



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 229349
Plaintiff-Appellee,

Present:

-versus-

LEONEN, J., *Chairperson*,
GESMUNDO,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

GREG ANTONIO Y PABLEO @
TOKMOL,
Accused-Appellant.

Promulgated:
January 29, 2020
MISPDCB-4

X-----X

DECISION

LEONEN, J.:

An accused's invocation of a justifying circumstance frees the prosecution from the burden of proving that the accused committed the offense charged. The burden shifts to the accused to prove the justifying circumstance with clear and convincing evidence.

For this Court's resolution is an appeal from the Decision¹ of the Court of Appeals, which affirmed the conviction of Greg Antonio y Pableo @ Tokmol (Antonio) for the crime of murder.

Before the Regional Trial Court, Antonio was charged in two (2) separate Informations for frustrated murder and murder. The accusatory portions of the two (2) Informations read:

¹ Rollo, pp. 2-14. The February 18, 2016 Decision in CA-G.R. CR-HC No. 06744 was penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Ricardo R. Rosario and Edwin D. Sorongon of the Sixteenth Division, Court of Appeals, Manila.

Crim. Case No. 06-246909 (Frustrated Murder)

“That on or about August 15, 2006, in the City of Manila, Philippines, the said accused, conspiring and confederating together with others whose true names, real identities and present whereabouts are still unknown and helping one another, with intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one ARSENIO CAHILIG y MALINANA, by then and there stabbing the latter with a bladed weapon at that (*sic*) back of his body, thereby inflicting upon said ARSENIO CAHILIG y MALINANA injuries which are necessarily fatal and mortal, thus performing all the acts of execution which would have produced the crime of murder as a consequence, but nevertheless did not produce it by reason or causes independent of the will of the said accused, that is, by the timely and able medical attendance rendered to said ARSENIO CAHILIG y MALINANA which saved his life.

Contrary to law.”

Crim. Case No. 06-246310 (Murder)

“That on or about August 15, 2006, in the City of Manila, Philippines, the said accused, conspiring and confederating together with others whose true names, real identities and present whereabouts are still unknown and helping one another, did then and there willfully, unlawfully and feloniously with intent to kill, and with treachery and evident premeditation, attack, assault and use personal violence upon one ARTHURO* VILLALOBOS y BIJASA, by then and there stabbing the latter with a bladed weapon on the different parts of his body, thereby inflicting upon said ARTHURO VILLALOBOS y BIJASA mortal stab wounds which were the direct and immediate cause of his death.

Contrary to law.”²

The cases were consolidated, and Antonio pleaded not guilty to both charges. After pre-trial was terminated, trial on the merits ensued.³

The prosecution presented David Fresado (Fresado), Ligaya Villalobos (Ligaya), Dr. Romeo T. Salen (Dr. Salen), and Police Inspector Ismael Dela Cruz as its witnesses.⁴

From their testimonies, the prosecution alleged that the murder was committed in Tondo, Manila, on the early morning of August 15, 2006. Around this time, Fresado had been drinking in front of a store with Dondon, Emerson Jocson (Jocson), and Arturo Villalobos (Villalobos).⁵

* “Arturo” in some parts of the records.

² CA *rollo*, pp. 58–59, RTC Decision.

³ Id. at 59.

⁴ Id.

⁵ Id.

By 2:00 a.m., in the middle of their drinking session, a certain Lorna approached them, trying to sell a cellphone for ₱400.00. At the sight of Lorna, Villalobos got mad, claiming that she had supposedly sold him a fake cellphone before. In the argument that ensued, Lorna and Villalobos started hitting each other.⁶

Fresado, together with some barangay members who arrived, tried to break up the fight. When Lorna and Villalobos were pacified, they were told to go home. Lorna walked toward Delpan Bridge, as she lived underneath it.⁷

Moments later, a cousin of Villalobos, Peter, approached Fresado and asked for help, saying he saw Villalobos following Lorna to Delpan Bridge. Fresado, Dondon, and Jocson ran toward the bridge where, upon reaching San Simon Street, they saw Arsenio Cahilig (Cahilig) talking to Villalobos and convincing him to go home.⁸

However, while the two were talking, Antonio, Lorna's brother, suddenly sidled up beside them, placed his arm around Villalobos' shoulders, and then stabbed him several times with a foot-long knife.⁹ Villalobos was able to break free from Antonio, but Lorna stepped in and repeatedly punched him. Her husband Rey joined in, hacking Villalobos' arm with a butcher's knife.¹⁰

