

SECOND DIVISION

[G.R. No. 186420, August 25, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SAMUEL ANOD,
APPELLANT.**

R E S O L U T I O N

NACHURA, J.:

Before this Court is an Appeal,^[1] assailing the Court of Appeals (CA) Decision^[2] dated August 27, 2008 which affirmed with modification the Decision^[3] dated July 3, 2001 of the Regional Trial Court (RTC) of Bislig, Surigao del Sur, Branch 29, finding appellant Samuel Anod (appellant) and his co-accused Lionel Lumbayan (Lumbayan) guilty beyond reasonable doubt of the crime of Murder committed against Erlando Costan (Costan).

The Facts

Appellant and Lumbayan were charged with the crime of Murder in an Information dated June 23, 1997 which reads:

That on or about 10:30 o'clock (sic) in the evening, more or less, of May 16, 1997, at Purok 1, [B]arangay Borbonan, [M]unicipality of Bislig, [P]rovince of Surigao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named [appellant] conspiring, confederating and mutually helping one another for a common purpose, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault[,] stab and hack one Erlando Costan with the use of a pointed bolo, thereby inflicting upon the latter multiple stab and hack wounds which cause[d] his instantaneous death, to the damage and prejudice of the heirs of the said Costan.

CONTRARY TO LAW: In violation of Article 248 of the Revised Penal Code.
^[4]

During the arraignment on November 12, 1997, appellant and Lumbayan entered pleas of "not guilty" to the crime charged. Thereafter, trial on the merits ensued. In the course of the trial, two varying versions arose.

Version of the Prosecution

Before midnight of May 16, 1997, the victim, Costan, was stabbed and hacked to

death in his house situated in *Barangay* Borbonan,^[5] Bislig, Surigao del Sur (Borbonan). His body was found by Miguel Platil. The following day, May 17, 1997, appellant and Lumbayan surrendered to Andromeda Perater, *Barangay* Chairperson of Borbonan (*Barangay* Chairperson), before whom they admitted the killing of Costan. On May 18, 1997, appellant and Lumbayan were brought to the police station. The *Barangay* Chairperson testified before the RTC that appellant narrated and admitted to her that he and Lumbayan killed Costan. This narration of facts

was entered in the *Barangay* Logbook, duly signed by appellant and Lumbayan, and authenticated by two (2) other witnesses.

Version of the Defense

Appellant averred that at around 7 p.m. of May 16, 1997, he and Lumbayan were having a drinking spree in the store of one Dodoy Advincula in Borbonan where they were joined by a certain Angges. An hour later, appellant asked his companions to go home. On their way home and upon reaching a dark place, Lumbayan suddenly stabbed Angges. He then invited appellant to sleep at the house of Lumbayan's aunt. Subsequently, however, Lumbayan told appellant that they would spend the night at Costan's house.

Upon reaching Costan's house, Lumbayan called for the victim. Costan opened the door for them and immediately thereafter, Lumbayan poked a knife at Costan and ordered appellant to tie the victim while the latter was lying down. He then ordered appellant to stab Costan. Out of fear of being stabbed by Lumbayan who, at the time, was poking a knife at appellant's breast, appellant stabbed Costan once at the back. Thereafter, appellant and Lumbayan went to the house of Lumbayan's aunt. They surrendered to the *Barangay* Chairperson allegedly upon the prodding of appellant. On the other hand, Lumbayan denied all the charges, claiming that he and appellant slept early on the night of the incident at his aunt's house. The following day, they were fetched and brought to the house of the *Barangay* Chairperson.

The RTC's Ruling

On July 3, 2001, the RTC found appellant and Lumbayan guilty beyond reasonable doubt of the crime of Murder and sentenced them to suffer the penalty of *reclusion perpetua* and to pay the widow of Costan in the amount of P50,000.00 as damages.

Only appellant interposed an appeal^[6] assailing the RTC Decision. Accordingly, the case was elevated to this Court on automatic review. However, in our Resolution^[7] dated September 6, 2004, and pursuant to our ruling in *People v. Mateo*, the case was transferred to the CA.

The CA's Ruling

In its Decision dated August 27, 2008, the CA affirmed the factual findings of the RTC with modification, imposing upon appellant the penalty of *reclusion perpetua*

without eligibility for parole and ordering him to pay the heirs of Costan the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages, and P25,000.00 as actual damages.

Aggrieved, appellant appealed. In their respective Manifestations filed before this Court, appellant, as represented by the Public Attorney's Office, and the Office of the Solicitor General (OSG) opted to adopt their respective Briefs filed before the CA as their Supplemental Briefs.

Hence, this Appeal with the following assignment of errors:

I.

ASSUMING WITHOUT ADMITTING THAT APPELLANT'S CULPABILITY WAS PROVEN BEYOND REASONABLE DOUBT, THE COURT A QUO GRAVELY ERRED IN NOT CONSIDERING THE EXEMPTING CIRCUMSTANCES OF IRRESISTIBLE FORCE AND UNCONTROLLABLE FEAR.

II.

THE COURT A QUO GRAVELY ERRED IN APPRECIATING TREACHERY AND EVIDENT PREMEDITATION AS QUALIFYING CIRCUMSTANCES.^[8]

Appellant argues that he blindly obeyed Lumbayan and stabbed Costan, an act that was against his will and done under the compulsion of an irresistible force and uncontrollable fear for his life. Moreover, appellant contends that the qualifying circumstances of evident premeditation and treachery were not proven beyond reasonable doubt. Except for the testimony of the *Barangay* Chairperson which did not prove these qualifying circumstances, no other witness was presented to corroborate the same.^[9]

On the other hand, the OSG opines that the force supposedly exerted upon appellant was not sufficient to exempt him from criminal liability. Apart from initially refusing Lumbayan's order, as appellant alleged, he did not offer any protest or objection to the said order. Appellant could have easily evaded Lumbayan, or he could have defended himself in equal combat as he himself was armed with a knife. The OSG claims that, while it may be conceded that evident premeditation was not adequately proven, treachery was, however, duly established. Thus, the crime committed was murder.^[10]

Our Ruling

We dismiss the appeal.

Appellant failed to sufficiently show that the CA committed any reversible error in its assailed Decision. Under Article 12 of the Revised Penal Code, a person is exempt from criminal liability if he acts under the compulsion of an irresistible force, or under the impulse of an uncontrollable fear of equal or greater injury, because such person does not act with freedom. However, we held that for such a defense to prosper, the duress, force, fear, or intimidation must be present, imminent and