



Republic of the Philippines  
**Supreme Court**  
 Baguio City

**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 207659**

Present:

- versus -

CARPIO, *Chairperson*  
 DEL CASTILLO,  
 BRION,  
 MENDOZA, *and*  
 LEONEN, *JJ.*

**FUNDADOR CAMPOSANO y TIOLANTO,**  
**@ “Punday/Masta” and**  
**HERMAN DE LOS REYES @ “Yob,”**  
*Accused-Appellants.*

Promulgated:  
**20 APR 2016**

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**DECISION**

**DEL CASTILLO, J.:**

This is an appeal from the October 17, 2012 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04854 which affirmed with modification the March 15, 2010 Decision<sup>2</sup> of Branch 199, Regional Trial Court (RTC) of Las Piñas City, in Criminal Case No. 01-0048, finding appellants Fundador Camposano y Tiolanto alias “Punday/Masta” (Camposano) and Herman de los Reyes alias “Yob” (De los Reyes) (appellants, collectively) guilty beyond reasonable doubt of the crime of murder and sentencing each of them to suffer the penalty of *reclusion perpetua*.

***Factual Antecedents***

Appellants were indicted for murder for stabbing the 16-year old minor Esmeraldo Ilaog (Ilaog) to death on January 11, 2001. The indictment against the two stemmed from the following Amended Information:

<sup>1</sup> CA rollo, pp. 160-178; penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Amelita G. Tolentino and Ramon R. Garcia.  
<sup>2</sup> Records, pp. 445-463, penned by Presiding Judge Joselito DJ. Vibandor.

That on or about the 11<sup>th</sup> day of January, 2001, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding each other, without justifiable motive with intent to kill and by means of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously, attack, assault and stab with a deadly weapon (fan knife) one Esmeraldo Ilaoy Guillemer, a sixteen (16) year old minor, which directly caused his death.

CONTRARY TO LAW.<sup>3</sup>

Appellants pleaded not guilty to the foregoing Amended Information during their separate arraignment dates. After a pre-trial conference, trial on the merits followed.

### ***Version of the Prosecution***

The prosecution presented the following witnesses: Fidel Barreno Flores (Flores), Randy Gabion (Gabion), Alfred Kempis (Kempis), Joey Crudo (Crudo), Myrna Ilaoy-San Pedro (San Pedro), and Nicasio Saoi (Saoi). Their collective testimonies are summarized as follows:

The first prosecution witness, Security Guard Flores, testified that at around 12:45 in the early morning of January 11, 2001, he was at the Al-ber Billiard Hall in Zapote Plaza, Las Piñas City playing billiards when he saw two persons chasing another person down the road. From a distance of about two meters, Flores saw the person being pursued fall face down on the ground. The two pursuers then stabbed the person they were chasing with what looked to him (Flores) as ice picks. The victim attempted to stand up but his two assailants continued to stab him, causing him to fall down anew on the pavement. At that point, the people within the immediate vicinity started to shout forcing the two assailants to flee from the crime scene. But as the two assailants passed by the door of the billiard hall, Flores saw their faces. Flores identified these assailants as Camposano, who was clad in an orange shirt, and De los Reyes who was wearing a black shirt.

Flores approached the fallen victim after the two assailants had fled the crime scene. Flores identified the victim as Ilaoy whom he (Flores) well knew because he (Flores) used to rent a room in Ilaoy's house. He then brought Ilaoy to the Las Piñas District Hospital. But Ilaoy was already dead by the time they reached the hospital.

Gabion, the second prosecution witness, testified that on the early morning of January 11, 2001, he was at the Al-ber Billiard Hall in Zapote Plaza where he

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<sup>3</sup> Records, p. 36.

witnessed Camposano and De los Reyes take turns in stabbing Ilao. Gabion claimed that he saw Ilao face down on the ground when Camposano went on top of him, held him by the neck, and stabbed him in the chest and both sides of his abdomen. Gabion claimed that he also saw De los Reyes, who was then in front of Ilao, stab the latter's lower back.

Gabion then screamed at the assailants, and Camposano and De los Reyes took to their heels in different directions. After this, Gabion went after Camposano but retreated when the latter pointed an ice pick at him. He later went back to the crime scene, only to find that Ilao had already been taken to a hospital.

