

SECOND DIVISION

[G.R. No. 197043, February 29, 2012]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANTONIO
BALDOMAR Y LISCANO, APPELLANT.**

R E S O L U T I O N

BRION, J.:

We decide the appeal, filed by Antonio Baldomar y Liscano (*appellant*), from the December 22, 2010 decision^[1] of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 03815. The appealed decision affirmed the December 22, 2008 decision^[2] of the Regional Trial Court (RTC) of Pasig City, Branch 262, finding the appellant guilty beyond reasonable doubt of the crimes of murder and frustrated murder in Criminal Case Nos. 125677-H and 125678, respectively.

In its December 22, 2008 decision, the RTC found the appellant guilty of murder for the death of Eulogio Leguin, and of frustrated murder for the serious wounding of German Irasga. It gave credence to the testimony of German that the appellant stabbed him in the chest while he was sleeping, and also at the back while he was running out of the house. It also believed German's declaration that the appellant stabbed Eulogio.

According to the trial court, German's testimony was supported by the testimonies of Nena Baldomar, Lita Leguin and Edgar Leguin, who all declared that they saw the appellant holding a dagger and standing near the head of the bloodied Eulogio. The RTC disregarded the appellant's denial in light of the positive identification by the witnesses. It likewise held that treachery attended the commission of the crimes, as the attacks on the victims were sudden and unexpected.

In Criminal Case No. 125677-H (murder), the RTC ordered the appellant to suffer the penalty of *reclusion perpetua*, and to pay Eulogio's heirs the amounts of P50,000.00 as moral damages, P25,000.00 as temperate damages, and P25,000.00 as exemplary damages. In Criminal Case No. 125678 (frustrated murder), the trial court ordered the appellant to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

On appeal, the CA affirmed the RTC decision. It held that German positively identified the appellant as the person who stabbed him and Eulogio. The appellate court also sustained the trial court's finding that treachery attended the attack on the two victims.

Our Ruling

We dismiss the appeal, but modify the awarded indemnities.

It is settled that this Court will not interfere with the trial court's assessment of the witnesses' credibility, absent any indication or showing that the trial court overlooked some material facts or gravely abused its discretion, especially where, as in this case, such assessment is affirmed by the CA. In the present case, we see no compelling reason to disturb the factual findings of the courts *a quo*.

German positively identified the appellant as the person who stabbed him in the chest while he was sleeping, and also at the back while he was running out of the house. He also pointed to the appellant as the person who stabbed Eulogio, causing the latter's death. German's testimony was supported by the testimonies of Nena, Lita and Edgar, all of whom testified that when they went to the sala, they saw the appellant holding a bloodied knife in his right hand while standing near Eulogio's head. As the lower courts did, we see no reason to disbelieve the testimonies of these prosecution witnesses; their narrations were straightforward and replete with details that jibed on material points.

The lower courts correctly ruled that treachery attended the stabbing of the victims. The attacks were swift and sudden; the unsuspecting victims had no expectation of the coming assault, as they were asleep when they were attacked.

We are unpersuaded by the appellant's defense of denial. It is elementary that the defense of denial is outweighed by a positive identification that is categorical, consistent and untainted by any ill motive on the part of the eyewitnesses testifying on the matter. Denial, like alibi, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law.^[3]

The Penalties

The crime of murder qualified by treachery is penalized under Article 248 of the Revised Penal Code, as amended, with *reclusion perpetua* to death. For the death of Eulogio, the lower courts correctly sentenced the appellant to suffer the penalty of *reclusion perpetua* only, since there were no aggravating or mitigating circumstances that attended the commission of the crime.

The courts *a quo* also imposed the correct penalty for frustrated murder in Criminal Case No. 125678. Under Article 61, paragraph 2 of the Revised Penal Code, the penalty for frustrated murder is one degree lower than *reclusion perpetua* to death, which is *reclusion temporal*. *Reclusion temporal* has a range of twelve (12) years and one (1) day to twenty (20) years. Applying the Indeterminate Sentence Law, the maximum of the indeterminate penalty should be taken from the medium of *reclusion temporal*, since no aggravating or mitigating circumstances attended the commission of the crime. The minimum of the indeterminate penalty shall be taken from the full range of prision mayor which is one degree lower than *reclusion temporal*. Prescinding from the foregoing discussion, the imposed indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, was proper.

The Proper Indemnities

In Criminal Case No. 125677-H, we affirm the awards of P50,000.00 as moral