Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

GIRALYN P. ADALIA
Accused-Appellant.

G.R. No. 235990

Members:

PERALTA, *C.J., Chairperson*
CAGUIOA,
J. REYES, JR.,
LAZARO-JAVIER, and
LOPEZ, *JJ.*

Promulgated:

JAN 22 2020

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D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This appeal seeks to reverse the Decision[1] dated July 6, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 02210, affirming the conviction of appellant Giralyn P. Adalia for infanticide under Article 255 of the Revised Penal Code (RPC), sentencing her to *reclusion perpetua* and requiring her to pay P100,000.00 as civil indemnity and P100,000.00 each as moral damages, exemplary damages, and temperate damages.

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[1] Penned by Associate Justice Edward B. Contreras and concurred in by now Supreme Court Associate Justice Edgardo L. Delos Santos and Associate Justice Geraldine C. Fiel-Macaraig, CA *rollo*, pp. 96-105.

The Proceedings Before the Trial Court

Appellant Giralyn P. Adalia was charged with infanticide under the following Information:

> That on or about the 17th day of July, 2010 at Sitio Arabe, Barangay Mayabon, Zamboanguita, Negros Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, after giving birth to a live baby girl on or about said date of July 17, 2010, with intent to kill, did, then and there, willfully, unlawfully and feloniously CARRY said baby girl who was still less than three days of age and THROW her into (the) Arabe Creek in order to drown and be killed, and whose dead body was eventually recovered early in the morning of July 20, 2010 with the umbilical cord and placenta intact.
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> An (act) defined and penalized by Article 255 of the Revised Penal Code.[2]

On arraignment, appellant pleaded not guilty.[3] Trial ensued.

Lorna Maruya, Esterlita Obera, Angelita Paltingca, Juanita Paclarin, PO3 Paquito Diaz, Ranie Japon, Cornelia Samy,[4] and Dr. Delia Futalan testified for the prosecution. On the other hand, appellant manifested that she had no testimonial and documentary evidence to present.[5]

Version of the Prosecution

On December 18, 2009, appellant consulted Dr. Delia Futalan, Municipal Health Officer and Medico-Legal Officer of Zamboanguita, Negros Oriental, for pain in the abdomen and urination. Appellant's urinalysis showed that she had a mild form of urinary tract infection. Dr. Futalan prescribed antibiotics for her.[6]

On March 15, 2010, appellant's mother Rogelia Adalia sought Juanita Paclarin, a *manghihilot*, to have the latter check appellant's stomach which was growing bigger and bigger. Appellant complained that she had not had her menstruation for five (5) months already. Paclarin refused to examine appellant considering that she was just a therapist specializing in sprains and not a *mananabang*. Rogelia, however, insisted for Paclarin to examine appellant's stomach. Paclarin obliged. She observed that appellant's tummy was, indeed, big although appellant was not fat. When she touched it, she

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2 Record, p. 2.
3 *Id.* at 56-59.
4 Sometimes spelled in the transcript as "Samie."
5 Record, p. 522.
6 TSN, August 29, 2012, pp. 4-5.

felt something moved inside. Due to her experience with her own pregnancies, she told appellant she was pregnant. But Rogelia forcefully told her that appellant could not be pregnant because she had no husband or boyfriend. Appellant also insisted that she had not had sexual intercourse with any man. Paclarin then advised appellant to see a medical doctor.[7]

On May 17, 2010, appellant returned to Dr. Futalan's clinic complaining of irregular menstruation and recurrent scanty vaginal bleeding. Upon examination, Dr. Futalan noted that appellant had an abdominal mass compatible to five (5) to seven (7) months pregnancy gestation. When asked, appellant insisted that her last menstruation was in March 2010. Considering appellant's last menstrual period, which was inconsistent with pregnancy, and due to the fact that the rural health center was limited to conducting physical examination, Dr. Futalan directed appellant to seek medical help from the Provincial hospital for further evaluation and management. Before she discharged appellant, however, Dr. Futalan told her she might be pregnant.[8]

Meantime, appellant's neighbors started to notice that appellant was gaining weight and her stomach was getting bigger. Sometime in May 2010, appellant told Lorna Maruya, who worked in the farm with her, that her menstruation was delayed. Maruya told appellant to seek medical help. Later, Maruya learned from appellant that a doctor allegedly diagnosed her with kidney failure. Appellant also said that a faith healer told her and her mother that her bulging belly was caused by an "*uray*" or bad spirit. The faith healer described it as an "*octopus getting inside the stomach of a person.*" Appellant further told Maruya that she would strangle whatever creature she would give birth to.[9]

Esterlita Obera and Angelita Paltingca similarly noticed that appellant's tummy was getting bigger.[10] Appellant even sought advice from Paltingca on how to cure her bulging belly. Paltingca, who was three (3) months pregnant herself, offered to take appellant to the hospital to have an ultrasound with her but appellant declined.[11]

On July 17, 2010, Maruya was working in the farm with appellant and Rogelia. Appellant suddenly asked Rogelia for permission to go home which the latter granted. Rogelia explained to Maruya that appellant had a headache. Rogelia also mentioned, though, that July 12, 2010 was the ninth (9th) month from appellant's last menstruation. At lunch time, Rogelia told Maruya that she would also be going home as appellant may have given birth already. Rogelia did not come back to work on that day.[12]

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7 TSN, October 26, 2011, pp. 4-6.
8 TSN, August 29, 2012, pp. 5-6.
9 TSN, July 20, 2011, pp. 5-7.
10 TSN, September 28, 2011, p. 3; TSN, October 12, p. 2.
11 TSN, October 12, p. 2-3.
12 TSN, July 20, 2011, pp. 9-11.