The third prosecution witness, Kempis, testified that he was with Ilao when the latter was stabbed to death. According to Kempis, he and Ilao were then attending a birthday party at the Basa Compound in Zapote, Las Piñas City when a certain Ricky, a member of the *Tropang Fugazi/Pugasi*, told them that the herein appellants whom this eyewitness had known "for a long time" were challenging Ilao to a fight, a challenge which came as a surprise to the now deceased Ilao. After he and Ilao had eaten *goto* at the Zapote Plaza they sensed that the assailants noticed their presence so they scampered away. However, he (Kempis) was able to see when De los Reyes hit Ilao's head with a "2 x 2" lumber, as he (Kempis) was only six meters away from these two. He also saw the other appellant Camposano stab Ilao on the chest with a *tres cantos* ice pick. Kempis fled to look for help but when he returned with some friends, Ilao had already been brought to a hospital.

The fourth prosecution witness, Crudo, testified that just prior to the stabbing incident, he and Ilao and two other friends, Ampy and Lloyd, decided to eat porridge at the Zapote Plaza, Las Piñas City at about 1:20 o'clock that early morning of January 11, 2001. While there, he saw the appellants and five of their companions. Sensing trouble, he (Crudo) and his companions quickly scampered away in different directions, with the now deceased Ilao being joined by Ampy. Unfortunately, Ilao fell down on the ground and in that situation De los Reyes stabbed Ilao on the chest with a *tres cantos* ice pick. He (Crudo) then called for their friends and went after the two appellants, but did not catch up with them.

The fifth prosecution witness, San Pedro, is the aunt of the late Ilao and his nearest relative. She was presented to testify on the expenses incurred by them for the hospitalization, burial, and other expenses of Ilao. This witness claimed that they spent the sum of ₱35,000.00 for Ilao's hospitalization, burial and other expenses.

The sixth prosecution witness, Saoi, is the records custodian of the Medico Legal Division of the National Bureau of Investigation. This witness identified Autopsy Report No. N-01-36 which was prepared by Dr. Ronaldo Mendez who

autopsied Ilaos cadaver. Autopsy Report No. N-01-36 showed that the cause of Ilaos death was stab wounds.

### *Version of the Defense*

Both appellants denied the charges against them.

Camposano testified that at around 1:30 o'clock in the morning of January 11, 2001, he and his six companions, all members of the Fugazi/Pugasi Gang, were on their way to a friend's house. As they were crossing Zapote bridge, someone threw a pillbox at them, causing them to run away to avoid the explosion. They encountered the Sad Army gang and a brawl ensued. As a result, he was stabbed in the chest. Because of his wound, he was confined for a week at the Parañaque Community Hospital. He claimed that he was arrested at the said hospital.

To corroborate Camposano's testimony, the defense presented the following witnesses: Dr. Renato Borja (Dr. Borja), SJ04 Ernie Servando (SJ04 Servando), Rizalina Suarez (Suarez), and Dr. Cornelio Carandang (Dr. Carandang). Their collective testimonies are summarized as follows.

The first witness for the defense, Dr. Borja, a medical doctor, claimed that on January 11, 2001, past 12:00 o'clock in the early morning, Camposano came to the emergency room of the Parañaque Community Hospital "stooped and clutching his chest;" and that Camposano told him that there was a rumble during which he was stabbed in the nipple area. Dr. Borja said that he treated Camposano for a wound on his chest.

The second witness for the defense, SJ04 Servando, the Chief of the Records Section of the Bureau of Jail Management and Penology of Las Piñas City, testified that according to the records of their office, Camposano had an injury at the time he was committed to their office on January 17, 2001.

The third witness for the defense, Suarez, is a civilian nurse at the Las Piñas City Jail. This witness testified that she personally attended to Camposano's stab wound after he was committed to the Las Piñas City Jail on January 17, 2001. She claimed that she dressed and sutured the wound and monitored Camposano's vital signs and medications.

The fourth witness for the defense, Dr. Carandang, a medical consultant at the City Health Office of Las Piñas City, testified that he examined Camposano on January 17, 2001 at around 10:35 o'clock in the morning; that Camposano had a

stab wound on the right chest; that Camposano had earlier been treated by another physician who found Camposano to have sustained a stab wound of undetermined depth on the right side of his chest.

