



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE G.R. No. 256468
 PHILIPPINES,

Plaintiff-Appellee,

- versus -

Present:
 CAGUIOA, J., *Chairperson,*
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

ARVI VILLA y GARCIA,
Accused-Appellant.

Promulgated:
 October 11, 2023

X ----- ~~Mis-DC Bato~~ ----- X

DECISION

INTING, J.:

Before the Court is an appeal¹ assailing the Decision² dated September 30, 2020, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11793 which affirmed with modification the Consolidated Decision³ dated August 29, 2018, of Branch 16, Regional Trial Court (RTC), Manila in Criminal Case Nos. 14-307999, 14-308000, and 14-308001. The RTC found Arvi Villa y Garcia (accused-appellant) guilty beyond reasonable doubt of the following crimes: two (2) counts of Murder, defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended;⁴ and one (1) count of Frustrated Murder, defined and penalized

¹ See Notice of Appeal, *rollo*, pp. 35.

² *Id.* at 9–26. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura.

³ *Id.* at 30–77. Penned by Presiding Judge Janice R. Yulo-Antero.

⁴ Amended by Republic Act No. 7659 entitled “An Act to Impose the Death Penalty on Certain

under Article 248, in relation to Article 50, of the RPC.

The Antecedents

In three (3) separate Informations, accused-appellant was charged with two (2) counts of Murder and one (1) count of Frustrated Murder. The accusatory portions of the Informations read:

CRIM. CASE NO. 14-307999

[Murder]

That on or about August 1, 2014 in the City of Manila, Philippines, the said accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one SERGIO AGUILAR, JR. y TIAMZON, by then and there suddenly shooting the latter with the use of a JERICHO 941F pistol-type handgun, hitting him on the different parts of his body, thereby inflicting upon said SERGIO AGUILAR, JR. y TIAMZON gunshot wounds, which was the direct and immediate cause of his death thereafter.

Contrary to law.⁵

CRIM. CASE NO. 14-308000

[Murder]

That on or about August 1, 2014 in the City of Manila, Philippines, the said accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one MARIA LOURDES AGUILAR y TOLENTINO, by then and there suddenly shooting the latter with the use of a JERICHO 941F pistol-type handgun, hitting the latter a [*sic*] top of her right eye, thereby inflicting upon said MARIA LOURDES AGUILAR y TOLENTINO gunshot wound, which was the direct and immediate cause of his [*sic*] death thereafter.

Contrary to law.⁶

CRIM. CASE NO. 14-308001

[Frustrated Murder]

That on or about August 1, 2014 in the City of Manila,

Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Penal Law, and for Other Purposes," approved on December 13, 1993.

⁵ As culled from the CA Decision, *rollo*, pp. 9-10.

⁶ As culled from the CA Decision, *id.* at 10.

Philippines, the said accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one MARIDREF TOLENTINO y RICO, by then and there suddenly shooting her with the use of a JERICHO 941F pistol-type handgun, hitting her on the left part of her chest and left thigh, thereby inflicting upon her gunshot wounds which is [*sic*] necessarily fatal and mortal, thus performing all the acts of execution which would have produced the crime of murder as a consequence but which, nevertheless, did not produce it by reason of some cause independent of the will of the said accused, that is, by the timely and able medical assistance rendered to said MARIDREF TOLENTINO y RICO, which prevented her death.

Contrary to law.⁷

Upon arraignment, accused-appellant pleaded “Not Guilty” to the crimes charged.⁸

Trial on the merits ensued.

Version of the Prosecution

The prosecution presented the following witnesses: private-complainant Maridref Rico Tolentino (Maridref), Police Officer 2 Ruel Villaranda (PO2 Villaranda), Lemuel Candilosas Vallenas (Vallenas), Police Chief Inspector (PCI) Cristina Macagba (PCI Macagba), PCI Liza Octaviano-Ang (PCI Octaviano-Ang), PCI Jiselle Cui Baluyot (PCI Baluyot), Alfredo Aguilar, and Alexander Rico Tolentino.⁹

Victims Maria Lourdes Tolentino Aguilar (Maria Lourdes) and Sergio Tiamzon Aguilar, Jr. (Sergio) are the mother and stepfather, respectively, of Maridref. Maridref testified that she and accused-appellant were live-in partners for seven years, staying in the house of the latter’s parents in Novaliches, Quezon City. She also testified that accused-appellant inflicted physical and verbal abuse against her since 2011.¹⁰

In June 2014, Maridref decided to end her relationship with accused-appellant. One month thereafter, she left the place of accused-appellant and moved to her mother’s house in Sta. Ana, Manila. Accused-

⁷ As culled from the CA Decision, *id.*

⁸ *Id.*

⁹ *Id.* at 37, 43, 45, 47, 51–54, 56.

