



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 15, 2023** which reads as follows:*

“G.R. No. 258687 (*People of the Philippines v. Petronilo Pelayan y Aquino*).—On appeal<sup>1</sup> is the December 28, 2020 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 13181, which affirmed with modifications the February 11, 2019 Decision<sup>3</sup> of the Regional Trial Court (RTC), Branch 40, Calapan City, Oriental Mindoro, in Criminal Case No. C-3832, finding accused-appellant Petronilo Pelayan y Aquino guilty beyond reasonable doubt of the crime of Murder.

**Antecedents**

On March 8, 1993, accused-appellant was charged with the crime of Murder in an Information<sup>4</sup> which alleged:

That on or about the 17<sup>th</sup> day of January 1993, at around 10:00 o'clock in the evening, at Brgy. Merit, municipality of Victoria, province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a bladed instrument, with intent to kill, with treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab one REYNALDO JAVILLONAR, thereby inflicting upon the latter mortal wounds which were necessarily the direct and proximate cause of his death.

That in the commission of the offense, the aggravating circumstance of treachery was attendant.

Contrary to law.<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 3-5.

<sup>2</sup> *Id.* at 10-21. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Carlito B. Calpatura and Bonifacio S. Pascua.

<sup>3</sup> *Id.* at 23-29. Penned by Acting Presiding Judge Cefelene R. Goco.

<sup>4</sup> *Records*, pp. 1-2.

<sup>5</sup> *Id.* at 1.

Upon arraignment, accused-appellant pleaded not guilty to the offense charged against him.<sup>6</sup> Trial on the merits thereafter ensued.

### **Version of the Prosecution**

Deserie J. Morales (Deserie) narrated that on January 17, 1993, while she was having a conversation with a cousin inside their house in Barangay Merit, Victoria, Oriental Mindoro, she heard her grandmother, Rosalina Javillonar (Rosalina), scream.<sup>7</sup> When Deserie and her cousin peeped through the window, they saw accused-appellant on top of their uncle Reynaldo.<sup>8</sup> From there, Deserie shouted and pleaded for accused-appellant to stop.<sup>9</sup> Her plea went unheeded. Accused-appellant repeatedly stabbed Reynaldo with a knife for around 20 times.<sup>10</sup> The stabbing incident lasted for more or less 30 minutes.<sup>11</sup> Accused-appellant only stopped stabbing Reynaldo when the latter was already lifeless.<sup>12</sup> Thereafter, a neighbor immediately brought Reynaldo to the hospital but the latter was declared dead on arrival.<sup>13</sup>

Dr. Ruben Quimosing (Dr. Quimosing), the Municipal Health Officer of Victoria, Oriental Mindoro, conducted the post-mortem examination on the cadaver of the victim Reynaldo.<sup>14</sup> The Autopsy Report dated January 18, 1993 issued by Dr. Quimosing concluded that the cause of death was “Multiple Stab Wounds – Chest and Back.”<sup>15</sup>

### **Version of the Defense**

Accused-appellant vehemently denied the accusations against him. He proffered that he was forced to defend himself, which caused him to stab the victim.<sup>16</sup> On the date and time of the alleged stabbing incident, accused-appellant narrated that he had a drinking session with Reynaldo and a visitor from Manila.<sup>17</sup> Reynaldo and the visitor from Manila had an altercation.<sup>18</sup> To pacify the two, accused-appellant mediated.<sup>19</sup> Thereafter, accused-appellant and Reynaldo decided to go home.<sup>20</sup> When they reached the road in front of Reynaldo’s house, Reynaldo suddenly punched accused-appellant’s mouth.<sup>21</sup>

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<sup>6</sup> Id. at 39.

<sup>7</sup> TSN, August 10, 2015, pp. 7-8.

<sup>8</sup> Id. at 8-10.

<sup>9</sup> Id. at 10-12.

<sup>10</sup> Id. at 11.

