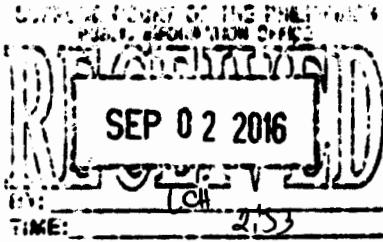




Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 02 2016



THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff -Appellee,

G.R. No. 212930

Present:

VELASCO, JR., J.,
Chairperson,
PERALTA,
PEREZ,
REYES, and
CAGUIOA,* JJ.

- versus -

ANGELO BUENAFE y BRIONES @
"ANGEL,"
Accused-Appellant.

Promulgated:

August 3, 2016

Wilfredo V. Lapitan

X -----X

DECISION

PEREZ, J.:

Before the Court is an appeal from the Decision¹ of the Court of Appeals (CA) dated 19 December 2013 in CA-GR. No. CR-HC 05415, affirming the Decision² of the Regional Trial Court (RTC), Branch 93, San Pedro, Laguna which found appellant Angelo Buenafe y Briones guilty of the crime of Murder, as defined in Article 248 of the Revised Penal Code (RPC).

Appellant was charged with Murder. The accusatory portion of the Information narrates:

* Additional Member per Raffle dated 13 July 2016.
¹ Rollo, pp. 2-10; Penned by Associate Justice Socorro B. Inting with Associate Justices Jose C. Reyes, Jr. and Myra V. Garcia-Fernandez concurring.
² Records, pp. 501-509; Presided by Judge Francisco Dizon Paño.

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That on or about March 24, 2005, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named said accused, conspiring and confederating with two other John Doe's whose identities are yet to be established, with intent to kill and abuse of superior strength, attended with the aggravating qualifying circumstance of treachery, did then and there willfully, unlawfully, and feloniously attack, assault, and shot one ROMMEL ALVAREZ, with the use of a handgun of unknown caliber, thereby inflicting upon him gunshot wound on his abdomen causing his instantaneous death, to the damage and prejudice of his surviving heirs.³

On arraignment, appellant entered a plea of NOT GUILTY for both charges. Trial on the merits ensued thereafter.

The Facts

The antecedent facts culled from the Appellee's Brief⁴ and the records of the case are summarized as follows:

On 24 March 2005, at around 10 o'clock in the evening, Kenneth dela Torre, (Kenneth) a 15 year old farmhand, went to Alpa Farm to apologize to his employer, Rommel Alvarez (Rommel), who scolded him that day.

However, upon reaching the farm, he saw appellant and two (2) unidentified men alight from a vehicle. Thereafter, while Rommel was unwarily texting inside the tent, the two men suddenly restrained his arms behind his back. Subsequently, appellant approached Rommel and delivered several blows to his abdomen until he crumpled to the ground. After which, appellant walked towards a nearby hut while the two men dragged Rommel.⁵

Inside the hut, appellant shot the victim using a lead pipe ("*sumpak*").⁶ After fixing something, appellant and the two other men hurriedly proceeded to the car. Kenneth, on the other hand, went to his friend's house and out of fear, decided to keep the information to himself.⁷

When Kenneth reported for work the next morning, he learned that Rommel was dead.⁸ On the same day, Marissa Alvarez (Marissa), wife of

³ Id. at 1.

⁴ CA *rollo*, pp. 124-146.

⁵ TSN, 20 February 2007, pp. 7-11.

⁶ TSN, 24 April 2007, p. 3.

⁷ Id. at 4; TSN, 8 August 2007, p. 4.

⁸ Id.

Rommel, pointed a number of their farmhands as possible suspects to the police, one of which was Kenneth.⁹

Since appellant is a known family friend, the farmhands followed his instructions to clean the hut and burn the bloodied mattress.¹⁰ Fortunately, Winifredo Vibas stopped the farmhands from complying with appellant's orders.¹¹ Meanwhile, Kenneth told the police that he had no knowledge about Rommel's death.¹² Later on, appellant was also invited by the police and underwent fingerprinting analysis and paraffin test on the same day.

