

# FIRST DIVISION

[ G.R. No. 247658, February 17, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
REYNALDO PIGAR Y AMBAYANAN @ "JERRY"\* AND REYNALDO  
PIGAR Y CODILLA @ "LAWLAW," ACCUSED-APPELLANTS,**

**ROY PIGAR Y AMBAYANAN @ "BIROY," BUENAVENTURA PIGAR Y  
AMBAYANAN @ "MOKMOK" (DECEASED), WELFREDO PIGAR Y  
CODILLA @ "DAKO," VICTOR COLASITO @ "NONOY," JORLY  
COLASITO, WARAY COLASITO, JOEBERT COLASITO @ "GIMONG,"  
DODO COLASITO @ "REX," AND TWO JOHN DOES, ACCUSED.**

## DECISION

**LAZARO-JAVIER, J.:**

### The Case

This appeal seeks to reverse the Decision<sup>[1]</sup> dated February 26, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 02483, affirming the conviction of appellants Reynaldo Pigar y Ambayanan alias "Jerry" and Reynaldo Pigar y Codilla alias "Lawlaw" for murder under Article 248 of the Revised Penal Code (RPC), sentencing them to *reclusion perpetua* without eligibility for parole and requiring them each to pay P100,000.00 as civil indemnity, moral damages and exemplary damages, and P50,000.00 as temperate damages.

### Antecedents

Accused-appellants Reynaldo Pigar y Ambayanan alias "Jerry" and Reynaldo Pigar y Codilla alias "Lawlaw," along with Roy Pigar y Ambayanan @ "Biroy," Buenaventura Pigar y Ambayanan @ "Mokmok" (Deceased), Welfredo Pigar y Codilla @ "Dako," Victor Colasito @ "Nonoy," Jorly Colasito, Waray Colasito, Joebert Colasito @ "Gimong," Dodo Colasito @ "Rex," and two John Does were charged with murder under Article 248 of the Revised Penal Code, viz.:

That on or about the 17<sup>th</sup> day of August 2009 in the Municipality of Capooan, Province of Leyte, Philippines and within the jurisdiction of the Honorable Court, the said accused, conspiring, confederating and mutually helping each other, with intent to kill, armed with bladed weapons and bamboo poles with sharp pointed edges locally known as "Bangkaw", with treachery, evident premeditation, [abuse] (of) superior strength, employing means to weaken the defense and means to insure or afford impunity, did then and there willfully, unlawfully and feloniously attack, assault, [strike], stab and hack to death Feliciano S. Garces, Sr. inflicting upon the latter fatal wounds which caused his direct death.

## CONTRARY TO LAW.<sup>[2]</sup>

Only Buenaventura "Mokmok" Pigar and appellants Reynaldo "Jerry" Pigar and Reynaldo Pigar "Lawlaw" Codilla got arrested.

When arraigned, all three (3) pleaded not guilty.<sup>[3]</sup> Pending trial, "Mokmok" passed away. Hence, the charge against him was dismissed.<sup>[4]</sup> Trial, nonetheless, proceeded as for "Jerry" and "Lawlaw."

### *Version of the Prosecution*<sup>[5]</sup>

On August 17, 2009, around 6 o'clock in the evening, on his way home, Edgardo Garces, son of the victim, saw his co-worker Rogelio Tañala and Roy Pigar quarrelling. Edgardo tried to pacify them. Roy resented it and threw a stone at Edgardo. In retaliation, the latter delivered a fist blow but the former dodged it. This time, a certain Gagante pacified Roy and Edgardo. After the incident, Edgardo rushed home to warn his family because he was afraid that Roy (who was then drunk) would take revenge.

At that time, Edgardo's sister, Marietta Garces, was tending her kids inside their home. Edgardo and Marietta were children of Feliciano, Sr. who was then sleeping in his room. When Edgardo came in, he immediately instructed Marietta and the kids to transfer to their hut just across the street. Then, Edgardo left again to seek help from their uncle.

