



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-appellee,

G.R. No. 270580

Present:

-versus-

LEONEN, J., *Chairperson*,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., JJ.

JOSE ROEL BRAGAIS y SISON  
and  
ALFREDO TACUYO y  
EVANGELISTA,  
Accused-appellants.

Promulgated:

JUL 29 2024

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DECISION

LEONEN, J.:

A person with intellectual disability<sup>1</sup> “is not, by reason of such handicap alone. . . disqualified from testifying in court. [Intellectual disability] *per se* does not affect credibility. A [person with intellectual disability] may be a credible witness. The acceptance of [their] testimony depends on the quality of [their] perceptions and the manner [they] can make them known to the court. If the testimony of a [person with intellectual disability] is coherent, the same is admissible in court.”<sup>2</sup>

<sup>1</sup> In *People v. Quintos*, 746 Phil. 809, 812 (2014) [Per J. Leonen, Second Division]: “Based on the 2013 Diagnostic and Statistical Manual of Mental Disorders, pp. 33 and 809, the term ‘intellectual disability’ has replaced ‘mental retardation’ among the lay public, and the medical, educational, professional, and advocacy groups.” See also *People v. Gabatbat*, G.R. No. 246948, July 5, 2021 [Per J. J. Lopez, Third Division].

<sup>2</sup> *People v. Montcalvo*, 702 Phil. 643, 663–664 (2013) [Per J. Perez, Second Division]. (Emphasis in the original, citations omitted)

This Court resolves an appeal from the April 19, 2023 Decision<sup>3</sup> of the Court of Appeals affirming with modification the Regional Trial Court's conviction<sup>4</sup> of Jose Roel Bragais y Sison (Bragais) and Alfredo Tacuyo y Evangelista (Tacuyo) for murder under Article 248 of the Revised Penal Code.

In a July 19, 2011 Information, Bragais and Tacuyo were charged with the murder of Paula Apilado y Viray (Paula):

That on or about the 14<sup>th</sup> day of July, 2011, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and mutually helping one another, with intent to kill, without any justifiable cause, by means of treachery, with evident premeditation and abuse of superior strength, did then and there willfully, unlawfully[,] and feloniously, attack, assault and use personal violence upon the person of PAULA APILADO y VIRAY, 12 years old, by stabbing her on the different parts of her body, thereby inflicting upon the latter mortal wounds which were the direct and efficient cause of her death.

CONTRARY TO LAW.<sup>5</sup>

Upon arraignment, Bragais and Tacuyo both pleaded not guilty.<sup>6</sup>

The pre-trial conference took place, where both parties stipulated on: Bragais and Tacuyo's job as caretakers of the La Loma Cemetery; their respective identities as the accused; Paula's minority; the autopsy report; and Paula's death certificate.<sup>7</sup>

Trial on the merits followed.<sup>8</sup>

The prosecution presented its witnesses: Alta Dela Cruz Delima (Alta); Mambo Dela Cruz Delima (Mambo); Lourdes Viray Bautista (Lourdes); August Raquel Bautista (August); and Dr. Robert Rey Sandiego (Dr. Sandiego) of the National Bureau of Investigation's Medico-Legal Division.<sup>9</sup>

<sup>3</sup> *Rollo*, pp. 8–28. The Decision in CA-G.R. CR HC No. 15626 was penned by Associate Justice Selma Palacio Alaras and concurred in by Associate Justices Alfredo D. Ampuan (Acting Chairperson) and Emily L. San Gaspar-Gito (Acting Senior Member) of the Special Fourteenth Division, Court of Appeals, Manila City.

<sup>4</sup> *Id.* at 31–44. The April 27, 2021 Decision in Criminal Case No. C-86598 was penned by Presiding Judge Ma. Teresa E. De Guzman-Alvarez of Branch 131, Regional Trial Court, Caloocan City.

<sup>5</sup> *Id.* at 31.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 31–32.

<sup>8</sup> *Id.* at 32.

<sup>9</sup> *Id.* at 32–35. The testimonies of the following prosecution witnesses were dispensed with:

1. Vilma Asenas Proton (Vilma), since both parties agreed to stipulate that she is Paula's grandmother,

In preparation for presenting Mambo as an eyewitness to the killing of Paula,<sup>10</sup> the prosecution first presented his mother, Alta.<sup>11</sup> Alta, describing Mambo as “a special child” with “a speech impediment” and “some mental deficiency,” stated that “based on the examination conducted at the mental hospital,” he is 28 years old but had a “mental age [of] five or six years.”<sup>12</sup> For that reason, in July 2011, he was still living with her<sup>13</sup> and receiving special education.<sup>14</sup>

On the date of the incident, Mambo came home to Alta at around 5:00 p.m., saying, “*Ma [‘]Jeron ako kita [‘]dun e, gahasa siya, kita ko e, banta pa nga nila [‘]ko papatayin nila [‘]ko, e.*”<sup>15</sup> He told her that Paula was the one getting assaulted.<sup>16</sup> Continuing, he said, “*Ma, punta tayo sa headquarters[,] may itatanong saken [‘]Jyung pulis, sumama ka.*”<sup>17</sup> Alta thus went with him to the police station. She stayed with him while the investigator took his statement, which they signed together.<sup>18</sup>

In moving on to Mambo’s testimony, the prosecution manifested that he is deemed to have a mental disability.<sup>19</sup> On that basis, they sought the court’s permission to ask him leading questions.<sup>20</sup> The defense objected and asked the Regional Trial Court to require documentary evidence of Mambo’s mental age.<sup>21</sup>

The Regional Trial Court allowed the prosecution to propound leading questions to Mambo, subject to their submission of documentary evidence on his mental age.<sup>22</sup> They subsequently produced a Psychiatric Report<sup>23</sup>

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that she “learned of [Paula’s] death,” and that she executed an affidavit. (*Id.* at 33.)

2. Police Officer II Alejandro O. Billedo, Jr. (PO2 Alejandro), an investigator at the Caloocan City Police Station Investigation Division’s Detection Management Branch, since both parties agreed to stipulate that Paula’s case was “referred to him for investigation,” that “he caused the preparation of the [witnesses’] affidavits. . . as well as the request for autopsy,” that “he can identify said documentary evidence,” and that “he has no personal knowledge” of the incident. (*Id.* at 34.)
3. Ronald Mesa (Mesa), since both parties agreed to stipulate that he “is a Deputy Ex-O of Brgy. 120, Zone 10, District 1, Caloocan City,” that “he arrested Tacuyo. . . on 17 July 2011,” that he was present when Mambo identified Tacuyo, and that “he can identify his affidavit.” (*Id.* at 34.)
4. Police Officer II Carlo Hernandez, since both parties agreed to stipulate that he arrested Bragais, “that he can identify his affidavit,” and that he “has no personal knowledge as to the circumstances surrounding the incident.” (*Id.* at 35.)

<sup>10</sup> *Id.* at 32–33.

<sup>11</sup> *Id.* at 32.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 19.

<sup>15</sup> *Id.* at 32.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

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

<sup>19</sup> *Id.* at 19.

<sup>20</sup> *Id.* at 10.

<sup>21</sup> *Id.* at 19.

<sup>22</sup> *Id.* at 20.

