



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
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THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 222655

- versus -

Present:

EDJEN CAMARINO,* TOTO**
LUMINO, FULDERICO DECDEC
LUMINO, DENNIS SENGANE,
SABELO* SAMONTAO, HONORIO**
SENTILAN, ARNOLD SENGANE,
and LITO SAMONTAO,
Accused-appellants,

LEONEN, J.,
Chairperson,
 CAGUIOA,****
 HERNANDO,
 DELOS SANTOS, and
 ROSARIO, JJ.

FRED SENTILAN, JANJEN
LUMINO, DISON TUTO, and JOHN
DOES,

Promulgated:

At-large.

December 9, 2020

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DECISION

HERNANDO, J.:

On appeal is the August 25, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 01193-MIN affirming *in toto* the June 13, 2013 Judgment² of the Regional Trial Court (RTC) of Manolo Fortich, Bukidnon, Branch 11, in Criminal Case No. 07-02-3234, which found accused-appellants Edjen Camariño (Edjen), Joel Toto Lumino (Joel),

* Also spelled as Camariño in some parts of the records.

** Also referred to as Joel in some parts of the records.

*** Also referred to as Isabelo in some parts of the records.

**** Designated as additional member per raffle dated July 15, 2019 vice J. Inting who recused for having concurred in the assailed Decision of the Court of Appeals.

¹ *Rollo*, pp. 3-17; penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justices Henri Jean Paul B. Inting and Rafael Antonio M. Santos.

² *CA rollo*, pp. 31-40; penned by Judge Jose U. Yamut, Sr.

Fulderico Decdec Lumino (Fulderico), Honorio Sentilan (Honorio), Arnold Sengane (Arnold), Dennis Sengane (Dennis), Sabelo Samontao (Sabelo), and accused Lito Samontao (Lito) guilty beyond reasonable doubt of Murder.

Version of the Prosecution:

The evidence for the prosecution showed that at about 5 o'clock in the morning of August 13, 2006, in Sitio Sanggaya, Talakag, Bukidnon, victim Romeo Lajero (Romeo) went to buy cigarette at the store of Elito Cahilog (Elito). Minutes later, his wife, Lucia Lajero (Lucia), heard gunshots coming from the direction of the nearby plaza. When the firing stopped. Lucia went out to verify the report of Eugenio Cahilog (Eugenio) that her husband had been shot. She proceeded to Elito's store where she saw her husband's body riddled with bullets.³

Eugenio recalled that when he stepped out of his house in the early morning of August 13, 2006, he heard successive gunshots coming from the nearby plaza. He then saw about 17 persons armed with armalite rifles, garand carbine and shotguns firing indiscriminately at the direction of Elito's house. He recognized them as Toto, Fulderico, Janjen, Honorio, Fred Sentilan, Sabelo, Lito, Dison Tuto, Arnold, Dennis and Edjen, as they were his neighbors and relatives. When the assailants left, he saw the body of Romeo lying face down near the store of Elito.⁴

Version of the Defense:

Accused-appellants interposed the defense of denial and alibi. Honorio and Fulderico both denied any participation in the killing of Romeo. They claimed that Eugenio implicated them to the crime since they were among the witnesses in the killing of Rogelio Talac (Rogelio) by Eugenio and his men. Honorio claimed that he could not be present at the crime scene since he already transferred to Dagundalahon, Talakag, Bukidnon. For his part, Fulderico narrated that on the day of the incident, he was at Songko, Lapitan, Bukidnon. Isabelo declared that on August 13, 2006, he was in Cogon, Cagayan de Oro City, tending to the vegetable store of his in-laws.⁵

Lito claimed that on August 13, 2006, at around 7 o'clock in the morning, he was having coffee with Kagawad Paul Paluhan at the latter's house in Lugsayan, Cosina, Talakag, Bukidnon. He averred that it was physically impossible for him to be at the scene of the crime as it would take about two to three hours walk from his residence to reach it.⁶

Joel alleged that he is a farmer and a resident of Sitio Malantao, Salukot, Talakag, Bukidnon. On the day of the incident, he was visiting his mother who was recuperating at Capitan Juan, Lantapan, Bukidnon. He claimed that Eugenio implicated him to the crime since he caused the latter's

³ *Rollo*, pp. 4-5.