<sup>11</sup> Id. at 12.

<sup>12</sup> Id. at 13.

<sup>13</sup> Id. at 16.

<sup>14</sup> Records, pp. 13-14.

<sup>15</sup> Id. at 13.

<sup>16</sup> TSN, December 3, 2018, p. 4.

<sup>17</sup> Id.

<sup>18</sup> Id. at 5.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Id. at 6.

Exchange of fist blows ensued.<sup>22</sup> Reynaldo hit accused-appellant's left eyebrow.<sup>23</sup> When Reynaldo drew a knife, accused-appellant embraced Reynaldo and in the course of their struggle, they fell on the ground.<sup>24</sup> Accused-appellant landed on top of Reynaldo and the former stabbed the latter.<sup>25</sup> He claimed that he lost control after seeing the sight of blood oozing from the body of Reynaldo.<sup>26</sup>

On cross-examination, accused-appellant averred that he did not surrender to the authorities and evaded his arrest from 1993-2015 for fear of retaliation from the victim's family and relatives.<sup>27</sup>

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

The RTC, in its Decision<sup>28</sup> dated February 11, 2019, found accused-appellant guilty of Murder qualified by treachery.

The RTC disregarded accused-appellant's contention of self-defense in view of the clear and positive identification by Deserie of accused-appellant as Reynaldo's assailant. Moreover, it ruled that treachery attended the commission of the crime because Reynaldo was not in a position to defend himself at the time of attack.

The dispositive portion of the RTC Decision reads:

ACCORDINGLY, in view of the foregoing, this Court finds the accused PETRONILO PELAYAN y AQUINO GUILTY beyond reasonable doubt as principal of the crime of Murder as defined in Article 248 of the Revised Penal Code, and the said accused is hereby sentenced to suffer the indivisible penalty of imprisonment of RECLUSION PERPETUA, with credit for preventive imprisonment undergone, if any, and is hereby ordered to pay the heirs of Reynaldo Javillonar the following sum: ₱50,000.00 as death indemnity, ₱50,000.00 as moral damages, ₱20,000.00 as temperate damages, and ₱30,000.00 as exemplary damages, and to pay the costs of the suit.

SO ORDERED.<sup>29</sup>

Aggrieved, accused-appellant appealed his conviction before the CA.

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<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id. at 7-8.

<sup>25</sup> Id. at 7.

<sup>26</sup> Id. at 8-9.

<sup>27</sup> Id. at 17.

<sup>28</sup> *Rollo*, pp. 23-29.

<sup>29</sup> Id. at 28-29.

## Ruling of the Court of Appeals

In its assailed December 28, 2020 Decision,<sup>30</sup> the CA affirmed the trial court's judgment of conviction with modification as to the award of damages. It sustained the trial court's finding that treachery attended the killing of Reynaldo.

The CA likewise rejected accused-appellant's theory of self defense, holding that without the element of unlawful aggression, there can be no successful invocation of self-defense. Accused-appellant's act went beyond the call of self-preservation when he proceeded to inflict fatal wounds on Reynaldo, even when the alleged unlawful aggression on the part of the latter had already ceased.

Finally, the appellate court ruled that treachery qualified the killing to Murder and thus accused-appellant was properly meted the penalty of *reclusion perpetua*. However, to conform with recent jurisprudence, the appellate court modified the monetary awards and imposed interest.

Thus, the dispositive portion of the CA Decision reads:

ACCORDINGLY, we MODIFY the Decision dated February 11, 2019 of the Regional Trial Court, Branch 40, Calapan City, Oriental Mindoro, in Criminal Case No. C-3832, as follows: we find the appellant Petronilo Pelayan y Aquino GUILTY beyond reasonable doubt of Murder qualified by treachery and sentence the appellant Petronilo Pelayan y Aquino to imprisonment of *reclusion perpetua*, and order the appellant Petronilo Pelayan y Aquino to pay the heirs of the victim Reynaldo ₱75,000.00 (as moral damages), ₱75,000.00 (as civil indemnity), ₱75,000.00 (as exemplary damages), and ₱50,000.00 (as temperate damages), plus interest at the rate of 6% *per annum* from the finality of Decision, until full payment.

