



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **27 July 2020** which reads as follows:*

“G.R. No. 235984 (*People of the Philippines v. Celestino Guc-ong, Jr.*) – Assailed in this appeal is the July 25, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 02245 which affirmed with modifications the January 8, 2014 Judgment² of the Regional Trial Court (RTC), Cebu City, Branch 5, finding accused-appellant Celestino Guc-ong, Jr. (Guc-ong) guilty beyond reasonable doubt of the crime of murder.

On August 18, 2005, an Information³ was filed charging Guc-ong with murder, the accusatory portion of which reads as follows:

That on April 1, 2005 at around 12:00 o'clock noon, at Barangay Poblacion, Carcar, Cebu, Philippines, and within the jurisdiction of this Honorable Court, said accused, with intent to kill, with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack and stab one DANILO TOLICO, SR. with the use of a hunting knife, hitting the latter on his breast, thus causing his instantaneous death.

CONTRARY TO LAW.

Guc-ong pleaded not guilty to the charge.⁴ During the pre-trial, the parties stipulated on the identity of Guc-ong as the accused; and the authenticity and due execution of the death certificate of the victim.⁵

After the termination of the pre-trial, trial ensued.

¹ Penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Gabriel T. Robeniol.

² Records, pp. 64-73; penned by Acting Presiding Judge Lauro A. P. Castillo, Jr.

³ Id. at 1.

⁴ Id. at 15-16.

⁵ Id. at 31.

The prosecution presented Guillermo Papasin, Jr. (Papasin) and Maria Carlota Tolico as witnesses.

Version of the Prosecution:

The collective testimonies of the prosecution witnesses established the following facts as summarized by the trial court:

The first witness was Mr. Guillermo Papasin, Jr. who averred that he knows Danilo Tolico, Sr. because he used to play billiards with the said victim at Luan-luan, P. Vasquez Street. He also knows the accused Celestino Guc-ong, Jr. He recalls that he was at the Billiards Hall owned by the victim on April 1, 2005 at around 12:00 o'clock noon. He was then playing with Mico Santos. Suzette Santos, a sister of Mico Santos was also there. After the game, he saw the accused suddenly arrived and talked with Danilo Tolico, Sr. He also saw the accused situated by the side of Danilo while they were talking. Suddenly, Celestino Guc-ong stabbed Danilo, hitting the latter on the left side of his body. Danilo fell down and the accused ran away. A certain police officer named "Bagol" happened to be around x x x. Bagol ran after the accused and fired warning shots but x x x the accused x x x got away. x x x Danilo died from his wounds.

On cross-examination, he averred that x x x there was no previous altercation or argument between the accused and the victim. The accused was not playing billiard at the time and just stayed inside the billiard hall and while he was there, it was then that the accused suddenly stabbed the victim, and after stabbing the victim, he then ran away. He was later on brought to the police station where he was investigated of what [he had] witnessed. It was Mrs. Tolico who asked him to testify in this case.

On re-direct examination, he replied that the reason why the victim was not able to defend himself was because the stabbing was so sudden. x x x

The second witness was Maria Carlota Tolico, the widow of the victim, who testified among others, that she is the widow of her deceased husband, Danilo Tolico, Sr. who died after he was stabbed by Celestino Guc-ong. x x x Due to the untimely death of her husband, she suffered damages and asks for Fifty Thousand Pesos compensation. x x x⁶

Version of the Defense:

The trial court summarized the version of the defense as follows:

The only witness presented was the accused himself Celestino Guc-ong, Jr., who testified x x x that on April 1, 2005 at around 12:00 noon, he went to the billiard hall of Danny x x x looking for a match. They played a game, in which he defeated Danilo. When he told Danilo that he will just finish the game and would take his lunch, Danilo got angry. They had an altercation and then Danilo punched him. A heated argument ensued between him and Danilo. After being punched by Danilo, he sat beside the billiard hall. He then noticed that Danilo disappeared for a while and when Danilo returned, he saw that Danilo was carrying a knife. He tried to evade him, but Danilo came near him and delivered a stab thrust at him using the knife. In reaction, he held his hand and they scuffled for possession of the knife until they fell to the ground. Danilo

⁶ Id. at 65-66.

is bigger and taller than him but he is heftier than Danilo. Their height difference is 5-6 inches. After he scuffled with the victim, he saw that Danilo was [bloodied]. Seeing Danilo bloodied, he ran away. At the time, there were three people at the Billiard Hall but he does not know them.

