



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

N O T I C E

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 31, 2022** which reads as follows:*

“G.R. No. 253612 (People of the Philippines, plaintiff-appellee v. Nelson De Torres y Landicho, accused-appellant). – Assailed in this ordinary appeal¹ is the Decision² dated August 30, 2019 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 10638, which affirmed the Judgment³ dated January 18, 2018 of the Regional Trial Court of Lucena City, Quezon, Branch 53 (RTC) finding accused-appellant Nelson De Torres y Landicho (Nelson) guilty beyond reasonable doubt of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended.

The Facts

This case stemmed from an Information⁴ filed before the RTC charging Nelson with the aforesaid crime, the accusatory portion of which reads:

That on the 1st day of June 2013, at Barangay Bignay 1, in the Municipality of Sariaya, [Province of] Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with treachery by suddenly stabbing Efren Peria y Ramos without giving opportunity to the said victim to defend himself, thereby causing mortal injury on said Efren Peria y Ramos which resulted [in] the latter’s untimely death.⁵

¹ See Notice of Appeal dated September 16, 2019, *rollo*, pp. 17-19.

² *Id.* at 3-16. Penned by Acting Presiding Justice Remedios A. Salazar-Fernando with Associate Justices Samuel H. Gaerlan (now a Member of the Court) and Germano Francisco D. Legaspi, concurring.

³ *CA rollo*, pp. 48-52. Penned by Presiding Judge Dennis Galahad C. Orendain.

⁴ *Rollo*, p. 4.

⁵ *Id.*

The prosecution alleged that at around 3:00 a.m. on June 1, 2013, eyewitness Benito Ramos (Benito) and the victim, Efren Peria y Ramos (Efren), were at a chapel in Barangay Bignay I, Sariaya, Quezon for the fiesta celebration. When Benito went out of the chapel, he saw Efren standing at the street with Nelson standing behind him. Benito was surprised when Nelson suddenly stabbed Efren. He then rushed to help Efren, prompting Nelson to immediately flee. Efren was then brought to the hospital where he was declared dead on arrival. According to Efren's wife, Adela Peria, they incurred a total of ₱68,230.00 for Efren's hospitalization and funeral expenses.⁶

For his part, Nelson pleaded not guilty and invoked the defenses of denial and alibi. He averred that on May 31, 2013, he was just at his house in Barangay Bignay I, Sariaya, Quezon, where he went to sleep at around 9:00 p.m. and woke up the next day at 7:00 a.m. Nelson's story was then corroborated by his cousin, Christian Rial. Notably, the defense only admitted the amount of ₱43,695.00 as the total expenses in connection with Efren's death as such amount was well-documented with the proper receipts.⁷

The RTC Ruling

In a Judgment⁸ dated January 18, 2018, the RTC found Nelson guilty beyond reasonable doubt of the crime charged. Accordingly, the RTC sentenced him to suffer the penalty of *reclusion perpetua* and ordered him to pay Efren's heirs the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱30,000.00 as exemplary damages.⁹

The RTC found that the prosecution, through the credible and straightforward testimony of the eyewitness, Benito, had positively identified Nelson as the one who stabbed Efren, resulting in the latter's death. The RTC also appreciated the circumstance of treachery which qualified such killing to Murder, considering that Efren was absolutely unaware of the imminent deadly assault from Nelson; for this reason, he was not able to defend himself or repel his assailant. Finally, the RTC found Nelson's weak defenses of denial and alibi untenable, considering his positive identification as the perpetrator, and the fact that it was not physically impossible for him to be at the *locus criminis* at the time of the commission of the crime.¹⁰

Aggrieved, Nelson appealed to the CA.

⁶ Id. at 5.

⁷ Id. at 5-6.

⁸ CA *rollo*, pp. 48-52. Penned by Presiding Judge Dennis Galahad C. Orendain.

⁹ Id. at 52.

¹⁰ Id. at 49-52.

The CA Ruling

In a Decision¹¹ dated August 30, 2019, the CA affirmed the RTC ruling with modification, increasing Nelson's civil liability *ex delicto* to ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) per annum from finality of the ruling until full payment.¹²

Essentially affirming the RTC's findings, the CA held that based on the eyewitness account of Benito, the prosecution was able to satisfactorily prove that Nelson was the one who killed Efren. Further, the CA ruled that the qualifying circumstance of treachery was correctly appreciated, considering that: (a) Nelson stabbed Efren, who was just standing near the road; (b) the stab wound was located at the upper right portion of Efren's back; (c) per testimony of Benito which was corroborated by police reports, the stabbing was done in a very sudden and unexpected manner; and (d) after the stabbing, Nelson immediately fled the scene, taking with him the murder weapon.¹³

Hence, this appeal.

The Issue Before the Court

The issue before the Court is whether or not Nelson is guilty beyond reasonable doubt of the crime of Murder, as defined and penalized under Article 248 of the RPC.

The Court's Ruling

The appeal is without merit.