Jocson ran toward the barangay to ask for help. Meanwhile, Fresado ran back to the store, where he took his bag and met with his wife. They went straight home. The following day, Fresado's wife informed him that Villalobos had died. He attended Villalobos' wake three (3) days later.¹¹

Ligaya, Villalobos' mother, testified that she spent around ₱70,000.00 for her son's embalming and burial expenses. However, she could not present the receipts for her expenses.¹²

Dr. Salen, who conducted the postmortem examination, testified that Villalobos sustained five (5) stab wounds, with three (3) fatal stab wounds that pierced his lungs and heart. Dr. Salen also testified that Villalobos had injuries in his extremities which could have been caused by a fistfight. Villalobos' death certificate stated the cause of his death as "multiple stab wounds of the body."¹³

⁶ Id.

⁷ Id.

⁸ Id. at 59–60.

⁹ Id. at 60.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

The defense, for its part, presented Antonio as its sole witness.¹⁴

Antonio testified that on August 15, 2006, at about 3:00 a.m., he was with Lorna, buying bread at a bakery on Delpan Street, while Villalobos was drinking nearby with friends. Out of nowhere, Villalobos suddenly grabbed Lorna's cellphone. Villalobos and his drinking companions then ganged up on Lorna and beat her up.¹⁵

When Antonio pleaded with the men to stop hurting his sister, Villalobos turned on him instead. As his companions held Lorna, Villalobos drew out a knife and lunged at Antonio. Antonio managed to evade this first attack. The second time Villalobos tried to stab him, Antonio was able to wrestle the knife away and then use it to stab Villalobos several times, losing count of how many stabs he had inflicted on him. When Antonio fled the scene, he tried to look for his sister, but he could not find her.¹⁶

Antonio admitted killing Villalobos but claimed that he only did it to defend himself and his sister. Nonetheless, he denied killing Cahilig.¹⁷

In a March 4, 2014 Decision,¹⁸ the Regional Trial Court acquitted Antonio of the charge of frustrated murder, but convicted him of murder.

The Regional Trial Court stated that Antonio's admission of self-defense shifted the burden of proof from the prosecution to the defense. It then stressed that Antonio's testimony of self-defense was replete with inconsistencies, as his statements varied over who actually mauled his sister and who originally had the knife he eventually used to stab Villalobos. It likewise gave weight to Fresado's eyewitness testimony that Villalobos did not expect to be stabbed by Antonio.¹⁹

The Regional Trial Court further appreciated both the aggravating circumstances of treachery and evident premeditation in the killing of Villalobos, qualifying Antonio's offense to murder.²⁰

Meanwhile, in acquitting Antonio of frustrated murder, the Regional Trial Court found Fresado's testimony missing as to who had stabbed

¹⁴ Id. at 61.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 58-66. The Decision was penned by Presiding Judge Marlina M. Manuel of Branch 25, Regional Trial Court, Manila.

¹⁹ Id. at 62-65.

²⁰ Id. at 66.

Cahilig. It pointed out that the prosecution failed to present any testimony as to Cahilig's stabbing.²¹

The dispositive portion of the Regional Trial Court Decision read:

WHEREFORE, in Criminal Case No. 06-246309, for failure of the prosecution to prove his guilt for the crime of Frustrated Murder, accused GREG ANTONIO y PABLEO @ TOKMOL is hereby **ACQUITTED**.

In Criminal Case No. 06-246310, the Court finds accused GREG ANTONIO y PABLEO @ TOKMOL **GUILTY** beyond reasonable doubt of the crime of Murder as defined and penalized under Article 248 of the Revised Penal Code. He is hereby sentenced to suffer the penalty of *reclusion perpetua*. Furthermore, accused is ordered to pay the heirs of deceased Arthuro Villalobos the sum of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.²² (Emphasis in the original)

Antonio filed a Notice of Appeal,²³ to which the Regional Trial Court gave due course.²⁴

Antonio's appeal,²⁵ however, was denied by the Court of Appeals in its February 18, 2016 Decision.²⁶

The Court of Appeals gave much weight to Fresado's eyewitness testimony over Antonio's self-serving and uncorroborated version of the facts.²⁷ It also found that treachery attended Villalobos' killing, elevating the offense to murder.²⁸

Nonetheless, the Court of Appeals disagreed with the Regional Trial Court that evident premeditation attended Villalobos' killing. It found that the prosecution failed to present proof that there was an actual plan to kill Villalobos.²⁹

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**.

