

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, BIENVENIDO MARA Y BOLAQUEÑA ALIAS “LOLOY,” ACCUSED-APPELLANT.

G.R. No. 184050. May 08, 2009

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-184050/>

VELASCO JR., J.:

This is an appeal from the Decision dated December 19, 2007[1] in CA-G.R. CR-H.C. No. 00163 of the Court of Appeals (CA), which affirmed the Decision dated July 16, 2002[2] in Criminal Case No. 9594-99 of the Regional Trial Court (RTC), Branch 8 in Malaybalay City.

Accused-appellant was charged in an information dated March 29, 1999, which reads:

That on or about the 27[th] day of February 1999, in the evening, at CMU, Musuan, [M]unicipality of Maramag, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill by means of treachery and evident premeditation with the use of a sharp bladed instrument with which he was conveniently provided, did then and there willfully, unlawfully and criminally attack, assault and hack GAUDENCIO PERATER, mortally wounding the latter which injury caused the instantaneous death of GAUDENCIO PERATER; to the damage and prejudice of the legal heirs of GAUDENCIO PERATER in such amount as may be allowed by law.

CONTRARY TO and in violation of Article 248 of the Revised Penal Code, as amended by R.A. 7659.[3]

On July 16, 2002, the trial court found accused-appellant guilty of murder, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, the court finds the accused Bienvenido Mara y [Bolaqueña] guilty beyond reasonable doubt of the crime of murder. Accused is hereby sentenced to the penalty of reclusion perpetua. Accused is ordered to indemnify the heirs of Gaudencio Perater the amount of Seventy Five Thousand (P75,000.00) Pesos; and further to pay Twenty Six Thousand and Four Hundred (P26,400.00) Pesos as actual expenses and to pay the costs.

The accused is hereby given full credit for his preventive detention.

SO ORDERED.[4]

Accused-appellant filed a Notice of Appeal dated August 2, 2002, from the aforementioned decision to this Court. The case was transferred to the CA in a resolution dated September 20, 2004, following the ruling in *People v. Mateo*.[5]

The CA modified the trial court's decision, the dispositive portion of which reads:

WHEREFORE, the appealed Decision finding appellant Bienvenido Mara y Bolaqueña guilty of the crime of Murder, and to suffer the penalty of Reclusion perpetua, is hereby AFFIRMED, WITH THE MODIFICATION that appellant is directed to pay the heirs of the victim the following amounts: P 50,000.00 as civil indemnity;

P 26,400.00 as actual damages; P 50,000.00 as moral damages, and; P 25,000.00 as exemplary damages.

SO ORDERED.[6]

The Facts

The facts, as found by the RTC and reaffirmed by the CA, were culled from the testimonies of witnesses Marcelino Balos and his nephew, Ramel Balos. Marcelina Perater, widow of Gaudencio Perater, the victim, was presented to prove the amount of actual damages from burial expenses.

Marcelino testified that the victim and accused-appellant were among the visitors in his house on February 27, 1999. He said they were seated at the table, he being seated at the right side of the victim, and a certain Mario Mara seated at the left side of the victim, when suddenly accused-appellant hacked the victim on the right side of his neck with a bolo. Marcelino wrested the bolo from accused-appellant and gave it to his wife. He also testified that there were no words exchanged between accused-appellant and the victim prior to the attack.

Ramel testified that he was in the house of his uncle on the night of February 27, 1999 along with several other guests to celebrate his birthday. He confirmed that Mario was seated at the left side of the victim and his uncle at the victim's right side. He testified that accused-appellant had been going in and out of the house. Ramel stated that he heard a snapping sound and when he looked, he saw accused-appellant holding a bolo, and the sound was the hacking done by accused-appellant on the victim's neck. Ramel then saw his uncle take away the bolo from accused-appellant.

In his defense, accused-appellant states that the trial court erred in appreciating the qualifying circumstance of treachery, and reiterates that he acted in self-defense.

