



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 216018**

Present:

- versus -

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

**DON VEGA y RAMIL,**  
Accused-Appellant.

Promulgated:

27 MAR 2019

*[Signature]*

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**DECISION**

**CAGUIOA, J.:**

Before the Court is an appeal filed under Section 13(c), Rule 124 of the Rules of Court from the Decision<sup>1</sup> dated May 12, 2014 of the Court of Appeals (CA), Fifth (5<sup>th</sup>) Division, in CA-G.R. CR-HC No. 05072, which affirmed the Decision<sup>2</sup> dated May 31, 2011 of the Regional Trial Court, Branch 42, Manila (RTC), in Criminal Case No. 09-266191, finding herein accused-appellant Don Vega y Ramil (Don) guilty of the crime of Murder under Article 248 of the Revised Penal Code (RPC).

**The Facts**

Don was charged with the crime of Murder under the following Information:

That on or about January 18, 2009, in the City of Manila, Philippines, the said accused, with intent to kill, qualified with treachery and evident premeditation, did then and there willfully, unlawfully and

<sup>1</sup> Rollo, pp. 2-15. Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Rosmari D. Carandang (now a Member of this Court) and Marlene Gonzales-Sison concurring.  
<sup>2</sup> CA rollo, pp. 33-37. Penned by Judge Dinnah C. Aguila-Topacio.

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feloniously take [*sic*], attack, assault and use personal violence upon the person of one MANUEL ISIP y PADILLA @ Antuling, by then and there repeatedly stabbing the latter on different parts of his body with a bladed weapon, thereby inflicting upon the said MANUEL ISIP y PADILLA @ Antuling mortal stab wounds which were the direct and immediate cause of his death thereafter.

Contrary to law.<sup>3</sup>

Upon arraignment, Don pleaded not guilty.

### *Version of the Prosecution*

The witnesses for the prosecution were SPO2 Edmundo Cabal, Jennifer S. Torres, Aldrin R. Fernandez, Dr. Romeo T. Salen, and Maricel A. Calixto, whose versions of the incident were summarized by the RTC and adopted by the CA and the Office of the Solicitor General, *viz.*:

[O]n 18 January 2009 at about 11:30 in the evening, the victim, Manuel Padilla Isip, was at Arellano Street, Malate, Manila because his friend, a certain Ogad Venus, was celebrating his birthday. Among his drinking buddies was Aldrin Roldan Fernandez, witness for the prosecution. They were around fifteen at that time including the celebrator. While drinking, chatting, and listening to music, they spotted accused Don Vega who was about four [arms'] length away sniffing rugby from a bottle. After a few hours, Don Vega approached them and caused a disturbance. He smashed several items. Victim Manuel Isip tried to pacify the accused saying, "*pre, huwag naman dito, kasi may nagkakasiyahan dito*" but accused harshly replied, "*huwag kang makialam dito, baka ikaw ang samain.*" Victim Manuel Isip did not comment and merely turned his back to avert a bigger trouble. While the victim's back was turned on him, accused suddenly grabbed [the] victim from behind, wrapped his left arm around [the] victim's neck and using his right hand, plunged a knife to his (Manuel's) chest. Victim Manuel Isip was rushed to the *Ospital ng Maynila* but was declared "dead on arrival."

The victim (Manuel Isip) suffered six stab wounds and one abrasion on the body. The cause of his death is [*sic*] the four stab wounds that penetrated the frontal cavities of the chest.<sup>4</sup>

### *Version of the Defense*

The defense offered the lone testimony of Don, which was recounted by the RTC in its Decision, in this manner:

For its part, the defense presented accused himself, who painted an entirely different picture of the incident. He claimed that on 18 January 2009, at about 11:00 o'clock in the evening, [h]e was along Tuazon St., San Andres, Manila, drinking with victim Manuel Isip and a certain "Fernandez," together with the birthday celebrator called "Ogad." A certain "Jeffrey" and the father of the celebrator were also there. More than fifteen joined the drinking spree. The mood was fine. He requested victim Manuel

<sup>3</sup> Id. at 33.

<sup>4</sup> Id. at 34.

