



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 17, 2020** which reads as follows:*

“G.R. No. 244606 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus SILVANO B. ANDRAQUE AND FRANCISCO B. ANDRAQUE, accused; SILVANO B. ANDRAQUE, accused-appellant, FRANCISCO B. ANDRAQUE, pleaded guilty.

After a careful review of the records of the case and the issues submitted by the parties, the Court finds no error committed in the Decision¹ dated October 22, 2018 (Decision) of the Court of Appeals (CA), in CA-G.R. CR HC No. 01785-MIN. The facts, as borne out by the records, sufficiently support the conclusion that accused-appellant Silvano B. Andraque (Silvano) is indeed guilty of the crime of Murder. The issues and matters raised before the Court, the same ones as those raised in the CA, there being no supplemental briefs filed, were sufficiently addressed and correctly ruled upon by the CA.

It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.² Here, after examining the records of this case, the Court finds no cogent reason to vacate the Regional Trial Court’s (RTC) appreciation of the evidence, which was affirmed with modifications by the CA.

The elements of the crime of Murder are as follows: (1) that a person was killed; (2) that the accused killed him; (3) that the killing was attended by any of the qualifying circumstances mentioned in

- over – four (4) pages ...

130

¹ *Rollo*, pp. 4-18. Penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Ramon Edgardo T. Lloren and Walter S. Ong, concurring.

² *People v. Gerola*, G.R. No. 217973, July 19, 2017, 831 SCRA 469, 478.

Article 248 of the Revised Penal Code; and (4) that the killing is not parricide or homicide.³

In the instant case, the prosecution was able to prove all the elements of Murder: (1) the eyewitnesses presented by the prosecution, Guillerma Gemoya (Guillerma) and Feliciano Gemoya (Feliciano), testified that Ernesto Gemoya (Ernesto), the victim, was killed; (2) they positively identified Francisco Andraque (Francisco) and Silvano as the assailants; (3) the killing was attended by the qualifying circumstance of treachery; and (4) the killing is not parricide or homicide.⁴

The manner of killing of Ernesto undoubtedly showed the employment of treachery. In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.⁵ These elements are extant in the facts of this case. As narrated by the prosecution witnesses, Ernesto, who was on the way to the farm, was suddenly attacked by Francisco and Silvano. Ernesto could not have defended himself from the sudden attack made by Francisco and Silvano who took turns in hacking Ernesto to death using a bolo. Their determination to kill the hapless victim is shown by the Post Mortem Examination which revealed that Ernesto sustained eight clear cut hacking wounds – four wounds at the back of the body, three hacking wounds and one stab wound.⁶

In addition, the fact that Guillerma and Feliciano are relatives of the victim does not automatically mean that their testimonies are self-serving. To warrant rejection of the testimony of a relative, it must be clearly shown that, independent of their relationship, the testimony was inherently improbable or defective or that improper or evil motives had moved the witness to falsely incriminate the appellant.⁷ As applied in the instant case, the defense failed to present any evidence to prove that Guillerma and Feliciano were actuated by ill-motive. Moreover, the testimonies of Guillerma and Feliciano were corroborated by other disinterested witnesses. The prosecution likewise presented Victoria Tapican who testified that shortly after

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130

³ *People v. Quita*, G.R. No. 212818, January 25, 2017, 816 SCRA 41, 53-54.

⁴ *Rollo*, p. 10.

⁵ *People v. Lagman*, G.R. No. 197807, April 16, 2012, 669 SCRA 512, 524.

⁶ *Rollo*, p. 6.

⁷ *People v. Carizo*, G.R. No. 123053, August 21, 1997, 278 SCRA 263, 270.

she heard a woman crying for help, Francisco and Silvano stopped by her store to sell their carabao to her.⁸ She distinctly remembered seeing Silvano's shirt splattered with fresh blood.⁹ Also, the Post Mortem Examination presented by Dr. Arthur F. Natividad showing that Ernesto sustained multiple hack wounds in front and at the back of his body is consistent with Guillerma and Feliciano's account as to how Francisco and Silvano killed Ernesto.¹⁰

Lastly, Silvano's defense of alibi must fail. For alibi to prosper, the accused must prove not only that he was at some other place at the time of commission of the crime, but also that it was physically impossible for him to be at the *locus delicti* or within its immediate vicinity.¹¹ Silvano insists that he was in his house in San Miguel at the time of the incident.¹² However, San Miguel is only nine (9) kilometers away from Tablalang, where the killing incident happened.¹³ Thus, it was not physically impossible for Silvano to be at the scene of the crime.

However, the Court finds it proper to modify the penalty imposed by the RTC, as modified by the CA. When no evidence of burial or funeral expenses is presented in court, the amount of ₱50,000.00 as temperate damages should be awarded.¹⁴

WHEREFORE, premises considered, the appeal is **DISMISSED** for lack of merit. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated October 22, 2018 of the Court of Appeals, in CA-G.R. CR HC No. 01785-MIN. The Decision finding accused-appellant **SILVANO B. ANDRAQUE** guilty beyond reasonable for the crime of Murder under Article 248 of the Revised Penal Code, as amended, is **AFFIRMED**. He is ordered to pay the heirs of the victim **SEVENTY FIVE THOUSAND PESOS (₱75,000.00) as civil indemnity, SEVENTY FIVE THOUSAND PESOS (₱75,000.00) as moral damages, SEVENTY FIVE THOUSAND PESOS (₱75,000.00) as exemplary damages, and FIFTY THOUSAND PESOS (₱50,000.00) as temperate damages**. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until fully paid.

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130

⁸ *Rollo*, p. 14.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *People v. Hastero*, G.R. No. 192179, July 3, 2013, 700 SCRA 597, 605.

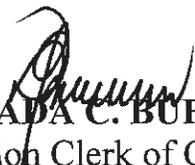
¹² *Rollo*, p. 15.

¹³ *Id.*

¹⁴ *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 388.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *SHILO*

by:

MARIA TERESA B. SIBULO
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130

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(CA-G.R. CR HC No. 01785-MIN)

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(Crim. Case No. XXI-1635)

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