SO ORDERED.<sup>31</sup>

Hence, the instant appeal.

### Issue

Whether the CA correctly found accused-appellant guilty beyond reasonable doubt of the crime of Murder

### Our Ruling

We modify.

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<sup>30</sup> Id. at 10-21.

<sup>31</sup> Id. at 20-21.

It is a well-settled rule that an appeal in a criminal case throws the whole case wide open for review and that it becomes the duty of the Court to correct such errors as may be found in the judgment appealed from, whether they are assigned as errors or not.<sup>32</sup> Appeals of criminal cases confer upon the reviewing court full jurisdiction and render it competent to examine the records, revise the judgment from which an appeal arose, increase the penalty, and cite the appropriate penal law provision.<sup>33</sup> Thus, this Court may still review the factual findings of the trial court “if it is not convinced that such findings are conformable to the evidence of record and to its own impressions of the credibility of the witnesses.”<sup>34</sup> Significant facts and circumstances may have been overlooked, which, if properly considered, could affect the result of the case.<sup>35</sup>

After a judicious review of the records of the case, this Court affirms the conviction of the accused-appellant, but only for the crime of Homicide, as the qualifying circumstance of treachery was not proven beyond reasonable doubt.

The lower courts concluded that the act of accused-appellant of going on top of Reynaldo to inflict fatal wounds on the latter was a deliberate and conscious mode of attack chosen by the accused-appellant. The CA further ruled that the attack was treacherous as it did not give Reynaldo the opportunity to defend himself or repel the assault against him. Thus, the killing was qualified by treachery and accused-appellant should be held guilty of Murder.

The Court disagrees.

Paragraph 16, Art. 14 of the RPC provides that 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 specially to insure its execution, without risk to himself or herself arising from the defense which the offended party might make.

For treachery to be appreciated, therefore, the prosecution must establish the attendance of the following essential elements, namely: (1) that the means of execution employed gave the person attacked no opportunity to defend himself or herself, or to retaliate; and (2) that the means of execution were deliberately or consciously adopted, that is, the means, method or form of execution must be shown to be deliberated upon or consciously adopted by the offender.<sup>36</sup>

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<sup>32</sup> *Constantino v. People*, G.R. No. 225696, April 8, 2019, citing *Ferrer v. People*, 518 Phil. 196, 220 (2006).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *People v. Petalino*, 840 Phil. 409, 419 (2018).

Thus, for the killing to be considered Murder, the prosecution must establish that the killing was attended by treachery, or any of the qualifying circumstances. It must be noted that a finding of treachery ought to be as conclusive as the fact of killing itself.<sup>37</sup> Its existence cannot be presumed.<sup>38</sup> The means adopted must have been the result of a determination to ensure success in committing the crime.<sup>39</sup>

In this case, Deserie failed to witness how the attack commenced or how the aggression began and developed. Deserie narrated in this wise:

Q: Do you remember where you were on January 17, 1993, in the evening?

A: Yes, sir.

Q: Where were you at that time?

A: I was in my house in Barangay Merit, Victoria, Oriental Mindoro.

Q: What were you doing inside your house in Barangay Merit, Victoria, Oriental Mindoro?

A: I was in a conversation with one of my cousins who was also an occupant of that house and it was at that time, we were with our grandmother.

Q: Were there other people inside the house?

A: None.

Q: While you were conversing with your cousin inside the house, was there unusual incident that happened at that time, January 17, 1993?

A: Yes, sir. We got surprise because my grandmother was screaming.

Q: Can you remember what was your grandmother screaming about at that time?

A: She was screaming: "*Aldot, ano yan?*"

Q: Was she in loud voice when she said that?

