PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEOSON DELA CRUZ Y ECHECHE, APPELLANT.

G.R. NO. 171272 (Formerly G.R. Nos. 150047-48). June 07, 2007

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-171272/

QUISUMBING, J.:

For automatic review is the Decision[1] dated August 18, 2005 of the Court of Appeals in CA-G.R. CR-HC No. 00780, affirming with modification the Decision[2] dated May 17, 2001 of the Regional Trial Court (RTC) of Marikina City, Branch 272. The trial court had found appellant Leoson dela Cruz y Echeche guilty of murder and frustrated murder in Criminal Cases Nos. 99-3101-MK and 99-3102-MK, respectively.

The amended informations charging appellant with murder and frustrated murder, respectively, read as follows:

Criminal Case No. 99-3101-MK
(For Murder)

x x x x

> That on or about the 20[th] day of November 1999, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a kitchen knife, with intent to kill by means of treachery and evident premeditation and taking advantage of superior strength and using disguise, fraud and craft to enter the dwelling of one JULIANA RICALDE y RODRIGUEZ, and once inside, did then and there, with insult to or in disregard of the respect due the latter on account of rank, age and sex, willfully, unlawfully and feloniously attack, assault and stab said JULIANA RICALDE y RODRIGUEZ, thereby inflicting upon the latter mortal wounds which directly caused her death. (Underscoring omitted.)
>
> CONTRARY TO LAW.[3]

Criminal Case No. 99-3102-MK
(For Frustrated Murder)

x x x x

> That on or about the 20[th]day of November 1999, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a kitchen knife, with intent to kill by means of treachery and evident premeditation, and using disguise, fraud and craft to enter the dwelling of PELAGIO RICALDE y TAN, and once inside, did then and there, with insult to and in disregard of the respect due the latter on account of rank, willfully, unlawfully and feloniously attack, assault and stab said PELAGIO RICALDE y TAN, thereby inflicting upon the latter stab wounds which ordinarily would have caused his death, thus performing all the acts of execution which should have produced the crime of Murder, as a consequence, but nevertheless did not produce it by reason of cause independent of his will, that is, due to the timely and able medical assistance rendered to said Pelagio Ricalde y Tan which prevented his death. (Underscoring omitted.)

CONTRARY TO LAW.[4]

When arraigned, appellant pleaded not guilty.

The facts below as found by the RTC and confirmed by the Court of Appeals were gleaned from the testimonies of (1) Atty. Pelagio T. Ricalde, survivor and husband of the victim Juliana; (2) Rebecca R. Ricalde, their 19-year-old daughter; (3) Sgt. Robert D. Esgana, the guard-on-duty at Gate 3 of the Cinco Hermanos Subdivision; (4) Godofredo E. Meriel, the responding subdivision guard; (5) SPO4 Conrado J. Cruz and (6) SPO4 Jaime E. Gamueda,[5] crime investigators from the Marikina Police; (7) SPO4 Celso J. Cruz, evidence custodian of the Marikina Police; (8) Drs. Bu C. Castro and (9) Noel B. Minay, medico-legal officer of St. Luke's Medical Center and the National Bureau of Investigation (NBI), respectively; and (10) Aida V. Magsipoc, Forensic Chemist of the NBI.

It appears that around 10:00 a.m. on November 20, 1999, appellant dela Cruz presented an I.D. with the name Allan B. Reyes to Sgt. Esgana, the guard-on-duty at Gate 3 of the Cinco Hermanos Subdivision in Marikina City. Sgt. Esgana recorded the entry in his logbook.[6]

Upon reaching the house of Pelagio, dela Cruz told Rebecca, Pelagio's daughter who met him at the gate, that her father had told him to go there. He stepped in the small gate in the garage that was already opened, and Rebecca walked ahead of him to fetch her father. As the father and daughter returned, dela Cruz was already in the kitchen. According to Rebecca, she first heard the two converse quietly as dela Cruz asked her father for a job recommendation. It was then that she noticed dela Cruz's blue backpack. Suddenly, she heard her father scream, "Becca, tulungan mo ako."[7] She screamed, "Daddy, Daddy,"[8] as she ran towards him, and noticed dela Cruz holding a knife. She screamed for help and saw her mother, Juliana, rushing in. Her father was covered with blood and she sought help to rush him to the hospital.

