



Republic of the Philippines
 Supreme Court
 Baguio City

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

**PEOPLE OF THE
 PHILIPPINES,**

Plaintiff-Appellee,

- versus -

**ANGEL GURO Y COMBO
 ALIAS "JASON,"**

Accused-Appellant.

G.R. No. 230619

Present:

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

Promulgated:

10 APR 2019

H. M. Cabalag Perfecto

X-----X

DECISION

CAGUIOA, J.:

Before this Court is an appeal¹ filed under Section 13, Rule 124 of the Rules of Court from the Decision² dated October 3, 2016 of the Court of Appeals (CA), Second Division in CA-G.R. CR-HC No. 07721, which affirmed the Decision³ dated September 2, 2015 of the Regional Trial Court of Marikina City, Branch 272 (RTC), in Crim. Case No. 2007-9546-MK, finding herein accused-appellant Angel Guro (Guro) guilty of the crime of Murder under Article 248 of the Revised Penal Code (RPC).

The Facts

Guro was charged with Murder of Jesus Sangcap, Jr. (Jesus). The accusatory portion of the Information reads:

That on or about (the) 12th day of February 2007, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court,

* On leave.

¹ *Rollo*, pp. 25-26.

² *Id.* at 2-24. Penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Melchor Q.C. Sadang.

³ *CA rollo*, p. 44-56. Penned by Judge Felix P. Reyes.

the above-named accused, while armed with a knife, did then and there willfully, unlawfully and feloniously, and (sic) attack, assault and stab one JESUS SANGCAP, JR. y SUNGAHID, by stabbing the latter twice on his back while the latter was sprawled on the ground, thereby inflicting upon him fatal injuries which caused his death soon thereafter, the said killing having been attended by the qualifying circumstances (sic) of treachery.

CONTRARY TO LAW.⁴

Upon arraignment, Guro pleaded not guilty to the crime charged.

*Version of the Prosecution*⁵

The prosecution presented Jefferson Sangcap (Jefferson), Joemarie⁶ Sangcap (Joemarie), Police Chief Inspector Felimon Porciuncula (PCI Porciuncula) and Jocelyn Loardo (Loardo).

Jefferson, the first witness for the prosecution, is the son of Jesus. He testified that while at their home in Cubao, in the early evening of February 12, 2007, his father received a call from one Venus de los Santos, Jefferson's cousin. According to Jesus, a group of male persons were waiting for Joemarie, Jesus' brother, in Marikina City. Jefferson, by invitation of his father, went to Marikina City. They arrived at Joemarie's school at 9:00 in the evening on board their respective motorbikes. Joemarie rode with Jefferson.

While they were on their way home, more particularly at the intersection of C.M. Recto and del Pilar Streets, Parang, Marikina City, Joemarie saw the group composed of around five persons waiting for him at the computer shop. Joemarie wanted to talk to them. Joemari, Jefferson and Jesus alighted from their respective motorbikes and approached the group. When they reached the group, Jefferson asked a certain Yayi what their group's problem was with his uncle Joemarie. Yayi stood up together with one of the members of the group and without saying any word, pushed him in the chest. Jefferson fell to the gutter. When he was about to stand up, he saw his father kneeling and was about to stand when a group of persons lifted a chair and threw the same at his father. His father was hit and fell to the floor. He saw three persons continue to maul his father. At that time, he was about 15 meters away from his father who had fallen to his right side. While these persons were mauling his father, the latter was just kneeling with his hands on the ground. Suddenly, a male person arrived from the direction of the church and stabbed his father twice at the back. The members of the group who stabbed and mauled his father then fled together.

During the hearing, the person who stabbed his father was identified as Guro. Jefferson admitted that at the time of the incident, he did not know the identity of Guro and that he came to know the name of the latter only from his uncle Joemarie.

⁴ *Rollo*, p. 3.

⁵ See *id.* at 4-9.

⁶ Also spelled as "Joemari" or "Jomari" in the TSNs and some parts of the records.



Joemarie, the second witness for the prosecution, is the youngest brother of the victim. He testified that there was this cult/fraternity with whom he had a previous encounter, just three days prior to the stabbing incident of Jesus. He said that this group, composed of Yayi, Niki and Lucky, had a "trip" (*nakursunadahan*) on him wherein he was boxed on his right ear and eventually mauled by these persons. He said that this group was known at their school for being notorious in creating trouble. He further stated that he did not even know the reason why he was boxed by these persons. Thereafter, he reported the incident to the guidance counselor, who, in turn, requested for the police to guard the gate of the school. He also reported the incident to the barangay which blottered the incident.

