



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames

*Please take notice that the Court, Third Division, issued a Resolution dated **February 13, 2023**, which reads as follows:*

**G.R. No. 263561 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. RONNEL ORPESA y DULA @ “DOKYO,” Accused-Appellant.**

The accused-appellant Ronnel Orpesa y Dula @ “Dokyo” (**Orpesa**) was charged with the crime of Murder under an Information,<sup>1</sup> dated December 4, 2007, filed before the Regional Trial Court of Laoang, Northern Samar, Branch 21 (**RTC**).<sup>2</sup> In the RTC Decision<sup>3</sup>, dated August 6, 2018 (**RTC Decision**), the RTC convicted Orpesa and imposed the penalty of *reclusion perpetua*.<sup>4</sup> Orpesa appealed the RTC Decision before the Court of Appeals (**CA**). In the Decision<sup>5</sup>, dated May 26, 2022 (**CA Decision**), in CA-G.R. CR-HC No. 03658 entitled *People of the Philippines v. Ronnel Orpesa y Dula @ Dokyo*, the CA affirmed the RTC Decision with modifications. Orpesa filed a Notice of Appeal,<sup>6</sup> dated June 29, 2022. The CA, in its Resolution,<sup>7</sup> dated September 7, 2022, gave due course to the appeal and ordered the records of the case to be transmitted to the Court.

*The Facts*

*Version of the Prosecution*

Emelio Delim (**Delim**), the victim, was married to Fortunata Delim (**Fortunata**), who is Orpesa’s paternal grandmother. On November 28, 2007, Delim’s daughter, Marilyn Cerbito (**Cerbito**), visited Delim’s and Fortunata’s

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<sup>1</sup> *Rollo*, p. 12.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 32-43. Rendered by Presiding Judge Decoroso M. Turla.

<sup>4</sup> *Id.* at 32-40.

<sup>5</sup> *Id.* at 11-30. Penned by Associate Justice Mary Charlene V. Hernandez-Azura and concurred in by Associate Justices Bautista G. Corpin, Jr. and Mercedita G. Dadole-Ygnacio.

<sup>6</sup> *Id.* at 5, Notice of Appeal, dated June 29, 2002.

<sup>7</sup> *Id.* at 8.

home in Barangay Lawaan, Laoang, Northern Samar. At around 5:30 p.m. of the same day, Cerbito and Delim were at the backyard. Cerbito testified that she was seated on a chair while Delim slept on a hammock about seven feet, or more than two meters away. While Delim was sleeping, Orpesa arrived and suddenly stabbed Emilio twice with a *dapang* or a small bolo. Delim was stabbed on his right breast above his nipple and on the right side of his stomach. Delim stood up and walked to the kitchen, but Orpesa gave chase.<sup>8</sup>

According to Cerbito, she ran outside of the house and called for help. She then proceeded to ask for help from the barangay officials and was accompanied by Barangay Councilor Elmer Tuballas back to Delim's house. When they arrived, they found Delim's dead body lying face down near the stairs of the kitchen. Orpesa was nowhere to be found.<sup>9</sup>

Cerbito also testified that sometime before the commission of the crime, Orpesa and Delim had an argument because Delim accused Orpesa of slaughtering his pig. Delim had allegedly intended to file a case against Orpesa but he was dissuaded by Fortunata.<sup>10</sup>

Delim was brought to the G.B. Tan Memorial Hospital where an autopsy was conducted by Dr. Leandro A. Negado (**Dr. Negado**). According to Dr. Negado's autopsy report, Delim sustained 13 stab wounds, seven of which were fatal, as follows:<sup>11</sup>

Stab wound 1 (Fatal)	2.5 cm in length, right flank penetrating abdominal cavity
Stab wound 2 (Not fatal)	2.5 cm in length, at the [eight] intercostal space (ICS) at the left side of the body and a non-penetrating wound
Stab wound 3 (Not fatal)	Non-penetrating wound
Stab wound 4 (Not fatal)	Non-penetrating wound
Stab wound 5 (Fatal)	3 inches in length, right directed medially penetrating the right thoracic cavity
Stab wound 6 (Not fatal)	3 inches in length, anterior to stab wound no. 5
Stab wound 7 (Fatal)	2.25 inches in length, posterior axillary line at the back of the body, penetrating abdominal cavity
Stab wound 8 (Not fatal)	3.5 cm in length, superior to stab wound no. 7

<sup>8</sup> Id. at 13.

