



BY: [Signature]  
TIME: 3:47

Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated January 29, 2020, which reads as follows:*

**“G.R. No. 237211 (People of the Philippines, Plaintiff-Appellee, v. Albit Humiding, Accused-Appellant).** – Assailed in this appeal<sup>1</sup> is the Decision<sup>2</sup> dated 31 August 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08471, which affirmed the Decision<sup>3</sup> dated 02 May 2016 of Branch 14, Regional Trial Court (RTC) of Lagawe, Ifugao, in Crim. Case No. 2043, and found accused-appellant Albit Humiding<sup>4</sup> (accused-appellant) guilty beyond reasonable doubt for the crime of murder under Article 248 of the Revised Penal Code (RPC) committed against the victim, John Dulladul (John).

**Antecedents**

In an Information dated 27 February 2012, accused-appellant was charged with murder, the accusatory portion of which reads:

That on or about the afternoon of February 23, 2012 at Mompolia, Hingyon, Ifugao, and within the jurisdiction of this Honorable Court, the above-named accused, by means of treachery and with intent to kill, DID then and there willfully, unlawfully, and feloniously hack one John Dulladul on different parts of his upper body with the use of an Ifugao bolo, resulting in the victim's instantaneous death.

CONTRARY TO LAW, and to the damage and prejudice of the victim's heirs.<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 18-21.

<sup>2</sup> *Id.* at 2-17; penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Ricardo R. Rosario and Ramon A. Cruz of the Fourteenth (14<sup>th</sup>) Division, Court of Appeals, Manila.

<sup>3</sup> *CA rollo*, pp. 50-58; penned by Presiding Judge Romeo U. Habbiling.

<sup>4</sup> Mistakenly referred to as “Albert Humiding” in the cover of the SC *rollo*.

<sup>5</sup> Records, p. 1.

When arraigned, accused-appellant pleaded not guilty.<sup>6</sup> After pre-trial,<sup>7</sup> trial on the merits ensued.

### Version of the Prosecution

On 23 February 2012, Lopez Indopia (Lopez) called on his neighbors, Pilando Payyudon (Pilando), Manuel Pugong (Manuel), Lopez Lunag (Lunag), John Duladul (John) and accused-appellant, for a *numpadang-a* or *bayanihan*. Lopez solicited his neighbors' help in hauling lumber from the forest to his house at Luhadan Brgy. Mompolia, Hingyon, Ifugao.<sup>8</sup>

Lopez prepared food and drinks for the occasion.<sup>9</sup> After having some food and drinks, a few of the neighbors left Lopez, John and accused-appellant who continued conversing with each other. During this time, John asked for tobacco from Lopez, who stood up and went inside his house to get some.<sup>10</sup>

On the way to Lopez' house, accused-appellant took a *bolo* hanging from the wall of Berlinda Pugong's (Berlinda) house. As Lopez was about to give John the tobacco, accused-appellant struck John with the *bolo* from behind without warning, causing the latter to fall.<sup>11</sup> Accused-appellant hacked the victim again while the latter was lying on the ground.<sup>12</sup> Lopez asked accused-appellant why he attacked John, but with nary a word, the latter turned toward Lopez and attempted to hack him. Fearing for his life, Lopez ran away.<sup>13</sup> Meanwhile, John succumbed to multiple hack wounds on the upper part of his body.<sup>14</sup>

Upon report of the incident, police officers, including SPO1 Edward Nanglegan (SPO1 Nanglegan), responded to the crime scene. They interviewed witnesses who confirmed that accused-appellant killed John.<sup>15</sup>

While searching for accused-appellant, police officers heard a loud voice some 150 meters away.<sup>16</sup> They tracked the voice from a forested area,

<sup>6</sup> *Id.* at 31-32.

<sup>7</sup> *Id.* at 40-41.

<sup>8</sup> TSN dated 14 August 2013, p. 4.

<sup>9</sup> *Id.* at 5-6.

<sup>10</sup> *Id.* at 6-7.

<sup>11</sup> *Id.* at p. 8.

<sup>12</sup> TSN dated 12 November 2013, pp. 12-13.

<sup>13</sup> TSN dated 14 August 2013, p. 8.

<sup>14</sup> Records, pp. 7-8.

<sup>15</sup> TSN dated 12 March 2014, pp. 3-4.

