



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
JUL 22 2019
BY: SA
TIME: 3:40

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES
Plaintiff-Appellee,

G.R. No. 223715

Present:

- versus -

CARPIO, *Chairperson*,
PERLAS-BERNABE,
CAGUIOA,*
REYES, J., JR.
LAZARO-JAVIER, *JJ.*

MARCELINO SALTARIN y
TALOSIG
Accused-Appellant.

Promulgated:

03 JUN 2019

X-----
Marcelino Saltarin y Talosig

DECISION

LAZARO-JAVIER, *J:*

The Case

This appeal assails the Decision dated February 26, 2015¹ of the Court of Appeals in CA-G.R. CR-H.C. No. 06536 affirming with modification the trial court's verdict of conviction against appellant for murder.

The Proceedings before the Trial Court

The Charge

Appellant was charged with murder for the killing of Joval Benitez de Jesus, thus:

* On Official Leave

¹ Penned by Associate Justice Mariflor P. Punzalan-Castillo and concurred in by Associate Justices Florito S. Macalino and Zenaida T. Galapate-Laguilles; *Rollo*, pp. 2-13.

RS

That on or about November 6, 2011, in the City of Manila, Philippines, the said accused, with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of JOVAL BENITEZ DE JESUS, by then and there stabbing the latter with a bladed weapon (“kutsilyo”) thrice, hitting him once on the chest, thereby inflicting upon him a mortal stab wound which was the direct and immediate cause of his death thereafter.

ACTS CONTRARY TO LAW.²

The case was raffled to the Regional Trial Court-Branch 37, City of Manila.

On arraignment, appellant pleaded *not guilty*. During the pre-trial, the parties stipulated on the jurisdiction of the trial court, the identity of the accused, and the cause of death of the victim Joval Benitez de Jesus. Thereafter, trial followed.

The Prosecution’s Evidence

Lone prosecution witness fifteen-year old **Gerry Narido**³ testified that he considered the victim Joval Benitez de Jesus his *tatay-tatayan*. On November 6, 2011, around 11 o’clock in the evening, he and the victim were outside a junk shop when appellant asked for coins from them. The victim obliged but refused to give more when appellant asked a second time. After appellant left, he and the victim sat inside a *kuliglig* parked nearby.

When appellant returned, he handed a cigarette to the victim. The latter responded “*mabait ka naman pala.*” Appellant stepped back a bit and instantly thrust a knife into the victim’s chest. He delivered two more blows but missed. Appellant then fled.


He (Narido) got shocked and froze but soon regained his composure when he noticed the victim was already losing his strength. He took the victim out of the *kuliglig* and brought him to the Gat Andres Hospital. Little did he know that it was the last time he would be seeing his *tatay-tatayan* alive. The victim died that same night due to the stab wound hitting his heart.⁴

On cross, Narido clarified that although it was dark at the *locus criminis*, he clearly saw appellant because the latter was only an arm’s length away when he stabbed the victim. Also, he saw the incident up close since he was seated right beside the victim on board the *kuliglig*.

² Records, p. 1.

³ TSN, March 21, 2013.

⁴ Records, pp. 3-4.



During the trial, the parties further stipulated on the nature of the testimonies of (1) arresting officer **PO1 Christopher Razon**,⁵ (2) attending doctor **Jesille Cui Baluyot**,⁶ (3) investigating officer **SP02 Edmundo Cabal**,⁷ and (4) the victim's mother, **Teresita de Jesus**.⁸

The prosecution offered the following documentary exhibits: (1) Letter-Referral dated November 8, 2011 of the Manila Police District Homicide Section endorsing the case to the inquest prosecutor of Manila; (2) the victim's Certificate of Death; (3) SPO2 Cabal's Crime Report dated November 7, 2011; (4) Affidavit of Apprehension executed by PO2 Roman Fajardo and PO1 Christopher Razon; (5) the Booking Sheet; and (6) SPO2 Cabal's Arrest Report.⁹

The Defense's Evidence

Appellant testified as lone witness for the defense. According to him, on November 6, 2011, around 11 o'clock in the evening, while he was walking home, the victim blocked his path to ask for cigarette. He obliged then walked away. The victim followed him and this time asked for money. He replied he did not have any left. The victim suddenly held him by the arm and forced his hand inside his pocket. He resisted but the victim held his neck and drew a knife. He then realized the victim had four other companions, including Narido. They all surrounded him and the victim. He grappled for the knife and rolled with the victim on the ground. After getting back on his feet, he immediately ran home. The following morning, the victim's relatives came to his house and accused him of stabbing the victim. The next day, he got arrested in the church.

