



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 3, 2023 which reads as follows:

“G.R. No. 258767 (*People of the Philippines v. Roldan de Asis y Cureg*).—This is an appeal¹ filed by accused-appellant Roldan de Asis y Cureg (Roldan) assailing the July 30, 2020 Decision² and the March 4, 2021 Resolution³ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11106. The CA affirmed the January 24, 2018 Judgment⁴ of the Regional Trial Court (RTC), Branch 3, Tuguegarao City in Criminal Case Nos. 13856 to 13860, finding him guilty of one count of Murder and four counts of Attempted Murder.⁵

Roldan was charged with Murder and four counts of Frustrated Murder under the following Informations:

Criminal Case No. 13856

That on or about May 8, 2010 and subsequent thereto in the municipality of Solana, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused RENATO CARAG Y LIM, CARLO MARK CARAG Y PAGULAYAN ALIAS MACMAC, ROLDAN C. DE ASIS, ROMEO C. DE ASIS AND TWO (2) JOHN DOES who were not identified, armed with assorted unlicensed firearms with intent to kill and treachery and using the barangay ambulance of Bauan East, Solana, Cagayan bearing [license] Plate No. SHZ 558 driven by accused RENATO CARAG y LIM conspiring together and mutually confederating and helping one another, did, then and there willfully, unlawfully and feloniously attack, assault and shoot ZALDY T. CARAG inflicting upon him gunshot wounds on the different parts of his body which caused his death thereafter.

¹ *Rollo*, p. 3.

² *Id.* at 30. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Walter S. Ong.

³ *Id.* at 32-34.

⁴ *CA rollo*, pp. 66-105. Penned by Judge Marivic A. Cacatian-Beltran.

⁵ *Rollo*, pp. 29-30.

That in the commission of the offense the special aggravating circumstance of use of an unlicensed firearm, was present. Use of [a] motor vehicle as an aggravating circumstance is also present.

Contrary to law.⁶

Criminal Case No. 13857

That on or about May 8, 2010 in the municipality of Solana, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused RENATO CARAG Y LIM, CARLO MARK CARAG Y PAGULAYAN ALIAS MACMAC, ROLDAN C. DE ASIS, ROMEO C. DE ASIS and TWO (2) JOHN DOES who were not identified, armed with assorted unlicensed firearms with intent to kill and treachery and using the barangay ambulance of Bauan East, Solana, Cagayan bearing [license] Plate No. SHZ 558 driven by accused RENATO CARAG Y LIM conspiring together and mutually confederating and helping one another, did, then and there willfully, unlawfully and feloniously attack, assault and shoot ROBIN C. CRISTOBAL inflicting upon him gunshot wounds on the different parts of his body which could have caused his death [were] it not for timely medical attendance rendered to him.

That the accused had performed all the acts of execution which would have produced the crime of MURDER as consequence but which, nevertheless, did not produce it by reason of causes independent of their own will.

That in the commission of the offense the special aggravating circumstance of use of an unlicensed firearm, was present. Use of [a] motor vehicle as an aggravating circumstance is also present.

Contrary to law.⁷

Criminal Case No. 13858

That on or about May 8, 2010 in the municipality of Solana, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused RENATO CARAG Y LIM, CARLO MARK CARAG Y PAGULAYAN ALIAS MACMAC, ROLDAN C. DE ASIS, ROMEO C. DE ASIS and TWO (2) JOHN DOES who were not identified, armed with assorted unlicensed firearms with intent to kill and treachery and using the barangay ambulance of Bauan East, Solana, Cagayan bearing [license] Plate No. SHZ 558 driven by accused RENATO CARAG Y LIM conspiring together and mutually confederating and helping one another, did, then and there willfully, unlawfully and feloniously attack, assault and shoot ARNEL T. CARAG inflicting upon him gunshot wounds on the different parts of his body which could have caused his death [were] it not for timely medical attendance rendered to him.

That the accused had performed all the acts of execution which would have produced the crime of MURDER as consequence but which,

⁶ Records, Criminal Case No. 13856, pp. 1-2.

⁷ Records, Criminal Case No. 13857, pp. 1-2.

nevertheless, did not produce it by reason of causes independent of their own will.

That in the commission of the offense the special aggravating circumstance of use of an unlicensed firearm, was present. Use of [a] motor vehicle as an aggravating circumstance is also present.

Contrary to law.⁸

Criminal Case No. 13859

That on or about May 8, 2010 in the municipality of Solana, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused RENATO CARAG Y LIM, CARLO MARK CARAG Y PAGULAYAN ALIAS MACMAC, ROLDAN C. DE ASIS, ROMEO C. DE ASIS and TWO (2) JOHN DOES who were not identified, armed with assorted unlicensed firearms with intent to kill and treachery and using the barangay ambulance of Bauan East, Solana, Cagayan bearing [license] Plate No. SHZ 558 driven by accused RENATO CARAG Y LIM conspiring together and mutually confederating and helping one another, did, then and there willfully, unlawfully and feloniously attack, assault and shoot MICHAEL BRYAN C. ANTONIO inflicting upon him gunshot wounds on the different parts of his body which could have caused his death [were] it not for timely medical attendance rendered to him.

That the accused had performed all the acts of execution which would have produced the crime of MURDER as consequence but which, nevertheless, did not produce it by reason of causes independent of their own will.

That in the commission of the offense the special aggravating circumstance of use of an unlicensed firearm, was present. Use of [a] motor vehicle as an aggravating circumstance is also present.

Contrary to law.⁹

Criminal Case No. 13860

That on or about May 8, 2010 in the municipality of Solana, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused RENATO CARAG Y LIM, CARLO MARK CARAG Y PAGULAYAN ALIAS MACMAC, ROLDAN C. DE ASIS, ROMEO C. DE ASIS and TWO (2) JOHN DOES who were not identified, armed with assorted unlicensed firearms with intent to kill and treachery and using the barangay ambulance of Bauan East, Solana, Cagayan bearing [license] Plate No. SHZ 558 driven by accused RENATO CARAG Y LIM conspiring together and mutually confederating and helping one another, did, then and there willfully, unlawfully and feloniously attack, assault and shoot ERNALD T. CARAG inflicting upon him gunshot wounds on the different parts of his body which could have caused his death [were] it not for timely medical attendance rendered to him.