⁴ *Id.* at 5.

⁵ *Id.* at 6-8.

⁶ *Id.*

arrest for illegal possession of firearm. He also testified that it was physically impossible for him to be at the crime scene.⁷

Meanwhile, Edjen recounted that he was at his farm at Sitio Malantao, Salukot, Talakag, Bukidnon on August 13, 2006. Later in the afternoon, his friend, Chiquito went to his house and invited him to the birthday party of the latter's son at Barangay Salukot. He insisted that he could not have been at Sanggaya at the time of the incident because Sanggaya is very far from Salukot.⁸

On the other hand, Dennis claimed that he and his brother, Arnold, were at Taguanao, Indahag, Cagayan de Oro City, hence they could not have participated in the killing of Romeo.⁹

Ruling of the Regional Trial Court:

Appreciating the qualifying circumstances of treachery and abuse of superior strength, the trial court rendered a judgment of conviction on the accused-appellants and sentenced each of them to suffer the penalty of *reclusion perpetua*. The dispositive portion of the RTC Decision reads:

WHEREFORE IN VIEW OF THE ABOVE, and with treachery and abuse of superior strength with no mitigating circumstance, the court finds the accused 1) Edjen Camariño, 2) Joel Toto/Tuto Lumino, 3) Fulderico Decdec Lumino, 4) Honorio Sentilan, 5) Arnold Sengane, 6) Dennis Sengane, 7) Sabelo Samontao and 8) Lito Samontao guilty beyond reasonable doubt of murder of Romeo Lajero y Dondonay and hereby sentences each of the aforementioned accused to suffer the penalty of imprisonment of *reclusion perpetua*, which each accused shall serve and continue to serve at the Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte. Accused are credited of their preventive detention at the PDRC and BJMP of Manolo Fortich, Bukidnon and Lumbia City Jail, Cagayan de Oro city. Furthermore, each of the accused is liable to pay, jointly and severally, the heirs of Romeo Lajero, through Lucia Lajero, the following:

- (1) P75,000.00 - moral damages and
- (2) P50,000.00 - nominal damages

Costs against accused.

No pronouncement on actual damages for lack of/or insufficient evidence.

The cases against 1) Fred Sentilan, 2) Janjen Lumino and 3) Dison Tuto, are archived. Let an alias warrant of arrest issue.

SO ORDERED.¹⁰

⁷ Id. at 7.

⁸ Id.

⁹ Id. at 7-8.

¹⁰ Id. at 39-40.

Ruling of the Court of Appeals:

Unswayed by the arguments that Eugenio was a biased witness and that his testimony was incredible, the appellate court affirmed the judgment of conviction of the trial court. The CA ruled that after a judicious review of the testimony of Eugenio, it found no reason to doubt the same. On the contrary, Eugenio clearly and positively identified the appellants, who are his relatives and neighbors, as the perpetrators of the crime. Moreover, there was no ill motive on the part of Eugenio to testify against his relatives. He never wavered during his testimony. The appellate court likewise found as weak the alibis of accused-appellants. The alleged distance of their respective whereabouts vis-à-vis the location of the crime scene was vague. Hence, it cannot be conclusively shown that it was indeed physically impossible for each of them to be at the crime scene at the time it was committed.¹¹

The appellate court upheld the finding of the trial court that there was conspiracy among the accused. It likewise appreciated the qualifying circumstances of treachery and abuse of superior strength to have attended the commission of the crime.¹²

Issue

Whether or not accused-appellants are guilty of Murder.

Our Ruling

We find that the guilt of the accused-appellants for the crime of Murder was established beyond reasonable doubt by the prosecution.

The trial court's evaluation and conclusion on the credibility of witnesses are generally accorded great weight and respect, and are binding and conclusive, and at times even accorded finality, especially if affirmed by the appellate court, unless there is a clear showing of arbitrariness or that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or mis-appreciated by the lower court and which, if properly considered, would alter the result of the case. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to assess their credibility. Indeed, trial judges are in the best position to assess whether the witness is truthful or lying as they have the direct and singular opportunity to observe the facial expression, gesture and tone of voice of the witness while testifying.¹³

Here, we find no reason to reverse the findings of the trial court as affirmed by the CA. We agree with the following findings:

¹¹ Id. at 3-17.