The Trial Court's Ruling

By Decision dated November 28, 2013,¹⁰ the trial court found appellant guilty as charged, thus:

WHEREFORE, the Court finds accused Marcelino Saltarin y Talosig GUILTY beyond reasonable doubt of the crime of Murder and there being no mitigating or aggravating circumstances present, hereby sentences him to suffer the penalty of *reclusion perpetua*.

Accused is ordered to pay the heirs of the victim the sum of Php13,500.00 as actual damages, Php50,000.00 as civil indemnity, Php50,000.00 as moral damages, and Php30,000.00 as exemplary damages.

SO ORDERED.¹¹

⁵ Order dated February 21, 2012; Records, pp. 27-28.

⁶ Order dated May 3, 2012; Records, p. 42.

⁷ Order dated September 18, 2012; Records, p. 51.

⁸ Order dated January 24, 2013; Records, p. 62.

⁹ Order dated July 16, 2013; Records, p. 78.

¹⁰ Penned by Virigilio V. Macaraig; CA Rollo, pp. 35-43.

¹¹ CA Rollo, p. 43.

The trial court ruled that appellant's denial cannot prevail over Narido's positive identification of him as the one who fatally stabbed the victim. The trial court also appreciated treachery to have attended the killing since appellant's sudden and unexpected attack caught the victim off guard. It did not appreciate evident premeditation though for lack of any showing that appellant hatched a plan to kill the victim.

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of murder despite the lack of positive identification. Appellant pointed out that the crime happened around 11 o'clock in the evening along a dark street, rendering it impossible for Narido to recognize his offender. Appellant also cited the supposed uncertainties in Narido's testimony, *i.e.* Narido was unable to answer simple questions pertaining to the address of the junkshop where the *kuliglig* was parked, and the exact date of the incident. Narido claimed he did not know him before the incident, and yet, Narido mentioned his complete address when he testified in court.

Appellant likewise found it contrary to human nature that Narido did not shout for help despite the presence of other people in the vicinity. Finally, he imputed ill-motive on Narido who testified he would do everything to protect the interest of his *tatay-tatayan*.¹²

On the other hand, the Office of the Solicitor General (OSG) through State Solicitor Maria Victoria V. Sardillo defended the trial court's verdict of conviction and the credibility of Narido's testimony. The OSG argued that despite the minor gaps in Narido's testimony, the same sufficiently established that appellant's sudden and unpredicted attack amounted to treachery. The OSG also emphasized that appellant's positive testimony prevailed over appellant's denial.

The Court of Appeals' Ruling

The Court of Appeals affirmed, with modification through its assailed Decision dated February 26, 2015, thus:

WHEREFORE, the November 28, 2013 Decision of the Regional Trial Court of Manila, Branch 37, in Criminal Case No. 11-287986, finding accused-appellant Marcelino Saltarin guilty beyond reasonable doubt of murder is **AFFIRMED** with the following **MODIFICATIONS**:

1. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* **without eligibility of parole**;
2. The awards of civil indemnity and moral damages are **increased to P75,000.00 each**; and

¹² CA Rollo, pp. 21-33.

3. **All damages awarded shall earn an interest of 6% per annum computed from the finality of this judgment until fully paid.**

In all other respects, the assailed decision is **AFFIRMED**.

SO ORDERED.¹³

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution dated June 28, 2016,¹⁴ both appellant and the OSG manifested that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.¹⁵

Issue

Did the Court of Appeals err when it affirmed appellant's conviction for murder, with modification of the penalty and monetary awards?

Ruling

The appeal must fail.

Murder is defined and penalized under Article 248 of the Revised Penal Code, *viz.*:

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;

xxx

Murder requires the following elements: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) the killing does not amount to parricide or infanticide.¹⁶

We focus on the second and third elements, the presence of which appellant vigorously disclaims.

¹³ *Rollo*, p. 2-12.

¹⁴ *Rollo*, p. 19.

¹⁵ *Rollo*, pp. 21 and 26.

¹⁶ *People v. Villanueva*, 807 Phil. 245, 252 (2017).

Second Element: Appellant was positively identified as the assailant who fatally stabbed the victim

Fifteen-year old Gerry Narido recounted in detail how appellant stabbed the victim to death, thus:

XXXX

Q Mr. Witness, do you know a person by the name of Juval de Jesus?