<sup>23</sup> *Id.* at 32.

which the National Center for Mental Health submitted to the court.<sup>24</sup> It stated that Mambo has an intellectual disability in the form of “moderate mental retardation which is permanent and irreversible.”<sup>25</sup> It concluded that “while [his] mental age was from three (3) to seven (7) years old, he was competent to testify as a witness in trial.”<sup>26</sup>

Coming to Mambo’s testimony, he stated that he knew Paula from his special education class.<sup>27</sup> He identified her in three pictures: One of her on her school ID, one of her inside a coffin, and one from when her body was found in a mausoleum.<sup>28</sup>

Mambo said that he was lighting a candle for his grandmother’s grave in the La Loma Cemetery one day when he heard somebody crying.<sup>29</sup> Looking in the sound’s direction,<sup>30</sup> he saw two men forcing Paula down and placing tape on her mouth.<sup>31</sup> He said that one of those men was “Totoy,”<sup>32</sup> whom he identified in open court by pointing to Tacuyo,<sup>33</sup> and the other one was “Roel,”<sup>34</sup> whom he similarly identified by pointing to Bragais.<sup>35</sup>

Mambo further stated that Paula was shouting as Bragais and Tacuyo removed her shorts.<sup>36</sup> Tacuyo then stabbed her repeatedly,<sup>37</sup> got on top of her, and took her dress off,<sup>38</sup> all while Bragais held her down by her feet.<sup>39</sup> Bragais and Tacuyo then took turns being on top of Paula and inserted a broken bottle into her vagina.<sup>40</sup>

Seeing those things, Mambo said out loud, “*Kawawa naman ‘yung bata.*”<sup>41</sup> That drew Bragais and Tacuyo’s attention to him,<sup>42</sup> and they asked him why he was looking at them.<sup>43</sup> He replied that he was just lighting a candle for his grandmother.<sup>44</sup> They told him to go away.<sup>45</sup> Tacuyo brandished a knife at him, saying, “*Huwag kang maingay, ikaw ang*

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<sup>24</sup> *Id.* at 10.

<sup>25</sup> *Id.* at 17. The National Center for Mental Health used “moderate mental retardation” as a medical term.

<sup>26</sup> *Id.* at 10.

<sup>27</sup> *Id.* at 32.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 23.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 32–33.

<sup>32</sup> *Id.* at 32.

<sup>33</sup> *Id.* at 22, 40.

<sup>34</sup> *Id.* at 32.

<sup>35</sup> *Id.* at 22.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 39.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 38.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 23.

<sup>44</sup> *Id.*

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

*isusunod ko.”*<sup>46</sup>

Mambo clarified that he did not immediately leave because he was waiting for the candle he lit to burn out.<sup>47</sup> He thus saw Bragais and Tacuyo drag Paula’s body by her legs to a grassy area.<sup>48</sup> Eventually, he ran home.<sup>49</sup>

Mambo later told Paula’s grandmother what he had seen.<sup>50</sup>

When asked if he had seen which parts of Paula’s body were stabbed, Mambo pointed to the front and back of his chest, saying Paula “had a lot of stab wounds.”<sup>51</sup> He also described Tacuyo’s weapon as “*parang pangkatay ng baboy*.”<sup>52</sup>

After Mambo, spouses Lourdes and August testified about their discovery of Paula’s body and the succeeding events.<sup>53</sup>

Lourdes, who was Paula’s relative, stated that she and a few others had gone looking for Paula after the latter went missing on the afternoon of July 14, 2011.<sup>54</sup> On July 15, 2011, Lourdes got a text message saying that “Paula [wa]s at the back of the church in front of [the] mausoleum of the Manalacs at La Loma Cemetery.”<sup>55</sup> Lourdes and August confirmed that their search group found Paula’s body there.<sup>56</sup> Paula “was already dead” and “had a lot of stab wounds.”<sup>57</sup> Lourdes further described the state in which they found her body as “‘*nakabulagta at nakabukaka*’ and. . . all bloodied.”<sup>58</sup>

The cemetery guards thus called for the police, whose Scene of the Crime Operation Team investigated the incident.<sup>59</sup> Paula’s body was taken away for examination.<sup>60</sup>

Lourdes said that at Paula’s wake, Mambo told their family what he had seen of the incident.<sup>61</sup> August then went with the barangay officials to

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<sup>46</sup> *Id.* at 38.

<sup>47</sup> *Id.* at 41.

<sup>48</sup> *Id.* at 39.

<sup>49</sup> *Id.* at 33.

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

<sup>51</sup> *Id.* at 22.

<sup>52</sup> *Id.* at 38.

<sup>53</sup> *Id.* at 34.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

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

look for "Totoy," whom he positively identified as Tacuyo.<sup>62</sup>

Finally, Dr. Sandiego testified and presented the Certificate of Identification of Dead Body, Request for Autopsy, Autopsy Report No. N-11-639, Anatomical Sketch Case No. N-11-639, and Certificate of Post-Mortem Examination.<sup>63</sup> He discussed the following findings from the autopsy of Paula's body: (1) She had been dead for more than 24 hours; (2) she had suffered 17 stab wounds, nine of which were fatal; (3) those nine were to her neck, abdomen, and chest; (4) only one weapon was used to inflict all 17 wounds; (5) aside from her wounds, she also had a hematoma on her left eye, a contused abrasion on her left thigh, and a contused abrasion on her left ear; (6) the hematoma was "possibly caused by a blow [to] . . . the left cheek" and the contused abrasion on the left ear "could be due to a fall right after the [said] blow"; (7) the blow to the left cheek "could have happened before the stab wounds"; and (8) the contused abrasion on the left thigh "show[ed] that the assaulting person wanted to rape the victim."<sup>64</sup>

The defense, for its part, presented Bragais as its sole witness.<sup>65</sup> Tacuyo neither testified nor submitted documentary evidence.<sup>66</sup>

Bragais denied the charge<sup>67</sup> and denied knowing Paula, Mambo, Lourdes, and Alta. He did admit to knowing Paula's grandmother as a fellow La Loma Cemetery caretaker.<sup>68</sup>

Aside from his denial, Bragais also raised alibis: At around 5:00 p.m. on the date of the incident, he was in his house; at 5:30 p.m., he had gone to the house of a certain Aljer; by 7:00 p.m., he was back in his own house and watching television; and he had gone to bed by 8:00 p.m.<sup>69</sup> He admitted, though, that his house is located inside the La Loma Compound in Grace Park, Caloocan City, near the La Loma Cemetery.<sup>70</sup> He also admitted that the Manalacs' mausoleum "is [within] walking distance from his house."<sup>71</sup>

Bragais then stated that he and Tacuyo were arrested on July 17, 2011.<sup>72</sup> Bragais saw Tacuyo and Mambo during the inquest proceedings, where Mambo identified them as Paula's killers.<sup>73</sup>

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 33.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 35.

<sup>66</sup> *Id.* at 42.

<sup>67</sup> *Id.* at 35.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

In an April 27, 2021 Decision, the Regional Trial Court found Bragais and Tacuyo guilty beyond reasonable doubt of murder.<sup>74</sup> The court deemed Mambo to be a competent witness and determined his testimony to be credible.<sup>75</sup> Drawing on Mambo and Dr. Sandiego's respective testimonies, the court ruled that Bragais and Tacuyo, acting as co-conspirators,<sup>76</sup> had killed Paula, who was a minor, by stabbing her to death.<sup>77</sup> The court further ruled that Bragais and Tacuyo had employed treachery to commit the crime, qualifying it as murder.<sup>78</sup> The court finally ruled that Bragais's denial and alibi were unavailing, especially since he admitted that the mausoleum where Paula's body was found was within walking distance of his house.<sup>79</sup>

The Regional Trial Court therefore imposed the penalty of *reclusion perpetua* on both Bragais and Tacuyo. They were also ordered to pay Paula's heirs civil indemnity, moral damages, and exemplary damages:

**WHEREFORE**, based on the foregoing, the Court finds accused **JOSE ROEL BRAGAIS y SISON and ALFREDO TACUYO y EVANGELISTA GUILTY** beyond reasonable doubt for **MURDER** and hereby sentences them to each suffer the penalty of **RECLUSION PERPETUA**.

