



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 237215

PRESENT:

-versus-

WILLIE MENDOZA a.k.a  
"WILLY MENDOZA,"  
"WILFREDO MENDOZA," and  
"SAMAL," RODEL DE  
GUZMAN a.k.a. "ITEW,"  
CHRISTIAN CENTENO  
SAPIERA a.k.a. "ASIAN,"  
ROGELIO VIRAY y BEREZO  
a.k.a. "BANONG," MENARD  
FERRER, DEXTER GRAMATA  
OCUMEN, BERNARDO  
PALISOC a.k.a. "NOGNOG,"  
and RODERICK "PANGAL" DE  
GUZMAN,

LEONEN, J., Chairperson,  
HERNANDO,  
INTING,  
DELOS SANTOS, and  
LOPEZ, J.

Accused,

MENARD FERRER and  
RODERICK "PANGAL" DE  
GUZMAN,

Promulgated:

Accused-Appellants.

June 28, 2021

*[Signature]*

DECISION

LOPEZ, J., J.:

This appeal assails the Decision<sup>1</sup> dated January 13, 2017 and the Resolution<sup>2</sup> dated August 17, 2017 of the Court of Appeals (CA) in CA-G.R.

<sup>1</sup> Penned by Associate Justice Erwin D. Sorongon, with Associate Justices Ricardo R. Rosario (now a member of this Court) and Marie Christine Azcarraga-Jacob, concurring; *rollo*, pp. 2-17.

<sup>2</sup> CA *rollo*, pp. 330-331; see also *rollo*, p. 19.

CR-HC No. 05838, affirming the Decision<sup>3</sup> dated October 6, 2011, of the Regional Trial Court (RTC) in Baguio City, finding accused-appellants guilty beyond reasonable doubt of murder.

### Facts

Accused-appellants Menard Ferrer (*Ferrer*), and Roderick de Guzman (*Roderick*), together with Willie Mendoza *a.k.a* "Willy Mendoza," "Wilfredo Mendoza," (*Mendoza*) and "Samal," Rodel De Guzman (*Rodel*) *a.k.a* "Itew," Christian Centeno Sapiera *a.k.a* "Asian," (*Sapiera*) Rogelio Viray y Berezo *a.k.a* "Banong," (*Viray*) Dexter Gramata Ocumen (*Ocumen*), and Bernardo Palisoc *a.k.a* "Nognog," (*Palisoc*) were charged with the crime of murder with the use of unlicensed firearm in an Information,<sup>4</sup> which reads as follows:

That on or about December 15, 2003, in the morning, at Poblacion, Municipality of Malasiqui, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an unlicensed firearm, with intent to kill, with treachery and evident premeditation, conspiring and confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously shoot one Brgy. Captain of Brgy. Tambac, Malasiqui, Pangasinan with the said unlicensed firearm and with the use of a motor vehicle, inflicting upon him GUNSHOT WOUND per autopsy Report/Post Mortem Findings (Xeros (*sic*), copy issued by Dr. Dominic L. Aguda, M.D., Medico-Legal Officer, National Bureau of Investigation (NBI), Manila which is attached to the record of the case, which caused the death of said Brgy. Captain Leonides Bulatao, aka Leo Bulatao, as a consequence, to the damage and prejudice of his legal heirs.

Contrary to Article 248 of the Revised Penal Code as amended by R.A. 7659 in relation to R.A. 8294.<sup>5</sup>

The case was originally raffled to the RTC Branch 56 of San Carlos, Pangasinan City. However, upon the written request of victim's widow, Lucia Bulatao, this Court, in a Resolution<sup>6</sup> dated September 6, 2006 in Administrative Matter No. 06-841-RTC, ordered the transfer of the venue of the case to the RTC-Branch 60 of Baguio City.

On arraignment, Mendoza, Viray, Ocumen, and accused-appellants, with the assistance of their counsel, pleaded *not guilty* to the charge. Sapiera and Palisoc remained at-large. Thereafter, trial on the merits ensued.<sup>7</sup>

On August 26, 2008, on motion of the prosecution, Viray was discharged as a state witness. Then on September 14, 2009, the RTC dismissed

<sup>3</sup> Penned by Judge Edilberto T. Claravall of the RTC Branch 60 of Baguio City; *id.* at 98-125, CA rollo, pp. 98-125.

<sup>4</sup> *Rollo*, p 3.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.* at 3.

the case against accused Rodel de Guzman for lack of evidence.<sup>8</sup>

The prosecution presented agent Gerald Geralde, Atty. Dave Alunan, and Dr. Dominic Aguda of the National Bureau of Investigation (*NBI*), the victim's brother, Archimedes Bulatao, and the victim's sister, Radigundes Bulatao, and state witness Viray.<sup>9</sup> On the other hand, the defense presented accused-appellants Roderick de Guzman (*De Guzman*), Dexter Gramata Ocumen (*Ocumen*), Menard Ferrer (*Ferrer*), and Willie Mendoza (*Mendoza*), corroborating witnesses Yolanda de Guzman, Susana Mamawat, Mario Ungrea, Serio Dela Cruz, Marlyn Mendoza, and PO3 Crisante Q. Mediones.<sup>10</sup>

### *Version of the Prosecution*

Sometime in 2001, Viray met Mendoza when the latter was introduced to him by Sapiera. On the other hand, Sapiera was introduced to Viray by Ferrer.<sup>11</sup>

