



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 220749

Present:

LEONEN, *J.*,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
ROSARIO, **JJ.*

- versus -

MELVIN PEREIRA y MONTALVO,**
Accused-Appellant.

Promulgated:

January 20, 2021

MisDCCBatt

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DECISION

HERNANDO, J.:

On appeal¹ is the May 29, 2014 Decision² of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06037 affirming the ruling³ of the Regional Trial Court (RTC), Branch 217 of Quezon City convicting accused-appellant Melvin Perreira y Montalvo (Perreira) alias "*Bulik*" of Murder in Criminal Case No. Q-09-156807.

The Information charging Perreira with Murder alleges, to wit:

* On official leave.

** Also spelled as Montalbo in some parts of the records.

¹ *Rollo*, p. 18; Notice of Appeal dated June 26, 2014.

² *Id.* at 2-17; penned by Associate Justice Mariflor P. Punzalan-Castillo and concurred in by Associate Justices Amy C. Lazaro-Javier (now a Member of this Court) and Manuel M. Barrios.

³ *CA rollo*, pp. 43-54; February 5, 2013 Decision penned by Judge Santiago M. Arenas.

That on or about the 18th day of January 2009, at Quezon City, Philippines, the above-named accused, with intent to kill and with the qualifying aggravating circumstances of evident premeditation and treachery as well as the generic aggravating circumstance of dwelling, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one ARNEL BAGAN y SIMPLINA, by then and there barging into the home of the victim and then repeatedly stabbing the victim therein in the chest with the use of a kitchen knife, thereby inflicting upon the said ARNEL BAGAN y SIMPLINA, serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said victim.

The above attendant circumstances were present in the commission of the crime because accused planned the commission of the crime prior to its execution until its commission consciously adopting the means and methods of the attack, done suddenly and unexpectedly in order that the victim will not be able to defend himself and to ensure the commission of the crime without risk to the accused.

CONTRARY TO LAW.⁴

The Facts:

On the evening of January 18, 2009, Arnel Bagan y Simplina (Bagan) was watching television together with his wife, Virgie Bagan (Virgie), their ten-year old daughter, and their neighbor Rhea Masalunga, when Perreira surreptitiously entered the house through the unlocked screen door, positioned himself behind Bagan and wrapped his left arm around Bagan's neck and stabbed him with a knife in the chest.⁵ Afterwards, Perreira aimed towards Virgie who quickly parried the attack with a chair. Alerted by the commotion, Carlo Delgado (Delgado) entered the Bagans' house and was likewise stabbed by Perreira who thereafter fled the scene.⁶

Bagan was brought to the Quezon City General Hospital where he was pronounced dead on arrival.⁷

The barangay authorities of Brgy. Balingasa eventually arrested Perreira at the house of his aunt, Dorothea Macaraeg, and turned him over to the police for inquest proceedings.⁸

⁴ Id. at 43-44.

⁵ *Rollo*, p. 3.

⁶ Id. at 4.

⁷ Id.

⁸ Id.

Police Chief Inspector Paul Ed Ortiz, the Medico-Legal Officer of the PNP Crime Laboratory who conducted the autopsy on the victim, testified that Bagan died of stab wounds in the thorax:

[T]here were three stab wounds x x x[:] one stab wound was 12 cm deep and was caused by a sharp object such as a knife. The thrust of that stab wound perforated the heart and penetrated the upper part of the left lung, which was sufficient to cause the death of the victim. Another stab wound was more or less located x x x just below the ribcage in the upper right abdominal part, 7 cm deep. The thrust was from the front to the back and upward and to the middle of the body, penetrating the heart at the level of the 7th rib. x x x [T]he blade used was about 11 cm in length. The last stab wound was at the left upper arm and was superficial. [The victim had abrasions on both knees x x and on the right pectoral region of the right upper breast.⁹

For his part, Perreira completely denied the narrative of the prosecution. He claimed that Bagan was the aggressor who attacked him while he was walking down the street. The attack purportedly came hours after a confrontation between Perreira and the Spouses Bagan earlier in the day. Thus, Perreira was forced to defend himself which caused him to stab the victim.