Both accused are likewise ordered to indemnify the heirs of the minor victim Paula Apilado y Viray, jointly and severally, the amount of [PHP] 100,000.00 as civil indemnity, [PHP] 100,000.00 as moral damages and [PHP] 100,000.00 as exemplary damages.

They are further ordered to pay the heirs of the victim on all damages awarded at the legal rate of six percent (6%) per annum from the date of finality of this judgment until fully paid. The preventive detention of both accused shall be deemed part of the service of their sentence.

Let a copy hereof be furnished the parties subject to the Rule on Confidentiality of Records provided under Section 43, Chapter V of Republic Act No. 9344 otherwise known as the Juvenile Justice Welfare Act of 2006.

**SO ORDERED**[.]<sup>80</sup> (Emphasis in the original)

Bragais and Tacuyo appealed their conviction, claiming that Mambo "should have been deemed an incompetent witness from the onset." They also argued that in any case, Mambo's testimony was unreliable as it was (1) inconsistent with his Sworn Statement and (2) contradicted by Dr. Sandiego, who had "found no signs of blunt trauma penetration on [Paula's] hymen."<sup>81</sup>

<sup>74</sup> *Id.* at 43-44.

<sup>75</sup> *Id.* at 41.

<sup>76</sup> *Id.* at 42-43.

<sup>77</sup> *Id.* at 37.

<sup>78</sup> *Id.* at 37-38.

<sup>79</sup> *Id.* at 42.

<sup>80</sup> *Id.* at 43-44.

<sup>81</sup> *Id.* at 14.

Finally, they contended that treachery could not be appreciated against them because the Information “fail[ed] to allege the specific means which [they] adopted to prevent [Paula from] defen[ding herself].”<sup>82</sup>

In its assailed April 19, 2023 Decision, the Court of Appeals affirmed Bragais and Tacuyo’s conviction, with modifications to the Regional Trial Court’s awards of civil indemnity and damages.<sup>83</sup>

*Firstly*, the Court of Appeals upheld the Regional Trial Court’s evaluation of Mambo’s competence and credibility as a witness.<sup>84</sup> The Court of Appeals found that Mambo’s mental condition did not disqualify him as a witness, since he was nonetheless “capable of perceiving” and had effectively “ma[de] known [his] perception to others at the time of [his] examination.”<sup>85</sup>

The Court of Appeals also found that the inconsistencies in Mambo’s testimony “do not go into the essence of the charge of murder,”<sup>86</sup> and that “his testimony did not waver in identifying the accused as the ones who committed the crime.”<sup>87</sup> It also found the lack of hymenal injuries to be immaterial. Not being elements of murder, its absence “do[es] not warrant the acquittal of the accused.”<sup>88</sup>

More importantly, the Court of Appeals noted that during proceedings before the Regional Trial Court, the defense had objected only to the prosecution’s request to employ leading questions during Mambo’s testimony and not to “Mambo’s competence as a witness.”<sup>89</sup> The Court of Appeals highlighted how the defense: (1) asked the Regional Trial Court to require the prosecution to prove that leading questions were warranted by submitting documentary evidence of Mambo’s mental age; and (2) failed to challenge Mambo’s competence when the prosecution, in satisfaction of the said requirement, produced the Psychiatric Report which put Mambo’s mental age at 3 to 7 years.<sup>90</sup> As a result, the Court of Appeals declared that the defense had waived its objections to Mambo’s competence “on the ground of want of mental capacity” and was “barred from raising the said issue on appeal.”<sup>91</sup>

*Secondly*, the Court of Appeals agreed with the Regional Trial Court

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<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 27.

<sup>84</sup> *Id.* at 17–23.

<sup>85</sup> *Id.* at 18.

<sup>86</sup> *Id.* at 22.

<sup>87</sup> *Id.* at 23.

<sup>88</sup> *Id.* at 24.

<sup>89</sup> *Id.* at 19.

<sup>90</sup> *Id.* at 21.

<sup>91</sup> *Id.* (Citations omitted)



that given Mambo's eyewitness testimony, the prosecution had established that Bragais and Tacuyo, acting as co-conspirators,<sup>92</sup> and employing treachery,<sup>93</sup> had killed Paula.<sup>94</sup>

Expounding on conspiracy, the Court of Appeals said that Bragais and Tacuyo's acts—pinning down Paula by her legs while the other stripped and stabbed her, taking turns being on top of her, and disposing of her body by dragging it to a grassy area—demonstrated their “concerted effort to commit the crime.”<sup>95</sup>

With regard, then, to treachery, the Court of Appeals stated that it was established through: (1) the allegation in the Information that Paula was 12 years old at the time of the incident; (2) the defense's agreement to stipulate on Paula's minority; and (3) the entry into evidence of Paula's death certificate, which confirmed that she was 12 years old when she died.<sup>96</sup>

*Finally*, the Court of Appeals reduced the amounts that the Regional Trial Court had awarded as civil indemnity and damages, upon finding that the prosecution had “no evidence to prove any ordinary aggravating circumstance”.<sup>97</sup>

**WHEREFORE**, the instant appeal is **DENIED**. The April 27, 2021 Decision of the Regional Trial Court, Branch 131, Family Court, of Caloocan City in Criminal Case No. C-86598 is **AFFIRMED with MODIFICATIONS**.

Accused-appellants Jose Roel Bragais y Sison and Alfredo Tacuyo y Evangelista are found **GUILTY BEYOND REASONABLE DOUBT** of the crime of Murder under Article 248 of the Revised Penal Code, as amended, and are **SENTENCED** to suffer the penalty of *reclusion perpetua*.

They are further **ORDERED** to pay, jointly and severally, the heirs of [Paula Apilado y Viray] the amounts of Php 75,000.00 as civil indemnity, Php 75,000.00 as moral damages, Php 75,000.00 as exemplary damages, and Php 50,000.00 as temperate damages.

All monetary awards are subject to interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

**SO ORDERED.**<sup>98</sup> (Emphasis in the original)

<sup>92</sup> *Id.* at 24–25.

<sup>93</sup> *Id.* at 16–17.

<sup>94</sup> *Id.* at 16–23.

<sup>95</sup> *Id.* at 25.

<sup>96</sup> *Id.* at 16–17.

<sup>97</sup> *Id.* at 26.

<sup>98</sup> *Id.* at 27.

Thereafter, Bragais and Tacuyo filed their May 23, 2023 Notice of Appeal.<sup>99</sup> The Court of Appeals gave it due course via its August 16, 2023 Resolution,<sup>100</sup> and the case records were elevated to this Court.<sup>101</sup>

Both parties manifested that in lieu of supplemental briefs, they were adopting their respective Briefs filed before the Court of Appeals.<sup>102</sup> This Court noted their Manifestations in its June 3, 2024 Resolution.

