



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **22 June 2020** which reads as follows:*

“**G.R. 240915** (*People of the Philippines v. Danilo Tanguilan y Lana*). – Before the Court is an appeal¹ assailing the Decision² dated December 18, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08911 which affirmed the Decision³ dated November 17, 2016 of Branch 11, Regional Trial Court (RTC) of Pata, Tuao, Cagayan in Criminal Case No. 1325-T convicting Danilo Tanguilan y Lana (accused-appellant) of the crime of Murder, and increasing the award of exemplary damages in favor of Nemesio B. Calling’s (Nemesio) heirs to ₱75,000.00.

Facts

The instant case stemmed from an Information⁴ charging accused-appellant with the crime of Murder defined and penalized under Article 248 of the Revised Penal Code (RPC). The accusatory portion of which reads:

That on or about February 15, 2009[,] in the Municipality of Rizal, Province of Cagayan and within the jurisdiction of this Honorable Court, the said accused **DANILO TANGUILAN y LANA ALIAS DANNY, RONES TANGUILAN** and **[BENJAMIN] ANDRES** armed with long bolos, with intent to kill, with treachery and evident premeditation conspiring together and helping one another, did then and there willfully, unlawfully and feloniously attack, assault and hack several times **NEMESIO B. CALLING**,

¹ *Rollo*, pp. 12-13.

² *Id.* at 2-11; penned by Associate Justice Jane Aurora C. Lantion with Associate Justices Rosmari D. Carandang (now a member of the Court) and Zenaida T. Galapate-Laguilles, concurring.

³ *CA rollo* pp. 46-55; penned by Presiding Judge Edmar P. Castillo, Sr.

⁴ *Rollo*, p. 3.

thereby inflicting upon him several hack wounds on the different parts of his body which caused his death.

Contrary to law.⁵

At the arraignment, accused-appellant and the other two accused, Rones Tanguilan (Rones) and Benjamin Andres (Benjamin), entered pleas of not guilty. After the termination of the pre-trial, trial on the merits ensued.⁶

The prosecution averred that at around 9:00 p.m., of February 15, 2009, Rones and Benjamin were shouting in front of Nemesio's house. Nemesio and his wife went outside because of the loud shouts. Nemesio walked towards the waiting shed along the *barangay* road to approach and stop Rones and Benjamin from shouting. While Nemesio was walking, accused-appellant suddenly appeared, and hacked Nemesio several times. Rones and Benjamin ran away. To stop accused-appellant from attacking Nemesio, the neighbors went near them and threw stones at accused-appellant. As such, accused-appellant let go of Nemesio and ran away too.⁷

The incident was personally witnessed by Lolita Calling (Lolita), the widow of Nemesio; Belarmino Fieror (Belarmino), *Barangay* Captain of Dungan, Rizal, Cagayan; Alberto Crisostomo (Alberto), *barangay tanod*; Visitacion Leaban (Visitacion), and Charlita Aggarao (Charlita).⁸

In his defense, accused-appellant alleged the following: In the evening of February 15, 2009, he was at home in Dungan, Rizal, Cagayan. Rones and Benjamin arrived and invited him to a drinking session at the house of one Demy Palattao (Demy). While the three of them were on their way to Demy's house, Belarmino, blocked their path, accosted them, and insisted that one of them was shouting loud in front of his house. Accused-appellant admitted that someone indeed shouted, but denied knowing who it was. At that point, Rones and Belarmino suddenly exchanged punches and grappled with each other, prompting Belarmino to call for assistance. Consequently, four *barangay tanods* arrived – Alberto and Belarmino's three children. Upon their arrival,

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 3-4.

⁸ *Id.* at 3-5.

accused-appellant ran away and encountered Nemesio, who suddenly pointed a gun at him. Accused-appellant then grappled with Nemesio for the possession of the gun and pushed Nemesio, who then fell. Accused-appellant thereafter asked the four *barangay tanods* to help him and attack Nemesio. However, instead of helping him, the four *barangay tanods* suddenly threw stones at him. Nemesio got up and hit accused-appellant with his gun. Several *barangay tanods* also arrived and mauled him. While being mauled, accused-appellant got hold Nemesio's gun and grabbed the bolo of one of the men mauling him. Accused-appellant then fell on the ground while stones are being thrown at him. Consequently, he lost his consciousness. When he woke up, he learned that Nemesio died of the hacking wounds. After which, he went into hiding out of fear that what happened to Nemesio might also happen to him. He further testified that while he was mauled, Rones and Benjamin were just watching and did not even bother to help him.⁹

Ruling of the RTC

In the Decision¹⁰ dated November 17, 2016, the RTC acquitted Rones and Benjamin, but convicted accused-appellant with the crime of Murder. The RTC found that treachery attended the killing of Nemesio, but ruled out the presence of the aggravating circumstance of evident premeditation. The RTC sentenced him to suffer the penalty of *reclusion perpetua* and ordered him to pay the heirs of Nemesio the amount of ₱185,634.40 as actual damages; ₱75,000.00 as death indemnity; ₱75,000.00 as moral damages; and ₱30,000.00 as exemplary damages.¹¹

Ruling of the CA

In the Decision¹² dated December 18, 2017, the CA affirmed accused-appellant's conviction, but increased the award of exemplary damages in favor of Nemesio's heirs to ₱75,000.00.¹³

The Issue before the Court

The issue for the Court's resolution is whether accused-appellant's conviction should be upheld.

⁹ *Id.* at 6-7.

¹⁰ *CA rollo*, pp. 46-55.

¹¹ *Id.* at 55.

¹² *Rollo*, pp. 2-11.