Sometime in the morning on that day, Ranie Japon heard a baby crying in the abandoned shanty owned by appellant's family. He was surprised by the sound considering that he knew that the shanty was abandoned. Curious, he moved towards the shanty. Suddenly, the crying stopped. Peeping through the shanty, he saw Rogelia and appellant in blood stained clothes. Blood stained rags also littered the floor. As if sensing his presence, Rogelia and appellant hurriedly collected the rags. Japon, on the other hand, left to tell the neighbors what he saw.[13]

Esterlita Obera also heard a baby crying inside the abandoned shanty of appellant's family. Less than a minute, though, the crying stopped. She did not think anything unusual about the cry. She only thought something strange when she heard later that day that appellant was bleeding.[14]

Around 1 o'clock in the afternoon, Paltingca saw appellant and Rogelia coming out of the shanty. They were going down the slope. Rogelia was carrying a small pail.[15]

Around 2 o'clock in the afternoon, Rogelia flagged the tricycad driven by Cornelia Samy. Rogelia instructed her to take her and appellant to the health center. Samy asked appellant whether she was about to give birth already, to which appellant replied "*maybe*...." At the health center, a nurse greeted appellant and her sister. She asked what their health concern was. Appellant's sister replied appellant was bleeding. The nurse referred them to Dr. Abella. Samy then drove them to Dr. Abella. Dr. Abella prescribed ferrous sulphate and advised them to go to an OB Gyne. Appellant though decided to go home.[16]

The next day, or on July 18, 2010, Rogelia went to Maruya's house to pick up her umbrella. When Maruya asked about appellant, Rogelia said appellant had given birth, but there was no baby, only blood. Later, Maruya saw appellant. When Maruya greeted appellant, the latter replied that she had given birth already.[17] On the same day, Maruya, Paltingca, and Feliza Adalim went to the abandoned shanty and confirmed the rumor that a lot of blood was left there. There was also a freshly dug hole.[18]

On the same day, Rogelia once again sought Paclarin's help. Rogelia told Paclarin that appellant was bleeding. Paclarin saw appellant lying on the floor in her sister's home. When Paclarin touched appellant's stomach, she noticed that it had shrunk in size. When she asked whether appellant had given birth, appellant denied giving birth and reasoned that she could not

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[13] TSN, November 23, 2011, pp. 6-10.
[14] TSN, September 28, 2011, p. 5.
[15] TSN, October 12, 2011, pp. 4-7.
[16] TSN, March 14, 2012, pp. 3-7.
[17] TSN, July 20, 2011, pp. 11-12 and 20.
[18] *Id.* at 14-16.

have possibly given birth since she had no boyfriend or husband. She also noted that appellant was weak. She advised appellant to go to a doctor, but the latter said that she had already gone to one.[19]

On July 19, 2010, Rogelia confronted Maruya regarding their visit to the shanty. Rogelia angrily asked Maruya whether she thought appellant killed the baby. On the same day, Maruya saw appellant who also asked what she thought happened to the baby. Maruya candidly told her they suspected she would kill the baby she was carrying. Appellant retorted "*why would I not strangle it (it) is better to strangle than to raise something that is due to evil spirit.*"[20]

On July 20, 2010, appellant and Rogelia went to Dr. Futalan's clinic to complain of vaginal bleeding. When she physically examined appellant, Dr. Futalan noted that appellant's breasts were engorged and excreted milk, her abdomen was very lax and there was "*linea negro,*" the appearance of her cervix was compatible to three (3) months gestation and admitted one (1) finger, her vaginal wall was very lax, and there was discharge of foul smelling blood. Dr. Futalan's conclusion was that appellant had delivered a baby two (2) to three (3) days ago. Appellant retracted her initial statement and admitted that her last menstrual period was in October 2009 and not March 2010.[21]

Meanwhile, PO3 Paquito Diaz received a text message that a baby was found floating in the Arabe creek. Together with other police officers, PO3 Diaz went to the creek. Indeed, an infant girl was on the creek. The baby's umbilical cord was still attached, but her whole body was already bloated. They took pictures of the baby at the *situs criminis* and interviewed some of the people who had milled around the area. A certain Cecilia Rico told them that appellant was the only pregnant woman in town and that there was a shanty nearby with bloodstains on it. When their team went to the shanty, they saw blood stained old clothes scattered around the floor and two (2) dug holes.[22]