Viray was subsequently employed by Mendoza as a coin collector in his video Carrera business in Dagupan City. In the course of his employment, Viray had several drinking sprees with Mendoza, Ocumen, Ferrer, and Sapiera. It was during these drinking sprees that Viray eventually learned that Mendoza is a killer-for-hire.<sup>12</sup>

On December 9, 2003, Viray saw Mendoza talking to someone on his cellular phone. When the conversation ended, Mendoza instructed Viray, Ferrer, Sapiera, and Bernardo to accompany him to the poultry farm of one Alfie Soriano (*Soriano*) in Barangay Palapar, Malasiqui, Pangasinan.<sup>13</sup> The group went and waited outside the farm, while Soriano and Mendoza talked.<sup>14</sup>

On December 10, 2003, Viray and company returned to Soriano's farm. They were introduced by Mendoza to Soriano, who then told them that he has a job for them, that is to kill Barangay Captain Leo Bulatao (*Bulatao*). Viray, *et al.*, learned that Bulatao used to be a political ally of Soriano's family, but he changed his affiliation and allied with Mayor Armando Bumatay, a political rival of Soriano's father. Soriano told them that his father would lose in the upcoming elections unless Bulatao is killed. Soriano then promised to pay the group a substantial amount for the task, and initially gave Mendoza the amount of ₱50,000.00. After the group left the farm, Mendoza gave Viray, *et al.* ₱500.00 and warned them to keep the plan a secret, otherwise their families' lives would be in danger.<sup>15</sup>

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *CA rollo*, pp. 99-102.

<sup>10</sup> *Id.* at 102-108.

<sup>11</sup> *Rollo*, p. 4.

<sup>12</sup> *Id.* at 4.

<sup>13</sup> *Id.* at 4-5.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.*

On December 11, 2003, Mendoza called Viray, Ferrer, Sapiera, Palisoc, Ocumen, and Roderick to his house for a drinking session. There, Mendoza instructed the group to conduct a surveillance on Bulatao. The group was shown a colored and full-body photo of Bulatao.<sup>16</sup>

On December 12, 2003, Viray, Ferrer, Sapiera, Palisoc, Roderick, and Ocumen went to the Malasiqui Town Hall to conduct the surveillance on Bulatao, but failed to locate him there. At that time, Roderick, Sapiera, Palisoc, and Ocumen were carrying a .45 caliber pistol provided by Mendoza.<sup>17</sup>

On December 13, 2003, the group of Viray returned to the Malasiqui Town Hall hoping to find Bulatao, but still to no avail.<sup>18</sup>

On December 14, 2003, Mendoza summoned the group to his house and informed them that Bulatao will be at the Malasiqui Town Hall the following day to attend the flag-raising ceremony.<sup>19</sup>

On December 15, 2003, at around 4:30 a.m., the group of Viray went to the Malasiqui Town Hall and stationed themselves on different strategic areas. After the flag ceremony, Viray saw Bulatao and immediately sent a text message to Mendoza to inform him of Bulatao's location. Mendoza was the designated gunman.<sup>20</sup>

In the meantime, Viray and the other designated spotters, Ferrer, Palisoc, and Ocumen, followed Bulatao. The group stopped when Bulatao entered the Malasiqui Town Hall, and stayed near the Big Mac Burger stand. After about five (5) minutes, Viray saw Bulatao on his way out of the building. He then again informed Mendoza of Bulatao's location. Soon after, Viray saw Mendoza walking slowly towards Bulatao. After passing Bulatao, Mendoza turned around, stood on an elevated portion of the street, and shot Bulatao from behind, hitting him at the back of his head.<sup>21</sup>

After shooting Bulatao, Mendoza continued to fire his gun in the air in an effort to create a commotion, and while running towards their getaway motorcycle driven by Sapiera. Viray and the other spotters also fled the scene by riding a tricycle driven by Ocumen. The group converged at the house of Mendoza's wife in Malimpec, Malasiqui, Pangasinan, and stayed there for three (3) days before returning to their workplace in Perez Market, Dagupan City.<sup>22</sup>

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

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 6.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

A day after the incident, Bulatao's brother, Archimedes Bulatao, filed a complaint with the NBI Dagupan. The NBI Dagupan conducted an investigation and initially identified Mendoza, his wife Marlyn Mendoza (*Marlyn*), Sapiera, and Roderick as suspects. Warrants of arrest were issued against the four. Marlyn and Roderick were arrested, while Mendoza voluntarily surrendered. Sapiera remained at-large.<sup>23</sup>

Sometime in 2005, the NBI Dagupan conducted a raid on Mendoza's fishpond. There they found Viray whom they invited for questioning at the NBI office. During his interview, Viray admitted that he was involved in the killing of Bulatao. He narrated in detail the plan to kill Bulatao, as well as the preparations they made, leading to the actual shooting. He then identified all persons involved in the crime. Thereafter, he executed a sworn statement with the aid of his counsel.<sup>24</sup>

On the basis of the information provided by Viray and Barangay Captain Ruben Palaganas, who was with Bulatao at the time of shooting, new warrants of arrest were issued against Ocumen, Ferrer, Palisoc, and Roderick.<sup>25</sup>

### *Version of the Defense*

The accused denied the charges against them and set up alibi as their defense.