On 22 April 2005, Marissa and several farmhands failed to give their statements when they went to the Criminal Investigation and Detection Group (CIDG) Canlubang office because the computers bogged down. Overwhelmed by conscience and pity, Kenneth revealed to Marissa what he saw that fateful evening on their way home. The case was filed before the trial court a few months thereafter.

Appellant vehemently denied the accusations.¹³ According to him, he cannot kill Rommel as he never had any ill-motive or grudge against him.¹⁴ He also avers that he was not in the farm during the incident as he stayed in the *pabasa* until 10 o'clock in the evening and thereafter went home.¹⁵

In his brief,¹⁶ appellant pointed out that Kenneth's retraction of his previous statement and his belated and perjured new version is highly speculative and unsupported by evidence. Also, according to him, the negative results of the fingerprinting analysis¹⁷ and paraffin test¹⁸ conducted the following day after the incident prove his innocence.

Ruling of the Regional Trial Court

On 4 January 2012, the RTC rendered a decision finding appellant guilty of Murder. The dispositive portion of the decision reads:

⁹ TSN, 13 August 2008, pp.10-11.

¹⁰ TSN, 24 April 2007, p. 6; TSN, 12 December 2007, pp. 7-10; TSN, 19 May 2008, pp. 6-7.

¹¹ TSN, 19, May 2008, p. 7.

¹² TSN, 8 August 2007, p.5.

¹³ *Rollo*, pp. 28-61.

¹⁴ *CA rollo*, p.52.

¹⁵ TSN, 2 February 2011, p.11.

¹⁶ *Rollo*, pp. 28-61.

¹⁷ TSN, 17 October, 2006, pp. 9-10.

¹⁸ TSN, 19 October 2010, pp. 4-5.

WHEREFORE, the [c]ourt hereby renders judgment finding accused Angelo Buenafe y Briones guilty beyond reasonable doubt of the crime of MURDER and sentencing him to suffer the penalty of reclusion perpetua. Angelo Buenafe y Briones is also ordered to pay the heirs of Rommel Alvarez the amounts of ₱50,000.00 as civil indemnity, P50,000.00 as moral damages, and ₱30,000.00 as exemplary damages.¹⁹

Ruling of the Court of Appeals

The CA sustained appellant's conviction. It was fully convinced that there is no ground to deviate from the findings of the RTC. The dispositive portion of the decision reads:

WHEREFORE, the instant appeal is **DENIED**. The assailed Decision dated January 4, 2012 of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 93, in Criminal Case No. 5306-SPL is hereby **AFFIRMED**.²⁰

Appellant appealed the decision of the CA. The Notice of Appeal was given due course and the records were ordered elevated to this Court for review. In a Resolution²¹ dated 13 August 2014, this Court required the parties to submit their respective supplemental briefs. The appellee manifested that it will no longer file a supplemental brief since all the issues raised were already thoroughly discussed in the Appellee's Brief filed with the CA.²² Appellant on the other hand, submitted his supplemental brief²³ on 31 October 2014.

In his brief, appellant assigned the following errors:

- I. THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT RULED THAT THERE IS NO MOTIVE ON THE PART OF KENNETH TO FALSELY TESTIFY AND WHEN, CONTRARY TO THE CONSTITUTIONAL RIGHT OF THE ACCUSED TO PRESUMPTION OF INNOCENCE, IT IGNORED THE FACT THAT THE DEFENSE WITNESS LIKEWISE HAD NO MOTIVE TO FALSELY TESTIFY;

¹⁹ Records, p. 509.

²⁰ *Rollo*, p. 9

²¹ *Id.* at 16-17.

²² *Id.* at 18-19.

²³ *Id.* at 28-59.

II. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT THERE WAS POSITIVE, CLEAR AND CATEGORICAL TESTIMONY OF KENNETH AND WHEN IT DID NOT RULE THAT THE SAID TESTIMONY IS INCREDIBLE AND CONTRARY TO HUMAN EXPERIENCE AND ADMISSIONS OF THE VERY SAME WITNESS.

Our Ruling

*Treachery as a qualifying
circumstance in the crime of
Murder*

This Court finds that the circumstance of treachery should be appreciated, qualifying the crime to Murder. According to the RPC:

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 temporal in its maximum period to death, if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
2. In consideration of a price, reward or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a street car or locomotive, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.



Thus, the elements of murder are: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide.²⁴

Furthermore, 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 arising from the defense which the offended party might make.²⁵

The requisites of treachery are:

- (1) The employment of means, method, or manner of execution which will ensure the safety of the malefactor from defensive or retaliating acts on the part of the victim, no opportunity being given to the latter to defend himself or to retaliate; and
- (2) Deliberate or conscious adoption of such means, method, or manner of execution.²⁶

In this case, the victim was merely unwarily texting inside the tent when the two men held him from behind so that the appellant can deliver blows to his abdomen. The victim was too unprepared and helpless to defend himself against these three men. Furthermore, appellant's acts of dragging him to the nearby hut and using a lead pipe (*sumpak*) evidently shows that he consciously adopted means to ensure the execution of the crime.

The defense of denial cannot be given more weight over a witness' positive identification

Appellant denies the accusations on the ground that he has no ill-motive to kill his close friend Rommel. This alibi deserves scant consideration. As a general rule, proof of motive for the commission of the offense charged does not show guilt and absence of proof of such motive does not establish the innocence of accused for the crime charged such as murder.²⁷

²⁴ *People v. Dela Cruz*, 626 Phil. 631, 639 (2010).

²⁵ *Cirera v. People*, G.R. No. 181843, 14 July 2014, 730 SCRA 27, 47 citing Revised Penal Code,

²⁶ *People v. Pirame*, 384 Phil. 286, 301 (2000) citing *People v. Gatchalian*, 360 Phil. 178, 196-197 (1998).

²⁷ *Cupps v. State*, 97 Northwestern Reports, 210.

In *People v. Ducabo*,²⁸ this Court held that motive is irrelevant when the accused has been positively identified by an eyewitness. Intent is not synonymous with motive. Motive alone is not a proof and is hardly ever an essential element of a crime.²⁹

Evidently, appellant's intent to kill was established beyond reasonable doubt by the manner the crime was committed.³⁰ This can be seen when he even brought two other men to accompany him in killing Rommel and chose to execute it late at night to ensure that no other people can witness the crime.

During the Direct Examination, Kenneth positively identified appellant as the person who killed Rommel:

Q: Now, while Kuya Rommel was being held from behind being held by his two hands from behind by these two men, what else happened?

A: Kuya Angelo approached and whispered to Kuya Rommel sir.

x x x x

Q: And after whispering something and after Angelo having whispered something to Kuya Rommel, what happened next?

A: After Kuya Angelo whispered something to Kuya Rommel, he was punched on his stomach, on his abdomen, sir.

Q: Who was punched on his stomach, on his abdomen?

A: Kuya Angelo punched Kuya Rommel on his abdomen, sir.

Q: How many times?

A: Several times, sir.

Q: And because of which, what happened to Kuya Rommel?

A: He fell down, Sir.

Q: And then after falling down, what happened next?

A: After Kuya Rommel slumped, I witnessed the two men dragging Kuya Rommel towards the kubo or nipa hut, sir.

x x x x

Q: Thereafter, what else happened?

A: I saw Kuya Angelo poked something to the bed which was a lead pipe which he was earlier carrying when he entered that room.

²⁸ *People v. Ducabo*, 560 Phil. 709, 723-724 (2007).

²⁹ *People v. Ballesteros*, 349 Phil. 366, 374 (1998).

