



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated February 3, 2021, which reads as follows:*

“G.R. No. 247755 (*People of the Philippines v. Otelio Antiado y Grecia*). – This is an Appeal<sup>1</sup> from the Decision<sup>2</sup> dated November 23, 2017 of the Court of Appeals (CA) in CA - G.R. CR-HC No. 08594 which affirmed the Decision<sup>3</sup> of Branch 65, Regional Trial Court (RTC), Bulan, Sorsogon, convicting Otelio Antiado y Grecia (accused-appellant) of the crime of Murder defined and penalized under Article 2484 of the Revised Penal Code (RPC).

Accused-appellant was charged with Murder in an Information<sup>5</sup> dated November 2, 2010 which reads as follows:

“That on or about 10:00 o'clock in the evening of October 31, 2010 at Brgy. Banacad, Municipality of Magallanes, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed weapon (machete), with intent to kill and with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously, and acting with discernment, attack, assault and stab one JEROME AMOL, thereby hitting him on his left chest and inflicting upon him a mortal wound which caused his death, to the damage and

<sup>1</sup> *Rollo*, pp. 15-16.

<sup>2</sup> *Id.* at 3-14; penned by Associate Justice Mariflor P. Punzalan-Castillo with Associate Justices Rodil V. Zalameda (now a member of the Court) and Zenaida T. Galapate-Laguilles, concurring.

<sup>3</sup> *CA rollo*, pp. 42-53; penned by Judge Adolfo G. Fajardo.

<sup>4</sup> Article 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 temporal in its maximum period 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 street car or locomotive, 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 of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or 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.

<sup>5</sup> *Rollo*, p. 3-4; as culled from the CA Decision.

upon him a mortal wound which caused his death, to the damage and prejudice of his legal heirs.

Contrary to law.<sup>6</sup>

It is undisputed that accused-appellant killed the deceased victim Jerome Amol (Amol). The only question to be resolved here is whether accused-appellant should be convicted of Murder or Homicide only.

The RTC convicted accused-appellant of Murder because it found that the qualifying circumstances of treachery and evident premeditation attended the killing. However, the CA disregarded the presence of evident premeditation, and ruled that only treachery attended the killing of Amol.

The Court agrees with the CA that the qualifying circumstance of evident premeditation is absent in this case because there is no proof as to when and how accused-appellant planned and prepared for the execution of the crime. For evident premeditation to be present, the execution of the criminal act must be preceded by cool thought and reflection.<sup>7</sup> In this case, the prosecution only established that accused-appellant had motive to kill Amol.

The Court now proceeds to treachery.

*"The essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on his part. For treachery to be appreciated as a qualifying circumstance, two things must be proven: (1) that during the attack, the victim could not have defended himself or herself from the offender; and (2) that the offender deliberately chose a form of attack which would render him or her immune from risk of retaliation by the victim."*<sup>8</sup>

Accused-appellant's conviction for Murder is based on the testimony of eyewitness Dohita Osayan (Osayan). The presence of treachery was established through Osayan's testimony that she saw accused-appellant pass by her house and approach Amol to borrow some money; that accused-appellant left; that accused-appellant later returned; and that accused-appellant then hit Amol, jumped over him, and stabbed him.<sup>9</sup>

There can be no argument that Amol could not have felt any tension between him and accused-appellant because the latter was only borrowing some money from him to buy cigarettes. Thus, Amol could not have suspected an attack. There was no argument or hostility at that

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

<sup>7</sup> *People v. Isla*, 699 Phil. 256, 270 (2012).

<sup>8</sup> *People v. Magallano*, G.R. No. 220721, December 10, 2018, 889 SCRA 74.