For this Court's resolution is the issue of whether accused-appellants Jose Roel Bragais y Sison and Alfredo Tacuyo y Evangelista are guilty beyond reasonable doubt of murder, under Article 248 of the Revised Penal Code.

After a thorough evaluation of the case records, this Court resolves to dismiss the appeal for failure to sufficiently show that the Court of Appeals committed any reversible error in the assailed Decision as to warrant the exercise of this Court's appellate jurisdiction.

*Firstly*, the Court of Appeals properly upheld the Regional Trial Court's findings on the matter of Mambo's eyewitness testimony.

The Regional Trial Court rightly determined that Mambo was competent to testify.

Before A.M. No. 19-08-15-SC amended the Revised Rules on Evidence,<sup>103</sup> this Court had already categorically stated that a person with intellectual disability "is not, solely by this reason, ineligible from testifying in court."<sup>104</sup> The Court expressly reinforced this stance specifically as to such persons who nevertheless could "convey ideas by words or signs and give sufficiently intelligent answers to questions propounded":<sup>105</sup>

In *People v. Trelles*, where the trial court relied heavily on the [testimony of therein private complainant, who was a person with intellectual disability,] [regardless] of her "monosyllabic responses and

<sup>99</sup> *Id.* at 3–5.

<sup>100</sup> *Id.* at 6.

<sup>101</sup> *Id.* at 1.

<sup>102</sup> *Id.* at 51 and 47.

<sup>103</sup> Revised Rules on Evidence, Rule 130, sec. 21 previously read:

Section 21. *Disqualification by reason of mental incapacity or immaturity.* — The following persons cannot be witnesses:

(a) Those whose mental condition, at the time of their production for examination, is such that they are incapable of intelligently making known their perception to others;  
(b) Children whose mental maturity is such as to render them incapable of perceiving the facts respecting which they are examined and of relating them truthfully.

<sup>104</sup> *People v. Corpuz*, 812 Phil. 62, 85 (2017) [Per J. Leonen, Second Division], citing *People v. Padilla*, 361 Phil. 216, 222 (1999) [Per J. Mendoza, *En Banc*].

<sup>105</sup> *People v. Maceda*, 405 Phil. 698, 719 (2001) [Per J. Mendoza, *En Banc*].

vacillations between lucidity and ambiguity,” this Court held:

A [person with intellectual disability] is not, *per se*, disqualified from being a witness, her mental condition not being a vitiation of her credibility. It is now universally accepted that intellectual [disability], no matter what form it assumes, is not a valid objection to the competency of a witness so long as the latter can still give a fairly intelligent and reasonable narrative of the matter testified to.

It can not then be gainsaid that a [person with intellectual disability] can be a witness, depending on his or her ability to relate what he or she knows. If his or her testimony is coherent, the same is admissible in court.

To be sure, modern rules on evidence have downgraded [intellectual disability] as a ground to disqualify a witness. As observed by McCormick, the remedy of excluding such a witness who may be the only person available who knows the facts, seems inept and primitive. Our rules follow the modern trend of evidence.<sup>106</sup> (Citations omitted)

With the A.M. No. 19-08-15-SC amendments to the Revised Rules on Evidence coming into effect, the new Rule 130, Section 21(1) now simply states that “[all] persons who can perceive, and perceiving, can make known their perception to others, may be witnesses.”<sup>107</sup>

Clearly, then, there is no basis for the defense’s insistence that “Mambo should have been deemed an incompetent witness from the onset.”<sup>108</sup> As the Court of Appeals ruled, the Regional Trial Court “did not gravely abuse its discretion in allowing Mambo to testify.”<sup>109</sup>

[T]he RTC conducted an independent determination of Mambo’s competenc[e] as a witness, including his ability to tell the truth, to quote:

Court:

...

Q: Okay, Mambo, kilala mo ba si *Fiscal*?

A: Opo.

Q: Pag tinatanong ka, ano ba ang dapat nating isasagot, ‘yung totoo o mali?

<sup>106</sup> *People v. Golimlim*, 470 Phil. 625, 633 (2004) [Per J. Carpio Morales, Third Division]. The original terms used in *Golimlim*—“mentally retarded,” “mental retardate,” “intellectual weakness,” and “mental incapacity”—are no longer preferred due to its derogatory implications. See *Versosa v. People*, 861 Phil. 230, 245 (2019) [Per Curiam, *En Banc*].

<sup>107</sup> RULES OF COURT, Rule 130, sec. 21(1), as amended by A.M. No. 19-08-15-SC, May 1, 2020.

<sup>108</sup> *Rollo*, p. 14.

<sup>109</sup> *Id.* at 18.

A: Totoo.

Q: 'Yung totoo lang?

A: Opo.

Q: Hindi pwedeng masasabi ng hindi totoo, lahat ng isasagot mo dito totoo lang?

A: Opo.

Q: Alam mo ba 'yung totoo?

A: Opo.

Q: Ano sa pagkakaalam mo 'yung totoo, 'yung alam mo lang? 'Yung totoo kung ano lang talaga 'yung nangyari, ha? Kung ano lang 'yung tamang sagot, 'yun lang ang isasagot, ha?

A: Opo[.]

While the defense questioned Mambo's examination in the court *quo's* proceedings, it was in the context of objecting to the allegation that he had a mental disability, and the prosecution's corresponding request to employ leading questions during his testimony. It did not explicitly object to Mambo's competence as a witness. This can be gleaned from the following exchange:

Atty. Cu:

Your Honor, before we take the testimony of the witness, may we know his age[.]

Fiscal Recto:

Well, [Y]our Honor, he is twenty-seven (27)? Thirty (30)? But he has a mind of a twelve-year[-]old.

Atty. Cu:

Is there any document that would support this allegation that he has a mental age. . . of a minor. . . twelve years of age to be exact?

...

Court:

Based on my notes, Alta Delima [sic], she testified before that Mambo is a special child and attending SPED, Barrio Obrero Elementary School.

Atty. Cu:

Yes, [Y]our Honor, I also have that. . . But considering the importance of the testimony of Mambo[,] we have to verify first regarding the fact of this[.]

Court:

Let's see. Let him testify, we'll see.

Atty. Cu:

Then, [Y]our Honor, there will be a question. . . The defense might be placed in the predicament of [a] witness being allowed leading questions [sic] when in fact his mental status has not yet been proven[.]

Court:

Okay, let's have initial. [sic] Let's see. If there is an objection to the leading questions[.]

Fiscal Recto:

He has a speech problem, [Y]our Honor, which is a manifestation. . . that he is really [ ] mentally challenged.

Atty. Cu:

We just request that the prosecution hold to whatever it has stated earlier.

Fiscal Recto:

Yes, [Y]our Honor.

Atty. Cu:

That certification will be produced as to the mental age of the witness, [Y]our Honor.

Court:


Okay.

Atty. Cu:

Otherwise, the whole testimony will be stricken off from the record.

As the RTC noted in its May 27, 2015 Order, the defense interposed its objection to the prosecution's request to ask leading questions and moved that the latter provide a document to support its allegation that Mambo had the mental age of a child. When the [Psychiatric] Report was produced, no objection was made regarding Mambo's alleged incompetency by virtue of his mental disability.

While an adverse party is afforded the privilege of objecting to a witness on the ground of incompetenc[e] to testify, it must be interposed as soon as such ground becomes apparent. Any objection to the admissibility of evidence should be made at the time such evidence is offered or as soon thereafter as the objection to its admissibility becomes apparent. Otherwise, the objection is considered waived and the evidence will form part of the records as competent and admissible evidence.



