



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 226158

Present:

CARPIO, J., Chairperson,  
PERALTA,  
PERLAS-BERNABE,\*  
CAGUIOA, and  
REYES, JR., JJ.

- versus -

LIBERATO PENTECOSTES y  
CRONICO,  
Accused-Appellant.

Promulgated:

08 NOV 2017

*[Handwritten signature]*

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DECISION

CAGUIOA, J.:

This is an Appeal<sup>1</sup> under Section 13, Rule 124 of the Rules of Court from the Decision<sup>2</sup> dated September 4, 2015 (questioned Decision) of the Court of Appeals, Special Fourteenth Division (CA) in CA-G.R. CR-HC No. 06498. The questioned Decision affirmed the Decision<sup>3</sup> dated December 28, 2012 rendered by the Regional Trial Court of San Jose, Camarines Sur, Branch 58 (RTC), in Criminal Case No. T-2830, which found herein accused-appellant Liberato C. Pentecostes (Liberato) guilty of the crime of Murder under Article 248 of the Revised Penal Code.

The accusatory portion of the Information reads:

That on or about March 24, 2005 at Barangay Tinawagan, Municipality of Tigaon, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the abovementioned accused, with treachery and with intent to kill, did then and there willfully, unlawfully and feloniously assault and attack VIVIAN VARGAS Y

\* On official leave.

<sup>1</sup> Rollo, pp. 17-19.

<sup>2</sup> Id. at 2-16. Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Danton Q. Bueser and Pedro B. Corales concurring.

<sup>3</sup> CA rollo, pp. 38-48. Penned by Presiding Judge Ma. Angela Acompañado-Arroyo.

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BRIONES, a 7 year old<sup>4</sup> minor by submerging (drowning) her in water thus causing her instantaneous death, to the damage and prejudice of her heirs.<sup>5</sup>

When arraigned, Liberato pleaded “not guilty.”<sup>6</sup> After termination of the pre-trial conference on February 8, 2006, trial on the merits ensued.<sup>7</sup>

### *The Facts*

The prosecution alleged the following:

On March 24, 2005, Liberato was having a drinking spree at the house of Angel Vargas (Angel), the father of the victim, Vivian Vargas (Vivian).<sup>8</sup> Likewise present were Joel Basagre, Mesio Caruito, Gerardo Habal, and Daniel Briones.<sup>9</sup> The drinking spree ended at around 2:00 in the afternoon.<sup>10</sup> At that time, Angel asked Vivian to go to the house of a certain Auring Habal, which was about two hundred (200) meters away, to return a chair that they borrowed.<sup>11</sup> Vivian would never return.<sup>12</sup>

Meanwhile, Liberato went home at 3:00 in the afternoon.<sup>13</sup> At around 3:30 to 4:30 p.m., Antonio Vargas (Antonio), the cousin of Vivian, together with his friend, Jason Basagre (Jason), encountered Liberato at Antonio’s corn plantation.<sup>14</sup> The plantation was around a kilometer away from the house of Liberato.<sup>15</sup> During the encounter, Liberato was seen carrying Vivian on his back and appeared to be headed towards a nearby body of water.<sup>16</sup> Jason greeted Liberato, who then merely looked back at them angrily.<sup>17</sup>

Later that day, with Vivian still missing, Angel began searching for Vivian with the help of some relatives and barangay *tanod*, but to no avail.<sup>18</sup> The following morning, however, on March 25, 2005, Vivian’s lifeless body was recovered near the house of Joel Basagre, the father of Jason.<sup>19</sup>

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<sup>4</sup> The Birth Certificate of Vivian indicated that she was six (6) years of age at the time of her death; *id.* at 42.

<sup>5</sup> *Rollo*, p. 3.

<sup>6</sup> *Id.*; *CA rollo*, p. 38.

<sup>7</sup> *Id.*; *id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> See *rollo*, p. 4; see also *CA rollo*, p. 41.

<sup>13</sup> *CA rollo*, p. 42.

<sup>14</sup> *Rollo*, pp. 3-4.

