

# FIRST DIVISION

[ G.R. No. 213222, September 24, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.  
ALBERTO PETALINO ALIAS "LANIT," ACCUSED-APPELLANT.**

## DECISION

**BERSAMIN, J.:**

Treachery is not appreciated against the accused despite the attack being sudden and unexpected when the meeting between him and the victim was casual, and the attack was done impulsively.

### The Case

We review the decision promulgated on April 24, 2014,<sup>[1]</sup> whereby the Court of Appeals (CA) affirmed the judgment rendered on January 24, 2013 by the Regional Trial Court (RTC), Branch 35, in Iloilo City finding accused-appellant Alberto Petalino *alias* "Lanit" guilty beyond reasonable doubt of the crime of murder.<sup>[2]</sup>

### Antecedents

The accused-appellant was charged with murder through the information dated February 19, 1998, which avers:

That on or about the 30th day of November, 1997 in the City of Iloilo, Philippines and within the jurisdiction of this Honorable Court, herein accused, armed with a knife, with treachery and evident premeditation, with a decided purposes (sic) to kill, did then and there willfully, unlawfully and criminally stab, hit and wound Johnny Nalangay with the said knife, which the said accused was provided at the time, thereby causing upon the latter injuries on vital parts of his body which caused his death few hours thereafter.

CONTRARY TO LAW.<sup>[3]</sup>

As culled from the assailed decision of the CA, the following are the antecedent facts, to wit:

#### Version of the Prosecution

Eyewitness Franklin Bariquit recalled that on November 30, 1997, he attended a party with his friend, a certain Carlo, in Barangay Danao, Iznart Street, Iloilo City. There, he met and befriended Johnny Nalangay, the victim in this case.

At around 1:30 in the morning, he and the victim decided to leave. They then headed towards the YMCA where they intended to get their respective rides for home. Bariquit walked behind the victim when the

two passed through a narrow alley towards Iznart St. While they were walking, Bariquit saw a person, whom he later identified as accused Alberto Petalino *alias* Lanit, walking towards them from the opposite direction. When accused had passed the victim, he suddenly turned towards him, grabbed his hair and without warning, stabbed the victim in the back. The victim tried to run away, but he fell down after running a distance.

Thereafter, the accused and Bariquit confronted each other, The latter kicked the accused causing him to fall down and to drop his knife. Bariquit then ran away and proceeded to PO's Marketing which was located near the Bank of the Philippine Islands. After sensing that the accused was no longer chasing him, he went back to the alley where he last saw the victim. There, Bariquit found the victim lying on the ground, face down and bloodied all over. The victim managed to utter some words but became unconscious when he was taken to St. Paul's Hospital where he eventually died.

Jaime Nalangay, the father of the victim, testified that his son was only twenty (20) years old at the time of his untimely death. According to him, a police officer and his friend came over to their house and informed him that his son was stabbed. Thus, he went to the hospital but when he arrived there, he found his son dead. Nalangay alleged that he spent Php15,000.00 for the embalming of his son's remains and another Php10,000.00 for his burial although he could not present receipts as he lost them. He also asserted that his son's death caused him so much pain which could never be quantified into monetary amount.<sup>[4]</sup>

#### Version of the Defense

x x x x

Accused Petalino testified in court to refute the accusations against him.

Accused narrated that on November 30, 1997 at around eleven o'clock in the evening, he was at his sister's store located in Valeria-Solis Street, Iloilo City helping his sister serve the customers. He left the store shortly later and headed home towards Valeria-Iznart Streets, Iloilo City. He entered a narrow alley along the way and met two persons. One of them, a certain Bariquit, called him "Lanit". At first, he did not reply as he did not know the two. When he was called the second time, he turned his back and accidentally bumped into another person that he later identified as the victim.

Accused apologized but the victim got angry and boxed him on his chest. Accused lost control and punched the victim back. Thereafter, the victim fell down, drew his knife and chased him. The victim then attempted to stab him but they wrestled and accused was able to get hold of the knife. Meanwhile, the victim's two other companions attempted to help. This prompted accused to run away as both were drunk. He was chased and so, he ran towards the interior portion of Valeria Street and proceeded inside his nipa hut.<sup>[5]</sup>

x x x x

## Judgment of the RTC

On January 24, 2013, the RTC rendered judgment finding the accused-appellant guilty beyond reasonable doubt of murder,<sup>[6]</sup> disposing:

**WHEREFORE**, in the light of the foregoing, judgment is hereby rendered finding the accused, **Alberto Petalino** alias "Lanit" **GUILTY** beyond reasonable doubt of Murder defined and penalized under Article 248 of the Revised Penal Code. He is hereby sentenced to suffer the penalty of *Reclusion Perpetua* with all the accessory penalties provided for by law. As civil liability, he is ordered to indemnify the heirs of the victim, Johnny Nalangay, P75,000.00 as indemnity ex-delicto, P50,000.00 as moral damages, P30,000.00 as exemplary damages, and P25,000.00 as temperate damages.

