



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated November 20, 2019, which reads as follows:

“G.R. No. 220016 (*People of the Philippines v. Allan Agno y Catalo*). – The Court NOTES the letter dated April 5, 2019 of CSupt. Wilfredo Bayona, Superintendent of the New Bilibid Prison West, Muntinlupa City, confirming the confinement therein of accused-appellant since September 28, 2010.

On appeal is the Decision¹ dated August 29, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04665 affirming the conviction of accused-appellant Allan Agno y Catalo for the crime of Murder.

Antecedents

In an Information,² Allan Agno y Catalo (Agno) was charged with Murder under Article 248 of the Revised Penal Code (RPC):

That on or about the 14th day of August 2005, in Quezon City, Philippines (sic), the above-named accused, conspiring together, confederating with another person whose true name, identity and whereabouts have not as yet been ascertained and mutually helping each other, with intent to kill, by means of evident premeditation, treachery and taking advantage of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of FLORENCIO DANIEL Y VARON, by then and there, stabbing him several times with a bladed weapon hitting him on the different parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the late FLORENCIO DANIEL Y VARON.

Contrary to law.³

¹ Penned by Associate Justice Myra V. Garcia-Fernandez, with Associate Justices Magdangal M. De Leon and Stephen C. Cruz, concurring; *rollo*, pp. 2-12.

² CA *rollo*, pp. 21-22.

³ *Id.* at 21.

Agno, assisted by counsel, pleaded not guilty during arraignment. Trial on the merits ensued.

The prosecution presented the following witnesses: (1) P/Chief Inspector Filemon Porciuncula, Jr. (P/Chief Insp. Porciuncula, Jr.); (2) PO3 Mario S. Turiano (PO3 Turiano); (3) Rolando Garopil (Garopil); and (4) Pacita Daniel (Pacita).

Eyewitness Garopil is a *taho* vendor since 1992. Garopil is nonliterate and has a hard time reading. On August 14, 2005, at around 10:00p.m., Garopil was waiting for his companion at the gate of the *taho* factory. Garopil also stated that, at that time, the light from the Meralco post was bright. From a distance of more or less 25 meters, Garopil saw Agno, Norly, and Florencio Daniel (Daniel) drinking in front of a *sari-sari* store. He also observed that they were intoxicated with alcohol. Daniel was seated between Agno and a certain Norly. Garopil is Agno's co-worker, while Daniel is his good friend.⁴ Later on, Garopil saw Agno and Norly⁵ alternately stab Daniel. Garopil testified that he saw Agno place his arm over Daniel's shoulder before stabbing Daniel in the chest several times. Norly, on the other hand, stabbed the victim on the back.⁶ Daniel fell on the ground, Garopil ran and went to the compound. Agno followed, still carrying the knife, while Norly ran away. Garopil hid in the dark portion of the "*silong*," where he stayed for around three minutes. Policaprio Aragdon Jr., while on his way to the *Barangay* Hall of *Barangay* Capri, chanced upon Daniel and reported the incident to the proper authorities. The Scene of the Crime Operative team responded and conducted technical investigation at the crime scene.⁷

Pacita, the wife of Daniel, testified on the following: (1) Death Certificate of Daniel; (2) expenses incurred for the burial of Daniel; (3) summary of expenses in the amount of ₱58,678.00; (4) that she suffered sleepless nights and was distracted from performing her job; and (5) that she leaves it to the discretion of the court with regard to the amount of damage she sustained for her grief and sentiment.⁸ Pacita also stated that as a result of Daniel's death, she received donations in the amount of ₱25,000.00.⁹

The testimonies of P/Chief Insp. Porciuncula, Jr. and PO3 Turiano were dispensed with after the parties made stipulations. As regards the testimony of P/Chief Insp. Porciuncula Jr., the parties stipulated that: (a) the prosecution witness was the one who conducted the autopsy on the cadaver of the late Daniel, the victim in this case; (b) that he prepared the autopsy report and the Medico-Legal Report No. M-415-05¹⁰ dated August 15, 2005 of the victim; (c) that he was in the performance of his duty as a *medico-legal* officer at the

⁴ Id. at 57-58.