<sup>15</sup> TSN, March 22, 2007, pp. 3-4; *CA rollo*, p. 57.

<sup>16</sup> *Rollo*, pp. 3-4.

<sup>17</sup> See *CA rollo*, p. 40.

<sup>18</sup> *Id.* at 41.

<sup>19</sup> *Rollo*, p. 4.

Immediately thereafter, the policemen summoned and investigated all those present at the drinking spree in Angel's house.<sup>20</sup> However, when Liberato's turn for questioning came, he ran away.<sup>21</sup>

An autopsy later performed on Vivian's body revealed "asphyxia by submersion" or drowning as the cause of death by Dr. Raoul Alcantara.<sup>22</sup>

On the other hand, Liberato, as sole witness for the defense, presented the following counter-statement of facts:

At the outset, Liberato denied knowing Vivian or any of the children of Angel.<sup>23</sup> He confirmed his presence at the drinking spree and claimed that he went home alone at around 3:00 p.m. of March 24, 2005.<sup>24</sup> He arrived home shortly at around 3:10 p.m.<sup>25</sup> A few minutes later, at around 3:20 p.m., Liberato claimed to have seen Joel Basagre passing by his house with Vivian.<sup>26</sup>

Thereafter, at around 3:30 p.m., Angel arrived at Liberato's house to ask for help in searching for Vivian.<sup>27</sup> Liberato then claimed to have told Angel that he saw Vivian with Joel Basagre.<sup>28</sup>

On the following day, during the investigation of Vivian's death, Liberato admitted to running away from the authorities but testified that it was because he was afraid of being shot by one of the investigating officers.<sup>29</sup>

Later on, during his testimony before the RTC, Liberato retracted his previous statements and admitted to knowing Vivian because he was able to talk to her on a separate occasion.<sup>30</sup> Upon further questioning, however, Liberato suddenly claimed that he never talked to Vivian and only learned about her name when he was helping Angel search for her.<sup>31</sup> It was also placed on record that Liberato was previously convicted of the crime of Robbery with Homicide and was released from prison sometime in 2003.<sup>32</sup>

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<sup>20</sup> Id.  
<sup>21</sup> Id.  
<sup>22</sup> *CA rollo*, p. 39.  
<sup>23</sup> Id. at 42.  
<sup>24</sup> Id.  
<sup>25</sup> Id.  
<sup>26</sup> Id.  
<sup>27</sup> Id.  
<sup>28</sup> Id. at 43.  
<sup>29</sup> See id.  
<sup>30</sup> Id.  
<sup>31</sup> Id.  
<sup>32</sup> Id.

*Ruling of the RTC*

In the Decision dated December 28, 2012, the RTC found Liberato guilty of the crime of Murder, qualified by treachery. Therein, the RTC found that there was enough circumstantial evidence to produce a conviction and to overcome Liberato's defense of alibi and denial.<sup>33</sup> The dispositive portion stated:

WHEREFORE, in view of the foregoing considerations, accused Liberato Pentecostes is hereby found GUILTY BEYOND REASONABLE DOUBT of the felony of Murder and is hereby sentenced to suffer the penalty of Reclusion Perpetua, as well as to pay to the heirs of Vivian Vargas the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.<sup>34</sup>

Liberato appealed to the CA via Notice of Appeal.<sup>35</sup> Liberato filed his Brief dated April 16, 2014,<sup>36</sup> while the plaintiff-appellee, through the Office of the Solicitor General, filed its Brief dated July 22, 2014.<sup>37</sup> In a Manifestation dated August 11, 2014, Liberato waived his right to file a Reply Brief.<sup>38</sup>

*Ruling of the CA*

In the questioned Decision, the CA affirmed the RTC's conviction with modification only as to the damages awarded, to wit:

**WHEREFORE**, the appeal is DENIED. The assailed decision of the RTC is AFFIRMED with the following MODIFICATIONS:

1. the appellant is not eligible for parole;
2. the award of civil liability *ex delicto* is increased from P50,000.00 to P75,000.00;
3. the appellant is ordered to pay the heirs of the victim the amount of P30,000.00 and P25,000.00 as exemplary and temperate damages, respectively;
4. the appellant is ordered to pay the heirs of the victim interest at the legal rate of 6% *per annum* on all the amounts of damages awarded, commencing from the date of finality of this decision until fully paid.