¹⁰ *Id.* at 11.

appellant went to Sta. Ana and begged Maridref to go back to him, but the latter refused. Maria Lourdes thereafter asked accused-appellant to bring all her personal things to her house. Heeding the request, accused-appellant brought all the personal things of Maridref that night.¹¹

The following day, accused-appellant went back to Sta. Ana. He and Maridref talked and agreed that they would be separated for a week and would meet again on Sunday.¹²

On August 1, 2014, accused-appellant showed up in Sta. Ana. According to Maridref, it was the day that she finally decided to break up and leave the accused-appellant.¹³ He and Maridref were in the kitchen; he cried and tried to convince Maridref to go back with him, but Maridref refused. Accused-appellant then went to the comfort room; thus, prompting Maridref to go to the living room where Maria Lourdes and Sergio were at that time.¹⁴

As accused-appellant was about to leave, he then again used the comfort room. Afterwards, he went to the kitchen and stayed there for 30 seconds to one minute. In the living room, there is a mirror that reflects the area where the sink is; it also showed where accused-appellant was standing at that time. Through the mirror's reflection, Maridref saw that accused-appellant was holding a gun. Maridref stood up and told Sergio about the gun. Sergio stood up and peeked at accused-appellant. At that instance, accused-appellant poked a gun at Sergio. Maridref ran. As she ran farther, she heard several shots. Without her knowing, she suffered multiple gunshot wounds and fell down. Maridref managed to stand up, run, and call for help. She went to a computer shop and hid until a *barangay tanod* came. They brought her to the Philippine General Hospital where she stayed for three days for medical treatment.¹⁵ The prosecution presented the medical abstract and medical certificate of Maridref which showed that she suffered from multiple gunshot wounds on the chest, armpit, inner arm, thigh and buttocks.¹⁶

The incident cost the life of Maria Lourdes and Sergio. Maridref's injuries also caused her to not work for three months; thus, depriving her of her monthly earning of ₱25,000.00 to ₱27,000.00. Maridref further

¹¹ *Id.*

¹² *Id.*

¹³ Records, p. 383.

¹⁴ *Rollo*, p. 11.

¹⁵ *Id.* at 11–12.

¹⁶ Records, pp. 17 and 92.

testified that Maria Lourdes owned a *sari-sari* store while Sergio was a jeepney driver who also rented out a van for a living.¹⁷

The second prosecution witness was PO2 Villaranda, assigned at Police Station 6, Punta, Sta. Ana, Manila. He was the backup police officer who responded to the incident. He testified that on August 1, 2014, at around at 9:45 p.m., several concerned people arrived at the police station to report an incident. He proceeded to the described tenement in Punta, Sta. Ana, which was less than 80 meters away from the police station. Upon his arrival, he saw accused-appellant kneeling and drenched in blood in front of the door of the tenement unit. Upon securing the place, PO2 Villaranda went inside the apartment and saw two persons, a male and a female, lying in their own blood on the floor.¹⁸

The third prosecution witness was Vallenas. He testified that on August 1, 2014, at around 9:30 p.m., he was on the fourth floor of Building 902 when he heard gunshots, more or less six times. Upon locating where the gunshots originated, he saw a woman running away and being fired at by a man on the ground floor of Building 901, the building adjacent to where he was. He then saw the same man point the gun on his head and shoot himself. He further testified that he went to the ground floor and saw the man who shot himself and the gun on the floor. In court, he identified the man as the accused-appellant.¹⁹

The fourth witness presented by the prosecution was PCI Macagba, Chief of the Firearms Identification Section at the Manila Police District. She testified on the findings of the cross-matching examination which revealed that the firearm and the collected evidence from the crime scene matched.²⁰

Another witness presented was PCI Octaviano-Ang, a Fingerprint Examiner at the Manila Police District Crime Laboratory. Her testimony, however, was dispensed with in view of the admission of the proposal for stipulations and counter-stipulations of the prosecution and defense. The prosecution and the defense stipulated that PCI Octaviano-Ang turned over the bullets for ballistic examination; that the victims' bodies were turned over to the medico-legal officer for autopsy; and that she prepared an Incident Report.²¹

¹⁷ *Id.* at 12.

¹⁸ *Id.* at 12–13.

¹⁹ *Id.* at 13.

²⁰ *Id.*

²¹ *Id.* at 13–14.

PCI Baluyot of the Manila Police District Crime Laboratory testified on the authenticity and due execution of the Medico-Legal Report No. M-2014-292 and Medico-Legal Report No. M-2014-293.²²

Per Medico Legal Report No. M-2014-293 pertaining to Maria Lourdes, PCI Baluyot testified that there was a lone gunshot wound in the latter's head, with the bullet entering her right eyebrow and hitting her brain. It was nevertheless considered to be non-defensive and fatal. No tattooing was present which signifies that the gunman was beyond the arm's reach of the victim.²³

Per Medico Legal Report No. M-2014-292 pertaining to Sergio, PCI Baluyot testified that two gunshot wounds were present, one on the head and one on the back of the head. The first gunshot wound was at the nasal region.²⁴

Version of the Defense

Accused-appellant testified that he cannot exactly recall what happened on August 1, 2014. He only remembered that on the fateful date, he went to Sta. Ana to fetch Maridref. Apparently, he lost consciousness. Upon waking up, he was already at the hospital. He stated that he was not sure if he shot Maridref and the two other victims. As relayed to him by his parents, he was at the hospital because he attempted to commit suicide. Beyond that, he could not remember anything.²⁵

Upon cross-examination, accused-appellant admitted that he went to Maridref's house and was able to talk to her. He could not remember arguing with her on that date; what he could recall was his failure to convince Maridref to reconcile with him.²⁶

However, upon hearing the testimony of Maridref, accused-appellant remembered everything and professed that all of Maridref's statements were true and correct.²⁷

²² *Id.* at 14.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 15.