Ocumen testified that on December 15, 2003; he was at their house between 7:00 and 8:00 a.m. Later, he was asked by his live-in partner to buy milk and diapers. He then requested Mendoza, who is the brother of his live-in partner, to accompany him. The two of them rode a tricycle and arrived at the store called BHF about ten (10) minutes after. Since the store was still closed, they waited for it to open for thirty (30) minutes more. He bought the milk and diapers and left the store at about 9:30 a.m. Then he arrived back home at about 9:45 a.m.<sup>26</sup> According to Ocumen, Viray merely implicated him in the crime because Viray accused him of killing his uncle, Boy Garcia, in 1999.<sup>27</sup>

On the part of Mendoza, he denied that he owned a video *carrera* business and that he employed Centeno, Ocumen, and Ferrer as operators and as his body guards. He also denied having exclusive drinking sessions with his co-accused, including Viray, although he admitted that he has joined them for drinking sprees on special occasions. He testified that on December 9 to 13, 2003, he was at home to take care of his children. On December 15, 2003,

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 6-7.

<sup>25</sup> *Id.* at 7.

<sup>26</sup> *Id.* at 7.

<sup>27</sup> *Id.*

he went with Ocumen to buy some diapers. They rode a tricycle and arrived at the store at around 8:15 a.m. After waiting for the store to open at 8:30 a.m., they bought diapers which took them one and a half (1 1/2) hours. Afterwards, they went back to the Perez Market at about 9:30 a.m.<sup>28</sup>

Susana Manawat corroborated the alibi of Ocumen and Mendoza, who said that in the morning of December 15, 2003, at around 7:30 to 8:30 a.m., she saw Ocumen and Mendoza having breakfast at a nearby eatery. She again saw the two men at around 9:00 a.m. when they passed by her store carrying bags of groceries.<sup>29</sup>

Mendoza added that contrary to the statement of Viray, he never frequented Malasiqui, Pangasinan, except to visit his wife's house at Barangay Malimpec. He also asserted that in firing his .45 and .357 caliber pistols, he uses his left hand, like how he used to when he was a policeman. He learned of the charge against him when somebody sent him a message that the NBI was looking for him at his wife's house. He conferred with his lawyer, who then confirmed that a warrant of arrest has been issued against him. He decided to voluntarily surrender with the assistance of his counsel on January 31, 2005. He averred that Viray implicated him in the killing of Bulatao because he objected to Viray's marriage to the niece of his wife, Alma Barbosa, and because Viray believed that he was also involved in the killing of Boy Garcia.<sup>30</sup>

Ferrer denied any involvement in the killing of Bulatao. He testified that from December 10 to 15, 2003, he reported to his work in Consignacion, Magsaysay, Dagupan City. He knew Viray since they were both from *Barangay* Pugaro, Dagupan City. He alleged that Viray was a known drug pusher in their community, whom he had previously reported to their *barangay* officials. He averred that Viray only implicated him in the killing of Bulatao because he was involved in the killing of Boy Garcia.<sup>31</sup> Mario Ungrea corroborated Ferrer's alibi. He said that he was also an employee in Consignacion, Magsaysay, Dagupan City. He averred that Ferrer reported for work in December 2003, and that he could not remember an instance when Ferrer did not report for work.<sup>32</sup>

Lastly, Roderick testified that on December 11 to 15, 2003, he went to Barangay Tamayo, San Carlos City to work part time in harvesting mangoes.<sup>33</sup> His alibi was corroborated by his aunt, Yolanda De Guzman, who said that on December 12-14, 2003, Roderick and his uncle were harvesting

<sup>28</sup> *Id.* at 8.

<sup>29</sup> *CA rollo*, at 105.

<sup>30</sup> *Supra* note 28.

<sup>31</sup> *Id.*

<sup>32</sup> *Supra* note 29.

<sup>33</sup> *Rollo*, p. 9.

mangoes. Moreover, she added that on December 15, 2003, Roderick was resting inside his shanty located in front of her house.<sup>34</sup>

### *The Ruling of the RTC*

In its Decision<sup>35</sup> dated October 6, 2011, the RTC found accused-appellants, together with Mendoza and Ocumen, guilty of murder, *viz.*:

**WHEREFORE**, all premises considered, the court finds the accused **WILLIE MENDOZA a.k.a "WILLY MENDOZA," "WILFREDO MENDOZA," AND "SAMAL," MENARD FERRER, DEXTER GRAMATA OCUMEN, and RODERICK "PANGAL" DE GUZMAN, GUILTY** of the crime of MURDER and hereby sentences them to suffer the penalty of imprisonment of *reclusion perpetua*.

Send this case to the archives as to accused CHRISTIAN CENTENO SAPIERA, a.k.a. "ASIAN" AND BERNARDO PALISOC a.k.a. "NOGNOG."

Willie Mendoza, Menard Ferrer, Dexter Ocumen and Roderick De Guzman are hereby ordered to jointly and severally pay the heirs of Leodines Bulatao the following amounts:

- (a) Php. 75,000.00, as civil indemnity;
- (b) Php. 300,000.00 as moral damages;
- (c) Php. 100,000.00 as exemplary damages;
- (d) Php. 50,000.00 as actual damages; and
- (e) Php. 631,546.66 as indemnity for loss of earning capacity.

