



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **February 22, 2023** which reads as follows:

“G.R. No. 239776 (People of the Philippines v. Margell Rosalita y Ipis a.k.a. “Jhonny,” Ericson Abellana y Arile a.k.a. “Butoy” and Alexander Abellana y Largo a.k.a. “Alex” [Dismissed]).—Accused-appellants Margell Rosalita y Ipis a.k.a. “Jhonny” (Jhonny) and Ericson Abellana y Arile a.k.a. “Butoy” (Butoy) appeal the November 24, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02393, which affirmed with modification the October 18, 2016 Decision² of the Regional Trial Court (RTC), 7th Judicial Region, Branch 29 of Toledo City, finding accused-appellants Jhonny and Butoy guilty beyond reasonable doubt of Murder and sentencing them to suffer the penalty of *reclusion perpetua* without being eligible for parole.

The Facts

In an Information³ dated April 2, 2007, accused-appellants were charged with Murder. The information stated:

CRIMINAL CASE No. TCS-5859:

That at around 10 o'clock in the evening of March 30, 2007, in Harden, Carmen, Toledo City, Philippines, and within the jurisdiction of this Honorable Court, said accused, conspiring, confederating and mutually helping each other with intent to kill, evident premeditation, treachery and abuse of superior strength did then and there willfully, unlawfully, and feloniously maul, beat and strike with a piece of stone one BASILIO BASTILLAS thereby inflicting upon him fractured temporal area of the head, right; fractured mandibular area left; contusion

¹ *Rollo*, pp. 4-12. Penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos (now a retired Member of the Court), and Gabriel T. Robeniol.

² Records, pp. 473-484. Penned by Presiding Judge Ruben F. Altubar.

³ Id. at 1.

hematoma, right shoulder area and of chin area, left; bloated abdomen, resulting to his death.

CONTRARY TO LAW.⁴

Upon arraignment⁵ on January 30, 2008, accused-appellants pleaded not guilty. Pre-trial and trial then ensued. During the proceedings, their co-accused, Alexander Abellana y Largo (Abellana), died. In an Omnibus Order⁶ dated March 9, 2012, the lower court dismissed the case against Abellana.

Version of the Prosecution

The prosecution presented witness Juneray Tapil (Juneray), who testified that on March 30, 2007, at around 3:00 p.m., he was at Video-K in Anopog with Jason Lubapis (Jason), the victim, Basilio Bastillas (Bastillas), and Ryan Tapil (Ryan). Abellana was also there. While Bastillas was singing, Butoy tried to grab the microphone from Bastillas, but he was unsuccessful. Butoy then punched Bastillas who, in turn, retaliated. A fistfight ensued. The two eventually were pacified.⁷

Jason also narrated that after breaking the fistfight, while on their way home, they encountered Butoy who was armed with a bolo, and who told them that he would kill them later that night.⁸

Later that night, at around 10:00 p.m., Juneray, Bastillas, and his brother, Nitchel Bastillas (Nitchel), were watching a movie at the store of Anastacio Bastillas (Anastacio) in Harden, Ilihan, Toledo City, when the group of Jhonny, Butoy, Alex, Felipe Parba (Parba), Amel Rosalita (Amel), and Wilfredo Canonigo (Canonigo) arrived. Amel asked Bastillas, who was sitting down, if he was Basil, to which Bastillas answered in the affirmative. Juneray then saw Jhonny hit Bastillas with a stone on the left side of his head. Alex and Butoy joined Jhonny in mauling Bastillas. Eventually, Bastillas fell down a slope. Jhonny, Butoy, and Alex continued to assault Bastillas beside a well. After Jhonny saw Juneray watching the incident, he chased Juneray while armed with a knife. Alex also did the same with Nitchel. Juneray and Nitchel no longer knew what happened to Bastillas. However, the next day, Juneray learned that Bastillas was found dead inside the well near the place where he was attacked by Jhonny, Butoy and Alex the night before.⁹

⁴ Id. at 79.

⁵ Id. at 96.

⁶ Id. at 324.

⁷ *Rollo*, p. 5.

⁸ Id. at 5-6.

⁹ Id. at 6.