A Yes, sir.

Q Where is this person right now if you are aware?

A He is already dead, sir.

Q Do you know the reason why this person died?

A Yes, sir.

Q What is the reason why this person Juval died?

A At first Saleng was asking for coins from Juval and Juval was able to give Saleng coins.

Q Who is this Saleng you are referring to?

A Saleng

Q Is this person Saleng inside this court room right now?

A Yes, sir.

Q Will you kindly point him to us?

Interpreter

Witness is pointing to accused seated at the back row of the court room, third person from left wearing yellow t-shirt who, when asked by the Court, answered by the name of Marcelino Saltarin.

Q You said this Saleng asked for coins from Juval. Do you affirm that Mr. Witness?

A Yes, sir.

Q When did this Saleng ask coins from Juval?

A It was night time, sir.

Q Do you still remember the exact date?

A Yes, sir.

Q What is the exact date to your recollection Mr. Witness?

A It was eleven in the evening, sir.

Q What happened after Saleng asked coins from Juval?

A Saleng again asked coins from Juval and Juval said enough.

Q What happened after Juval refused to give Saleng more coins?

A Saleng went home and immediately got a knife.

- Q Were you able to see where did Saleng got the knife?
A No, sir.
- Q After Saleng got hold of the knife, what happened next?
A Juval and I immediately went to “*kuliglig*” and ride on it.
- Q **By the way, where were you Mr. Witness when Saleng asked coins from Juval?**
A **I was beside Juval.**
- Q **How far were you from Juval?**
A **Side by side, sir.**
- Q How about accused, Saleng; how far was he when he asked coins from Juval?
A Saleng went home but immediately proceeded to our place.
- Q **You said that the incident happened at night. Why did you manage to identify Saleng despite your testimony that the incident happened at night time?**
A **Because I was beside Juval, sir.**
- XXXX
- Q xxx
You said that Saleng got hold of the knife after Juval refused to give him some more coins. What happened after that, Mr. Witness?
A Saleng handed to Juval a cigarette.
- Q **What did Juval do with the cigarette given by Saleng?**
A **Juval said: “*mabait ka naman pala.*” Then Saleng moved backward and immediately stabbed Juval at the chest.**
- Q **Could you estimate the distance of Juval when Saleng stabbed Juval?**
A **It’s just an arm length distance, sir.**
- Q What was Juval doing when Saleng stabbed him?
A Juval was standing.
- Q After Saleng stabbed Juval to chest what happened next?
A Saleng made another stab, sir. Fortunately, Juval was able to avoid the attack.
- Q What transpired next after Juval evaded the second thrust of Saleng?
A Saleng made another blow and fortunately Juval was able to avoid the attack.
- Q What happened after that?
A Saleng ran away, sir.¹⁸ (emphases supplied)
- XXXX

¹⁸ TSN, March 21, 2013, pp. 5-15.

Narido's detailed account started with appellant asking for coins from the victim who readily obliged but refused to give more when appellant asked a second time. Appellant left for a while and when he came back, he went straight to the victim and handed the latter a cigarette. In turn, the victim even commended appellant. As if acting on cue, appellant stepped back a bit, obviously for momentum, and instantly thrust a knife into the victim's chest. He followed-up with two more blows but missed. Then, he fled.

Both the trial court and the Court of Appeals gave full credence to Narido's eyewitness account of the incident. He was physically present at the *locus criminis* when it took place. He positively identified appellant as the assailant. His credible testimony was, thus, sufficient to support a verdict of conviction against appellant. More so because Narido's testimony firmly conformed with the victim's death certificate, stating that the latter died due to a "stab wound [on] the anterior thorax hitting the heart."¹⁹

Suffice it to state that, in this jurisdiction, the assessment of credibility is best undertaken by the trial court since it has the opportunity to observe evidence beyond what is written or spoken, such as the deportment of the witness while testifying on the stand.²¹ Hence, the trial court's factual findings on the credibility of witnesses are binding and conclusive on the reviewing court, especially when affirmed by the Court of Appeals, as in this case.²²

The fact that the incident happened around 11 o'clock in the evening along a dark street did not preclude Narido from clearly recognizing appellant as the assailant. Early on, appellant asked for coins from the victim who readily obliged but refused to give more a second time. Narido and the victim were together the whole time. Narido even saw appellant leave right after the victim declined to give him more coins. When appellant came back shortly after, Narido and the victim were still together, this time, seated side by side inside a parked *kuliglig*. Up close, Narido saw appellant approach and hand a cigarette to the victim who even praised appellant "*mabait ka naman pala.*" Then, appellant's sudden and unexpected fatal attack happened. He thrust a knife into the victim's chest, causing the latter's death.