The appellate court quoted Perreira's narration of events in his Appellant's Brief:¹⁰

The mother of the accused, Leonila Pereira, testified that the victim, Arnel Bagan, was their neighbor in Sto. Cristo Street, Balintawak, Quezon City. Their house is only five (5) meters away from that of the victim, or nine houses away.

On 18 January 2009 about late afternoon, her son Melvin Pereira went out of their house to confront their neighbor Caloy Bagan (victim herein), whose wife Virgie hit her (Leonila) with a coffee mug in the head. She does not know of any reason why Virgie hit her. When she was hit, she felt dizzy which caused her to lean on the wall. Her neighbor Nelia helped her and brought her home. She then called her sister and she was brought to Quezon City General Hospital for treatment. After which, she went home and rested.

Her children, accused Melvin and daughter Melissa, learned about what happened to her and became very angry. The accused kept on shouting and was very mad because of what was done to her by Virgie.

Thereafter, she proceeded to the barangay to report the incident and because she was worried about the accused who was very angry during that time. When she returned home, there were already police officers and she was told by Virgie Bagan that her husband was stabbed by the accused.

⁹ *Rollo* p. 4.

¹⁰ *CA rollo*, pp. 27-42.

Upon learning it, she asked the assistance of the barangay to find her son Melvin. She found her son at the house of her cousin and she surrendered him to the barangay. Her son had a stab wound on his forearm and was brought to the hospital for treatment. The latter was not armed with any knife at the time he left their house.

When she was able to talk to her son, the latter admitted that the incident was brought to her by what was done to her by Virgie. The accused further told her that when he confronted the victim, Virgie was not there but only Arnel who was armed with a gun. According to her son, he was constrained to use a knife in order to defend himself.

On January 18, 2009, the accused, Melvin Perreira, was at home sleeping. At around 5:00 o'clock in the afternoon, he woke up and saw his mother's head wrapped with bandage. He asked his mother what happened and learned that Ate Virgie Bagan hit her with a glass. He had no knowledge of any reason why his mother was hit.

Upon learning it, he got angry and after about fifteen (15) minutes, told his mother that he was going to see Virgie to talk to her. His siblings warned him of what might happen if he would go to Virgie, but he told them that he would only talk to Virgie.

Upon reaching the house of Virgie, the latter and her husband Arnel were there. He asked why she (Virgie) did that to his mother. Virgie answered him in a loud voice and angrily told him that what happened was just right for his mother. Arnel also told him that it was not even enough and he might as well include him. After hearing this, he went home to avoid further trouble.

At around 6:40 o'clock in the evening of the same date, he went out of their house to buy some bath soap. When he was on his way home, he was surprised when Arnel suddenly appeared in front of the latter's house from the sidecar of his motorcycle. Arnel was hiding a kitchen knife with a length of more or less fourteen (14) inches.

Suddenly, Arnel stabbed him. He was not hit during the first thrust, however, he was hit in his left hand during the second thrust. After which, he was able to hold the right hand of Arnel, which was holding the knife. He embraced Arnel from behind to stop him. They slipped and fell on the concrete pavement. Because of that, Arnel lost hold of the knife and he was able to get it. Thereafter, he felt dizzy because of blood loss and lost his senses and stabbed the victim.

After the incident, he went to Edubas Compound at Sitio Tibagan, Barangay Balingasa to see his aunt who was working thereat and ask for help. It took him fifteen (15) minutes of walking to reach the said area.

He did not intend to evade liability of prosecution by going to Edubas Compound. He merely went there to seek help from his tita for his surrender. In

fact, when the barangay officials arrived, he went with them peacefully and surrendered the knife used in stabbing the victim.