²⁶ *Id.*

²⁷ *Id.*

The Ruling of the RTC

In the Consolidated Decision²⁸ dated August 29, 2018, the RTC found accused-appellant guilty beyond reasonable doubt of two (2) counts of Murder in Criminal Case No. 14-307999 and in Criminal Case No. 14-308000; and one (1) count of Frustrated Murder in Criminal Case No. 14-308001. The RTC ruled that the prosecution was able to prove beyond reasonable doubt the fact of the killing and the identity of the killer. It gave credence to the testimony of the prosecution witnesses.²⁹ It also held that there was evident premeditation and treachery on the part of accused-appellant.³⁰ The dispositive portion of the Consolidated Decision reads:

WHEREFORE, accused ARVI VILLA y GARCIA is found GUILTY beyond reasonable doubt of the crimes of two (2) counts of MURDER (Crim. Case No. 14-307999 and Crim. Case No. 14-308000) and one (1) count for FRUSTRATED MURDER (Crim. Case No. 14-308001).

In Crim. Case No. 14-307999, he is sentenced to suffer the penalty of *RECLUSION PERPETUA without eligibility for parole* and is ordered to pay the heirs of Sergio Tiamzon Aguilar [Jr.] the following amounts:

- a.) P172,663.00 for the burial and wake expenses;
- b.) P3,095,400.00 as loss of earning capacity;
- c.) P100,000.00 as moral damages;
- d.) P100,000.00 as exemplary damages; and
- e.) interest on all damages awarded at the rate of 6% *per annum* from the date of finality of this judgment.

In Crim. Case No. 14-308000, he is sentenced to suffer the penalty of *RECLUSION PERPETUA without eligibility for parole* and is ordered to pay the heirs of Maria Lourdes Tolentino Aguilar the following amounts:

- a.) P172,663.00 for the burial and wake expenses;
- b.) P3,188,262.00 as loss of earning capacity;
- c.) P100,000.00 as moral damages;
- d.) P100,000.00 as exemplary damages; and
- e.) interest on all damages awarded at the rate of 6% *per annum* from the date of finality of this judgment.

In Crim. Case No. 14-308001, he is sentenced to suffer the penalty of EIGHT (8) YEARS and ONE (1) DAY of *prision mayor*, as minimum to FOURTEEN (14) YEARS and EIGHT (8) MONTHS and

²⁸ *Id.* at 46-77.

²⁹ *Id.* at 59-64.

³⁰ *Id.* at 66-69.

ONE (1) DAY of *reclusion perpetua* [*sic*], as maximum and is ordered to pay Maridref Tolentino the total amount of one hundred sixty thousand two hundred twenty-two pesos (P160,222.00) representing the attorney's and appearance fees; transportation and meal allowances for the period 01 August 2014 to 07 May 2018 and her medical expenses plus interest on all damages awarded at the rate of 6% *per annum* from the date of finality of this judgment.

Let a Mittimus be issued immediately.

The Branch Clerk of Court is hereby directed to coordinate with the Chief, Firearms and Explosives Office, Camp Crame, Quezon City for the proper turn-over of the firearm and ammunitions subject in the instant cases.

SO ORDERED.³¹ (Emphasis omitted)

Accused-appellant, in his appeal to the CA,³² ascribed error on the part of the RTC in not considering the exempting circumstance of temporary insanity.³³ The Office of the Solicitor General, representing the People of the Philippines, answered in its brief³⁴ that such defense of accused-appellant must fail because issues and arguments not raised before the trial court cannot be raised for the first time on appeal.³⁵

The Ruling of the CA

In its Decision³⁶ dated September 30, 2020, the CA affirmed the RTC Consolidated Decision; thus:

WHEREFORE, the instant appeal is hereby *DISMISSED* for lack of merit. Accordingly, the Consolidated Decision dated August 29, 2018 of the Regional Trial Court of Manila, Branch 16, in Criminal Cases Nos. 14-307999 for Murder, 14-308000 for Murder, and, 14-308001 for Frustrated Murder, convicting accused-appellant Arvi Villa y Garcia of the crimes of two (2) counts of Murder and one (1) count of Frustrated Murder and sentencing him to *reclusion perpetua* without eligibility of parole for each count of Murder, and to suffer the penalty of eight (8) years and one (1) day of *prision mayor*, as minimum to fourteen (14) years and eight (8) months and one (1) day of *reclusion temporal*, as maximum, for one (1) count of Frustrated Murder, is *AFFIRMED* with *MODIFICATION* as to the award of moral and

³¹ *Id.* at 74–75.