SO ORDERED.<sup>36</sup>

The RTC ruled that the accused conspired, confederated, and mutually aided each other in killing Bulatao. It gave full credence to the testimony of state witness Viray, which it found was given in a straightforward manner and with conviction commonly observed in persons who have actually witnessed the commission of a crime. According to the RTC, Viray's testimony established the following material facts: (1) the killing of Bulatao was planned in the house of Mendoza, days before its actual execution, and where all the accused, including Viray, were present; (2) Viray, *et al.* conducted surveillance on the person of Bulatao upon instruction of Mendoza; (3) it was Mendoza who shot Bulatao from behind on December 15, 2003; (4) each of the accused performed specific roles and tasks for the purpose of killing Bulatao; and (5) all the accused escaped and went into hiding after the incident.<sup>37</sup> It ruled that the minor inconsistencies in Viray's testimony did not destroy his credibility, but rather strengthened it.<sup>38</sup> Moreover, the respective defenses of alibi and

<sup>34</sup> CA rollo, p. 104.

<sup>35</sup> *Supra* note 3.

<sup>36</sup> *Id.* at 125.

<sup>37</sup> *Id.* at 123.

<sup>38</sup> *Id.*

denial raised by the accused were dismissed by the RTC, holding that they were self-serving and unsubstantiated.<sup>39</sup>

The RTC held that the circumstances of treachery and evident premeditation qualified the crime to murder, while the use of a motor vehicle was a generic aggravating circumstance. However, the use of unlicensed firearm was not appreciated as an aggravating circumstance due to lack of proof during trial.<sup>40</sup>

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

In its assailed Decision<sup>41</sup> dated January 13, 2017, the CA affirmed the Decision of the RTC but modified the award of damages, thus:

**WHEREFORE**, the foregoing premises considered, the instant appeal is **DENIED** and the assailed Decision dated October 6, 2011 rendered by the Regional Trial Court (RTC), Branch 60 of Baguio City in *Criminal Case No. 26753-R* is hereby **AFFIRMED** with **MODIFICATION** that appellants Willie Mendoza, a.k.a. "Willy Mendoza", "Wilfredo Mendoza" and "Samal", Menard Ferrer, Dexter Gramata Ocumen and Roderick "Pangal" De Guzman are hereby ordered to pay, jointly and severally, the heirs of Leonides Bulatao the following amounts:

1. Php50,000.00 as civil indemnity;
2. Php50,000.00 as moral damages;
3. Php 30,000.00 as exemplary damages;
4. Php 50,000.00 as actual damages;
5. Php632,546.66 as indemnity for loss of earning capacity; and
6. Interest at the rate of six percent (6%) imposed on the award of civil indemnity and all damages from the finality of judgment until fully paid.

**SO ORDERED.**<sup>42</sup>

The CA ruled that the prosecution was able to clearly demonstrate the existence of all the elements of murder, including the qualifying circumstances of treachery and evident premeditation. It also held that the prosecution was able to prove the presence of conspiracy.<sup>43</sup>

According to the CA, Viray testified as to how their group, including accused-appellants, devised a plan to kill Bulatao, and how this plan was successfully executed. The conspiracy can be gleaned from the manner by

<sup>39</sup> *Id.* at 118-123.

<sup>40</sup> *Id.* at 118.

<sup>41</sup> *Supra* note 1.

<sup>42</sup> *Id.* at 16-17.

<sup>43</sup> *Id.* at 10-11.



which all the perpetrators have ensured the success for their task of eliminating Bulatao.<sup>44</sup>

The CA dismissed accused-appellants' argument that the testimony of Viray was riddled with inconsistencies, holding that the RTC properly appreciated Viray's testimony as credible. It held that the discrepancies in Viray's statements referred to minor details which did not water down his testimony.<sup>45</sup>

### *The Present Appeal*

Accused-appellants Ferrer and Roderick are now before this Court, seeking affirmative relief and praying anew for their acquittal. In accordance with the Court's Resolution dated March 14, 2018, the Office of the Solicitor General (*OSG*) and accused-appellants manifested that in lieu of supplemental brief, they were adopting their respective briefs filed before the CA.<sup>46</sup>

In the main, accused-appellants argue that the CA erred in affirming the RTC's factual findings on the credibility of the prosecution's witnesses. They argue that it was error for the RTC to rely on the testimony of Viray as it was riddled with major inconsistencies, casting doubt as to his credibility and to the truthfulness of his statements.<sup>47</sup> Some of the inconsistencies stated by accused-appellants were: (1) Viray testified that he finished second year high school at the Dagupan City National High School, but the same school issued a certification to the effect that there was no student by the name of Rogelio Viray who ever studied in their institution and documentary evidence in fact shows that Viray did not even finish Grade 4 while studying in Pugaro Elementary School;<sup>48</sup> (2) during preliminary investigation, Viray declared that the order to kill Bulatao was made at the house of Mendoza, but during trial, he testified that it was made at the farm of Soriano;<sup>49</sup> (3) during preliminary investigation, Viray stated that Mendoza came from the front of the Big Mac Burger stand before the shooting, but during trial, he stated that Mendoza was near the motorcycle parked in front of the catholic church at Bonifacio Street; (4) Viray never mentioned during preliminary investigation of an elevated cement box where Mendoza supposedly positioned himself before shooting Bulatao, as opposed to his testimony during trial;<sup>50</sup> and (5) the motive behind the killing was never mentioned by Viray during preliminary investigation, as he first declared that it was in fact for political reasons only during his testimony.<sup>51</sup>

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<sup>44</sup> *Id.* at 11.

<sup>45</sup> *Id.* at 13.

<sup>46</sup> *Id.* at 28-29, 46-47.