Joemarie further testified that on February 12, 2007, he was informed by his classmate that the group he previously encountered was waiting for him. He immediately texted Jefferson and asked the latter to fetch him because the group might have another "trip" on him. At around 8:30 in the evening, his brother Jesus and Jefferson arrived. He then rode the motorbike of Jefferson and his brother then followed them on his own motorbike.

When they reached the corner of C.M. Recto Street, after the church, he saw the group playing at the arcade. He recognized them because of the previous incident. This time, Jerry and Guro were also with the group. Joemari, Jefferson and Jesus approached the group and after a little conversation with Yayi, the latter pushed Jefferson who fell to the ground. The other members of the group were standing side by side. When Joemarie was about to help his nephew, Yayi ran after him and boxed him. He was hit very slightly by Yayi and the latter ran away. He saw his nephew standing up. He also saw Niki was about to hit his brother with a long bench. His brother moved back and was able to evade the chair and fell to the gutter. He was in front of them and was about five steps away. When his brother was about to stand, Guro jumped on top his brother and stabbed him twice in the back and ran away.

PCI Porciuncula, Medico Legal Officer and Chief of the Northern Police District (NPD) Crime Laboratory of Caloocan City, testified that he conducted the examination of Jesus' body. His report mentioned that the wound sustained by Jesus was caused by a knife and that the culprit came from the back of the victim.

The last witness for the prosecution was Loardo who was presented to establish the expenses incurred as a result of the death of the victim.⁷ When she was presented, the prosecution and defense merely stipulated that as a result of the death of the victim, expenses were incurred in the amount of ₱20,222.00 for the burial and interment as shown by the Statement of Accounts issued by Loyola Memorial Park and ₱5,000.00 for the expenses during the wake of the victim.

⁷ Records, p. 113.

*Version of the Defense*⁸

The lone witness for the defense was Guro. He testified that on February 12, 2007 at around 8:45 in the evening, he was at the corner of C.M. Recto Street, Parang, Marikina City together with Jomar, Chay and Gabriel to buy burgers and shakes. While waiting for their orders, two motorbikes arrived and parked in front of them. There were three persons on board these motorbikes and one of them was Joemarie. He admitted knowing Joemarie because he had a previous altercation (“*girian*”) with him. The “*girian*” incident happened sometime in January and happened only once.

When the three alighted from their motorbikes, they approached his friends who were inside a video shop beside the burger stand. Niki, Yayi and Jerry were at the video shop and according to Guro, it seemed that Joemarie did not notice him at the burger stand. Jefferson then inquired about the name of one of his friends, and when the latter answered that he was Yayi, Jefferson suddenly hit the face of Yayi. He noticed that these three persons were attacking his friends because two of them were carrying 2x2 coco lumber wood and the other was carrying a lead pipe. When he tried to pacify them, Jefferson hit him in his shoulder using the piece of wood. His friends then entered the video shop and they carried a bench in order to block the attack made by the three. He was holding the bench together with Yayi and Nikki. Jerry was looking for something that he could throw at Joemarie’s group while Jomar, Chay and Gabriel went out to ask help from their friends at the billiard hall. Their friends from the billiard hall comprised of less than 10, arrived carrying billiard sticks. Thereafter, there was a commotion and he, together with Yayi, Nikki and Jerry, was able to get out from the video shop. They threw stones at Joemarie, Jefferson and Jesus. When they were retreating, he saw one of the companions of Joemarie fall down and according to his companions, a certain Peping stabbed that person.

Ruling of the RTC

The RTC found Guro guilty beyond reasonable doubt of Murder. It held that there being treachery in Guro’s sudden and unexpected attack, the killing was qualified to Murder. The dispositive portion of the RTC Decision reads:

WHEREFORE, in view of all the foregoing, accused ANGEL GURO y COMBO is found GUILTY beyond reasonable doubt of the crime of MURDER as defined and penalized in Article 248 of the Revised Penal Code qualified by treachery. And there being no mitigating and aggravating circumstance in the commission of the crime, said accused is hereby sentenced *reclusion perpetua* and is ordered to pay the heirs of Jesus Sangcap Jr., the sums of:

- a.] P 25,222.00 representing actual damages; and
- b.] P 50,000.00 as civil indemnity

⁸ See *rollo*, pp. 9-11.