Appellant De los Reyes interposed alibi, and denied any participation in the killing of Ila. He asserted that on the early evening of January 10, 2001, he was at the house of a friend with whom he had a drinking spree that lasted until about 11:00 o'clock that same evening; that after this drinking session he invited his friends to his house where they had supper and watched DVD movies. De los Reyes averred that he and his aunt also watched DVD movies at home until 12:30 o'clock in the early morning of January 11, 2001.

To support his alibi and denial, De los Reyes presented his friend Marco Polo Lyon (Lyon) and his aunt Leticia Buencamino (Buencamino).

Lyon testified that he and De los Reyes were at his (Lyon's) house during their drinking spree, which began at around 10:30 o'clock in the evening of January 10, 2001; that after this, they went to De los Reyes's house at Daniel Fajardo Street in Las Piñas City, where they took supper and watched DVD movies; and that at about 2:00 o'clock in the morning of the following day, they went home.

Buencamino, aunt of the appellant De los Reyes and a resident of 163 Daniel Fajardo Street at Las Piñas City, testified that at around 12:00 midnight that same day, January 11, 2001, her nephew De los Reyes, and his friend went to their house to watch DVD.

### ***Ruling of the Regional Trial Court***

On March 15, 2010 the RTC of Las Piñas City, Branch 199, rendered its Decision finding appellants guilty beyond reasonable doubt of the crime of murder and sentenced each of these two to suffer the penalty of *reclusion perpetua*. The RTC appreciated the qualifying aggravating circumstance of treachery, having found that both appellants employed means which directly and specially insured that their slaying of Ila was without risk to themselves on account of any retaliatory acts that their victim might make or take. The RTC held that the assault that these two mounted against their victim which resulted in the latter's violent death, was sudden and unexpected, affording the latter no chance at all to defend himself.

The dispositive part of the RTC's Decision reads:

WHEREFORE, the court finds both accused FUNDADOR CAMPOSANO y TIOLANTO @ Punday/Masta and HERMAN DE LOS REYES @ Yob, GUILTY beyond reasonable doubt of the crime of MURDER and is hereby sentenced to suffer a penalty of RECLUSION PERPETUA with the accessory penalty of the law. Further, both accused are hereby ORDERED to pay jointly and severally the heirs of the victim the amounts of ₱50,000.00 as civil indemnity and ₱35,000.00 as actual damages. Moreover, inasmuch as moral damages are mandatory in cases of murder (without need to allege and prove such damages), both accused is likewise ordered to indemnify the heirs of the victim ₱50,000.00.

Lastly, since the killing of the minor victim was attended by treachery, his heirs are entitled to exemplary damages in the amount of ₱25,000.00.

Let a copy of this Decision be furnished the Prosecution, the accused as well as their counsels.

SO ORDERED.<sup>4</sup>

From this judgment, appellants interposed an appeal to the CA.

### ***Ruling of the Court of Appeals***

In its Decision of October 17, 2012, the CA upheld the RTC and ruled that appellants killed Ilaio with treachery. The CA agreed with the RTC that the prosecution witnesses had positively identified the appellants as the perpetrators of the crime.

The CA gave short shrift to the appellants' bare denial and alibi. The CA held that the appellants did not at all prove that it was indeed physically impossible for them to be at the crime scene during or at the time the crime was committed. In its overall assessment, the CA considered the positive testimonies of the prosecution witnesses far superior to the appellants' self-serving denial and alibi.

The CA thus disposed as follows:

WHEREFORE, the appeal is DISMISSED. The assailed Decision of the trial court dated March 15, 2010 is AFFIRMED with MODIFICATION. Appellants FUNDADOR CAMPOSANO y TIOLANT[O] and HERMAN DE LOS REYES are found GUILTY beyond reasonable doubt of MURDER and are hereby sentenced to suffer the penalty of reclusion perpetua. Appellants FUNDADOR CAMPOSANO y TIOLANT[O] and HERMAN DE LOS REYES are also ordered to pay jointly and severally the heirs of Esmeraldo Ilaio the amounts of ₱50,000.00 as civil indemnity, ₱35,000.00 as actual damages, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages.

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<sup>4</sup> Id. at 463.

SO ORDERED.<sup>5</sup>

Hence, the present recourse before this Court.