Isip to play his theme song. The victim asked him to wait because there were many who made similar request[s]. He reiterated his request to victim several times but he ignored him. He then approached the victim, but the latter punched him. Upset, he went back to his table and picked up a bladed weapon. Victim Manuel Isip suddenly charged towards him, so he stabbed him. He thought the people will pacify him (accused), but he was wrong. He then dashed to his house because people were ganging up on him. He was apprehended inside his abode and he voluntarily surrendered to those who arrested him. [The victim] was unarmed. It was unfortunate because he did not have previous “bad blood” with [the] victim. He regrets what has happened; it was unwilling.<sup>5</sup>

### Ruling of the RTC

After trial on the merits, in its Decision<sup>6</sup> dated May 31, 2011, the RTC convicted Don of the crime of Murder. The dispositive portion of said Decision reads:

WHEREFORE, the Court finds accused DON VEGA y RAMIL guilty beyond reasonable doubt of the crime of MURDER. He is hereby sentenced to suffer the penalty of *Reclusion Perpetua*. Accused is further ordered to pay Fifty Thousand Pesos (Php50,000.00) as civil indemnity and [Php]50,000.00 as moral damages to the heirs of Manuel Padilla Isip.

SO ORDERED.<sup>7</sup>

The RTC ruled that all the elements of Murder are present in the instant case.<sup>8</sup> It also ruled that the defense was not able to establish all the elements of self-defense.<sup>9</sup> One of the important elements of self-defense is that there be reasonable necessity of the means employed to prevent or repel the unlawful aggression.<sup>10</sup> However, in this case, there is none since Don used a bladed weapon to attack an unarmed victim.<sup>11</sup> More importantly, there was no unlawful aggression. The act of Manuel Isip (Manuel) charging towards Don cannot even be considered as unlawful aggression absent any showing of any intention of the victim to harm the accused.<sup>12</sup> Thus, on this score, the theory of self-defense, according to the RTC, falls flat on its face.<sup>13</sup> Further, considering that Don claimed that there were 15 eyewitnesses to the crime, he failed to present any witness to fortify his contention that he acted in self-defense.<sup>14</sup> Lastly, the RTC ruled that treachery is present since Don grabbed Manuel from behind and suddenly attacked the unarmed victim with a bladed weapon.<sup>15</sup>

Aggrieved, Don appealed to the CA.

<sup>5</sup> Id. at 34-35.

<sup>6</sup> Supra note 2.

<sup>7</sup> CA *rollo*, p. 37.

<sup>8</sup> Id. at 36.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id. at 37.

<sup>14</sup> Id.

<sup>15</sup> Id.

## Ruling of the CA

On appeal, in its Decision<sup>16</sup> dated May 12, 2014, the CA affirmed the conviction by the RTC with modifications:

**WHEREFORE**, the instant appeal is **DISMISSED**. The Decision of the Regional Trial Court of Manila, Branch 42 dated May 31, 2011 in Criminal Case No. 09-266191 is **AFFIRMED WITH MODIFICATION** in that accused-appellant Don Vega y Ramil is ordered to pay the heirs of Manuel Padilla Isip the following: a) Php75,000.00 as civil indemnity; b) Php75,000.00 as moral damages; c) Php14,000.00 as actual damages; and d) Php30,000.00 as exemplary damages. Further, all monetary awards for damages shall earn interest at the legal rate of 6% *per annum* from date of finality of this Decision until full payment thereof.

**SO ORDERED.**<sup>17</sup>

The CA likewise held that the elements of self-defense are lacking.<sup>18</sup> Moreover, the CA said that Don's flight from the place where the crime was committed, his non-reporting of the crime to the police, and his failure to voluntarily surrender to the police after the commission of the crime fully warranted the RTC's rejection of his claim of self-defense.<sup>19</sup> Lastly, the CA ruled that the killing of the victim was attended by treachery qualifying the crime to Murder.<sup>20</sup>

Hence, this appeal.

### Issues

Whether the CA erred in affirming Don'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 court may have overlooked, misapprehended, or misapplied some significant facts or circumstances which if considered, would have altered the result.<sup>21</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>22</sup> The appeal confers the appellate court full jurisdiction over the case and renders such competent to

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<sup>16</sup> Supra note 1.

<sup>17</sup> Id. at 15.

<sup>18</sup> Id. at 7.

<sup>19</sup> Id. at 8.

<sup>20</sup> Id. at 13.

<sup>21</sup> *People v. Duran Jr.*, G.R. no. 215748, November 20, 2017, 845 SCRA 188, 211.

<sup>22</sup> Id.



examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>23</sup>

After a careful review and scrutiny of the records, the Court affirms the conviction of Don, but only for the crime of Homicide, instead of Murder, as the qualifying circumstance of treachery was not proven in the killing of Manuel.