Thus, a party may waive objections to a witness' competenc[e], if after such issue appears, and there is a failure to make a timely objection, the objection will be deemed waived, whether it is on the ground of want of mental capacity or for some other reason. Consequently, the party is barred from raising the said issue on appeal.

Here, the accused did not explicitly object to Mambo's testimony during trial by virtue of his mental disability. They cannot seek to exclude [his] testimony now.<sup>110</sup> (Citations omitted)

The Court also defers to the Regional Trial Court's finding that Mambo's testimony was credible. The Regional Trial Court, having gone through Mambo's direct, cross, and re-direct examination, noted that his testimony was "unwavering."<sup>111</sup> As the Court of Appeals affirmed that finding, the Court sees no reason to disturb it:

The assessment of the credibility of witnesses is a task most properly within the domain of trial courts. In *People v. Gahi*, the Court stressed that the findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the witnesses when placed on the stand. Consequently, appellate courts will not overturn the factual findings of the trial court in the absence of facts or circumstances of weight and substance that would affect the result of the case. Said rule finds an even more stringent application where the said findings are sustained by the CA, as in the case at hand:

[W]hen it comes to the issue of credibility of the . . . prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood[,] or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the results of the case. . . The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.<sup>112</sup> (Citations omitted)

Accused-appellants make much of Mambo's remark that they took turns being on top of and assaulting Paula, claiming that that meant he could not definitively say who "held down, raped, and stabbed" her and that his testimony conflicted with his Sworn Statement.<sup>113</sup> They also play into Dr. Sandiego's statement that he saw "no signs of blunt penetration trauma on [Paula's] hymen," arguing that that meant Paula was not raped, by extension debunking Mambo's entire testimony.<sup>114</sup>

<sup>110</sup> *Id.* at 18–21.

<sup>111</sup> *Id.* at 41.

<sup>112</sup> *People v. Gerola*, 813 Phil. 1055, 1063–1064 (2017) [Per J. Caguioa, First Division].

<sup>113</sup> *Rollo*, p. 14.

<sup>114</sup> *Id.*

Contrary to accused-appellants' contention, neither of these points invalidates the credibility of Mambo's testimony.

Mambo's Sworn Statement is subordinate to the testimony that he gave in open court.<sup>115</sup> The latter prevails and commands greater weight,<sup>116</sup> as "affidavits taken *ex parte* are. . . almost invariably incomplete and oftentimes inaccurate,"<sup>117</sup> affected either by "partial suggestions [or] want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected circumstances necessary for [their] accurate recollection of the subject."<sup>118</sup> This is a particularly crucial point here given Mambo's mental condition and speech impediment, set in the context of his Sworn Statement most likely having been "prepared by [an] administering officer[] and cast in their language and understanding of what [Mambo] said."<sup>119</sup>

Mambo's testimony must then be "considered in its entirety," instead of the focus being "only [on] its isolated parts," with a conclusion being drawn exclusively from those parts.<sup>120</sup> Doing so shows that Mambo's testimony had "no inconsistency in relating the principal occurrence and the positive identification of the assailant."<sup>121</sup> The "perceived contradiction" with Dr. Sandiego's testimony refers only to a minor matter that does not touch upon the elements of murder.<sup>122</sup> As the Court of Appeals detailed:

For testimonial inconsistencies to warrant acquittal, it must refer to significant facts vital to the guilt or innocence of the accused, or it must have something to do with the crime's elements.

Mambo's inconsistencies do not go into the essence of the charge of murder. Notably, Mambo was able to positively identify the accused, to quote:

Q: Is Totoy present in this courtroom?

A: Yes, sir.

Q: Please point to him if he is present.

Officer-in-Charge:

Witness pointing to the person wearing a yellow t-shirt and when asked of his name, he gave his name as Alfredo Tacuyo.

<sup>115</sup> *People v. Dela Rosa*, 866 Phil. 36, 38 (2019) [Per J. Leonen, Third Division].

<sup>116</sup> *People v. XXX*, G.R. No. 248815, March 23, 2022 [Per J. Hernando, Second Division].

<sup>117</sup> *People v. Lumikid*, 875 Phil. 467, 483 (2020) [Per C.J. Peralta, First Division].

<sup>118</sup> *People v. Vargas*, 784 Phil. 144, 150 (2016) [Per J. Perez, Third Division].

<sup>119</sup> *People v. Damayo*, 840 Phil. 676, 692 (2018) [Per J. Peralta, Third Division], citing *People v. Cueto*, 443 Phil. 425, 433 (2003) [Per J. Ynares-Santiago, First Division].

<sup>120</sup> *Bug-atan v. People*, 645 Phil. 103, 117–118 (2010) [Per J. Del Castillo, First Division].

<sup>121</sup> *People v. Bustamante*, 445 Phil. 345, 362 (2003) [Per J. Corona, *En Banc*]. (Citation omitted)

<sup>122</sup> *People v. Cabrera, Jr.*, 450 Phil. 356, 368 (2003) [Per J. Quisumbing, Second Division].

Q: Was Totoy alone when you saw the incident?

A: They were two (2), sir.

Q: Who was with Totoy then?

A: He was with Roel, sir.

Q: Is Roel present in this courtroom?

A: Yes, sir, beside Totoy.

Q: Will you point to him now?

Officer-in-Charge:

Witness pointed to the person who when asked gave his name as Jose Roel Bragais.

Mambo was also able to testify how Tacuyo stabbed the victim:

Q: When they were removing the shorts of AAA, was AAA still alive?

A: Yes, sir, she was shouting.

Q: How did AAA die?

A: She was stabbed, sir.

Q: Who stabbed[ ]AAA?

A: Totoy, sir.

Q: Where did you see AAA stabbed, what part of her body was she stabbed? (*sic*)

A: She had a lot of stab wounds, sir.

Officer-in-Charge:

Witness pointing to the back, pointing to the front chest area....

Mambo affirmed his testimony upon cross-examination and provided further details about the incident[.]

....

Mambo, on re-direct examination, still identified the accused as the perpetrators of the crime:

Q: So when you saw them, do you recall what they did to AAA?


A: Yes, [S]ir.

Q: What did they do?

A: They stabbed AAA, [S]ir.

Q: So, you were still there when you lighted the candle and saw them kill[ ][Paula], you were still there in the cemetery.

A: Yes, [S]ir.





Mambo's alleged inconsistencies must be placed in the context of his mental disability. While there may have been variations relating to the specifics of the incident, his testimony did not waver in identifying the accused as the ones who committed the crime.

Moreover, Dr. [Sandiego]'s autopsy findings which found no signs of blunt penetration trauma on the victim's hymen are also outside the essential elements for a murder charge. Thus, such findings do not warrant the acquittal of the accused.<sup>123</sup>

*Secondly*, as the Regional Trial Court found<sup>124</sup> and the Court of Appeals affirmed,<sup>125</sup> this case has all the elements of murder as provided by Article 248 of the Revised Penal Code:

ARTICLE 248. *Murder*. — Any person who, not falling within the provisions of article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusión temporal* in its maximum period 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.

To sustain a murder conviction, the State must prove the concurrence of the following elements: (a) that a person was killed; (b) that the accused killed them; (c) that the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (d) that the killing is not parricide or infanticide.<sup>126</sup>

From Mambo's testimony, it is undeniable that accused-appellants stabbed Paula to death in what is neither parricide (there is no showing that

<sup>123</sup> *Rollo*, pp. 21–24.