### *Assignment of Errors*

In their Appellant's Brief,<sup>6</sup> appellants argue that the courts below erred in finding that their guilt had been proved beyond reasonable doubt; that the testimonies of the witnesses for the prosecution did not dovetail in all particulars: (1) with regard to the weapon used in killing the victim, (2) with regard to the relative position of the appellants when they inflicted the mortal stab wound/s on their victim; (3) with regard to who between the two appellants was the first to inflict the stab wound on the victim. Appellants also bewail that the witnesses for the prosecution could not be capable of giving credible testimonies because they were members of a rival fraternity. Appellants moreover insist that, in any event the CA, as did the RTC, erred in appreciating against them the qualifying circumstance of treachery.

### **Our Ruling**

After a careful review of the records of the case, this Court takes the view that both the RTC and the CA correctly found that both appellants in fact committed the crime of murder, qualified by treachery.

Clearly devoid of merit is the claim of appellants that the RTC gravely erred in giving credence to the allegedly inconsistent and incredible accounts of the prosecution witnesses, and in not sustaining the version of the defense, which allegedly tended to establish their innocence.

It is settled that the assessment of the witnesses' credibility is best left to the trial court because of its unique opportunity to scrutinize the witnesses first hand and observe their demeanor, conduct, and attitude under grilling examination.<sup>7</sup> Here, the alleged inconsistencies in the witnesses' testimonies, if they be such at all, referred merely to minor and inconsequential details, which did not at all affect the substance of their testimonies, much less impair their credibility. In the ultimate analysis, what really matters in this case is that the prosecution witnesses did in fact see that it was the appellants who assaulted and killed Ilaos that tragic morning of January 11, 2001. Whether the lethal weapon used to dispatch the victim was a *balisong* knife or an ice pick, (plus a "2x2" piece of lumber as prosecution witness Kempis mentioned in reference to what the appellant De los

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<sup>5</sup> CA rollo, p. 177.

<sup>6</sup> Id. at 68-92.

<sup>7</sup> *People v. Bantiling*, 420 Phil. 849, 863 (2001) citing *People v. Ombrog*, 335 Phil. 556, 564 (1997).

Reyes used in hitting the late Ilao's head) is nowhere nearly so important or essential as the incontrovertible fact that the prosecution witnesses did in fact see that it was the two appellants who actually assaulted and actually killed Ilao. On this note, the CA pertinently ruled:

x x x Whether appellants Camposano and De los Reyes used icepicks or knives is immaterial. Due to the occurrence of the startling event, it is highly possible the witnesses paid more attention to the stabbing incident than to the instrument being used by the assailants. What cannot be discounted is the fact that the witnesses saw the actual stabbing of the victim and the perpetrators of the crime. It is also immaterial who between the two (2) assailants inflicted the first stab wound. Fidel Barreno Flores, Alfred Kempis, Randy Gabion, and Joey Crudo were all present when the stabbing incident happened and positively identified the perpetrators as appellants Camposano and De los Reyes. x x x<sup>8</sup>

Hence, even assuming for argument's sake that there were inconsistencies in the testimonies of the prosecution witnesses, particularly in regard to the weapon-of-death used, whether it was a *balisong* knife or an ice pick, these inconsistencies are minor and inconsequential which even tend to bolster, rather than weaken, the credibility of the witnesses, for they show that such testimonies were not contrived or rehearsed.<sup>9</sup>

What is more, appellants failed to impute any ill motive against the prosecution witnesses. Hence, the presumption is that the prosecution witnesses were not impelled by ill will when they testified against the appellants; thus, their testimonies are entitled to full faith and credence.<sup>10</sup>

Indeed, a critical examination of the witnesses' testimonies revealed that their statements are consistent on all material points. The prosecution witnesses were in fact able to identify the actual perpetrators and how these perpetrators carried out, accomplished, or executed their criminal acts. Thus the first prosecution witness Flores testified as follows:

Pros. Luang:

Q: Now, you stated that on January 11, 2001, at around quarter to one, you were at Al-Ber Billiard Hall in Las Piñas, am I correct?

A: Yes, ma'am.

Q: What were you doing there?

A: I was playing.

Q: And do you remember any unusual incident at that date and time Mr. Witness?

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<sup>8</sup> CA rollo, p. 168.

<sup>9</sup> *People v. Bautista*, 636 Phil. 535, 552 (2010).

