



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 July 2020** which reads as follows:*

**“G.R. No. 239634 (*People of the Philippines v. Jay-R Mendoza y Pantalunan*).** – The instant appeal is without merit.

Jay-R contends that the prosecution failed to establish his guilt beyond reasonable doubt on two (2) grounds: *first*, the inconsistencies in the testimony of the prosecution witnesses, particularly, Helen; and *second*, the failure of the prosecution to prove the qualifying circumstance of treachery in the killing of Nestor.

***As to the inconsistencies in the testimony of the prosecution witness***

The established rule in our criminal jurisprudence is that when the issue is one of credibility of witnesses, the appellate courts will not disturb the findings of the trial court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. Unless it can be shown that the trial court plainly overlooked certain facts of substance and value which, if considered, may affect the result of the case; or in instances where the evidence fails to support or substantiate the trial court’s findings of fact and conclusions; or where the disputed decision is based on a misapprehension of facts; the trial court’s assessment of the credibility of witnesses will be upheld.<sup>1</sup>

As correctly pointed out by the trial court, the cited inconsistencies between the testimony of Helen in her affidavit and her testimony in open court are badges of truth that in case of conflict between the testimony of a witness in open court and her affidavit, her testimony in open court prevails.

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<sup>1</sup> *People v. Mat-an*, G.R. No. 215720, 21 February 2018.

Helen was able to positively identify Jay-R as the person responsible for the killing of Nestor.<sup>2</sup>

***As to the failure of the prosecution to prove the qualifying circumstance of treachery***

Murder is defined and penalized under Article 248 of the RPC, as amended, which provides:

Art. 248. Murder. – any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death if committed with any of the following attendant circumstances:

1. **With treachery**, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity.
2. In consideration of a price, reward, or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. (Emphasis supplied)

Jurisprudence dictates that to successfully prosecute the crime of Murder, the following elements must be established: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide.<sup>3</sup>

In the instant case, the prosecution was able to establish all the elements of murder, to wit: (1) Nestor was stabbed and killed; (1) Jay-R stabbed and killed Nestor; (3) Nestor's killing was attended by the qualifying circumstance of treachery; and (4) the killing was neither parricide nor infanticide.

Case law instructs that “[t]here is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the party might make.” In other words, to appreciate treachery, it must be shown that: (a) the means of execution employed gives the victim no opportunity to defend himself or retaliate; and (b) the methods of execution

<sup>2</sup> See *rollo*, p. 248.

<sup>3</sup> *Casilac v. People*, G.R. No. 238436, 17 February 2020.



were deliberately or consciously adopted; indeed, treachery cannot be presumed, it must be proven by clear and convincing evidence.<sup>4</sup>

The qualifying circumstance of treachery was correctly appreciated by the court *a quo* and the CA as the attack was sudden and unexpected and without giving Nestor an opportunity to defend or retaliate. Helen testified that she saw Jay-R put his arm around Nestor's shoulder and punched the latter. When she approached Nestor, he told her that he was stabbed and thereafter, she saw blood. Although Helen only saw the act of Jay-R punching Nestor, it cannot be denied that the act of stabbing is strikingly similar to that of punching another. Hence, the suddenness of the attack of Jay-R against Nestor prevents the latter from defending himself.

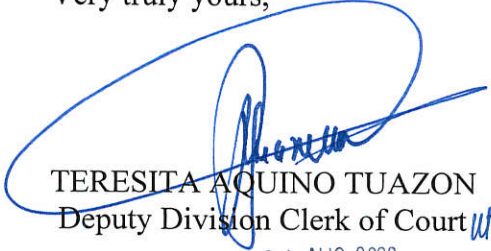
Lastly, Jay-R's defense is based mainly on denial and alibi. We reiterate once more the oft-repeated rule that the defense of alibi is worthless in the face of positive identification. Thus, it is well settled that positive identification by the prosecution witnesses of the accused as perpetrator[s] of the crime is entitled to greater weight than their denials and alibis.<sup>5</sup>

Anent the award of damages, the Court notes that the CA's modification increasing the exemplary damages from ₱50,000.00 to ₱75,000.00 is proper in accordance with the prevailing jurisprudence.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated 29 November 2017 of the Court of Appeals in CA-G.R. CEB-CR HC No. 02287 finding accused-appellant Jay-R Mendoza y Pantalunan guilty beyond reasonable doubt of the crime of Murder is hereby **AFFIRMED**.

**SO ORDERED.**" (J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.)

Very truly yours,

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *whh 8/24*  
24 AUG 2020

<sup>4</sup> *People v. Cortez*, G.R. No. 239137, 5 December 2018.

<sup>5</sup> *People v. Ambatang*, 808 Phil. 237 (2017).

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Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 29  
Toledo City  
(Crim. Case No. TCS-6753)

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