According to Pelagio, dela Cruz was a messenger in his law firm who got fired based on his secretary's recommendation that dela Cruz had been absent without leave at least three times.[9] This information was corroborated by Priscila M. Dimaano, Pelagio's secretary.[10] When his daughter informed him that dela Cruz wanted to talk to him, he met with dela Cruz who was by then in their kitchen already. He told him he did not have his stationery with letterhead and had to still check with the companies he knew which had vacancies. He said that he would write dela Cruz a recommendation letter which the latter could pick up from the office. As he escorted dela Cruz out towards the garage gate, the latter suddenly stabbed him at the back and kept on stabbing him until he lost his balance. When he managed to turn and face dela Cruz, the latter kept on stabbing him frontally. He tried to put his arms around dela Cruz but his attacker shook him off. As he ran towards the kitchen, dela Cruz chased and kept on stabbing him at the back of his left shoulder. At this point, Juliana appeared and rushed to him begging, "Leo, tama na, tama na, tama na."[11] Dela Cruz dropped the knife and ran towards the garage.[12]

As Juliana was attending to her husband, dela Cruz suddenly reappeared and stabbed her at the back with a letter opener. As she jerked backward, she received another stab below the left shoulder. She tried to ward off the letter opener with her left hand, but again was stabbed at the back of her left arm. Pelagio shouted, "Huwag Leo, si Julie yan."[13] When the letter opener broke, dela Cruz dropped the instrument and rushed outside where he was apprehended by Meriel, the guard-on-duty in Gate 1.

In court, Meriel,[14] SPO4 Conrado J. Cruz[15] and SPO4 Gamueda[16] all identified that dela Cruz was the person who was arrested in connection with the incident in the Ricalde residence. SPO4 Gamueda, who recovered the weapons used in the stabbing, identified the same in court. SPO4 Celso J. Cruz, the evidence custodian of the Marikina Police, identified the kitchen knife and the letter opener, one bloodied yellow and blue backpack, one

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

striped blue and white t-shirt with the word MAUI printed on it with the initials "J.G.," and one khaki pants marked Geraldo Jelleni with initials "J.G."[17]

Dr. Castro, medico-legal officer of the St. Luke's Medical Center, examined and described the wounds of Pelagio. He said that the first and second wounds of Pelagio could have been fatal were they not timely treated; that the knife was made of aluminum softer than Pelagio's bone and was bent as it hit the bone; and that Pelagio also sustained multiple bruises in the body.[18]

Dr. Minay, medico-legal officer of the NBI, conducted the post-mortem on Juliana. He described eight stab wounds inflicted on Juliana, and said the first wound caused her internal bleeding that proved fatal. All the wounds were inflicted by a pointed instrument with one-sided blade. Three of them were inflicted on her back.[19]

Forensic chemist Magsipoc testified that the DNA profile of the bloodstain on the backpack and on the khaki pants, which were presented in evidence, matched the DNA profile of Pelagio although the stains in the t-shirt did not.

