



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 6, 2022** which reads as follows:*

“G.R. No. 252298 (PEOPLE OF THE PHILIPPINES v. JERIC CUARESMA y PATALUD a.k.a. “JEK-JEK”) — Subject of the present Appeal is the Court of Appeals (CA) Decision¹ dated October 29, 2019 in CA-G.R. CR-HC No. 12297, which affirmed the Decision² dated March 10, 2017 of the Regional Trial Court (RTC) of Valenzuela City, Branch 171, in Criminal Case No. 14-V-13, convicting Jeric Cuaresma y Patalud alias “Jek-Jek” (Jeric) of the crime of murder.

ANTECEDENTS

Jeric, Alvin Manuel y Galiamaso (Alvin), and Jon-Jon Ignacio y Solis (Jon-Jon) were charged with the crime of murder under Article 248 (1) of the Revised Penal Code (RPC), as follows:

That on or about December 30, 2012 in Valenzuela City, Metro Manila and within the jurisdiction of the Honorable Court, the above-named accused, without any justifiable cause, did then and there willfully, unlawfully, and feloniously with intent to kill, abuse of superior strength and treachery, suddenly, simultaneously and unexpectedly maul and stab repeatedly with a bladed weapon one ROGER GONZAGA y CATALAN (victim) who was unarmed, defenseless, unprepared, while on board and driving a motorcycle together with his family along Valdez Compound, Paso De Blas, Valenzuela City, hitting the latter’s trunk which caused his death.

Contrary to law.³

¹ *Rollo*, pp. 3–16. Penned by Associate Justice Apolinario D. Bruselas, Jr., with the concurrence of Associate Justices Nina G. Antonio-Valenzuela and Louis P. Acosta.

² *CA rollo*, pp. 52–71. Penned by Presiding Judge Maria Nena J. Santos.

³ *Id.* at 52.

All accused pleaded not guilty.⁴ Trial on the merits then ensued.

The prosecution established that on December 30, 2012, at about 1:30 in the morning, Roger Gonzaga (Roger) and his wife, Luz, their son, and their neighbor, Louie Suarez (Louie), were on their way home aboard a tricycle driven by Roger along Valdez Compound, Paso De Blas, Valenzuela City. Jeric, who was drunk, suddenly blocked their way. Roger avoided Jeric, but Jeric chased the tricycle and stabbed Roger in the back. Roger alighted from the tricycle, pushed Jeric, and ran. Alvin and Jon-Jon saw the incident and came to help Jeric. The three pursued Roger. When they caught up with him, Alvin and Jon-Jon mauled Roger while Jeric stabbed him twice in the back. The three assailants immediately fled the scene.⁵

Roger was brought to the hospital but was pronounced dead on arrival. The autopsy revealed that he sustained three stab wounds: one in front and two on his back. Police Chief Inspector Jocelyn Padilla Cruz testified that the cause of Roger's death was a stab wound on the anterior or front of the chest, specifically, the middle part or the external portion, *i.e.*, the external region, which is the bone between the right and left chest.⁶ Luz incurred funeral and burial expenses of ₱35,000.00.⁷

For his part, Jeric admitted stabbing Roger thrice but claimed self-defense. He narrated that Roger sideswiped him and shouted invectives at him, which prompted Jeric to stab Roger for the first time. An altercation ensued between them. Jeric asserted that when Roger saw Alvin and Jon-Jon approaching them, Roger pulled out a gun from his tricycle and fired a shot that almost hit Jon-Jon. Jeric admitted that Roger was eventually dispossessed of the gun and ran away, but that he chased after and stabbed Roger twice. Jeric claimed that: (1) he was intoxicated at the time of the incident, (2) he was pissed off because of Roger's attitude, and (3) he did not intend the incident to turn the way it did, calling it an accident.⁸

On March 10, 2017, the RTC found Jeric guilty beyond reasonable doubt of the crime of murder. It found treachery to be present because of the suddenness and deliberate swiftness of the attack, which significantly diminished the risk to the accused that may be caused by the retaliation of the victim. Therefore, the mitigating circumstance of passion and obfuscation cannot be appreciated, as the presence of treachery negates passion and obfuscation. Likewise, no evidence was presented to prove that Jeric's intoxication was not habitual. Thus, it cannot also be considered a mitigating circumstance. On the other hand, the RTC acquitted Alvin and Jon-Jon for the failure of the prosecution to establish their participation in the killing. Thus:

⁴ *Id.* at 53.

⁵ *Id.* at 100-101.

⁶ *Id.* at 57.

⁷ *Id.* at 56.

⁸ *Id.* at 101-102.