The accused did not have any intention to kill the victim, nor did he plan to kill him. He also did not intend to employ force and violence upon the victim. In fact, he was not carrying any weapon during that time.¹¹

In addition, Perreira claimed that in the event he is found guilty of killing the victim, the mitigating circumstance of voluntary surrender should be considered in his favor.

Ruling of the Regional Trial Court:

In its February 5, 2013 Decision, the RTC found Perreira guilty of Murder qualified by treachery. The trial court emphasized that by asserting self-defense, the burden of proof shifted to Perreira, whose defense consisted mainly of self-serving and uncorroborated testimony, and his mother's inconsistent testimony. The RTC ruled, thus:

WHEREFORE, accused Melvin Pereira y Montalbo @ "Bulik" is found guilty beyond reasonable doubt of Murder, and is sentenced to suffer the penalty of *reclusion perpetua* with a duration of Twenty (20) Years and One (1) Day to Forty (40) Years, and the said accused shall suffer Perpetual Absolute Disqualification as an accessory to the principal penalty. Accused is further ordered to pay the heirs of Arnel Bagan y Simplina, the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages and P25,000.00 as temperate damages.

In the service of his sentence, accused is x x x credited with four-fifths (4/5) of the preventive imprisonment undergone by him, there being no showing that he agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.¹²

Ruling of the Court of Appeals:

On appeal, the appellate court affirmed the trial court's judgment of conviction for Murder. It ruled that Perreira failed to establish and prove the elements of self-defense. In addition, as did the trial court, the appellate court disregarded Perreira's claim of voluntary surrender. It held thus:

WHEREFORE, in view of the foregoing, the instant appeal is **DENIED**. The assailed Decision dated February 5, 2013 rendered by the Regional Trial Court, Branch 217, Quezon City finding the accused Melvin Pereira y Montalbo guilty of the offense of murder is **AFFIRMED**.¹³

¹¹ Id. at 5-7.

¹² CA rollo p. 53.

¹³ Rollo p. 16.

Hence, this appeal by Montalvo raising the following issues:¹⁴

I

THE [LOWER COURTS] GRAVELY ERRED IN NOT GIVING CREDENCE TO ACCUSED-APPELLANT'S CLAIM OF SELF-DEFENSE.

II

ASSUMING THAT HIS DEFENSE IS UNAVAILING, THE [LOWER COURTS] GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT.

III

GRANTING THAT THE ACCUSED-APPELLANT IS GUILTY HEREOF, THE [LOWER COURTS] GRAVELY ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCES OF VOLUNTARY SURRENDER AND INCOMPLETE SELF-DEFENSE.¹⁵

Our Ruling

The appeal lacks merit.

Perreira insists that he was justified in killing Bagan who pulled a knife on him which compelled him to defend himself from the unprovoked attack. He adamantly maintains that the elements of the justifying circumstance of self-defense were present.

We are not persuaded.

We have consistently ruled that self-defense is an affirmative allegation and offers exculpation from liability for crimes only if satisfactorily proved. It requires (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed by the accused to repel it; and (c) lack of sufficient provocation on his part.¹⁶ By invoking self-defense, the burden is

¹⁴ Id. at 34. See June 13, 2016 Resolution of the Court. In the Manifestation and Manifestation and Motion filed by the accused-appellant and the Office of the Solicitor General, respectively, the parties adopted their separate Appellant's and Appellee's Briefs filed before the CA for purposes of the appeal to this Court.

¹⁵ CA rollo p. 29.

¹⁶ ART. 11. *Justifying circumstances* – The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

placed on the accused to prove its elements clearly and convincingly. While all three elements must concur, self-defense relies first and foremost on proof of unlawful aggression on the part of the victim. If no unlawful aggression is proved, no self-defense may be successfully pleaded.¹⁷

In this case, Perreira utterly failed to discharge the burden of proving unlawful aggression. His version of the events was uncorroborated, and his testimony was not accorded any credence by the trial court. On the other hand, the eyewitness testimony for the prosecution was positive, clear and categorical. Significantly, the defense no longer cross-examined Virgie when she testified.¹⁸ Instead, it proffered the inconsistent testimony of Perreira's mother on a supposed prior incident of Virgie hitting her:

ATTY. MADAMBA

Q During your first direct examination you testified that on January 18, 2009 in the morning you were out to buy breakfast, would you still confirm that?