<sup>47</sup> *CA rollo*, pp. 92-94; 135-136; 192-194.

<sup>48</sup> *Id.* at 92.

<sup>49</sup> *Id.* at 93.

<sup>50</sup> *Id.* at 192.

<sup>51</sup> *Id.* at 193.

For his part, Ocumen argues that the testimony of Viray only revealed his presence during the planning stage of the crime, but not that he participated in the discussions. Thus, he claims that there was no sufficient basis to conclude that he was involved in the conspiracy.<sup>52</sup>

The Office of the Solicitor General argued that the RTC and the CA correctly gave weight and credence to Viray's testimony. Citing jurisprudence,<sup>53</sup> they aver that inconsistencies that are trivial and insignificant do not warrant rejection of the testimony nor the reversal of the judgment.<sup>54</sup> The OSG also argued that the record would show that Ocumen was not merely present during the planning stage, but that he actively participated in carrying out the plot to kill the victim.<sup>55</sup>

### *Issue*

Whether the CA erred in affirming accused-appellants' conviction for murder

### *Ruling*

This Court affirms accused-appellants' conviction for murder, but modifies the award of damages in accordance with prevailing jurisprudence.

Accused-appellants' main contention is that it was error for the RTC and the CA to give credence to the testimony of Viray, considering that his testimony was riddled with major inconsistencies.<sup>56</sup>

The task of taking on the issue of credibility is a function properly lodged with the trial court.<sup>57</sup> This is because the trial judge is in a better position to ascertain the conflicting testimonies of witnesses after having heard them and observed their deportment and mode of testifying during trial.<sup>58</sup> When the issue is one of credibility of witness, this Court will generally not disturb the trial court's findings especially when affirmed in full by the Court of Appeals, as in this case.<sup>59</sup>

After a careful review of the records, this Court finds no compelling reason to deviate from the ruling of the RTC, as affirmed by the CA. According to the RTC and the CA, Viray's testimony was credible and more

<sup>52</sup> *Id.* at 137.

<sup>53</sup> *People v. Tolentino*, 570 Phil. 255 (2008); *People v. Cabungan*, 702 Phil. 177 (2013).

<sup>54</sup> CA rollo, p. 236.

<sup>55</sup> *Id.* at 239.

<sup>56</sup> CA rollo, pp. 92-94; 135-136; 192-194.

<sup>57</sup> *People v. Michael John Heteroza*, G.R. No. 232499, December 2, 2020, citing *People v. Iltis*, 447 Phil. 517, 524 (2003).

<sup>58</sup> *Id.* citing *People v. Aspa*, 838 Phil. 302 (2018).

<sup>59</sup> *People v. Florendo Castrence, et al.*, G.R. No. 227882, (Minute Resolution), August 27, 2020.

reliable than accused-appellants' defenses of alibi and denial. This is because Viray's testimony was given in a straightforward manner and with conviction commonly observed in persons who have actually witnessed the commission of a crime.<sup>60</sup>

Particularly, Viray narrated, in detail, the circumstances surrounding the killing of Bulatao. Pertinent portions of Viray's testimony state:

Q. [PROS. SAGSAGO] Mr. Viray, you remember that during the last time you testified here, you said that sometime December 10, 2003, Willie Mendoza was contracted to kill Barangay Captain Leonardo Bulatao. You stopped in said testimony that said Leo Bulatao was killed on December 15, 2003. This is my question- On December 11, 2003, do you remember whether there was anything that was done in connection with the contract to kill Mr. Leo Bulatao?

A. [VIRAY] On December 11, Willie Mendoza called for us, sir. On that date, Willie Mendoza called for the 6 of us: Menard, Dexter, Pangal, Nognog Palisoc, and Asiang Safira and me, sir.

x x x

Q. Where did you meet him?

A. At the residence of Willie Mendoza, sir.

Q. In Dagupan?

A. In Dagupan City, sir.

x x x

Q. And what did you talk about when you met him?

A. He called for us to drink, sir. After drinking, he told us to conduct surveillance on Mr. Leo Bulatao.

x x x

Q. Who were supposed to conduct the surveillance?

A. Menard Ferrer, Dexter Gramata, Pangal, De Guzman, Nognog Palisoc, Asiang Safira and me, sir.

Q. And when did you conduct the actual surveillance?

A. On December 12, 2003, sir, we were directed by Willie Mendoza to proceed to Malasiqui Town Hall and if ever we locate the Barangay Captain Bulatao we will just shoot him.<sup>61</sup>

x x x

Q. Around what time did you proceed to Malasiqui on December 12, 2003?

A. I remember it was before 9:00 o'clock A.M., sir.

Q. How did you go from Dagupan to Malasiqui?

A. We had a tricycle and Indoro (?) motorcycle, sir.<sup>62</sup>

x x x

<sup>60</sup> See CA rollo, p. 123.

<sup>61</sup> *Id.* at 111; TSN, September 22, 2008, p. 26.

<sup>62</sup> *Id.* at 112; TSN, November 12, 2008, pp. 5-6.

Q. Now let us go to the following day, which is now December 13. What did you do again on this December 13?

A. On that day, December 13, Willie Mendoza again called for us, sir, and told us to go back to Malasiqui Town Hall and continue our surveillance.

