

792 Phil. 827

### **THIRD DIVISION**

**[ G.R. No. 214450. August 10, 2016 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL PRADO Y MARASIGAN, ACCUSED-APPELLANT.**

### **DECISION**

#### **PEREZ, J.:**

This is an appeal assailing the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-H.C. No. 05566 dated 9 September 2013 which dismissed the appeal of appellant Manuel Prado y Marasigan and affirmed with modification the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of the City of Calamba, Branch 36, in Criminal Cases Nos. 6898-1999-C and 6899-1999-C, which found appellant guilty beyond reasonable doubt of the crime of Murder.

Appellant, together with three (3) other co-accused, was charged before the RTC, with murder and frustrated murder as follows:

#### **CRIMINAL CASE No. 6898-99-C**

That on or about April 15, 1999 at Industrial Site, Brgy. Canlubang, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill conspiring, confederating and mutually helping one another while conveniently armed with superior weapon, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and use personal violence upon one PO1 WEDDY ARATO by shooting him on the different parts of his body, thereby inflicting upon him serious/mortal gunshot wounds which directly caused his death, to the damage and prejudice of the victim's surviving heirs.

That in the commission of the crime, the qualifying circumstances of evident

premeditation and treachery were in attendant (sic).<sup>[3]</sup>

### **CRIMINAL CASE No. 6899-99-C**

That on or about April 15, 1999 at Industrial Site, Brgy. Canlubang, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with treachery and evident premeditation with intent to kill conspiring, confederating and mutually helping one another did then and there wilfully, unlawfully and feloniously (sic) attack, assault and employ personal violence upon one PO1 PELAGIO SALUDES by then and there shooting the latter with long and short firearms on his body, thereby inflicting upon him serious/mortal gunshot, thus accused performed all the acts of execution which could have produced the crime of Murder as a consequence, but nevertheless did not produce it by reason of some causes other than his spontaneous desistance, that is the timely and able medical assistance rendered (sic) to the said victim which prevented his death.<sup>[4]</sup>

During arraignment, appellant pleaded not guilty to the crimes charged. The other accused remained at large. Trial on the merits thereafter ensued.

The prosecution presented Senior Police Officer 1 Pelagio Saludes (SPO1 Saludes), Panfilo Arato (Panfilo) and Dr. Roy Camarillo as witnesses.

The prosecution established that on 15 April 1999, SPO1 Saludes and other policemen, including the deceased Police Officer 1 Weddy Arato (PO1 Arato), received information about an illegal gambling operation at Ciba-Geigy, Canlubang, Laguna. There were many people at the site when the team reached the place. As the team was about to ask questions, four (4) men equipped with short and long fireamis suddenly appeared and fired upon them, instantly killing PO1 Arato and hitting SPO1 Saludes. SPO1 Saludes identified appellant in open court as one of the four (4) men; appellant had been outfitted with a short firearm that fateful day.<sup>[5]</sup>

The testimony of Panfilo, the deceased victim's father, was dispensed, with after the defense stipulated, among others, on the medical and funeral expenses the Arato family had incurred and the deceased officer's annual salary at the time of his death.<sup>[6]</sup>

Appellant interposed the defenses of denial and alibi. He asserted that this is a case of mistaken identity and that he had been in Leyte in 2008 at the time of his arrest.<sup>[7]</sup> His sister, Teresa Sartiso, sought to support appellant's defenses but had no documentary proof therefor.<sup>[8]</sup>

After trial, the RTC on 7 February 2012 rendered the assailed decision disposing as follows:

**WHEREFORE**, the [c]ourt finds Accused MANUEL PRADO y Marasigan: a) in Criminal Case No. 6898-1999-C GUILTY of MURDER and imposed upon him the penalty of *RECLUSION PERPETUA* and for him to pay the heirs of WEDDY ARATO the following sums of money: P112,000.00 for and as actual damages; P75,000.00 for and as civil indemnity for death; P50,000.00 for and as moral damages; and P50,000.00 for and as exemplary damages; and (b) in Criminal Case No. 6899-1999-C Accused MANUEL PRADO y Marasigan GUILTY of ATTEMPTED MURDER and imposed upon him the penalty of indeterminate prison term of two (2) years, four (4) months and ten (10) days of *PRISION CORRECCIONAL* medium as minimum, to eight (8) years to two (2) months and twenty (20) days of *PRISION MAYOR* medium, as maximum and for him to pay SPO1 Pelagio Saludes the following sums of money: P50,000.00 for and as moral damages; and P30,000.00 for and as exemplary damages.