While Marietta was inside the hut, she saw Roy, with two (2) others, arrive on board a motorcycle. Roy stopped in front of their house and threw stones. Their father got roused from his sleep, stepped out, and shouted at Roy and his companions. One (1) of the neighbors witnessed the brewing confrontation and advised Feliciano, Sr. to let it go since Roy and his companions were drunk. Soon, ten (10) men arrived and surrounded the house, the men included appellants "Jerry" and "Lawlaw." Feliciano, Sr. then ran back inside the house, but some of the men ran after him. As they caught up with him inside the house, they hacked him with bolos and a bamboo spear, locally known as *bangkaw*. He ran out of the house only to be met by the other men who repeatedly hacked and poked him with their own bolos and *bangkaws*. At this point, Edgardo arrived. A gun shot then was heard. Thereupon, Roy signaled his companions to leave the place and everyone heeded.

Feliciano, Sr. was rushed to the hospital but was pronounced dead on arrival. At the time of the incident, Feliciano, Sr. was a thin fifty-two (52) year old man who moved slowly.

Municipal Health Officer Doctor Bibiana O. Cardente examined Feliciano, Sr.'s body. She found seventeen (17) stab wounds in his body. Five (5) were fatal, including a wound that damaged Feliciano, Sr.'s brain tissues.

### *Version of the Defense*<sup>[6]</sup>

On August 17, 2009, Jerry and his companions passed by Feliciano, Sr.'s house, where they saw the latter standing along the road. Feliciano, Sr. suddenly hacked

"Jerry" with a weapon. "Jerry" sustained wounds in his right elbow and in the right side of his head. Jerry got hold of Feliciano, Sr.'s weapon and used it on the latter. While "Jerry" was striking Feliciano, Sr., his companions helped by hitting Feliciano, Sr. with pieces of wood. "Jerry" hacked Feliciano, Sr. around seventeen (17) times and killed the latter as a result.

On cross, "Jerry" admitted that he purposely went to Feliciano, Sr.'s house with intent of killing Edgardo who had a misunderstanding with his older brother Roy. Jerry, though, testified that "Lawlaw" and "Mokmok" did not perpetrate the incident. They were included in the complaint only because Feliciano, Sr.'s family members were angry.

"Lawlaw" corroborated Jerry's claim. He reiterated that he had no participation in the killing. At the time of the incident, he was allegedly working in the bakery.

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

By Judgment<sup>[7]</sup> dated February 10, 2017, the Regional Trial Court (RTC)-Branch 36, Carigara, Leyte pronounced appellants guilty of murder, *viz.*:

**WHEREFORE**, premises considered, Judgment is hereby rendered, finding the two (2) accused **Reynaldo Pigar y Ambayanan @ "Jerry" and Reynaldo Pigar y Codilla @ "Lawlaw"**, **GUILTY** beyond reasonable doubt of conspiring in the killing of the victim [Feliciano S. Garces, Sr.]. There being the qualifying circumstance of abuse of superior strength and one ordinary aggravating circumstance of domicile proven by the prosecution without any mitigating circumstance to counter the same, both accused afore-named are hereby sentenced to suffer ***reclusion perpetua*** without eligibility for parole.

These two accused are also **ORDERED** to indemnify jointly and severally, the Heirs of Feliciano S. Garces, Sr. the amounts of **Php100,000.00** for civil indemnity *ex delict(o)*; **Php100,000.00** for moral damages; **Php100,000.00** for exemplary damages; and **Php50,000.00** for temperate damages.

**SO ORDERED.**<sup>[8]</sup>

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

On appeal, the Court of Appeals affirmed through its assailed Decision dated February 26, 2019.<sup>[9]</sup> It imposed six percent (6%) annual interest on all monetary awards.

### **The Present Appeal**

Appellants now seek affirmative relief from the Court and pray anew for their acquittal.

### **Issue**

Did the Court Appeals err in affirming appellants' conviction for murder?