Later that day, Paclarin was once again summoned to the house of appellant's sister. While she was there, she heard that a dead baby was found beside the creek. She confronted appellant and Rogelia but they both ignored her.[23]

Dr. Futalan was informed that a dead infant was found in the creek and brought to the police station. She went to the police station to examine the baby. She found that the new born baby girl had her placenta intact and her umbilical cord was uncut. In her opinion, the baby would have

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[19] TSN, October 26, 2011, pp. 8-12.
[20] TSN, July 20, 2011, p. 22.
[21] TSN, August 29, 2012, pp. 8-11.
[22] TSN, November 9, 2011, pp. 3-6.
[23] TSN, October 26, 2011, pp. 12-13.

sustained a life of its own because it was already fully developed. Based on her estimate, the baby died about two (2) to three (3) days from the time it was discovered. She recommended that the baby be buried immediately as the baby's body was already decomposing and forming gas.[24]

Pending trial, the prosecution moved to exhume the child for DNA with appellant,[25] which appellant vehemently opposes. By Order[26] dated August 16, 2013 the trial court granted the motion. Unfortunately, the body of the infant could no longer be found where it was buried.[27]

The prosecution offered the following exhibits: "A" to "A-1-a" – Lorna Maruya's Affidavit;[28] "B" to "B-1-" – Esterlita Obera's Affidavit;[29] "C" to "C-1" – Angelita Paltingca's Affidavit;[30] "D" to "D-1" – Juanita Paclarin's Affidavit;[31] "E" to "E-1" – PO3 Paquito Diaz's Affidavit;[32] "J" to "M" – Photographs taken by PO3 Paquito Diaz and his team;[33] "N" – Medical Certificate dated December 18, 2009 issued by Dr. Delia Futalan to appellant;[34] "O" – Medical Certificate dated July 20, 2010 issued by Dr. Delia Futalan to appellant;[35] "P" – Certification dated July 27, 2010 executed by Dr. Delia Futalan as to her examination on the body of the dead infant found at the Arabe Creek on July 20, 2010;[36] and "R" – Police Blotter Entry No. 00101 dated July 26, 2010 of the Philippine National Police (PNP) Station of Zamboangita, Negros Oriental.[37]

On the other hand, the defense manifested[38] it was not presenting any evidence.

The Trial Court's Ruling

By Decision[39] dated February 23, 2016, the trial court found appellant guilty as charged, *viz.*:

> WHEREFORE, the foregoing considered, this Court therefore finds the Accused GIRALYN P. ADALIA guilty beyond reasonable doubt of the crime of INFANTICIDE and hereby sentences her to suffer the maximum penalty of *reclusion perpetua* to death as amended by R.A.

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24 TSN, August 29, 2012, pp. 16-18.
25 Record, pp. 173-175.
26 *Id.* at 450-451.
27 *Id.* at 452.
28 *Id.* at 13-14.
29 *Id.* at 15.
30 *Id.* at 16.
31 *Id.* at 19.
32 *Id.* at 20.
33 *Id.* at 25-31.
34 *Id.* at 32.
35 *Id.* at 22.
36 *Id.* at 23.
37 *Id.* at 24.
38 *Id.* at 522 and 527.
39 Penned by Presiding Judge Ma. Mercedita U. Sarsaba, CA *rollo*, pp. 32-47; Record, pp. 544-559.

> 7659. However, pursuant to Republic Act 9346, since the death penalty was abolished accused shall only be sentenced to suffer the penalty of *reclusion perpetua* only.
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> SO ORDERED.[40]

The trial court found that although there was no direct evidence that appellant slayed her own child, all the attendant circumstances, especially the actions of appellant and Rogelia before and after the child's birth lead to no other conclusion but that appellant was pregnant, gave birth, and threw her child into the creek to die.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction. She argued[41] that the prosecution failed to categorically prove she was pregnant. Dr. Futalan even initially ruled out pregnancy and instead diagnosed her with uterine mass. Dr. Futalan recanted her diagnosis only when a dead infant was found in the creek. Her neighbors' testimonies as to her alleged pregnancy should not be given credence as these witnesses were not experts in the field of gynecology or medicine. Too, the prosecution miserably failed to prove that the child found in the creek belonged to her or whether the child was actually alive at birth. The prosecution witnesses merely testified they allegedly heard a baby crying in the shanty but nobody saw a baby there. Thus, absent any proof that the baby was alive when born, one cannot logically conclude that it was killed. She was merely a "*convenient suspect*" in the killing of the child found floating in the Arabe Creek.