¹² Id.

¹³ *People v. Balmes*, 786 Phil. 425, 432-433 (2016).

Indeed, we have reviewed the relevant portions of the transcripts and have confidently arrived at the conclusion that Eugenio Cahilog positively identified accused-appellants as the perpetrators of the dastardly crime of murder committed on the victim which he categorically and consistently claimed to have personally witnessed. The account of Eugenio Cahilog of the shooting incident is not contrary to normal human experience. It is not impossible for an eyewitness of the crime, like Eugenio Cahilog, to have escaped from the eyes of the perpetrators and the bullets of the latter's firearms. The insinuations of accused-appellants do not diminish the plausibility of Eugenio Cahilog's story, let alone destroy his credibility. x x x

x x x x

Witness Eugenio Cahilog is related either by consanguinity or affinity to the accused-appellants and has known each of them from birth. We do not see any ill motive on his part in testifying against his own relatives regarding the death of the victim, who was not in any way related to him. In his testimony, he was candid and categorical, straightforward and spontaneous, frank and forthright. He remained unfazed and undamaged by grueling cross-examination. x x x¹⁴

“The finding of guilt based on the testimony of a lone witness is not uncommon in our jurisprudence. Time and again, We have held that the testimony of a sole eyewitness is sufficient to support a conviction so long as it is clear, straightforward and worthy of credence by the trial court. Such rulings were, therefore, premised on the fact that the credibility of the sole witness was duly established and observed in court.”¹⁵

It is equally settled that “mere denial cannot prevail over the positive testimony of a witness. The defense of denial is treated as a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.”¹⁶ Eugenio offered affirmative testimony in contradiction to accused-appellants who took shelter on denials and alibis. 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, accused-appellants utterly failed to prove that it was physically impossible for them to be at the crime scene at the time the crime was committed. They relied merely on their bare testimonies which were dubious in the first place. We quote with approval the observation of the trial court:

The court observes a specific pattern or deliberate attempt by accused to confuse the distance/s and the location of the place of incident in relation to other places. There was a deliberate attempt to obfuscate or camouflage the location and distances of Sanggaya in relation to Baylanan, Lapok, Talakag, Capitan Juan, Lantapan and Baungon (Bukidnon), Taguanao and the City of Cagayan de Oro and Villanueva (Misamis Oriental). Their “vagueness” made their theory of physical impossibility, implausible and hard to believe. Their answer of the distance as “very far”

¹⁴ *Rollo*, pp. 10-11.

¹⁵ *Ambagan, Jr. v. People*, 771 Phil. 245, 276 (2015).

¹⁶ *People v. Ulanday*, 785 Phil. 663, 680 (2016).

does not prove physical impossibility because of the existence of connecting national and provincial roads (macadam or concrete) in Bukidnon, Cagayan de Oro City and Misamis Oriental.

Dr. Aida Generalao, is a Municipal Health Officer of Talakag, Bukidnon for a long time and is considered knowledgeable on the location or places and their distances in Talakag. She is a public officer and considered an “old hand” in Talakag, Bukidnon and an independent and unbiased witness. She testified that Sanggaya is only 50 kilometers from the Poblacion of Talakag and there is an estimated “3 to 4” kilometers in that area which can only be traversed by foot or horse.

x x x x

It is public knowledge that the national road or highway from Cagayan de Oro City to Talakag is concrete and cemented: that there is a national road or highway connecting the municipality of Talakag to the Municipality of Lantapan and the City of Malaybalay (Bukidnon) or from Talakag to Kalilangan, Bukidnon; that there is a provincial road from the Crossing, Cagayan de Oro City to Poblacion, Baungon; that the provincial road in those municipalities are either [macadam] or cemented; that the road connecting the Municipality of Talakag to Malaybalay, Bukidnon is combination of macadam and cement. Even the evidence of the accused show that Sanggaya can be reached by foot or motor vehicle or animals in a matter of hours or less than a day. Their cross examination of Lucia show that there is a national road directly connecting Baylanan to Cagayan de Oro City. Dr. Generalao confirms that Sanggaya is about 50 kilometers from Poblacion, Talakag, Bukidnon.