Version of the Defense

Jhonny testified that on the night of March 30, 2007, he went to Video-K bar to have drinks. At 9:35 p.m., he approached his friend, Bastillas. To his surprise, Bastillas and his companions ran away. Confused by their behavior, Jhonny decided to go home with Parba, Canonigo, and Alex to continue their drinking session. After their drinking session, they went to sleep.¹⁰

Butoy testified that in the afternoon of March 30, 2007, he was at Video-K in Anopog, Barangay Dumlog, Toledo City. At around 3:00 p.m., Bastillas and his companions Ronie Bastillas, Juneray, Jason, and three other persons, mauled him. He then proceeded to his uncle's house where he had fallen asleep after sustaining injuries. He woke up at 9:00 pm. and decided to head home. On his way home, he chanced upon Basilio, Juneray, Ronnie, Jason, and their other companions who were involved in the earlier mauling incident. Out of fear, he decided to stay put instead of going home. The following day, he was awakened by a police officer who brought him to the police station for investigation.¹¹

Amel, a cousin of Jhonny, testified that at around 10:00 p.m., he was at Video-K in Harden, Barangay Carmen, Toledo City. During that time, he saw Jhonny, Alex, and Butoy going back to Video-K. He also saw people running downhill. At about 15 meters away, he called Jhonny and told him to go home because he was already drunk. Together, they proceeded to Jhonny's house and continued their drinking spree until 10:30 p.m. They slept at Jhonny's house after they became intoxicated.¹²

Ruling of the Regional Trial Court

On October 18, 2016, the RTC rendered its Decision¹³ finding accused-appellants Jhonny and Butoy guilty beyond reasonable doubt of Murder, and sentencing them to suffer the penalty of *reclusion perpetua* without eligibility for parole.¹⁴

The dispositive portion of the RTC Decision reads:

WHEREFORE, in the light of the foregoing, this Court finds the accused, MARGELL ROSALITA y IPIS aka "Jhonny" and ERICSON ABELLANA y ARILE aka "Butoy", guilty beyond reasonable doubt and they are hereby CONVICTED for the crime of Murder and both of them are hereby sentenced to suffer the penalty of RECLUSION PERPETUA without being eligible for parole and they are ordered to jointly and severally pay the heirs of victim Basilio Bastillas the following amounts:

¹⁰ Id.

¹¹ Id. at 6-7.

¹² Id. at 7.

¹³ Records, pp. 473-484.

¹⁴ Id.

1) Seventy Five Thousand Pesos (P75,000.00) as moral damages; 2) Seventy Five Thousand Pesos (P75,000.00) as civil indemnity; 3) Thirty Thousand Pesos (P30,000.00) as exemplary damages; and 4) Twenty Five Thousand Pesos (P25,000.00) as temperate damages. All of said monetary awards shall bear interest at six percent (6%) per annum computed from the finality of the Decision until fully paid.

The preventive imprisonment undergone [sic] by the accused Margell Rosalita and the preventive imprisonment undergone [sic] by accused Ericson Abellana are fully credited in their favor.

With respect to accused Alexander Abellana y Largo a.k.a. "Alex", the case against him was already dismissed per Omnibus Order dated March 9, 2012 in view of his death on February 6, 2012.

With costs against both accused Margell Rosalita and Ericson Abellana.

SO ORDERED.¹⁵

Both accused-appellants appealed.¹⁶

Ruling of the Court of Appeals

On November 24, 2017, the CA affirmed the RTC Decision with modification as to the award of exemplary damages. The CA ruled that: (1) motive, which is important and consequential when the evidence on the commission of the crime is purely circumstantial or inconclusive, was established by the prosecution;¹⁷ (2) the requisite evidence to prove the guilt of the accused beyond reasonable doubt was adduced by the prosecution;¹⁸ and (3) the accused-appellants failed to controvert the evidence of the prosecution and recite the events with consistency.¹⁹

The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated October 18, 2016 of Branch 29 of the Regional Trial Court, Toledo City, Cebu, in Criminal Case No. TCS-5859, finding appellants Margell Rosalita y Ipis aka "Jhonny" and Ericson Abellana y Arile aka "Butoy" guilty beyond reasonable doubt for the crime of murder, is AFFIRMED, with the MODIFICATION that the award of exemplary damages is hereby increased to Seventy Five Thousand Pesos (₱ 75,000.00)

SO ORDERED.²⁰

¹⁵ Id. at 483-484.