Q. And were you able to see Mr. Bulatao on that day December 12?

A. No sir.

x x x

Q. Let us go to December 14, which, according to our calendar, is a Sunday. What did you do on this December 14?

A. On that day, sir, Mr. Willie Mendoza again called for us to inform us that Mr. Bulatao will be attending the following day a flag ceremony.<sup>63</sup>

x x x

Q. [Pros. Sagsag] December 15, what happened, what did you and your group do?

A. At 4:30 A.M. in the morning of December 15, we proceeded to the Malasiqui Town Hall and we arrived at past 5:00, sir.

Q. Okay. 4:30, morning, that is quite early, who decided that you should leave at that time at 4:30?

A. Willie Mendoza told us, sir.

Q. Why what was the reason, if you can still remember, why you have to leave that early?

A. So we will know where we will park our vehicle.

Q. Why, what mode of transportation did you use in going from Dagupan to Malasiqui?

A. A tricycle and a motorcycle, sir.

x x x

Q. Tell me this- what were the respective roles that you were supposed to play?

A. The four (4) of us were given by Willie Mendoza a picture of Mr. Bulatao so that we will recognize him; the others were given their respective areas, sir.

Q. Let me put it this way-who were supposed or who were instructed to locate Mr. Leo Bulatao?

A. Mr. Gramata, Nognog Palisoc, Dexter, Menard, and me, sir, we were given that task.

x x x

Q. Who was supposed to do the actual shooting?

A. It was Mr. Willie Mendoza himself, sir.<sup>64</sup>

x x x

Q. I see, and what were the instructions, specifically if you are now able to see Mr. Leo Bulatao, what were you supposed to do?

A. We were instructed to inform Mr. Willie Mendoza if ever we see Mr. Bulatao by text.

<sup>63</sup> *Id.* at 112; *id.* at 9-10.

<sup>64</sup> *Id.* at 113; *id.* at 11-13.

Q. you said that you were able to see Mr. Leo Bulatao, did you immediately text Mr. Willie Mendoza?

A. When I saw Mr. Leo Bulatao, I immediately sent a text message to Mr. Willie Mendoza, "sir, Mr. Bulatao is here."

x x x

Q. After the flag ceremony was over, where did you see Mr. Bulatao go?

A. right after the flag ceremony was over, I saw Mr. Bulatao walking towards the Municipal town Hall, sir.

x-x x

Q. When you saw that Mr. Leo Bulatao entered the building, what did you do next?

A. the four (4) of us then followed him, sir. Mr. Menard Ferrer, Mr. Gramata, Nognog and I.

Q. when you say you followed him, did you also go inside the municipal Hall?

A. No, sir. We did not go inside the Municipal building. When we saw him get inside, we stayed behind near the big Mac Burger stand.<sup>65</sup>

x x x

Q. After you texted Mr. Mendoza that Mr. Leo Bulatao came out, what else did you do?

A. Right after sending the text message to Mr. Mendoza, sir, I then saw Mr. Mendoza walking slowly towards my direction and passed by me and went near Mr. Bulatao and shot him.<sup>66</sup>

In his testimony, Viray gave a clear picture of what exactly transpired in the killing of Bulatao. He testified as to the chronology of events, from the planning stage to the actual execution of the crime. His testimony is replete with details and information, which this Court finds difficult to fabricate if one did not personally experience or witness the events.

Moreover, Viray's narration of the facts is credible in itself, "such as the common experience and observation of mankind can approve as probable under the circumstances."<sup>67</sup> He testified that after Soriano contracted Mendoza to kill Bulatao, they conducted surveillance on Bulatao for a few days until December 15, 2003, when they finally located him at the Malasiqui Town Hall. It was on that day that Mendoza shot Bulatao point blank in the middle of the day. Viray's account of what happened is, therefore, not difficult to absorb or imagine, as it is an occurrence which may naturally happen in the course of committing a crime.

<sup>65</sup> *Id.* at 113; *id.* at 16.

<sup>66</sup> *Id.* at 114; *id.* at 18.

<sup>67</sup> *People v. Sota, et al.*, 821 Phil. 887, 901 (2017), citing *Idanan, et al. v. People*, 783 Phil. 429, 436 (2016).

Accused-appellants also failed to attribute any improper motive to Viray or that he harbored any ill-will against them which might have led him to falsely testify against them. During trial, Ocumen, Mendoza, and Ferrer testified that Viray only implicated them in the crime because Viray believed that they were involved in the killing of his uncle, Boy Garcia. It does not appear, however, that this allegation was proven during trial. In the absence of proof to the contrary, the presumption is that the witness was not moved by any ill-will and was untainted by bias, thus, worthy of belief and credence.<sup>68</sup>

In order for the charge of murder to prosper, the following elements must be established by the prosecution: (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; and (4) that the killing was not parricide or infanticide.<sup>69</sup>

In the present case, the prosecution was able to adequately establish all the elements of murder: (1) Bulatao was killed; (2) Viray positively identified Mendoza as the one who shot Bulatao; (3) the killing was attended by treachery and evident premeditation; and (4) the killing was neither parricide nor infanticide as there was no relationship between Bulatao and accused-appellant.

Both the RTC and the CA correctly appreciated the qualifying circumstances of treachery and evident premeditation.