<sup>10</sup> *People v. Quilang*, 371 Phil. 243, 255 (1999).



A: Yes, ma'am.

Q: What was that Mr. Witness?

A: While I was playing there was chasing (*Habulan*).

Q: Did you see these people who were involved at that "*Habulan*?"

A: I saw, Ma'am.

Q: Who was being chased?

A: The victim, Ma'am.

Q: Who's the victim that you were referring to?

A: Esmer, Ma'am.

Q: This Esmer, is he the same Esmeraldo Ilao y Guillemer?

A: Yes, Ma'am.

Q: And who was chasing him, Mr. Witness?

A: Masta and another one (1) wearing a black [t]-shirt who I do not know the name.

Q: This Masta that you are talking about[,] who is he?

A: That one, Ma'am.

INTERPRETER: Witness is pointing to the accused.

x x x x

Q: Now, Mr. Witness, what happened next when you saw the accused and another companion chasing Esmer?

A: Esmer was stabbed.

Q: Who stabbed Esmer?

A: Masta, Ma'am.

Q: Could you please describe to us how Masta stabbed Esmer?

x x x x

A: While Esmer was running, he fell down and Masta was able to overtake him and when his companion arrived, that one also helped him.

x x x x

Q: And what was the position of Esmer when Masta stabbed him?

A: He tried to stand up and when he was stabbed at the right side of his body, he turned with his back facing on his back.

x x x x

Q: So when Masta stabbed him, he was still on the ground, x x x facing the ground?

A: Yes, Ma'am.

Q: Now, you said that after Masta stabbed him at the right side of his body he turned his back x x x back?

A: Yes, Ma'am.

Q: When Esmer turned facing Masta now what happened next?

A: They again stabbed him.

Q: Did you see what Masta used in stabbing Esmer?

x x x x

A: Ice [p]ick Ma'am.

Q: You stated that they stabbed him, did you mean the companion of Masta Mr. Witness?

A: Together with the companion of Masta.

Q: Was the companion of Masta also armed with [a] weapon?

A: Yes, Ma'am.

Q: What was he armed with?

A: Ice pick also Ma'am.

Q: So both of them stabbed Esmer?

A: Yes, Ma'am.<sup>11</sup>

The second prosecution witness, Gabion gave this narrative about what transpired on January 11, 2001 at the Al-ber Billiard Hall in Zapote Plaza, Las Piñas City, thus –

Q: Why do you know that he died on January 11, 2001?

A: Because he was repeatedly stabbed, Ma'am.

Q: By whom?

A: By Masta and Yob, Ma'am.

Q: Why are you so definite by saying that he was repeatedly stabbed by Masta and Yob?

A: I saw it, Ma'am.

x x x x

Q: Where was Esmeraldo Ilao being stabbed by Yob and Masta, the accused in this case?

A: Near the Billiard Hall, Ma'am.

Q: Where is this Billiard Hall located?

A: Zapote Plaza, Ma'am.

x x x x

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<sup>11</sup> TSN, 28 June 2001, pp. 10-18.

PROS. LUANG:

Q: When you saw the accused stabbing Esmeraldo Ilao, x x x what was the position of Esmeraldo Ilao in relation [to] the accused?

A: Esmer was lying down on the ground with his face downward and at that point Masta went on top of the back of Esmer and held his neck with his left arm and began stabbing him.

x x x x

Q: How about Herman delos Reyes, where was he when Masta went on top of the back of Esmer?

A: He was in front.

Q: Of whom?

A: In front of Esmer, Ma'am.

Q: And what was he doing?

A: He stabbed him on this portion (Witness is pointing at the lower portion of his back.)<sup>12</sup>

The third prosecution witness, Kempis, testified in this wise –

Pros. Luang:

Q: Now Mr. Witness you mentioned a certain Yob and Masta who challenged Esmer for a fight, during that party on January 10 at 11:00 in the evening, if you see that Yob and Masta again, would you be able to identify them?

A: Yes, Ma'am.

x x x x

Q: Could you please point to them?

A: That one.

INTERPRETER: Witness is pointing to a person, who answered by the name, Herman de los Reyes.

PROS. LUANG: How about Masta?

A: That one.

INTERPRETER: Witness is pointing to another person, who answered by the name, Fundador Camposano alias Masta.

x x x x

Q: What happen[ed] to Esmer?