For its part, the Office of the Solicitor General (OSG), through Assistant Solicitor General Raymund I. Rigodon and Associate Solicitor Patricia Ruth E. Peña, countered in the main: jurisprudence does not preclude a finding of guilt on the basis of circumstantial evidence. Considering the nature of the crime, the same is usually done in utmost secrecy. Thus, it is not surprising here that there were no actual eyewitnesses. But it does not mean that the crime did not happen. The following circumstances show that appellant was guilty of infanticide:[42]

> (a) Appellant's neighbors noticed her bulging belly. Some of them even elicited admission from appellant herself. Too, after she did a physical examination on appellant in July 2010, Dr. Futalan concluded that appellant had recently given birth. Appellant herself admitted to Dr. Futalan that her last menstrual period was in October 2009;

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[40] CA *rollo*, p. 47; Record, p. 559.
[41] See Appellant's Brief dated August 15, 2016, CA *rollo*, pp. 15-30.
[42] See Appellee's Brief dated December 20, 2016, *Id.* at 71-85.

(b) Appellant's unusual conduct during her pregnancy, *i.e.*, consistently denying her pregnancy, insisting to Dr. Futalan that her last menstrual period was in March 2010, imputing her condition on evil spirit, and confiding in Maruya that she would strangle whatever creature was inside her tummy – all indicate her sinister plot to conceal her pregnancy;

(c) Appellant's actuations on July 17, 2010 spoke one (1) indubitable fact: she gave birth to a child. The testimonies of the prosecution witnesses were lengthy, thus, could not have been *rehearsed*; and

(d) Dr. Futalan already opined that appellant had signs of having recently given birth even before she learned about the discovery of a dead infant found in the Arabe creek.

The Court of Appeals' Ruling

By its assailed Decision[43] dated July 6, 2017, the Court of Appeals affirmed in the main, albeit it pronounced appellant to be ineligible for parole in accordance with Republic Act No. 9346 (RA No. 9346) and made her liable for damages, to wit:

> WHEREFORE, the appeal is DENIED. The Decision dated February 23, 2016 of the Regional Trial Court, Branch 31, Dumaguete City in Criminal Case No. 2010-20225 is hereby AFFIRMED with MODIFICATIONS:
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> a) Appellant is to suffer the penalty of reclusion perpetua without eligibility for parole;
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> b) Appellant is ordered to pay the heirs of the deceased child P100,000.00 as civil indemnity; P100,000.00 as moral damages; P100,000.00 as exemplary damages and P50,000.00 as temperate damages.
>
> SO ORDERED.[44]

The Court of Appeals held that lack of direct evidence is not conclusive proof of appellant's innocence. Direct evidence is not the sole means of proving guilt beyond reasonable doubt. While there was no direct evidence pointing to appellant's culpability, the prosecution had sufficiently presented a series of unbroken chain of circumstances which led to the conclusion that appellant had given birth and killed her child. Dr. Futalan's findings corroborated this conclusion.

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[43] Penned by Associate Justice Edward B. Contreras and concurred in by now Supreme Court Associate Justice Edgardo L. Delos Santos and Associate Justice Geraldine C. Fiel-Macaraig, *Id.* at 96-105.

[44] *Id.* at 105.

The trial court, however, erred when it failed to award damages to the heirs of the deceased child. Appellant should not only be imprisoned, but must also be liable for damages.

The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for her acquittal.

For the purpose of this appeal, the OSG manifested[45] that in lieu of supplemental brief, it was adopting its brief before the Court of Appeals.

Appellant, on the other hand, filed her Supplemental Brief.[46] She maintains that there was no direct evidence that she indeed killed the baby. It must be noted that she is ignorant or uneducated about motherhood and her pregnancy and the child had no proper pre-natal care and was only born in a small shanty. These were aggravated by the fact that her family was very poor. In fact, even prior to giving birth, she was still working in the farm. Under these circumstances, it can be reasonably inferred that the baby lived just for a very short while. Even the prosecution witnesses themselves testified that they heard a baby crying only for a moment. Then it stopped. Too, having just given birth, she was bleeding, very weak, and too much in pain to even have the strength to kill an infant and throw it into the creek.

More, *reclusion perpetua* is too harsh a penalty given the circumstances of the case. The RPC itself provides that when infanticide is committed in order to conceal the dishonor of the accused, the latter shall only suffer the lower penalty of *prision correccional* in its medium and maximum periods. There is evidence showing that she and her mother continuously denied her pregnancy. Too, she remained silent throughout the trial of the case. This is usually a sign of remorse.

Issue

Did the Court of Appeals gravely err when it affirmed the verdict of conviction based on circumstantial evidence?

Ruling

Article 255 of the Revised Penal Code (RPC) reads:

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[45] *Rollo*, pp. 23-24.
[46] *Id.* at 38-42.

> Art. 255. *Infanticide.* — The penalty provided for parricide in Article 246 and for murder in Article 248 shall be imposed upon any person who shall kill any child less than three days of age.
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Thus, to convict an accused charged with infanticide, the following elements must be proved: (a) a child was killed; (b) the deceased child was less than three (3) days old; and (c) the accused killed the child.

In the main, appellant asserts that there was no direct evidence to prove that the charge of infanticide against her, hence, she should have been acquitted.