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

where they found accused-appellant lying down. SPO1 Nanglegan recognized accused-appellant and arrested him for the killing of John.<sup>17</sup>

### Version of the Defense

The defense offered the lone testimony of accused-appellant. While admitting that he participated in the *bayanihan*,<sup>18</sup> accused-appellant claimed that after their drinking session at noon, he went to his grandfather's house, some 1.5 kilometers from Lopez's house, to sleep off his drowsiness.<sup>19</sup> He was thus surprised when the police officers came to his grandfather's house later that day to arrest him. He voluntarily went with them to the police station.<sup>20</sup>

### Ruling of the RTC

On 02 May 2016, RTC<sup>21</sup> found accused-appellant guilty beyond reasonable doubt of the crime of murder, and sentenced him to suffer the penalty of *reclusion perpetua*. Also, the RTC ordered accused-appellant to pay the heirs of John the amounts of: 1) Php75,000.00 as civil indemnity; 2) Php75,000.00 as moral damages; and 3) Php30,000.00 as exemplary damages.

The RTC found the prosecution's evidence sufficient to prove that John was killed by accused-appellant. It also concluded that John's killing was attended with treachery since he was unsuspectingly attacked by accused-appellant from the back, depriving him of any chance to defend himself. Finally, it disregarded accused-appellant's denial and alibi since he was positively identified by both Lopez and Berlinda as John's killer.

### Ruling of the CA

The CA agreed with the RTC's findings and ruled that treachery was sufficiently proven based on the swiftness of accused-appellant's attack, depriving John of any opportunity to defend himself. John had no idea that accused-appellant would hack him as they were part of the *bayanihan*, and they were even drinking with each other prior to the attack. Neither did it appear that John provoked accused-appellant or had an altercation with the

---

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

<sup>18</sup> TSN dated 07 October 2015, p. 3.

<sup>19</sup> *Id.* at 4-5.

<sup>20</sup> *Id.* at 8.

<sup>21</sup> *Supra* at note 3.

latter.<sup>22</sup>

The CA dismissed accused-appellant's objection to the sufficiency of the information. It concluded that the allegations in the information against accused-appellant were sufficient to apprise him of the nature of the charge against him and enable him to formulate his defense of denial. The appellate court also ruled that accused-appellant's objection to the information was raised late in the proceedings. It opined that accused-appellant should have carried out his objection through a motion to quash before arraignment.<sup>23</sup>

Thus, the CA affirmed the RTC's conviction with modifications in that: 1) accused-appellant is not eligible for parole; 2) the award of exemplary damages is increased from Php30,000.00 to Php75,000.00; 3) temperate damages in the amount of Php25,000.00 is likewise awarded; and 4) all the damages awarded shall earn legal interest at the rate of six percent (6%) *per annum* from the finality of the Decision until fully paid.<sup>24</sup>

Hence, the present appeal.

### **Ruling of the Court**

The appeal lacks merit.

The determination of the guilt of an accused hinges on how a court appreciates evidentiary matters in relation to the requisites of an offense. It is a fundamentally factual issue. This Court, however, is not a trier of facts. This Court only undertakes a factual calibration of the case in the following exceptional instances: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals is based on misapprehension of facts; (5) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (6) when the findings of fact are conclusions without citation of specific evidence on which they are based; (7) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (8) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on

---

<sup>22</sup> *Rollo*, pp. 8-9.

<sup>23</sup> *Id.* at 10-13.

<sup>24</sup> *Id.* at 14-15.

record.<sup>25</sup> None of these instances was shown to exist in this case. There is no indication that the trial court overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. Its findings were likewise affirmed by the CA. Hence, this Court defers to the RTC in this respect, especially considering that it was in the best position to assess and determine the credibility of the witnesses presented by both parties.<sup>26</sup>

At the onset, this Court sees no merit in accused-appellant's argument questioning the sufficiency of the allegations in the information. In the recent case of *People v. Solar*,<sup>27</sup> this Court pronounced that the Information must specify the ultimate facts related to the qualifying or aggravating circumstance alleged therein. Otherwise, the Information may be subject to a motion to quash, or a motion for bill of particulars. Hence, mere allegation of the attendant qualifying circumstance of "treachery," without stating the ultimate facts, or without referencing the pertinent portions of the resolution finding probable cause against the accused, and attaching the same to the Information, as in this case, is no longer sufficient.

This Court likewise ruled in *Solar* that insofar as judgments or decisions which are pending appeal, the same shall be judged depending on whether the accused waived the right to question the defective statement of aggravating or qualifying circumstance in the Information.

Under Section 9 of Rule 116 of the Rules of Court, an accused may, before arraignment, move for a bill of particulars to properly plead and prepare for trial.<sup>28</sup> Likewise, Rule 117 thereof allows an accused to file a motion to quash a patently insufficient or defective information.<sup>29</sup> In both instances, Our procedural rules require the accused to avail of these remedies prior to arraignment. Hence, in order to successfully object to the Information, the objection must not only be meritorious, but must also be timely exercised.