The period during which the herein accused was in detention during the pendency of this case shall be credited to him in full provided that he agree[s] to abide by and comply with the rules and regulations of the Metro Manila District Jail, Camp Bagong Diwa, Taguig City.

SO ORDERED.⁹

Ruling of the CA

The CA dismissed the appeal. The CA held that there is no question that Guro killed Jesus. It also found that the RTC was correct in ruling that there was treachery as Guro attacked Jesus in a swift, deliberate and unexpected manner and that Jesus was completely deprived of a real chance to defend himself. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the appeal is **DENIED**. The Decision dated 02 September 2015 of the Regional Trial Court of Marikina City, Branch 272 in *Criminal Case No. 2007-9546-MK*, finding accused-appellant Angel Guro y Combo alias "Jason" guilty beyond reasonable doubt of the crime of murder and imposing upon him the penalty of *reclusion perpetua* and awarding actual damages in the amount of Php25,222.00 is **AFFIRMED with MODIFICATION**, in that the amount of civil indemnity is hereby increased to Php75,000.00. In addition, accused appellant Angel Guro y Combo alias "Jason" is ordered to pay the heirs of the victim Jesus Sangcap, Jr. the amount of Php75,000.00 as moral damages, Php75,000.00 as exemplary damages, and 6% interest *per annum* on all damages, from the finality of this Decision until fully paid.

SO ORDERED.¹⁰

The Court's Ruling

The appeal is partly meritorious. The Court affirms the conviction of Guro but for the crime of Homicide, instead of Murder, as the qualifying circumstance of treachery was not present in the killing of Jesus.

Guro's guilt was proven beyond reasonable doubt.

Guro asserts that the RTC erred in giving weight and credence to the testimonies of Jefferson and Joemarie as their testimonies were allegedly inconsistent and improbable, and that Joemarie is a biased witness. In a number of cases, the Court held that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not

⁹ CA rollo, p. 56.

¹⁰ Rollo, p. 24.



conclusive effect.¹¹ This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth.¹² Hence, it is a settled rule that appellate courts will not overturn the factual findings of the trial court unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case.¹³ The foregoing rule finds an even more stringent application where the findings of the RTC are sustained by the CA.¹⁴

In the present case, both the RTC and CA found the testimonies of the victims straightforward and worthy of belief. Jefferson and Joemarie clearly and convincingly testified regarding what they witnessed when Guro jumped on Jesus, stabbed him twice on the back, and ran away. These testimonies were sufficient to establish an unbroken chain which leads to one fair and reasonable conclusion, *i.e.*, it was Guro who inflicted the injuries on Jesus which caused his death. To be certain, the witnesses were in unison in identifying Guro as the offender.

Moreover, the Court agrees with the CA's findings that the alleged inconsistencies in the witnesses' testimonies referred merely to minor and inconsequential details, which did not at all affect the substance of their testimonies, much less impair their credibility. Discordance in the testimonies of witnesses on minor matters heighten their credibility and shows that their testimonies were not coached or rehearsed, especially where there is consistency in relating the principal occurrence and positive identification of the assailant.¹⁵

There is also no merit to Guro's allegation that Joemarie was a biased witness. A witness is said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color to his statements, or to suppress or to pervert the truth, or to state what is false.¹⁶ While Guro claimed that the prior disagreement between Joemarie and Yayi's group could have given rise to an improper motive on the part of Joemarie to testify against him, it must be stressed that the persons identified by Joemarie with whom he had a previous encounter were Yayi, Niki and Lucky.¹⁷ In fact, Joemarie did not mention Guro as one of the persons he had previously encountered prior to the incident.¹⁸

As to Guro's allegation that the illumination and condition of visibility on the area, the distance of the eyewitnesses to the victim, and the suddenness of the attack, as well as the immediate flight of the assailant, cast doubt on the alleged positive identification of witnesses, it must be stressed that these

¹¹ *People v. Dayaday*, G.R. No. 213224, January 16, 2017, 814 SCRA 414, 422.

¹² *Id.*

¹³ *Id.* at 422-423.

¹⁴ *Id.* at 423.

¹⁵ *People v. Avila*, 787 Phil. 346, 360 (2016) citing *People v. Crisostomo*, 354 Phil. 867, 876 (1998).

