infanticide.

In the instant case, accused-appellant and his companion, Formanes, arrived at the Armando's home, pretended to be buyers of coconut lumber, and went with the victim to the mountain where the plantation was. On the way, accused-appellant threatened Dorog when they casually passed him by while the latter was working in his rice field. Thereafter and without warning, accused-appellant hacked Armando, depriving the latter the opportunity to evade the attack or to properly defend himself since accused-appellant had a bolo tucked on his waist. These circumstances indubitably prove treachery – the execution of the attack gave the victim no opportunity to effectively defend himself or to retaliate, and said means of execution was deliberately adopted by appellant.⁵⁹

Accused-appellant's claim – that the Information did not sufficiently allege the attendance of treachery – has no probative value since the records show that he failed to question the sufficiency of the Information by availing any of the remedies provided under the procedural rules, either by filing a motion to quash – for failure of the Information to conform substantially to the prescribed form⁶⁰ – or by filing a motion for bill of particulars.⁶¹ By doing so, he is deemed to have waived any of the waivable defects in the Information filed against him.

We are aware of this Court's *En Banc* ruling in *People v. Solar y Dumbrique*,⁶² wherein We enjoined prosecutors to state the ultimate facts relative to a qualifying or aggravating circumstance in which the law uses a broad term to embrace various situations in which it may exist – such as treachery – whenever alleged in an Information. However, We clarified in

⁵⁷ 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 temporal 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[.] (Emphasis supplied).

⁵⁸ *People v. Cusemire*, G.R. No. 231122, January 16, 2019.

⁵⁹ *Id.*

⁶⁰ RULES OF COURT, Rule 117, Sec. 3(e).

⁶¹ RULES OF COURT, Rule 116, Sec. 9.

⁶² G.R. No. 225595, August 6, 2019.

Solar that “[f]or cases in which a judgment or decision has already been rendered by the trial court and is still pending appeal, the case shall be judged by the appellate court depending on whether the accused has already waived his right to question the defective statement of the aggravating or qualifying circumstance in the Information, (*i.e.*, whether he previously filed either a motion to quash under Section 3(e), Rule 117, or a motion for a bill of particulars)[.]”⁶³

As to the penalty imposed, the RTC and the CA were correct in imposing the penalty of *reclusion perpetua* without the eligibility of parole under Section 3 of Republic Act No. 9346.

Following this Court's ruling in *People v. Jugueta*,⁶⁴ the civil indemnity, moral damages, and exemplary damages awarded in the questioned Decision is hereby reduced to ₱75,000.00 each.

WHEREFORE, the instant appeal is **DISMISSED**. The Decision dated July 31, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 02306 is **AFFIRMED with MODIFICATION**. Accused-appellant Rolando Lumacad alias “Lingig” is found **GUILTY** beyond reasonable doubt for the crime of Murder and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole.⁶⁵ Accused-appellant is **ORDERED** to pay the heirs of the victim: (1) ₱75,000.00 as civil indemnity; (2) ₱75,000.00 as moral damages; (3) ₱75,000.00 as exemplary damages; and (4) ₱50,000.00 as actual damages.

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

SO ORDERED.” (J. Lopez, J., designated as Additional Member per Special Order No. 2834 dated July 15, 2021.)

By authority of the Court:

MisDeBatt
MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court *JB 5/11/22*

⁶³ Id.

⁶⁴ 783 Phil. 806 (2016).

⁶⁵ In accordance with A.M. No. 15-08-02-SC pursuant to Sec. 3. of R.A. No. 9346.

Special & Appealed Cases Service
PUBLIC ATTORNEY'S OFFICE
Counsel for Accused-Appellant
3rd Floor, Taft Commercial Center
Metro Colon Carpark
Osmena Boulevard,
6000 Cebu City

COURT OF APPEALS
CA GR CR-HC No. 02306
Cebu City

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 14, Baybay City
6521, Leyte
(B-11-02-23)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 236831

per

JP


(132)
URES