³⁰ *Esqueda v. People*, 607 Phil. 480, 505 (2009).

- Q: What did your Kuya Angelo do with that “tubo” which he poked to the bed?
A: He fired it, sir.³¹

Appellant’s contention – that Kenneth’s testimony is perjured and highly speculative – is bereft of merit. It should be noted that Kenneth has no motive to testify falsely against the accused³² as it was even appellant who recommended him for the job.³³

This Court gives the highest respect to the RTC’s evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.³⁴

***Lapse of considerable length
of time before witness comes forward
does not taint his credibility***

Witnessing a crime is an unusual experience that elicits different reactions from the witnesses, and for which no clear cut standard form of behavior can be drawn.³⁵ In *People v. Clariño*³⁶ this court held that death threats, fear of reprisal, and even a natural reluctance to be involved in a criminal case have been accepted as adequate explanations for the delay in reporting crimes. Moreover, the delay in the witness’ disclosure of the identity of the culprit will not affect his credibility nor lessen the probative value of his testimony.³⁷

In this case, appellant’s threat that he will kill Kenneth if he informs the former’s wife of his philandering³⁸ is an acceptable reason for the witness’ delay in coming forward and disclosing the identity of the appellant.

³¹ TSN, 20 February 2007; pp. 10-11, April 24, 2007, p. 3.

³² *People v. Judge Lagos*, 705 Phil. 570, 579 (2013)

³³ TSN, 20 February 2007, p. 4.

³⁴ *People v. Abat*, G.R. No. 202704, 2 April 2014, 720 SCRA 557, 564 citing *People v. Banzuela*, 723 Phil. 797, 814 (2013).

³⁵ *People v. Plazo*, 403 Phil. 347, 356-357 (2001).

³⁶ 414 Phil. 358, 370 (2001).

³⁷ *People v. Labitad*, 431 Phil. 453, 458 (2002).

³⁸ TSN, 12 September 2007, pp. 8-9.

Appellant further maintains that Kenneth's retraction of his previous statement disavowing any knowledge regarding the incident should not be considered against him.³⁹ This Court is not persuaded. What this Court disfavors are the retractions of testimonies which have been solemnly taken before a court of justice in an open and free trial and under conditions precisely sought to discourage and forestall falsehood simply because one of the witnesses who had given the testimony later on changed his mind. Such a rule will make solemn trials a mockery and place the investigation of the truth at the mercy of unscrupulous witnesses.⁴⁰ In the case at bar, Kenneth's recanted statement was made before the police and not in open court. In fact, the retraction of Kenneth's previous statement was made during the initial investigation of the charges against the appellant, which is clearly before the case was filed in court.

***It is not physically impossible for
the witness to be at the scene
of the crime***

Appellant also tried to destroy the credibility of Kenneth's testimony by relying on his housemate's statement that she saw Kenneth sleeping at around 9:00 in the evening.⁴¹ We are not convinced.

In *People v. Taboga*,⁴² physical impossibility was defined as the distance and the facility of access between the *situs* of the crime and the location of the accused when the crime was committed. It must be demonstrated that he was so far away and could not have been physically present at the scene of the crime and its immediate vicinity when the crime was committed.⁴³

In this case, the Alpa Farm is a mere fifteen (15) to twenty (20) minute walk from Kenneth's residence.⁴⁴ Thus, from 9:00 in the evening, it is not physically impossible for Kenneth to be in Alpa Farm at around 10:00 in the evening which is the time when the incident occurred.

***Fingerprint analysis and Paraffin
Tests are not conclusive***

³⁹ *Rollo*, pp. 28-61.

⁴⁰ *Firaza v. People*, 547 Phil. 573, 584 (2007).

⁴¹ TSN, 28 September 2010, pp. 4-5.

⁴² *People v. Taboga*, 426 Phil. 908, 925 (2002).

⁴³ *People v. Amora*, G.R. No. 190322, 26 November 2014, 742 SCRA 667.