<sup>9</sup> Id.

<sup>10</sup> Id. at 13 and 35.

<sup>11</sup> Id. at 14.

Stab wound 9 (Fatal)	3.5 cm in length, posterior axillary line lumbar area, penetrating abdominal cavity directed inferiorly and medially
Stab wound 10 (Not fatal)	3.5 cm in length, at the right infra-scapular area and a non-penetrating wound at the back portion of the body
Stab wound 11 (Fatal)	2.5 cm in length, post lumbar area, penetrating the abdominal cavity, at the back portion of the body
Stab wound 12 (Fatal)	3.5 cm in length, mid axillary line (MAL), fifth ICS, directed superiorly and medially, penetrating the thoracic cavity
Stab wound 13 (Fatal)	3.5 cm in length, posterior axillary lumbar area, left level of the twelfth thoracic vertebrae, penetrating the abdominal cavity, at the back of the victim

Dr. Negado also testified in the RTC that as to stab wounds 7, 9, 10, 11, 12, and 13, the assailant was most likely positioned at the back of the victim. With respect specifically to stab wound 9, which penetrated Delim's abdominal cavity, Dr. Negado concluded that the instrument was directed downward and toward the center.<sup>12</sup>

#### *Version of the Defense*

Orpesa testified that while Delim was good-natured, the latter bore a grudge against his father. Since his father already died, Orpesa claimed that Delim turned his anger to him. Orpesa's father was allegedly killed in 1988 which was subject of a criminal case but was eventually settled as his mother was paid ₱20,000.00. According to Orpesa, whenever Delim would get drunk, he would threaten to kill Orpesa or proclaim that his life was only worth ₱20,000.00. Further, Orpesa narrated that whenever Delim would lose a thing, he would accuse Orpesa as the culprit.<sup>13</sup>

On November 28, 2007, Orpesa claimed that he was in the farm of a certain Nida Tang in Barangay Lawaan and had in his possession a long bolo

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<sup>12</sup> Id. at 36.

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

which he used to work in the farm. At around 4:00 p.m., he left the farm and went to his mother's house in Barangay Lawaan. However, he never made it to his mother's house because he was stopped by Delim. According to Orpesa, Delim told him "I will kill you and I will pay you [P]20,000.00 for your life and you will suffer the same fate as your father."<sup>14</sup> Delim then allegedly tried to stab him with a small bolo thrice, which he was able to evade. Orpesa narrated that on Delim's third attempt to stab him, he drew his own bolo and stabbed Delim. After this, he left and surrendered to Barangay Captain Timmy Lagarto (**Lagarto**). Lagarto brought him to the police station where he surrendered to Police Officer 1 Edwin Lazano (**PO1 Lazano**). PO1 Lazano confirmed this in his testimony in the RTC.<sup>15</sup>

The defense also presented Salvador Tepace (**Tepace**) as a witness. Tepace testified that he is a resident of Barangay Lawaan. He claimed that on November 28, 2007, he passed by Delim's house and heard him utter that he will kill somebody.<sup>16</sup> At around 4:00 p.m. of the same day, he again purportedly heard Delim say that he will kill Orpesa. He left his home to tend to his carabao and upon his return, Orpesa arrived to surrender to him. Orpesa allegedly said that "I will surrender because I killed Emilio Delim."<sup>17</sup> He then accompanied Orpesa to the police station where he surrendered to PO1 Lozano.<sup>18</sup>