**IT IS SO ORDERED.**<sup>39</sup>

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<sup>33</sup> Id. at 44-45.

<sup>34</sup> Id. at 48.

<sup>35</sup> See id. at 5.

<sup>36</sup> Id. at 22-37.

<sup>37</sup> Id. at 54-68.

<sup>38</sup> Id. at 69-72.

<sup>39</sup> *Rollo*, pp. 15-16.

Hence, this Appeal.<sup>40</sup>

In lieu of filing supplemental briefs, Liberato and plaintiff-appellee filed separate manifestations respectively dated March 28, 2017<sup>41</sup> and February 28, 2017,<sup>42</sup> foregoing their right to file the same.

### *Issues*

Liberato assigns the following errors committed by the CA in the questioned Decision:

#### I

THE COURT *A QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED BASED ON A DEVIUS CIRCUMSTANTIAL EVIDENCE.

#### II

THE COURT *A QUO* GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.

#### III

THE COURT *A QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT DESPITE THE ABSENCE OF MOTIVE IN THE COMMISSION OF THE CRIME CHARGED.<sup>43</sup>

### *The Court's Ruling*

The Appeal is denied. The issues, being interrelated, shall be jointly discussed below.

*The circumstantial evidence sufficiently proves Liberato's guilt beyond reasonable doubt for the crime of Murder*

Direct evidence of the commission of a crime is not indispensable to criminal prosecutions; a contrary rule would render convictions virtually impossible given that most crimes, by their very nature, are purposely committed in seclusion and away from eyewitnesses.<sup>44</sup> Thus, our rules on

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<sup>40</sup> Id. at 17-19.

<sup>41</sup> Id. at 34-38.

<sup>42</sup> Id. at 29-33.

<sup>43</sup> CA *rollo*, pp. 24-25.

<sup>44</sup> See *People v. Casitas, Jr.*, 445 Phil. 407, 417-419 (2003).

evidence and jurisprudence allow the conviction of an accused through circumstantial evidence alone, provided that the following requisites concur:

- (i) there is more than one circumstance;
- (ii) the facts from which the inferences are derived are proven; and
- (iii) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.<sup>45</sup>

Simply put, an accused may be convicted when the circumstances established form an unbroken chain leading to one fair reasonable conclusion and pointing to the accused — to the exclusion of all others — as the guilty person.<sup>46</sup>

Now to this case. As summarized by the lower courts, the following factual circumstances are undisputed:

1. Liberato was present at the residence of the victim on March 24, 2005 when Vivian was reported to be missing;<sup>47</sup>
2. Liberato left the residence of Vivian after the drinking spree at about 3:00 in the afternoon;<sup>48</sup>
3. Angel sent Vivian to return a chair to Auring Habal also after the drinking spree and she failed to return home;<sup>49</sup>
4. Antonio and Jason both saw Liberato carrying Vivian on his back at around 3:30 or 4:30 in the afternoon at the corn plantation;<sup>50</sup>
5. On the following morning, March 25, 2005, the lifeless body of Vivian was found in the corn plantation;<sup>51</sup>
6. Antonio and Jason both testified that Liberato, while carrying Vivian on his back, proceeded to the direction of the stream, according to Antonio, and the creek, according to Jason;<sup>52</sup>
7. The cause of death of Vivian is “asphyxia by submersion (drowning);”<sup>53</sup>

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<sup>45</sup> *People v. Obosa*, 429 Phil. 522, 534 (2002).

<sup>46</sup> *People v. Casitas, Jr.*, supra note 44, at 419.

<sup>47</sup> *Rollo*, p. 7.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 8.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

8. Liberato fled while being investigated by the police.<sup>54</sup>

Based on the foregoing, the Court is simply tasked to determine whether the foregoing pieces of evidence, considered in their totality, are sufficient to prove Liberato's guilt beyond reasonable doubt for the murder of Vivian.