***The accused failed to prove self-defense***

In questioning his conviction, Don argues that he should not be criminally liable for the death of the victim because he only acted in self-defense. He avers that he was merely requesting Manuel to play his theme song, but when he approached to follow-up on his request, the victim suddenly punched him, which thus triggered him to stab the victim.<sup>24</sup>

This argument deserves scant consideration.

An accused who pleads self-defense admits to the commission of the crime charged.<sup>25</sup> 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>26</sup> Of these three, unlawful aggression is indispensable. Unlawful aggression refers to “an actual physical assault, or at least a threat to inflict real imminent injury, upon a person.”<sup>27</sup> Without unlawful aggression, the justifying circumstance of self-defense has no leg to stand on and cannot be appreciated.<sup>28</sup>

The Court agrees with the CA that Don failed to discharge his burden. All the requisites of self-defense are wanting in this case:

*First*, there is no unlawful aggression on the part of the victim. For unlawful aggression to be present, there must be real danger to life or personal safety.<sup>29</sup> Accordingly, the accused must establish the concurrence of the three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.<sup>30</sup> None of the elements of unlawful aggression was proven by the defense. Aside from Don’s self-serving statement that it was Manuel who punched and attacked him, not one of the persons present at the incident corroborated his account.<sup>31</sup>

<sup>23</sup> *Ramos v. People*, 803 Phil. 775, 783 (2017).

<sup>24</sup> See CA rollo, pp. 34-35.

<sup>25</sup> *People v. Duran, Jr.*, supra note 21 at 196.

<sup>26</sup> *Guevarra v. People*, 726 Phil. 183, 194 (2014).

<sup>27</sup> *People v. Dolorido*, 654 Phil. 467, 475 (2011).

<sup>28</sup> *Nacnac v. People*, 685 Phil. 223, 229 (2012).

<sup>29</sup> *People v. Satonero*, 617 Phil. 983, 993 (2009).

<sup>30</sup> *People v. Nugas*, 677 Phil. 168, 177 (2011).

<sup>31</sup> Rollo, p. 7.

Neither did he present any medical record showing that he sustained any injuries as the result of the attack by Manuel.<sup>32</sup>

*Second*, in the absence of unlawful aggression on the part of the victim, the second requisite of self-defense could not have been present. Even assuming that there was unlawful aggression, the means employed by Don in repelling the alleged attack by Manuel was not reasonably necessary. Manuel was unarmed and had his back turned while Don used a bladed weapon to “repel the attack” and stab Manuel repeatedly.<sup>33</sup> Thus, the CA was correct in ruling that the means employed by Don in repelling the attack was unreasonable.

*Lastly*, the third requisite requires the person mounting a defense to be reasonably blameless. He or she must not have antagonized or incited the attacker into launching an assault.<sup>34</sup> In this case, Don was not entirely blameless as the reason why Manuel scolded him was because he was breaking things and making unnecessary disturbance.<sup>35</sup> It was also Don who suddenly rushed to the victim and stabbed the latter several times in the chest.<sup>36</sup> In addition, there was no sufficient provocation on the part of Manuel. Based on the account of the witnesses of the prosecution, Manuel merely implored Don to refrain from breaking things and making unnecessary disturbance.<sup>37</sup> In fact, when Don uttered harsh words against Manuel, the latter did not make a comment and instead turned his back from the former.<sup>38</sup>

Hence, the Court finds that Don failed to prove that he acted in self-defense.

***Treachery was not established  
by clear and convincing evidence***

In the assailed Decision, the CA affirmed the RTC’s finding that the qualifying circumstance of treachery was present, thereby making Don liable for Murder instead of Homicide. The CA held:

Applying the foregoing pronouncement, we find that *alevosia* is thus present in the case at bar. From the statements of Fernandez and Calixto, accused-appellant wrapped his arm around the neck of Manuel and stabbed the victim the moment he turned his back from the accused-appellant. Evidently, the attack is so sudden and unexpected preventing any chance from the victim to defend himself. In other words, accused-appellant’s position in attacking Manuel rendered the victim defenseless and unable to retaliate. Moreso [*sic*], the fatality and quantity of the stab wounds forestalled any possibility on the part of Manuel of resisting the

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<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> *Velasquez v. People*, 807 Phil. 438, 451 (2017).

<sup>35</sup> *Rollo*, p. 7.

<sup>36</sup> Id. at 7-8.

<sup>37</sup> Id.