A: I saw that he was hit by Yob with a piece of wood (2x2)

Q: How far away were you from Esmer when you saw Yob hit him with a

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<sup>12</sup> TSN, May 23, 2002, pp. 7-17.

2x2 piece of wood?

A: From here up to the door of this courtroom.

PROS. LUANG: About six (6) meters Your Honor.

Q: What did you do when you saw Yob hit Esmer with a piece of wood?

A: I was shocked Ma'am.

Q: What happen[ed] after that?

A: I saw M[a]sta stab Esmer.

Q: And did you see what Masta used in stabbing Esmer?

A: Yes, Ma'am.

Q: What did he use?

A: Tres cantos ice pick.

Q: And at what part of the body did he stab Esmer?

A: On the chest.

Q: And what was Yob doing while Masta was stabbing Esmer?

A: He was hitting him on the head.

Q: And what did you do while seeing this thing happened [sic] to your friend Esmer?

A: I ran and asked for help."<sup>13</sup>

And the fourth prosecution witness, Crudo, provided this eyewitness account of the tragedy that befell the late teenager Ilao –

Pros. Montesa:

Q: Where was this place where you were eating porridge?

A: At the plaza, Sir.

Q: Can you tell us the exact address of the plaza?

A: Zapote Plaza, Las Piñas, Sir.

Q: When you said we, who were your companions, Mr. Witness?

A: Esmer, Ampy, Lloyd and the other one whose name I do not know, Sir.

Q: This Esmer you just mentioned, you are referring to the victim in this case, Esmeraldo Ilao?

A: Yes, Sir.

Q: While you were eating porridge with these companions of yours, what happened next?

A: We saw them, Sir.

Q: You are referring to whom?

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<sup>13</sup> TSN, January 27, 2004, 16-26.

- A: They, Yob, Sir.
- Q: Who else?  
A: Masta, Sir.
- Q: Aside from Yob and Masta, who else?  
A: I do not know the others, Sir.
- Q: In your estimate, how many were they?  
A: About seven, Sir.
- Q: While you were eating porridge and you saw the group of Masta and Yob, what happened?  
A: We moved a distance because I suspected that there would be x x x trouble, Sir.
- Q: What happened thereafter – after moving a distance from the group of Yob and Masta?  
A: We ran away and separated from each other, Sir.
- Q: What happened next?  
A: Ampy and Esmer separated from us.
- Q: After Ampy and Esmer separated themselves, what else happened?  
A: I saw Esmer fall down, then he stood up and ran again but Yob was able to overtake him, Sir.
- Q: After seeing Esmer fall down and being overtaken by Yob, what happened next?  
A: He stabbed him, Sir.
- Q: Where?  
A: There, at Zapote Plaza, Sir.
- Q: I mean, where in his body did Yob stab Masta?  
A: Here, Sir (Witness pointing to the left portion of his chest.)
- Q: How far were you when Yob stabbed Esmer?  
A: More than 100 meters, Sir.
- Q: How many times did he stab him?  
A: Once, Sir.
- Q: What did the other companions of Yob do?  
A: I do not know, Sir.
- Q: What happened after Yob stabbed Esmer?  
A: Their other companions ran away, Sir.
- Q: What did you do?  
A: I called my other friends, Sir.
- Q: After calling your friends, what else happened?  
A: We chased them, Sir.

- Q: What happened after that?  
A: We were not able to overtake them, Sir.
- Q: What did you do with Esmer?  
A: I heard that he was already in the hospital, Sir.
- Q: Have you known this Yob and Masta even before the incident?  
A: Yes, Sir.
- Q: Why do you know them?  
A: They used to be my friends, Sir.
- Q: Can you still remember the faces of these Yob and Masta if they are present here?  
A: Yes, Sir.
- Q: Can you point to Yob?  
A: That's him, Sir. (Witness pointing to a man wearing yellow t-shirt who when asked answered by the name of Herman Delos Reyes.)
- Q: How about Masta?  
A: That one, Sir. (Witness pointing to a person who answered by the name Fundador Camposano.)
- Q: After learning that Esmer was already in the hospital, what did you do?  
A: We went to him, Sir.
- Q: Where?  
A: There, at the center near the Bamboo Organ, Sir.
- Q: What did you do at the center?  
A: We visited Esmer, sir.
- Q: After visiting him, what did you do?  
A: No more, Sir.<sup>14</sup>