A: Yes, sir.

Q: After that, what happened next?

A: We got surprise [sic] so my cousin and I peeped through the window.

Q: How did you peep through the window?

A: We looked outside through the window, by looking through the window, sir.

Q: When you peeped through the window, by looking through it, can you see the road?

A: Yes, sir.

Q: What did you see when you looked through the window?

A: I saw through the window that Kuya Rony, referring to the accused, was on top of my uncle, "*nakakubabaw*".

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<sup>37</sup> Id.

<sup>38</sup> *People v. Macalindong*, G.R. No. 248202, October 13, 2021.

<sup>39</sup> Id.

Q: When you said "*nakakubabaw*", are you referring that your uncle was lying on his back?<sup>40</sup>

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Q: Can you describe to this Court what do you mean when you said, "*nakakubabaw*"?

A: That my uncle was on lying position at that time with the accused on top of his body and we shouted: "*Tama na Kuya Rony, tama na!*"

Q: What happened next?

A: We continued shouting: "*Tama na, Kuya Ron, tama na!*" but we could not get out of the house.

Q: What was Kuya Rony doing at that time when you were shouting at that time: "*Tama na, Kuya Rony, tama na!*"?

A: That Kuya Rony was repeatedly stabbing my uncle.

Q: What was the accused Petronilo Pelayan using as weapon at that time?

A: It appeared to be a knife.

Q: How many times did Petronilo Pelayan stab your uncle, on your estimate, guess only?

A: For several times, sir.

Q: Can you say thirty (30) times?

A: Around twenty (20) times.

Q: So Petronilo Pelayan was stabbing your uncle Reynaldo Javillonar right in front of your eyes and in front of your cousin and in front of your grandmother?

A: Yes, sir.

Q: For how long did it last, the stabbing of your uncle? How long did it last?

A: For thirty (30) minutes, more or less, sir.

Q: And your uncle was pleading for his life?

A: Yes, sir.

Q: And you were also pleading for your uncle's life?

A: Yes, sir.

Q: And your cousin was also pleading for your uncle's life?

A: Yes, sir.

Q: And also your grandmother?

A: Yes, sir.

Q: When did Petronilo Pelayan stop from stabbing your uncle? When and why?

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<sup>40</sup> TSN, August 10, 2015, pp. 7-9.

A: The accused stopped only when he thought that my uncle was already lifeless and perhaps he was apprehensive that many people would come out.<sup>41</sup>

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Q: Is the accused present inside the courtroom?

A: Yes, sir.

Q: Can you point to him?

A: Yes, sir. (Witness points at accused Petronilo Pelayan inside the courtroom.)

Q: Was he the same person whom you saw when you were 16 years old who was on top of your uncle, stabbing him for thirty (30) minutes?

A: Yes, sir.<sup>42</sup>

From the foregoing testimony of the prosecution witness, Deserie merely identified accused-appellant as the assailant who stabbed Reynaldo to death. Clearly, Deserie did not witness the commencement of the assault. She only saw accused-appellant and the victim already grappling for the weapon and in the course thereof accused-appellant landed on top of the victim. It was only at this point that Deserie saw accused-appellant stab the victim. Thus, as the events prior to the initial attack remained unknown to the prosecution witness, treachery cannot be considered.

In addition, it was not established that accused-appellant deliberately or consciously chose the particular mode of attack he used as to deprive the victim of any opportunity to defend himself. To stress, the essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself.<sup>43</sup> Here, the protagonists were already grappling for possession of the weapon when Deserie first saw them. Thus, as there was no showing that accused-appellant deliberately chose the mode of attack as to not give the victim the opportunity to defend himself or repel the assault against him, the elements of treachery were not proven.

Consequently, since Reynaldo's killing was not attended by any qualifying circumstance that would elevate the crime to Murder, accused-appellant is only guilty of Homicide as defined and penalized under Article 249 of the RPC, viz.:

Art. 249. *Homicide*. — Any person who, not falling within the provisions of Article 246, shall kill another, without the attendance of any of the

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<sup>41</sup> Id. at 10-13.