The Court rules in the affirmative.

**First.** Liberato was positively identified as the last person seen with Vivian before she disappeared on the afternoon of March 24, 2005. The concurring testimonies of Antonio and Jason show this:

[Direct Examination of Antonio]

Q: While you were at your corn plantation with Jason, do you remember having seen a person?

A: Yes, sir.

Q: And tell us who was that person?

A: Pay Batoy, sir.

Q: Do you know the complete name of that person?

A: Yes, sir.

Q: Tell us.

A: Liberato Pentecostes.

Q: Was Liberato Pentecostes alone at that time?

A: They were two (2), sir.

Q: And who was with Liberato Pentecostes? According to you they were two (2) persons?

A: Vivian Vargas.

Q: How did you observe the two (2) persons when you said it was Liberato Pentecostes and Vivian Vargas?

A: He was carrying her at [his] back, sir.

Q: Who was that person carrying another on his back?

A: Liberato Pentecostes.

Q: And who was that person being carried by Liberato Pentecostes.

A: Vivian Vargas.<sup>55</sup>

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<sup>54</sup> Id.

<sup>55</sup> TSN, March 22, 2007, pp. 5-6; id. at 8-9.

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[Direct Examination of Jason]

Q: Alright. When you reach (*sic*) the corn plantation what happened next?

A: I saw Pay Batoy, sir.

Q: Are you referring to the accused in this case?

A: Yes, sir.

x x x x

Q: Was he carrying anything?

A: Yes, sir.

Q: What was he carrying at that time?

A: A child, Vivian Vargas, sir.

x x x x

Q: How did Liberato Pentecostes carrying (*sic*) Vivian Vargas?

A: He was carrying Vivian on his back with Vivian's arms encircled on the neck of Liberato, sir.<sup>56</sup>

While Liberato strongly disputes this fact, pointing instead to Joel Basagre as the last person he saw with Vivian, no independent testimony was ever presented to corroborate Liberato's version of the facts. Hence, when weighed against Liberato's bare allegations, the testimonies of Antonio and Jason placing Liberato near the scene of the crime with the victim deserve more credit. The Court echoes the keen observations of the RTC on this issue:

Accused's testimony that Angel went to his house at 3:30 in the afternoon and asked for his help in searching for Vivian is also doubtful. Angel sent Vivian to return the chair to Awing Habal after the drinking spree. According to Angel, the drinking spree ended at 2:00 o'clock (*sic*) while according to the accused, the drinking spree ended at 3:00 in the afternoon. Whatever may be the actual time the drinking spree ended, it would appear that Vivian was gone for only 30 minutes before Angel came looking for her. Indeed, the accused concocted the story that Angel asked for his help in searching for Vivian at 3:30 p.m. in order to counter the testimonies of Angel and Jason that they saw him carrying the victim on his back at around 3:30 or 4:30 in the afternoon. Angel's testimony that he asked for the help of the accused in searching for Vivian at 6:00 o'clock in the evening is more credible.<sup>57</sup>

<sup>56</sup> TSN, August 25, 2010, pp. 5-6; id. at 9-10.

<sup>57</sup> CA *rollo*, pp. 45-46.

Moreover, the fact that Liberato was the last person seen with Vivian assumes significance in this case. In *People v. Lagao, Jr.*,<sup>58</sup> the Court convicted the accused solely based on circumstantial evidence, among which was the fact that the accused was identified as the last person seen with the deceased. Notably, *Lagao* resulted in a conviction notwithstanding the fact that the *corpus delicti* was only recovered the following day, as in the present Appeal.

**Second.** The records disclose that Vivian's cause of death was "asphyxia by submersion (drowning)."<sup>59</sup> Significantly, both Antonio and Jason testified to the fact that Liberato, while carrying Vivian on his back, was headed towards a body of water within the vicinity of Antonio's corn plantation.<sup>60</sup> Furthermore, Vivian's body was later recovered in the same corn plantation.<sup>61</sup> These factual circumstances form an unbroken chain of events that is consistent with the prosecution's theory that Vivian drowned to her death at the hands of Liberato.