³² See Brief for the Accused-Appellant, *CA rollo*, pp. 31–44.

³³ *Id.* at 40–43.

³⁴ See Brief for the Plaintiff-Appellee, *id.* at 97–108.

³⁵ *Id.* at 106.

³⁶ *Rollo*, pp. 9–26.

exemplary damages in that, in Criminal Case No. 14-308001 for Frustrated Murder, moral damages of P75,000.00 and exemplary damages of P75,000.00 are awarded in favor of Maridref Tolentino. The award of damages in Criminal Cases Nos. 14-307999 and 14-308000 is *SUSTAINED*.

SO ORDERED.³⁷ (Emphasis omitted, italics in the original)

The CA resolved to deny accused-appellant's defense of insanity as an exempting circumstance. It held that by invoking such defense, accused-appellant admitted to the commission of the crime but maintained that he cannot be held liable because of insanity. It explained that accused-appellant's action of bringing a gun before going to the house of Maridref meant that he had already determined his plan to kill. It also ruled that accused-appellant's act of attempting to commit suicide indicated his awareness of the profundity of the actions he had committed. In addition, the CA gave credence to the psychological evaluation of Gloria M. Granado, PhD, stating that there was no evidence of serious neurotic, psychotic, or organic disorder on accused-appellant's part.³⁸

Hence, the appeal.

Issue

The issue before the Court is whether the CA erred in upholding the conviction of the RTC and finding accused-appellant guilty beyond reasonable doubt of the crimes of two (2) counts of Murder and one (1) count of Frustrated Murder when it did not appreciate the exempting circumstance of insanity.

The Court's Ruling

The appeal has no merit.

Preliminarily, the Court finds it noteworthy to discuss the sufficiency of the Informations against accused-appellant.

In *People v. Solar*³⁹ (*Solar*), the Court stressed the importance of

³⁷ *Id.* at 25.

³⁸ *Id.* at 22-24.

³⁹ 858 Phil. 884 (2019).

strictly observing, in criminal proceedings, the right of the accused to be sufficiently informed of the cause of the accusation against him. These requirements are reflected in Sections 8 and 9 of the Revised Rules of Criminal Procedure which state:

SECTION 8. *Designation of the Offense.* — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SECTION 9. *Cause of the Accusation.* — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

A perusal of the Informations against accused-appellant shows that the qualifying circumstance of treachery was alleged without stating the factual averments constituting such circumstance. Following *Solar*, to merely state the attendant circumstance, without any detail, is not enough as the usage of the term is not a factual averment but a conclusion of law.⁴⁰

However, *Solar* also stated that the defect in the Information can be *cured* if the accused fails to timely file a motion to quash or motion for bill of particulars.⁴¹ Here, accused-appellant's failure to timely file the required motions is tantamount to a waiver of his right to question the defect. Hence, he is deemed to have understood the causes of the accusations against him when he entered his plea.

In any case, the Court acknowledges the lower courts' appreciation of treachery in qualifying the crime against accused-appellant.

The Court affirms the conviction of accused-appellant

Accused-appellant was charged with two (2) counts of Murder and

⁴⁰ *Id.* at 928.

⁴¹ *Id.* at 923-924.

one (1) count of Frustrated Murder under Article 248 of the RPC, as amended:

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 perpetua*, to death if committed with any of the following attendant circumstances:

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 street car or locomotive, 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 prosecution of Murder requires the following elements to be proven: (1) a person was killed; (2) the accused killed him; (3) the killing was attended by any of the qualifying circumstances; and (4) the killing is neither infanticide nor parricide.⁴²

The Court affirms the findings of the lower courts that accused-appellant killed the victims, Sergio and Maria Lourdes; and shot his own live-in partner, Maridref, in the chest and the left thigh with evident premeditation and treachery.⁴³

The lower courts accordingly appreciated the element of treachery to qualify the killings of the victims to murder. The elements of treachery are: (1) the employment of means, method, or manner of execution which tend to ensure its execution and which would ensure the offender's safety

⁴² *People v. Bendecio*, 882 Phil. 649, 658–659 (2020).

⁴³ See *rollo*, pp. 18–19 and 66–70.

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from any retaliatory act or defense by the offended person; and (2) the means or method used was deliberately adopted by the offender. Its essence is the swiftness of the attack that causes the offended party to be caught unprepared, preventing him or her from repelling or escaping from the attack.⁴⁴ In the case, accused-appellant was standing in the kitchen behind the victims, who were situated in the living room. Without any warning, he shot Maria Lourdes and Sergio in their heads, thereby effecting their deaths.⁴⁵ The attack is considered treacherous because it gave no opportunity to the two victims to defend themselves or escape from the attack.

The element of evident premeditation is also recognized particularly in Maridref's case.