In fine, Narido positively and clearly identified appellant as the one who slew the victim.

At any rate, Narido's close relation with the victim whom he considered his *tatay-tatayan* is undisputed. But contrary to appellant's claim, it was precisely Narido's kindred spirit with his *tatay-tatayan* which impelled him to exact justice from appellant, the real assailant, and not just from some "fall guy". Besides, it is against the natural order of events, nay, human nature that

¹⁹ Records, p. 4.

²¹ *People v. Ocdol*, 741 Phil. 701, 710-711 (2014).

²² *People v. Regaspi*, 768 Phil. 593, 598 (2015).



a person would falsely testify against another if the latter had nothing to do with the crime.²³

Narido's inability to shout for help during the incident was not unusual. Quite the opposite, it is but normal for him to be petrified when his *tatay-tatayan* was fatally stabbed before his very eyes. More, appellant's swift, deliberate and unexpected attack on the victim hardly gave Narido a chance to react. Notably, Narido was just fifteen years old at that time. He was not even an adult. And in any case, there is no standard form of reaction when facing a shocking and horrifying experience.

In another vein, the alleged uncertainties in Narido's testimony pertaining to the exact date of the incident, the address of the junk shop where the *kuliglig* was parked, and whether he knew appellant prior to the incident and where he lived --- wholly refer to trivial matters which do not affect Narido's credibility as an eyewitness.²⁴ His positive identification of appellant as the one who slew his *tatay-tatayan* was consistent, unwavering, and firm.

In this light, appellant's bare denial must fail. For alibi and denial are inherently weak and courts have been viewed with disfavor by the courts. It cannot prevail over the assailant's positive identification by the prosecution witness.²⁵ The defense of denial further crumbles in view of appellant's admission that he was physically present at the *locus criminis* on the same date and time the victim got slain.

Third Element: Treachery attended the killing

As correctly ruled by the trial court and the Court of Appeals, treachery attended the killing of Joval Benitez de Jesus.

Narido testified that after the victim refused to give appellant more coins a second time, appellant left but returned shortly after. Appellant then approached the parked *kuliglig* where Narido and the victim were seated. Pretending to be a kind soul, appellant handed cigarette to the victim who even praised him "*mabait ka naman pala.*" But like a wolf in sheep clothing, appellant, without any warning, stepped back a bit obviously for momentum and instantly thrust a knife into the chest of the unsuspecting hapless victim.

Appellant's sudden, swift and unexpected attack rendered the victim totally unable to retaliate or defend himself. The means employed by appellant ensured the commission of the crime without exposing him to any risk which may come from the victim's act of retaliation or defense. This is treachery. The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the victim no chance to

²³ *People v. Jumanoy*, 221 SCRA 333, 344 (1993).

²⁴ *People v. Appegu*, 429 Phil. 467, 477 (2002).

²⁵ *People v. Peteluna*, 702 Phil. 128, 141 (2013).

resist or escape.²⁶ What is decisive is that the execution of the attack made it impossible for the victim to defend himself or herself or retaliate, ensuring its commission without risk to the aggressor.²⁷

Evident premeditation did not attend the killing

Evident premeditation requires the following elements: (1) a previous decision by the accused to commit the crime; (2) an overt act or acts manifestly indicating that the accused has clung to his determination; and (3) a lapse of time between the decision to commit the crime and its actual execution enough to allow the accused to reflect upon the consequences of his acts.²⁸ To warrant a finding of evident premeditation, it must appear that the decision to commit the crime was the result of meditation, calculation, reflection, or persistent attempt.²⁹ The prosecution is tasked to show how or when appellant's plan to kill was hatched and how much time had elapsed before it was carried out.

Here, both the trial court and the Court of Appeals found that the prosecution was not able to sufficiently establish evident premeditation.

We agree. Indeed, the victim's slay was more spontaneous than planned. Based on Narido's testimony, right after the victim refused to give appellant more coins, appellant left but returned shortly. The events which followed indicated that appellant had armed himself with a knife which he used to stab the victim in a sudden, swift, and unexpected manner.