The absence alone of direct evidence against an accused does not *per se* compel a finding of innocence. Circumstantial evidence may be offered to take the place of direct evidence, especially in cases involving crimes which by their nature are usually committed in utmost secrecy. ***People v. Pentecostes***[47] decreed that *circumstantial evidence is by no means a "weaker" form of evidence vis-a-vis direct evidence.* It elaborated:

> 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. Thus, our rules on evidence and jurisprudence allow the conviction of an accused through circumstantial evidence alone, provided that the following requisites concur:
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> (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.
>
> 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.
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In ***People v. Casitas, Jr.***,[48] 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.*"

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[47] 844 SCRA 610, 619-620 (2017).
[48] 445 Phil. 407, 419 (2003), as cited in *People v. Pentecostes,* supra.

Here, the following circumstances make up the chain of events which culminated in a graphic portrayal of how appellant's cold-blooded slaying of her newborn child was committed, *viz.*:

One. Appellant was pregnant starting October 2009 until she gave birth on July 17, 2010. The prosecution witnesses testified:

Dr. Delia Futalan

- On December 18, 2009, appellant went to her "complaining of abdominal pain or epigastric pain as well as peshoria or pain in urination."[49]

- On May 17, 2010, appellant went back to the health center "complaining of irregular menstruation and on-and-off scanty vaginal bleeding for two (2) weeks."[50]

- She interviewed appellant and the latter said that her last monthly menstruation was March 2010, with three (3) days duration. When she examined appellant, she found out that there was abdominal mass in appellant's abdomen "*compatible to about 5 to 6 or 7 months pregnancy gestation.*"[51]

- Before letting them leave, she told appellant that she might be pregnant.[52]

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Juanita Paclarin

- Appellant first consulted her on March 15, 2010. Rogelia wanted her to heal appellant's growing tummy despite not being pregnant.[53]

- Appellant herself complained that her menstrual period has not arrived for five (5) months already beginning November 2009.[54]

- At first, she refused to examine appellant as she was not a "mananabang." She told appellant and her mother to simply go to the doctor "since she is pregnant."[55]

- She concluded that appellant was pregnant because of her own experiences in bearing her own children. She already knows if a person is pregnant judging by the form of her tummy.[56]

- When she touched appellant's tummy, she felt something inside moved. She told appellant that she was pregnant because there is

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49 TSN, August 29, 2012, p. 4.
50 *Id.*
51 *Id.* at 4-5.
52 *Id.* at 6.
53 TSN, October 26, 2011, pp. 4-5.
54 *Id.*
55 *Id.*
56 *Id.* at 5.

something inside that moved. Rogelia, however, retorted "*why would she be pregnant when she is not married*?," which appellant echoed.[57]

- She then advised appellant to have herself checked up by a doctor.[58]

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Lorna Maruya

- In May 2010, appellant told her that her menstrual period was delayed.[59]

- By that time though, she already observed that appellant's belly was bigger than usual. [60]

- In June 2010, appellant's mother had repeatedly stated to her that she was wondering why appellant's stomach was getting bigger.[61]

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Esterlita Obera

- In April 2010, she also started to notice that appellant had gained weight and that in July 2010, her belly became too big. She believed, then, that appellant was pregnant.[62]

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Angelita Paltingca

- When she saw appellant in April 2010 she noticed that the latter had gained weight and her abdomen was getting a little bigger. In fact, appellant complained to her regarding her bulging belly and asked her advise for a cure. [63]

- At the time, she was three (3) months pregnant. She invited appellant to the hospital to have an ultrasound test with her. But appellant declined.[64]

- In July 2010, appellant's belly looked like she was about to give birth.[65]

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57 *Id.* at 6.
58 *Id.*
59 TSN, July 20, 2011, p. 5.
60 *Id.* at 6.
61 *Id.* at 8.
62 TSN, September 28, 2011, p. 3.
63 TSN, October 12, 2011, pp. 3-4.
64 *Id.* at 4.
65 *Id.*

Two. Appellant gave birth to a child on July 17, 2010.

Lorna Maruya

- On July 17, 2010 she was working at the farm with appellant and Rogelia.[66]

- Appellant suddenly asked permission from her mother to go home. When she asked Rogelia regarding appellant's condition, Rogelia answered that she had a headache.[67]

- At lunch time, Rogelia also went home. Rogelia told her "*I have to go back home to Ge, because she might have given birth already.*" [68]

- Upon her inquiry, Rogelia told her that "July 12, 2010 was the 9th month since (appellant's) last menstruation."[69]

- She later saw appellant and Rogelia going down the trail and headed to the center because appellant was bleeding.[70]

- On July 18, 2010, Rogelia told her that appellant was bleeding "*but there was no baby.*"[71] She also saw appellant. When she greeted her, appellant replied, "*here Ya I have given birth already.*"[72] She observed that appellant's belly was already small.[73]

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Esterlita Obera

- On July 17, 2010, she *heard a crying baby from the dilapidated shanty of appellant's family.*[74]

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Ranie Japon

- On July 17, 2010, while he was on a cigarette break, he *heard a baby crying* from the abandoned shanty of the Adalia family. He *went near the shanty and peeped inside*. Inside, *he saw appellant and Rogelia.*[75] He also saw bloodied rags littering the floor.[76]

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66 TSN, July 20, 2011, p. 9.
67 *Id.* at 10-11.
68 *Id.*
69 *Id.* at 11.
70 *Id.*
71 *Id.* at 12.
72 *Id.*
73 *Id.* at 13.
74 TSN, September 28, 2011, p. 5.
75 TSN, November 23, 2011, pp. 7-8.
76 *Id.* at 8.