<sup>9</sup> *CA rollo*, pp. 51-52.

time between the two of them. While Amol was unsuspecting of any attack from accused-appellant, the latter deliberately and immediately hit him causing Amol to fall on the ground. Thereafter, while Amol was defenseless and on the ground, accused-appellant jumped on him and stabbed him using a *bolo*. Amol had no opportunity to defend himself as accused-appellant made sure that he was immune from any risk of retaliation from Amol during the incident.<sup>10</sup>

In Accused-Appellant's Brief,<sup>11</sup> he vehemently attacks the testimony of Osayan. However, this is inconsistent with his testimony on his cross-examination wherein he testified as follows:

Q: Actually, much as you would like to cover these things out, the fact and the truth remains that you were not poked with a weapon, but, when you saw Jerome Amol that night, you have (sic) an outburst of your anger and you decided to kill him because of what he did to your sister. Is that correct?

A: Yes, Madam.

Q: And when Dolorita Osayan testified here she was telling the truth?

A: Yes, Madam.<sup>12</sup>

Accused-appellant clearly admitted that Osayan was telling the truth when she took the witness stand. Therefore, no fault or error can be ascribed to the CA's finding that the killing of Amol was attended by treachery as established by Osayan's testimony.

Ancient the penalty imposed, the crime of Murder under Article 248 of the RPC is penalized with *reclusion perpetua* to death. Applying Article 63 paragraph 2 (2)<sup>13</sup> of the RPC, when the law prescribes a penalty composed of two indivisible penalties and there are no mitigating or aggravating circumstances present, the lesser penalty shall be applied. In the present case, the crime committed is Murder because the killing of Amol was attended by treachery. As no generic aggravating circumstance was alleged in the Information or established during trial, the penalty to be imposed is the lesser penalty of *reclusion perpetua*.

---

<sup>10</sup> *Id.*

<sup>11</sup> *CA rollo*, pp. 29-40.

<sup>12</sup> TSN, March 16, 2015, p. 5.

<sup>13</sup> Article 63. *Rules for the application of indivisible penalties.* - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

x x x.

With respect to damages, the CA may have overlooked the proper and corresponding damages to be awarded when the penalty to be imposed is *reclusion perpetua*, as discussed above. In *People v. Jugueta*,<sup>14</sup> the Court summed up the proper damages to be awarded when the crime committed is Murder, to wit:

I. For those crimes like, Murder, x x x where the penalty consists of indivisible penalties:

1.1 Where the penalty imposed is death but reduced to *reclusion perpetua* because of RA 9346:

- a. Civil indemnity-₱100,000.00
- b. Moral damages - ₱100,000.00
- c. Exemplary damages - ₱100,000.00

x x x x.

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<sup>15</sup>

The amounts under item 2.1 above are applicable in this case.

Lastly, the Court sustains the award of temperate damages in the amount of ₱50,000.00 because "*when no documentary evidence of burial or funeral expenses is presented in court, the amount of ₱50,000.00 as temperate damages shall be awarded.*"<sup>16</sup>

**WHEREFORE**, the appeal is **DENIED**. The Decision dated November 23, 2017 of the Court of Appeals in CA - G.R. CR-HC No. 08594 is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant Otelio Antiado y Grecia is found **GUILTY** of Murder and is sentenced to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim Jerome Amol 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. Finally, accused-appellant Otelio Antiado y Grecia is **ORDERED** to pay interest on the said monetary awards at the legal rate of 6% per *annum* from the date of finality of this Resolution until full payment thereof. The other aspects of the assailed Decision are upheld.

<sup>14</sup> 783 Phil. 806 (2016).

<sup>15</sup> *Id.* at 847-848.

<sup>16</sup> *Id.* at 853.

**SO ORDERED.”**

By authority of the Court:

*Misael DC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *9/1/21*

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

COURT OF APPEALS  
CA G.R. CR HC No. 08594  
1000 Manila

Atty. Ronie T. Ablan  
Special & Appealed Cases Service  
PUBLIC ATTORNEY'S OFFICE  
DOJ Agencies Building  
East Avenue cor. NIA Road  
Diliman, 1104 Quezon City

The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

Mr. Otelio G. Antiado  
c/o The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 65, 4706 Bulan, Sorsogon  
(Crim. Case No. 10-1220)

PHILIPPINE JUDICIAL ACADEMY  
Research Publications and Linkages Office  
Supreme Court, Manila  
[research\_philja@yahoo.com]

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. 247755**

(193)  
URES