¹³ *Id.* at 10.

The Court's Ruling

The appeal is bereft of merit.

Accused-appellant is charged with the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code. To warrant conviction for Murder, the prosecution must establish beyond reasonable doubt that: (a) a person was killed; (b) the accused killed him or her; (c) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC, *i.e.*, treachery; and (d) the killing is not Parricide or Infanticide.¹⁴

In this case, the prosecution was able to show that Nemesio was killed; the accused-appellant killed him; the killing was neither parricide nor infanticide; and the killing was attended by the qualifying circumstance of treachery.¹⁵

Under Article 14 of the RPC, there 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 ensure its execution, without risk to himself arising from the defense which the offended party might make.¹⁶ In *People v. Enriquez, Jr.*,¹⁷ the Court explained that 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 to himself.

In this case, prosecution witness Visitacion Leaban (Visitacion) personally saw accused-appellant's sudden and unexpected attack on Nemesio, leaving Nemesio with no opportunity to evade or defend himself. Visitacion clearly witnessed the event, as she was only ten to fifteen meters away from Nemesio and accused-appellant. In fact, she even walked closer to them and saw how accused-appellant hacked and killed Nemesio. The fact of killing was even corroborated by other witnesses to the crime; Belarmino, his three sons, Alberto, Charlita, and

¹⁴ See *Buenaflor v. People*, G.R. No. 240090 (Notice), August 8, 2018 citing *Ramos v. People*, 803 Phil. 775, 783 (2017).

¹⁵ *Rollo*, p. 9.

¹⁶ *People v. Estoya*, G.R. No. 222650 (Notice), December 5, 2018 citing *People v. Dela Cruz*, 626 Phil. 631, 639-640 (2010).

¹⁷ G.R. No. 238171, June 19, 2019.

Lolita.

Set against the corroborative testimonies of the prosecution witnesses, accused-appellant's version of the case that he brawled with Nemesio because he intended to grab his gun; that he lost consciousness because of the stones being thrown at him; and that Nemesio was already dead when he regained his consciousness, are bare allegations that remained uncorroborated. Besides, the records are bereft of anything to show that Nemesio indeed had a gun that evening of February 15, 2009 which accused-appellant attempted to seize. There being no proof of his allegations, accused-appellant's account of the incident cannot be sustained.

In reviewing criminal cases, well-established is the principle that the factual findings of the trial court, when affirmed by the CA, are binding on the highest court of the land. Both courts possess time-honored expertise in the field of fact finding.¹⁸ These factual findings should not be disturbed on appeal, unless there are facts of weight and substance that were overlooked or misinterpreted which would materially affect the disposition of the case.¹⁹

The Court has reviewed the records of the case and finds no reason to veer away from the RTC's and CA's factual findings. There is no showing that the RTC and the CA had overlooked or misapplied the surrounding facts and circumstances of the case. Considering too that no evidence of ill motive exists on the part of the prosecution witnesses to testify falsely against accused-appellant, the Court gives credence to their positive corroborative testimonies that accused-appellant indeed murdered Nemesio in a sudden and unexpected manner. The foregoing considered, the Court upholds accused-appellant's conviction for the crime of Murder qualified by treachery. Hence, the Court is unanimous with the RTC and the CA.

In line with *People v. Jaen*,²⁰ the civil indemnity in the amount of ₱75,000.00 and moral damages in the amount of ₱75,000.00 in favor of Nemesio's heirs are affirmed without need of evidence other than the commission of the crime and Nemesio's death. Considering further that

¹⁸ *Pomoy v. People*, 482 Phil. 665, 678 (2004).

¹⁹ *Almojuela v. People*, 734 Phil. 636, 651 (2014). See *Bautista v. Castillo Mercado*, 858 Phil. 389, 398 (2008).

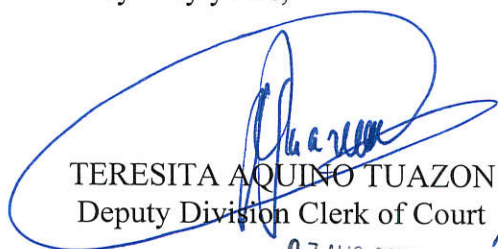
²⁰ G.R. No. 241946, July 29, 2019.

the crime was committed with treachery, exemplary damages in the sum of ₱75,000.00 is also granted. The Court likewise affirms the RTC and CA's award of ₱185,634.40 as actual damages, it being admitted by the defense in the trial.²¹ Lastly, the aforesaid monetary awards shall earn legal interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid.²²

WHEREFORE, the appeal is **DENIED**. The Decision dated December 18, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08911 is **AFFIRMED**. Accused-Appellant Danilo Tanguilan y Lana is hereby found **GUILTY** beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, and accordingly, sentenced to suffer the penalty of *reclusion perpetua*, with its concomitant accessory penalties under Article 41²³ of the same Code. He is likewise ordered to indemnify the heirs of Nemesio B. Calling the following amounts: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; (c) ₱75,000.00 as exemplary damages; and (d) ₱185,634.40 as actual damages. All monetary awards shall earn legal interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid.

SO ORDERED." (GAERLAN, J., designated as additional member, per Special Order No. 2780 dated May 11, 2020, on leave).

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *jo 8/6*
07 AUG 2020

²¹ CA rollo p. 55.

²² Rollo, p. 10.

²³ Art. 41. *Reclusion perpetua and reclusion temporal; Their accessory penalties.* — The penalties of reclusion perpetua and reclusion temporal shall carry with them that of civil interdiction for life or during the period of the sentence as the case may be, and that of perpetual absolute disqualification which the offender shall suffer even though pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon.

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