To discredit the prosecution's eyewitness accounts, Liberato makes much of certain discrepancies in the testimonies of Antonio and Jason.<sup>62</sup> However, such discrepancies, which pertained only to peripheral matters, have already been thoroughly reconciled by the RTC, as affirmed *in toto* by the CA:

Antonio Vargas and Jason Basagre both testified that they saw the accused carrying Vivian at his back. There were some inconsistencies in their testimonies: for one, Antonio testified that he saw the accused at around 3:30 in the afternoon, while Jason testified that he saw him at around 4:30 in the afternoon. Antonio claimed that the accused headed down the slope towards the stream while Jason said that he headed towards the creek where there were banana plants. At any rate, they appear to refer to one and the same body of water. **This Court thinks that these inconsistencies or discrepancies in their statements refer to trivial and inconsequential details.** Antonio only finished Grade VI while Jason did not even finish Grade II. Hence, they cannot be expected to know or remember the exact time when they saw the accused carrying the victim. The discrepancy of one hour in their testimonies is also inconsequential. It should be remembered that at the time of the incident, Antonio Vargas was only fourteen (14) years old while Jason Basagre was only thirteen (13). **It is settled that inconsistencies in the testimonies of witnesses on minor details and collateral matters do not affect the substance of their declarations, their veracity, or the weight of their testimonies; slight contradictions in fact serve to strengthen the sincerity of a witness and prove that his testimony is not rehearsed.** x x x

Antonio Vargas also testified that the accused, while carrying Vivian on his back, proceeded to the direction of the stream; Jason Basagre testified that he went towards the direction of the creek. While

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<sup>58</sup> 337 Phil. 497 (1997).

<sup>59</sup> CA *rollo*, p. 39.

<sup>60</sup> See *id.* at 39-40.

<sup>61</sup> *Id.* at 45.

<sup>62</sup> See *id.* at 30-33.

they may have used different terms to describe the body of water where the accused proceeded, it appears from their description of the location thereof that they are referring to one and the same body of water. Taken together with the testimony of Dr. Alcantara and his medical certificate that the cause of death of the victim is “asphyxia by submersion (drowning),” the theory that the accused is responsible for the death of the victim is rendered much stronger.<sup>63</sup> (Emphasis supplied; citations omitted)

It is a settled rule that the trial court is in the most advantageous position to assess the credibility of witnesses as well as their testimonies given its unique opportunity to observe the witnesses’ behavior when placed on the stand, which opportunity is denied to the appellate courts.<sup>64</sup> Hence, the trial court’s assessment is necessarily accorded great weight and respect by the Court, especially when affirmed by the CA.<sup>65</sup> Verily, considering the uniform findings of the RTC and CA, the Court finds that no cogent reason exists in the records warranting a disturbance of such findings.

**Third.** During the investigation of Vivian’s death, which included four (4) other suspects who were present during the drinking spree at Angel’s house, Liberato fled the police station.<sup>66</sup> In countless occasions, the Court has held that the flight of an accused may be taken as evidence to establish his guilt;<sup>67</sup> “[t]he wicked flee when no man pursueth; but the righteous are as bold as the lion.”<sup>68</sup>

To explain his sudden departure, Liberato paints an atmosphere of intimidation by the police officers, claiming that the investigators “cocked their firearms at him” and that he was in solitude while being subject to inquiry.<sup>69</sup> However, as observed by the RTC, his flip-flopping testimony on this very matter drives the Court to conclude against the truthfulness of his assertions:

x x x In the said investigation, accused was asked what happened to the missing child and he answered that they were searching for her but could not find her. Accused narrated that he fled during the investigation because he was afraid of PO Artita who cocked his gun on (*sic*) his presence. He thought that the said officer would shoot him, hence, he ran away to their farm. x x x

On cross-examination, x x x [h]e declared that he was investigated by some police officers together with other suspects. He admitted that he indeed fled because he was frightened but only after the investigation was finished and the investigators cocked their firearms at him.