x x x x

The testimony of Dr. Generalao (on the distance of Sanggaya) in relation to the cross examination of Lucia, (national road from Baylanan to Cagayan de Oro City) and the testimony of the accused, debunked their theory of physical impossibility. The existence of a connecting network of national and provincial roads in the municipalities of Talakag, Lantapan and Baungon and the cities of Malaybalay, (Bukidnon) and Cagayan de Oro is a matter of public and judicial knowledge. These roads can be traversed by motor vehicles (both public and private) animals or by foot.¹⁷

“The essential elements of murder, which the prosecution must prove beyond reasonable doubt, are: (1) that a person was killed; (2) that the accused killed him; (3) that the killing was attended by *any* of the qualifying circumstances mentioned in Article 248 [of the Revised Penal Code (RPC)]; and (4) that the killing is not parricide or infanticide.”¹⁸

All the elements of the crime of Murder qualified by treachery were present in this case. Romeo was killed and it was established by the prosecution, through the testimony of eyewitness Eugenio, that accused-appellants killed Romeo when they indiscriminately fired at the houses in the vicinity of the plaza, including Elito’s store where Romeo was buying cigarette. Romeo was unarmed and unprepared for the attack. Also, the

¹⁷ CA rollo, pp. 36-38.

¹⁸ *People v. Sabangan*, 723 Phil. 591, 609 (2013).

execution of the crime was without risk on the part of the accused-appellants and there was no doubt that Romeo could not mount a defense for himself. He had no chance to resist or escape.¹⁹

Both the trial court and the appellate court also correctly appreciated the presence of conspiracy.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Direct proof of conspiracy is rarely found, for criminals do not write down their lawless plans and plot. The agreement to commit a crime, however, may be deduced from the mode and manner of the commission of the offense or inferred from acts that point to a joint purpose and design, concerted action, and community of intent. It did not matter x x x who inflicted the mortal wound, as the act of one is the act of all, and each incurred the same criminal liability.²⁰

It is very clear that conspiracy, connivance and unity of purpose and intention were present during the execution of the crime. The prosecution was able to prove that at the time of the attack, accused-appellants simultaneously fired their long firearms at the houses in the general direction of the plaza, killing Romeo in consequence. Accused-appellants' collective and individual acts demonstrating the existence of a common design is also evident from the un rebutted testimony of Eugenio that he heard one of the accused-appellants order his companions to retreat, which they all did, upon the arrival of police reinforcement from Magsaysay, Mirayon and Talakag.

Under Article 248 of the Revised Penal Code, as amended, Murder is punishable by *reclusion perpetua* to death. While abuse of superior strength and treachery attended the commission of the crime thus qualifying the killing to murder, the abuse of superior strength in this particular instance is absorbed in the treachery. Thus, the imposable penalty is *reclusion perpetua* because the killing of Romeo, although qualified by treachery, was not attended by any other aggravating circumstance.

Anent the damages awarded, We find that modification is in order. When death results from the commission of a crime, the heirs of the victim are entitled to the following awards: (a) civil indemnity *ex delicto* for the death of the victim without need of evidence other than the commission of the crime; (b) actual or compensatory damages to the extent proved, or temperate damages when some pecuniary loss has been suffered but its amount cannot be provided with certainty; (c) moral damages; and (d) exemplary damages when the crime was committed with one or more aggravating circumstances.

Thus, the award of ₱75,000.00 as moral damages is sustained; in addition, civil indemnity and exemplary damages in the amount of ₱75,000.00 each must also be awarded in line with prevailing jurisprudence.²¹ Likewise, in *People v. Jugueta*,²² temperate damages of

¹⁹ See *People v. Camposano*, 785 Phil. 563, 583 (2013).

²⁰ *People v. Hapa*, 413 Phil. 679, 698-699 (2001).

²¹ *People v. Jugueta*, 783 Phil. 806, 848 (2016).