²¹ Id. at 61–62.

²² Id. at 66.

²³ Id. at 28–29.

²⁴ Id. at 30.

²⁵ Id. at 42–57.

²⁶ *Rollo*, pp. 2–14.

²⁷ Id. at 11.

²⁸ Id. at 11–12.

²⁹ Id. at 12–13.

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The 04 March 2014 Decision of Branch 25, Regional Trial Court of Manila in Criminal Case No. 06-246310 is hereby **AFFIRMED** subject to the following **MODIFICATIONS**:

- (1) Accused-appellant Greg Antonio y Pableo is guilty beyond reasonable doubt for the crime of murder qualified by treachery; and
- (2) The award of moral damages is increased to Php75,000.00.

No pronouncement as to costs.

SO ORDERED.³⁰ (Emphasis in the original)

Antonio filed a Notice of Appeal.³¹ The Court of Appeals, having given due course³² to the appeal, elevated³³ the case records to this Court.

Accused-appellant and plaintiff-appellee People of the Philippines were directed³⁴ to file their respective supplemental briefs. However, they each manifested³⁵ that they would instead be adopting the Briefs they had filed before the Court of Appeals.

In his Brief,³⁶ accused-appellant insists that the Regional Trial Court erred in failing to appreciate in his favor the justifying circumstances of self-defense and defense of a relative. He avers that he was able to prove that Villalobos and his cohorts were beating up his sister, without any provocation from her, prompting him to rush to her aid and defend her.³⁷

Additionally, accused-appellant maintains that the Regional Trial Court erred in appreciating treachery as an aggravating circumstance. He insists that Fresado's testimony lacked sufficient detail to conclusively show that the mode and manner of attack was adapted to render Villalobos defenseless. He also points out that the evidence failed to show that Villalobos was stabbed from behind, or that he was helpless when he was attacked.³⁸

On the other hand, plaintiff-appellee underscores in its Brief³⁹ that accused-appellant failed to prove all the requisites of self-defense and defense of a relative.⁴⁰

³⁰ Id. at 13-14.

³¹ Id. at 15-17.

³² Id. at 18.

³³ Id. at 1.

³⁴ Id. at 20-21.

³⁵ Id. at 22-27 and 28-32.

³⁶ CA *rollo*, pp. 42-57.

³⁷ Id. at 49-52.

³⁸ Id. at 52-54.

³⁹ Id. at 86-102.

⁴⁰ Id. at 95-97.

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Plaintiff-appellee also adds that the Regional Trial Court rightly appreciated the aggravating circumstance of treachery. It maintains that Fresado's testimony showed how the suddenness of the attack ensured the victim's killing: accused-appellant surprised Villalobos when he grabbed his shoulders to prevent retaliation or defense, and thereafter repeatedly stabbing him.⁴¹

The sole issue for this Court's resolution is whether or not the Court of Appeals erred in finding accused-appellant Greg Antonio y Pableo @ Tokmol guilty beyond reasonable doubt of murder.

I

Accused-appellant's defense centers on his claim of self-defense and defense of his sister, invoking the first and second justifying circumstances under Article 11 of the Revised Penal Code:

ARTICLE 11. Justifying Circumstances. — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

An admission of self-defense or defense of a relative frees the prosecution from the burden of proving that the accused committed the act charged against him or her. The burden is shifted to the accused to prove that his or her act was justified:

It is settled that when an accused admits [harming] the victim but invokes self-defense to escape criminal liability, the accused assumes the burden to establish his plea by credible, clear and convincing evidence; otherwise,

⁴¹ Id. at 98.

conviction would follow from his admission that he [harmed] the victim. Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself. Indeed, in invoking self-defense, the burden of evidence is shifted and the accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.⁴²

For the justifying circumstance of self-defense to be appreciated in the accused's favor, the accused must prove the following: "(1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense."⁴³ The justifying circumstance of defense of a relative likewise requires the first two (2) requisites, but in lieu of the third requirement, it requires that "in case the provocation was given by the person attacked, that the one making the defense had no part therein."⁴⁴