PREMISES considered, the Court finds **JERIC CUARESMA Y PATALUD, a.k.a. Jek-jek GUILTY** beyond reasonable doubt of the crime of **MURDER** under 248(1) of the Revised Penal Code. The said accused is hereby ordered to suffer the penalty of imprisonment of **RECLUSION PERPETUA** which is twenty years (20) years as minimum and one (1) day to forty years as maximum.

The preventive imprisonment served by the accused shall be credited in his favor.

As regards **ALVIN MANUEL y GALIAMASO a.k.a. UBAN** and **JON-JON IGNACIO y SOLIS**, the Court resolves to **ACQUIT** them of the charge of **MURDER**.

The Jail Warden is hereby ordered to release accused **ALVIN MANUEL y GALIAMASO a.k.a. UBAN** and **JON-JON IGNACIO y SOLIS**, unless there exists an order from any other Court to the effect that they shall remain in custody.

SO ORDERED.⁹ (Emphasis supplied)

Jeric elevated the case to the CA, assailing the RTC's failure to consider the justifying circumstance of self-defense and the finding of treachery.

In its October 29, 2019 Decision, the CA held that Jeric did not credibly establish that Roger sideswiped him. It gave more credence to the testimonies of Luz and Louie that they were on their way home when all of a sudden, Jeric blocked their path and stabbed Roger. Even assuming that Roger sideswiped Jeric and that while they were arguing, Roger grabbed a gun and fired a shot, the CA noted that Roger was dispossessed of the gun and ran away. It was then that Jeric decided to still chase and stab Roger twice. The CA ruled that the act of stabbing Roger was not material equivalent to his actions. Further, the CA agreed with the RTC that treachery was established. Jeric's act of stabbing Roger in the back was sudden and unexpected, rendering the latter helpless and unprotected. The CA maintained Jeric's conviction for murder and included an award for civil liability, thus:

WHEREFORE, the appeal is **DENIED**. The assailed Decision is **AFFIRMED** with the **MODIFICATION** that the accused-appellant is ordered to pay the heirs of the victim PhP75,000 as civil indemnity, PhP75,000 as moral damages, PhP75,000 as exemplary damages, and PhP50,000 as temperate damages. All the monetary awards shall earn six percent (6%) interest from the date of finality of the judgment until fully paid.

IT IS SO ORDERED.¹⁰

Hence, Jeric filed the present Appeal.

RULING

⁹ Id. at 70-71.

¹⁰ Id. at 111-112.

The Appeal is partly meritorious.

Accused failed to prove self-defense

Jeric admitted stabbing Roger thrice, causing his death. Jeric nonetheless interposed that he was merely acting in self-defense. He claimed that Roger's act of sideswiping him, causing injury to his left leg, taken together with Roger's behavior during the incident, amounted to an unlawful aggression. We do not agree.

It is a hornbook doctrine that when self-defense is invoked, the burden of evidence shifts to the appellant to prove the elements of his claim.¹¹ He must prove by clear and convincing evidence that the killing was attended by the following circumstances: (1) unlawful aggression on the part of the victim, (2) reasonable necessity of the means employed to prevent or repel it, and (3) lack of sufficient provocation on the part of the person defending himself. The accused must establish self-defense with certainty and prove with satisfactory and convincing evidence that excludes any vestige of criminal aggression on the part of the person invoking it. It cannot be appreciated where it was uncorroborated by competent evidence or is patently doubtful.¹²

Of the three elements of self-defense, unlawful aggression is indispensable. Without unlawful aggression, the justifying circumstance of self-defense has no leg to stand on and cannot be appreciated.¹³ Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person. It presupposes actual, sudden, unexpected, or imminent danger, and not merely threatening and intimidating action.¹⁴ The test for the presence of unlawful aggression is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself. The peril must not be an imagined threat.¹⁵

Here, Jeric failed to credibly establish the presence of unlawful aggression on the part of Roger. The RTC, as affirmed by the CA, gave more weight to the testimonies of the prosecution witnesses that they were merely on their way home when Jeric suddenly blocked their way and stabbed Roger, to wit:

[Luz's testimony]

Q What happened when you were at the Valdez Compound with your husband?

A We were on our way home when a drunk male person blocked our way.

x x x x

¹¹ *People v. Guarin*, G.R. No. 245306, December 2, 2020.

¹² *People v. Escobar*, 820 Phil. 92 (2017).

¹³ *People v. Aguila*, G.R. No. 238455, December 9, 2020.

¹⁴ *People v. Escarlos*, 457 Phil. 580-602 (2005).