Dela Cruz denied the accusations against him. He admitted that he went to the Ricalde residence to ask for a job recommendation from Pelagio upon Pelagio's instruction. Pelagio denied he gave this instruction.[20] Dela Cruz said he traveled one and a half hours and took three rides to get there. He presented his I.D. card to the guard-on-duty and saw the guard make an entry in the logbook. He said he was frisked and his bag was inspected. He claimed that he was frequently at the Ricalde residence and had at times, when the owners were abroad, slept there and watched the place for them. According to him, when Rebecca led him in and when Pelagio saw him, Pelagio was red-eyed and was furious when he reminded Pelagio that it was the latter who had told him to be there. At this juncture, Pelagio shouted at him, "Shit, bullshit, putang ina,"[21] then shoved him towards the garage gate. Still furious, Pelagio continued shouting, "Tang-ina mo, wala akong kakilalang Leo."[22] Dela Cruz recalled that as he was leaving, Pelagio was blocking the gate so he just stared back. Then, Pelagio grabbed a kitchen knife in the nearby sink, three steps away from the gate. Pelagio was about to stab him so he grabbed the knife and stood up. As Pelagio was still blocking his exit, he saw Juliana hand a knife to Pelagio. It appeared to him that Pelagio was in a daze and did not recognize anyone. Pelagio tried to stab him but started hitting Juliana instead. According to dela Cruz, Pelagio stopped only when Juliana dropped to her knees. He saw Pelagio embrace Juliana. Then, dela Cruz added, he rushed outside where he was apprehended and brought to the Marikina Police Station.[23] He said he did not know how Pelagio got his wounds and how the knife was bent as he was busy grappling for the knife.[24]

During rebuttal, Rebecca testified that there was no sink in the garage, disputing dela Cruz's story that Pelagio got the knife from there. She said that the sink was located in the generator/engine room that could be accessed through a door with an iron shutter that was always locked.[25] This information was corroborated by SPO4 Gamueda.[26]

Dr. Rocco B. Paragas, resident surgeon at the Amang Rodriguez Medical Center, treated dela Cruz. He testified that dela Cruz had contusions on the right hand and left thigh and had wounds on the fifth digit of the right hand. The wounds were probably caused by sharp object like a knife. They could also be defense wounds. The hematomas on the hand and on the left thigh were probably caused by hitting a blunt object or falling hard atop a hard object.[27] He first explained that it was improbable for dela Cruz to have the incise wounds in the fifth digit of the right hand, considering the relative positions of the protagonists as they grappled for the knife, but did not rule out the possibility that the incise wounds were sustained if dela Cruz's fingers slipped towards the knife, as he was being stabbed by the attacker or when while holding the knife, he hit a hard object.[28]

On May 17, 2001, the trial court convicted appellant. The dispositive portion of the decision reads,

> WHEREFORE, foregoing premises considered, the accused LEOSON DELA CRUZ y ECHECHE is hereby found GUILTY beyond reasonable doubt of the crime of murder in Criminal Case No. 99-3101-MK and of frustrated murder in Criminal Case No. 99-3102-MK penalized under Art. 248 of the Revised Penal Code, as amended, and is sentenced to suffer the maximum penalty of DEATH by lethal injection and the penalty of RECLUSION PERPETUA, respectively, the crime having been qualified with treachery and attended with the generic aggravating circumstance of dwelling. The accused is further ordered to indemnify the heirs of Atty. Juliana Ricalde y Rodriguez the amount of P50,000.00 for the latter's death, the amount of P200,000.00 as moral damages and another amount of P200,000.00 as exemplary damages for both cases. The court, however, cannot award actual damages for the death of the victim Atty. Juliana Ricalde y Rodriguez and for the damages sustained by Atty. Pelagio Ricalde in view of the failure of the prosecution to substantiate such damages with official receipts and other documents to support the same.
>
> SO ORDERED.[29]

Following People v. Mateo,[30] the cases were transferred to the Court of Appeals for review.

On August 18, 2005, the appellate court affirmed with modification the trial court's decision. The dispositive portion of the Court of Appeals' decision reads:

> WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. The joint Decision dated 17 May 2001 of the Regional Trial Court of Marikina City, Branch 272, in the cases entitled "People of the Philippines vs. Leoson Dela Cruz y Echeche," docketed as Criminal Cases Nos. 99-3101-MK and 99-3102-MK, is hereby AFFIRMED with the following MODIFICATIONS:
>
> In Criminal Case No. 99-3101-MK, appellant LEOSON DELA CRUZ Y ECHECHE is found GUILTY beyond reasonable doubt of the crime of MURDER qualified by treachery with the aggravating circumstances of evident premeditation and dwelling and is hereby SENTENCED to the supreme penalty of DEATH.
>
> The appellant is further ordered to pay the heirs of the victim Atty. Juliana Ricalde the amounts of: (a) Php50,000.00 as civil indemnity; (b) Php50,000.00 as moral damages; (c) Php25,000.00 as exemplary damages; (d) Php25,000.00 as temperate damages; and (e) Php2,441,423.00 for the victim's loss of earning capacity.
>
> In Criminal Case No. 99-3102-MK, the appellant LEOSON [DELA] CRUZ Y ECHECHE is found GUILTY beyond reasonable doubt of the crime of FRUSTRATED MURDER qualified by treachery with the aggravating circumstances of evident premeditation and dwelling and is hereby SENTENCED to an indeterminate penalty of twelve (12) [y]ears of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum.
>
> The appellant is further ordered to pay the victim Atty. Pelagio Ricalde the amounts of: (a) Php50,000.00 as moral damages; (b) Php25,000.00 as exemplary damages; and (c) Php30,000.00 as civil indemnity.
>
> SO ORDERED.[31]

Appellant and the Office of the Solicitor General (OSG) opted not to submit their respective supplemental briefs.[32] However, on record we find their briefs filed before the appellate court on the following issues brought before it, to wit:

> I.
>
> THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II.

THE TRIAL COURT GRAVELY ERRED IN CONSIDERING TREACHERY AS A QUALIFYING CIRCUMSTANCE.[33]

III.

...EVIDENT PREMEDITATION [WAS] SUFFICIENTLY ESTABLISHED.

IV.

...DWELLING WAS ALSO PRESENT.[34]

In sum, the issues for our review are: (1) Did the prosecution prove appellant's guilt beyond reasonable doubt? (2) Did treachery, evident premeditation and dwelling attend the commission of the crimes?

First, appellant contends that in criminal prosecutions, the burden of proof rests upon the prosecution and unless there is overwhelming evidence of the guilt of the accused, the constitutional presumption of innocence applies.[35] He claims that this burden had not been satisfied by the prosecution. Second, appellant contends that treachery was not present in this case. He avers that the informations did not allege treachery with specificity, hence, it was only a generic aggravating circumstance and he should only be charged with homicide and frustrated homicide.[36] He points out that his wounds would clearly show that Pelagio resisted his attack. He also insists that the alleged attack on Juliana was an afterthought of Pelagio since Juliana saw the danger to her life.

On the other hand, the OSG submits that appellant's guilt had been proven beyond reasonable doubt. The OSG insists that there was treachery since Pelagio was totally caught off-guard by appellant's sudden attack. Further, as appellant's attack on Juliana was so sudden, it was impossible for her to defend herself.[37]

Likewise, according to the OSG, evident premeditation was present since appellant planned the death of the victims as reflected in the following circumstances: (1) he traveled one and a half hours to reach the Ricalde residence; (2) he presented a fake I.D. upon entering the subdivision; and (3) he was armed with a knife and a letter opener when he went there. Thus, the OSG claims that despite sufficient time for reflection, appellant went on with his criminal plan.[38]

Further, the OSG contends that the aggravating circumstance of dwelling is also present because the crimes were committed in the house of the victims who had not provoked appellant.[39]

Lastly, the OSG contends that the two informations against appellant specifically alleged the circumstances of treachery, evident premeditation and dwelling to have attended the commission of the crimes. The OSG cites People v. Aquino,[40] where we clarified that the words "aggravating/qualifying," "qualifying," "qualified by," "aggravating," or "aggravated by," need not be expressly stated as long as the particular attendant circumstances are specified in the information.[41]

With the prosecution's overwhelming evidence, we see no reason to reverse the findings of the trial court and of the appellate court as appellant's guilt on the crimes charged was proven beyond reasonable doubt.