The first requisite of unlawful aggression is defined as the actual or imminent threat to the person invoking self-defense.⁴⁵ This requirement is an indispensable condition of both self-defense and defense of a relative; after all, if there is no unlawful aggression, the assailant would have nothing to prevent or repel.⁴⁶ In *People v. Caratao*,⁴⁷ this Court emphasized that if unlawful aggression is not proven, "self-defense will not have a leg to stand on and this justifying circumstance cannot and will not be appreciated, even if the other elements are present."⁴⁸

As for the second requisite, "reasonable necessity of means employed to prevent or repel such aggression" envisions a rational equivalence between the perceived danger and the means employed to repel the attack.⁴⁹ This Court in *People v. Encomienda*⁵⁰ recognized that in circumstances that lead to self-defense or defense of a relative, the instinct for self-preservation will outweigh rational thinking.⁵¹ Thus, "when it is apparent that a person has reasonably acted upon this instinct, it is the duty of the courts to sanction the act and hold the act irresponsible in law for the consequences."⁵²

⁴² *Belbis v. People*, 698 Phil. 706, 719 (2012) [Per J. Peralta, Third Division] citing *People v. Tagana*, 468 Phil. 784, 800 (2004) [Per J. Austria-Martinez, Second Division] and *Marzonía v. People*, 525 Phil. 693, 702–703 (2006) [Per J. Quisumbing, Third Division].

⁴³ *Id.* at 719–720 citing *People v. Silvano*, 403 Phil. 598, 606 (2001) [Per J. De Leon, Jr., Second Division]; *People v. Plazo*, 403 Phil. 347, 357 (2001) [Per J. Quisumbing, Second Division]; and *Roca v. Court of Appeals*, 403 Phil. 326, 335 (2001) [Per J. Quisumbing, Second Division].

⁴⁴ *People v. Eduarte*, 265 Phil. 304, 309 (1990) [Per J. Gutierrez, Jr., Third Division].

⁴⁵ *People v. Caratao*, 451 Phil. 588, 602 (2003) [Per J. Azcuna, First Division].

⁴⁶ *Velasquez v. People*, 807 Phil. 438, 450–451 (2017) [Per J. Leonen, Second Division] and *People v. Areo*, 452 Phil. 36, 44 (2003) [Per J. Corona, Third Division].

⁴⁷ 451 Phil. 588 (2003) [Per J. Azcuna, First Division].

⁴⁸ *Id.* at 602 citing *People v. Saure*, 428 Phil. 916, 928 (2002) [Per J. Puno, First Division] and *People v. Enfectana*, 431 Phil. 64, 77 (2002) [Per J. Quisumbing, Second Division].

⁴⁹ *People v. Obordo*, 431 Phil. 691, 712 (2002) [Per J. Kapunan, First Division] citing *People v. Encomienda*, 150-B Phil. 419, 433 (1972) [Per J. Makasiar, First Division].

⁵⁰ 150-B Phil. 419 (1972) [Per J. Makasiar, First Division].

⁵¹ *Id.* at 433–434.

⁵² *Id.* at 434 citing *People v. Lara*, 48 Phil. 153, 159 (1925) [Per J. Street, En Banc].

Finally, the third requisite of lack of sufficient provocation requires the person invoking self-defense to not have antagonized the attacker.⁵³ This Court explained in *People v. Nabora*⁵⁴ that a provocation is deemed sufficient if it is “adequate to excite the person to commit the wrong and must accordingly be proportionate to its gravity.”⁵⁵

II

A careful review of the records convinces this Court that accused-appellant failed to substantiate his claim of self-defense and defense of a relative.

Accused-appellant rests his entire defense on his sole and uncorroborated testimony. However, the Regional Trial Court found several inconsistencies in his testimony as to who mauled his sister and who held the knife that he eventually used to stab Villalobos:

Accused stated that Arturo Villalobos suddenly grabbed his sister’s cellphone and started beating her. However, his statement varied as to who among the victim and his companions had actually mauled his sister and as to who among them were holding a sharp object. The inconsistencies are manifest in the following testimony of the accused:

[ATTY. OLIVEROS]

When you saw that your sister was being mauled by Arturo and his companion, what did you do?

A

I told them to stop tama na but they suddenly grabbed something sharp Sir.

Q

Who among the 2 grabbed sharp object?

A

Villalobos sir.

....

Q

Now after you stabbed Arturo, what happened to Arturo?

A

He just shouted aray and I was concerned of the person in front of me who was about to stab me Sir.” (*TSN, December 4, 2013, pp. 5–7*)

[ASST. CITY PROS. POSO]

Q

⁵³ *Velasquez v. People*, 807 Phil 438, 451 (2017) [Per J. Leonen, Second Division].