On re-direct examination, accused confirmed that he was the fifth suspect who was investigated. During the investigation, he was alone with

<sup>63</sup> Id. at 46-47.

<sup>64</sup> *People v. Sanico*, 741 Phil. 356, 374 (2014).

<sup>65</sup> See id.

<sup>66</sup> See CA rollo, p. 43.

<sup>67</sup> *People v. Lobrigas*, 442 Phil. 382, 392 (2002); see *People v. Cruz*, 348 Phil. 539, 548 (1998).

<sup>68</sup> *People v. Magdadaro*, 274 Phil. 427, 433 (1991).

<sup>69</sup> CA rollo, p. 43.

the three policemen. Upon clarificatory question from the court, the accused responded that: "you see, your honor, we are five (5) suspects and all the suspects were present but when we were investigated, we are only alone when we were investigated by these three (3) policemen." (TSN, November 29, 2011, pg. 16)

On re-cross examination, accused admitted that when he was investigated alone, the other four suspects were just beside him and that they could even hear what was being asked from him.<sup>70</sup>

Notably, despite Liberato's admission that there were four (4) other suspects around that could have easily witnessed the alleged impropriety of the police officers, not one of them was ever presented to corroborate his claims. Neither was there any indication in the records that Liberato filed a criminal complaint or administrative charge against the police officers concerned.<sup>71</sup> Hence, without more, Liberato's claim of intimidation cannot be given credence by the Court.

In criminal cases, "proof beyond reasonable doubt" does not entail absolute certainty of the fact that the accused committed the crime, and neither does it exclude the possibility of error.<sup>72</sup> What is only required is that degree of proof which, after a scrutiny of the facts, produces in an unprejudiced mind moral certainty of the culpability of the accused.<sup>73</sup>

In *People v. Casitas, Jr.*, the Court explained that establishing guilt through circumstantial evidence is akin to weaving a "tapestry of events that culminate in a vivid depiction of the crime of which the accused is the author."<sup>74</sup>

[T]he combination of the following established facts and circumstances affirm the trial court's finding of guilt:

*First*, appellant was in a store right in front of the house where the crime was committed, just before the victim was found dead.

*Second*, he was seen climbing over the fence of the house where the murder had occurred a few moments before.

*Third*, he was spotted walking away from the house while tucking in his bloodied shirt.

*Fourth*, he was the only person seen leaving the house prior to the discovery of the victim's lifeless body.

*Fifth*, he hastily left for Manila soon after the commission of the crime.

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<sup>70</sup> Id. at 42-43.

<sup>71</sup> See *People v. Ponseca*, 422 Phil. 113, 122 (2001).

<sup>72</sup> *People v. Tropa*, 424 Phil. 783, 789 (2002).

<sup>73</sup> *People v. Casitas, Jr.*, supra note 44, at 420.

<sup>74</sup> Id. at 419.

*Sixth*, he attempted to elude the police authorities until a warrant for his arrest was presented to him.

*Seventh*, he was observed by the trial court to be restless and fidgety during the course of his testimony.

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The pieces of circumstantial evidence in the case at bar, when analyzed and taken together, definitely lead to no other conclusion than that appellant perpetrated the dastardly deed.

On the basis of the foregoing established facts, it can reasonably be inferred that appellant was the only person inside the house with the victim when the latter was brutally killed. Before the dead body was found, no other person had been seen entering or leaving the house. The act of appellant — climbing over the fence of the house with his clothes soaked in blood, coupled with the subsequent discovery of the dead body lying in a pool of blood — impels us to arrive at the logical conclusion that he was responsible for the killing. If he truly had nothing to do with it, he would have gone out through the gate of the house and immediately asked for help from the neighbors. Instead, he left the victim sprawled in a dreadful bloodbath and surreptitiously fled from the scene of the crime, hoping that nobody would notice him leaving.