⁸ Records, Criminal Case No. 13858, pp. 1-2.

⁹ Records, Criminal Case No. 13859, pp. 1-2.

That the accused had performed all the acts of execution which would have produced the crime of MURDER as consequence but which, nevertheless, did not produce it by reason of causes independent of their own will.

That in the commission of the offense the special aggravating circumstance of use of an unlicensed firearm, was present. Use of [a] motor vehicle as an aggravating circumstance is likewise present.

Contrary to law.¹⁰

During arraignment, Roldan pleaded “not guilty” to the felonies charged.¹¹ Thereafter, pre-trial and trial ensued.¹² The prosecution presented the eyewitness accounts of Michael Antonio (Michael),¹³ Rosauero Cristobal (Rosauero),¹⁴ Arnel Carag (Arnel),¹⁵ Ernard Carag (Ernard),¹⁶ and Mark Antonio (Mark).¹⁷ It likewise presented the testimony of Dr. Honorio Reyes (Dr. Reyes),¹⁸ the medico-legal officer who conducted the examination on the remains of the deceased victim, Police Officer 2 Nino Baquiran (PO2 Baquiran),¹⁹ Senior Police Officer 1 Peter Pagulayan (SPO1 Pagulayan),²⁰ and Police Superintendent Cornelio Tadena, Jr. (P/Supt. Tadena, Jr.).²¹

The defense, on the other hand, presented the testimony of Atty. Ronald Brillantes (Atty. Brillantes),²² Patricio Callueng (Patricio),²³ Roberto Valdes, Sr. (Roberto),²⁴ Rodrigo de Asis (Rodrigo),²⁵ Basilia Pascual (Basilia),²⁶ Josephine Lopez (Josephine),²⁷ Engineer Rodrigo Lingan (Engr. Lingan),²⁸ Father Andres Q. Semana, Jr. (Fr. Semana),²⁹ Rosauero,³⁰ and the accused-appellant.³¹

¹⁰ Records, Criminal Case No. 138560, pp. 1-2.

¹¹ Records, Criminal Case No. 13856, p. 461; Records, Criminal Case No. 13857, pp 207-208; Records, Criminal Case No. 13858, pp. 202-203; Records, Criminal Case No. 13859, pp. 221-222; Records, Criminal Case No. 13860, pp. 187.

¹² Records, Criminal Case No. 13856, pp. 529-536.

¹³ TSN, September 8, 2011, pp. 1-53.

¹⁴ TSN, September 16, 2011, pp. 1-32.

¹⁵ TSN, July 30, 2012, pp. 3-28; TSN, September 10, 2013, pp. 2- 11.

¹⁶ TSN, November 25, 2013, pp. 2-15.

¹⁷ TSN, May 22, 2008, pp. 3-12.

¹⁸ TSN, September 30, 2011, pp. 1-15; TSN, June 20, 2012, pp. 3-12.

¹⁹ TSN, September 30, 2011, pp. 15-18.

²⁰ TSN, October 3, 2011, pp. 3-33.

²¹ TSN, October 23, 2013, pp. 2- 9.

²² TSN, May 27, 2015, pp. 1-9.

²³ TSN, August 5, 2015, pp. 1-11.

²⁴ TSN, August 25, 2015, pp. 2-8.

²⁵ TSN, October 21, 2015, pp. 2-14.

²⁶ TSN, November 9, 2015, pp. 2-9.

²⁷ TSN, November 24, 2015, pp. 2-15.

²⁸ TSN, December 11, 2015, pp. 2-14.

²⁹ TSN, August 8, 2017, pp. 2-14.

³⁰ TSN, November 8, 2017, pp. 1-16.

³¹ TSN, September 22, 2015, pp. 2-13.

Version of the Prosecution

At around 6:00 p.m. on May 8, 2010, Michael, Zaldy Carag (Zaldy), Islaw Carag (Islaw), and Rosauro were conversing in front of the house of Solano Mayor Meynard Carag (Mayor Carag) along the Provincial Road while waiting for supper. At the other side of the Provincial Road were Arnel, Robert Cristobal, Romy Cristobal, Rodel Cristobal, Rod Antonio, and Mark.³²

A white ambulance suddenly stopped in their immediate vicinity and along the Provincial Road. Michael and Arnel recognized the ambulance, which is owned by *Barangay* Bauan East, Solana, Cagayan. Upon stopping, the occupants of the ambulance simultaneously fired successive shots on the group who were on opposite sides of the road.³³ On one side of the road, Michael, Zaldy, and Islaw were hit, while Arnel was hit on the other side.³⁴ Rosauro caught Zaldy when he was shot.³⁵

Renato Carag (Renato) who was in the driver's seat fired at them with a pistol; Carlo Mark Carag y Pagulayan alias Macmac (Macmac) who was beside Renato also fired using a pistol; accused-appellant who was seated at the back likewise fired using a long firearm.³⁶ Rosauro testified that Romeo De Asis (Romeo) and a certain Edgar were beside accused-appellant.³⁷ Michael could see Renato, Macmac, and accused-appellant since the front window was lowered and it was still bright; however, he did not see the persons in the back portion of the ambulance since it was tinted.³⁸ Michael, Rosauro, Arnel, and Ernald testified that they recognized accused-appellant Roldan during the shooting since they knew him prior to the incident.³⁹ Arnel and Ernald identified Roldan in open court.⁴⁰

Immediately after the occupants of the van fired at the victims, the ambulance sped away and stopped in front of the house of Renato. Subsequently, seven persons alighted and scampered to different directions.⁴¹ When Michael tried to stand so that he could go to the hospital, he saw Roldan who was left behind and holding a long firearm.⁴² Rosauro also testified that after the shooting, Roldan was left behind.⁴³ Michael, Rosauro,

³² TSN, September 8, 2011, pp. 13-14; TSN, September 16, 2011, pp. 9-10; TSN, July 30, 2012, pp. 7-8, 17-18; TSN, November 25, 2013, pp. 3-4.