## Ruling

Appellants faulted the Court of Appeals for affirming their conviction despite the alleged inconsistencies in the testimonies of the prosecution witnesses, specifically on: (a) the participation of "Lawlaw" in the brutal killing of Feliciano, Sr.; (b) how long the incident lasted; and (c) where exactly did the attack of Feliciano, Sr. began. It was also purportedly unclear whether Marietta had actually seen the incident from the hut where she was at that time. Too, it was allegedly contrary to human experience that Marietta, despite seeing her father being stabbed to death, did nothing to help the latter.<sup>[10]</sup>

Appellants further faulted both the trial court and the Court of Appeals for appreciating abuse of superior strength in addition to the qualifying circumstance of treachery. It is settled that when abuse of superior strength concurs with treachery, the former is simply absorbed in the latter.<sup>[11]</sup>

Lastly, appellants claim that denial and alibi are not always undeserving of credit for there are times when the accused has no other possible defense but denial.<sup>[12]</sup>

The Court affirms with modification.

Article 248 of the RPC, as amended by Republic Act No. 7659 (RA 7659)<sup>[13]</sup> provides:

Article 248. *Murder*. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity;

xxx    xxx    xxx

Murder requires the following elements: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (4) the killing is not parricide or infanticide.<sup>[14]</sup>

There is no question here regarding the presence of the first (1<sup>st</sup>) and fourth (4<sup>th</sup>) elements. The victim died of multiple stab wounds as testified to by examining Doctor Bibiana O. Cardente. There is also no evidence showing that Feliciano, Sr. and appellants are related by affinity or consanguinity. Hence, the killing is not parricide.

Appellants, nonetheless, deny the existence of the second (2<sup>nd</sup>) and third (3<sup>rd</sup>) elements. They claim that the testimonies of the prosecution witnesses are *incredible, illogical, and grossly inconsistent with human experience*, hence, should not have been given credence.

The Court disagrees.

When the credibility of the eyewitness is at issue, due deference and respect shall be given to the trial court's factual findings, its calibration of the testimonies, its assessment of their probative weight, and its conclusions based on such factual findings, absent any showing that it had overlooked circumstances that would have affected the final outcome of the case. This rule finds an even more stringent application where the trial court's findings are sustained by the Court of Appeals,<sup>[15]</sup> as in this case. ***People v. Collamat, et al.***<sup>[16]</sup> elucidates:

In cases where the issue rests on the credibility of witnesses, as in this case, it is important to emphasize the well-settled rule that "appellate courts accord the highest respect to the assessment made by the trial court because of the trial judge's unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grueling examination."

We explained in *Reyes, v. Court of Appeals* that the findings of the trial court will not be overturned absent any clear showing that it had *overlooked, misunderstood or misapplied* some facts or circumstances of weight or substance that could have altered the outcome of the case, *viz.:*

Also, the issue hinges on credibility of witnesses. We have consistently adhered to the rule that **where the culpability or innocence of an accused would hinge on the issue of credibility of witnesses and the veracity of their testimonies, findings of the trial court are given the highest degree of respect.** These findings will not be ordinarily disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could very well affect the outcome of the case. It is the trial court that had the opportunity to observe 'the witnesses' manner of testifying, their furtive glances, calmness, sighs or their scant or full realization of their oaths. It had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination. Inconsistencies or contradictions in the testimony of the victim do not affect the veracity of the testimony if the inconsistencies do not pertain to material points. (Emphasis supplied)

xxx xxx xxx

Here, prosecution witnesses Marietta and Edgardo consistently and positively identified appellants and their companions as the ones who simultaneously stabbed their father to death. To repeat, the trial court's factual findings as to the credibility of the witnesses are to be accorded the greatest respect. More so when these factual findings carry - the full concurrence of the Court of Appeals, as in this case.

Be that as it may, the alleged inconsistencies in their testimonies pertaining to how long the incident took place and where exactly the attack on the victim began all