A Yes, Sir.

Q And you also testified during your initial direct examination that while on your way home coming from buying breakfast you happened to pass by the house of Virgie Bagan, would you still confirm that?

A Yes, Sir.

Q And while you were at the place of Virgie Bagan you also testified that you were hit by a coffee mug, would you still confirm that?

A Yes, Sir.

Q However, during your initial direct examination you testified that it was Caloy Bagan who hit you with a mug?

A It was Virgie, Sir.

Q So during your initial direct you testified that it was Caloy Bagan and now you are claiming that it was Virgie Bagan who hit you with a coffee mug, which of the two now is the correct facts of the case?

A It was Virgie Bagan who hit me with a coffee mug, Sir.

Q Now, Madam Witness, kindly explain to the Honorable Court why did you commit such inconsistency during your first direct examination?

Third. Lack of sufficient provocation on the part of the person defending himself.

xxx

¹⁷ See *People v. Gutierrez*, 625 Phil. 471, 481 (2010).

¹⁸ See TSN, November 23, 2009, p. 23.

A Because I did not understand it fully well the first time and my sense of hearing is very poor and I was nervous during the first time that I testified here in court, Sir.

Q **You also testified during your direct examination that the hitting of the mug occurred in the late afternoon but you said a while ago that the hitting incident happened or took place in the morning, which now is the correct facts of the case, Madam Witness?**

A The hitting incident happened in the morning, Sir.

Q Now, kindly tell to this Honorable Court, what is the time did the hitting of the mug on you exactly took place (*sic*)?

A At around 7:00 o'clock in the morning, Sir.

Q Now, after you were hit by a mug what happened to you?

A I felt dizzy and I leaned on the wall, Sir.

Q Despite being hit by a mug, were you able to call for a help?

ACP FELIPE

Your Honor, please, we would like to object on the ground of ... may we know the materiality of the testimony because we do not see the connection with the murder incident.

ATTY. MADAMBA

The witness here, Your Honor, is the mother of the accused and our defense is that the accused was only forced to commit the crime if not accidentally committed the crime, Your Honor, because of the incident between the complainant and the mother.

ACP FELIPE

Okay, Your Honor.

COURT

Witness may answer.¹⁹ (Emphasis supplied)

This supposed prior incident between the Bagans and Perreira's mother could have been clarified by the defense during Virgie's cross examination. Unfortunately, it opted not to cross-examine Virgie. In any event, the incident testified to by Perreira's mother has no bearing on his claim of self-defense in the killing of Bagan.

The credibility of the prosecution witnesses had been weighed by the trial court, and it found their testimonies to be more convincing. As a rule, the appellate court gives full weight and respect to the determination by the trial

¹⁹ TSN, May 16, 2011, pp. 3-6.

court of the credibility of witnesses, since the trial judge has the best opportunity to observe their demeanor.²⁰ While this rule admits of exceptions, none of such exceptions obtains in this case.

Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence **or when it is extremely doubtful by itself**. Indeed, in involving self-defense, the burden of evidence is shifted and the accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.²¹ (emphasis supplied)

The lower courts cannot, therefore, be faulted for rejecting Perreira's plea of self-defense.

Next. We find no reason to depart from the factual findings of the trial court which was affirmed by the appellate court that treachery attended the killing.