Furthermore, appellant immediately left for Manila when the police authorities began to look for him. When he was finally located there, he tried to run away again, even when the police had shown him a valid warrant for his arrest. If he were really innocent of the charges as he claims, he would have wasted no time in submitting himself to the investigators, so that he would have a chance to disprove the accusations against him at the soonest possible opportunity.<sup>75</sup>

Meanwhile, the Court concurs with the RTC and CA in appreciating the qualifying circumstance of treachery in this case. Treachery or *alevosia* is present in the killing of children who, by reason of their tender years, cannot be expected to put up a defense.<sup>76</sup> In *People v. Diaz*, the Court held that the killing of an eleven (11)-year old was deemed *ipso facto* qualified by treachery by reason of the child's "inherent defenselessness."<sup>77</sup> The Court therefore relies on the *Diaz* ruling in this case, especially considering that Vivian was murdered at the tender age of six (6) years old.<sup>78</sup>

Thus, after thorough examination of the records of this case, the Court is fully convinced that the evidence presented by the prosecution constitutes proof of Liberato's guilt beyond reasonable doubt. While it is true that no direct evidence was adduced by the prosecution, circumstantial evidence is by no means a "weaker" form of evidence vis-à-vis direct evidence.<sup>79</sup> Our prevailing jurisprudence has recognized that in its effect upon the courts,

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<sup>75</sup> Id. at 417-420.

<sup>76</sup> *People v. Diaz*, 377 Phil. 997, 1005 (1999).

<sup>77</sup> Id.

<sup>78</sup> CA rollo, p. 42.

<sup>79</sup> *People v. Delim*, 559 Phil. 771, 780 (2007).

circumstantial evidence may even surpass direct evidence in weight and probative force.<sup>80</sup> Accordingly, to the mind of the Court, the confluence of the established circumstances leads to the fair and reasonable conclusion that Liberato was indeed responsible for the death of Vivian.

*Liberato's defense of alibi and denial failed to overcome the prosecution's evidence establishing his guilt*

The defenses of denial and alibi are inherently weak and unreliable due to the ease by which they may be fabricated or concocted.<sup>81</sup> If not substantiated by clear and convincing evidence, such defenses are considered self-serving and are bereft of weight in courts of law.<sup>82</sup> Such is the case in this Appeal.

After the prosecution successfully overcame Liberato's presumption of innocence, it was incumbent upon him to present evidence to the contrary. In doing so, Liberato resorted to mere denial and alibi, claiming instead that he was alone at his house during the time that he was seen by Antonio and Jason.<sup>83</sup> However, as already discussed above, Liberato's sole testimony is highly deficient to counteract the evidence adduced by the prosecution.

Furthermore, for alibi to prevail, it must be established by positive, clear and satisfactory proof that it was physically impossible for the accused to have been at the *locus criminis* at the time of the commission, and not merely that he was somewhere else.<sup>84</sup> In *People v. Consorte*, the Court held that a distance of twenty (20) kilometers was not enough to establish such physical impossibility.<sup>85</sup> Here, as borne out by the records, the body of Vivian was recovered only a few kilometers away from the house of Liberato. Thus, the Court affirms the questioned Decision on this matter, which held in the following wise:

The defense invoked by the appellant is mere denial and alibi. He contends that he was just in his house at about 3:10 in the afternoon of 24 March 2005. For alibi to prosper, however, it is not enough to prove that the appellant was somewhere else when the crime was committed; he must also demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law.

Here, the appellant failed to establish that it was physically impossible for him to have been at the scene of the crime at the time of its commission. The appellant's house, where he claims to have stayed at the

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<sup>80</sup> Id.

<sup>81</sup> *People v. Bulfango*, 438 Phil. 651, 657 (2002).

<sup>82</sup> Id.

<sup>83</sup> See CA *rollo*, p. 42.

<sup>84</sup> See *People v. Consorte*, 738 Phil. 723, 733 (2014).

<sup>85</sup> See *id.*

time of the commission of the crime, is not that far from the place where the body of the victim was found so as not to afford him the opportunity to be at the crime scene to commit the felony. Furthermore, the appellant failed to present any corroborative evidence to support his defense that he was in his house at the time of the commission of the crime.

