Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **September 17, 2014,** *which reads as follows*:

G.R. No. 205310 - People of the Philippines, Plaintiff-Appellee, v. Romeo Mabanta y Plastina, Accused-Appellant.

Appellant seeks the review of the Decision[1] dated December 16, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02916, entitled "*People of the Philippines v. Romeo Mabanta y Plastina.*" The said appellate court ruling affirmed the Decision[2] dated March 27, 2007 of the Regional Trial Court (RTC) of Agoo, La Union, Branch 31, in Criminal Case No. A-5199, wherein appellant was found guilty beyond reasonable doubt of murder under Article 248 of the Revised Penal Code.

In the Information[3] dated March 29, 2005, the circumstances surrounding the criminal charge of murder filed against appellant were summarized as follows:

> That on or about the 29th day of January 2005, in the Municipality of Agoo, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously attack, assault and shoot [his] own sister Adelaida Jarata *y* Mabanta, inflicting upon the latter injuries which

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1 *Rollo*, pp. 2-12. Penned by Associate Justice Stephen C. Cruz with Associate Justices Vicente S.E. Veloso and Danton Q. Bueser, concurring.
2 CA *rollo*, pp. 11-43.
3 Records, p. 43.

- over – eight (8) pages .....

directly caused her death, all to the damage and prejudice of the heirs of Adelaida Jarata *y* Mabanta, and other consequential damages.

Appellant pleaded "NOT GUILTY" to the charge during his arraignment on August 18, 2005.

According to the prosecution, the murder of Adelaida M. Jarata by appellant transpired in this manner:

> Around [3:00] in the afternoon of January 29, 2005, a Mitsubishi car driven by Nelson Basco together with his passenger, appellant Romeo Mabanta, parked in front of the house of Lourdes Mabanta Bucasas situated at the central part of Agoo, La Union. Appellant then entered the house while holding a gun.
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> At that time, Lourdes Bagaoisan was manicuring the fingernails of her aunt, Aida M. Jarata, at the garage of her parent's house. Also, the two (2)-month old daughter of Lourdes was at the cradle.
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> Appellant suddenly appeared and said, "*Sika Aida* (you Aida)" and then he fired his gun upwards. Lourdes told appellant, her uncle, "[W]hy are you doing that there is even a child here."
>
> As if appellant heard nothing, he went directly to his sister, Aida M. Jarata, and shot her at a close range on her forehead. Aida died instantaneously. Appellant thereafter fled.
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> Appellant was only a foot away from Aida when he shot her. Lourdes, on the other hand, was one (1) meter away from appellant when she witnessed the shooting incident.[4] (Citations omitted.)

As his defense, appellant disclaimed criminal liability on the ground of insanity. Though he admitted fatally shooting his sister, Adelaida M. Jarata, appellant claimed that he had no recollection of what he did because he was so drunk during the said incident. He only had knowledge of what had happened when he was told about it when he woke up the following morning in jail where he had spent the night. He maintained that his severe alcohol intoxication could have triggered an uncontrollable seizure attack which made him display violent behavior towards his sister. In support of this theory, he presented Dr. Ma. Ella Cabanlet, a psychiatrist from the Baguio General Hospital, as defense witness.

After the parties' presentation of their respective evidence, the trial court ruled that appellant is guilty beyond reasonable doubt of murder. The

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4 CA *rollo*, pp. 131-132.

dispositive portion of the assailed March 27, 2007 ruling of the trial court reads:

> WHEREFORE, judgment is rendered finding the accused ROMEO MABANTA guilty beyond reasonable doubt of the crime of Murder. He is sentenced to a penalty of imprisonment punished (sic) under Article 248 of the Revised Penal Code which is reclusion perpetua. He is ordered to pay a civil liability of ₱50,000.00 to the heirs of Aida Jarata.[5]

Appellant elevated his case to the Court of Appeals for review. However, the appellate court merely affirmed his conviction, to wit:

> **WHEREFORE**, premises considered, the instant appeal is hereby **DENIED**. Accordingly, the assailed Decision of the Regional Trial Court (RTC) of Agoo, La Union, Branch 31, dated March 27, 2007 is **AFFIRMED**.[6]

Thus, the Court is confronted with the instant appeal wherein appellant put forward the following issues for consideration:

> A. WHETHER OR NOT THE ACCUSED-APPELLANT COMMITTED THE CRIME OF MURDER.
>
> B. WHETHER OR NOT THE ACCUSED-APPELLANT CAN BE HELD CRIMINALLY LIABLE FOR MURDER FOR THE DEATH OF HIS SISTER ADELAIDA JARATA *y* MABANTA.
>
> C. WHETHER OR NOT THE ACCUSED-APPELLANT IS CIVILLY LIABLE TO THE HEIRS OF ADELAIDA JARATA *y* MABANTA.[7]

Appellant claims that he cannot be found guilty of murder because the qualifying circumstance of *aleviosa* or treachery was not adequately proven by the prosecution. Absent such qualification, appellant argues that he could only be tried and convicted of homicide. Furthermore, he asserts that his temporary insanity that was brought about by alcohol intoxication exempts him from any criminal liability resulting from his act of fatally shooting the victim in this case.