In this case, this Court notes that accused-appellant belatedly raised his objection to the sufficiency of the allegations in the Information. Not only did accused-appellant fail to move for a bill of particulars or quash the information before his arraignment, he also participated in the trial and only raised his objection to the Information on appeal. Certainly, this Court cannot accord merit to accused-appellant's plea without unduly prejudicing the State, which,

<sup>25</sup> *People v. Omictin*, 639 Phil. 622-633 (2010); G.R. No. 188130, 26 July 2010, 625 SCRA 611, 619.

<sup>26</sup> *People v. Racal*, 817 Phil. 665-686 (2017); G.R. No. 224886, 04 September 2017, 838 SCRA 476, 488.

<sup>27</sup> G.R. No. 225595, 06 August 2019.

<sup>28</sup> *See Romualdez v. Sandiganbayan*, 479 Phil. 265-308 (2004); G.R. No. 152259, 29 July 2004, 435 SCRA 371, 372.

<sup>29</sup> *People v. Sandiganbayan*, 769 Phil. 378-394 (2015); G.R. No. 160619, 09 September 2015, 770 SCRA 162, 176; *Los Baños v. Pedro*, 604 Phil. 215-236 (2009); G.R. No. 173588, 22 April 2009, 586 SCRA 303, 314.

on account of accused-appellant's failure, was also deprived of the opportunity to amend the Information<sup>30</sup> or submit a bill of particulars.<sup>31</sup>

We now discuss the propriety of accused-appellant's conviction. After reviewing the records, this Court is convinced that accused-appellant's guilt has been established beyond reasonable doubt. The testimonies of Lopez and Berlinda clearly narrated how accused-appellant suddenly attacked John with a *bolo* until the latter succumbed to his death. Accused-appellant has not proffered any reason for Lopez and Berlinda to falsely testify against him.<sup>32</sup> On this note, this Court likewise agrees with the RTC's observation that for a small and tight-knit community, it is against human nature for neighbors to falsely accuse a fellow resident of killing someone therefrom.<sup>33</sup>

Accused-appellant's alibi and denial that he immediately left after the drinking session with Lopez and John and that he was in his grandfather's house when the killing happened is worthless in the face of positive identification.<sup>34</sup> Alibi and denial are outweighed by positive identification that is categorical, consistent and untainted by any ill motive on the part of the eyewitness testifying on the matter. Alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.<sup>35</sup> In this case, the RTC and CA did not err in disregarding accused-appellant's denial since he failed to present any other evidence to corroborate the same.

Likewise, even if this Court assumes that accused-appellant was indeed in his grandfather's house after the drinking session with John and the other participants in the *bayanihan*, the defense did not present convincing evidence that it was physically impossible for accused-appellant to have been present at the time of the commission of the crime. For a defense of alibi to prosper, accused-appellant must prove not only that he was somewhere else when the crime was committed but he must also satisfactorily establish that it was physically impossible for him to be at the crime scene at the time of its commission.<sup>36</sup> Physical impossibility refers to distance and the facility of access between the crime scene and the location of the accused when the crime was committed. It must be demonstrated that he was so far away and could not have been physically present at the crime scene and its immediate vicinity when the crime was committed.<sup>37</sup>

<sup>30</sup> Section 4 Rule 117 of the Rules of Court.

<sup>31</sup> *Enrile v. People*, 766 Phil. 75-332 (2015); G.R. No. 213455, 11 August 2015, 766 SCRA 1.

<sup>32</sup> TSN dated 07 October 2015, pp. 7-8.

<sup>33</sup> CA rollo, p. 58.

<sup>34</sup> *See People v. Ambatang*, 808 Phil. 237-246 (2017); G.R. No. 205855, 29 March 2017, 822 SCRA 118, 125.

<sup>35</sup> *People v. Rarugal*, 701 Phil. 592-606 (2013); G.R. No. 188603, 16 January 2013, 688 SCRA 646, 653.

<sup>36</sup> *People v. Barberan*, G.R. No. 208759, 22 June 2016, 794 SCRA 348, 360.

<sup>37</sup> *People v. Ramos*, 715 Phil. 193-210 (2013); G.R. No. 190340, 24 July 2013, 702 SCRA 204, 217.

In the past, this Court has declared that the distances of two (2), three (3), or even five (5) kilometers were not too far to preclude the possibility that the accused was present at the *locus criminis*. Accused-appellant himself admitted that his grandfather's house is only 1.5 kilometers away from Lopez's house.<sup>38</sup> In the absence of any other evidence supporting accused-appellant's alibi, this Court cannot deem it physically impossible for accused-appellant to have killed John before staying at his grandfather's house.

