



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 16 June 2021 which reads as follows:

“G.R. No. 252225 (*People of the Philippines v. Ricky Serrano y Manuel*). – We affirm.

Article 248 of the Revised Penal Code provides:

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

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;

x x x x

Verily, Murder requires the following elements:

- (1) A person was killed;
- (2) The accused killed him or her;
- (3) The killing was attended by any of the qualifying circumstances mentioned in Article 247;¹ and

¹ **Article 247. *Death or physical injuries inflicted under exceptional circumstances*.** — Any legally Any legally married person who having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of *destierro*.

(4) The killing is not parricide or infanticide.²

There is no question here regarding the presence of the first (1st) and fourth (4th) elements. The victim, Segundino Butawan, Jr. (Butawan), was killed by multiple gunshot wounds. More, the killing is not infanticide or parricide.

Accused-appellant Ricky Serrano y Manuel (accused-appellant), nonetheless, denies the existence of the second (2nd) and third (3rd) elements.

First, accused-appellant claims that the testimony of prosecution witness Richard Santos (Santos) was riddled with inconsistencies. Accused-appellant primarily assails Santos' credibility, because he was the single direct witness to the crime, and his testimony was too incredible to be believed.

The Court disagrees.

It is settled that although the number of witnesses may be considered a factor in the appreciation of evidence, preponderance is not necessarily with the greatest number and conviction can still be had on the basis of the credible and positive testimony of a single witness. Corroborative evidence is deemed necessary only when there are reasons to warrant the suspicion that the witness falsified the truth or that his or her observation had been inaccurate.³ This is not obtaining in this case.

For both the trial court and the Court of Appeals here uniformly gave credence to the testimony of Santos and found the same candid, honest, and consistent. It is settled that when the credibility of the eyewitnesses is at issue, due deference and respect shall be given to the trial court's factual findings, its calibration of the testimonies, its assessment of their probative weight, and its conclusion based on such factual findings, absent any showing that it had overlooked circumstances that would have affected the final outcome of the case. After all, it is the trial court which has the unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grueling examination.⁴ This rule finds an even more stringent application where the trial court's findings are sustained by the Court of Appeals,⁵ as here.

Here, Santos categorically narrated the circumstances leading to the death of Butawan in a clear, direct, and candid manner. Santos recounted that Rowell Serrano, accused-appellant's brother, shot Butawan several times

If he shall inflict upon them physical injuries of any other kind, he shall be exempt from punishment.

These rules shall be applicable, under the same circumstances, to parents with respect to their daughters under eighteen years of age, and their seducer, while the daughters are living with their parents.

Any person who shall promote or facilitate the prostitution of his wife or daughter, or shall otherwise have consented to the infidelity of the other spouse shall not be entitled to the benefits of this article.

² *People v. Padal*, G.R. No. 232070, October 2, 2019.

³ *People v. Jalbonian*, 713 Phil. 93, 104 (2013).

⁴ See *People v. Yumol*, G.R. No. 225600, July 7, 2020.

⁵ See *People v. Pigar*, G.R. No. 247658, February 17, 2020.

which caused the latter to lose his balance. Then as the victim was falling on the ground, accused-appellant finished off the victim, shooting him in the head.⁶

Any alleged inconsistencies in the testimony of Santos pertaining to whether Butawan was shot with a .38 caliber gun or .45 caliber gun refer to details which do not impair or change the fact that accused-appellant killed Butawan. After all, Santos was not presented as an expert on guns or ballistics, hence, he was not expected to be able to distinguish a .38 caliber gun from a .45 caliber gun.

In *People v. Pulgo*,⁷ the Court held that inconsistencies on minor details do not impair the credibility of the witnesses where there is consistency in relating the principal occurrence and positive identification of the assailant. Such inconsistencies reinforce, rather than weaken, credibility. What is vital is that the witnesses were unwavering and consistent in identifying the assailant.

Next, accused-appellant contends that the prosecution failed to prove that the killing was attended by treachery.

Again, we cannot agree.

Notably, there is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself or herself arising from the defense which the offended party might take. To prove treachery, the following elements must be established:

- (a) The employment of means of execution which gives the person attacked no opportunity to defend or retaliate; and
- (b) That said means of execution were deliberately or consciously adopted.⁸

Here, Butawan had already been shot several times and was losing his balance and falling to the ground when accused-appellant shot him in the head.⁹ Clearly, Butawan had no means to defend himself. More, the gunshot wound in Butawan's head, a vital part of the body, demonstrates a mind resolved to end the life of the victim.¹⁰ This indubitably shows that accused-appellant consciously and deliberately adopted the methods, means, or form of his attack to ensure the commission of the crime, without posing any danger to himself that could have come from the victim's retaliatory acts.

⁶ CA rollo, p. 48.

⁷ 813 Phil. 205, 215 (2017).

⁸ See *People v. Espina*, G.R. No. 219614, July 10, 2019.

⁹ CA rollo, p. 46.

¹⁰ See *People v. Reyes*, 823 Phil. 695, 716 (2018).

This is treachery pure and simple.

We come now to the penalty. Under Article 248 of the Revised Penal Code, Murder is punishable by *reclusion perpetua* to death.¹¹

Except for treachery, which qualified the killing to murder, no other aggravating or mitigating circumstances are present. The lower courts, therefore, correctly sentenced accused-appellant to *reclusion perpetua*.

As for damages, the Court of Appeals correctly awarded civil indemnity, moral damages, and exemplary damages of ₱75,000.00 each, in accordance with recent jurisprudence.¹² As for the award of actual damages, the Court of Appeals correctly awarded the amount of ₱78,000.00 representing burial expenses as proven by the prosecution through the presentation of Bernadette Memorial Chapel & Funeral Services Official Receipt No. 1780.¹³

These amounts shall be subject to six percent (6%) interest *per annum* from finality of this resolution until fully paid.

WHEREFORE, the appeal is **DENIED** and the Decision of the Court of Appeals in CA-G.R. CR-HC No. 10133 dated November 13, 2019, is **AFFIRMED**.

Accused-appellant **Ricky Serrano y Manuel** is found **GUILTY** of **MURDER** and sentenced to *reclusion perpetua*. He is further ordered to **PAY**:

- 1) ₱75,000.00 as civil indemnity;
- 2) ₱75,000.00 as moral damages;
- 3) ₱75,000.00 as exemplary damages; and
- 4) ₱78,000.00 as actual damages.

These amounts are subject to six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

¹¹ **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;

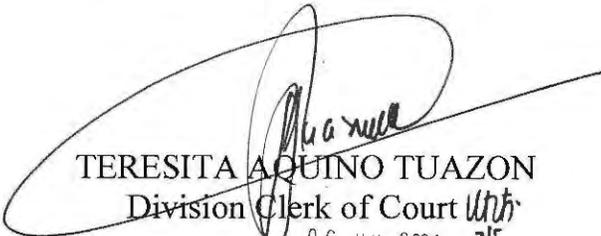
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¹² *People v. Jugueta*, 783 Phil. 806, 848 (2016).

¹³ *Rollo*, pp. 14-15.

SO ORDERED.” (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021)

By authority of the Court:



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Division Clerk of Court
06 JUL 2021 7:15

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HON. PRESIDING JUDGE (reg)
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