We find Pelagio's testimony to the minutest detail and his categorical identification of appellant as the assailant credible, unwavering and consistent. Both the trial and appellate courts agree on the facts surrounding the attack on the victims. Positive identification made with moral certainty suffices to convict the accused.[42] Further, the testimony concerning the death of Juliana and the near death of Pelagio acquires greater weight since it is amply supported by the testimonies and medical findings of Dr. Castro[43] and Dr. Minay,[44] who examined the victims.[45]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

On the other hand, appellant's defense suggesting that Pelagio, for no motive or reason at all, would suddenly harm and violently kill his wife is highly improbable. Appellant insinuates that Pelagio was dazed, red-eyed and beside himself. However, Pelagio's testimony was corroborated by his daughter when she heard her father's cry for help and she saw dela Cruz with a knife. Appellant's testimony that Pelagio got a knife from a nearby sink had been more than contradicted by Rebecca that the sink was nowhere in the garage but in the generator/engine room. Rebecca's testimony on this point was corroborated by a police officer who had no reason to lie. Testimonial evidence, to be credible, should come not only from the mouth of a credible witness but it should also be credible in itself, reasonable, and in accord with human experience.[46]

As to the presence of treachery, we agree with both the trial and appellate courts that the suddenness of appellant's attack on the victims ensured the commission of the crimes, giving no opportunity for Pelagio and Juliana to defend themselves. At the time of the attack, Pelagio was talking with appellant on the way out. At that time, Pelagio did not have the slightest idea he was going to be stabbed and had no chance to defend himself.

Treachery also accompanied the death of Juliana. Juliana was by her fallen husband when appellant reappeared with a letter opener. The attack on her was instantaneous and Juliana was not ready to fight back thinking appellant had left. In People v. Vallespin, we ruled that even if the victim is warned of the danger to her person, treachery may still be appreciated as long as the execution of the attack made it impossible for the victim to defend herself or to retaliate.[47]

Appellant further contends that the informations[48] filed against him failed to allege treachery with specificity in order to qualify the killing to murder. Appellant's contention is disingenuous, to say the least. The informations sufficiently apprised appellant of the nature of the charges against him, i.e., that treachery, evident premeditation and dwelling attended the killing of Juliana, and the attack on Pelagio. It is not the use of the words "qualifying" or "qualified by" that raises a crime to a higher category, but the specific allegation of an attendant circumstance which adds the essential element raising the crime to a higher category.[49]

When treachery is present, an allegation of abuse of superior strength can no longer be appreciated as an independent aggravating circumstance.[50] The same holds true with the circumstance of disregard of the respect on account of rank, age or sex, which in this case could not be aggravating.[51] In like manner, we do not find that disguise, fraud or craft attended the commission of the crimes. Also, we find no intellectual trickery nor cunning resorted to by appellant to lure his victims into a trap and conceal his identity.[52]

As to the presence of evident premeditation, we find that only the attack on Pelagio was evidently premeditated. The same cannot be said on the assault on Juliana.

To prove evident premeditation, the prosecution is burdened to prove the confluence of the following elements: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that he has clung to such determination; and (3) sufficient lapse of time between the determination and execution to allow the offender to reflect upon the consequence of his act.[53]

As testified to by Rebecca, she had never before the incident seen the knife used by appellant in their home. Pelagio and his secretary also testified that the letter opener had been missing from the law firm after appellant was dismissed from employment. These uncontroverted testimonies constitute direct evidence of appellant's pre-conceived plan against Pelagio. Further, as the Court of Appeals noted, despite the one and a half hours travel time for reflection, appellant still clung to his criminal plan against Pelagio.

On the other hand, Juliana's arrival to help her husband was unexpected. When Juliana rushed to her wounded husband and begged appellant to stop, appellant left, but suddenly reappeared with a letter opener and stabbed

Juliana at the back. Appellant's momentarily leaving the scene did not give him enough opportunity to fully contemplate on his resolution to kill Juliana. We stress the importance of the requirement in evident premeditation of sufficiency of time between the criminal act and the resolution to carry out the criminal intent,[54] affording such opportunity to coolly and serenely think and deliberate on the meaning and the consequences of what appellant had planned to do, an interval long enough for the conscience and better judgment to overcome the evil desire and scheme. In the stabbing of Juliana, this element was wanting.[55]

Finally, we agree that dwelling aggravated the commission of the crimes. Appellant's greater perversity was revealed when he deliberately entered the victims' domicile,[56] at the pretext of soliciting help from its owners. The garage, where the incidents took place, is undoubtedly an integral part of the victims' residence.