⁵⁴ 73 Phil 434 [Per J. Moran, En Banc].

⁵⁵ *Id.* at 435.

Your sister was mauled by Arturo Villalobos and his companions?

A

Yes Sir they were drinking.

Q

How many were they who mauled your sister?

A

I only saw Arturo Villalobos Sir.

....

ASST. CITY PROS. POSO

You told the Court awhile ago that 4 persons mauled your sister and now it was only Arturo Villalobos who mauled your sister. Which is which now, which is correct, 4 persons mauled your sister or only Arturo Villalobos?

A

There were 2 and the other 2 were just assisting because they were all drinking Sir.

Q

You are now changing your answer, only 2 mauled your sister?

A

Yes Sir.

....

Q

So that person behind Arturo Villalobos was not able to inflict injury to your sister Lorna am I correct?

A

Iyon na nga po binugbog nila noong tao sa likod Sir.” (TSN, December 4, 2013, pp. 11-14)⁵⁶

From this, the Regional Trial Court ruled that accused-appellant was unable to prove the existence of unlawful aggression and, thus, could not validate his claim of self-defense:

The Court is not persuaded by [the] alleged unlawful aggression perpetrated by the victim, *i.e.* the mauling of the sister of the accused and the victim’s attempt to stab him. The defense did not present Lorna, the sister of the accused, to corroborate the latter’s testimony. The accused even admitted that they did not [file] a complaint and that Lorna did not submit herself to any medical treatment.⁵⁷

In contrast with accused-appellant’s uncorroborated and inconsistent testimony, the Regional Trial Court found Fresado’s testimony that accused-appellant attacked Villalobos without provocation to be more believable.⁵⁸ The Court of Appeals arrived at the same conclusion, stating:

⁵⁶ CA rollo, pp. 64-65.

⁵⁷ Id. at 65.

⁵⁸ Id. at 63.

Contrary to accused-appellant's asseverations, there is ample evidence on record to hold him guilty beyond reasonable doubt for the crime of murder. The testimony of the lone eyewitness David Fresado (David) is sufficient to prove accused-appellant's complicity. His straightforward narration of the stabbing incident and positive identification of the accused-appellant as the assailant -- both of which the defense failed to rebut -- earn the Court's *imprimatur*, thus:

....

Q After you saw Arthuro Villalobos and Arsenio Cahilig talking with each other, what transpired next?

A **Greg Antonio suddenly appeared at the left side of Arthuro and Arsenio Sir.**

Q After you saw him suddenly appeared [*sic*] at the left side of Arthuro Villalobos, what happened next?

A Inakbayan po niya, **I saw him put his arms around the shoulders of Arthuro Villalobos then suddenly stabbed him Sir.**⁵⁹ (Emphasis in the original)

This Court sees no reason to reverse the factual findings of the lower courts. After all, when it comes to the credibility of witnesses, the trial court's findings and its calibration of their testimonies' probative weight are accorded high respect and even finality. The trial court's unique vantage point allows it to observe the witnesses during trial, putting it in the best position to determine whether a witness is telling the truth.⁶⁰

In *People v. Cirbeto*,⁶¹ this Court underscored that an appellate court can only overturn the trial court's factual findings and replace it with its own factual findings if "there is a showing that the [trial court] overlooked facts or circumstances of weight and substance that would affect the result of the case."⁶² This rule "finds an even more stringent application where the findings of the [trial court] are sustained by the [Court of Appeals]."⁶³

III

Accused-appellant was charged with murder, which is defined and penalized under Article 248 of the Revised Penal Code:

ARTICLE 248. Murder. — Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death if committed with any of the following attendant circumstances:

⁵⁹ *Rollo*, pp. 9–10.

⁶⁰ *People v. Cirbeto*, G.R. No. 231359, February 7, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63973>> [Per J. Perlas-Bernabe, Second Division].

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity.
2. In consideration of a price, reward, or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

The Regional Trial Court found that Villalobos' killing was attended by treachery and evident premeditation, thereby qualifying it to murder.⁶⁴ For its part, the Court of Appeals only appreciated treachery, ruling that there was a want of evidence for evident premeditation.⁶⁵

The Court of Appeals is correct. Only treachery is present here.