⁵ Norlyn in some parts of the *rollo*.

⁶ TSN dated April 20, 2006, p. 8; TSN dated September 20, 2006, p. 11.

⁷ Records, p. 5.

⁸ CA *rollo*, p. 58.

⁹ Id.

¹⁰ Records, p. 39.

time he conducted the same. The testimony of P03 Turiano was, likewise, dispensed with after the parties stipulated the following matters: (a) that said witness is the investigating officer who was assigned to investigate the instant case; (b) that he was in the performance of his duty as police investigator when he investigated the case; and (c) that he prepared the investigation report in the form of a Referral Letter;¹¹ (d) that he took the statement of the private complainant and the prosecution witnesses; and (e) that he has no personal knowledge of the circumstances surrounding the said crime.¹²

The defense presented, as its lone witness, accused Agno. Agno stated that he knows Daniel, Norly, and Garopil because they are all co-workers. Agno denied that he was drinking with Daniel at the night of the incident. He claimed that he was at the store near the *taho* factory to buy cigarette. According to Agno, he saw Daniel drinking with his two *kababayans*. After Agno received the cigarette, he saw Daniel being stabbed by Norly. Agno did not bother to help Daniel because he was afraid that Norly might vent his ire on him and stab him too. Agno denied that he placed his hand over Daniel's shoulder and stabbed him; he likewise denied chasing Garopil. When arrested, Agno told the police that it was not him who stabbed Daniel. However, he did not report to the arresting police officers that it was Norly who stabbed Daniel because he was still afraid. After the incident, Agno went to his cousin in La Loma. It was only before the Inquest Prosecutor when Agno revealed that it was Norly who stabbed Daniel.¹³

RTC Ruling

In its Decision¹⁴ dated July 12, 2010, the Regional Trial Court of Quezon City, Branch 219 (RTC) found Agno guilty beyond reasonable doubt of Murder. Accordingly, he was sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay damages to the heirs of Daniel. The dispositive portion stated:

WHEREFORE, finding the accused ALLAN AGNO y CATALO guilty beyond reasonable doubt of the crime of Murder, he is hereby sentence to suffer the penalty of RECLUSION PERPETUA. The period of detention of the accused should be considered to his credit in the computation of the duration of his imprisonment.

The said accused is also ordered to pay the heirs of Florencio Daniel the total amount of ONE HUNDRED EIGHTY THREE THOUSAND SIX HUNDRED SEVENTY EIGHT PESOS (₱183,678.00) as civil liability. No subsidiary imprisonment due to insolvency.

¹¹ Records, p. 37.

¹² CA *rollo*, p. 56.

¹³ Id. at 58-59; TSN dated April 30, 2009, p. 13.

¹⁴ Penned by Judge Bayani V. Vargas; id. at 55-63.

SO ORDERED.¹⁵

Agno appealed the decision of the RTC. The defense submitted an Appellant's Brief.¹⁶ *First*, the defense argued that Agno cannot be held guilty for the crime charged because his participation in the killing of Daniel was not established. The defense questioned the credibility of Garopil's testimony because there is an inconsistency on his demonstration of how Agno stabbed Daniel.¹⁷ Garopil's failure to remember the date of the incident is also fatal and contrary to the findings of the trial court, and cannot be considered a minor inconsistency. *Second*, there is a possibility that someone else could have been responsible for the killing of Daniel because Garopil merely concluded that Agno killed Daniel since there was nobody else at the place of the incident except the three of them. *Third*, the defense found it unbelievable that Garopil did not even shout or run for help after witnessing the incident. *Lastly*, the defense claims that the qualifying circumstance of taking advantage of superior strength was not established.