With respect to the qualifying circumstance of treachery, this Court shares the RTC and CA's view. Berlinda saw accused-appellant get the *bolo* from her house and hack John from the back, causing him to fall to the ground. Lopez was also surprised when he witnessed accused-appellant suddenly strike John with a *bolo*. From these circumstances, it can be deduced that John had no clue that he would be attacked by accused-appellant. Jurisprudence posits that a swift and unexpected attack on an unarmed victim that insures its execution without risk to the assailant arising from the defense of his victim is an indication that treachery is present.<sup>39</sup> The essence of treachery is the sudden and unexpected attack by the aggressor on the unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor and without the slightest provocation on the part of the victim.<sup>40</sup> To this Court, the narration of the two (2) eyewitnesses establishes, with moral certainty, that accused-appellant treacherously took John's life. Hence, his conviction for murder must stand.

As to the penalty, the CA included in the dispositive portion of its decision, the phrase, "appellant is NOT ELIGIBLE for parole."<sup>41</sup> In accordance with A.M. No. 15-08-02-SC,<sup>42</sup> the phrase "*without eligibility for parole*" need not be used to qualify the penalty imposed on accused-appellant if there is no aggravating circumstance that would

<sup>38</sup> TSN dated 07 October 2015, pp. 5-6.

<sup>39</sup> *People v. Napalit*, 630 Phil. 239-247 (2010); G.R. No. 181247, 19 March 2010, 616 SCRA 245, 255; *People v. Requiron*, G.R. No. 212342, 16 February 2015; *People v. Kalipayan*, G.R. No. 229829, 22 January 2018, 852 SCRA 311.

<sup>40</sup> *People v. Ramelo*, G.R. No. 224888, 22 November 2017, 846 SCRA 482, 483.

<sup>41</sup> *Rollo*, p. 15.

<sup>42</sup> A.M. No. 15-08-02-SC — Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties:

xxx xxx xxx

The following guidelines shall be observed in the imposition of penalties and in the use of the phrase "without eligibility for parole":

- (1) In cases where the death penalty is not warranted, there is no need to use the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and
- (2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. No. 9346, the qualification of "*without eligibility for parole*" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9364.

xxx xxx xxx

warrant the imposition of the death penalty. It is already understood that convicted persons penalized with an indivisible penalty are not eligible for parole. Since no such modifying circumstance, other than treachery, was established in this case, the phrase "*appellant is NOT ELIGIBLE for parole*" should be deleted.

Furthermore, the CA's award of temperate damages in the amount of Php 25,000.00 should be increased to Php 50,000.00. In *People v. Jugueta*,<sup>43</sup> this Court fixed the amount of Php 50,000.00 as temperate damages in homicide or murder cases when no evidence of burial and funeral expenses is presented in the trial court.

**WHEREFORE**, the appeal is hereby **DISMISSED**. Accordingly, the Decision dated 31 August 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08471, finding accused-appellant Albit Humiding **GUILTY** beyond reasonable doubt of Murder under Article 248 of the Revised Penal Code, is **AFFIRMED with MODIFICATION**. Accused-appellant is sentenced to suffer *reclusion perpetua*, and is **ORDERED** to pay the heirs of John Dulladul the amounts of Php 75,000.00 as civil indemnity, Php 75,000.00 as moral damages, Php 75,000.00 as exemplary damages and Php 50,000.00 as temperate damages. Legal interest of six percent (6%) *per annum* is imposed on all damages awarded from the date of finality of this Resolution until fully paid.<sup>44</sup>

**SO ORDERED."**

Very truly yours,

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
GER  
10/15/20

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
Legaspi Village, 1229 Makati City

COURT OF APPEALS  
CA G.R. CR HC No. 08471  
1000 Manila

<sup>43</sup> G.R. No. 202124, 05 April 2016, 788 SCRA 331, 339.

<sup>44</sup> See *Nacar v. Gallery Frames*, G.R. No. 189871, 13 August 2013, where the Court held that when the judgment of the court becomes final and executory, the principal amount shall earn an interest of six percent (6%) *per annum* from the finality of the decision until full payment, the interim period being "deemed to be by then an equivalent to a forbearance of credit."



Special & Appealed Cases Service  
PUBLIC ATTORNEY'S OFFICE  
DOJ Agencies Building  
East Avenue cor. NIA Road  
1104 Diliman, Quezon City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 14, Lagawe  
3600 Ifugao  
(Crim. Case No. 2043)

Mr. Albit Humiding  
c/o The Director General  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

PUBLIC INFORMATION OFFICE  
Supreme Court, Manila  
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES  
Supreme Court, Manila

Judgment Division  
JUDICIAL RECORDS OFFICE  
Supreme Court, Manila

G.R. No. 237211  
*gale*

*joy*

  
(168)  
URES