Clearly, the presence of the attending circumstances in this case qualified the killing of Juliana to murder under Article 248[57] of the Revised Penal Code (RPC), as amended.

As to the attack on Pelagio, the crime committed was frustrated[58] murder as appellant performed all acts of execution which could have claimed the life of Pelagio but because of prompt medical intervention, a cause independent of appellant's will, Pelagio survived.[59]

On the whole, we are fully convinced that there is no ground to reverse appellant's conviction. He is guilty of murder and frustrated murder beyond any reasonable doubt.

Conformably, in Criminal Case No. 99-3101-MK the proper imposable penalty is death. However, in view of Republic Act No. 9346, entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines," signed into law on June 24, 2006, the penalty is reduced to reclusion perpetua without eligibility for parole.[60]

As to Criminal Case No. 99-3102-MK, applying Article 248 of the RPC, as amended, in relation to Articles 50,[61] 61, paragraph 2[62] and 64, paragraphs 3 and 6,[63] we affirm the appellate court's sentence of an indeterminate sentence of twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum.

As to the proper monetary awards imposable in each of the two criminal cases, modifications are in order.

In Criminal Case No. 99-3101-MK, for the murder of Juliana Ricalde, the award of civil indemnity is mandatory and must be granted to the heirs of the victim without need of proof other than the commission of the crime. However, we modify the civil indemnity imposed by the Court of Appeals, from P50,000 to P75,000 to conform with current jurisprudence.[64]

Because the prosecution failed to present receipts or other evidence to substantiate actual damages, we could not award such damages. Nonetheless, in lieu of actual damages, the heirs of Juliana Ricalde may be awarded temperate damages of P25,000, in accordance with current jurisprudence, as it has been shown that the family of the victim incurred burial and funeral expenses, although the amount thereof cannot be proved with certainty.[65]

An award of moral damages is also proper in view of the violent death of Juliana and the resultant grief to her family. We affirm the reduction made by the Court of Appeals from P200,000 to P50,000 to conform with current jurisprudence,[66] as moral damages are imposed to compensate the heirs of the victim for the injuries to their feelings and not to enrich them.

Exemplary damages of P25,000 have been properly imposed by the Court of Appeals to serve as an example and deterrent to future similar transgressions. Under Article 2230 of the Civil Code, exemplary damages may be imposed when the crime was committed with one or more aggravating circumstances,[67] as in this case.

It is also proper to award compensation to the heirs of the victims for loss of earning capacity, pursuant to Article

2206 (1)[68] of the Civil Code. The testimonial evidence for the prosecution, as corroborated by documents[69] presented, were sufficient bases for the award. At the time of her death, Juliana was 46 years old,[70] and was receiving pay in the amount of P215,388 per annum as an Associate Professor I with a salary grade of 22 at the University of the Philippines.[71] Applying the formula "Net earning capacity = [2/3 x (80 - age at time of death) x (gross annual income - reasonable and necessary living expenses)],"[72] we arrive at a loss of earning capacity of P2,441,064.[73]

In Criminal Case No. 99-3102-MK, for the frustrated murder of Pelagio Ricalde, we grant an award of P30,000 as civil indemnity without proof other than the commission of the crime and the culprit's liability therefor.[74] In addition, an award of moral damages of P50,000 is proper for the suffering endured by the victim from appellant's criminal acts.[75]

WHEREFORE, the Decision dated August 18, 2005 of the Court of Appeals in CA-G.R. CR-HC No. 00780 is AFFIRMED with the following MODIFICATIONS:

In Criminal Case No. 99-3101-MK, appellant Leoson dela Cruz y Echeche is found GUILTY beyond reasonable doubt of the crime of MURDER as defined in Article 248 of the Revised Penal Code, as amended by Rep. Act No. 7659, qualified by treachery and with the attendant aggravating circumstance of dwelling. The proper imposable penalty would have been death. However, pursuant to Rep. Act. No. 9346, appellant is sentenced to suffer the penalty of reclusion perpetua without possibility of parole. Appellant is further ORDERED to pay the heirs of Juliana Ricalde, the amounts of: (a) P75,000 as civil indemnity; (b) P50,000 as moral damages; (c) P25,000 as exemplary damages; and (d) P2,441,064 for the victim's loss of earning capacity, all with interest at the legal rate of 6% per annum from this date until fully paid.[76]

In Criminal Case No. 99-3102-MK, appellant Leoson dela Cruz y Echeche is found GUILTY beyond reasonable doubt of the crime of FRUSTRATED MURDER qualified by treachery with the attendant aggravating circumstances of evident premeditation and dwelling and is hereby sentenced to an indeterminate penalty of twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum. Appellant is further ORDERED to pay the victim Pelagio Ricalde the amounts of: (a) P50,000 as moral damages; (b) P25,000 as exemplary damages; and (c) P30,000 as civil indemnity, all with interest at the legal rate of 6% from this date until fully paid.

Costs against appellant.

SO ORDERED.
Puno, C.J., Ynares-Santiago, Sandoval-Gutierrez, Carpio, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, and Velasco, Jr., JJ., concur.
Austria-Martinez, Corona, JJ., on leave.
Nachura, J., no part. name appears in pleading as Sol Gen.

---

[1] Rollo, pp. 3-91. Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Andres B. Reyes, Jr. and Lucas P. Bersamin concurring.

[2] CA rollo, pp. 22-113. Penned by Judge Reuben P. De La Cruz.

[3] Records, p. 55.

[4] Id. at 65.

[5] "SPO2" and "SPO3" Jaime E. Gamueda in some parts of the records.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[6] TSN, February 9, 2000, pp. 13-25.

[7] TSN, March 8, 2000, p. 69 (Rebecca R. Ricalde).

[8] Id. at 70.

[9] TSN, March 15, 2000, p. 7 (Pelagio T. Ricalde).

[10] TSN, March 20, 2001, pp. 81-84 (Priscila M. Dimaano). "Prescilla" in some parts of the records.

[11] Supra note 9, at 23.

[12] Id. at 8-25.

[13] Id. at 36.

[14] TSN, March 19, 2001, pp. 43-46 (Godofredo E. Meriel).

[15] TSN, March 8, 2000, pp. 4-49 (SPO4 Conrado J. Cruz).

[16] TSN, February 28, 2000, pp. 3-59 (SPO4 Jaime E. Gamueda).

[17] TSN, February 14, 2000, pp. 3-18 (SPO4 Celso J. Cruz).

[18] Id. at 34-84 (Dr. Bu C. Castro).

[19] TSN, February 21, 2000, pp. 30-49.

[20] TSN, March 26, 2001, pp. 29-30.

[21] TSN, January 30, 2001, p. 31.

[22] Id. at 33.

[23] Id. at 9-91.

[24] Id. at 108-109.

[25] TSN, March 20, 2001, pp. 14-19 (Rebecca R. Ricalde).

[26] TSN, March 19, 2001, pp. 11-12 (SPO4 Jaime E. Gamueda).

[27] TSN, March 7, 2001, pp. 3-17.

[28] Id. at 41-46.

[29] CA rollo, pp. 112-113.

[30] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[31] Rollo, pp. 86-87.

[32] Id. at 96 and 99.

[33] CA rollo, p. 141.

[34] Id. at 253.

[35] Id. at 141-142.

[36] Id. at 142-145.

[37] Id. at 254-255.

[38] Id. at 256-258.

[39] Id. at 258.