Evident premeditation can be discerned by: (1) the time when the offender determined to commit the crime; (2) an act manifesting that he or she had clung to his or her determination to commit the crime; and (3) the sufficient lapse of time between the determination and the execution which allows him or her to reflect on the consequences of his or her act.⁴⁶ In the present case, accused-appellant can be seen to have premeditated his action when he brought the gun from his house in Quezon City to the house of Maridref in Sta. Ana, Manila on the night of August 1, 2014. Accused-appellant had the opportunity to reflect on his criminal intent and its consequences upon his transit to the house of Maridref.⁴⁷ The Court upholds the appreciation of the RTC in finding evident premeditation on the part of the accused-appellant, *viz.*:

Tired and fed up of repeated physical, verbal and emotional abuses, Maridref finally decided to end her seven (7) year relationship with her live-in partner Arvi. Despite his begging, crying and promises to reform, Maridref stood firm on her decision.

Thus, on the fateful day of 01 August 2014, the emotionally devastated Arvi went to the house of Maridref's mother in Punta, Sta. Ana and for the last time pleaded to Maridref for a reconciliation. Receiving a steady and strong negative reply from her, Arvi shot Maridref's mother, her stepfather and Maridref.

From Arvi's actuations, it can be deduced that before he left their house in Quezon City bound for Manila, he already had in his mind the intent to kill Maridref and everyone in her family if he still receives a negative answer from her for a reconciliation. His plan to kill

⁴⁴ *People v. Bendecio*, *supra* note 42.

⁴⁵ See *rollo*, pp. 19, 69.

⁴⁶ *People v. Dayrit*, G.R. No. 241632, October 14, 2020.

⁴⁷ See *rollo*, pp. 18-19, and 67.

had already been planned as he carried with him a gun before going to the house of Maridref's mother.⁴⁸

All told, the lower courts properly appreciated the attendant circumstances of treachery and evident premeditation in the killing of Sergio and Maria Lourdes.

As regards Maridref, however, a change in the crime committed and the penalty imposed is in order.

Maridref's gunshot wounds were not proven by the prosecution to be fatal.

The stages of felonies can be found in Article 6 of the RPC, viz.:

ARTICLE 6. *Consummated, Frustrated, and Attempted Felonies.* — Consummated felonies, as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is *frustrated* when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.

There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.

In the case of *Oliveros v. People*⁴⁹ (*Oliveros*), the Court clarified the distinction between frustrated and attempted felony. In frustrated felony, all the acts have been performed by the offender which produces the felony as a consequence; and the reason for its non-accomplishment is independent of the will of the perpetrator. Whereas, in attempted felony, the offender does not perform all the acts of execution; the offender only commences the felony by overt acts; and its non-fulfillment is not caused by the offender's own spontaneous desistance.

⁴⁸ *Id.* at 67.

⁴⁹ G.R. No. 242552, March 3, 2021.

The Court further elucidated in *Oliveros* that the crucial point in determining whether the accused can be convicted of frustrated murder is the nature of the wound sustained by the victim. Accordingly, it must be *fatal* and supported by independent proof that the wound was sufficient to cause the victim's death without timely medical intervention. It held:

The victims in the first two cases were shot, the victim in the third case was stabbed on the scapular area, the victim in the fourth case was stabbed on the chest, and the victim in the last case was stabbed on the left side of his stomach which caused his intestines to show, a situation much worse than what happened in the instant case. Surely, in all these cases, the victims also suffered blood loss which *might* also cause their death. And yet, the Court still held the crime to be only in the attempted stage because it was not categorically and unequivocally stated by the doctors that their injuries were sufficient to cause their death. The same situation inheres in this case.

Here, petitioners hacked Glenn twice in the face and even chased after him, which are indeed indicative of an intent to kill. However, there is no evidence that the wounds sustained by Glenn were fatal enough to cause his death. Dr. Manaois failed to categorically state whether the wounds sustained by the victim are fatal. This cannot be inferred from the fact alone that he was hacked in the face. In fact, it is doubtful whether the stab wounds themselves were grave enough to cause Glenn's death because Dr. Manaois merely mentioned that Glenn *might* lose blood and it is *possible* for him to die because of infection or tetanus if no timely medical attention was given. These are the only things that were testified upon.

In this relation, it is settled that circumstances which qualify criminal responsibility cannot rest on mere conjectures, no matter how reasonable or probable, but must be based on facts of unquestionable existence. The uncertainty on the nature of the wounds warrants the appreciation of a lesser gravity of the crime committed as this is in accordance with the fundamental principle in Criminal Law that all doubts should be resolved in favor of the accused.⁵⁰ (Emphasis omitted)

The CA affirmed the findings of the RTC that accused-appellant is guilty of Frustrated Murder. In supporting the conviction, the prosecution presented to the RTC the medical abstract and medical certificate of Maridref to support that she suffered multiple gunshot wounds, to *wit*:

X X X X

⁵⁰ *Id.*

Multiple Injuries secondary to Gunshot Wound

1. Midscapular line T8 Left
2. 4th Inter Coastal Space midaxillary line left
3. left arm medial area
4. left anterior thigh
5. left gluteal area⁵¹

The medical findings show that Maridref suffered gunshot wounds in her chest, armpit, inner arm, thigh, and buttocks. However, these findings are not conclusive to show that Maridref suffered fatal wounds which were sufficient to cause Maridref's death without any timely medical intervention.