### *The Ruling of the RTC*

The RTC rejected Orpesa's defenses which it interpreted to be self-defense. It concluded that assuming that Orpesa's testimony is true, Delim attempted but failed to stab Orpesa thrice and he was able to escape Delim's blows. In contrast, the autopsy report shows that Delim was stabbed thirteen times.<sup>19</sup>

The RTC found Cerbito's testimony credible, which was corroborated by the autopsy report and Dr. Negado's testimony. Based on the evidence, the RTC concluded that the killing of Delim, which Orpesa admits he committed, was qualified by treachery and evident premeditation. The RTC also ruled that the mitigating circumstance of voluntary surrender was established, but concluded that this did not affect the appropriate imposable penalty.<sup>20</sup>

The dispositive portion of the RTC Decision states:

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<sup>14</sup> Id.

<sup>15</sup> Id. at 38-39.

<sup>16</sup> Id. at 39.

<sup>17</sup> Id. at 40.

<sup>18</sup> Id. at 17.

<sup>19</sup> Id. at 41.

<sup>20</sup> Id. at 42.

Forthwith, this Court rendered judgment convicting the accused for the crime of MURDER beyond reasonable doubt. Correspondingly, therefor imposes upon the [accused] the penalty of RECLUSION PERPETUA as provided under Article 248 of the Revised Penal Code.

While this Court appreciated the voluntary surrender invoked by the accused, the same, however, could not be applied in this instant case as provided under Article 63 of the same Code which states that – “In all cases in which the law prescribe[s] a single indivisible penalty, it shall be applied by the Court regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

Forthwith, this Court hereby ordered the accused to pay the heirs of the victim the amount of One Hundred Thousand (Php100.000.00) Pesos as indemnity for the death of the victim.

SO ORDERED.<sup>21</sup>

### *The Ruling of the CA*

Orpesa appealed the RTC Decision and prayed that he be acquitted, or in the alternative, convicted of Homicide and not Murder.<sup>22</sup>

Orpesa argued that the RTC erred in its appreciation of his defense. He explained that for a long time, Delim mocked and demeaned him repeatedly and threatened him that he will kill him since his life is worth merely PHP 20,000.00. When he stabbed Delim, Orpesa purportedly acted upon an impulse so powerful that he lost his reason and self-control. Thus, passion and obfuscation should be appreciated as a mitigating circumstance and, in turn, negate the existence of treachery.<sup>23</sup> Further, Orpesa argued that the prosecution did not prove the existence of evident premeditation because ill-feelings alone is not adequate to establish this.<sup>24</sup>

In addition, Orpesa asserted that treachery and evident premeditation cannot qualify the killing because these two qualifying circumstances were not alleged in the Information.<sup>25</sup>

Finally, Orpesa claimed that the presence of the mitigating circumstances of voluntary surrender and passion and obfuscation may lower the penalty imposed by one degree than that prescribed by law for the crime of Homicide.<sup>26</sup>

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<sup>21</sup> Id. at 43.

<sup>22</sup> CA *rollo*, p. 33.

<sup>23</sup> Id. at 23.

<sup>24</sup> Id. at 28.

<sup>25</sup> Id. at 29-31.

<sup>26</sup> Id.

The CA partially granted the appeal. It ruled that Orpesa can no longer question the sufficiency of the Information as he did not invoke any of the appropriate remedies during trial. In this regard, the CA agreed with the RTC that treachery was duly established. However, the CA concluded that evident premeditation was absent.<sup>27</sup>

As to the mitigating circumstances, the CA held that voluntary surrender was present, but passion and obfuscation cannot be appreciated.<sup>28</sup>

The CA also adjusted the award of damages so as to be consistent with prevailing jurisprudence.

The dispositive portion of the CA Decision states:

**WHEREFORE**, the appeal is **PARTIALLY GRANTED**. The Decision promulgated by the Regional Trial Court, Branch 21, Laoang, Northern Samar on August 6, 2018 in Criminal Case No. 4280 is hereby **AFFIRMED** with **MODIFICATIONS**.