¹⁶ *Rollo*, p. 8.

¹⁷ Id. at 9.

¹⁸ Id.

¹⁹ Id. at 10.

²⁰ Id. at 12.

Jhonny and Butoy filed a notice of appeal.²¹

Issue

Whether the CA gravely erred in affirming accused-appellants' conviction for Murder.

Our Ruling

Article 248 of the Revised Penal Code (RPC) reads, as follows:

Art. 248. *Murder*. — Any person who, not falling within the provisions of Article 246²² 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.

2. In consideration of a price, reward or promise.

3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.

4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.

5. With evident premeditation.

6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

In fine, Murder under Art. 248 of the RPC is committed by any person who, not falling within the provisions of Art. 246 (parricide) of the RPC, shall kill another with any of the attendant circumstances enumerated in Art. 248, which include treachery. The crime of Murder is punishable by *reclusion perpetua* to death.

Accused-appellants argue that the trial court erred in giving full credence to the testimony of prosecution witness Juneray, as he did not actually see the three accused inflict fatal blows to the victim.²³

²¹ Id. at 13-14.

²² Art. 246. *Parricide*. — Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of *reclusion perpetua* to death.

²³ *Rollo*, p. 8.



This contention is untenable. As correctly ruled by the CA, a conviction of the accused may be proved by the prosecution either by direct or circumstantial evidence.²⁴

Section 4, Rule 133 of the Rules of Court provides:

Sec. 4. *Circumstantial evidence, when sufficient.* – Circumstantial evidence is sufficient for conviction if:

- (1) There is more than one circumstance;
- (2) The facts from which the inferences are derived are proven;
and
- (3) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.

Here, We agree with the RTC, as affirmed by the CA, that the circumstantial evidence proven by the prosecution sufficiently established that accused-appellants committed the murder of Bastillas.

The following circumstances were established by the prosecution:²⁵

First, Butoy had a fight with the victim, Bastillas, in the videoke bar and this was witnessed by Juneray and Jason.²⁶

Second, Ericson declared “Tonight, I will kill you,” against Bastillas and this was heard by Jason.²⁷

Third, Juneray saw Jhonny hit Bastillas on the head with a rock.²⁸

Fourth, Jhonny, Alex, and Butoy thereafter mauled Bastillas and as a result, Bastillas fell to a sloped area near the well, where the three accused continued mauling Bastillas.²⁹

Fifth, the victim’s dead body was found in the well the following day.³⁰

Circumstantial evidence is sufficient to support a conviction; direct evidence is not always necessary. In reality, due to the inherent attempt to conceal a crime, it is not always possible to obtain direct evidence.³¹

²⁴ Id.

²⁵ Id. at 5-6.

²⁶ TSN, June 18, 2008, pp. 7-8.

²⁷ TSN, June 14, 2009, p. 6.

²⁸ TSN, June 18, 2008, p. 11.

²⁹ *Rollo*, p. 9.

³⁰ Id.

³¹ *People v. Lignes*, G.R. No. 229087, June 17, 2020.

In *People v. Montañez*,³² the Court ruled that if the prosecution adduced the requisite circumstantial evidence to prove the guilt of the accused beyond reasonable doubt, the burden of evidence shifts to the accused to controvert the evidence of the prosecution.

As ruled by the CA, Jhonny and Butoy failed to overturn the evidence of the prosecution.³³

The testimony of the defense witness, Amel, that he saw the three accused walking towards the videoke place was even contradicted by Butoy's testimony that he remained at his uncle's house.³⁴ Moreover, the inconsistencies in the accused-appellants' recital of events leading to the mauling incident created doubt in the mind of the Court regarding the truthfulness of their testimonies.³⁵

Hence, what remains unrebutted on record is the testimony of Juneray positively placing the three accused at the scene of the crime.³⁶

We find no merit in the contention that the testimony of Juneray is unbelievable and contrary to human experience because he did not call for help, nor inform the victim's relatives or police officers that the victim was being mauled. We agree with the CA that such cannot be appreciated since the Court already settled in *People v. Diaz*³⁷ that different people react differently to a certain type of situation, and there is no standard form of human behavioral response when one is confronted with a strange or startling or frightful experience. Witnessing a crime is an unusual experience which elicits different reactions from the witnesses and for which no clear-cut standard form of behavior can be drawn.