Until this [c]ourt acquires jurisdiction over the accused Rodante Prado, Rodelio Prado and "John Doe", who all remains at-large, the criminal complaints against them in these cases are "ARCHIVED."<sup>[9]</sup>

The Court of Appeals found no reason to disturb the findings of the RTC and upheld its ruling but with modification on the amount of damages awarded. The appellate court found the eyewitness account of SPO1 Saludes credible, straightforward and reliable and upheld the latter's positive identification of appellant as one of the perpetrators. The Court of Appeals likewise sustained the trial court's findings of conspiracy among the assailants and the presence of the qualifying circumstance of treachery in the killing and wounding of the police officers. The Court of Appeals thus disposed:

**WHEREFORE**, in light of all the foregoing, the February 7, 2012 Decision of the Regional Trial Court of Calamba City, Laguna, Branch 36, is **AFFIRMED** with the following **MODIFICATIONS**:

I. In Criminal Case No. 6898-99-C (for Murder), the award of **exemplary**

**damages** is **REDUCED** from P50,000.00 to **P30,000.00**.

II. In Criminal Case No. 6899-99-C (for Attempted Murder), the award of **moral damages** is **REDUCED** from P50,000.00 to **P40,000.00**. **Moreover, accused-appellant is ORDERED to pay the additional awards of civil indemnity in the amount of P25,000.00 and temperate damages, also in the amount of P25,000.00.**

III. In all other respects, the assailed Decision is **AFFIRMED**.<sup>[10]</sup> (Emphasis in the original)

Now before the Court for final review, we affirm appellant's conviction.

Well-settled in our jurisprudence is the rule that findings of the trial court on the credibility of witnesses deserve great weight, as the trial judge is in the best position to assess the credibility of the witnesses, and has the unique opportunity to observe the witness first hand and note his demeanor, conduct and attitude under grueling examination.<sup>[11]</sup> Absent any showing that the trial court's findings of facts were tainted with arbitrariness or that it overlooked or misapplied some facts or circumstances of significance and value, or its calibration of credibility was flawed, the appellate court is bound by its assessment.

In the prosecution of the crime of murder as defined in Article 248 of the Revised Penal Code (RPC), the following elements must be established by the prosecution: (1) that a person was killed; (2) that the accused killed that person; (3) that the killing was attended by treachery; and (4) that the killing is not infanticide or parricide.<sup>[12]</sup>

Our review of the records convinces us that these elements were clearly met. We uphold appellant's conviction in Criminal Case No. 6898-99-C for Murder and likewise his conviction in Criminal Case No. 6899-99-C for Attempted Murder. The prosecution eyewitness SPO1 Saludes positively identified appellant as one of the persons responsible for firing at their team, killing PO1 Arato and gravely wounding him. The Court finds no reason to disbelieve this credible and straightforward testimony. Evidently, all the four (4) men, including appellant, were armed, had a common intent and purpose and performed conspiratorial acts to fire at the police officers to finish them off. We are not persuaded by the appellant's defense of denial as this cannot prevail over the eyewitness' positive identification of him as one of the perpetrators of the crime. Denial, like alibi, if not substantiated by clear and convincing evidence is negative and self-serving evidence

undeserving of weight in law.<sup>[13]</sup>

The prosecution ably established the presence of the element of treachery as a qualifying circumstance. The shooting of the unsuspecting victims was sudden and unexpected which effectively deprived them of the chance to defend themselves or to repel the aggression, insuring the commission of the crime without risk to the aggressor and without any provocation on the part of the victim.

In fine, the Court finds no error in the conviction of appellant.

In Criminal Case No. 6898-1999-C, we affirm the penalty of *reclusion perpetua* imposed upon appellant. Under Article 248 of the RPC, as amended, the crime of murder qualified by treachery is penalized with *reclusion perpetua* to death. The lower courts were correct in imposing the penalty of *reclusion perpetua* in the absence of any aggravating and mitigating circumstances that attended the commission of the crime. The Court likewise affirms the award of actual damages but the award of the other damages should be modified, in accordance with prevailing jurisprudence, as follows: P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages.<sup>[14]</sup>

In Criminal Case No. 6899-99-C, Article 51 of the RPC states that the corresponding penalty for attempted murder shall be two degrees lower than that prescribed for consummated murder under Article 248, that is, applying the Indeterminate Sentence Law (ISLAW), the minimum penalty should be taken from any of the periods of *prision correccional* and the maximum penalty should be taken from *prision mayor* in its medium period.<sup>[15]</sup> Section 1 of the ISLAW provides:

[T]he court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense.