³³ TSN, September 8, 2011, pp. 15-18, 39; TSN, September 16, 2011, p. 11, 16; TSN, July 30, 2012, pp. 8-12; TSN, November 25, 2013, p. 4.

³⁴ TSN, September 8, 2011, pp. 18-19; TSN, July 30, 2012, p. 12.

³⁵ TSN, September 16, 2011, p. 23.

³⁶ TSN, September 8, 2011, pp. 15-17, 34, 36, 41-42; TSN, September 16, 2011, pp. 11-13; TSN, July 30, 2012, pp. 10-12; TSN, November 25, 2013, pp. 4-5.

³⁷ TSN, September 16, 2011, pp. 11.

³⁸ TSN, September 8, 2011, p. 17.

³⁹ TSN, September 8, 2011, pp. 10-11; TSN, September 16, 2011, p. 15; TSN, July 30, 2012, p. 5; TSN, November 25, 2013, p. 3.

⁴⁰ TSN, July 30, 2012, p. 5-6; TSN, September 10, 2013, p. 3; TSN, November 25, 2013, p. 5.

⁴¹ TSN, September 8, 2011, pp. 19-22, 42; TSN, November 25, 2013, p. 6.

⁴² TSN, September 8, 2011, pp. 19-22, 42.

⁴³ TSN, September 16, 2011, p. 16.

and Arnel testified that the sudden firing took them by surprise and that they could not defend themselves.⁴⁴

Michael suffered an injury in the upper portion of his left arm, leaving a scar measuring one inch of a peso coin.⁴⁵ Arnel was hit on his right hand, right leg, and below his right ear.⁴⁶ Ernard was grazed on his right thigh.⁴⁷ The injured were all brought to St. Paul Hospital for treatment.⁴⁸ Michael and Rosauro testified that Zaldy died as a result of the wounds he sustained from the shooting incident.⁴⁹

Rosauro later recanted his testimony.⁵⁰ He averred that Mayor Carag ordered them to implicate accused-appellant, Macmac, Edgar, and Romeo since they were the leaders of the rival party and to ensure their victory in the election.⁵¹ He testified that on the day of the incident, an ambulance driven by Renato passed by their location, and Arnel blocked the road with a motorcycle so the ambulance could not pass.⁵² Arnel punched Renato, then the occupants of the van suddenly fired at them. He could not see the occupants of the ambulance, which was heavily tinted. Thereafter, Zaldy fell, while Michael was injured on his arm, and Arnel was hit on both legs.⁵³ Rosauro testified that he did not see accused-appellant, Romeo, Macmac, and Edgar during the incident.⁵⁴

For his part, SPO1 Pagulayan testified that he was stationed in the Solana Police Station at the time of the shooting incident.⁵⁵ SPO1 Pagulayan went to the hospital where he interviewed the victims, and he subsequently proceeded to the crime scene where other police officers were already present.⁵⁶ He took photographs of the crime scene and picked up spent shells as well as other evidence left at the crime scene.⁵⁷ He also inspected the ambulance, where there were spent shells from various guns, sample election ballots, and ₱40,000.00.⁵⁸

P/Supt. Tadena, Jr. testified that he was the Officer-in-Charge of Solana Police Station at the time of the incident. At 7:00 p.m. on May 8, 2010, he received a report about a shooting incident which transpired in *Barangay*

⁴⁴ TSN, September 8, 2011, p. 20. TSN, September 16, 2011, p. 17; TSN, July 30, 2012, p. 14.

⁴⁵ TSN, September 8, 2011, p. 18.

⁴⁶ TSN, July 30, 2012, p. 12; TSN, November 25, 2013, pp. 7-8.

⁴⁷ TSN, November 25, 2013, p. 5.

⁴⁸ TSN, September 16, 2011, p. 18; TSN, July 30, 2012, pp. 14, 26.

⁴⁹ TSN, September 8, 2011, p. 22; TSN, September 16, 2011, pp. 18-19.

⁵⁰ TSN, November 8, 2017, pp 3-4.

⁵¹ Id. at 4-5.

⁵² Id. at 6.

⁵³ Id. at 6-7.

⁵⁴ Id. at 7.

⁵⁵ TSN, October 3, 2011, pp. 5-6.

⁵⁶ Id. at 6-7.

⁵⁷ Id. at 7-8.

⁵⁸ Id. at 8.

Bangag, Solana, Cagayan.⁵⁹ He then conducted a hot pursuit leading to the arrest of Renato inside his house.⁶⁰ In the course of their pursuit, they spotted the ambulance in front of Renato's house. Upon searching the vehicle, they found one .45 caliber pistol, sample ballots, and ₱40,000.00.⁶¹

The parties stipulated on the testimonies of P/Supt. Nilo Delos Reyes and PO2 Baquiran, as follows: (a) that they will identify and testify on the contents of the Firearms Identification Report, which enumerated the firearms, magazines, and cartridges seized from the incident; (b) that the aforementioned specimens were submitted to the PNP Crime Laboratory in Tuguegarao City for laboratory examination; and (c) the genuineness and due execution of the Firearms Identification Report.⁶²

PO2 Baquiran likewise submitted to the RTC several object evidence: (a) one caliber .45 pistol marked "PCP-1"; (b) fourteen (14) caliber .45 fired cartridge cases marked "PCP-10" to "PCP"-23; (c) one standard magazine caliber .45 marked "PCP-2"; (d) three 12-gauge fired cartridge cases marked "PCP-24" to "PCP-26"; (e) two 9mm fired cartridge cases marked "PCP-27" and "PCP-28"; (f) twelve (12) 5.56 fired cartridge cases marked "PCP-29" to "PCP-40"; (g) one deformed metal jacket fired bullet marked "PCP-41"; and, (h) seven caliber .45 cartridges marked "PCP-3" to "PCP-9".⁶³