Angelita Paltingca

- On July 17, 2010, around 1 o'clock in the afternoon, she saw appellant and Rogelia emerge from their abandoned shanty.[77]

- Appellant walked *very slowly as if holding her buttocks*. She also noticed that appellant's abdomen was not very big anymore and she was pale.[78]

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Juanita Paclarin

- On July 18, 2010, she was once again *fetched* by appellant's family to look at appellant who was apparently *bleeding*.[79]

- She noticed that appellant's tummy appeared to be smaller already[80]

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Cornelia Samy

- On July 17, 2010, Rogelia flagged her and asked her to bring appellant to the health center.[81] She asked Rogelia whether appellant would be giving birth already, to which Rogelia answered "*maybe she would be giving birth.*"[82]

- At the Health Center, when the nurse learned that appellant was bleeding, the nurse referred appellant to another doctor.[83]

- They went to Dr. Abella but Dr. Abella ordered appellant to go to an OBGyne.[84] But appellant opted to just go home.[85]

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Dr. Delia Futalan

- When she examined appellant on July 20, 2010, she noted that her breasts were already *engorge* and excrete milk. Appellant's abdomen was *very lax* and there was presence of "*Linea Negro.*" Her uterus was *palpable* and it was *compatible to three (3) months gestation*. She also found that there were *perennial lacerations* in appellant's vagina. There were *discharges of foul smelling blood*. Her cervix was *open*

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77 TSN, October 12, 2011, pp. 5-6.
78 *Id.* at 6.
79 TSN, October 26, 2011, p. 8.
80 *Id.* at 9.
81 TSN, March 14, 2012, pp. 3-4.
82 *Id.* at 4.
83 *Id.* at 6.
84 *Id.* at 6-7.
85 *Id.* at 7.

and admits one (1) finger. Her conclusion was that appellant recently delivered through her vagina.[86]

- When she interviewed appellant, the latter admitted that her last menstruation was October 10, 2009, which corroborated her conclusion that appellant was pregnant and had recently given birth.[87]

Three. Appellant killed the child at birth.

PO3 Paquito Diaz

- On July 20, 2010, he *received a text message* from his companion telling him that there was an infant floating in Arabe Creek.[88]

- Upon arrival at that creek, he saw a dead baby girl *floating on the water*. The child's body was *already bloated*. And the *umbilical cord was still pinned to the stone*.[89]

- A bystander, Cecilia Rico, narrated to them that appellant was the only pregnant woman in their place.[90]

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Esterlita Obera

- On July 20, 2010, she heard that a lifeless body of an infant was discovered at the Arabe Creek. When she went there to confirm the news, she saw the baby "*with arms raised both sides with the umbilical cord still attached to the baby.*" The child was already dead.[91]

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Dr. Delia Futalan

- On July 27, 2010, she examined the body of a dead newborn *fully developed baby*. The baby still has its *umbilical cord and the placenta intact*. The body was already *undergoing decomposition*.[92]

- In her opinion, that baby would have sustained a life of its own when taken care of and not thrown to the creek.[93]

- She estimated that the baby died about 2 to 3 days prior to discovery.[94]

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86 TSN, August 29, 2012, pp. 8-10.
87 *Id.* at 11-12.
88 TSN, November 9, 2011, p. 3.
89 *Id.* at 4.
90 *Id.* at 5.
91 TSN, September 28, 2011, pp. 8-9.
92 TSN, August 29, 2012, pp. 15-16.
93 *Id.*
94 *Id.* at 17.

x x x x x x x x x

Lorna Maruya

- On May 10, 2010, appellant told her that her bulging belly was caused by an evil spirit. She told her that "*it is better to give birth normally than giv(e) birth caused by evil spirit.*" Appellant retorted, "*if ever I will give birth to this, I will strangle it.*"[95]

- On July 19, 2010, Rogelia angrily confronted her about their act in going to the abandoned shanty. Rogelia angrily asked: "*What is your impression? Giralyn killed the baby*?"[96]

- Appellant also asked "what are you thinking of?" When she told her that they have an impression that she will kill the baby, appellant replied "*why would I not strangle it is better to strangle than to raise something that is due to evil spirit.*"[97]

x x x x x x x x x

Esterlita Obera

- On July 18, 2010, she met Rogelia while walking down the terrain. Rogelia was grumbling about her neighbors allegedly "*acting as if they are better than the police authorities who made a search of their dilapidated shanty.*"[98]

x x x x x x x x x

Angelita Paltingca

- Rogelia confronted her personally and asked why they went to her shanty. Rogelia uttered: "*You thought that Giralyn gave birth to a baby*? But I retorted back to her in this manner (:) *Why? When your daughter was still pregnant you come to me but now that she already gave birth, you got angry if we will go to your shanty*?"[99]

More, it is baffling why appellant vehemently opposed the exhumation of the child's body when, as she claimed, she was not guilty. If she truly had nothing to hide, then exhumation of the child and the conduct of DNA testing would not bother her. In fact, the conduct of DNA testing would even be beneficial to her plea of not guilty and her persistent denial that she was the mother of the child found floating on the Arabe creek, in case the result show that she had no relations with the infant.