Treachery is defined as "the swift and unexpected attack on the unarmed victim without the slightest provocation on his [or her] part."⁶⁶ To substantiate its allegation of treachery, the prosecution must prove: "(1) that at the time of the attack, the victim was not in a position to defend himself, and (2) that the offender consciously adopted the particular means, method or form of attack employed by him."⁶⁷

Here, both the Regional Trial Court and the Court of Appeals found that treachery attended accused-appellant's attack on Villalobos. The Court of Appeals held:

Clearly, treachery in this case is evident from the fact that: accused-appellant grabbed the victim's arm by surprise and simultaneously stabbing him with a foot-long knife despite being unarmed. To the Court, these are methods employed which rendered Arturo helpless as it left him with no opportunity to defend himself or even to retaliate; ultimately causing his death.⁶⁸ (Citation omitted)

⁶⁴ CA rollo, p. 66.

⁶⁵ Rollo, pp. 12-13.

⁶⁶ *People v. Abadies*, 436 Phil. 98, 105 (2002) [Per J. Ynares-Santiago, En Banc].

⁶⁷ Id.

⁶⁸ Rollo, p. 12.

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The lower courts' finding of treachery finds substantial basis in Fresado's testimony, which both courts found to be convincing and believable.⁶⁹

Meanwhile, to substantiate the claim of evident premeditation, this Court instructed in *People v. Borbon*⁷⁰ that it is indispensable that the facts on "how and when the plan to kill was hatched"⁷¹ are presented into evidence. In *People v. Ordon*,⁷² we added that "[t]he requirement of deliberate planning should not be based merely on inferences and presumptions but on clear evidence."⁷³

Here, the prosecution failed to establish in its version of the events that accused-appellant and his family members had schemed to kill Villalobos. Fresado's testimony merely showed that Villalobos followed Lorna to Delpan Bridge, and that he was later attacked by accused-appellant, Lorna, and Lorna's husband. The Regional Trial Court merely inferred that there was a plan in place because accused-appellant's act of stabbing Villalobos five (5) times implied that "[s]ufficient time elapsed from the time [accused-appellant] determined to kill the victim up to the time he actually committed the act[.]"⁷⁴ In fact, no evidence was presented to show the how and when of the plan to kill Villalobos.

Thus, the Court of Appeals was correct in reversing the Regional Trial Court's finding of evident premeditation:

The prosecution failed to establish by clear and positive evidence the time when the accused-appellant resolved to kill the accused (*sic*) with respect to the time when it was actually accomplished; mere presumptions and inferences of evident premeditation, no matter how logical and probable, are insufficient. Also, mere determination to commit the crime does not of itself establish evident premeditation for it must appear, not only that the accused made a decision to commit the crime prior to the moment of execution, but also that his decision was the result of meditation, calculation or reflection or persistent attempt. Apropos, there is much to be desired from David's testimony on this respect.⁷⁵ (Citations omitted)

Nonetheless, because treachery is present in the killing, accused-appellant's conviction for murder is affirmed. Moreover, this Court modifies the awards of civil indemnity, moral damages, and exemplary damages to ₱100,000.00 each, in accordance with *People v. Jugueta*.⁷⁶

⁶⁹ Id. at 10.

⁷⁰ 469 Phil. 132 (2004) [Per J. Callejo, Sr., Second Division].

⁷¹ Id. at 145.

⁷² 818 Phil. 670 (2017) [Per J. Leonen, Third Division].

⁷³ Id. at 672.

⁷⁴ CA rollo, p. 66.

⁷⁵ Rollo, p. 13.

⁷⁶ 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

WHEREFORE, the February 18, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06744 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Greg Antonio y Pableo @ Tokmol is found **GUILTY** beyond reasonable doubt of murder and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole.

Accused-appellant is ordered to pay the heirs of the victim, Arturo B. Villalobos, civil indemnity, moral damages, and exemplary damages worth ₱100,000.00 each. All damages awarded shall be subject to interest at the rate of six percent (6%) from the finality of this Decision until fully paid.⁷⁷

SO ORDERED.



MARVIC M. V. F. LEONEN

Associate Justice
Chairperson

WE CONCUR:



ALEXANDER G. GESMUNDO

Associate Justice



ROSMARI D. CARANDANG

Associate Justice



RODIL V. ZALAMEDA

Associate Justice



SAMUEL H. GAERLAN

Associate Justice

⁷⁷ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

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.

**MARVIC M.V.F. LEONEN**

Associate Justice

Chairperson

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.

**DIOSDADO M. PERALTA**

Chief Justice