Dr. Reyes testified that he attended to Zaldy after the incident at St. Paul Hospital, and that Zaldy sustained two penetrating wounds – one at his right shoulder and the other at the level of the ilium bone near the pelvic area.⁶⁴ The immediate cause of Zaldy's death is the first wound, which injured his right lung and caused bleeding in the thorax.⁶⁵ Dr. Reyes also noted that the wounds were caused by gunshots in view of the metallic fragments surrounding the two wounds.⁶⁶ He likewise authenticated the Medico-Legal Certificate and Death Certificate of Zaldy which he executed.⁶⁷

Dr. Reyes also attended to Robin Cristobal (Robin), Arnel, Michael, and Ernard and issued medical certificates for this purpose. The parties stipulated that if presented as a witness, he would testify on the following: (a) the contents of the medical certificates of Robin, Arnel, and Michael, which reflected the final diagnosis, medico-legal reports, and illustration of injuries attached in the medical certificates; (b) that Robin and Arnel underwent

⁵⁹ TSN, October 23, 2013, p. 4.

⁶⁰ TSN, October 23, 2013, pp. 5-6.

⁶¹ TSN, October 23, 2013, p. 5.

⁶² Records, Criminal Case No. 13856, pp. 712-713. The specimens seized include (a) one .45 caliber pistol; one standard magazine for a caliber .45 pistol; 14 caliber .45 cartridge cases, three 12-gauge shotgun fired cartridge cases, two 9x19 fired cartridge cases; 5.56mm fired cartridge cases, one deformed metal jacket fired bullet, and seven caliber .45 cartridges.

⁶³ TSN, September 30, 2011, pp. 17-18.

⁶⁴ Id. at 5-6, 9.

⁶⁵ Id. at 6, 7, 11.

⁶⁶ Id. at 11.

⁶⁷ Id. at 7-8.

treatment from May 8-19, 2010 at St. Paul Hospital; (c) that Michael underwent treatment at the same hospital from May 8-10, 2010, (d) that Dr. Reyes can identify his signature in the medical certificates; and, that (e) the certificates do not indicate the period of confinement of the said individuals.⁶⁸ The accused, through counsel, did not contest the other wounds sustained by the victims other than Zaldy.⁶⁹

Version of the Defense

For his part, accused-appellant Roldan interposed the defense of alibi. He asserted that he was the campaign manager of his brother Rodrigo, who was running for mayor against Mayor Carag. He averred that on May 8, 2010 at 10:30 a.m., he was at Rodrigo's campaign headquarters in Centro, Solana, Cagayan to entertain visitors and assist in the final briefing of their poll watchers and supporters, in the presence of Rodrigo, Macmac, Renato, Edgar, Atty. Brillantes, and other political supporters.⁷⁰ He had dinner at the headquarters around 6:00 p.m.⁷¹ At around 7:00 p.m., he saw Renato's wife Amelia and Macmac talking to each other while looking worried and bothered. Accused-appellant approached them, and Amelia told them that Renato was ambushed by the group of Mayor Carag in Bangag. He left the headquarters at 9:00 p.m.⁷² He averred that the accusations against him were politically motivated, because Rodrigo is his brother and he is considered a political threat as a former President of the Association of Barangay Captains who wielded political influence over *barangay* officials of Solana.⁷³

Rodrigo testified that at the time of the incident, he was running for Mayor against the incumbent mayor of Solana, Mayor Carag.⁷⁴ On the day of the incident, he was at his political headquarters located at Centro Northwest, Solana, Cagayan, beside his house.⁷⁵ He noted that his brother, accused-appellant Roldan, arrived at the campaign headquarters at 10:30 a.m. and served as his campaign manager and was in charge of preparing election paraphernalia.⁷⁶ Atty. Brillantes conducted a briefing for the poll watchers until around 5:30 p.m.⁷⁷ Between 5:30 p.m. to 6:00 p.m., Renato called him and told him that he was ambushed in front of the house of Mayor Carag in Bangag, Solana, Cagayan.⁷⁸ He testified that Roldan, Macmac, and Romeo were in the headquarters at the time he received the call.⁷⁹ He had dinner at

⁶⁸ TSN; June 20, 2012, pp. 14-15; Criminal Case No. 13856, p. 700.

⁶⁹ TSN, June 20, 2012, p. 5.

⁷⁰ TSN, September 22, 2015, pp. 3-4.

⁷¹ Id. at 6.

⁷² Id. at 5-6.

⁷³ Id. at 6-7.

⁷⁴ TSN, October 21, 2015, p. 3.

⁷⁵ Id. at 4.

⁷⁶ Id.

⁷⁷ Id. at 5.

⁷⁸ Id.

⁷⁹ Id.

6:00 p.m. and wrapped up preparations by 10:00 p.m.⁸⁰ He believed that the charges are politically motivated.⁸¹

Atty. Brillantes testified that he was in Rodrigo's campaign headquarters at 3:00 p.m. on the day of the incident as the assigned counsel to the mayoralty candidate.⁸² At past 6:00 p.m., he was talking to Rodrigo, Amelia, accused-appellant, Macmac, and Romeo.⁸³ At around 8:00 p.m., Rodrigo asked him to assist Renato who was arrested and detained.⁸⁴ He claimed that Roldan, Macmac, and Romeo were still at the campaign headquarters around this time and that they never left the campaign headquarters from 3:00 p.m. to 8:00 p.m.⁸⁵ During cross-examination, Atty. Brillantes testified that there were 100 poll watchers in Rodrigo's house at the time of the briefing, that his focus was on the poll watchers to whom he conducted a briefing, and that there was no need for accused-appellant, Macmac, and Romeo to attend to the same.⁸⁶

The defense likewise presented Patricio, Roberto, Basilia, and Engr. Lingan, who were present at the campaign headquarters in the afternoon of the incident until 7:00 p.m. to 8:00 p.m.⁸⁷ They testified that they saw accused-appellant at the headquarters.⁸⁸ Patricio, Roberto, and Basilia noted that there were around 200 poll watchers at the time in the headquarters, along with other political leaders of their party.⁸⁹

Patricio was at the headquarters to help distribute sample election ballots and prepare papers of the poll watchers.⁹⁰ Josephine testified that during the four-hour briefing for poll watchers, her focus was on the briefing; at around 5:30 p.m., she overheard some chatter of trouble in *Barangay Bangag* but she did not mind it as she was busy fixing election paraphernalia.⁹¹ Basilia admitted that there were many people at the headquarters, that Atty. Brillantes' lecture lasted until around 6:00 p.m., and that she was focused on Atty. Brillantes' lecture.⁹²

Engr. Lingan testified that he invited accused-appellant to have dinner

⁸⁰ TSN, October 21, 2015, p. 7.