Treachery is “a sudden and unexpected attack by the aggressors on the unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressors, and without the slightest provocation on the part of the victim.”<sup>70</sup> The RTC found that Mendoza shot Bulatao at close range at the back of his head while the latter was engaged in a conversation with other people.<sup>71</sup> The essence of treachery is the swiftness and the unexpectedness of the attack upon the unsuspecting and unarmed victim. What is decisive is that the execution of the attack made self-defense or retaliation impossible on the part of the victim.<sup>72</sup> Since Bulatao was not facing Mendoza, he did not, in any way, expect the attack, and was not able to do anything to protect himself. Moreover, the fact that Bulatao was shot on the head shows that it was deliberately adopted to ensure that he was killed instantly, without any risk to Mendoza. Treachery was, therefore, present.

<sup>68</sup> *People v. Dagsa*, 824 Phil. 704, 720 (2018), citing *People v. Jalbonian*, 713 Phil. 93, 104 (2013).

<sup>69</sup> *People v. Estoya*, G.R. No. 222650 (Minute Resolution), December 5, 2018, citing *People v. Lagman*, 685 Phil. 733, 743 (2012).

<sup>70</sup> *People v. Eddie Verona, et al.*, G.R. No. 227748, June 19, 2019, citing *People v. Punzalan, Jr.*, 700 Phil. 793, 811 (2012).

<sup>71</sup> CA rollo, pp. 115-116.

<sup>72</sup> *People v. Barbachano*, G.R. No. 177754 (Minute Resolution), February 24, 2014, citing *People v. Paracale*, 442 Phil. 32 (2002).

On the other hand, in order to prove evident premeditation, the prosecution must establish the following elements: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the accused clung to his determination; and (3) a sufficient lapse of time between determination and execution to allow himself time to reflect upon the consequences of his act. All elements were established in this case. Accused-appellants decided to commit the crime as early as December 10, 2003, when they agreed to the offer of Soriano to kill Bulatao in exchange for a reward.<sup>73</sup> On December 11-14, 2003, they met and conducted surveillance on the person of Bulatao, hoping to find him and execute their plan.<sup>74</sup> These acts show that they clung to their determination to commit the crime. On December 15, 2003, accused-appellants finally located Bulatao, who was then shot by Mendoza on the spot.<sup>75</sup> It is thus obvious that from December 10, 2003, until December 15, 2003, when the crime was actually committed, there was sufficient lapse of time to allow accused-appellants to reflect upon the consequences of their act.

The RTC and the CA were likewise correct in ruling that conspiracy exists in this case. There is conspiracy if at the time of the commission of the offense, the acts of two or more accused show that they were animated by the same criminal purpose and were united in their execution, or where the acts of the malefactors indicate a concurrence of sentiments, a joint purpose and a concerted action.<sup>76</sup>

In the present case, the acts of accused-appellants before, during, and after the commission of the crime clearly show that they were animated by the same purpose of killing Bulatao. It does not matter that it was only Mendoza who actually triggered the gun and shot Bulatao. In *People v. Dollendo, et al.*,<sup>77</sup> the Court discussed that:

To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act. x x x Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.

Here, accused-appellants were present during the planning stages of the crime. Subsequently, upon orders of Mendoza, and on separate days, Ferrer, Ocumen, Roderick, Palisoc, and Sapiera, conducted surveillance on Bulatao.<sup>78</sup> On the day of the shooting, Mendoza was the designated gunman, while Ocumen, Palisoc, and Ferrer acted as lookouts.<sup>79</sup> After Bulatao was shot,

<sup>73</sup> CA rollo, 110-111; TSN, September 22, 2008, pp. 21-25.

<sup>74</sup> *Id.* at 111-112; TSN, September 22, 2008, p. 26; TSN, November 12, 2008, pp. 5-10.

<sup>75</sup> *Id.* at 113; TSN, November 12, 2008, pp. 11-16.

<sup>76</sup> *People v. Pilpa*, G.R. No. 225336, September 5, 2018, 879 SCRA 502, 511, citing *People v. Aquino*, 390 Phil. 1176, 1184-1185 (2000.)

<sup>77</sup> 679 Phil. 338-349 (2012), citing *People v. Anticamara, et al.*, 666 Phil. 484, 504 (2011).

<sup>78</sup> CA rollo, at 111; TSN, September 22, 2008, at p. 26.

<sup>79</sup> *Id.* at 113; TSN, November 12, 2008, pp. 11-13

Mendoza, Roderick, and Sapiera continued firing their guns in the air,<sup>80</sup> in an apparent effort to create fear and panic among the witnesses. Mendoza then escaped by riding the motorcycle driven by Sapiera, while Ferrer, Ocumen, and Palisoc also left the scene by riding a tricycle driven by Ocumen.<sup>81</sup> After the incident, they all met at the house of Mendoza's wife, where they drank and celebrated.<sup>82</sup> Clearly, there was unity of action and purposes among the accused in killing Bulatao.

As against Viray's categorical and credible testimony revealing the details of Bulatao's killing, accused-appellants raised alibi as their defense. Alibi and denial are inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused, as in this case.<sup>83</sup> While the alibi of accused-appellants were corroborated by their witnesses, We agree with the RTC in not giving any evidentiary value to their testimony, considering that they were found to be friends and relatives of accused-appellants.<sup>84</sup> Moreover, in order for a defense of alibi to prosper, the accused must prove not only that he was at some other place when the crime was committed, but also that it was physically impossible for him to be at the scene of the crime or its immediate vicinity through clear and convincing evidence.<sup>85</sup> As correctly pointed out by the RTC:

