



Republic of the Philippines  
Supreme Court  
Baguio City  
SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 230221

Present:

- versus -

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

EDGAR GAYON y FERRERAS,  
Accused-Appellant.

Promulgated:

10 APR 2019

*HWCabalunga*

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DECISION

CAGUIOA, J.:

This is an appeal<sup>1</sup> from the Decision<sup>2</sup> dated December 7, 2015 (assailed Decision) of the Court of Appeals, Fourth Division (CA), in CA-G.R. CR-HC No. 05952, which affirmed with modification the Decision<sup>3</sup> dated October 4, 2012 of the Regional Trial Court, Branch 55, Irosin, Sorsogon (RTC), in Criminal Case No. 1746, finding accused-appellant Edgar Gayon y Ferreras (accused-appellant Edgar) guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code (RPC).

The Facts

Accused-appellant Edgar and Rodolfo Gayon (Rodolfo) were charged with the crime of Murder under the following Information:<sup>4</sup>

That on or about the 19<sup>th</sup> day of July, 2004, at about 9:40 in the evening, at Brgy. Sulangan, municipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court,

\* On leave.

<sup>1</sup> See Notice of Appeal, *rollo*, pp. 10-12.

<sup>2</sup> Id. at 2-9. Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Noel G. Tijam and Francisco P. Acosta concurring.

<sup>3</sup> CA *rollo*, pp. 58 - 61. Penned by Judge Fred G. Jimena.

<sup>4</sup> Records, pp. 1-2.

the above-named accused armed with bladed weapon, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and evident premeditation did then and there willfully, unlawfully and feloniously, attack, assault and stab one Leonora Givera, thereby hitting and inflicting upon her mortal wounds which caused her instantaneous death, to the damage and prejudice of her legal heirs.

**CONTRARY TO LAW.<sup>5</sup>**

Upon arraignment, both accused-appellant Edgar and Rodolfo pleaded not guilty to the crime charged. After pre-trial, trial proceeded.

*Version of the Prosecution*

The version of the prosecution as summarized by the CA is as follows:

The evidence of the prosecution indicated that on July 19, 2004 at around 9:40 in the evening, Leyden Gayon [(Leyden)] was in their house in Sulangan, Matnog, Sorsogon. Her husband is the first cousin of [Rodolfo] while accused-appellant [Edgar] is the son of Rodolfo. Leyden testified that while she was in their house having a conversation with Leonora Givera [(Leonora)], Leyden saw accused-appellant [Edgar] entered their house. According to the People's witness, [accused-appellant Edgar] sat on the lap of Leonora and suddenly stabbed Leonora several times. She even saw accused-appellant's knife embedded on Leonora's right shoulder. Thereafter, Leyden dragged Leonora inside the house. Leyden claimed that Leonora uttered to her that she was dying and Leyden likewise heard accused-appellant [Edgar] told his father [Rodolfo] "*Papay we have no more problem because I killed your sister.*"<sup>6</sup>

*Version of the Defense*

On the other hand, the defense presented as witnesses accused-appellant Edgar and Rodolfo, whose testimonies were summarized as follows:

x x x [T]hat on July 19, 2004 at about 9:40 in the evening[,] [Rodolfo] was in their house along the road in Sulangan, Matnog, Sorsogon. He claimed he was not present at the time of the killing. That he was just informed by his wife and daughter about the incident that his son [accused-appellant Edgar] had killed Leonora Givera, the following morning. His wife and daughter-in-law had a previous altercation about their chickens. He did not know of any reason why [he was implicated in the case]. x x x<sup>7</sup>

For his part, accused-appellant [Edgar] alleged that on July 19, 2004, he arrived home from work but his family was not there. [He] went back on the road where a certain Toti told him that his family was not

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<sup>5</sup> Id. at 1.

<sup>6</sup> *Rollo*, p. 3.

<sup>7</sup> *CA rollo*, p. 59.



home because they had a quarrel with Leonora at Leyden's house, where they were drinking gin. Thereafter, [accused-appellant Edgar] asked Leonora what [his] wife did which caused their frequent quarrel. [However,] x x x Leonora pointed a knife at him and said that his wife kept on fighting back. Leonora then stood with the knife still pointing at accused-appellant [Edgar], who tried to resist the instrument. During the struggle, accused-appellant [Edgar] allegedly saw Leyden's husband approaching with something to hit him, so he pushed Leonora inside Leyden's house. Accused-appellant [Edgar] testified that he did not notice if the knife caused any injury. Thus, he left and went back on the road to look for his family.<sup>8</sup>

### **Ruling of the RTC**

In its Decision<sup>9</sup> dated October 4, 2012, the RTC convicted accused-appellant Edgar but acquitted Rodolfo. The dispositive portion of said Decision reads:

**WHEREFORE**, the prosecution having established the **GUILT** of the accused beyond reasonable doubt EDGAR GAYON is hereby sentenced to suffer a penalty of Reclusion Perpetua. And to indemnify the heirs of Leonora Givera in the amount of Php75,000.00, as civil indemnity and Php75,000.00 as moral damages.