<sup>124</sup> *Id.* at 43–44.

<sup>125</sup> *Id.* at 27.

<sup>126</sup> *See People v. Obosa*, 429 Phil. 522, 537 (2002) [Per J. Sandoval-Gutierrez, *En Banc*].

she was related to the accused-appellants) nor infanticide (her death certificate confirms that she was 12 years old at the time of the incident).<sup>127</sup>

The identity of both accused as the persons who killed the minor victim herein was sufficiently established by prosecution witness Mambo Dela Cruz Delima as he witnessed the stabbing incident of minor victim Paula. He testified as follows[.]

[ ]Fiscal Recto:

Q: Was Totoy alone when you saw that incident?

A: They were two (2), sir.

Q: Who was with Totoy then?

A: He was with Roel, sir.

xxx

Q: How did they do? [sic]

A: *"Hiniga po nila."*

Q: Who made her lie down?

A: Both of them, sir.

Q: And what did you witness?

A: They placed tape on her mouth, sir.

Q: What did you do when you saw them place[ ]tape on her mouth?

A: Sir, my grandmother was already dead and I was lighting a candle for her and then while I was looking, I saw something and I said to myself *"kawawa naman 'yung bata"* and then they told me *"huwag kang maingay, ikaw ang isusunod ko"* and then that person was brandishing a bladed weapon, *"parang pangkatay ng baboy."*

Q: Do you know who was holding the knife?

A: Yes, sir.

Q: Who was holding the knife?

A: Totoy, sir.

....

Q: And Mr. Witness, going back to the incident when you saw the two raping Paula, do you recall how they raped Paula?

A: They were holding Paula, sir.

xxx

Q: So, who was. . . who was holding Paula?

A: Totoy, sir.

<sup>127</sup> Rollo, pp. 16-17, 35.

Q: What was Roel doing then?

A: *"Hawak po 'yung paa dito, tapos palit-palit po sila."*

COURT:

Q: Si Roel hawak 'yung paa ni Paula, tapos palit-palit sila?

A: Opo.

xxx

Q: So, you said it was Totoy who stabbed Paula several times?

A: Yes, sir.

xxx

Q: So, you saw where they brought the body of Paula and the two of them dragged Paula?

A: They dragged her by holding on to her legs.

Q: Do you know where they brought Paula?

A: In a grassy area, sir.[]

....

On cross[-]examination, he also testified as follows[:]

Atty. Cu:

Q: Mambo, what happens to Paula?

A: She was killed, she was stabbed, sir.

Q: So, killed and stabbed only, Mambo.

A: There was something more, sir.

Q: What is this something more?

A: A broken bottle was inserted in her vagina.

Q: So that's it, nothing more?

A: There is something more, sir.

Q: What else, Mambo?

A: I was there and I saw that she was being pulled.

Q: What else, Mambo, aside from pulling, stabbing, killing, inserting a broken bottle inside the vagina, what else happened?

A: The dress was being removed, sir.

Q: Who removed the dress, Mambo?

A: Totoy, sir.

Q: Could you please point at Totoy, Mambo?

A: He is here, sir, present.

xxx



Q: Mambo. . . [w]hat do you mean by the word “killed”?

A: Dead, sir.

Q: You used the term “stabbed” earlier, Mambo, who did this stabbing?

A: Totoy, sir.

Q: The same Totoy who stood up earlier, Mambo?

A: Yes, sir.

Q: [W]ho asked you to go away when you were seen[?]

A: “Sila, po.”

Q: So, both of them simultaneously said that you should go away?

A: Yes, sir.

Q: You did not go away, Mambo[?]

A: Because I was waiting for the candle to finish and then I will leave, sir.

....

The prosecution was able to prove with moral certainty, through the unwavering testimony of the witness Mambo Dela Cruz Delima[,] how the victim was held, assaulted, stabbed[,] and killed[,] showing the criminal intent of both accused to kill her.<sup>128</sup> (Emphasis in the original)

It is equally indisputable that accused-appellants had acted as co-conspirators in carrying out Paula’s killing.

Under Article 8(2) of the Revised Penal Code, “[a] conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.”<sup>129</sup> While express conspiracy “requires proof of an actual agreement among the co-conspirators to commit the crime,” implied conspiracy does not:

It exists when two (2) or more persons are shown by their acts to have aimed toward the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, are in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiments. This is proved by the mode and manner the offense was committed, or from the acts of the accused *before, during, and after* the commission of the crime, indubitably pointing to a joint purpose, a concert of action, and a community of interest. In fine, even without proof of express agreement among the co-accused, conspiracy may still be held to exist among them.<sup>130</sup> (Emphasis in the

<sup>128</sup> *Id.* at 38–41.

<sup>129</sup> REV. PEN. CODE, art. 8(2).

<sup>130</sup> *Cambe v. People*, G.R. Nos. 254269 and 254346, October 13, 2021 [Per J. Lazaro-Javier, First

original)

Pertinently, the Court has previously ruled that there is implied conspiracy where one of the accused held down the victim while the other accused inflicted injuries on the victim.<sup>131</sup>

In light of the foregoing, the Court of Appeals aptly stated that conspiracy was proven since accused-appellants' acts of "h[olding Paula's] legs, switch[ing] positions during the commission of the crime, and dragg[ing] her dead body to a grassy area. . . established a concerted effort to commit the crime."<sup>132</sup> "[A]t the time of the aggression, [both accused-appellants] acted in concert, each doing his part to fulfill their common design to kill the victim."<sup>133</sup> Accused-appellants are therefore conspirators and liable as such.<sup>134</sup>

It is no less certain that Paula's killing was murder, for being qualified by accused-appellants' employment of treachery in its commission. As the Court of Appeals ruled, treachery was sufficiently alleged in the Information since Paula's minority as a twelve-year-old at the time of the incident was indicated, and was successfully established by the prosecution through its proving of Paula's age.<sup>135</sup> As in *People v. Enojo*:

The killing of a child is characterized by treachery even if the manner of the assault is not shown in the Information, as the weakness of the victim due to his tender age results in the absence of any danger to the accused. Hence, the mere allegation of the victim's minority is sufficient to qualify the crime to murder.<sup>136</sup> (Citation omitted)

In this regard, the circumstance of abuse of superior strength alleged in the Information was obviously present "given the blatant inequality of strength between [the 12-year-old Paula] and [accused-appellants working in tandem as] aggressors, as well as the degree of force and the weapon[] used by the latter," but it "cannot be appreciated even as a generic aggravating circumstance since it is absorbed by treachery which has been used to qualify the crime to murder."<sup>137</sup>

Finally, the presence of the circumstance of evident premeditation, which was also alleged in the Information, was not shown by the

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Division].

<sup>131</sup> See *Marasigan v. Fuentes*, 776 Phil. 574, 589 (2016) [Per J. Leonen, Second Division]; *People v. Barlaan*, 558 Phil. 599, 610 (2007) [Per J. Ynares-Santiago, Third Division].

<sup>132</sup> *Rollo*, p. 25.

<sup>133</sup> *Oliveros, Jr. v. People*, G.R. No. 242552, March 3, 2021 [Per J. Caguioa, First Division]. (Citation omitted)

<sup>134</sup> *People v. Natindim*, 889 Phil. 18, 41 (2020) [Per J. Hernando, Third Division].

<sup>135</sup> *Rollo*, p. 16.