¹⁵ *People v. Nugas*, 677 Phil. 168-180 (2011).

Q Earlier you said that you were blocked by a drunk person when you were about to go home, what happened next?

A My husband drove the tricycle to avoid the drunk male person.

Q This male drunk person, was he alone at that time when he blocked your way?

A Yes, sir.

Q So, what happened next, after your husband drove the vehicle away from that drunk man?

A The male person chased us and he stab my husband at his back.

Q This vehicle, your tricycle, was it running at that time when this male drunk person was able to overtake and stabbed your husband?

A Yes, sir.¹⁶

[Louie's testimony]

Q How did it happen?

A We were blocked by Jek-Jek.

x x x x

Q You were saying that when your tricycle was about to go out of Valdez compound that is when you were blocked by Jek-Jek, is that what you mean?

A Yes, sir.

Q And what happen after Jek-Jek blocked your way?

A He stabbed Kuya Roger.¹⁷

It bears repeating that the trial court's findings on the credibility of witnesses are entitled to great respect, especially when affirmed by the appellate court, because it has the opportunity to observe the deportment of the witnesses and their manner of testifying.¹⁸ Indeed, the trial court has a first-hand advantage in assessing the value to be given the testimony of a witness.¹⁹

Further, that Roger uttered injurious, insulting, and offensive words at him, no matter how objectionable they may have been, could not constitute unlawful aggression.²⁰ There was no physical, actual, or even imminent unlawful assault done by Roger against Jeric, which would justify Jeric's act of stabbing Roger thrice. Even assuming that there was aggression on the part of Roger when he pulled out a gun from his tricycle, the same eventually ceased when Roger was dispossessed of the gun and ran away. However, Jeric still chased after the fleeing person and stabbed him twice. When the unlawful aggression ended, the one who resorted to self-defense had no more right to kill or wound the former aggressor.²¹

¹⁶ CA rollo, pp. 106-107.

¹⁷ Id. at 107.

¹⁸ *David v. Court of Appeals*, 353 Phil. 170-190 (1998).

¹⁹ *Pagsuyuin v. Intermediate Appellate Court*, 271 Phil. 576-584 (1991).

²⁰ See *People v. Aguila y Rosales*, G.R. No. 238455, December 9, 2020; *People v. Agapinay*, G.R. No. 77776, June 27, 1990; *United States v. Carrero*, G.R. No. L-3959, 9 Phil. 544-551 (1908).

²¹ *People v. So*, 317 Phil. 826-852 (1995).

Treachery was not established

The Court, nonetheless, disagrees that the killing of Roger was treacherous.

There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and especially to ensure its execution, without risk to himself arising from the defense which the offended party might make.²² To establish treachery, the prosecution must prove with clear and convincing evidence the presence of two essential elements: (1) the means of execution employed gave the person attacked no opportunity to defend himself or herself or to retaliate; and (2) the means of execution were deliberately or consciously adopted, *i.e.*, the means, method, or form of execution must be shown to be deliberated upon or consciously adopted by the offender.²³ Furthermore, it must be clearly shown that the method of assault adopted by the aggressor was deliberately chosen to accomplish the crime without risk to the aggressor.²⁴ In other words, it is not enough to merely show that the attack was “sudden,” “unexpected,” or “without any warning or provocation.” The evidence must likewise show that the accused consciously and deliberately adopted the means, methods, and form in executing the crime, which tended directly to ensure such execution without risk to himself.²⁵ Treachery cannot be appreciated when the crime results from a casual encounter.²⁶

In the present case, while the stabbing was sudden and unexpected, it was also impulsive as the encounter between Jeric and Roger was merely casual. The two happened to be traversing the same street at Valdez Compound. The incident occurred in the presence of Roger’s family and neighbor and Jeric’s co-accused Alvin and Jon-Jon. The Court had ruled in several cases that when aid was easily available to the victim, such as when there were several witnesses to the incident, including the victim’s family, no treachery could be appreciated because if the accused indeed consciously adopted means to ensure the facilitation of the crime, he could have chosen another place or time.²⁷ In the circumstances, Jeric did not have an opportunity to plan and deliberately adopt the method of assault to accomplish the crime without risk to himself. He simply used whatever weapon he had on hand. Without treachery, the crime is homicide and not murder.

Intoxication and passion and obfuscation not proven

Intoxication is an alternative circumstance that may either aggravate or mitigate the crime. To be appreciated as a mitigating circumstance, the intoxication should not be habitual or subsequent to the plan to commit the

²² Article 14 (16), RPC.

