



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 229502

Present:

CARPIO, J.,
Chairperson,
PERALTA,
PERLAS-BERNABE,*
CAGUIOA, and
REYES, JR., JJ.

- versus -

RAFAEL DAROYA @ RAFFY,
Defendant-Appellant.

Promulgated:

08 NOV 2017

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DECISION

REYES, JR., J.:

On appeal¹ is the Decision² dated February 15, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06761. The CA affirmed with modification the conviction of Rafael Daroya (Daroya) of Murder as defined and penalized under Article 248 of the Revised Penal Code (RPC) rendered by the Regional Trial Court (RTC) of Dagupan City, Branch 42 in its Decision³ dated February 24, 2014 in Crim. Case No. 2003-0101-D.

* On official leave.

¹ Under Section 13(c), Rule 124 of the Rules of Court, as amended.

² Penned by Associate Justice Sesinando E. Villon, with Associate Justices Rodil V. Zalameda and Pedro B. Corales, concurring; *rollo*, pp. 2-18.

³ Issued by Judge A. Florentino R. Dumlao, Jr.; *CA rollo*, pp. 41-49.

Facts

Daroya was charged in an Information dated February 18, 2003,⁴ the pertinent accusatory portion of which reads:

That on or about the 19th day of October 2002, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, RAFAEL DAROYA @ Raffy, with treachery and with intent to kill one ROLANDO SONGCUAN @ BIO, did then and there, willfully, unlawfully and criminally, attack, assault and use personal violence upon the latter by continuously mauling him, thereby causing his death shortly thereafter due to "Head injury, massive hemorrhage" x x x.

Contrary to Article 248 of the [RPC], in relation to R.A. 7659.⁵

Upon arraignment, Daroya entered a plea of not guilty to the charge against him. After pre-trial conference, trial on the merits of the case ensued.⁶

During the trial, the prosecution presented the testimonies of Dr. Benjamin Marcial Bautista (Dr. Bautista), the Rural Health Officer of the Dagupan City Health Office; Herminina Songcuan (Herminina), Rolando Songcuan's (Rolando) mother; and Arnel Ceralde (Ceralde), a pedicab driver. On the other hand, the defense presented the lone testimony of Daroya.⁷

The prosecution alleged the following:

In the evening of October 19, 2002, Ceralde, who was then ferrying his pedicab along Bonuan-Gueset, Dagupan City, saw Daroya suddenly appear. Ceralde noticed that Daroya's left hand was holding a piece of metal wrapped with a towel. Thereafter, Daroya suddenly punched Rolando, which caused the latter to fall down. Daroya then continued to punch Rolando using his left hand. Rolando was not able to fight back. Thereafter, Daroya immediately ran away. Rolando then fell down facing the ground. After Daroya left, Ceralde and the other pedicab drivers brought Rolando to the hospital where he subsequently died.⁸

The post-mortem examination by Dr. Bautista on Rolando's body revealed that the latter died of "massive hemorrhage," which, in turn, was caused by injuries inflicted on his head.⁹

⁴ Id. at 88.

⁵ Id. at 41.

⁶ Id.

⁷ Id. at 59-60

⁸ Id. at 42-43.

⁹ Id. at 42.

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On the other hand, Daroya admitted that he punched Rolando, but claimed that he did so in self-defense. He maintained that it was Rolando who started the fight. He claimed that on the date of the incident, at around 8:00 P.M., he was riding his pedicab waiting for passengers in the corner of Bonuan-Gueset in Dagupan City; that he was the first in line of about 80 pedicab drivers while Rolando was at the end of the line. Daroya averred that when the passengers were already coming, Rolando suddenly parked his pedicab in front of the line. Daroya and Rolando then fought on who among them should be the first in line. Daroya alleged that he punched Rolando three or four times and immediately went home after seeing Rolando fell on the ground.¹⁰

On February 24, 2014, the RTC rendered a Decision,¹¹ the decretal portion of which reads:

WHEREFORE, premises considered, judgment is rendered finding accused RAFAEL DAROYA **GUILTY** beyond reasonable doubt of the crime of MURDER and [is] hereby sentenced to imprisonment of *Reclusion Perpetua* in accordance with Art. 248 of the [RPC].

Further, he is ordered to pay the heirs of the victim, Rolando Songcuan the following:

1. Civil Indemnity in the amount of P50,000.00;
2. Moral Damages in the amount of P50,000.00;
3. Actual Damages in the amount of P58,500.00 as shown by the official receipts identified and attached to the records of the case;
4. Temperate Damages in the amount of P25,000.00
5. Exemplary Damages in the amount of P25,000.00.

SO ORDERED.¹²

The RTC dismissed Daroya's claim of self-defense, pointing out that the element of unlawful aggression, which is a condition *sine qua non* therefor, was lacking.¹³ In convicting Daroya of the crime of murder, the RTC appreciated the qualifying circumstance of treachery, opining that Daroya's attack on Rolando was sudden and deliberate and that the latter was rendered defenseless and unable to retaliate.¹⁴

Unperturbed, Daroya appealed the RTC's Decision dated February 24, 2014 to the CA, claiming that the RTC erred in ruling that the prosecution was able to prove all the elements of the crime of murder; he insists that

¹⁰ Id. at 43.