To reiterate, this Court sees no irreconcilable inconsistencies in the foregoing testimonies of the prosecution witnesses. In fact, the four prosecution witnesses positively identified Camposano and De los Reyes as the persons who authored and caused the violent death of Ilaog as they were all eyewitnesses to the bloody incident. The prosecution witnesses' accounts differed only with regard to the weapon/s used. What remained constant was their straightforward and categorical testimonies that they personally know the appellants and that they were physically present when these appellants assaulted and killed Ilaog. Moreover, it is equally settled that in terms of evidentiary weight, affirmative testimony is decidedly superior to negative testimony. And, as above noted, the prosecution witnesses delivered affirmative testimonies in contradistinction to the defense witnesses who took shelter under prosaic denials and alibis.

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<sup>14</sup> TSN, October 26, 2006, pp. 6-13.

Appellant Camposano claimed that he was at the Parañaque Community Hospital at around 1:30 o'clock in the morning of January 11, 2001, during the alleged time of the commission of the crime; that he likewise suffered a stab wound as a result of a rumble between his gang, *Tropang Pugasi/Fugazi*, and the rival gang Sad Army to which the deceased Ilaos supposedly belonged; and that this stab wound required immediate medical treatment and a one-week confinement at the aforementioned hospital.

On the other hand, appellant De los Reyes claimed that on the evening of January 10, 2001, and early morning of January 11, 2001, he was at home watching DVD after a night of drinking alcohol with a few friends.

Both claims are gratuitous and self-serving.

It is settled that for the defense of alibi to prosper, it must be proved that it was physically impossible for the accused to be present at the scene of the crime at the time of its commission. Here, appellants utterly failed to prove that it was physically impossible for both of them to be at the crime scene at the time the crime was committed. Their claims on this score must fall flat on their faces if only because both appellants are also residents of Las Piñas where the violent slaying of Ilaos happened.

This Court is likewise convinced that treachery attended the killing. "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 insure its execution, without risk to himself arising from the defense which the offended party might make."<sup>15</sup> "The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape."<sup>16</sup> This is the very scenario brought to light by the prosecution's evidence in this case.

For here, the evidence on record conclusively showed that the appellants assaulted and killed Ilaos while he was face down on the ground. The appellants took advantage of their victim's defenseless and helpless position to inflict the fatal stab wounds, giving their victim no chance at all to retaliate or defend himself. In fact, as shown in the records, Camposano went on top of Ilaos and held him by the neck and stabbed him on the chest. Appellant De los Reyes, on the other hand, stabbed the victim in his lower back. Given these actual, incontrovertible facts, the conclusion is inevitable that treachery attended the commission of the crime.

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<sup>15</sup> REVISED PENAL CODE, Art. 14 (16).

<sup>16</sup> *People v. Dela Cruz*, 626 Phil. 631, 640 (2010).

Nevertheless, the civil damages awarded by the CA can stand some modification. Based on prevailing jurisprudence, both awards of civil indemnity and moral damages in favor of Ilaos heirs should be increased from ₱50,000.00 to ₱75,000.00.<sup>17</sup> The award of exemplary damages should likewise be increased from ₱25,000.00 to ₱75,000.00.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated October 17, 2012 in CA-G.R. CR-H.C. No. 04854, is **AFFIRMED**, subject to the **MODIFICATION** that Fundador Camposano y Tiolanto @ “Punday/Masta” and Herman de los Reyes @ “Yob” are ordered to solidarily pay the heirs of Esmeraldo Ilaos the increased amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and another ₱75,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of 6% *per annum* from finality of this Decision until fully paid.

**SO ORDERED.**

  
MARIANO C. DEL CASTILLO  
*Associate Justice*

WE CONCUR:

  
ANTONIO T. CARPIO  
*Associate Justice*  
*Chairperson*

  
ARTURO D. BRION  
*Associate Justice*

  
JOSE CATRAL MENDOZA  
*Associate Justice*

  
MARVIC M.V.F. LEONEN  
*Associate Justice*

<sup>17</sup> *People v. Roxas*, G.R. No. 218396, February 10, 2016.



**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
*Chief Justice*