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95 TSN, July 20, 2011, p. 7.
96 *Id.* at 21-22.
97 *Id.* at 22.
98 TSN, September 28, 2011, p. 7.
99 TSN, October 12, 2011, p. 9.

Notably, too, it could not be just a coincidence that after the trial court ordered for the exhumation of the child, its remains suddenly disappeared from the grave. One thing for sure, there would be no one more interested in stealing and hiding the remains of the child other than appellant herself, who was the one on trial for the death of that child and who would be the most adversely affected should a DNA be done and its result turn out to be positive. She would also be the only one to benefit from the loss of the child's remains from the grave because it meant that DNA test could never take place ever.

The chain of events heretofore stated leads to no other conclusion but that appellant was pregnant and gave birth to a child whom she killed at birth because she and her mother believed the child belonged to an "*evil spirit.*" After killing the child, she threw it into the Arabe Creek.

To emphasize, the testimonies of the prosecution witnesses were all unrefuted.

The prosecution witnesses may not be medical experts, but they saw appellant's tummy growing big like a pregnant woman. They saw the inculpatory actuations of appellant and her mother before and after she gave birth. They, too, heard what appellant and her mother uttered on several occasions pertaining to her pregnancy, her giving birth to the child, and her over-all behavior during the period material to this case. From what they observed and heard from appellant and her mother, these prosecution witnesses need not be medical experts to get a grasp of what was really going on with appellant.

Appellant, though, harps on the initial conclusion of Dr. Futalan that she was not pregnant. But, this initial conclusion was due to appellant who fed misleading information to Dr. Futalan, who, on the basis thereof, was also misled about appellant's real physical condition.

First, appellant told Dr. Futalan that her last menstrual cycle was in March 2010. Thus, Dr. Futalan could not have categorically concluded that appellant, who had a bulging belly consistent with five (5) to seven (7) pregnancy gestation months, was pregnant by that much in May 2010. Despite this, though, Dr. Futalan advised appellant to seek further medical evaluation and management at the Provincial hospital.[100] Notwithstanding appellant's statement, though, Dr. Futalan still told her that she might be pregnant.[101]

Only when Dr. Futalan physically examined appellant on July 20, 2010 did the latter admit that her last menstrual period was actually in October 2009. By that time, appellant had more signs of pregnancy and delivery of a child, *i.e.*, her breasts were engorged and they excreted milk,

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[100] TSN, August 29, 2012, pp. 5-6.
[101] *Id.*

her abdomen had "*linea negro*" which appears during pregnancy, the appearance of appellant's cervix was compatible to three (3) months gestation, her vaginal wall was very lax, and there was a discharge of foul-smelling blood. This time, Dr. Futalan('s) concluded that appellant had delivered a baby two (2) to three (3) days prior.[102]

Another, appellant speculates that the prosecution failed to prove that the child was born alive. According to her, the child could have been born dead. This is a negative pregnant. Appellant is denying and admitting a fact at the same time. If this is not an admission of guilt, what is?

At any rate, two (2) of appellant's neighbors heard a baby crying from the shanty of appellant's family. Ranie Japon even saw appellant and her mother inside said shanty with bloodied rags around them. Again, appellant did not present any countervailing proof that the baby was still born. Sans any evidence to the contrary, the trial court aptly found the testimonies of the prosecution witnesses credible. It is settled that the trial court's factual findings, especially when affirmed by the appellate court, are entitled to great respect and generally should not be disturbed on appeal unless certain substantial facts were overlooked which, if considered, may affect the outcome of the case.[103] ***People v. Collamat, et al.***[104] ordained:

> In cases where the issue rests on the credibility of witnesses, as in this case, it is important to emphasize the well-settled rule that "appellate courts accord the highest respect to the assessment made by the trial court because of the trial judge's unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grueling examination."
>
> We explained in *Reyes, Jr. v. Court of Appeals* that the findings of the trial court will not be overturned absent any clear showing that it had *overlooked, misunderstood* or *misapplied* some facts or circumstances of weight or substance that could have altered the outcome of the case, *viz.*:
>
> > Also, the issue hinges on credibility of witnesses. We have consistently adhered to the rule that **where the culpability or innocence of an accused would hinge on the issue of credibility of witnesses and the veracity of their testimonies, findings of the trial court are given the highest degree of respect**. These findings will not be ordinarily disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could very well affect the outcome of the case. It is the trial court that had the opportunity to observe 'the witnesses' manner of testifying, their furtive glances, calmness, sighs or their scant or full realization of their oaths. It had the better opportunity to observe the

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[102] *Id.* at 8-11.
[103] *People v. Marzan*, G.R. No. 207397, September 24, 2018.
[104] G.R. No. 218200, August 15, 2018.