<sup>136</sup> *People v. Enojo*, 866 Phil. 835, 846–847 (2019) [Per J. R.V. Zalameda, Third Division].

<sup>137</sup> *People v. Sancholes*, 338 Phil. 242, 259 (1997) [Per J. Regalado, Second Division]. (Citation omitted)

prosecution. “Premeditation presupposes a deliberate planning of the crime before executing it.”<sup>138</sup> Its essence is in executing the crime only after “cool thought and reflection to carry out the criminal intent during a space of time sufficient to arrive at a calm judgment.”<sup>139</sup> This is operationalized into three elements, which must all be proven by the prosecution: (1) a previous decision by the accused to commit the crime; (2) overt acts manifestly indicating that the accused clung to their determination; and (3) a lapse of time between the decision to commit the crime and its actual execution, sufficient to allow accused to reflect upon the consequences of their acts.<sup>140</sup> The Court has stressed the importance of the third element—“it must be shown that there was a period sufficient to afford full opportunity for meditation and reflection, a time adequate to allow the conscience to overcome the resolution of the will, as well as outward acts showing the intent to kill.”<sup>141</sup> The prosecution did not prove the existence of these elements.

*Thirdly*, accused-appellant Bragais’s bare denial and unsubstantiated alibi cannot defeat Mambo’s positive identification of him and accused-appellant Tacuyo as Paula’s killers, especially when it is taken together with Mambo’s straightforward and detailed narration of how Paula’s killing had transpired. This is in line with the Court’s ruling in *People v. Ganaba*:

[A]libi and denial cannot prevail over the positive and categorical testimony and identification of the complainant. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. Alibi, on the one hand, is viewed with suspicion because it can easily be fabricated. For the defense of alibi to prosper, the accused must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission. Unless supported by clear and convincing evidence, alibi cannot prevail over the positive declaration of a victim who, in a natural and straightforward manner, convincingly identifies the accused-appellant.<sup>142</sup> (Citations omitted)

Accused-appellant Bragais even admitted that his house is inside the La Loma Compound, near the cemetery, within walking distance of the Manalacs’ mausoleum.<sup>143</sup> There is plainly no element of physical impossibility, “refer[ring] to the distance between the place where the accused was when the crime transpired and the place where the crime was committed, as well as to the facility of access between the two places,” that substantiates his alibi.<sup>144</sup>

<sup>138</sup> *People v. Sanchez*, 636 Phil. 560, 582 (2010) [Per J. Velasco, Jr., First Division].

<sup>139</sup> *People v. Tagana*, 468 Phil. 784, 811 (2004) [Per J. Austria-Martinez, Second Division].

<sup>140</sup> *People v. Conde*, G.R. No. 254251, June 22, 2022 [Per J. Inting, Third Division]. (Citation omitted)

<sup>141</sup> *People v. Silva*, 435 Phil. 780, 799 (2002) [*Per Curiam, En Banc*]. (Citation omitted)

<sup>142</sup> *People v. Ganaba*, 829 Phil. 306, 321–322 (2018) [Per J. Martires, Third Division].

<sup>143</sup> *Rollo*, p. 35.

<sup>144</sup> *People v. Mayingque*, 638 Phil. 119, 139 (2010) [Per J. Bersamin, Third Division]. (Citation omitted)

Moreover, accused-appellant Bragais has not demonstrated that Mambo “harbored any ill-motive to falsely testify against [them].”<sup>145</sup> The Court thus reaches “[t]he logical conclusion. . . that no such motive exists and [Mambo’s] testimony is worthy of full faith and credit.”<sup>146</sup>

In this case, therefore, “where the prosecution eyewitness was familiar with both the victim and the accused, and where the *locus criminis* afforded good visibility, and where no improper motive can be attributed to the witness for testifying against the accused. . . [the eyewitness’s] version of the story deserves much weight.”<sup>147</sup>

Fourthly, the Regional Trial Court and the Court of Appeals correctly imposed the penalty of *reclusion perpetua* upon both accused-appellants, the two being co-principals in Paula’s murder. “Under Article 63(2) of the [Revised Penal Code], in cases where the penalty prescribed is composed of two indivisible penalties, and there are neither mitigating nor aggravating circumstances, the lesser penalty shall be applied.”<sup>148</sup> In relation, Article 248 of the same Code (as amended by Republic Act No. 7659) provides that a killing qualified into murder, by any of the qualifying circumstances listed in said provision, is punishable with *reclusion perpetua* to death.<sup>149</sup> Here, “[t]here [is] no aggravating or mitigating circumstance in the commission of the offense (except for treachery which was used to qualify the killing).”<sup>150</sup> Therefore, accused-appellants must suffer *reclusion perpetua*, it being the lower of the two imposable indivisible penalties.<sup>151</sup>

As to the damages: “[W]hen death occurs due to a crime, the following damages may be awarded: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages.”<sup>152</sup>

*People v. Jugueta* further states that “[w]hen the circumstances surrounding the crime call for the imposition of *reclusion perpetua* only,

<sup>145</sup> *People v. Gomez*, 450 Phil. 253, 261 (2003) [Per J. Ynares-Santiago, First Division].

<sup>146</sup> *People v. Angeles*, G.R. No. 254747, July 13, 2022 [Per J. Inting, Third Division]. (Citation omitted)

<sup>147</sup> *People v. Jalbonian*, 713 Phil. 93, 104–105 (2013) [Per J. Del Castillo, Second Division]. (Citation omitted)

<sup>148</sup> *People v. Corpuz*, 826 Phil. 801, 815 (2018) [Per J. Martires, Third Division].

<sup>149</sup> *Ramos v. People*, 803 Phil. 775, 785 (2017) [Per J. Perlas-Bernabe, First Division].

<sup>150</sup> *People v. Ampo*, 848 Phil. 97, 110 (2019) [Per J. Peralta, Third Division]. See also *People v. Aquino*, x724 Phil. 739, 757 (2014) [Per J. Leonardo-De Castro, First Division]: “[W]e cannot consider abuse of superior strength as an aggravating circumstance in this case. As per jurisprudence, when the circumstance of abuse of superior strength concurs with treachery, the former is absorbed in the latter. . . . Since there is no aggravating or mitigating circumstance present, the proper penalty is *reclusion perpetua*, in accordance with Article 63 paragraph 2 of the Revised Penal Code. . . it being the lesser penalty between the two indivisible penalties for the felony of murder which is *reclusion perpetua* to death.” (Citations omitted)

<sup>151</sup> *People v. Almósara*, 857 Phil. 550, 572 (2019) [Per J. Lazaro-Javier, Second Division].

<sup>152</sup> *People v. Tardon*, 806 Phil. 667, 686 (2017) [Per J. Mendoza, Second Division]. (Citation omitted)

there being no ordinary aggravating circumstance. . . the proper amounts should be [PHP] 75,000.00 as civil indemnity, [PHP] 75,000.00 as moral damages[,] and [PHP] 75,000.00 as exemplary damages, regardless of the number of qualifying aggravating circumstances present.”<sup>153</sup> Hence, the Court sustains the Court of Appeals’ adjustment of the Regional Trial Court’s awarded civil indemnity and moral and exemplary damages to PHP 75,000.00 each.<sup>154</sup>

The Court similarly upholds the Court of Appeals’ award of PHP 50,000.00 in temperate damages.<sup>155</sup> “The award of. . . temperate damages in homicide or murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court. . . as it cannot be denied that the heirs of the victims suffered pecuniary loss although the exact amount was not proved.”<sup>156</sup>

In closing, the Court reiterates its movement away from using the term “mental retardate” and its other similarly outdated, derogatory derivatives, in favor of employing people-first language.