₱50,000.00 in lieu of actual damages should further be granted to the heirs of Romeo considering that they were presumed to have spent for his interment. The award of ₱50,000.00 as nominal damages is deleted. In addition, interest at the rate of six percent (6%) *per annum* shall be imposed on all monetary awards from date of finality of this Decision until fully paid.

We note that as stated in the letter dated September 16, 2016²³ of PIS Gerardo F. Padilla of the Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte, Lito has no record of confinement at said penal institution. The Presiding Judge of RTC, Branch 11 of Manolo Fortich, Bukidnon, is therefore directed to report to this Court the present whereabouts of Lito and to cause his confinement at the Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte, both within 10 days from notice hereof.

Finally, we received a letter from the Regional Superintendent of Davao Prison and Penal Farm informing the Court of the demise of accused-appellant Sabelo. Pursuant to Article 89 of the RPC, Sabelo's death totally extinguished his criminal liability and renders dismissible the criminal case against him.²⁴

WHEREFORE, the instant appeal is **DISMISSED**. The August 25, 2015 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01193-MIN affirming the Judgment of the Regional Trial Court of Manolo Fortich, Bukidnon, Branch 11, in Criminal Case No. 07-02-3234, convicting accused-appellants Edjen Camariño, Joel Toto Lumino, Fulderico Decdec Lumino, Honorio Sentilan, Arnold Sengane, Dennis Sengane, and Sabelo Samontao of the crime of Murder and imposing on each of them the penalty of *reclusion perpetua* is hereby **AFFIRMED WITH FURTHER MODIFICATION** that, in addition to the award of ₱75,000.00 as moral damages, accused-appellants are **ORDERED** to pay the heirs of Romeo Lajero, the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as exemplary damages and ₱50,000.00 as temperate damages, in lieu of actual damages. The award of ₱50,000.00 as nominal damages is **DELETED**. Interest at the rate of six percent (6%) *per annum* is also imposed on all the amounts awarded, from the date of finality of this Decision until fully paid.

The Presiding Judge of the Regional Trial Court, Branch 11 of Manolo Fortich, Bukidnon, is **DIRECTED** to report to this Court the present whereabouts of accused-appellant Lito Samontao and to cause his confinement at the Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte, both within 10 days from notice hereof.

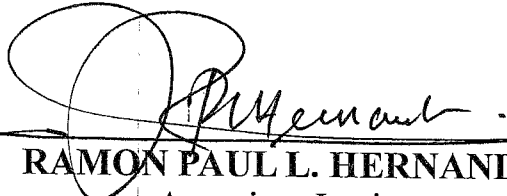
Criminal Case No. 07-02-3234 before the Regional Trial Court of Manolo Fortich, Bukidnon, Branch 11, is **DISMISSED** and **DECLARED CLOSED AND TERMINATED** insofar as Sabelo Samontao is concerned in view of his supervening death.

²² *Id.*

²³ *Rollo*, p. 41.


²⁴ See *People v. Maylon*, G.R. No. 240664, June 22, 2020.

SO ORDERED.

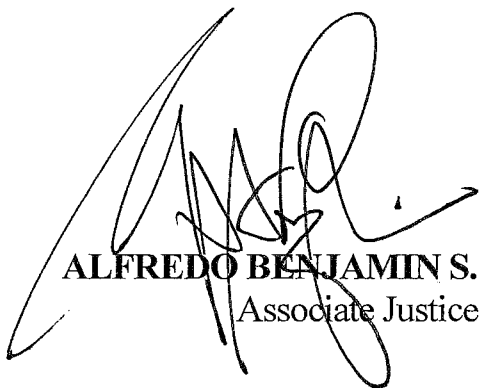


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice




EDGARDO L. DELOS SANTOS
Associate Justice



RICARDO R. ROSARIO
Associate Justice

ATTESTATION

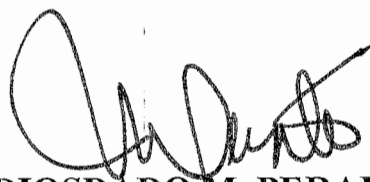
I attest that conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
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.



DIOSDADO M. PERALTA
Chief Justice