Upon perusal of the records, the prosecution presented only the medical abstract and medical certificate of Maridref. The prosecution did not even invite the attending physician to testify about the nature of the gunshot wounds sustained by the victim. The medical documents presented in the court only show the locations of the gunshot wounds sustained by Maridref. Significantly, however, they did not specify whether the wounds sustained were fatal. Thus, without any categorical proof of the fatalness of the gunshot wounds sustained by Maridref, accused-appellant must only be convicted of Attempted Murder.

*The defense of insanity
cannot be appreciated in
accused-appellant's favor*

Fundamentally, issues raised for the first time on appeal will not be accepted for it would contravene the principle of fair play, justice, and due process.⁵² Arbitrariness would lie if the opposing party cannot present new evidence to depose the new theory presented against him or her.⁵³

Even if the Court were to accept the defense of insanity, accused-appellant, by invoking this exempting circumstance, effectively enters a plea of confession and avoidance. In fine, the criminal act has been admitted by the accused-appellant; however, he seeks to exonerate himself from liability by claiming that he lacked voluntariness or intelligence.⁵⁴

⁵¹ Records, pp. 17 and 92.

⁵² *Punongbayan-Visitacion v. People*, 823 Phil. 212, 222–223 (2018).

⁵³ See *Philippine Ports Authority v. City of Iloilo*, 453 Phil. 927, 934–935 (2003).

⁵⁴ See *People v. Paña*, 890 Phil. 533, 546 (2020), citing *People v. Renegado*, 156 Phil. 260 (1974).

Here, the Court is not persuaded of the accused-appellant's defense of insanity. The exempting circumstance of insanity is provided for in the first paragraph of Article 12 of the RPC:

ART. 12. *Circumstances which exempt from criminal liability.* —
The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

When the imbecile or an insane person has committed an act which the law defines as a felony (*delito*), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

x x x x

In criminal law, the defense of insanity must fall within the purview of moral assumption that every person is presumed to be naturally endowed with faculties of understanding and free will. It is the consent of the will that is primordial to the culpability of one's wrongdoing. Retribution cannot be meted out to those who do not have free will.⁵⁵ In *People v. Paña*,⁵⁶ the Court restated the criterion laid down in *People v. Formigones*⁵⁷ for the courts to appreciate the defense of insanity: "first, insanity must be present at the time of the commission of the crime; second, insanity, which is the primary cause of the criminal act, must be medically proven; and third, the effect of the insanity is the inability to appreciate the nature and quality or wrongfulness of the act."⁵⁸

In the present case, nothing in the records shows that the accused-appellant submitted evidence to prove his insanity during trial, or pleaded this exempting circumstance during his arraignment.⁵⁹ In fact, the prosecution presented the psychological evaluation of the accused-appellant which states that there was no evidence of serious neurotic, psychotic, or organic disorder.⁶⁰ Moreover, in *People v. Rafanan, Jr.*,⁶¹ the Court held that complete loss of intelligence cannot be acknowledged

⁵⁵ *People v. Roa*, 807 Phil. 1003, 1012 (2017), citing *People v. Madarang*, 387 Phil. 846, 855–856 (2000).

⁵⁶ *Supra* note 53.

⁵⁷ 87 Phil. 658, 660–661 (1950).

⁵⁸ *People v. Paña*, *supra* note 54, at 540.

⁵⁹ See *rollo*, pp. 32–33, 57–58.

⁶⁰ See *id.* at 23–24, 71.

⁶¹ 281 Phil. 66 (1991).

if the accused is aware of the reprehensible moral quality of his actions.⁶² Under the circumstances, taking one's own life right after executing his criminal actions is indicative of his awareness of the gravity of his criminal actions contrary to the defense of accused-appellant that his act of suicide is evocative of demented reasoning.⁶³

In the end, insanity cannot be appreciated in his favor and, for that reason, the Court is not persuaded to reverse the conviction of accused-appellant.

As to the imposition of the penalties

In Criminal Case No. 14-308001 (Frustrated Murder), the Court changes the nomenclature of the crime to Attempted Murder. Under the RPC, the crime of Murder has an imposable penalty of *reclusion perpetua* to death. Article 51 of the RPC states that a penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony. Hence, the penalty of *prision mayor* is proper.

In the case, the Court shall treat the circumstance of evident premeditation as a generic aggravating circumstance. Article 64⁶⁴ of the RPC mandates that in cases where the penalty imposed contains three periods and there is an aggravating circumstance, the maximum period of the penalty shall be imposed. Herewith, *prision mayor* in its maximum period has a range of ten (10) years and one (1) day to twelve (12) years. Applying the Indeterminate Sentence Law, the maximum term of the penalty shall be that which could be properly imposed, *i.e. prision mayor*, under the law and the minimum term shall be within the range of the penalty next lower in degree, *i.e. prision correccional*.