> witnesses firsthand and note their demeanor, conduct and attitude under grueling examination. Inconsistencies or contradictions in the testimony of the victim do not affect the veracity of the testimony if the inconsistencies do not pertain to material points. (Emphasis supplied)
>
> x x x x x x x x x

The Court of Appeals, therefore, did not err when it affirmed the verdict of conviction against appellant.

Penalty

Article 255 provides:

> Art. 255. *Infanticide.* — The penalty provided for parricide in Article 246 and for murder in Article 248 shall be imposed upon any person who shall kill any child less than three days of age.
>
> If the crime penalized in this article be committed by the mother of the child for the purpose of concealing her dishonor, she shall suffer the penalty of prision correccional in its medium and maximum periods, and if said crime be committed for the same purpose by the maternal grandparents or either of them, the penalty shall be prision mayor.

Article 255, in relation to Article 248 of the RPC,[105] provides that the offense of infanticide is punishable by *reclusion perpetua* in its maximum period to death. Applying Article 63(2) of the RPC,[106] the lesser of the two (2) indivisible penalties shall be imposed when there is no mitigating or aggravating circumstance which attended the killing, as in this case.

Appellant claims, however, that should her conviction be affirmed here, the lesser penalty of *prision correccional*, not *reclusion perpetua*, should be imposed on her. She asserts that as the prosecution itself had purportedly narrated, she committed the crime only because she wanted to conceal her dishonor.

The argument utterly lacks merit.

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[105] Art. 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 temporal in its maximum period to death
x x x

[106] Art. 63. *Rules for the application of indivisible penalties.* — x x x
In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:
x x x
2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

There is absolutely no evidence on record showing that appellant killed her child supposedly to conceal her dishonor for being an unwed mother or a woman who bore a child although she did not have a boyfriend. This alleged circumstance, not being found on the record cannot be used to benefit appellant by reducing the imposable penalty from *reclusion perpetua* to *prision correccional*.

Verily, both the trial court and the Court of Appeals correctly sentenced appellant to *reclusion perpetua*.

It is unnecessary, however, to specify that appellant is not eligible for parole. Under Administrative Matter No. 15-08-02-SC,[107] the qualification "*without eligibility for parole*" is only specified when the proper penalty would have been death were it not for the enactment of Republic Act No. 9346.[108] Here, in view of the absence of any aggravating circumstance, appellant should be sentenced to *reclusion perpetua* only, not death. Hence, the term of *reclusion perpetua* need not be qualified by the phrase "*without eligibility for parole.*"

On the monetary awards, ***People v. Jugueta***[109] pronounced:

> I. For those crimes like, Murder, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties:
>
> x x x x x x x x x
>
> 2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:
>
> a. Civil indemnity – ₱75,000.00
> b. Moral damages – ₱75,000.00
> c. Exemplary damages – ₱75,000.00

Thus, the Court of Appeals' awards of civil indemnity, moral damages, and exemplary damages should be reduced from P100,000.00 each to P75,000.00 each.

The Court of Appeals also correctly awarded P50,000.00 as temperate damages. Obviously, expenses were made in order to put the child's body to rest. ***People v. Gervero, et al.***[110] ruled:

x x x x x x x x x

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[107] Guidelines for the Proper Use of the Phrase "without eligibility for parole" in Indivisible Penalties, August 4, 2015; See also *People v. Ursua y Bernal*, 819 Phil. 467, 476 (2017).

[108] An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[109] 783 Phil. 806, 847-848 (2016).

[110] G.R. No. 206725, July 11, 2018.

> x x x It was also ruled in *Jugueta* that **when no documentary evidence of burial or funeral expenses is presented in court, the amount of P50,000.00 as temperate damages shall be awarded.** In addition, interest at the rate of six percent per annum shall be imposed on all monetary awards from the date of finality of this decision until fully paid. (Emphasis supplied)
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> x x x x x x x x x

ACCORDINGLY, the appeal is **DENIED**. The Decision dated July 6, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 02210 is **AFFIRMED with modification**. Appellant Giralyn P. Adalia is found **GUILTY** of Infanticide under Article 255 of the Revised Penal Code. She is sentenced to *reclusion perpetua*. She is further required to pay the child's qualified heirs the following amounts; (a) **P75,000.00** each as civil indemnity, moral damages, and exemplary damages, and (b) **P50,000.00** as temperate damages.

All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from finality of this decision until fully paid.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR :

DIOSDADO M. PERALTA
Chief Justice
Chairperson – First Division

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to the Section 13, Article VIII of the Constitution, 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