The period of detention of Edgar Gayon is credited in his favor in accordance with Article 29 of the Revised Penal Code.

For failure of the prosecution to establish sufficient evidence to support a conviction accused RODOLFO GAYON is hereby **ACQUITTED**. Considering that the accused is a detention prisoner, he is hereby ordered released from legal custody. The Provincial Warden of Sorsogon Provincial Jail is hereby ordered to release the person of the accused unless there is a case for which he may be further detained.

Without Costs.

**SO ORDERED.**<sup>10</sup>

The RTC gave credence to the testimony of the eyewitness, Leyden Gayon (Leyden), who identified accused-appellant Edgar as the one who stabbed Leonora several times on the right shoulder as corroborated by the medical finding of Dr. Rosanna Galeria.<sup>11</sup> The RTC further held that the qualifying circumstance of treachery was duly proven due to the suddenness of the attack by accused-appellant Edgar without giving the victim a chance to defend herself.<sup>12</sup>

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<sup>8</sup> *Rollo*, pp. 3-4.

<sup>9</sup> *CA rollo*, pp. 58-61.

<sup>10</sup> *Id.* at 89.

<sup>11</sup> *Id.* at 60.

<sup>12</sup> *Id.*

Aggrieved, accused-appellant Edgar appealed to the CA.<sup>13</sup>

### **Ruling of the CA**

In the assailed Decision,<sup>14</sup> the CA affirmed the RTC with modifications, to wit:

**WHEREFORE**, the **APPEAL** is hereby **DENIED**. Consequently, the appealed Decision rendered on October 4, 2012 by the Regional Trial Court, Branch 55, Irosin, Sorsogon in Criminal Case No. 1746 is **AFFIRMED** with **MODIFICATION** as to the incremental payment by the accused of legal interest at the rate of six [percent] (6%) interest per annum on all monetary awards from finality of the Decision until full payment.

**SO ORDERED.**<sup>15</sup>

The CA found that all the elements of Murder were established by the prosecution through the testimony of the eyewitness and corroborated by the results of the post mortem examination of the victim.<sup>16</sup> Anent the qualifying circumstance of treachery, the CA held that the prosecution managed to demonstrate that the attack on the unsuspecting victim, who was merely inside the house and talking to Leyden, was very sudden.<sup>17</sup>

Further, the CA ruled that, apart from accused-appellant Edgar's self-serving testimony, no other evidence was presented by him to show the elements of self-defense. On the contrary, the nature and the number of wounds sustained by the victim logically indicate that the assault was no longer an act of self-defense but a determined aggression on the part of accused-appellant Edgar.<sup>18</sup>

Hence, this appeal.

### **Issues**

Whether the CA erred in affirming accused-appellant Edgar's conviction for Murder.

### **The Court's Ruling**

The appeal is partly meritorious.

It is settled that findings of fact of the trial courts are generally accorded great weight; except when it appears on the record that the trial

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<sup>13</sup> Records, p. 229.

<sup>14</sup> *Rollo*, pp. 2-9.

<sup>15</sup> *Id.* at 8.

<sup>16</sup> *Id.* at 5.

<sup>17</sup> *Id.* at 6.

<sup>18</sup> *Id.* at 7-8.



court may have overlooked, misapprehended, or misapplied some significant fact or circumstance which if considered, would have altered the result.<sup>19</sup> This is axiomatic in appeals in criminal cases where the whole case is thrown open for review on issues of both fact and law, and the court may even consider issues which were not raised by the parties as errors.<sup>20</sup> The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>21</sup>

After a careful review and scrutiny of the records, the Court affirms the conviction of accused-appellant Edgar but for the crime of Homicide, instead of Murder, as the qualifying circumstances of treachery and evident premeditation were not present in the killing of the victim Leonora.

*Qualifying circumstances of treachery  
and evident premeditation*

Settled is the rule that qualifying circumstances must be proved with the same quantum of evidence as the crime itself, that is, beyond reasonable doubt.<sup>22</sup> Hence, for accused-appellant Edgar to be convicted of Murder, the prosecution must not only establish that he killed Leonora; it must also prove, beyond reasonable doubt, that the killing of Leonora was attended by treachery or evident premeditation.