The accused is entitled to full credit in the service of his sentence, the preventive imprisonment he has undergone pursuant Article 29 of the Revised Penal Code.

**SO ORDERED.**<sup>[7]</sup>

## Decision of the CA

On appeal, the accused-appellant argued that:

I.

THAT THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II.

THAT THE TRIAL COURT ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY WHEN IT WAS NOT PROVEN BY THE PROSECUTION.<sup>[8]</sup>

On April 24, 2014,<sup>[9]</sup> the CA affirmed the conviction, opining that the inconsistencies in the declaration of eyewitness Franklin Bariquit related to minor and trivial matters that did not necessarily impair his credibility; that the accused-appellant's denial of the offense did not overcome Bariquit's positive identification of him as the assailant; and that the qualifying circumstance of treachery had attended the killing of Johnny Nalangay, upgrading the killing to murder. The CA disposed thusly:

**WHEREFORE**, premises considered, the Decision dated January 24, 2013 of the Regional Trial Court, Branch 35 of Iloilo City in Criminal Case No. 48298 is hereby **AFFIRMED** in toto. No costs.

**SO ORDERED.**<sup>[10]</sup>

## Issues

The accused-appellant seeks the reversal of his conviction by insisting that the Prosecution did not prove his guilt beyond reasonable doubt; and that the Prosecution did not prove the qualifying circumstance of treachery.

## **Ruling of the Court**

The appeal is partly meritorious.

### **1.**

#### **Denial and alibi did not prevail over positive identification**

We have held that denial and alibi do not prevail over the positive identification of the accused by the State's witnesses who testify categorically and consistently, and who are bereft of ill-motive towards the accused. Denial, if not substantiated by clear and convincing evidence, is a negative and self-serving defense that carries no greater evidentiary value than the declaration of a credible witness upon affirmative matters.<sup>[11]</sup> Indeed, we have held that denial and alibi, to be credited, must rest on strong evidence of non-culpability on the part of the accused.<sup>[12]</sup>

The accused-appellant admitted being at the crime scene, but denied stabbing the victim. He submitted that the victim had drawn a knife and run after him to stab him; and that they had then wrestled until he had gotten hold of the knife. He recalled that he had run away because the victim's two drunk companions had tried to go to latter's succor. He denied having anything to do with the stabbing of the victim, and having any idea how the victim had sustained his fatal injury.

As mentioned, the RTC gave scant consideration to the claim of the accused-appellant, and accorded full credence to Bariquit's positive and categorical identification of the accused-appellant as the assailant who had stabbed and mortally wounded the victim. The RTC's treatment of the identification by Bariquit of the accused-appellant as the assailant who had stabbed the victim was warranted. Bariquit's credibility as an eyewitness was unassailable considering that there was no showing or hint of ill-motive on his part to falsely incriminate the accused-appellant. His identification of the latter as the assailant of Nalangay, being firm and untainted by ill-motive, prevailed over the unsubstantiated denial.<sup>[13]</sup>

The accused-appellant pointed to the supposed inconsistencies and improbabilities that rendered the testimony of Bariquit on the incident undependable. According to the accused-appellant, Bariquit, although stating on direct examination that he and the victim had attended a birthday party prior to the stabbing incident, later declared on cross-examination that he and the victim had been at a party that was "not really a birthday party." The accused-appellant also pointed to the confusion on the part of Bariquit about the exact place where the party had been held.

The RTC and the CA both ruled out the challenge posed by the accused-appellant against Bariquit's credibility. We agree with them. The inconsistencies referred to what had transpired before the crime was committed, and did not relate to material facts vital to the determination of the guilt or innocence of the accused-appellant. The inconsistencies were also too minor and trivial to have any significance in this adjudication. At best, they concerned credibility, but the adverse findings by the trial court on the credibility of witnesses and of their testimonies were entitled to great respect, even finality, unless said findings were shown to have been arbitrary, or unless facts and circumstances of weight and influence were shown to have been overlooked, misunderstood, or misapplied by the trial judge that, if properly considered or appreciated, would have affected the outcome in favour of the accused-appellant. Needless to state, such findings are now binding on