Accused-appellant **RONNEL ORPESA y DULA** alias "**DOKYO**" is found **GUILTY** beyond reasonable doubt of the crime of Murder as defined and penalized under Article 248 of the Revised Penal Code, as amended. Taking into consideration the presence of the mitigating circumstance of voluntary surrender, he is **SENTENCED** to suffer the penalty of *reclusion perpetua*, and **ORDERED** to **PAY** the heirs of Emilio L. Delim the following amounts: P75,000.00 representing civil indemnity, P75,000.00 representing moral damages, P75,000.00 representing exemplary damages, and P50,000.00 representing temperate damages with legal interest at the rate of six percent (6%) per *annum* on all monetary awards from the date of finality of judgment until finally paid.

**SO ORDERED.**<sup>29</sup> (Emphases in the original)

Orpesa filed his Notice of Appeal on June 29, 2022.<sup>30</sup>

### *The Issue*

Did the CA correctly convict Orpesa of the crime of Murder?

### *The Ruling of the Court*

The Court affirms the CA Decision.

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<sup>27</sup> *Rollo*, p. 27.

<sup>28</sup> *Id.* at 27-28.

<sup>29</sup> *Id.* at 29

<sup>30</sup> *Id.* at 5.

The elements of the crime of Murder under Article 248 of the Revised Penal Code (RPC) are as follows: (1) a person was killed; (2) the accused killed him; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (4) the killing is not parricide or infanticide.<sup>31</sup>

Here, the first, second, and fourth elements are not in dispute. As to the second element, the evidence on record shows, and Orpesa himself admitted that he killed Delim, but argued that the mitigating circumstance of passion and obfuscation should be appreciated in his favor.<sup>32</sup>

As to the third element, the CA and the RTC correctly concluded that treachery was adequately established here. Cerbito's testimony was clear and unequivocal that she saw Orpesa suddenly appear and stab Delim while he was sleeping. Cerbito also saw Delim walk to the kitchen and Orpesa give chase. The physical evidence also corroborates this version of the events. As the autopsy report and Dr. Negado confirmed, Delim suffered fatal stab wounds that indicated that the instrument used to stab was directed downward, supporting Cerbito's statement that Delim was stabbed while lying down. Delim also suffered multiple stab wounds which indicate that the assailant was positioned behind him. This further confirms that Delim was repeatedly stabbed while he was unable to defend himself.

In *People v. Dela Peña*,<sup>33</sup> the Court said that "the essence of treachery is the sudden and unexpected attack by an aggressor of an unsuspecting victim, depriving the latter of any real chance to defend himself and thereby insuring its commission without risk to the aggressor." The Court opined:

Similarly, in *People v. Caritativo*, accused-appellant was found guilty of the crime of murder for the death of Expidito Mariano. In affirming the conviction of accused-appellant, the Court stressed that treachery attended the killing of the victim as the latter was attacked while he was asleep. A sleeping victim is not in a position to defend himself, take flight or avoid the assault, thus ensuring that the crime is successfully executed without any risk to the latter.

In this case, Ernie categorically stated that his father was sleeping inside the *nipa* hut when accused-appellant stabbed him using a "*pinuti*." Olipio was lying on his stomach, with his face down, and it was in that position that he was killed by accused-appellant. Under such circumstance, there is no doubt that he was not in a position to put up any form of defense against his assailant.<sup>34</sup> (Citations omitted)

As the evidence proved beyond reasonable doubt that Orpesa stabbed Delim while he was asleep, *People v. Dela Peña* applies here and treachery

<sup>31</sup> *People v. Adriano*, 764 Phil. 144, 154 (2015).

<sup>32</sup> *CA rollo*, pp. 23-28.

<sup>33</sup> G.R. No. 238120, February 12, 2020.