[40] G.R. Nos. 144340-42, August 6, 2002, 386 SCRA 391.

[41] CA rollo, pp. 258-259.

[42] People v. Maguing, G.R. No. 144090, June 26, 2003, 405 SCRA 71, 76.

[43] Rollo, pp. 9-13.

[44] Id. at 13-15.

[45] See People v. Mejares, G.R. No.140204, August 15, 2002, 387 SCRA 373, 379; People v. Vallespin, G.R. No. 132030, October 18, 2002, 391 SCRA 213, 219.

[46] People v. Mallari, G.R. No. 145993, June 17, 2003, 404 SCRA 170, 178.

[47] Id. at 223.

[48] Records, pp. 55 and 65.

[49] People v. Garin, G.R. No. 139069, June 17, 2004, 432 SCRA 394, 412.

[50] People v. Simon, G.R. No. 130531, May 27, 2004, 429 SCRA 330, 353.

[51] See People v. Tubongbanua, G.R. No. 171271, August 31, 2006, 500 SCRA 727, 740.

[52] See People v. Quiñanola, G.R. No. 126148, May 5, 1999, 306 SCRA 710, 737.

[53] People v. Demate, G.R. Nos. 132310 & 143968-69, January 20, 2004, 420 SCRA 229, 243.

[54] People v. Durante, 53 Phil. 363, 369 (1929).

[55] See People v. Valdez, G.R. No. 127663, March 11, 1999, 304 SCRA 611, 627.

[56] See People v. Lapan, G.R. No. 88300, July 6, 1992, 211 SCRA 337, 346-347.

[57] 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:

- With treachery, taking advantage of superior strength....

x x x x

- With evident premeditation.

x x x x

[58] REVISED PENAL CODE, Art. 6.

x x x x

A felony is... frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

perpetrator.

x x x x

[59] See People v. Pinuela, G.R. Nos. 140727-28, January 31, 2003, 396 SCRA 561, 570-571.

[60] People v. Tubongbanua, supra at 743.

[61] ART. 50. Penalty to be imposed upon principals of a frustrated crime. - The penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony.

[62] ART. 61. Rules for graduating penalties. -...

x x x x

- When the penalty prescribed for the crime is composed of two indivisible penalties, or of one or more divisible penalties to be imposed to their full extent, the penalty next lower in degree shall be that immediately following the lesser of the penalties prescribed in the respective graduated scale.

x x x x

[63] ART. 64. Rules for the application of penalties which contain three periods.-...

x x x x

- When only an aggravating circumstance is present in the commission of the act, they shall impose the penalty in its maximum period.

x x x x

- Whatever may be the number and nature of the aggravating circumstances, the courts shall not impose a greater penalty than that prescribed by law, in its maximum period.

x x x x

[64] People v. Tubongbanua, supra at 742.

[65] See People v. Agudez, G.R. Nos. 138386-87, May 20, 2004, 428 SCRA 692, 713.

[66] People v. Tubongbanua, supra at 743.

[67] Id.

[68] Art. 2206....

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

x x x x

[69] Exhibits "O" and "P," folder of exhibits, pp. 9-10.

[70] Exhibits "J," and "L", id. at 5, 7.

[71] Exhibit "P", id. at 10.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[72] In the absence of contrary evidence, reasonable and necessary living expenses is pegged at 50 percent of the earnings. People v. Catbagan, G.R. Nos. 149430-32, February 23, 2004, 423 SCRA 535, 569.

[73] Net earning capacity = 2/3 (80-46) x (P215,388 - P107,694)
= 2/3 (34) x P107,694
= P2,441,064

[74] People v. Pacaña, G.R. Nos. 97472-73, November 20, 2000, 345 SCRA 72, 83.

[75] People v. Singh, G.R. No. 129782, June 29, 2001, 360 SCRA 404, 418; See also People v. Rafael, G.R. Nos. 146235-36, May 29, 2002, 382 SCRA 753, 771.

[76] See People v. Tubongbanua, supra at 743.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.