As such the Court modifies the penalty imposed to four (4) years,

⁶² *Id.* at 84.

⁶³ See *rollo*, p. 23.

⁶⁴ ART. 64. *Rules for the Application of Penalties Which Contain Three Periods.* — In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of Articles 76 and 77, the court shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:
x x x x
3. When an aggravating circumstance is present in the commission of the act, they shall impose the penalty in its maximum period.
x x x x

two (2) months, and one (1) day of *prision correccional*, as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum.⁶⁵

In Criminal Case Nos. 14-307999 and 14-308000 for Murder, following Article 248 of the RPC, as amended, the imposable penalty is *reclusion perpetua* to death. Considering that the circumstance of evident premeditation is treated as a generic aggravating circumstance and the penalty to be imposed is composed of two indivisible penalties, the higher penalty shall be imposed.⁶⁶ Here, the RTC correctly imposed the penalty of *reclusion perpetua*, **without eligibility for parole**. Under A.M. No. 15-08-02-SC, affixing the phrase “without eligibility for parole” is justified when the circumstances warrant the imposition of death penalty, but the same was not meted out because of its suspension under Republic Act No. 9346.⁶⁷ It is used to qualify *reclusion perpetua* and to emphasize that the accused was meted out the death penalty but it cannot be imposed due to its prohibition.⁶⁸

*Temperate damages in lieu
of actual damages for loss of
earning capacity*

The Court also modifies the compensation for loss of earning capacity to the imposition of temperate damages in relation to the killing of both Sergio and Maria Lourdes as there is no evidence on record to prove the actual amount thereof. As a general rule, documentary evidence is required to establish the indemnity for loss of earning capacity.⁶⁹ The case of *People v. Vergara*⁷⁰ laid down exceptions to this general rule, viz.:

By way of exception, damages for loss of earning capacity may be awarded despite the absence of documentary evidence when (1) the deceased is self-employed earning less than the minimum wage under current labor laws, and judicial notice may be taken of the fact that in the deceased’s line of work no documentary evidence is available; or (2) the deceased is employed as a daily wage worker earning less than the minimum wage under current labor laws.⁷¹

In the case of *Tan v. OMC Carriers, Inc.*,⁷² the Court awarded a

⁶⁵ *People v. Jugueta*, 783 Phil. 825, 856 (2016).

⁶⁶ *People v. Natindim*, 889 Phil. 18, 48 (2020).

⁶⁷ An Act Prohibiting the Imposition of Death Penalty in the Philippines, approved on June 24, 2006.

⁶⁸ *People v. Angeles*, G.R. No. 254747, July 13, 2022.

⁶⁹ See *Spouses Enriquez v. Isarog Line Transport, Inc.*, 800 Phil. 145, 148 (2016).

⁷⁰ 713 Phil. 224 (2013).

⁷¹ *Id.* at 237, citing *Serra v. Mumar*, 684 Phil. 363, 374 (2012).

⁷² 654 Phil. 443 (2011).

self-employed tailor temperate damages amounting to ₱300,000.00 in lieu of actual damages because there was no evidence to establish therein plaintiff's actual income; moreover, it did not fall under the exceptions because the alleged monthly income exceeded the prevailing monthly minimum wage.⁷³

Testimonial evidence on record shows that Sergio and Maria Lourdes owned and operated a passenger jeepney for which they received ₱650.00 daily, as well as a passenger van for which they earned a rental fee of ₱10,000 for two (2) days. They also owned a *sari-sari* store that earned ₱500.00 daily.⁷⁴ However, all these allegations were unsupported by any documentary evidence and were based on the testimonies of the respective brothers of the victims.⁷⁵ The amounts also would not fall under the exceptions set forth by the above discussion because they exceed the prevailing monthly minimum wage. Therefore, the Court cannot take cognizance of these derived incomes based on the testimonies alone of Sergio and Maria Lourdes's family members. Indemnity for loss of earning capacity is a form of actual damages which must be established by a reasonable degree of certainty. Its determination cannot be based on conjectures or speculations.⁷⁶

The award of temperate damages is proper when there is quantifiable loss of the earning capacity of the deceased family member, although under the circumstances, it cannot be established with certainty. The Court in multiple cases awarded temperate damages in lieu of actual damages for loss of earning capacity.⁷⁷ In *People v. Salahuddin*,⁷⁸ the Court disallowed the compensation of ₱4,398,000.00 for the loss of earning capacity of a deceased lawyer and instead awarded temperate damages in the amount of ₱1,000,000.00.⁷⁹ In another case, ₱500,000.00 was given as temperate damages because of the lack of basis for actual damages.⁸⁰ Given the circumstances in the case at bar, the Court finds it reasonable to award ₱200,000.00 each to the heirs of Sergio and Maria Lourdes as temperate damages in lieu of actual damages for loss of earning capacity.