¹⁶ *Ambagan, Jr. v. People*, 771 Phil. 245, 284 (2015).

¹⁷ *Rollo*, p. 21.

¹⁸ *Id.*

circumstances were raised for the first time on appeal. Guro had all the opportunity to cross-examine the prosecution witnesses as to these circumstances during trial, but this he did not do. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of an objection.¹⁹ Without such objection, he cannot raise the question for the first time on appeal.²⁰

Furthermore, Guro merely interposed the defense of denial. He denied that it was him who had stabbed Jesus, and adverted to a certain Peping, as the assailant. However, aside from such bare allegation, Guro did not adduce any evidence to corroborate such claim and establish that a certain Peping actually stabbed Jesus.²¹ Meanwhile, as stated earlier, prosecution witnesses Jefferson and Joemarie positively identified Guro in open court as the person who stabbed Jesus.²²

Positive identification where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over a denial which, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving weight in law.²³ It is established in jurisprudence that denial cannot prevail over the witnesses' positive identification of the accused; more so where the defense did not present convincing evidence that it was physically impossible for accused to have been present at the crime scene at the time of the its commission.²⁴ Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility.²⁵

In the case at bar, it was clearly established that Guro was in the area when the victim was stabbed. Further, his admission that he went into hiding in San Mateo, Rizal despite having knowledge that people were looking for him because he was the one who killed the victim is also an indication of guilt.²⁶ Generally, flight, in the absence of a credible explanation, would be a circumstance from which an inference of guilt might be established, for a truly innocent person would normally grasp the first available opportunity to defend himself and assert his innocence.²⁷ Guro, despite having knowledge that the authorities were already looking for him and that a case had already been filed against him, still chose to hide.²⁸ If it were true that a certain Peping stabbed the victim, Guro could have easily appeared before the police to clear his name and pinpoint the purported true offender, but this he did not do.²⁹

¹⁹ *People v. Dela Cruz*, 783 Phil. 620, 636 (2016) citing *People v. Gabuya*, 753 Phil. 719 (2015).

²⁰ *Id.*

²¹ *Rollo*, p. 22.

²² *Id.*

²³ *Baldeo v. People*, 466 Phil. 845, 857 (2004).

²⁴ *People v. Avila*, supra note 15 at 359.

²⁵ *Id.*

²⁶ *Rollo*, pp. 22- 23.

²⁷ *People v. Samson*, 768 Phil. 487, 501 (2015) citing *People v. Beriber*, 693 Phil. 629 (2012).

²⁸ *Rollo*, p. 23.

²⁹ *Id.*

The prosecution failed to prove treachery.

There is treachery when the offender commits any of the crimes against persons, employing means and methods or forms in the execution thereof which tend to directly and specially ensure its execution, without risk to himself arising from the defense which the offended party might make.³⁰ To appreciate treachery as a qualifying offense, the following conditions must exist: (1) the assailant employed means, methods or forms in the execution of the criminal act which give the person attacked no opportunity to defend himself or to retaliate; and (2) said means, methods or forms of execution were deliberately or consciously adopted by the assailant.³¹ The essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself.³²

The RTC and CA erred when they ruled that treachery was present. The prosecution was unable to prove that Guro intentionally sought the victim for the purpose of killing him. Well settled is the rule that the circumstances which would qualify a killing to murder must be proven as indubitably as the crime itself.³³ There must be a showing, first and foremost, that the offender consciously and deliberately adopted the particular means, methods and forms in the execution of the crime which tended directly to insure such execution, without risk to himself.³⁴

As far as the prosecution's evidence is concerned, only the following were established: (a) a commotion was caused when Yayi pushed Jefferson; (b) Jesus was being mauled by a group of persons; and (c) Guro stabbed Jesus twice at the back. Considering the foregoing, it was not proven that Guro deliberately and consciously employed means, methods, or forms in the execution of the criminal act to ensure that Jesus could not defend himself. Indeed, it does not always follow that if the attack was sudden and unexpected, it should necessarily be deemed as an attack attended with treachery.³⁵ The stabbing, based on the evidence, appears to be the result of a rash and impetuous impulse of the moment arising from the commotion between the two groups, rather than from a deliberated act of the will. As a matter of fact, it must be emphasized that the target of Guro's group was Joemarie and not Jesus. It was just unfortunate that it was Jesus whom the group ganged up on. Based on the foregoing, it is not possible to appreciate treachery against Guro.