In the same vein, the appellant's bare denial must fail. Denial, like alibi, as an exonerating justification, is inherently weak and if uncorroborated, such as in this case, regresses to blatant impotence. Like alibi, it also constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.<sup>86</sup>

*Motive is not an essential element of the crime and the absence thereof does not preclude a finding of guilt*

Finally, insisting on his innocence, Liberato makes the claim that the CA erred in convicting him despite the prosecution's failure to establish a motive for the killing.<sup>87</sup> Liberato is gravely mistaken.

Motive pertains to the reason which prompts the accused to engage in a particular criminal activity.<sup>88</sup> It is not an essential element of a crime and need not be proven by the State in criminal prosecutions.<sup>89</sup> Hence, proof of motive alone will not establish guilt in the same way that the absence thereof cannot establish innocence.<sup>90</sup> In previous occasions, the Court has held that the question of motive only becomes material when there is doubt as to the identity of the malefactor committing the offense charged.<sup>91</sup>

Here, the totality of circumstantial evidence on record sufficiently dispels any doubt that Liberato was responsible for the ghastly death of Vivian. Thus, in *People v. Rendaje*,<sup>92</sup> where the Court similarly grappled with circumstantial evidence only, the accused was still convicted despite the absence of proof of motive:

After a careful review of the records of the case, this Court is convinced that the trial court did not err in convicting appellant on the strength of six (6) pieces of circumstantial evidence, which form an unbroken chain leading to the fair and logical conclusion that he killed the victim.

x x x x

Due to the lack of direct evidence to establish the identity of the assailant, appellant insists that proof of motive becomes essential.

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<sup>86</sup> *Rollo*, pp. 12-13.

<sup>87</sup> *CA rollo*, p. 25.

<sup>88</sup> *People v. Delim*, 444 Phil. 430, 448 (2003).

<sup>89</sup> See *id.*

<sup>90</sup> See *id.*

<sup>91</sup> *People v. Abillar*, 400 Phil. 245, 256 (2000).

<sup>92</sup> 398 Phil. 687 (2000).

However, as already discussed, the Court believes that the prosecution has established his guilt beyond reasonable doubt. **It was able to pinpoint him, to the exclusion of all other persons, as the one responsible for the crime. Thus, the presence or the absence of motive is not essential.**<sup>93</sup> (Emphasis supplied)

Following *Rendaje*, considering that Liberato was positively identified by two (2) eyewitnesses, coupled with the other pieces of circumstantial evidence establishing Liberato's authorship of the crime, the Court finds that the RTC and CA did not err in convicting Liberato despite the lack of evidence showing motive.

Finally, in view of prevailing jurisprudence,<sup>94</sup> the Court hereby increases the damages awarded by the CA as follows: One Hundred Thousand Pesos (₱100,000.00) as civil indemnity; One Hundred Thousand Pesos (₱100,000.00) as moral damages; and One Hundred Thousand Pesos (₱100,000.00) as exemplary damages. The award of temperate damages is hereby increased to Fifty Thousand Pesos (₱50,000.00).

**WHEREFORE**, premises considered, the instant Appeal is **DISMISSED** for lack of merit. The Decision dated September 4, 2015 of the Court of Appeals, Special Fourteenth Division in CA-G.R. CR-HC No. 06498, finding accused-appellant Liberato C. Pentecostes guilty beyond reasonable doubt of the crime of Murder is hereby **AFFIRMED** with **MODIFICATION**, sentencing him to suffer the penalty of *reclusion perpetua* without possibility of parole and ordering him to pay the heirs of the victim the amount of One Hundred Thousand Pesos (₱100,000.00) as civil indemnity, One Hundred Thousand Pesos (₱100,000.00) as moral damages, One Hundred Thousand Pesos (₱100,000.00) as exemplary damages, and Fifty Thousand Pesos (₱50,000.00) as temperate damages. All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

**SO ORDERED.**

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

<sup>93</sup> Id. at 698-703.

<sup>94</sup> *People v. Sabida*, G.R. No. 208359, June 19, 2017, p. 4, citing *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331.

WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**DIOSDADO M. PERALTA**  
Associate Justice

(On official leave)  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ANDRES B. REYES, JR.**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