Both the RTC and the CA found that the killing of Leonora was attended by treachery only because of the suddenness of accused-appellant Edgar's attack against the victim. However, mere suddenness of the attack is not sufficient to hold that treachery is present. For treachery to exist there must be a showing that the means of execution was deliberately or consciously adopted by the accused with a view of accomplishing the act without risk to the aggressor.<sup>23</sup> Thus, in *People v. Caliao*<sup>24</sup> (*Caliao*), the Court found the accused therein guilty of Homicide only, not Murder, because there was no showing that the accused made any preparation to kill the victim in such a manner as to insure the commission of the crime or make it impossible or difficult for the victim to retaliate or defend himself.<sup>25</sup> The Court also ruled that "when aid was easily available to the victim, such as when the attendant circumstances show that there were several eyewitnesses to the incident, including the victim's family, no treachery could be appreciated because if the accused indeed consciously adopted means to insure the facilitation of the crime, he could have chosen another place or time."<sup>26</sup>

<sup>19</sup> *People v. Duran, Jr.*, G.R. No. 215748, November 20, 2017, 845 SCRA 188, 211.

<sup>20</sup> *Id.* at 211.

<sup>21</sup> *Ramos v. People*, 803 Phil. 775, 783 (2017).

<sup>22</sup> See *People v. Biso*, 448 Phil. 591, 601 (2003).

<sup>23</sup> See *People v. Caliao*, G.R. No. 226392, July 23, 2018, p. 7.

<sup>24</sup> *Id.*

<sup>25</sup> See *id.* at 7-8.

<sup>26</sup> *Id.* at 7.



Similar to *Caliao*, there is no showing in this case that accused-appellant Edgar carefully and deliberately planned the killing in the manner that would ensure his safety and success. Moreover, the testimony of the eyewitness confirmed that Leonora was attacked at the place familiar to her and in the presence of other people who are related to the victim. Under these circumstances, the Court finds it difficult to agree with the courts *a quo* that accused-appellant Edgar deliberately chose a particular mode of attack that purportedly ensured the execution of the criminal purpose without any risk to himself arising from the defense that the victim might offer. To reiterate, the victim was with people who could have helped her repel the attack. The Court therefore fails to see how the mode of attack chosen by accused-appellant Edgar, in a place familiar to the victim and in the presence of the latter's relatives, supposedly guaranteed the execution of the criminal act without risk on his end.

In addition, the Court notes that the attack against Leonora was frontal. While a frontal attack, by itself, does not negate the existence of treachery, when the same is considered along with the other circumstances as previously discussed, it already creates a reasonable doubt in the existence of the qualifying circumstance. As earlier stated, treachery must be proven as fully and convincingly as the crime itself; and any doubt as to existence must be resolved in favor of the accused.<sup>27</sup>

There is also no basis for the Court to appreciate the qualifying circumstance of evident premeditation. There is evident premeditation when the following elements concur: (1) the time when the accused determined to commit the crime; (2) an act manifestly indicating that the accused had clung to his determination to commit the crime; and (3) the lapse of a sufficient length of time between the determination and execution to allow him to reflect upon the consequences of his act.<sup>28</sup> In this case, evident premeditation was not established because the prosecution's evidence was limited to what transpired in the house of Leyden at 9:40 in the evening of July 19, 2004, when accused-appellant Edgar stabbed Leonora, while the latter was having a conversation with Leyden. The prosecution did not present any proof showing when and how accused-appellant Edgar planned and prepared to kill Leonora.

Moreover, in *People v. Agramon*,<sup>29</sup> the Court held that:

x x x Also, the mere fact that the accused was armed at the beginning of the altercation does not unequivocally establish that he earlier devised a deliberate plot to murder the victim. To qualify an offense, the circumstance must not merely be "premeditation" but must be "evident premeditation." Hence, absent a clear and positive proof of the overt act of planning the crime, mere presumptions and inferences thereon,

<sup>27</sup> *People v. Latag*, 465 Phil. 683, 695 (2004).

<sup>28</sup> *People v. Moreno*, G.R. No. 217889, March 14, 2018, p. 14.

<sup>29</sup> G.R. No. 212156, June 20, 2018.



no matter how logical and probable, would not be enough. Evident premeditation cannot be appreciated to qualify the offense in this case.<sup>30</sup>

*Self-defense and the credibility of the witness*

To exculpate himself from liability, accused-appellant Edgar invokes self-defense and assails the credibility of the eyewitness, Leyden.