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

must be appreciated. The CA properly concluded that treachery qualified the killing to murder.

The Court also affirms the CA's ruling that there is simply no evidence to prove that evident premeditation also attended the commission of the crime. There is nothing on record showing that Orpesa had previously decided to kill Delim, that there were acts manifestly indicating that Orpesa clung to his determination to perpetrate the crime, and that a lapse of time had passed between the decision to commit the crime and its actual commission, which are all elements of evident premeditation.<sup>35</sup>

In this regard, the Court agrees with the CA's ruling that *People v. Solar*<sup>36</sup> applies here. In *People v. Solar*, the Court laid down the following guidelines:

1. Any Information which alleges that a qualifying or aggravating circumstance — in which the law uses a broad term to embrace various situations in which it may exist, such as but are not limited to (1) treachery; (2) abuse of superior strength; (3) evident premeditation; (4) cruelty — is present, must state the ultimate facts relative to such circumstance. Otherwise, the Information may be subject to a motion to quash under Section 3 (e) (*i.e.*, that it does not conform substantially to the prescribed form), Rule 117 of the *Revised Rules of Criminal Procedure*, or a motion for a bill of particulars under the parameters set by said Rules.

Failure of the accused to avail any of the said remedies constitutes a waiver of his right to question the defective statement of the aggravating or qualifying circumstance in the Information, and consequently, the same may be appreciated against him if proven during trial.

Alternatively, prosecutors may sufficiently aver the ultimate facts relative to a qualifying or aggravating circumstance by referencing the pertinent portions of the resolution finding probable cause against the accused, which resolution should be attached to the Information in accordance with the second guideline below.

2. Prosecutors must ensure compliance with Section 8 (a), Rule 112 of the *Revised Rules on Criminal Procedure* that mandates the attachment to the Information the resolution finding probable cause against the accused. Trial courts must ensure that the accused is furnished a copy of this Decision prior to the arraignment.

3. Cases which have attained finality prior to the promulgation of this Decision will remain final by virtue of the principle of conclusiveness of judgment.

4. For cases which are still pending before the trial court, the prosecution, when still able, may file a motion to amend the Information

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<sup>35</sup> *People v. Abadies*, 436 Phil. 98 (2002).

<sup>36</sup> 858 Phil. 884 (2019).



pursuant to the prevailing *Rules* in order to properly allege the aggravating or qualifying circumstance pursuant to this Decision.

**5. For cases in which a judgment or decision has already been rendered by the trial court and is still pending appeal, the case shall be judged by the appellate court depending on whether the accused has already waived his right to question the defective statement of the aggravating or qualifying circumstance in the Information, (i.e., whether he previously filed either a motion to quash under Section 3 (e), Rule 117, or a motion for a bill of particulars) pursuant to this Decision.<sup>37</sup> (Citations omitted; emphasis supplied.)**

Orpesa did not avail of any of his remedies to assail the insufficiency of the Information at the RTC. Thus, treachery was properly appreciated.

As to Orpesa's argument that passion and obfuscation should mitigate his liability, the CA correctly rejected this view. For the mitigating circumstance of passion and obfuscation to be appreciated, the accused must prove the existence of the following elements:

1. That there be an act, both unlawful and sufficient to produce such a condition of mind; and
2. that said act which produced the obfuscation was not far removed from the commission of the crime by a considerable length of time, during which the perpetrator might recover his equanimity.<sup>38</sup>

Here, the RTC and the CA concluded that Orpesa failed to establish the first requirement. The RTC found Cerbito's testimony, as corroborated by the autopsy report and Dr. Negado's testimony, credible that Delim was initially stabbed while he was asleep.<sup>39</sup> As explained by the CA, Delim could not have provoked Orpesa shortly before the stabbing incident because he was sleeping when it happened.<sup>40</sup> Cerbito categorically testified that she saw Orpesa stab Delim while the latter was sleeping on a hammock at the backyard of his own house at around 5:30 p.m. Delim's body was also found at the stairs of the kitchen of his residence, and not outside of his house where he supposedly met Orpesa, in Orpesa's version of the incident. All these establish that the supposed confrontation between Delim and Orpesa did not happen.