In its Appellee's Brief,¹⁸ the Office of the Solicitor General (OSG), on behalf of the People of the Philippines, asserted that Agno's denial cannot prevail over the positive identification made by eyewitness Garopil in the absence of any showing of ill-motive on the part of the latter. The OSG added that abuse of superior strength attended the commission of the crime.¹⁹ Agno and a certain Norly alternately stabbed the drunk victim, leaving him no chance at all to evade the thrusts and to defend himself.²⁰

CA Ruling

The CA, in its Decision²¹ dated August 29, 2013, affirmed with modification the decision of the RTC. The CA, likewise, gave weight and credence to the testimony of Garopil. Records show that Garopil positively identified Agno and Norly as Daniel's assailants. There is no evidence to show that Garopil was motivated by malice or ill-will to falsely testify against Agno. Hence, the CA held that the positive identification by Garopil must be upheld against Agno's bare denial. The CA found the presence of treachery and abuse of superior strength that qualified the killing of the victim to murder. Records show that these qualifying circumstances were properly alleged in the Information against Agno. According to the CA, the fact that no argument or altercation occurred when Daniel was suddenly stabbed shows the presence of treachery. In addition, there was abuse of superior strength when Agno and

¹⁵ Id. at 63.

¹⁶ Id. at 82-94.

¹⁷ Id. at 89. Garopil was quite emphatic that he saw Agno stab Daniel, "*inakbayanni Agno ang biktima bago sinaksak.*" He claims that the victim was in the middle while Agno and Norlyn were at the left and right side of the victim, respectively. When requested to demonstrate how Agno allegedly stabbed Daniel, however, Garopil raised his left arm on shoulder level with his elbow bent and his right hand with close fist making a thrusting motion towards his left side. It can be gleaned that if Agno raised his left arm while seated at the left side of the victim, stabbing of the latter is improbable.

¹⁸ Id. at 114-135.

¹⁹ Id. at 132.

²⁰ Id.

²¹ Supra note 1.

Norly restrained and held Daniel on the shoulders and stabbed him several times without warning. The CA modified the award of damages as follows: (a) ₱50,000.00 as civil indemnity; (b) ₱50,000.00 as moral damages; (c) ₱35,000.00 as actual damages; and ₱30,000.00 as exemplary damages.

Agno filed a notice of appeal.²²

The Court's Ruling

After a judicious study of the case, the Court resolves to dismiss the appeal. Considering the allegations, issues and arguments raised in the Appellant's and the Appellee's Briefs, which the parties adopted instead of filing their Supplemental Briefs, this Court finds no cogent reason to deviate from the ruling of the courts below finding Agno guilty beyond reasonable doubt of Murder.

The testimony of a single witness is sufficient to support a conviction as long as it is clear, straightforward and worthy of credence by the trial court.²³ In the case at bar, there is no cogent reason to disturb the trial court's appreciation of the evidence. There is also no basis to rule that Garopil's testimony was not credible. Besides, the defense has failed to prove any improper motive on the part of Garopil to falsely impute the crime of murder to Agno. Moreover, the fact that Garopil was mistaken as regards the date of the incident and was not able to accurately demonstrate how Daniel was stabbed will not destroy his credibility. These are inconsistencies not adequate to exculpate Agno. It is sufficient that Garopil was positive, from his personal knowledge, as to the physical identity of Agno as a participant in the commission of the crime. Agno's denial is intrinsically weak defense because he failed to present strong evidence of non-culpability.

Furthermore, there is nothing questionable as regards Agno's conspiracy with Norly in killing Daniel. The prosecution was able to present proof of conspiracy through a chain of circumstances: (1) that Agno was drinking with Norly and Daniel; and (2) that Agno and Norly alternately stabbed Daniel. Agno's claim that he did not participate in the killing of Daniel cannot be given merit without supporting evidence that he performed an overt act to dissociate or detach himself from the conspiracy to commit the murder.²⁴ The defense did not present anything to show that Agno dissuaded Norly from committing the crime, or made an effort to prevent the commission of the crime.

Lastly, the fact that Garopil did not ask for help after he witnessed the murder was sufficiently explained by the prosecution. That he was frightened and hid himself at the "*silong*" is understandable and not contrary to human experience.