We deny the appeal.

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5 Id. at 43.
6 *Rollo*, p. 11.
7 CA *rollo*, p. 64.

The pertinent provision of law in this case is Article 248(1) of the Revised Penal Code, as amended, which reads:

> ART. 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:
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> 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[.]

Jurisprudence tells us that in order to hold the accused liable for murder, the prosecution must prove that: (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 of the Revised Penal Code; and (4) the killing is neither parricide nor infanticide.[8] All the foregoing elements are present in the case at bar, specifically that of treachery[9] which qualifies the killing to murder.

We have held that treachery is present when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make.[10] Therefore, the two elements that must be proven to establish treachery are: (a) the employment of means of execution which would ensure the safety of the offender from defensive and retaliatory acts of the victim, giving the victim no opportunity to defend himself; and (b) the means, methods and manner of execution were deliberately and consciously adopted by the offender.[11] Essentially, there is treachery when the attack comes without warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape.[12]

Contrary to appellant's assertions, the prosecution was able to adequately demonstrate that treachery is obtaining in the case at bar. It is undisputed that the attack employed by appellant was sudden and deliberate. The victim had no inkling or suspicion that her own brother would shoot her on that fateful afternoon. Coupled with the fact that she

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8 *People v. Zapuiz*, G.R. No. 199713, February 20, 2013, 691 SCRA 510, 518-519.

9 The Information also alleged that evident premeditation attended the killing but said circumstance was properly not appreciated by the lower courts.

10 *People v. De la Rosa*, G.R. No. 201723, June 13, 2013, 698 SCRA 548, 557.

11 *Avelino v. People*, G.R. No. 181444, July 17, 2013, 701 SCRA 477, 490.

12 *People v. Mores*, G.R. No. 189846, June 26, 2013, 700 SCRA 23, 37.

was then seated comfortably in her home's garage while her fingernails were being manicured by her niece Lourdes Bagaoisan, it is not difficult to conclude that the victim was hardly in a position to escape her impending doom much less retaliate against her unexpected assailant.

Appellant would argue that the fatal shooting was purely accidental and not swift and deliberate. He would highlight the fact that he first called the attention of the victim before firing the first shot from his gun towards the ceiling. This was immediately prior to the second shot wherein, appellant claims, the gun was accidentally pointed at his sister's head due to his drunken state.

However, the undisputed testimony of the prosecution witnesses all indicate that the interval between the first and second shots was only a few seconds apart thus debunking appellant's argument that the first shot had the effect of negating any element of surprise. Moreover, Lourdes and Fe Mabanta, appellant's own daughter, testified that they saw the shooting firsthand and that there was nothing accidental in the death of the victim since they saw appellant take deliberate aim with the gun directly at the victim's head prior to pulling the trigger.

Anent appellant's claim of insanity, we consider such a defense as unavailing because the evidence presented in support of it is insufficient when gauged by the benchmark provided for by jurisprudence.

Article 12(1) of the Revised Penal Code, as amended, states the following:

> Art. 12. *Circumstances which exempt from criminal liability.* – The following are exempt from criminal liability:
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> 1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

We have held that insanity presupposes that the accused was completely deprived of reason or discernment and freedom of will at the time of the commission of the crime.[13] In *People v. Isla*,[14] we thoroughly discussed the nature and consequences of insanity as an exempting circumstance in this manner:

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13 *People v. Bulagao*, G.R. No. 184757, October 5, 2011, 658 SCRA 746, 759.
14 G.R. No. 199875, November 21, 2012, 686 SCRA 267, 277.

> Article 12 of the Revised Penal Code (*RPC*) provides for one of the circumstances which will exempt one from criminal liability which is when the perpetrator of the act was an imbecile or insane, unless the latter has acted during a lucid interval. This circumstance, however, is not easily available to an accused as a successful defense. Insanity is the exception rather than the rule in the human condition. Under Article 800 of the Civil Code, the presumption is that every human is sane. Anyone who pleads the exempting circumstance of insanity bears the burden of proving it with clear and convincing evidence. It is in the nature of confession and avoidance. An accused invoking insanity admits to have committed the crime but claims that he or she is not guilty because of insanity. The testimony or proof of an accused's insanity must, however, relate to the time immediately preceding or simultaneous with the commission of the offense with which he is charged. (Citation omitted.)