Besides, it will be recalled that Juneray was chased by Jhonny with a knife after witnessing Bastillas being hit by a stone just one arm's length away from him, an event that is already traumatic by itself. When Juneray went home and failed to report the incident to the victim's relatives or authorities, Juneray could have been impelled not only by immediate fear but by fear of reprisal.³⁸

Jhonny and Butoy argue that the lower court erred in finding them guilty beyond reasonable doubt because there was a failure to prove the *corpus delicti* since the prosecution witness did not see the entire incident,

³² 469 Phil. 722, 734 (2004).

³³ *Rollo*, p. 9.

³⁴ TSN, March 22, 2013, p. 6.

³⁵ *Rollo*, p. 9.

³⁶ *Id.* at 9-10.

³⁷ 612 Phil. 692, 719 (2009).

³⁸ *Rollo*, p. 10.

and the medico-legal officer who issued the medical certificate was not presented in court.³⁹

This argument fails. The Court held in *People v. Quimzon*:⁴⁰

Corpus delicti is defined as the body, foundation or substance upon which a crime has been committed, e.g. the corpse of murdered man. It refers to the fact that a crime has been actually committed. *Corpus delicti* does not refer to the autopsy report x x x or medical examination. It is made up of two elements: (a) that a certain result has been proved, for example, a man has died and (b) that some person is criminally responsible for the act.⁴¹

Proof of *corpus delicti* is indispensable in prosecutions for felonies and offenses. While the autopsy report of a medico legal expert in cases of murder or homicide is preferably accepted to show the extent of the injuries suffered by the victim, it is not the only competent evidence to prove the injuries and the fact of death. It may be proved by the testimonies of credible witnesses. Even a single witness' uncorroborated testimony, if credible, may suffice to prove it and warrant a conviction therefor.⁴²

The prosecution satisfied both elements in this case as it established the fact of death of Bastillas, and that accused-appellants are responsible for it, based on the testimony of Juneray, which was given full credence by the lower court.⁴³

There is thus no reason to disturb the findings of the lower court regarding the credibility of Juneray. The Court, time and again, ruled that the trial court's assessment of a witness' credibility is accorded great weight, even finality, by appellate courts, absent any showing that the trial court overlooked certain matters that, if taken into consideration, would have materially affected the outcome of the case. The trial courts are in the best position to view a witness' demeanor and deportment during the trial.⁴⁴

The trial court, as affirmed by the CA, correctly imposed the penalty of *reclusion perpetua*. However, the phrase without eligibility for parole should be deleted pursuant to A.M. No. 15-08-02-SC.⁴⁵ Moreover, pursuant to prevailing jurisprudence,⁴⁶ the award of temperate damages should be increased from PHP 25,000.00 to PHP 50,000.00.

³⁹ Id.

⁴⁰ 471 Phil. 182, 192-193 (2004).

⁴¹ Id. Citations omitted.

⁴² Id., citing *Rimorin, Sr. v. People*, 450 Phil. 465 (2003).

⁴³ *Rollo*, p. 11.

⁴⁴ *People v. Rimorin*, 387 Phil. 925-936, 933 (2000).


⁴⁵ Entitled "GUIDELINES FOR THE PROPER USE OF THE PHRASE 'WITHOUT ELIGIBILITY FOR PAROLE' IN INDIVISIBLE PENALTIES." Signed: August 4, 2015.

⁴⁶ *People v. Jugueta*, 783 Phil. 806, 847 (2016).

WHEREFORE, the appeal is **DISMISSED**. The assailed November 24, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 02393, is **AFFIRMED** with **MODIFICATIONS** that the award of temperate damages is **INCREASED** to PHP 50,000.00 and the phrase “without eligibility for parole” is **DELETED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *in 2/1*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

281

MAR 02 2023

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