In *People v. Serad*,<sup>31</sup> the Court emphasized that “in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court. Thus, when the case pivots on the issue of the credibility of the testimonies of the witnesses, the findings of the trial courts necessarily carry great weight and respect as they are afforded the unique opportunity to ascertain the demeanor and sincerity of witnesses during trial.”<sup>32</sup> Here, after examining the records of the case, the Court finds no cogent reason to vacate the RTC’s appreciation of the evidence, particularly on the credibility of the eyewitnesses, which was also affirmed *in toto* by the CA.

As regards accused-appellant Edgar’s claim of self-defense, he has the burden to prove, by clear and convincing evidence, that the killing was attended by the following circumstances: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.<sup>33</sup> Unlawful aggression refers to “an actual physical assault, or at least a threat to inflict real imminent injury, upon a person.”<sup>34</sup> Without unlawful aggression, the justifying circumstance of self-defense has no leg to stand on and cannot be appreciated.<sup>35</sup>

The Court agrees with the courts *a quo* that accused-appellant Edgar failed to discharge his burden. His uncorroborated and self-serving claim that it was Leonora who pointed a knife at him pales in comparison to and loses probative value when compared to the positive testimony of Leyden, who identified accused-appellant Edgar as the one who entered her house and stabbed the victim. Also, as correctly pointed out by the CA, the nature and number of wounds suffered by the victim “logically indicated that the assault was no longer an act of self-defense but a determined aggression on the part of the accused-appellant.” The Court, in *Dela Cruz v. People*,<sup>36</sup> ruled that the plea of self-defense cannot be justifiably entertained where it is uncorroborated by any separate competent evidence and is in itself

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<sup>30</sup> Id. at 7.

<sup>31</sup> G.R. No. 224894, October 10, 2018.

<sup>32</sup> Id. at 5.

<sup>33</sup> *Guevarra v. People*, 726 Phil. 183, 194 (2014).

<sup>34</sup> *People v. Dolorido*, 654 Phil. 467, 475 (2011).

<sup>35</sup> *Nacnac v. People*, 685 Phil. 223, 229 (2012).

<sup>36</sup> 747 Phil. 376, 388 (2014).

extremely doubtful. All told, the Court finds accused-appellant Edgar's evidence sorely lacking to establish self-defense.

*Proper penalty and award of damages*

With the removal of the qualifying circumstances of treachery and evident premeditation, the crime is therefore Homicide and not Murder. The penalty for Homicide under Article 249 of the RPC is *reclusion temporal*. In the absence of any modifying circumstance, the penalty shall be imposed in its medium period. Applying the Indeterminate Sentence Law, the penalty next lower in degree is *prision mayor* with a range of six (6) years and one (1) day to twelve (12) years. Thus, accused-appellant Edgar shall suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum.

Finally, in view of the Court's ruling in *People v. Jugueta*,<sup>37</sup> the damages awarded in the assailed Decision are hereby modified to civil indemnity, moral damages, and temperate damages of ₱50,000.00 each.

**WHEREFORE**, in view of the foregoing, the Court **DECLARES** accused-appellant Edgar Gayon y Ferreras **GUILTY** of **HOMICIDE**, for which he is sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum. He is further ordered to pay the heirs of Leonora Givera the amount of Fifty Thousand Pesos (₱50,000.00) as civil indemnity, Fifty Thousand Pesos (₱50,000.00) as moral damages, and Fifty Thousand Pesos (₱50,000.00) as temperate damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

**SO ORDERED.**



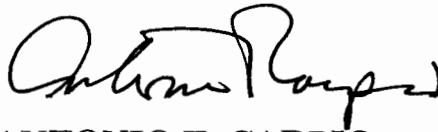
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

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<sup>37</sup> 783 Phil. 806 (2016).

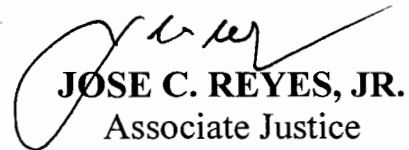


WE CONCUR:

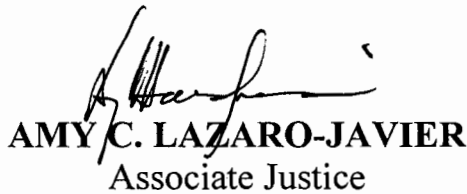


**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

(On leave)  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice




**JOSE C. REYES, JR.**  
Associate Justice



**AMY C. LAZARO-JAVIER**  
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.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**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.



**LUCAS P. BERSAMIN**  
Chief Justice