In discussing the Convention on the Rights of Persons with Disabilities<sup>157</sup> which the Philippines ratified on April 15, 2008, the United Nations expounded on the Convention’s objective of improving the way persons with disabilities are referred to:

In most parts of the world there are deep and persistent negative stereotypes and prejudices against persons with certain conditions and differences. These attitudes themselves also shape who is considered to be a person with a disability in each society as well as have contributed to a negative image of persons with disabilities. The language used to refer to persons with disabilities has played a significant role in the persistence of negative stereotypes. Clearly, terms such as “crippled” or “mentally retarded” are derogative. Other terms such as “wheelchair-bound” or “disabled persons” emphasize the disability before the person.

The drafters of this Convention were clear that disability should be seen as the result of the interaction between a person and his or her environment. Disability is not something that resides in the individual as the result of some impairment. This convention recognizes that disability is an evolving concept and that legislation may adapt to reflect positive changes within society.<sup>158</sup>

<sup>153</sup> *People v. Jugueta*, 783 Phil. 806, 840 (2016) [Per J. Peralta, *En Banc*].

<sup>154</sup> *Rollo*, p. 26.

<sup>155</sup> In *People v. Albaran*, 883 Phil. 381, 398 (2020) [Per J. Peralta, First Division]: “Prevailing jurisprudence now fixes the amount of [PHP] 50,000.00 as temperate damages in murder cases.”

<sup>156</sup> *People v. Jugueta*, 783 Phil. 806, 846–847 (2016) [Per J. Peralta, *En Banc*]. (Citations omitted)

<sup>157</sup> United Nations General Assembly, *Convention on the Rights of Persons with Disabilities*, May 3, 2008, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> (last accessed on June 6, 2024).

<sup>158</sup> United Nations, “Frequently Asked Questions regarding the Convention on the Rights of Persons with Disabilities,” available at <https://www.un.org/esa/socdev/enable/convinfaq.htm> (last accessed on



In relation, the United Nations produced its Disability-Inclusive Language Guidelines,<sup>159</sup> centered on the concept of a people-first language:

People-first language is the most widely accepted language for referring to persons with disabilities. It is also the language used in the Convention on the Rights of Persons with Disabilities. People-first language emphasizes the person, not the disability, by placing a reference to the person or group before the reference to the disability. For example, we can use expressions such as “children with albinism”, “students with dyslexia”, “women with intellectual disabilities” and, of course, “persons with disabilities”.<sup>160</sup>

Hence, citing the 2013 Diagnostic and Statistical Manual of Mental Disorders,<sup>161</sup> in *People v. Quintos*,<sup>162</sup> the Court stated that “the term ‘intellectual disability’ has replaced ‘mental retardation’ among the lay public, and the medical, educational, professional, and advocacy groups.”<sup>163</sup> Proceeding from that, in *People v. Tayaban*,<sup>164</sup> the Court used “intellectual disability” as a descriptor for “moderate mental retardation,” the latter having been utilized as a medical term.<sup>165</sup> Similarly, in *Versoza v. People*,<sup>166</sup> the Court clarified that “mental retardate” is a “legitimate medical term” but “is no longer preferred due to its derogatory implications.”<sup>167</sup> Citing *Quintos*,<sup>168</sup> *Versoza* also underscored the shift to using terms such as cognitive disability or intellectual disability.<sup>169</sup> Most recently, in *People v. Gabatbat*,<sup>170</sup> also citing *Quintos*,<sup>171</sup> the Court re-emphasized that terms like “person with intellectual disability” and “intellectual disability” have taken the place of “mental retardation.”<sup>172</sup>

**ACCORDINGLY**, the appeal is **DISMISSED**. The April 19, 2023 Decision of the Court of Appeals in CA-G.R. CR HC No. 15626 is hereby **AFFIRMED**.

Accused-appellants Jose Roel Bragais y Sison and Alfredo Tacuyo y

June 6, 2024).

<sup>159</sup> United Nations, “Disability-Inclusive Language Guidelines,” available at <https://www.ungeneva.org/sites/default/files/2021-01/Disability-Inclusive-Language-Guidelines.pdf> (last accessed on June 6, 2024).

<sup>160</sup> *Rollo*, p. 2.

<sup>161</sup> AMERICAN PSYCHIATRIC ASSOCIATION, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 33, 809 (5<sup>th</sup> ed., 2013).

<sup>162</sup> *People v. Quintos*, 746 Phil. 809 (2014) [Per J. Leonen, Second Division].

<sup>163</sup> *People v. Quintos*, 746 Phil. 809, 812 (2014) [Per J. Leonen, Second Division].

<sup>164</sup> *People v. Tayaban*, 821 Phil. 391 (2017) (Resolution) [Per J. Leonen, Third Division].

<sup>165</sup> *Id.* at 393. (Citation omitted)

<sup>166</sup> *Versoza v. People*, 861 Phil. 230 (Resolution) (2019) [*Per Curiam, En Banc*].

<sup>167</sup> *Id.* at 245.

<sup>168</sup> *People v. Quintos*, 746 Phil. 809, 812 (2014) [Per J. Leonen, Second Division].

<sup>169</sup> *Versoza v. People*, 861 Phil. 230, 245 (Resolution) (2019) [*Per Curiam, En Banc*].

<sup>170</sup> *People v. Gabatbat*, G.R. No. 246948, July 5, 2021 [Per J. J. Lopez, Third Division].

<sup>171</sup> *People v. Quintos*, 746 Phil. 809, 812 (2014) [Per J. Leonen, Second Division].

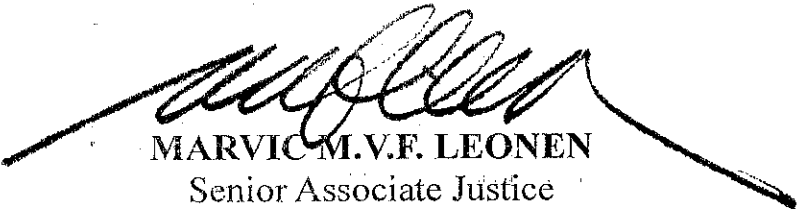
<sup>172</sup> *People v. Gabatbat*, G.R. No. 246948, July 5, 2021 [Per J. J. Lopez, Third Division].

Evangelista are found **GUILTY** beyond reasonable doubt of murder, for which they are both sentenced to suffer the penalty of *reclusion perpetua*.

They are also directed to **PAY** the following sums, jointly and severally, to the legal heirs of the victim, Paula Apilado y Viray: PHP 75,000.00 in civil indemnity, PHP 75,000.00 in moral damages, PHP 75,000.00 in exemplary damages, and PHP 50,000.00 in temperate damages.

All monetary awards for damages shall earn legal interest of 6% per annum from the date of the finality of this Decision until fully paid.

**SO ORDERED.**



MARVIC M.V.F. LEONEN  
Senior Associate Justice


WE CONCUR:



AMY C. LAZARO-JAVIER  
Associate Justice



MARIO V. LOPEZ  
Associate Justice



JHOSEP V. LOPEZ  
Associate Justice



ANTONIO T. KHO, JR.  
Associate Justice

**ATTESTATION**

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

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

Senior Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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