⁸¹ Id. at 8.

⁸² TSN, May 27, 2016, p. 3.

⁸³ Id. at 4.

⁸⁴ Id.

⁸⁵ Id. at 5.

⁸⁶ Id. at 6.

⁸⁷ TSN, August 5, 2015, pp. 3, 5; TSN, August 25, 2015, pp. 2-4; TSN, November 9, 2015, p. 4; TSN, November 24, 2015, pp. 3-4.

⁸⁸ TSN, August 5, 2015, p. 4; TSN, August 25, 2015, p. 4; TSN, November 9, 2015, pp. 3-4; TSN, November 24, 2015, pp. 3-4.

⁸⁹ TSN, August 5, 2015, p. 4. TSN, August 25, 2015, pp. 3-4; TSN, November 9, 2015, pp. 3-4; TSN, November 24, 2015, pp. 3-4.

⁹⁰ TSN, August 5, 2015, p. 3.

⁹¹ TSN, November 24, 2015, pp. 5,7.

⁹² TSN, November 9, 2015, pp. 3-4, 6.

at around 7:00 p.m.⁹³ Roberto and Josephine had dinner at the headquarters at around 7:00 p.m. with accused-appellant, Romeo, the De Asis family, and other supporters before they left past 7:00 p.m.⁹⁴ Patricio stated that accused-appellant was still at the campaign headquarters preparing papers for the poll watchers between 7:00 p.m. to 8:00 p.m.⁹⁵

Fr. Semana, a parish priest at Solana, Cagayan, testified that at around 5:00 p.m. to 5:30 p.m. on the day of the incident, he was riding his motorcycle with his clerk on the way to Iraga, Solana when he noticed a government van parked in front of Mayor Carag's house. He saw individuals trying to punch the van driver and carrying huge rocks to hit the van with.⁹⁶ Suddenly, the window of the van opened and a hand holding a gun reached out and fired successive shots at the persons outside. He was not able to see the occupants of the van, and he and a certain Marilou took cover behind the trailer truck when an unidentified person armed with a gun ran towards them and tried to get his motorcycle. When the man was unable to start the motorcycle, the man threatened to take him hostage. Fr. Semana told him to just run away and pushed the man towards the back of a store.⁹⁷

Ruling of the Regional Trial Court

In its January 24, 2018 Decision,⁹⁸ the RTC found accused-appellant Roldan and Renato guilty of one count of Murder and four counts of Attempted Murder. The dispositive portion of the RTC's Decision reads:

WHEREFORE, all the foregoing considered, the court finds that the prosecution established beyond reasonable doubt the guilt of both accused RENATO CARAG y Lim and ROLDAN DE ASIS y Cureg and renders a judgment of conviction against them –

1. In Criminal Case No. 13856, of the offense of MURDER as defined in Article 248 of the Revised Penal Code, and sentences them to suffer the penalty of *reclusion perpetua*, without probability of parole, and to pay, in their solidary liability, the heirs of ZALDY CARAG –
 - a. Civil indemnity – ₱100,000.00
 - b. Moral damages - ₱100,000.00
 - c. Exemplary damages - ₱100,000.00
 - d. Actual damages - ₱248,962.59
2. In Criminal Case No. 13857, of the offense of ATTEMPTED MURDER, under Article 248 in relation to Article 51 of the Revised Penal Code, and sentences them to suffer an indeterminate sentence of four (4) years, two (2) months and one

⁹³ TSN, December 11, 2015, pp. 2-4.

⁹⁴ TSN, August 25, 2015, p. 4; TSN, November 24, 2015, p. 5.

⁹⁵ TSN, August 5, 2015, p. 5.

⁹⁶ TSN, August 8, 2017, pp. 3-5.

⁹⁷ Id. at 5-6.

⁹⁸ CA *rollo*, pp. 66-105.

- (1) day of *prision correctional* [sic], as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum and to pay, in their solidary liability, ROBIN CRISTOBAL -
- a. Civil indemnity - ₱50,000.00
 - b. Moral damages - ₱50,000.00
 - c. Exemplary damages - ₱50,000.00
 - d. Temperate damages - ₱15,000.00
3. In Criminal Case No. 13858, of the offense of ATTEMPTED MURDER, under Article 248 in relation to Article 51 of the Revised Penal Code, and sentences them to suffer an indeterminate sentence of four (4) years, two (2) months and one (1) day of *prision correctional* [sic], as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum and to pay, in their solidary liability, ARNEL CARAG -
- a. Civil indemnity - ₱50,000.00
 - b. Moral damages - ₱50,000.00
 - c. Exemplary damages - ₱50,000.00
 - d. Temperate damages - ₱15,000.00
4. In Criminal Case No. 13859, of the offense of ATTEMPTED MURDER, under Article 248 in relation to Article 51 of the Revised Penal Code, and sentences them to suffer an indeterminate sentence of four (4) years, two (2) months and one (1) day of *prision correctional* [sic], as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum and to pay, in their solidary liability, MICHAEL BRYAN ANTONIO -
- a. Civil indemnity - ₱50,000.00
 - b. Moral damages - ₱50,000.00
 - c. Exemplary damages - ₱50,000.00
 - d. Temperate damages - ₱15,000.00
5. In Criminal Case No. 13860, of the offense of ATTEMPTED MURDER, under Article 248 in relation to Article 51 of the Revised Penal Code, and sentences them to suffer an indeterminate sentence of four (4) years, two (2) months and one (1) day of *prision correctional* [sic], as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum and to pay, in their solidary liability, ERNALD CARAG -
- a. Civil indemnity - ₱50,000.00
 - b. Moral damages - ₱50,000.00
 - c. Exemplary damages - ₱50,000.00
 - d. Temperate damages - ₱15,000.00

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

The court ACQUITS both accused RENATO CARAG and ROLDAN DE ASIS in Criminal Case No. 138561 for Frustrated Murder and Criminal Case No. 13866 for violation of Section 261(Q) of Batas Pambansa Bilang 881, as amended.