As correctly adjudged by both the trial court and the Court of Appeals, appellant failed to discharge the burden of proving with clear and convincing evidence that he was insane at the time he shot his sister. We quote with approval the appellate court's disquisition regarding this matter:

> On the other hand, the defense of insanity is not availing. The defense itself failed to prove that the accused was acting outside of lucidity when he fired at the victim point blank. The report of the psychiatrist, Dr. Cabanlet, does not fully indicate that the accused was under a spate of insanity either at the time of his examination or at the time of the commission of the crime. It merely suggested a possible affliction called "seizure disorder" at the time the accused shot the victim which the psychiatrist theorized as having been caused or aggravated by his predilection for excessive drinking. However, since the psychiatrist was not an expert on neurology, her hypothetical views on the accused were not entirely proved at the hearing.
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> In the present case, the accused was heavily intoxicated but this does not necessarily equate to insanity as though his mental faculty or reason had entirely dissipated. On the contrary, facts show that he was not entirely unaware of what he was about to do or who he was about to kill. It must be stressed that he was reasonably cognizant of his surroundings when he arrived at his house or when he went directly inside the family house without mistaking it for someone else's abode. In fact, he managed to tell his brother, Reynaldo Mabanta, that "nothing happened" as he walked home after shooting his sister in a rather stuporous manner. More importantly, he mentioned the victim's name before he fired the first shot, which means that his intoxication did not entirely impair his senses and that the shooting was not a random act of violence.[15]

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15 *Rollo*, pp. 9-11.

Clearly, in this case, appellant was unable to overcome the presumption of sanity. He was unable to prove that he was completely divested of intelligence or that he was totally deprived of the freedom of the will at the time of the commission of the crime. He mistakenly argues that his admitted drunken state is a sound basis for an insanity plea for exemption from criminal liability. Under the law, intoxication can only be appreciated as an alternative circumstance which can serve to mitigate or aggravate a felony depending upon the fulfilment of certain criteria. The pertinent provision of the Revised Penal Code, as amended, is herein reproduced:

> Art. 15. *Their concept.* – Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication, and the degree of instruction and education of the offender.
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> x x x x
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> The intoxication of the offender shall be taken into consideration as a mitigating circumstance when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony; but when the intoxication is habitual or intentional, it shall be considered as an aggravating circumstance.

In the case at bar, there is no disagreement that appellant was heavily intoxicated at the time the crime took place. The testimonies of the appellant and all the other witnesses are all in accord on this fact. Likewise, there is no proof or allegation that appellant was a habitual drunkard or that he intentionally drank alcohol to the point of intoxication in order to embolden himself to commit a crime. Thus, in adherence to the aforementioned statute, the intoxication of appellant should be considered as a mitigating circumstance that will serve to lower the penalty for the felony he was convicted. Since the penalty for murder is *reclusion perpetua* to death and there being no aggravating circumstance apart from the qualifying circumstance of treachery, we rule that the trial court imposed the correct penalty on appellant.

However, with regard to the award of damages, we notice that the trial court and the Court of Appeals failed to give the heirs of the deceased their due. We have held that when death occurs due to a crime, the following may be recovered: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4)

exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.[16] Thus, in line with recent jurisprudence, we increase the amount of civil indemnity from ₱50,000.00 to ₱75,000.00, as well as award exemplary damages in the amount of ₱30,000.00.[17] Furthermore, moral damages is awarded in the amount of ₱75,000.00.[18]

WHEREFORE, premises considered, the present appeal is **DENIED** for lack of merit. The assailed December 16, 2011 Decision of the Court of Appeals is **AFFIRMED WITH MODIFICATIONS** that (1) the award of civil indemnity is increased from Fifty Thousand Pesos (₱50,000.00) to Seventy-Five Thousand Pesos (₱75,000.00); (2) moral damages is awarded in the amount of Seventy-Five Thousand Pesos (₱75,000.00); (3) exemplary damages is awarded in the amount of Thirty Thousand Pesos (₱30,000.00); and (4) appellant is ordered to pay interest on all damages awarded at the rate of six percent (6%) per annum from the date of finality of judgment.

SO ORDERED."

Very truly yours,

EDGAR O. ARICHETA
Division Clerk of Court
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(CA-G.R. CR H.C. No. 02916)

The Hon. Presiding Judge
Regional Trial Court, Br. 31
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(Crim. Case No. A-5199)

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16 *People v. Rarugal*, G.R. No. 188603, January 16, 2013, 688 SCRA 646, 657.
17 *People v. Villarmea*, G.R. No. 200029, November 13, 2013, 709 SCRA 528, 544.
18 *People v. Barbachano*, G.R. No. 177754, February 24, 2014.