Thus, appellant should serve an indeterminate sentence ranging from two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor* in its medium period, as maximum.

The Court increases the award of temperate damages to P50,000.00 pursuant to

jurisprudence.<sup>[16]</sup> The award of the other damages should be modified, in accordance with prevailing jurisprudence, as follows: P25,000.00 as civil indemnity, P25,000.00 as moral damages, and P25,000.00 as exemplary damages.<sup>[17]</sup>

Further, all the amount of damages awarded should earn interest at the rate of six percent (6%) *per annum* from the finality of this judgment until said amounts are fully paid.<sup>[18]</sup>

**WHEREFORE**, premises considered, the Decision dated 09 September 2013 of the Court of Appeals, Sixteenth Division, in CA-G.R. CR-H.C. No. 05566, finding appellant Manuel Prado y Marasigan guilty of murder in Criminal Case No. 6898-99-C and of attempted murder in Criminal Case No. 6899-99-C is **AFFIRMED with MODIFICATIONS**. In **Criminal Case No. 6898-99-C**, appellant is **ORDERED** to pay the private offended party as follows: P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. In **Criminal Case No. 6899-99-C**, appellant shall **SUFFER** the indeterminate sentence ranging from two (2) years, four (4) months and one (1) day of *prision correccional* as minimum, to eight (8) years and one (1) day of *prision mayor* as maximum and pay the offended party as follows: P25,000.00 as civil indemnity, P25,000.00 as moral damages, P25,000.00 as exemplary damages and P50,000.00 as temperate damages.

He is **FURTHER** ordered to pay interest 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.

No pronouncement as to costs.

**SO ORDERED.**

*Velasco, Jr., (Chairperson), Peralta, Reyes, and Caguioa, \* JJ., concur.*

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August 30, 2016

## **NOTICE OF JUDGMENT**

Sirs / Mesdames:

Please take notice that on **August 10, 2016** a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on August 30, 2016 at 1:40 p.m.

Very truly yours,  
**(SGD)WILFREDO V. LAPITAN**  
*Division Clerk of Court*

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\* Additional Member per Raffle dated 8 August 2016.

<sup>[1]</sup> *Rollo*, pp. 1A-10; Penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Amy C. Lazaro-Javier and Zenaida T. Galapate-Laguilles concurring.

<sup>[2]</sup> Records (Crim. Case No. 6898-99-C), pp. 89-101; Presided by Presiding Judge Medel Arnaldo B. Belen.

<sup>[3]</sup> Records (Crim. Case No. 6898-99-C), p. 13.

<sup>[4]</sup> Records (Crim. Case No. 6899-99-C), p. 14.

<sup>[5]</sup> TSN, 19 August 2008, pp. 4-13.

<sup>[6]</sup> TSN, 2 September 2008, pp. 2-8.

<sup>[7]</sup> TSN, 5 February 2009, pp. 2-5.

<sup>[8]</sup> TSN, 19 February 2009, pp. 3-7.

<sup>[9]</sup> Records (Crim. Case No. 6898-99-C), p. 101.

<sup>[10]</sup> *Rollo*, p. 10.

<sup>[11]</sup> *People v. Rivera*, 458 Phil. 856, 873 (2003) cited in *People v. Sevillano*, G.R. 200800, 9 February 2015.

<sup>[12]</sup> *People v. Sevillano*, G.R. 200800, 9 February 2015 citing *People v. Sameniano*, 596 Phil. 916, 928 (2009).

<sup>[13]</sup> *Malana, et al. v. People*, 573 Phil. 39, 53 (2008).

<sup>[14]</sup> *People v. Jugueta*, G.R.No. 202124, 5 April 2016.

<sup>[15]</sup> *People v. Gutierrez*, 625 Phil. 471, 483 (2010).

<sup>[16]</sup> *People v. Jugueta*, supra note 14.

<sup>[17]</sup> Id.

<sup>[18]</sup> *People v. Vitero*, G.R. No. 175327, 3 April 2013, 695 SCRA 54, 69.

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Date created: March 22, 2018