The cases against accused CARLO MARK CARAG y Pagulayan alias Macmac, ROMEO C. DE ASIS and JOHN DOES are archived for they

remain at-large.

SO ORDERED.⁹⁹

In so ruling, the trial court found that: (a) the prosecution satisfactorily established the intent to kill, the commission of the crime, and the existence of conspiracy among the accused, as well as the existence of treachery and use of a motor vehicle during the ambush; (b) accused-appellant's defense of denial cannot prevail over the positive testimonies of the prosecution witnesses; and, (c) the mere retraction by a prosecution witness does not necessarily vitiate his original testimony.¹⁰⁰

Undeterred, accused-appellant appealed his conviction before the CA.¹⁰¹ He asserted that the prosecution failed to prove his guilt beyond reasonable doubt, that the victims' testimonies suffered from inconsistencies, and the trial court erred in not giving credence to his defense of alibi.

Ruling of the Court of Appeals

Upon review, the CA upheld Roldan's conviction.¹⁰² The dispositive portion provides:

WHEREFORE, premises considered, the appeal is **DENIED**. The assailed *Judgment dated January 23, 2018* of the Regional Trial Court, Branch 03, Tuguegarao City, in Criminal Cases No. 13856 to 13860 is **MODIFIED**, thus:

(1) In Criminal Case No. 13856, the award of actual damages is **REDUCED** to Two Hundred Forty Thousand Seven Hundred Eighty-Four Pesos and Eighty-Seven Cents (₱240,784.87); and

(2) In Criminal Cases No. 13857, 13858, 13859 and 13860, the awards of temperate damages are **INCREASED** to Fifty Thousand Pesos (₱50,000.00) each.

SO ORDERED.¹⁰³

The appellate court held that: (a) the concerted actions of accused-appellant, Renato, Macmac, Romeo and the two unidentified assailants of firing at the victims using several firearms clearly evinced conspiracy to consummate the killing of the victims; (b) the orchestrated crime was aggravated with treachery since the victims were ambushed and left defenseless; (c) the clear and straightforward testimonies of prosecution witnesses, coupled with their positive identification of accused-appellant as

⁹⁹ Id. at 101-102, 105.

¹⁰⁰ Id at 63-73.

¹⁰¹ Id. at 33.

¹⁰² *Rollo*, p. 29.

¹⁰³ Id. at 29-30.

among the perpetrators of the ambush, prevail over accused-appellant's defenses of denial and alibi.¹⁰⁴

The CA likewise denied accused-appellant's motion for reconsideration in a Resolution dated March 4, 2021.¹⁰⁵ Hence, this appeal.¹⁰⁶

Issue

The sole issue for resolution is whether Roldan is guilty beyond reasonable doubt of one count of Murder and four counts of Attempted Murder.

Our Ruling

The appeal has no merit.

Article 248 of the Revised Penal Code (RPC) states:

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 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.

x x x x

Jurisprudence dictates that the elements of Murder are the following: (a) that a person was killed, (b) that the accused killed him or her, (c) that the killing was attended by any of the qualifying circumstances mentioned in Art. 248, and (d) that the killing is not parricide or infanticide. Thus, for the charge of Murder to prosper, the prosecution must prove beyond reasonable doubt that: (1) the offender killed the victim, (2) through treachery or by any of the other qualifying circumstances, duly alleged in the Information.¹⁰⁷

In addition, the essential elements of an attempted felony are: (1) the offender commences the commission of the felony directly by overt acts; (2) he or she does not perform all the acts of execution which should produce the felony; (3) the offender's act be not stopped by his or her own spontaneous desistance; and (4) the non-performance of all acts of execution was due to

¹⁰⁴ Id. at 15-23.

¹⁰⁵ Id. at 32-34.

¹⁰⁶ Id. at 3.

¹⁰⁷ *People v. Manansala*, G.R. No. 233104, September 2, 2020, citing *People v. Lababo*, 832 Phil. 1056, 1071 (2018).

cause or accident other than his or her spontaneous desistance.¹⁰⁸ In turn, the essential element of attempted or frustrated Murder is the assailant's intent to kill the person attacked, which must be proved in a clear and evident manner to obviate doubt as to the homicidal intent of the aggressor. The following factors are considered to determine the presence of intent to kill, namely: (1) the means used by the malefactors; (2) the nature, location, and number of wounds sustained by the victim; (3) the conduct of the malefactors before, during, or immediately after the killing of the victim; and (4) the circumstances under which the crime was committed and the motives of the accused.¹⁰⁹

The Court finds that the foregoing elements for the Murder of Zaldy and the attempted murder of Robin, Arnel, Michael, and Ernard were established beyond reasonable doubt. The details of the shooting incident on May 8, 2010, the accused-appellant's participation in the crime, and the existence of conspiracy among accused-appellant and his other co-accused, were duly proven by the prosecution.¹¹⁰ The swift and coordinated ambush of accused-appellant and his other co-accused in riding the ambulance, stopping in front of Mayor Carag's house, and simultaneously shooting the persons at the scene with several firearms before quickly fleeing the scene through the ambulance undoubtedly established the existence of conspiracy to kill Mayor Carag, Robin, Arnel, Michael, and Ernard. Verily, accused-appellant and his other conspirators are equally liable for the crimes committed during the shooting incident.