Further, even assuming that the defense evidence is given credence that Delim had repeatedly insulted him and that they had a confrontation at 4:00 p.m. of that day, the CA correctly concluded that more than an hour had passed from the alleged confrontation to the time of the killing.<sup>41</sup>

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<sup>37</sup> Id. at 930-932.

<sup>38</sup> *People v. Lobino*, 375 Phil. 1065, 1074 (1999).

<sup>39</sup> *CA rollo*, pp. 23-28.

<sup>40</sup> *Rollo*, p. 26.

<sup>41</sup> Id. at 27.

In *People v. Rabanillo*,<sup>42</sup> the Court ruled:

For passion and obfuscation to be mitigating, the same must originate from lawful feelings. **The turmoil and unreason that naturally result from a quarrel or fight should not be confused with the sentiment or excitement in the mind of a person injured or offended to such a degree as to deprive him of his sanity and self-control. The excitement which is inherent in all persons who quarrel and come to blows does not constitute obfuscation.**

Moreover, the act producing obfuscation must not be far removed from the commission of the crime by a considerable length of time, during which the accused might have regained his normal equanimity. Thus, it has been held that where at least half an hour elapsed between the previous fight and the killing, the accused cannot be given the benefit of the attenuating circumstance of obfuscation.

**In this case, 30 minutes intervened between the fistfight and the killing of MORALES by RABANILLO. The attack cannot, therefore, be said to be the result of a sudden impulse of natural and uncontrollable fury.** Having been actuated more by the spirit of revenge or by anger and resentment for having been publicly berated by MORALES, RABANILLO cannot be credited with the extenuating circumstance of passion and obfuscation.<sup>43</sup> (Emphases supplied; citations omitted.)

The doctrine in *People v. Rabanillo* applies in this case. Even assuming that Orpesa and Delim had an altercation more than an hour before the killing, the “turmoil and unreason that naturally result from a quarrel or fight” is not equivalent to passion and obfuscation. The mitigating circumstance of passion and obfuscation is no ordinary ill-feeling or anger. It pertains to the “sentiment or excitement in the mind of a person injured or offended to such a degree as to deprive him of his sanity and self-control.” Here, the RTC and the CA found no evidence that Delim’s alleged insults and the purported confrontation produced in the mind of Orpesa such excitement or sentiment. Moreover, as the CA pointed out, over an hour had passed from the confrontation to the killing. An hour would have been enough time for Orpesa to regain his normal equanimity. Thus, this mitigating circumstance cannot be appreciated here.

Moreover, the Court confirms that voluntary surrender, the facts of which are not in dispute, was duly established and properly appreciated here since it is clear that Orpesa voluntarily went to the police station to surrender prior to the issuance of any warrant of arrest. This surrender was patently spontaneous and unconditional.

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<sup>42</sup> 367 Phil. 114 (1999).

<sup>43</sup> Id. at 126-127.

Finally, the Court affirms the award of damages in the CA Decision. Consistent with prevailing jurisprudence,<sup>44</sup> Orpesa is ordered to pay the heirs of Delim the following: ₱75,000.00 representing civil indemnity, ₱75,000.00 representing moral damages, ₱75,000.00 representing exemplary damages, and ₱50,000.00 representing temperate damages with legal interest at the rate of 6% *per annum* on all monetary awards from the date of finality of judgment until fully paid.

**WHEREFORE**, the appeal is **DENIED**. The Court of Appeals Decision, dated May 26, 2022, in CA-G.R. CR-HC No. 03658 is **AFFIRMED**.

**SO ORDERED.**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court

*10/04/23*

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<sup>44</sup> *People v. Jugueta*, 783 Phil. 806 (2016).

OCT 04 2023