Pertinent portions of Article 248 of the RPC read:

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, x x x

¹¹ *Rollo*, pp. 3-16. Penned by Acting Presiding Justice Remedios A. Salazar-Fernando with Associate Justices Samuel H. Gaerlan (now a Member of the Court) and Germano Francisco D. Legaspi, concurring.

¹² *Id.* at 15.

¹³ *Id.* at 7-15.

The elements of Murder are the following: (a) that a person was killed; (b) that the accused killed him; (c) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC, which includes treachery; and (d) that the killing is not parricide or infanticide.¹⁴

In this case, the courts *a quo* correctly ruled that all the elements of Murder are present. As may be gleaned from the records of the case, Benito positively and categorically identified Nelson as the one who surreptitiously and suddenly attacked the victim, Efren, which led to the latter's untimely death.

Furthermore, such killing is attended by the qualifying circumstance of treachery. Treachery is defined 'as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to [e]nsure its execution, without risk to the offender arising from the defense which the offended party might make. The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape. In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend [themselves]; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by [them].'¹⁵ In this case, the eyewitness, Benito, saw Nelson snuck behind Efren before launching the fatal attack. As the Court sees it, Nelson consciously and deliberately performed this method of attack to minimize, if not completely avoid, the possibility of Efren retaliating or even defending himself.

Given the foregoing, the Court finds no reason to deviate from the findings of the RTC, as affirmed by the CA, as there is no indication that it overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. In fact, the RTC was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same.¹⁶

Nelson's criminal liability for Murder having been established, suffice it to say that the courts *a quo* correctly sentenced him to suffer the penalty of *reclusion perpetua*, considering that: (a) Article 248 of the RPC prescribes the penalty of *reclusion perpetua* to Death for the crime of Murder; and (b) aside from the qualifying circumstance of treachery, there are no other aggravating circumstances present in this case.

¹⁴ See *People v. Aquino*, 829 Phil. 477 (2018).

¹⁵ *People v. Racal*, 817 Phil. 665, 677-678 (2017), citations omitted.

¹⁶ See *Cahulogan v. People*, 828 Phil. 742 (2018), citing *Peralta v. People*, 817 Phil. 554, 563 (2017).

However, there is a need to modify the monetary awards due to Efren's heirs. Case law instructs that the award of temperate damages in the amount of ₱50,000.00 in Homicide or Murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court, 'as it cannot be denied that the heirs of the victims suffered pecuniary loss although the exact amount was not proved.'¹⁷ Moreover, succeeding case law further provides 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 which is of a lesser amount. Conversely, if the amount of actual damages proven exceeds, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted. The rationale for this rule is that it would be anomalous and unfair for the victim's heirs, who tried and succeeded in presenting receipts and other evidence to prove actual damages, to receive an amount which is less than that given as temperate damages to those who are not able to present any evidence at all.'¹⁸

In this case, records reveal that the ₱43,695.00 worth of expenses in connection with Efren's death was well-documented with the proper receipts.¹⁹ Since this amount is less than the sum allowed by jurisprudence to be awarded as temperate damages, then it is only proper to award ₱50,000.00 as temperate damages to the victim's heirs. This award is in addition to the awards of civil indemnity, moral damages, and exemplary damages amounting to ₱75,000.00 each, which were correctly imposed by the CA pursuant to prevailing jurisprudence.²⁰ Finally, all monetary awards shall earn legal interest at the rate of six percent (6%) per annum from finality of this ruling until full payment.²¹

FOR THESE REASONS, the appeal is **DENIED**. The Decision dated August 30, 2019 of the Court of Appeals in CA-G.R. CR-H.C. No. 10638 is hereby **AFFIRMED with MODIFICATION**. Accordingly, accused-appellant Nelson De Torres y Landicho is found **GUILTY** beyond reasonable doubt of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code. He is sentenced to suffer the penalty of *reclusion perpetua*, with accessory penalties, and ordered to pay the heirs of the victim, Efren Peria y Ramos, the following amounts: (a) ₱50,000.00 as temperate damages; (b) ₱75,000.00 as civil indemnity; (c) ₱75,000.00 as moral damages; and (d) ₱75,000.00 as exemplary damages. All monetary awards shall earn legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment.

SO ORDERED."

¹⁷ *People v. Jugueta*, 783 Phil. 806, 846-847 (2016); citations omitted.

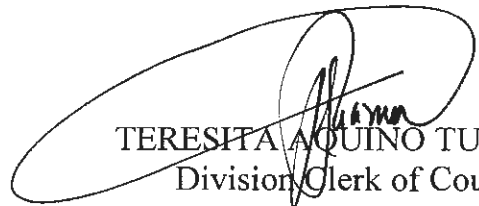
¹⁸ *People v. Racal*, supra at 685-686; citations omitted.

¹⁹ See *rollo*, p. 6.

²⁰ See *People v. Jugueta*, supra.

²¹ See *id.*

By authority of the Court:


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THE DIRECTOR (reg)

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HON. PRESIDING JUDGE (reg)

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(Crim. Case No. 2014-82)

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**with a copy of the CA Decision dated August 30, 2019*

Please notify the Court of any change in your address.

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