²³ *People v. Vega*, G.R. No. 216018, March 27, 2019, 899 SCRA 27, 38-39; *People v. Petalino*, 840 Phil. 409 (2018).

²⁴ *People v. Bejo*, 427 Phil. 143-162 (2002).

²⁵ *People v. Enriquez, Jr.*, G.R. No. 238171, June 19, 2019, 905 SCRA 518, 528.

²⁶ *People v. Bacho*, 253 Phil. 451-461 (1989). *See also* *People v. Plaza*, 224 Phil. 413-432 (1985) and *People v. Bado*, 213 Phil. 34-39 (1984).

²⁷ *People v. Aguila*, G.R. No. 238455, December 9, 2020; *People v. Gayon*, G.R. No. 230221, April 10, 2019, 901 SCRA 459; *People v. Bagabay*, 842 Phil. 531 (2018); *People v. Caliao*, 836 Phil. 966 (2018)

crime.²⁸ The accused must establish the state of his intoxication at the time of the commission of the crime and prove that he took such a quantity of alcoholic beverage that would blur his reason.²⁹ Here, no clear evidence was presented to show the degree of Jeric's intoxication or if it affected his reasoning and intelligence. Jeric merely argues that he "was under the influence of alcohol at the time of the incident, which may have blurred his reason and affected his impulse."³⁰ Yet, it is not sufficient to merely claim intoxication. There must be convincing proof of the nature and effect of his intoxication.³¹

The mitigating circumstance of passion and obfuscation, likewise, cannot be appreciated in Jeric's favor. There is passion and 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.³² The Court finds no sudden and unexpected occurrence that could have naturally produced a powerful excitement in Jeric's mind causing him to lose his reason and self-control. On the other hand, after being dispossessed of the gun, Roger ran away, but Jeric still decided to chase after him, after which Jeric inflicted the fatal wound that caused Roger's death. The pain and wounded feeling caused by being sideswiped by a tricycle and the driver being unapologetic could hardly be considered sufficient to cause such an uncontrollable burst of passion or a legitimate stimulus so powerful as to overcome reason which would lead one person to kill another.

Penalty and Damages

Under Article 249 of the RPC, the crime of homicide is punishable by *reclusion temporal*, which shall be imposed in its medium period in the absence of any aggravating or mitigating circumstance. Under the Indeterminate Sentence Law, the maximum of the sentence shall be that which could be properly imposed given the attending circumstances, if any, and the minimum shall be within the range of the penalty next lower in degree to be fixed in any of its periods. The penalty next lower in degree is *prision mayor*. Hence, applying the Indeterminate Sentence Law, the imposable penalty shall be *prision mayor* in any of its periods, which ranges from six (6) years and one (1) day to twelve (12) years, as minimum, to *reclusion temporal* in its medium period, which ranges from fourteen (14) years, eight (8) months, and one (1) day to seventeen (17) years and four (4) months, as maximum. Thus, Jeric is sentenced to suffer the indeterminate penalty of twelve (12) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

Finally, consistent with *People v. Juguetta*,³³ the heirs of Roger are entitled to civil indemnity and moral damages of ₱50,000.00 each. Also, the Court finds it proper to award temperate damages in the amount of ₱50,000.00 "when actual damages proven by receipts during the trial amount to less than the sum allowed

²⁸ *Planos v. People*, G.R. No. 232506, November 18, 2020.

²⁹ *People v. Mat-An*, 826 Phil. 812, 527 (2018).

³⁰ *CA rollo*, p. 48.

³¹ *Licayao v. People*, 571 Phil. 310-330 (2008).

³² *People v. Lab-co*, 424 Phil. 482-505 (2002).

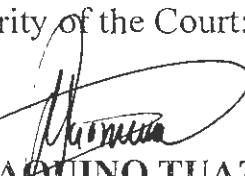
³³ *People v. Juguetta*, 836 Phil. 806 (2016).

by the Court as temperate damages.”³⁴

FOR THESE REASONS, the Appeal is **PARTLY GRANTED**. The Court of Appeals Decision dated October 29, 2019 in CA-G.R. CR-HC No. 12297 is hereby **MODIFIED**. Accused-appellant Jeric Cuaresma y Patalud alias “Jek-Jek” is **GUILTY** of homicide and is sentenced to suffer the indeterminate penalty of twelve (12) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum. He is **DIRECTED** to pay the heirs of Roger Gonzaga y Catalan the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as temperate damages, all with legal interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until full payment.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court *18 3/14*
 14 MAR 2023

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THE DIRECTOR (reg)
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HON. PRESIDING JUDGE (reg)
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³⁴ *People v. Racal*, 817 Phil. 665–686 (2017).