²² Id. at 13-14.

²³ *People v. Pat. Cruz*, 348 Phil. 539, 547 (1998).

²⁴ *Quintos v. People*, 742 Phil. 759, 774 (2014).

We also agree with the finding of the CA that the killing was attended with the qualifying circumstances of abuse of superior strength and treachery. These qualifying circumstances were properly alleged in the Information.

To take advantage of superior strength is to use excessive force out of proportion to the means available to the person attacked to defend himself, and in order to be appreciated, it must be clearly shown that there was deliberate intent on the part of the malefactors to take advantage thereof. Jurisprudence provides that where the attack was not treacherous, the number of aggressors would constitute only abuse of superiority.²⁵ In the case at bar, considering that Daniel was unarmed when he was assaulted, he was therefore no match to his two aggressors Agno and Norly.

This Court is, likewise, convinced that treachery attended the killing. The essence of treachery as a qualifying circumstance of murder is the sudden and unexpected attack by the assailant on an unsuspecting victim, depriving the latter of any real chance to defend himself. It is employed to ensure the commission of the crime without the concomitant risk to the aggressor.²⁶ The CA correctly found the presence of treachery in the case at bar based on the fact that no argument or altercation occurred when the victim, who was seated between his two assailants, was suddenly restrained and held by Agno on the shoulders and stabbed several times without warning. In addition, the Court notes that the victim was stabbed several times at the back as shown in the Medico-Legal's Anatomical Sketch of the Human Body of the Victim (interior and posterior views; Exhibit D).²⁷ This conclusively shows that the victim was in a defenseless and helpless position when his assailants Agno and Norly inflicted the fatal stab wounds.

The penalty of *reclusion perpetua* is in accord with Article 248 of the RPC. However, the monetary awards should be modified in accordance with recent jurisprudence. Following *People v. Jugueta*,²⁸ since the penalty imposed is *reclusion perpetua*, the amount of civil indemnity, moral damages, and exemplary damages shall be ₱75,000.00 each, all subject to six percent (6%) interest *per annum* until fully paid. As regards actual damages, *People v. Racal*²⁹ must be followed. The settled rule is that when actual damages proven by receipts during the trial amounts to less than the sum allowed by the Court as temperate damages, the award of temperate damages is justified in lieu of

²⁵ *People v. Agsunod, Jr.*, 366 Phil. 294, 312 (1999).

²⁶ *People v. Del Rosario*, 657 Phil. 635, 645 (2011).

²⁷ Records, p. 40

²⁸ 783 Phil. 806 (2016).

For those crimes like, Murder, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties:

x xxx

2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:

a. Civil indemnity – ₱75,000.00

b. Moral damages – ₱75,000.00

c. Exemplary damages – ₱75,000.00

²⁹ 817 Phil. 665 (2017).

actual damages which is of a lesser amount. In the present case, the heirs of Daniel were awarded by the CA the amount of ₱35,000.00 as actual damages. Since the prevailing jurisprudence now fixes the amount of ₱50,000.00 as temperate damages in murder cases, the Court finds it proper to award temperate damages to Daniel's heirs, in lieu of actual damages.

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The Decision dated August 29, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 04665, which found Allan Agno y Catalo guilty beyond reasonable doubt of Murder is **AFFIRMED with MODIFICATION** in that Allan Agno y Catalo is **ORDERED** to pay the heirs of Florencio Daniel y Varon the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages, and ₱50,000.00 as temperate damages, all subject to legal interest of six percent (6%) *per annum* from the date of the finality of this Resolution until fully paid.

SO ORDERED." (Leonen, J., on official business; Gesmundo, J., designated as Acting Chairperson of the Third Division per Special Order No. 2737; Lazaro-Javier, J., designated as Additional Member of the Third Division per Special Order No. 2728, on official leave.)

Very truly yours,

Misa D C Batt
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Deputy Division Clerk of Court
gms
11/24/20

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(Criminal Case No. Q-05-136321)

CSupt. Wilfredo Bayona
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