⁴⁴ TSN, 28 September 2010, p. 4.

The positive identification made by the prosecution witnesses bears more weight than the negative fingerprint analysis and paraffin tests results conducted the day after the incident.

In *People v. Cajumocan*,⁴⁵ this Court ruled that paraffin tests, in general, have been rendered inconclusive by this Court. Scientific experts concur in the view that the paraffin test was extremely unreliable for use. It can only establish the presence or absence of nitrates or nitrites on the hand; however, the test alone cannot determine whether the source of the nitrates or nitrites was the discharge of a firearm. The presence of nitrates should be taken only as an indication of a possibility or even of a probability but not of infallibility that a person has fired a gun, since nitrates are also admittedly found in substances other than gunpowder.

Furthermore, negative findings in the fingerprint analysis do not at all times lead to a valid conclusion for there may be logical explanations for the absence of identifiable latent prints other than the appellant not being present at the scene of the crime. The absence of latent fingerprints does not immediately eliminate the possibility that the appellant could have been at the scene of the crime.⁴⁶

In this case, Kenneth testified in the trial court that it was indeed the appellant who killed Rommel.⁴⁷ It should also be considered that the fingerprint analysis⁴⁸ and the paraffin test⁴⁹ were conducted the following day after the incident. Thus, it is possible for appellant to fire a gun and yet bear no traces of nitrate or gunpowder as when the hands are bathed in perspiration or washed afterwards.⁵⁰

Damages and civil liability

This Court resolves to modify the damages awarded by the appellate court. In line with recent jurisprudence,⁵¹ appellant shall pay the heirs of Rommel Alvarez, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages for the crime of Murder. In addition, interest at the rate of six percent (6%) *per annum* shall be imposed on all monetary awards from date of finality of this Judgment until fully

⁴⁵ 474 Phil. 349, 358 (2004).

⁴⁶ *People v. Sartagoda*, G.R. No. 97525, 7 April 1993, 221 SCRA 251, 256-257.

⁴⁷ TSNs, 20 February 2007, pp. 10-12; 24 April 2007, p. 3.

⁴⁸ TSN, 17 October 2006, pp.9-10.

⁴⁹ TSNs, 19 October 2010, pp. 4-5; 30 March 2011, p. 5.

⁵⁰ *People v. Pagal*, 338 Phil. 946, 951 (1997).

⁵¹ *People v. Jugueta*, G.R. No. 202124, 5 April 2016.

paid.


WHEREFORE, the 19 December 2013 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05415 is **AFFIRMED** with **MODIFICATIONS**. Appellant ANGELO BUENAFE y BRIONES is found **GUILTY** beyond reasonable doubt of the crime of Murder and shall suffer a penalty of *Reclusion Perpetua* and shall pay the Heirs of Rommel Alvarez ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All monetary awards for damages shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

SO ORDERED.

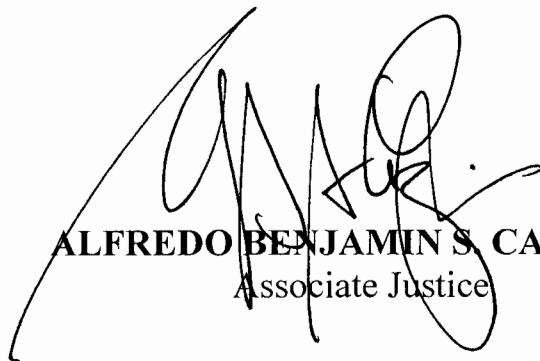

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice

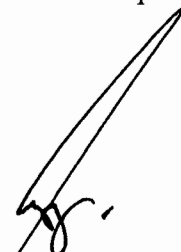

BIENVENIDO L. REYES
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



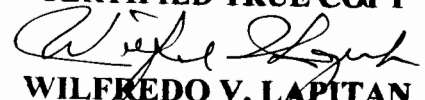
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

SEP 02 2016