

## SECOND DIVISION

[ G.R. No. 218209, April 10, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO  
ASENIERO, ACCUSED-APPELLANT.**

### DECISION

**CAGUIOA, J:**

Before this Court is an appeal<sup>[1]</sup> filed under Section 13, Rule 124 of the Rules of Court from the assailed Decision<sup>[2]</sup> dated October 30, 2014 (Decision) of the Court of Appeals, Nineteenth (19<sup>th</sup>) Division (CA), in CA-G.R. CEB CR-HC No. 01422, which affirmed the Decision<sup>[3]</sup> dated April 27, 2010 of the Regional Trial Court, Branch 18, Hilongos, Leyte (RTC), in Criminal Case No. H-1263, finding herein accused-appellant Romeo Aseniero (Romeo) guilty of the crime of Murder under Article 248 of the Revised Penal Code (RPC).

#### The Facts

Accused Romeo was charged for the crime of Murder under the following Information:

"That on or about the 24<sup>th</sup> day of August 2003, in the Municipality of Bato, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent to kill employing treachery and evident premeditation, did then and there willfully and feloniously attack, assault, hack[, ] stab DOMINADOR RANES with a long bolo which the accused had provided himself for the purpose[, ] thereby causing and inflicting upon the victim multiple stabbed [*sic*] and hacked [*sic*] wounds on the different parts of his body causing the immediate death of Dominador Ranes."<sup>[4]</sup>

Upon arraignment, Romeo pleaded not guilty.<sup>[5]</sup>

#### *Version of the Prosecution*

The version of the prosecution, as summarized by the CA, is as follows:

Roel Pilo, 19 years of age, married and a resident of Domagocdoc, Bato, Leyte is the first witness for the prosecution. He testified that he is a friend of the victim, Dominador Reyes. He knew the accused Romeo Aseniero because the latter lived in a neighboring barangay. On August 23, 2003, at approximately 4:00 in the afternoon, he was at Barangay Imelda, Bato, Leyte to attend a fiesta celebration. He was accompanied by his friend Jimmy Garong. At about 7:00 in the evening, they went to the barangay hall to see the operator of the sound system, who was their

close friend. At about 2:00 in the morning, he went to the dancing hall located inside the plaza, just 10 meters from the barangay hall. He saw Dominador Ranes, Mario Pelago, Analyn Gomez and Mira Pagay occupying one table. At about 5:00 in the morning, he left the dancing hall together with the group of Dominador Ranes. On their way home, they passed by a road in Brgy. Imelda, Bato, Leyte. Since the road was too narrow, they did not walk side by side. Mira Pagay trailed first, followed by Mario Pelago, then Roel, and behind him were Dominador Ranes and Analyn Gomez. Suddenly, he heard Dominador say "Aray" (*Ouch!*). At that instant, he saw Dominador run past him followed by the accused Romeo Aseniero, who was carrying a long bolo. More or less four (4) meters from where he was, Dominador stumbled, with his back on the ground. The accused caught up with the victim and hacked him multiple times. Prior to the stabbing, Roel Pilo did not notice that the accused was around. He recalled that on both sides of the narrow trail, there were a lot of plants such as bamboo and coconut trees. He was so shocked by the incident that he just stood there and watched. He asked the accused why he stabbed the victim, to which the accused replied that he was jealous. At the trial, Roel identified the murder weapon (long *bolo*) used in [the] killing of the victim.

On cross-examination, Roel Pilo admitted that it was only during the fiesta celebration that he met the accused. At the place where the incident occurred, the grasses were short such that any person on both sides of the narrow trail can readily be seen. He also admitted that since the victim was walking behind him, he did not know if it was the accused who assaulted the victim first.

The second witness for the prosecution is Analyn Gomez, single, 24 years of age, and a resident of Brgy. Domagocdoc, Bato, Leyte. She testified that the victim was her current boyfriend at the time of the incident and that the suspect was her former boyfriend. On August 23, 2003, she went to Brgy. Imelda to attend the fiesta celebration. She stayed at the house of a *Sangguniang Kabataan* Chairman and at about 11:30 in the evening, she went to the dance hall, together with Mira Bagay, Dominador Ranes, Lita Reyes and Gleen Reyes. At the dance hall, [s]he saw the accused Romeo Aseniero and his companions. Analyn and her group went out of the dance hall at about 5:00 in the morning. On their way home to Brgy. Domagocdoc, they passed upon a narrow road. She was walking behind Dominador on th[e] trail when Romeo Aseniero suddenly came from behind her and stabbed Dominador in the back with a bolo. Dominador tried to run but stumbled down twenty-five (25) feet from where he was stabbed. The accused was able to catch up with the victim and he continued to stab the latter several times. She shouted "No!" but the accused continued hacking the victim and even chopped off the latter's feet. The rest of the group ran away while she hid herself behind a coffee tree, as the accused was looking for her. She then ran towards the house of the barangay chairman of Brgy. Domagocdoc where she reported the incident. She narrated that the reason why Romeo killed Dominador is jealousy. She also identified the bolo used in killing the victim.

Upon clarificatory questioning by the judge, Analyn revealed that just one month after her break-up with the accused, she started a relationship with the victim. And that based on her observations, the accused was uneasy with her new love affair.

On cross-examination, she propounded that the reason why she broke up with the accused was because the latter courted her cousin. She admitted that on both sides of the narrow trail are cliffs. Before the accused stabbed the victim, the former pushed her aside but she did not fall down the cliff as there was a rock on the side of the trail. She shouted but it was already too late as Dominador was already stabbed in the back. During the stabbing incident, the rest of the group ran away except for Roel Pilo. She also admitted that the accused voluntarily surrendered to the barangay chairman.

The prosecution's third witness is Dr. Provo Quijano, 34 years of age, a resident of Brgy. Bagumbayan, Bato, Leyte, and the Municipal Health Officer of Bato, Leyte. At the trial, he identified the medical certificate which he issued in connection with the death of Dominador Ranés. Since the counsel for the defense admitted the due execution of the medical certificate, Dr. Quijano merely identified the said certificate and no longer testified as to the circumstances surrounding the death of the victim.<sup>[6]</sup>

#### *Version of the Defense*

The version of the defense, as summarized by the CA, is as follows:

The first witness for the defense is Loreto Gomez Papa, 42 years of age, married, a *tuba* gatherer and a resident of Brgy. Marcelo, Bato, Leyte. He testified that he knows the accused as they are neighbors and childhood playmates. On August 23, 2003, he was at Brgy. Imelda, Bato, Leyte attending the barrio fiesta. He was with his cousins, namely, Julie and Bobby Papas. They stayed at the house of their friend and went to the dance hall at about 10:00 in the evening. He noticed that the accused and Analyn Gomez were inside the dance hall, occupying different tables with their respective groups. At about 5:00 in the morning, he left the dance hall together with his two cousins and the accused, Romeo Aseniero. Analyn and her group were walking ahead of them at a distance of about ten (10) arms-length. Analyn Gomez and the accused were still sweethearts and have not broken up yet, but they were quarreling at that time. When the accused saw Analyn, he tried to go after her and her companion. He told the accused to just leave them alone but the latter did not heed his advice. When the accused approached Analyn, he was kicked by Dominador. Instantly, Dominador unsheathed his knife and Romeo, in turn, unsheathed his bolo. Loreto feared that a bloody fight was forthcoming so he ran away. His other companions also took off. Later that day, he received word that the companion of Analyn died.

On cross-examination, he admitted that Analyn Gomez and her group left the dance hall ahead of their group, but the accused followed them. Romeo Aseniero caught up with Analyn and her group. He was jealous and he wanted to confront Analyn.

Loreto admitted that until the time the accused and the victim unsheathed their weapons, no altercation occurred.

The second witness for the defense is Gregorio Pol, 49 years of age, married, a *tuba* gatherer, and a resident of Brgy. Marcelo, Bato, Leyte. He testified that he knew the accused because the latter lives near their barangay. In the early morning of August 24, 2003, he was walking behind Alin (Analyn) Gomez and accused, along with other persons. Dominador was following the group of the accused. Suddenly, Dominador kicked the accused and stabbed him with a knife. The accused then leaned back, unsheathed his bolo and stabbed Dominador. Gregorio immediately ran away and did not know what happened next after the accused stabbed the victim.

On cross-examination, Gregorio admitted that while Analyn and Dominador were walking side by side, the accused trailed behind them and was walking fast. On re-direct, he clarified that he saw the victim stab the accused in the chest.

The third witness for the defense is SPO3 Wilfreda Vargas, 48 years of age, married, a police officer assigned at Matalom, Leyte, and a resident of Brgy. Tinago, Bato, Leyte. He testified that in the early morning of August 24, 2003, the accused, accompanied by one person, surrendered at the police station of Matalom. He personally received the accused and caused the recording of the incident in the police blotter.

The accused did not testify in his own behalf.<sup>[7]</sup>

### **Ruling of the RTC**

In its Decision dated April 27, 2010, the RTC found Romeo guilty of Murder, to wit:

**WHEREFORE**, in view of the foregoing, accused **ROMEO ASENIERO is found GUILTY of MURDER under the Revised Penal Code as amended beyond reasonable doubt and [is] hereby sentenced to suffer the imprisonment of RECLUSION PERPETUA. And to indemnify the heirs of Dominador Ranés the amount of FIFTY THOUSAND PESOS (P50,000.00), and to pay the amount of FIFTY THOUSAND PESOS (P50,000.00), as moral damages.**

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

The RTC ruled that treachery attended the killing of the victim.<sup>[9]</sup> The victim was suddenly and unexpectedly hacked from behind by the accused.<sup>[10]</sup> It further ruled that the testimonies of the defense witnesses are incomplete and unconvincing.<sup>[11]</sup> Lastly, it held that although the accused voluntarily surrendered to the police authorities, such mitigating circumstance cannot be applied to lower an indivisible penalty.<sup>[12]</sup>

Aggrieved, Romeo appealed to the CA.

### **Ruling of the CA**

In the assailed Decision dated October 30, 2014, the CA affirmed the conviction by

the RTC:

**WHEREFORE**, the April 27, 2010 Decision rendered by the Regional Trial Court (RTC), Branch 18, Hilongos, Leyte finding accused-appellant Romeo Aseniero guilty of murder is **AFFIRMED** with **MODIFICATION** of his civil liability. Accused-appellant is **ORDERED** to pay to the Heirs of Dominador Ranes the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P30,000.00 as exemplary damages, P25,000.00 as temperate damages, interest on all the damages herein awarded at the legal rate of 6% from the date of the incident to the finality of the judgment and 12% from the finality hereof until fully paid, and to pay costs.

x x x x

**SO ORDERED.**<sup>[13]</sup>

The CA held that the accused's attack on the victim was treacherously carried out.<sup>[14]</sup> At the time of the attack, the victim was just walking with his girlfriend and companions when he was suddenly hacked from behind by the accused.<sup>[15]</sup> It further held that the testimony of Analyn Gomez (Analyn), the victim's girlfriend, is credible and sufficient as it is corroborated by the other witnesses in some material points.<sup>[16]</sup> Lastly, it held that the mitigating circumstance of voluntary surrender should be considered in the imposition of the penalty.<sup>[17]</sup>

Hence, this appeal.

### **Issue**

Whether the CA erred in affirming Romeo's conviction for Murder despite the fact that the prosecution failed to establish his guilt for Murder beyond reasonable doubt.

### **The Court's Ruling**

The appeal is partly meritorious.

It is settled that findings of fact of the trial courts are generally accorded great weight; except when it appears on the record that the trial court may have overlooked, misapprehended, or misapplied some significant fact or circumstance which if considered, would have altered the result.<sup>[18]</sup> This is axiomatic in appeals in criminal cases where the whole case is thrown open for review on issues of both fact and law, and the court may even consider issues which were not raised by the parties as errors.<sup>[19]</sup> The appeal confers the appellate court full jurisdiction over the case and renders such competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>[20]</sup>

After a careful review and scrutiny of the records, the Court affirms the conviction of Romeo, but only for the crime of Homicide, instead of Murder, as the qualifying circumstance of treachery was not proven in the killing of the victim.

***Treachery not established beyond reasonable doubt***