Time and again, we have adhered to the established rule in appellate review that the trial court's factual findings, including its assessment of the credibility of the witnesses, the probative weight of their testimonies, and the conclusions drawn from the factual findings, are accorded great respect and even conclusive effect. These factual findings and conclusions assume greater weight if they are affirmed by the appellate court.²²

Paragraph 16, Article 14 of the Revised Penal Code (RPC) defines treachery as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make. The essence of treachery is that, the attack is deliberate and without warning, and done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape. In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.²³

As uniformly found by the lower courts, the elements of treachery were present: at the time of the attack, Bagan was not in a position to defend himself from the suddenness and swiftness thereof. He had no inkling that an attack was forthcoming and had no opportunity to mount a defense. While Bagan was seated on the floor watching TV with his back towards the screen

²⁰ *People v. Dela Rosa*, G.R. No. 227880, November 6, 2019.

²¹ *People v. Gutierrez*, supra note 12 at 481-482, citing *Razon v. People*, 552 Phil. 359 (2007).

²² *People v. Dela Rosa*, supra.

²³ *People v. Gutierrez*, supra note 12 at 482.

door, Perreira surreptitiously entered the Bagans' house and immediately wrapped his left arm around Bagan's neck, and with the knife in his right hand repeatedly stabbed him in the chest.

Palpably, from the pieces of evidence passed upon by the trial court, the facts show that treachery was employed by Perreira. The attack was sudden and unexpected, as testified to by Virgie. On the whole, treachery was correctly appreciated as a circumstance to qualify the crime to murder.

In the same tenor, we affirm the lower courts' finding that Perreira is not entitled to the mitigating circumstance of voluntary surrender. The requisites for voluntary surrender that: (1) the offender has not been actually arrested; (2) the offender surrendered himself to a person in authority or the latter's agent; and (3) the surrender was voluntary,²⁴ were not met. The facts established herein parlay that the barangay authorities had to search for Perreira and go to the place where he fled to. Only then was he arrested.

Finally. We affirm the penalty imposed upon Perreira. Under Article 248 of the RPC, as amended, the crime of Murder qualified by treachery is penalized with *reclusion perpetua* to death. The lower courts were correct in sentencing him to suffer the penalty of *reclusion perpetua* considering the absence of any aggravating and mitigating circumstances that attended the commission of the offense.²⁵

We likewise affirm the lower courts' award of ₱75,000.00 as civil indemnity. However, consistent with prevailing jurisprudence,²⁶ we increase the awards of moral damages and exemplary damages to ₱75,000.00 each, and temperate damages to ₱50,000.00. In addition, We impose on all the monetary awards interest at the legal rate of six percent (6%) per *annum* from date of finality of the Decision until full payment thereof.


WHEREFORE, the appeal is **DISMISSED**. The May 29, 2014 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 06037 finding Melvin Pereira y Montalvo guilty beyond reasonable doubt of Murder, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to indemnify the heirs of Arnel Bagan the amount of ₱75,000.00 as civil indemnity is hereby **AFFIRMED with MODIFICATION** in that awards of moral damages and exemplary damages are **INCREASED** to ₱75,000.00 each, and the award of temperate damages to ₱50,000.00. The monetary awards shall earn interest at the rate of six percent (6%) per *annum* from finality of this Decision until fully payment thereof.

²⁴ *De Vera v. De Vera*, 602 Phil 877 (2009).


²⁵ See Article 63 (2) of the Revised Penal Code.


²⁶ See *People v. Jugueta*, 783 Phil. 806 (2016).


SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

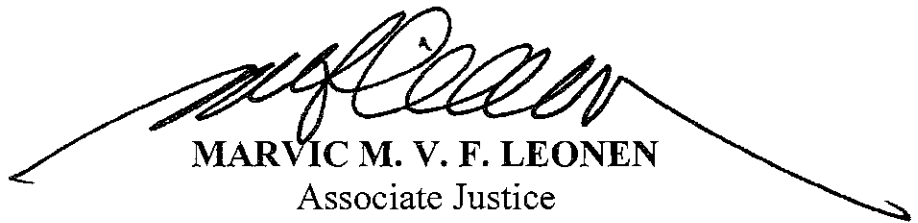

HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO DELOS SANTOS
Associate Justice

On official leave
RICARDO R. ROSARIO
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.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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.



DIOSDADO M. PERALTA
Chief Justice