The crime was attended with treachery.¹¹¹ As testified to by Michael, Rosauro, and Arnel, the swift ambush and sudden firing took them by surprise, and they could not defend themselves since they did not expect to be fired upon. Similarly, the aggravating circumstance of use of motor vehicle was duly established. The use of a motor vehicle is aggravating when it is used either to commit the crime or to facilitate escape.¹¹² Here, the ambulance was used as a means by accused-appellant and the other perpetrators to

¹⁰⁸ *Uddin v. People*, G.R. No. 249588, November 23, 2020, citing *Yap v. People*, 843 Phil. 328, 346 (2018).

¹⁰⁹ *Id.*

¹¹⁰ Conspiracy is present when there is unity in purpose and intention in the commission of a crime; at the time of such aggression, all the accused must have manifested by their acts a common intent or desire to attack. It may be inferred from the conduct before, during, and after the commission of the crime indicative of a joint purpose, concerted action, and concurrence of sentiments as in conspiracy (*Delos Santos v. People*, G.R. No. 231765, August 24, 2020, citing *People v. Las Piñas*, 739 Phil. 502, 526 (2014)). Once proven, conspiracy has the effect of attaching liability to all of the accused. They become liable as co-principals regardless of the extent and character of their respective active participation in the commission of the crimes perpetrated in furtherance of the conspiracy, because in contemplation of law, the act of one is the act of all (*People v. Feliciano, Jr.*, 734 Phil. 499, 536 (2014), citing *People v. Peralta*, 134 Phil. 703, 718 (1968)).

¹¹¹ The elements of treachery are: (1) the means of execution employed gives the person no opportunity to defend himself or retaliate; and (2) the means of execution were deliberately or consciously adopted. (*Peñaranda v. People*, G.R. No. 214426, December 2, 2021, citing *People v. Peralta*, 403 Phil. 72, 86-87 (2001)).

¹¹² *People v. Dayrit*, G.R. No. 241632, October 14, 2020, citing *People v. Salahuddin*, 778 Phil. 529, 552 (2016).

commit the crime and to facilitate their escape after the consummation of their plot to ambush and shoot the victims.

Accused-appellant discredits the credibility of the prosecution witnesses on the ground of inconsistencies in their testimonies.¹¹³ However, slight variations in the testimony of witnesses as to minor details or collateral matters do not affect their credibility, as these variations are indicia of truth and show that the witnesses were not coached to fabricate. An inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction.¹¹⁴ Here, the inconsistencies cited by the defense are minor and irrelevant to the essential elements of the crimes charged, and do not detract from the prosecution witnesses' positive identification of accused-appellant and his co-accused as the assailants responsible for the shooting incident.

Moreover, both the RTC and CA gave full faith and credence to the prosecution's evidence over that of the defense. Trial courts have the advantage of personally scrutinizing the conduct and attitude of witnesses when giving their testimonies. Assignment of values to the testimony of a witness is virtually left, almost entirely, to the trial court which has the opportunity to observe the demeanor of the witness on the stand. Due to their unique position, the trial courts' factual findings and appreciation of the witnesses' testimonies are given much respect, more so when their conclusions are affirmed by the CA. Factual findings of trial courts will only be disturbed on appeal if it is convincingly shown that they overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.¹¹⁵

A careful scrutiny of the records shows that the prosecution witnesses' narrations of the ambush and identification of the perpetrators were clear, straightforward, and consistent in its material points. Experience dictates that because of the unusual acts of violence committed right before their eyes, eyewitnesses can remember with a high degree of reliability the identity of the criminals at any given time.¹¹⁶ In addition, the victims' testimony about the ambush is bolstered by the findings of the medico-legal officer, Dr. Reyes, regarding the death of Zaldy due to the gunshot wounds he sustained as well as the wounds sustained by Robin, Arnel, Michael, and Ernard from the incident. This likewise includes the statements of the police officers who proceeded to the scene of the crime after the ambush.

We likewise concur with the trial court and appellate court that Rosauero's recantation of his testimony does not hold water.

¹¹³ CA rollo, pp. 52-64.

¹¹⁴ *People v. Nelmida*, 694 Phil. 529, 559 (2012), citing *People v. Ignas*, 458 Phil. 965, 988 (2003).

¹¹⁵ *People v. Magallano, Jr.*, 845 Phil. 109, 120 (2018).

¹¹⁶ *People v. Libre*, 792 Phil. 12, 30 (2016), citing *People v. Piedad*, 441 Phil. 818, 833 (2002).

A recantation does not necessarily cancel an earlier declaration.¹¹⁷ To disregard testimony given in court simply because the witness recants it ignores the possibility that intimidation or monetary considerations may have caused the recantation. The recantation is subject to the test of credibility based on the relevant circumstances, including the demeanor of the recanting witness on the stand. In that respect, the finding of the trial court on the credibility of witnesses is entitled to great weight on appeal unless cogent reasons necessitate its re-examination, the reason being that the trial court is in a better position to hear first-hand and observe the deportment, conduct and attitude of the witnesses.¹¹⁸

Accused-appellant alleged that the courts *a quo* erred in not giving credence to his alibi that he was at the campaign headquarters of his brother, which was 12 kilometers or an hour away from the scene of the crime.¹¹⁹ However, it is settled that alibi is weakest among the defenses, and cannot prevail over the positive identification of accused-appellant as one of the perpetrators of the incident.¹²⁰ It is considered with suspicion and always received with caution, not only because they are inherently weak and unreliable, but also because they are easily fabricated and concocted.¹²¹

Further, for the defense of alibi to be appreciated, the accused must show that: (a) he or she was somewhere else when the offense was committed, and (b) he or she was so far away that it was not possible for him or her to have been physically present at the place of the crime or its immediate vicinity at the time of its commission. This requirement of time and place must be strictly met.¹²² On this point, the Court has previously held that an accused's insistence that on the day of the incident, he was in another *barangay* 35 kilometers and 2½ hours away from the scene of the crime, does not render impossible his or her presence at the scene of the crime at the time of the incident.¹²³ In this case, the accused-appellant's presence at the campaign headquarters on the day of the incident, which was a mere 12 kilometers or an hour away from the place of the incident, does not preclude nor make it physically impossible for him to be at the scene of the crime when it occurred.