There was no showing early on that appellant plotted to kill the victim. On the contrary, the attendant circumstances establish that he only decided to finish off the victim after the latter refused to give him more coins. There was no evidence that he had enough time to reflect on the consequences of killing his victim before carrying it out. Too, it is not shown here that appellant performed any other overt act showing his determination to kill.³⁰

In fine, evident premeditation cannot be appreciated as an aggravating circumstance in this case.

Penalty

All told, the Court of Appeals did not err in affirming appellant's conviction for murder. And in the absence of any aggravating circumstance, appellant was correctly sentenced to *reclusion perpetua*. On whether the

²⁶ *People v. Orozco*, G.R. No. 211053, November 29, 2017.

²⁷ *People v. Pulgo*, 830 SCRA 220, 234 (2017).

²⁸ *People v. Kalipayan*, G.R. No. 229829, January 22, 2018.

²⁹ *People v. Dativo*, 434 Phil. 684, 690 (2002).

³⁰ *People v. Isla*, 699 Phil. 256, 270 (2012).

decision must explicitly bear appellant's eligibility for parole, A.M. 15-08-02³⁴ clarifies:

xxx the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":

- (1) In cases where the death penalty is not warranted, there is no need to use the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and
- (2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of "*without eligibility for parole*" shall be used to qualify that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

Thus, the phrase "*without eligibility for parole*" shall be used to qualify the penalty of *reclusion perpetua* only if the accused should have been sentenced to suffer the death penalty had it not been for RA 9346.³⁵

Here, appellant was sentenced to *reclusion perpetua* because such indeed is the correct penalty in the absence of any aggravating circumstance that would have otherwise warranted the imposition of the death penalty were it not for RA 9346. The phrase "*without eligibility for parole*", therefore, need not be borne in the decision to qualify appellant's sentence.

On the monetary awards, the Court affirms the award of actual damages in the amount of Php13,500.00 as the stipulated funeral expenses incurred by the victim's mother.³⁶ The Court of Appeals properly increased the grant of civil indemnity from Php50,000.00 to Php75,000.00, and moral damages from Php50,000.00 to Php75,000.00. As for exemplary damages, the same should be increased from Php30,000.00 to Php75,000.00 in accordance with prevailing jurisprudence.³⁷

ACCORDINGLY, the appeal is **DENIED**. The Decision dated February 26, 2015 of the Court of Appeals in CA-G.R. CR-H.C. No. 06536 is **AFFIRMED with MODIFICATION**.

MARCELINO SALTARIN y TALOSIG is found **GUILTY** of **Murder** and sentenced to ***Reclusion Perpetua***. He is further required to pay Php13,500.00 as actual damages, Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages.

³⁴ GUIDELINES FOR THE PROPER USE OF THE PHRASE "*WITHOUT ELIGIBILITY FOR PAROLE*" IN INDIVISIBLE PENALTIES.

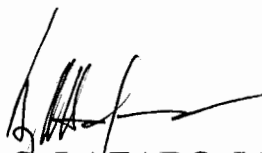
³⁵ AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES

³⁶ Order dated January 24, 2013; Records, p. 62.


³⁷ *People v. Jugueta*, 783 Phil. 806, 839 (2016).


These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

SO ORDERED.

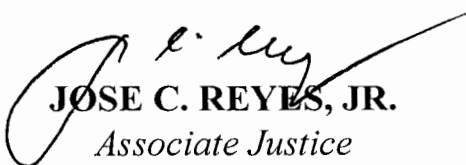

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Associate Justice

(On Official Leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

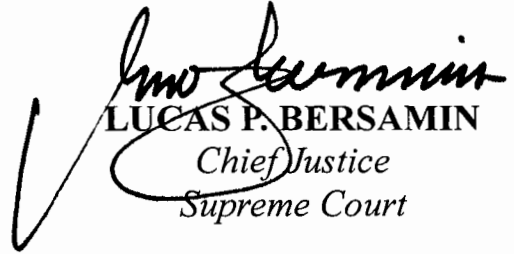

JOSE C. REYES, JR.
Associate Justice

ATTESTATION

I attest that the conclusion 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.

**ANTONIO T. CARPIO***Associate Justice**Chairperson***CERTIFICATION**

Pursuant to Section 13, Article VII of the Constitution, and the Division Chairperson's Attestation, I certify 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.

**LUCAS P. BERSAMIN***Chief Justice**Supreme Court*