<sup>38</sup> Id. at 7.

attack. All told, the attack was executed in a manner that tended to directly and specifically ensure the execution of the offense.<sup>39</sup>

It is established that the qualifying circumstance of treachery must be proven by clear and convincing evidence.<sup>40</sup> Thus, for Don to be convicted of Murder, the prosecution must not only establish that he killed Manuel; it must also be proven that the killing of Manuel was attended by 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.<sup>41</sup> To qualify as an 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.<sup>42</sup> 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.<sup>43</sup>

In order to appreciate treachery, both elements must be present.<sup>44</sup> It is not enough that the attack was “sudden,” “unexpected,” and “without any warning or provocation.”<sup>45</sup> There must also be a showing 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.

In the case at bar, the following circumstances negate the presence of treachery:

*First*, the stabbing incident happened during a drinking spree in which Don was already a part of. He did not deliberately seek the presence of Manuel as he was already in the same vicinity as Manuel, joining the merriment when he stabbed the latter.

*Second*, in killing Manuel, Don merely picked up a bladed weapon from his table – there was no mention in the records as to who owned the said weapon. In a similar case, the Court held that treachery cannot be presumed merely from the fact that the attack was sudden. The suddenness of an attack does not, of itself, suffice to support a finding of *alevosia*, even if the purpose was to kill, so long as the decision was made all of a sudden and the victim's helpless position was accidental.<sup>46</sup>

<sup>39</sup> *Rollo*, p.14.

<sup>40</sup> *Guevarra v. People*, supra note 26.

<sup>41</sup> *People v. Duran, Jr.*, supra note 21 at 205-206.

<sup>42</sup> *Id.*, citing *People v. Dulin*, 762 Phil. 24, 40 (2015).

<sup>43</sup> *Id.*, citing *People v. Escote, Jr.*, 448 Phil. 749, 786 (2003).

<sup>44</sup> *Id.*, citing REVISED PENAL CODE, Art. 14, par. 16.

<sup>45</sup> *People v. Sabanal*, 254 Phil. 433, 436-437 (1989).

<sup>46</sup> *People v. Escoto*, 313 Phil. 785, 802 (1995).

Based on the first and second circumstances abovementioned, Don's decision to attack Manuel was more of a sudden impulse on his part than a planned decision.

*Lastly*, as testified to by the witnesses of the prosecution, the incident happened during a drinking spree where there were more or less 15 people, excluding Don and Manuel. If Don wanted to make certain that no risk would come to him, he could have chosen another time and place to stab Manuel. In another case, the Court held that when aid was easily available to the victim, such as when the attendant circumstances show that there were several eyewitnesses to the incident, 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>47</sup> Thus, the Court can reasonably conclude that Don acted impetuously in suddenly stabbing Manuel.

### ***Proper penalty and award of damages***

With the removal of the qualifying circumstance of treachery, 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, Don 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>48</sup> the damages awarded in the CA 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 Don Vega y Ramil **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 Manuel Isip y Padilla 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

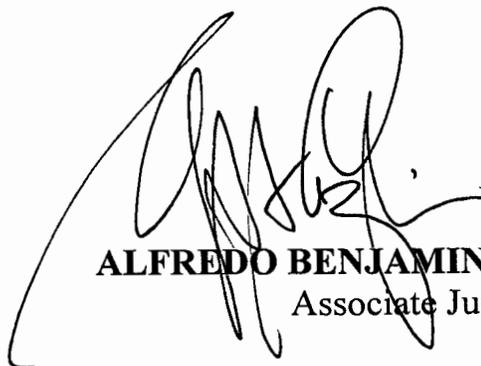
<sup>47</sup> *People v. Caliao*, G.R. No. 226392, July 23, 2018, p. 7.

<sup>48</sup> 783 Phil. 806 (2016).



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

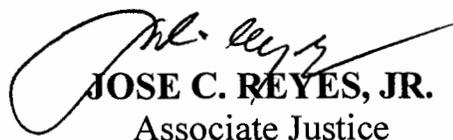
WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



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



**AMY C. LAZARO-JAVIER**  
Associate Justice

**ATTESTATION**

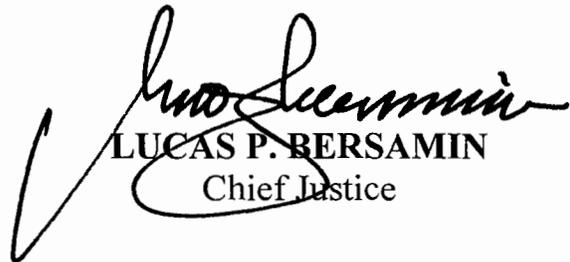
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**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