¹¹ Id. at 41-49.

¹² Id. at 48-49.

¹³ Id. at 45.

¹⁴ Id. at 47.

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there was unlawful aggression on the part of Rolando when he punched him while they were arguing on who should be the first in line.¹⁵ Daroya likewise claims that the RTC erred in appreciating the existence of the qualifying circumstance of treachery.¹⁶

On February 15, 2016, the CA rendered the herein assailed Decision¹⁷ which affirmed the conviction of Daroya for the crime of murder rendered by the RTC in its Decision dated February 24, 2014 albeit with modification as to the monetary awards, *viz.*:

WHEREFORE, the appeal is hereby **DENIED**. The Decision dated february 24, 2014 of the [RTC] of Dagupan City, Branch 42 finding the accused-appellant Rafael Daroya @ Raffy guilty beyond reasonable doubt of the crime of MURDER, is hereby **AFFIRMED** with **MODIFICATION** of the awarded civil indemnities. **ACCORDINGLY**, appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* and ordered to indemnify the family of the victim Rolando Songcuan the following damages which shall bear interest at the rate of six [percent] (%) *per annum* until the same are fully paid:

1. Seventy-Five Thousand Pesos (P75,000.00) as Civil Indemnity;
2. Seventy-Five Thousand Pesos (P75,000.00) as Moral Damages;
3. Fifty-Eight Thousand Five Hundred Pesos (P58,500.00) as Actual Damages; and
4. Thirty Thousand Pesos (P30,000.00) as Exemplary Damages[.]

SO ORDERED.¹⁸

Both Daroya and the Office of the Solicitor General manifested that they would no longer file with the Court supplemental briefs, and adopted instead their respective briefs with the CA.¹⁹

Issue

Essentially, the issue for the Court's resolution is whether the CA erred in affirming the RTC's Decision dated February 24, 2014, which found Daroya guilty beyond reasonable doubt of the crime of murder.

Ruling of the Court

The appeal is partly meritorious.

¹⁵ Id. at 28-32.
¹⁶ Id. at 34-37.
¹⁷ *Rollo*, pp. 2-18.
¹⁸ Id. at 17.
¹⁹ Id. at 26-27; 30-32.

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To warrant a conviction for the crime of murder under 248 of the RPC, the following essential elements must be present: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide.²⁰ One of the circumstances mentioned in Article 248, which qualifies the killing of the victim to murder is treachery.

After a thorough perusal of the records of this case, the Court is convinced that the evidence presented by the prosecution amply demonstrate that Rolando was killed and that it was Daroya who killed him. The prosecution eyewitness Ceralde was able to positively identify Daroya as the one who continuously punched Rolando, while holding a piece of metal wrapped in a towel, even after the latter already fell down, which eventually caused his death. He actually witnessed what exactly happened on that fateful day and was able to narrate clearly and vividly what had transpired.²¹

In any case, Daroya admits punching Rolando, but claims that he did so as an act of self-defense. By invoking self-defense, Daroya admitted inflicting the fatal injuries that caused the death of Rolando. It is basic that once an accused in a prosecution for murder or homicide admitted his infliction of the fatal injuries on the deceased, he assumed the burden to prove by clear, satisfactory and convincing evidence the justifying circumstance that would avoid his criminal liability.²²

An indispensable requisite of self-defense is that the victim must have mounted an unlawful aggression against the accused. Without such unlawful aggression, the accused cannot invoke self-defense as a justifying circumstance.²³ The test for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself; the peril must not be an imagined or imaginary threat. Accordingly, the accused must establish the concurrence of three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.²⁴

Daroya failed to establish the foregoing circumstances. There exists no evidence, other than Daroya's self-serving assertion, that would support his claim that Rolando suddenly punched and kicked him. What the evidence shows is that it was Daroya, with a piece of metal in his fist, who suddenly punched Rolando repeatedly until he fell to the ground.

²⁰ See *People v. Lagman*, 685 Phil. 733, 743 (2012).

²¹ *Rollo*, pp. 9-11.

²² *Cabuslay v. People*, 508 Phil. 236, 250-251 (2005).

²³ *People v. Fontanilla*, 680 Phil. 155, 160 (2012).

²⁴ *People v. Nugas*, 677 Phil. 168, 177 (2011).



Further, Daroya's appeal essentially challenges the factual findings of the lower courts. It is worthy to note however that factual findings of the lower courts are entitled to great weight and respect on appeal, and in fact accorded finality when supported by substantial evidence on the record. A perusal of the records of this case clearly shows that the findings of the RTC and CA are supported by substantial evidence. There is no reason to disturb the factual findings of the RTC, as affirmed by the CA.