As the Court held in *People v. Santos*,³⁶ "[t]reachery, just like any other element of the crime committed, must be proved by clear and convincing

³⁰ *People v. Duran, Jr.*, G.R. No. 215748, November 20, 2017, 845 SCRA 188, 205-206.

³¹ *Id.*, citing *People v. Dulin*, 762 Phil. 24, 40 (2015).

³² *Id.*, citing *People v. Escote, Jr.*, 448 Phil. 749, 786 (2003).

³³ *People v. Tugbo, Jr.*, 273 Phil. 346, 351 (1991) citing *People v. Vicente*, 225 Phil. 306 (1986); *People v. Salcedo*, 254 Phil. 74 (1989); *People v. Raquipo*, 266 Phil. 619 (1990).

³⁴ *Id.* at 351, citing REVISED PENAL CODE, Art. 14, par. 16.

³⁵ *Id.* at 351-352, citing *People v. Sabanal*, 254 Phil. 433, 436 (1989).

³⁶ 175 Phil. 113 (1978).


evidence — evidence sufficient to establish its existence beyond reasonable doubt. It is not to be presumed or taken for granted from a mere statement that ‘the attack was sudden;’ there must be a clear showing from the narration of facts why the attack or assault is said to be ‘sudden.’”³⁷ Stated differently, mere suddenness of the attack is not sufficient to hold that treachery is present, where the mode adopted by the appellants does not positively tend to prove that they thereby **knowingly intended** to insure the accomplishment of their criminal purpose without any risk to themselves arising from the defense that the victim might offer.³⁸ Specifically, it must clearly appear that the method of assault adopted by the aggressor was **deliberately chosen** with a view to accomplishing the act without risk to the aggressor.³⁹

Therefore, with the removal of the qualifying circumstance of treachery, the crime is Homicide and not Murder. Under Article 249 of the RPC, any person found guilty of Homicide shall be meted the penalty of *reclusion temporal*, a penalty which contains three (3) periods.⁴⁰ Thus, the appellant 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.⁴¹

Finally, in view of the Court’s ruling in *People v. Juguetta*,⁴² the damages awarded in the questioned Decision are hereby modified to civil indemnity, moral damages, and temperate damages of ₱50,000.00 each.

WHEREFORE, in view of the foregoing, the appeal is hereby **PARTIALLY GRANTED**. The Court **DECLARES** accused-appellant **ANGEL GURO y COMBO 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 Jesus Sangcap, Jr. 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

³⁷ Id. at 122.

³⁸ *People v. Delgado*, 77 Phil. 11, 15-16 (1946).

³⁹ *People v. Bacho*, 253 Phil. 451, 458 (1989).

⁴⁰ *People v. Endaya, Jr.*, G.R. No. 225745, February 28, 2018, p. 9.

⁴¹ *People v. Duavis*, 678 Phil. 166, 179 (2011).

⁴² 783 Phil. 806 (2016).

WE CONCUR:



ANTONIO T. CARPIO

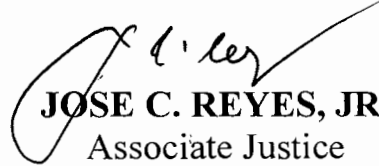
Associate Justice

Chairperson

(On leave)

ESTELA M. PERLAS-BERNABE

Associate Justice



JOSE C. REYES, JR.

Associate Justice

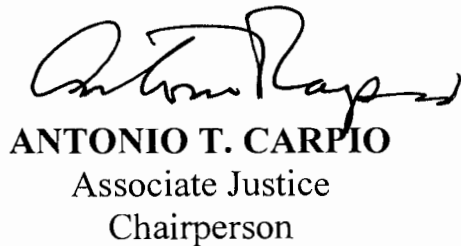


AMY C. LAZARO-JAVIER

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.



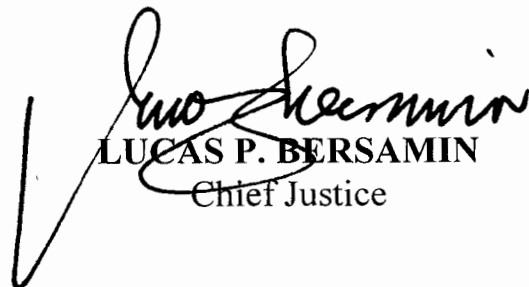
ANTONIO T. CARPIO

Associate Justice

Chairperson

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