Furthermore, the Court affirms the imposition of the amount of

⁷³ *Id.* at 456–458.

⁷⁴ See *rollo*, pp. 14–15, 72–73.

⁷⁵ *Id.* at 54–57.

⁷⁶ *Tan v. OMC Carriers, Inc.*, *supra* note 72, at 454.

⁷⁷ *Id.* at 456–457.

⁷⁸ 778 Phil. 529 (2016).

⁷⁹ *Id.* at 555–556.

⁸⁰ *Victory Liner, Inc. v. Gammad*, 486 Phil. 574, 591 (2004).

₱172,663.00 in the cases of both Sergio and Maria Lourdes for their respective burial and wake expenses as these were proven by documentary evidence and admitted by the defense.⁸¹ For the same reason, the Court affirms the award of ₱160,222.00 in favor of Maridref for her medical expenses and attorney's fees.⁸² The Court also maintains the imposition by the lower courts of civil indemnity, moral damages, and exemplary damages.

Following *People v. Jugueta*,⁸³ in Criminal Case Nos. 14-307999 and 14-308000, the Court levies on accused-appellant civil indemnity, moral damages, and exemplary damages amounting to ₱100,000.00 each.⁸⁴ In Criminal Case No. 14-308001, accused-appellant is ordered to pay civil indemnity, moral damages, and exemplary damages amounting to ₱50,000.00 each.⁸⁵ The amounts shall earn six percent (6%) interest *per annum* from finality of this Decision until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated September 30, 2020, of the Court of Appeals in CA-G.R. CR-HC No. 11793 is **AFFIRMED with MODIFICATIONS**, as follows:

1. In Criminal Case No. 14-307999, accused-appellant Arvi Villa y Garcia is hereby found **GUILTY** beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole. He is **ORDERED** to pay the heirs of Sergio Aguilar, Jr. y Tiamzon the amounts of ₱172,663.00 for burial and wake expenses, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱200,000.00 as temperate damages. All monetary awards are subject to an interest rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.
2. In Criminal Case No. 14-308000, accused-appellant Arvi Villa y Garcia is hereby found **GUILTY** beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole. He is

⁸¹ *Rollo*, p. 72.

⁸² *Id.*

⁸³ *Supra* note 65, at 806.

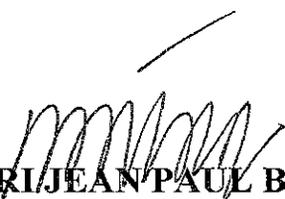
⁸⁴ *Id.* at 847.

⁸⁵ *Id.* at 856.

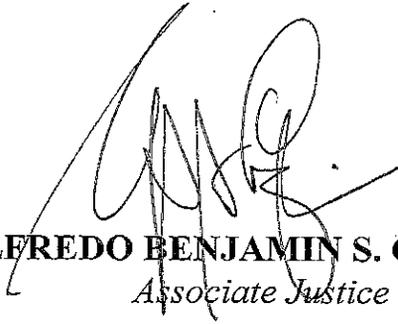
ORDERED to pay the heirs of Maria Lourdes Aguilar y Tolentino the amounts of ₱172,663.00 for burial and wake expenses, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱200,000.00 as temperate damages. All monetary awards are subject to an interest rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

3. In Criminal Case No. 14-308001, accused-appellant Arvi Villa y Garcia is hereby found **GUILTY** beyond reasonable doubt of the crime of Attempted Murder under Article 248 in relation to Article 51 of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of four (4) years, two (2) months, and one (1) day of *prision correccional*, as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum. He is **ORDERED** to pay Maridref Tolentino y Rico the amounts of ₱160,222.00 for her medical and attorney's fees, ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages. All monetary awards are subject to an interest rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

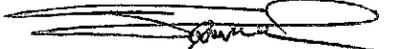
SO ORDERED.


HENRIJEAN PAUL B. INTING
Associate Justice

WE CONCUR:



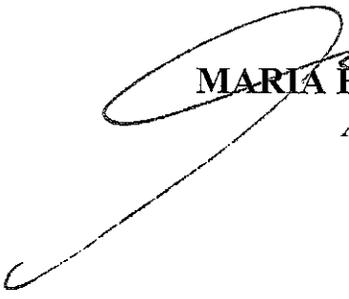
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



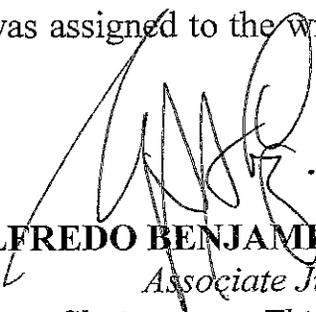
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

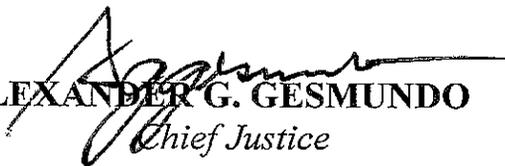
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third 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.


ALEXANDER G. GESMUNDO
Chief Justice