Nevertheless, the Court finds that the prosecution failed to establish the qualifying circumstance of treachery. Finding the presence of treachery in this case, the RTC pointed out that Daroya's attack on Rolando, who was unarmed, was sudden and unexpected; that Daroya's use of a metal wrapped in a towel in punching Rolando indicated that he employed means and methods which tended directly and specifically to ensure the successful execution of the offense.²⁵ The RTC's conclusion was entirely adopted by the CA.²⁶

The foregoing conclusion is baseless. The fact that Daroya "suddenly" punched Rolando does not automatically merit the conclusion that the latter's killing was attended by the qualifying circumstance 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. The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.²⁷

It bears stressing, however, that treachery cannot be presumed from the mere suddenness of an attack; the suddenness of an attack does not, of itself, suffice to support a finding of *alevosia*, even if the purpose was to kill.²⁸ It must be shown proved that the accused consciously adopted such mode of attack to facilitate the perpetration of the killing without risk to himself. Treachery cannot be appreciated if the accused did not make any preparation to kill the deceased in such manner as to insure the commission of the killing or to make it impossible or difficult for the person attacked to retaliate or defend himself.²⁹

Applying the foregoing principles to this case, the Court holds that the prosecution has not proven that the killing was committed with treachery. Indeed, other than their respective findings that Daroya "suddenly appeared"

²⁵ CA rollo, p. 47.

²⁶ Rollo, pp. 15-16.

²⁷ Id.

²⁸ See *People v. Vilbar*, 680 Phil. 767, 785 (2012).

²⁹ See *People v. Rivera*, 356 Phil. 409, 426 (1998).

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and continuously punched Rolando, while holding a piece of metal wrapped in a towel, until the latter fell to the ground, the lower courts failed to indicate any circumstance which would show that Daroya consciously adopted such mode of attack to facilitate the perpetration of the killing without risk to himself. The prosecution has likewise failed to present any evidence showing that Daroya specifically chose to punch Rolando in his plan to kill him.

It appears that Daroya's decision to punch Rolando, which eventually caused the latter's death, appears to be the result of a rash and impetuous impulse of the moment brought about by their argument as to who among them should be first in line among the pedicab drivers. It is basic that a killing done at the spur of the moment is not treacherous.³⁰

Accordingly, the Court is compelled to disregard the finding of the existence of treachery by the lower courts. Daroya's guilt is thus limited to the crime of homicide.

The penalty for homicide under Article 249 of the RPC is *reclusion temporal*. Since there are no mitigating or aggravating circumstances, the penalty should be fixed in its medium period. Applying the Indeterminate Sentence Law,³¹ each of the appellants should be sentenced to an indeterminate term, the minimum of which is within the range of the penalty next lower in degree, *i.e.*, *prision mayor*, and the maximum of which is that properly imposable under the RPC, *i.e.*, *reclusion temporal* in its medium period.

Accordingly, minimum term of the prison sentence that should be imposed upon Daroya must be within the range of six (6) years and one (1) day to twelve (12) years of *prision mayor*. On the other hand, the maximum term of the indeterminate prison sentence must be within the range of 14 years, eight months and one day to 17 years and four months of *reclusion temporal* in its medium period.

The Court affirms the award of actual damages to the heirs of Rolando in the amount ₱58,500.00 considering that the said amount was properly supported by receipts.³² Pursuant to *People v. Jugueta*,³³ the awards of civil indemnity and moral damages should each be decreased from ₱75,000.00 to ₱50,000.00. Also, the award of exemplary damages is deleted in the absence of any aggravating circumstance. All monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

³⁰ See *People v. Albao*, 383 Phil. 873, 882 (2000).

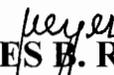
³¹ Republic Act No. 4103, as amended.

³² CA rollo, p. 42.

³³ G.R. No. 202124, April 5, 2016, 788 SCRA 331, 363-364.

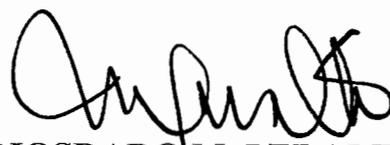
WHEREFORE, the Decision dated February 15, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06761 is hereby **AFFIRMED WITH MODIFICATION**. Defendant-appellant Rafael Daroya @ Raffy is hereby found **GUILTY** beyond reasonable doubt of the crime of Homicide under Article 249 of the Revised Penal Code and shall accordingly suffer an indeterminate prison term of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum. The defendant-appellant is further directed to pay heirs of the victim Rolando Songcuan ₱58,500.00 as actual damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages. He is likewise ordered to pay interest on all monetary awards for damages at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully satisfied.

SO ORDERED.

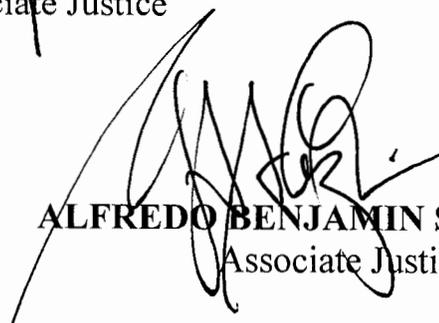

ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice

(On Official Leave)
ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

A T T E S T A T I O N

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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

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.



MARIA LOURDES P. A. SERENO
Chief Justice