On cross-examination, x x x he reiterated that he scuffled with Danilo for the possession of the knife and he did not stab the victim. He ran away from the scene after he saw the victim [bloodied]. While he was running away, a person whom he did not [recognize] as a police officer chased him and fired warning shots. He does not know that the victim suffered multiple stab wounds. He also averred that he surrendered in the year 2008 while the incident occurred on April 1, 2005. x x x

On clarificatory questioning by the Court, he averred that prior to the incident, he only played once in the billiard hall operated by the victim. When the incident happened, it was only the second time he played billiards in that place and it was against the victim. It was a grudge match.⁷

Ruling of the Regional Trial Court:

On January 8, 2014, the trial court rendered its Judgment finding Guc-ong guilty as charged. It lent credence to the testimony of prosecution witness Papisin, who was only 13 years old at the time of the incident,⁸ finding his testimony to be “straightforward, logical and truthful,”⁹ “consistent with the sworn statement that he executed,”¹⁰ and “supported by the findings of the medico-legal officer who examined the body of the victim and who found the latter to have sustained several stab wounds in his body.”¹¹ The trial court disregarded the testimony of Guc-ong for being “clearly fabricated and incredible.”¹² In particular, the trial court held that if indeed there was a scuffle between Guc-ong and the victim, the latter would have sustained only “one or two superficial or stab wounds or both.”¹³ The victim’s death certificate¹⁴ however showed that he sustained multiple stab wounds. The RTC also did not believe Guc-ong’s claim that the victim was the aggressor. It considered as fatal to Guc-ong’s theory of self-defense his failure to produce the weapon allegedly used by the victim.

The RTC found that the qualifying circumstance of evident premeditation did not attend the commission of the crime. However, it found that the attack was treacherous, *viz.*:

The evidence presented by the prosecution shows that before the accused delivered the stab blows, he was situated in an oblique position in relation to the victim. The delivery of the stab thrusts were so sudden that the victim could not have defended himself, even if he was significantly taller than the accused. By positioning himself in that manner, it is clear that the accused has consciously adopted the form of the attack

⁷ Id. at 67-68.

⁸ Id. at 68.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 69.

¹² Id.

¹³ Id. at 69-70.

¹⁴ Id. at 52.

he employed. The victim simply could not have defended himself even if the attack was frontal. x x x¹⁵

The dispositive portion of the RTC's Judgment reads as follows:

WHEREFORE, premises well considered, judgment is hereby rendered, finding the accused Celestino Guc-ong, GUILTY beyond reasonable doubt of murder for the killing of Danilo Tolico, Sr. Accordingly, he is hereby sentenced to suffer *reclusion perpetua*. Pursuant to a recent circular, he is hereby made to serve his sentence at the Leyte Regional Prisons, Abuyog, Leyte. The period reckoned from the time when the accused was placed under preventive detention shall be credited to him up to the extent allowed under Article 29 of the Revised Penal Code.

The said accused is also ordered to indemnify the Heirs of Danilo Tolico Sr. the amount of Fifty Thousand Pesos (Php50,000.00) as and for moral damages; Seventy Five Thousand Pesos (₱75,000.00) as and for civil indemnity; and Thirty Thousand Pesos (₱30,000.00) as and for exemplary damages.

SO ORDERED.¹⁶

Ruling of the Court of Appeals:

On appeal, the appellate court sustained the conviction of Guc-ong. It found all the elements of the crime of murder to be present.¹⁷ It held that the RTC properly lent credence to the testimony of Papasin who was not actuated by any ill motive to testify against Guc-ong;¹⁸ it also ruled that the RTC correctly appreciated the qualifying circumstance of treachery.¹⁹ In addition, the CA was not moved by Guc-ong's theory of self-defense. It held that there was paucity of evidence to show unlawful aggression on the part of the victim. It believed the testimony of Papasin that there was no prior altercation between Guc-ong and the victim; on the contrary, Guc-ong stabbed the victim in a very sudden manner.