<sup>42</sup> Id. at 18.

<sup>43</sup> *People v. Bernardo*, G.R. No. 216056, December 2, 2020.



circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

The elements of Homicide are: (a) a person was killed; (b) the accused killed him or her without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of Murder, or by that of Parricide or Infanticide.<sup>44</sup>

Here, accused-appellant was positively identified as the assailant who stabbed Reynaldo to death. Additionally, intent to kill was sufficiently proved. There is certainly no doubt that accused-appellant intended to kill Reynaldo as the stabbing incident lasted for more or less 30 minutes.

In an attempt to exonerate himself, accused-appellant proffered the theory of self-defense. To reiterate, the essential elements of self-defense are the following: (1) unlawful aggression on the part of the victim, (2) reasonable necessity of the means employed to prevent or repel such aggression, and (3) lack of sufficient provocation on the part of the person defending himself or herself.<sup>45</sup> To successfully invoke self-defense, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack.<sup>46</sup> In this case, accused-appellant utterly failed to establish unlawful aggression on the part of the victim. In any event, accused-appellant's act of stabbing the victim more than 20 times went beyond the call of self-preservation. At that time, accused-appellant was already in possession of the weapon and the victim was pinned on the ground incapable of retaliation.

Considering the foregoing, unlawful aggression is certainly lacking; self-defense cannot thus be credited as a justifying circumstance.

We, therefore, conclude that since treachery did not attend the killing of Reynaldo, accused-appellant should only be liable for the crime of Homicide and not Murder.

The penalty for Homicide under Article 249 of the RPC is *reclusion temporal*. In view of the absence of any modifying circumstance, the penalty shall be imposed in its medium period. Applying the Indeterminate Sentence

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<sup>44</sup> *Wacoy v. People*, 761 Phil. 570, 578 (2015).

<sup>45</sup> *Casilac v. People*, G.R. No. 238436, February 17, 2020.

<sup>46</sup> *Id.*

Law,<sup>47</sup> the penalty next lower in degree is *prision mayor* with a range of six (6) years and one (1) day to twelve (12) years.

Thus, accused-appellant shall suffer the indeterminate penalty of ten (10) years of *prision mayor* medium, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal* medium, as maximum.

To conform to prevailing jurisprudence,<sup>48</sup> this Court resolves to modify the damages awarded by the lower courts. Accused-appellant is ordered to pay the heirs of the victim civil indemnity, moral damages, and temperate damages at ₱50,000.00 each. In addition, an interest at the legal rate of 6% per *annum* is imposed on all the monetary awards from date of finality of this judgment until fully paid.

**WHEREFORE**, the appeal is **PARTLY GRANTED**. Accused-appellant Petronilo Pelayan y Aquino is found guilty of **HOMICIDE**, and is sentenced to suffer the indeterminate penalty of ten (10) years of *prision mayor* medium, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal* medium, as maximum.

He is further ordered to pay the heirs of Reynaldo Javillonar the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as temperate damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per *annum* from the date of finality of this Resolution until fully paid.

The Office of the Solicitor General's Manifestation, pursuant to the Resolution dated April 27, 2022, stating that it is dispensing with the filing of a supplemental brief to expedite the resolution of this case and to avoid repetition of the arguments already raised in the appellee's brief filed before the Court of Appeals; and the accused-appellant's Manifestation in lieu of supplemental brief, also pursuant to the Resolution dated April 27, 2022, are both **NOTED**.


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<sup>47</sup> SEC. 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (As amended by Act No. 4225, August 8, 1935)

<sup>48</sup> *People v. Jugueta*, 783 Phil. 806, 852 (2016).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

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

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**MAR 27 2023**

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 13181)

The Hon. Presiding Judge  
Regional Trial Court, Branch 40  
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