Ultimately, the defenses of alibi and denial must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused.¹²⁴ Considering that the prosecution witnesses' positive identification

¹¹⁷ *People v. Angeles*, G.R. No. 254747, July 13, 2022, citing *Sterling Paper Products Enterprises, Inc. v. KMM-Katipunan*, 815 Phil. 425, 434 (2017).

¹¹⁸ *Id.*, citing *People v. Teodoro*, 704 Phil. 335, 357 (2013).

¹¹⁹ *CA rollo*, pp. 52-64.

¹²⁰ *People v. Cornista*, G.R. No. 218915, February 19, 2020, citing *Lucas v. Court of Appeals*, 438 Phil. 530, 542 (2002).

¹²¹ *People v. Mandelma*, G.R. No. 238910, July 20, 2022, citing *Artates v. People*, G.R. No. 235724, March 11, 2020.

¹²² *People v. Dubria*, 395 Phil. 325, 337 (2000).

¹²³ *Id.* at 337-338.

¹²⁴ *People v. Torres*, 743 Phil. 553, 567 (2014), citing *People v. Ebet*, 649 Phil. 181, 198 (2010).

of the accused-appellant as one of the perpetrators of the shooting incident is reliable and corroborated by the evidence on record, the same must prevail over accused-appellant's defenses.

Accused-appellant's insistence that he was falsely implicated because of political maneuverings fails to persuade. As the aggrieved parties, it is unnatural for the prosecution witnesses to falsely accuse someone other than the real culprits. The natural interest of witnesses, who are relatives of the victims or the victims themselves, in securing the conviction of the guilty would deter them from implicating persons other than the culprits; otherwise, the culprits would gain immunity.¹²⁵

Based on the foregoing, the Court holds that the CA did not err in affirming the decision of the RTC that accused-appellant is guilty beyond reasonable doubt of one count of Murder and four counts of Attempted Murder.

Proper Penalties and Indemnities

The CA correctly imposed the penalty of *reclusion perpetua* without eligibility for parole upon accused-appellant for the murder of Zaldy.¹²⁶ Similarly, in line with *People v. Jugueta*,¹²⁷ We affirm the directive for accused-appellant to pay ₱100,000.00 each as civil indemnity, moral damages, and exemplary damages to the heirs of Zaldy. Finally, the Court sustains the appellate court's computation of actual damages amounting to ₱240,784.87 based on the official receipts.¹²⁸

For Criminal Case Nos. 13857 to 13860, it is settled that the imposable penalty for Attempted Murder shall be *prision mayor* in line with Art. 51 of the RPC, which states that a penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony. In line with the Indeterminate Sentence Law, for Attempted Murder with one aggravating circumstance, the maximum penalty should be from ten (10) years and one (1) day to twelve (12) years of *prision mayor*, while the minimum shall be taken from the penalty next lower in degree, *i.e.*, *prision correccional*, in any of its periods, or anywhere from six (6) months and one (1) day to six (6) years.¹²⁹ Thus, We sustain the imposition of the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to ten (10)

¹²⁵ *People v. Libre*, 792 Phil. 12, 30 (2016), citing *People v. Nelmida*, 694 Phil. 529, 562-563 (2012).

¹²⁶ Under Art. 248 of the RPC, one guilty of Murder shall suffer the penalty of *reclusion perpetua* to death. Under Art. 63, par. (1) of the Revised Penal Code, when the penalty consists of two (2) indivisible penalties and is attended by one or more aggravating circumstances, the greater penalty shall be applied. However, in line with Republic Act No. 9346 and A.M. No. 15-08-02-SC, the death penalty shall be reduced to *reclusion perpetua* without eligibility for parole.

¹²⁷ 783 Phil. 806, 847 (2016).

¹²⁸ Records, Criminal Case No. 13856, pp. 893-918.

¹²⁹ See *People v. Jugueta*, *supra* at 825-826.



years and one (1) day of *prision mayor*, as maximum. We likewise affirm the payment of ₱50,000.00 each as civil indemnity, moral damages, temperate damages, and exemplary damages to Robin, Arnel, Ernald, and Michael.¹³⁰ Finally, all damages awarded shall earn six percent (6%) interest per *annum* from the date of finality of this Resolution until full payment.

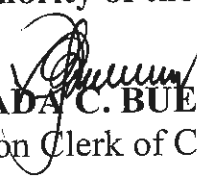
WHEREFORE, the appeal is **DISMISSED**. The July 30, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11106 is **AFFIRMED**. Accused-appellant Roldan De Asis y Cureg is found **GUILTY** of:

1. One (1) count of Murder in Criminal Case No. 13856 and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is ordered to pay the heirs of Zaldy T. Carag the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as exemplary damages, ₱100,000.00 as moral damages, and ₱240,784.87 as actual damages; and
2. Four (4) counts of Attempted Murder in Criminal Case Nos. 13857 to 13860 and is sentenced to suffer the penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum for each count of Attempted Murder. He is ordered to pay Robin Cristobal, Arnel Carag, Ernald Carag, and Michael Bryan Antonio the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as temperate damages, and ₱50,000.00 as exemplary damages

Legal interest at the rate of six percent (6%) per *annum* shall be imposed on the aggregate amount of the monetary awards computed from the finality of this Resolution until full payment.

SO ORDERED.” *Gesmundo, C.J., on official leave.*

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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JUL 13 2023

¹³⁰ Id. at 848.

The Office of the Solicitor General
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Court of Appeals (x)
1000 Manila
(CA-G.R. CR-HC No. 11106)

The Hon. Presiding Judge
Regional Trial Court, Branch 3
Tuguegarao City, 3500 Cagayan
(Crim. Case Nos. 13856 to 13860)

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