The CA disposed of the case in this wise:

WHEREFORE, in view of the foregoing, the appeal is DENIED. The Judgment dated January 8, 2014, of the Regional Trial Court, Branch 5, Cebu City, in Criminal Case No. CBU-74294, finding appellant Celestino Guc-ong, Jr. guilty beyond reasonable doubt of the crime of Murder is AFFIRMED with the following MODIFICATIONS:

1. The award of moral damages is increased to Seventy-Five Thousand Pesos (₱75,000);
2. The award of exemplary damages is also increased to Seventy-Five Thousand Pesos (₱75,000);

¹⁵ Id. at 71.

¹⁶ Id. at 73.

¹⁷ *Rollo*, pp. 7-8.

¹⁸ Id. at 10.

¹⁹ Id. at 9.

3. Appellant is ordered to pay Danilo Tolico Sr.'s heirs the amount of Fifty Thousand Pesos (₱50,000.00) for temperate damages; and

4. Interest at the rate of 6% per *annum* should be imposed on all damages awarded from the date of finality of this decision until fully paid.

The award of civil indemnity in the amount of Seventy-Five Thousand Pesos (₱75,000.00) is affirmed.

The rest of the decision not inconsistent with this pronouncement STANDS.

SO ORDERED.²⁰

On February 26, 2018, this Court notified the parties that they may file their respective Supplemental Briefs.²¹ Both parties, however, filed their respective Manifestations²² that they are no longer filing supplemental briefs since they have already adequately discussed the issues in the briefs they filed before the CA.

Our Ruling

The appeal lacks merit.

We entertain no doubt that Guc-ong was the perpetrator of the crime of murder that resulted in the death of Danilo Tolico, Sr. We accord due respect to the findings of the trial court and the CA on the credibility of the prosecution witness. Prosecution eyewitness Papasin was consistent and never wavered in his testimony that the victim was totally unaware of the impending attack on his person. He also categorically stated that Guc-ong strategically positioned himself at the side of the victim to facilitate with ease the commission of his evil intention. It was not shown that Papasin was ill motivated towards Guc-ong as to impute upon him the commission of such heinous crime. Also, he consistently testified that there was no altercation between the victim and Guc-ong prior to the stabbing incident. We thus affirm the findings of the RTC and the CA that the qualifying circumstance of treachery attended the killing of Tolico, Sr.

Both the RTC and the CA properly disregarded Guc-ong's claim of self-defense. Significantly, he was not able to satisfactorily establish unlawful aggression on the part of the victim. This is fatal to his theory of self-defense.

Finally, the monetary awards granted by the CA are in accord with current jurisprudence.

ACCORDINGLY, the appeal is **DISMISSED**. The July 25, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 02245 is **AFFIRMED** in full.

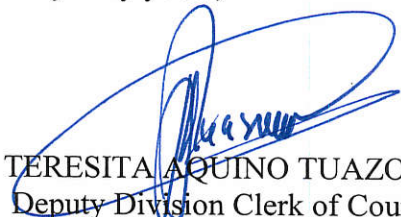
²⁰ Id. at 15-16.

²¹ Id. at 23.

²² Id. at 27-30; 31-34.

SO ORDERED.” (Delos Santos, *J.*, no part due to prior action in the Court of Appeals; *J. Leonen* designated additional member per raffle dated July 6, 2020.)

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
20 AUG 2020 *p 8/19*

PUBLIC ATTORNEY’S OFFICE (reg)
Regional Special & Appealed Cases Unit
3F, Taft Commercial Center
Metro Colon Carpark, Osmeña Boulevard
Brgy. Kalubihan, 6000 Cebu City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

CELESTINO GUC-ONG, JR. (reg)
Accused-Appellant
c/o The Superintendent
Leyte Regional Prison
Abuyog, 6510 Leyte

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

THE SUPERINTENDENT (reg)
Leyte Regional Prison
Abuyog, 6510 Leyte

JUDGMENT DIVISION (x)
Supreme Court, Manila

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 5
6000 Cebu City
(CBU No. 74294)

PUBLIC INFORMATION OFFICE (x)
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COURT OF APPEALS (reg)
Visayas Station
Cebu City
CA-G.R. CEB CR-H.C. No. 02245

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

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