In his alibi, Mendoza, Ocumen and Ferrer claim that they were in Dagupan City in the morning of December 15, 2003. De Guzman upon the other hand claims that he was in San Carlos City at the time. x x x. It could still be possible for them to be at the scene of the crime considering that Malasiqui is easily accessible from Dagupan City and San Carlos City. All Dagupan City, San Carlos City and the Municipality of Malasiqui are all located in the province of Pangasinan, which as earlier states are easily accessible by road. x x x.<sup>86</sup>

It is true that Viray's testimony was not flawless, as the records do show some inconsistencies between the statements he made during preliminary investigation and during trial proper. We agree with the RTC and CA, however, that these inconsistencies refer to minor details which will not impinge on the integrity of Viray's testimony in its material whole.<sup>87</sup> In order for inconsistencies in a witness' testimony to warrant acquittal, the same must refer to significant facts vital to the guilt or innocence of the accused or must have something to do with the elements of the crime.<sup>88</sup> The inconsistencies raised by accused-appellants refer to the (1) personal circumstances of Viray; (2) the place where the plan to kill Bulatao was made; (3) the place where

<sup>80</sup> *Id.* at 114; TSN, November 12, 2008, p. 18.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at 115; TSN, November 17, 2008, p. 9.

<sup>83</sup> *People v. Las Piñas, et al.*, 739 Phil. 502, 528 (2014), citing *People v. Lacaden*, 605 SCRA 784, 802-803 (2009).

<sup>84</sup> See *People v. Consorte*, 738 Phil. 723-734 (2014).

<sup>85</sup> *People v. Cuarto*, G.R. No. 233246, October 17, 2018, SCRA citing *People v. Desalisa*, 451 Phil. 869, 876 (2003).

<sup>86</sup> CA rollo, at 122.

<sup>87</sup> See *People v. Pulgo*, 813 Phil. 205, 214 (2017), citing *People v. Aguila*, 539 Phil. 698, 712 (2006).

<sup>88</sup> *People v. Delima, et al.*, 834 Phil. 616, 624 (2018), citing *People v. Mahunay*, 462 Phil. 53, 70 (2003).



Mendoza came from before he shot Bulatao; (4) the presence of an elevated cement box where Mendoza positioned himself before shooting Bulatao; and (5) the motive behind the killing. All of these matters, however, refer only to minor details which do not discount the fact that the crime happened, and it was accused-appellants who committed it.

From the foregoing, this Court finds no reason to disturb the rulings of the RTC and the CA as they properly convicted accused-appellants of the crime of murder. Accordingly, this Court affirms the lower courts' imposition of the penalty of *reclusion perpetua* on accused-appellants.

On the imposition of damages, We affirm the RTC's award to the heirs of the late Bulatao in the amount of ₱641,546.66 as indemnity for loss of earning capacity of the victim, and actual damages in the amount of ₱50,000.00 for burial expenses which were supported with receipts. In accordance with *People v. Jugueta*,<sup>89</sup> moreover, this Court grants ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages. In addition, all the monetary awards shall bear interest of six percent (6%) *per annum* reckoned from the finality of this decision until full satisfaction.<sup>90</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The assailed Decision dated January 13, 2017 and the Resolution dated August 17, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 05838 are hereby **AFFIRMED** with **MODIFICATION**.

Accused-appellants **MENARD FERRER** and **RODERICK "PANGAL" DE GUZMAN** and accused **WILLIE MENDOZA** and **DEXTER GRAMATA OCUMEN** are found **GUILTY** of **MURDER** and sentenced to *reclusion perpetua*. They are **DIRECTED** to **PAY** the heirs of the late Leonides Bulatao the amounts of ₱641,546.66 as indemnity for loss of earning capacity of the victim; ₱50,000.00 as actual damages; ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages, plus interest of 6% *per annum* reckoned from the finality of this Decision until full satisfaction.

The accused-appellants shall further pay the costs of the suit.

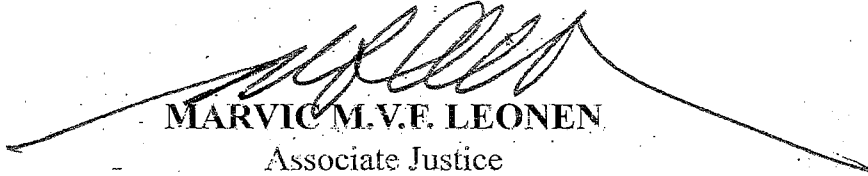
**SO ORDERED.**

  
**JHOSEP LOPEZ**  
Associate Justice

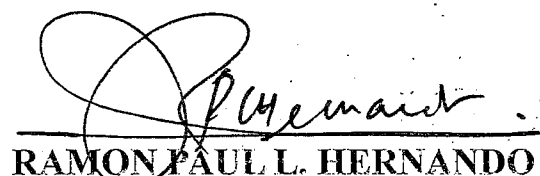
<sup>89</sup> 783 Phil. 806 (2016).

<sup>90</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).


**WE CONCUR:**




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



**RAMON PAUL L. HERNANDO**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice



**EDGARDO L. DELOS SANTOS**  
Associate Justice

**ATTESTATION**

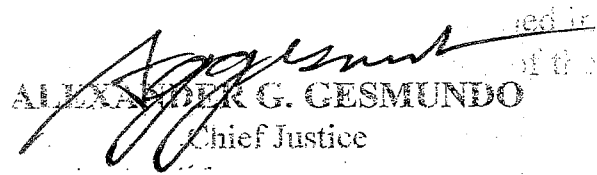
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Third 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice