

SECOND DIVISION

[G.R. No. 227997, October 16, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NOELLITO* DELA CRUZ Y DEPLOMO, ACCUSED-APPELLANT.**

DECISION

ZALAMEDA, R.V., J.:

The mere suddenness of an attack does not necessarily equate to treachery. The accused must have knowingly, deliberately, and consciously adopted the means or method to ensure the execution of his criminal purpose without risk to himself arising from the defense which the victim might offer, for the same to be appreciated as a qualifying circumstance.

The Case

This appeal seeks the reversal of the Decision dated 12 November 2015^[1] of the Court of Appeals in CA-G.R. CR-HC No. 06689, which affirmed with modification the Decision dated 30 July 2013^[2] of Branch 150, Regional Trial Court (RTC), Makati City, finding accused-appellant, Noellito Dela Cruz y Deplomo, guilty of the murder of Ramir Joseph Eugenio (Ramir).

Antecedents

In an Information dated 11 November 2009,^[3] accused-appellant was charged with the crime of murder under Article 248 of the Revised Penal Code (RPC), as amended by Section 6 of Republic Act No. 7659. The accusatory portion of the Information reads as follows:

On the 9th day of November 2009, in the city of Makati, the Philippines, the accused, with intent to kill and by means of treachery, did then and there willfully, unlawfully and feloniously stab one Ramir Joseph Eugenio, with a "knife" thereby inflicting serious and mortal wounds upon said Ramir Joseph Eugenio, which directly caused his death.

CONTRARY TO LAW.^[4]

During his arraignment on 01 December 2009, accused-appellant entered a plea of "not guilty." Trial on the merits ensued after the pre-trial conference.^[5]

Version of the Prosecution

The facts, as culled from the testimony of the prosecution witnesses, are as follows:

Ramir, accused-appellant, and witness Ronald Herreras (Ronald), along with several others, lived on different floors of a three-storey house. On 09 November 2009, while Ronald was working at a nearby vulcanizing shop, he heard that his uncle, herein accused-appellant, and Ramir were engaged in a fistfight inside the latter's room. Ronald rushed to the scene and found accused-appellant and Ramir blocking the door. As he tried to open the door, Ronald saw Ramir lying in a pool of blood, with accused-appellant holding a knife embedded on Ramir's forehead.

Petrified by the scene, Ronald closed the door and sought help from the other occupants of the house but to no avail. This prompted Ronald to go back to Ramir's room where he wrestled the knife from his uncle. Afterwards, he went to the ground floor of the house, threw the knife underneath the washing machine, and ran outside to seek help. Ramir was brought to the hospital but was declared dead on arrival. Upon questioning, Ronald told the investigating policeman that he hid the knife used to stab Ramir. When he returned to the house, Ronald retrieved the knife and surrendered it to PO3 Julius Guerrero.^[6]

Vilma Foronda (Vilma) corroborated Ronald's testimony in its material points. According to her, she lived in one (1) of the rooms in the house she shared with accused-appellant and the victim. On 09 November 2009, while she was cooking in her room with the door open, Vilma saw accused-appellant knock on Ramir's door. Ramir opened his door, saw accused-appellant, and cursed at him. Suddenly, accused-appellant took a knife from his pocket and stabbed Ramir who then retreated to his room. Out of fear, Vilma closed the windows, locked her door and shouted for help. She heard loud, banging noises coming from Ramir's room, with Ronald shouting, "*Tito Noel tama na po!*" Taking a peep through her door, she saw accused-appellant emerge from Ramir's room as if nothing happened. When she finally opened her door, Vilma saw people carrying Ramir's body out of the room.^[7]

For his part, Dr. Roberto Rey San Diego (Dr. San Diego) recalled that he conducted an autopsy on the victim. Based on his examination, Dr. San Diego found Ramir to have sustained incised wounds on the forehead,^[8] as well as stab wounds and contusions on his body. Anent the stab wounds, two (2) of these were considered fatal and another two (2) were classified as defense wounds.^[9]

Version of the Defense

Denying the allegations against him, accused-appellant attested that on 09 November 2009 at around 11:00 a.m., he was sleeping inside his room when he was awakened by a policeman and a certain Philip, who pointed to him as the one who killed Ramir. He further testified that prior to the said date, he did not have any kind of misunderstanding with Ramir. He also denied owning the knife which was used in the killing. In his view, the witnesses who testified against him were upset for his refusal to extend financial assistance to them.^[10]

Ruling of the RTC

The RTC convicted accused-appellant of the crime charged through a Decision dated 30 July 2013, the *fallo* of which reads:

WHEREFORE, premises considered, the court finds accused Noellito dela Cruz Guilty beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code as amended by Republic Act No. 7659 qualified by treachery and hereby sentences him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law. The accused is likewise ordered to pay the legal heirs of victim Ramir Joseph Eugenio the amounts of Php75,000.00 as civil indemnity, Php41,500.00 as actual damages and Php50,000.00 as moral damages all with interest at the legal rate of 6% per annum from this date until fully paid.

SO ORDERED.^[11]

As held by the trial court, accused-appellant's denial cannot prevail over the testimonies of Ronald and Vilma, who positively identified him as the person who stabbed Ramir. Moreover, the RTC ruled that accused appellant failed to substantiate his defense of insanity.^[12]

Ruling of the Court of Appeals

On 12 November 2015, the Court of Appeals rendered the assailed decision affirming the conviction of accused-appellant, to wit:

WHEREFORE, in view of the foregoing, the appeal is **DENIED**. The Decision dated July 30, 2013 of the Regional Trial Court of Makati City, Branch 150, finding accused-appellant Noellito Dela Cruz y Deplomo guilty beyond reasonable doubt of the crime of MURDER, is hereby **AFFIRMED** with the **MODIFICATION** in that in addition to the monetary awards awarded by the court *a quo*, appellant is hereby further ordered to pay the heirs of Ramir Joseph Eugenio the amount of Ten Thousand Pesos (P10,000.00) by way of exemplary damages. Interest at the legal rate of six percent (6%) per annum, shall be imposed on the total monetary awards in the appealed decision until the same are fully paid.

SO ORDERED.^[13]

The appellate court ruled that all the elements of murder had been properly alleged and proven by the prosecution. It found the testimonies of the prosecution witnesses to be sincere and straightforward thereby worthy of credence. In contrast, accused-appellant's denial and alibi were not substantiated by any clear and

convincing evidence, and therefore, considered self-serving.^[14]

Issues

For purposes of this appeal, the Office of the Solicitor General (OSG)^[15] and the Public Attorney's Office (PAO)^[16] manifested they were no longer filing their respective supplemental briefs, and prayed the briefs submitted to the Court of Appeals be considered in resolving the appeal.

In his brief, accused-appellant claims the prosecution witnesses gave conflicting testimonies leading to an inconsistent story as to how the crime transpired. Without conceding he committed the crime, accused-appellant also argues he was deprived of reason during its commission due to his diagnosed schizophrenia.^[17]

In response, the OSG maintains all the elements of the crime of murder had been substantially proven by the prosecution. Furthermore, accused-appellant's defense of alibi cannot overcome the direct and positive testimony of Ronald and Vilma. The OSG also argues accused-appellant failed to substantiate with clear and convincing proof his claim of insanity.^[18]

With these contentions, the Court is tasked to determine whether the Court of Appeals erred in affirming accused-appellant's conviction for murder.

Ruling of the Court

The appeal is partly meritorious.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.^[19]

In this case, there is no doubt that accused-appellant is liable for the death of the victim. The Court, however, rules that based on a thorough review of the records, the applicable law, and jurisprudence, accused-appellant may only be convicted for homicide, and not murder.

The qualifying circumstance of treachery or alevosia was not proven beyond reasonable doubt

It is established that qualifying circumstances must be proved with the same quantum of evidence as the crime itself, that is, beyond reasonable doubt.^[20] The

qualifying circumstance of treachery or *alevosia* is present when the offender, in the execution of the crime against a person, employs means, methods or forms, which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.^[21] The essence of treachery is the sudden attack by the aggressor without the slightest provocation on the part of the unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring the commission of the crime without risk to the aggressor arising from the defense which the offended party might make. To be appreciated, the following elements must be present:

1. At the time of attack, the victim was not in a position to defend himself or to retaliate or escape; and
2. The accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.^[22]

Contrary to the findings of the trial and appellate courts, We hold that the second condition was not proven with clear and convincing evidence. The prosecution failed to establish that accused-appellant purposely adopted the means, method or form of attack to deprive the victim of a chance to either fight or retreat,^[23] or to ensure the execution of his criminal purpose without any risk to himself arising from the defense that the victim might offer,^[24] without the slightest provocation on the latter's part.^[25]

While the victim may have been unarmed and was stabbed at the doorstep of his room, there was nary any evidence to show that the attack was preconceived and deliberately adopted without risk to accused-appellant. To be sure, the attack was committed in broad daylight,^[26] inside a house shared with other tenants, within the immediate view and in proximity of the witness, Vilma. Thus, all these negate that the attack was done deliberately to ensure the victim would not be able to defend himself; or to retreat, or even to seek help from others.

Even Vilma's testimony was bereft of any indication that indeed, accused-appellant deliberately made the attack:

Q: And after Noellito Delacruz the accused in this case knocked at the door of Ramir's room what happened next?

A: He was being opened the door by Ramir, sir (sic).

Q: And what else did you see, if any, after that?

A: When Ramir left the room, I heard what he said "PUTANG INA MO IKAW LANG PALA ISTORBO KA".

Q: After Ramir said those words what happened next?

A: After Ramir said those words I saw with my own eyes Noellito got a knife from his pocket and immediately stabbed Ramir,