As to his version of events, accused-appellant claimed he had been drinking with Marcelino and Ramel when the victim arrived and asked where Mario, brother of accused-appellant, was. When accused-appellant replied that he had not yet returned from work, the victim then told him, "This is your yard, are you going to side with your elder brother [referring to Mario] whose teeth I have broken?" The victim then pulled a knife and pointed to accused-appellant and his companions, saying, "Who among you here is offended, let him stand." Ramel then punched the victim, knocking him down. Marcelino then ran to the kitchen, telling the victim, "So you want killing?" and got hold of a bolo. Accused-appellant then grappled with Marcelino to prevent him from attacking the victim, and was able to wrest the bolo away from Marcelino. Marcelino then warned accused-appellant that the victim was about to stab him. Accused-appellant swung the bolo towards his back, hitting the victim on his neck. He then threw the bolo away, and embraced the victim, shouting for help. They placed the body of the victim on a bench, and Marcelino reported the incident to the police.

Our Ruling

As to the claim of accused-appellant that he acted in self-defense, it cannot be appreciated. There is only his testimony that there was an attempt by the victim to stab him, as opposed to the testimonies of the two witnesses presented against him. The credibility of the witnesses had been weighed by the trial court, and it found the testimonies of Marcelino and Ramel to be more convincing. As a rule, the appellate court gives full weight and respect to the determination by the trial court of the credibility of witnesses since the trial court judge has the best opportunity to observe the demeanor of the witness.[7]

One who admits killing or fatally injuring another in the name of self-defense bears the burden of proving: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person claiming self-defense. By invoking self defense, the burden is placed on the accused to prove its elements clearly and convincingly. While all three elements must

concur, self-defense relies first and foremost on proof of unlawful aggression on the part of the victim. If no unlawful aggression is proved, no self-defense may be successfully pleaded.[8] Accused-appellant has failed to discharge his burden of proving unlawful aggression. His version of the events is uncorroborated, and his testimony has been found to be less credible by the trial court. The victim was not in the process of attacking accused-appellant from behind, but rather had been seated at a table during a birthday celebration. Accused-appellant was the instigator, not the victim, Gaudencio. As the element of unlawful aggression on the part of the victim is absent, accused-appellant's claim of self-defense must fail.

Regarding the qualifying circumstance of treachery, accused-appellant argues that the trial court erred in appreciating it, and that there was in fact no treachery present in the attack.

His argument lacks merit. The essence of treachery is the sudden and unexpected attack by the aggressors on unsuspecting victims, depriving the latter of any real chance to defend themselves, thereby ensuring its commission without risk to the aggressors, and without the slightest provocation on the part of the victims.[9] From the evidence gleaned by the trial court, the facts are enough to show the treachery employed by accused-appellant. The attack was sudden, as testified by the witnesses, and unexpected, considering it happened at a birthday celebration, without any warning. No provocation was proved on the part of the victim, as the testimony of accused-appellant that the victim was about to attack him was uncorroborated and not given weight by the trial court. Thus, the victim had no inkling that an attack was forthcoming and had no opportunity to mount a defense.

What is decisive is that the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate.[10] At the birthday celebration where the attack occurred, the victim's guard would be down, even assuming that there was bad blood between him and accused-appellant. He would not have expected his life to be in danger in such surroundings, and accused-appellant took advantage of this.

As treachery attended the killing of Gaudencio, the crime was correctly found to be murder under paragraph 1 of Article 248 of the Revised Penal Code.

The CA modified the ruling of the trial court, correctly setting the civil indemnity at PhP 50,000, with the addition of moral and exemplary damages. Moral damages are justified under par. 1 of Art. 2219 of the Civil Code, which provides that moral damages may be recovered from a criminal offense resulting in physical injuries. The addition of exemplary damages is also justified. When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of exemplary damages is justified under Art. 2230 of the Civil Code.[11]

As accused-appellant has failed to show any error in the ruling of the CA, we must uphold its decision.

WHEREFORE, we AFFIRM the CA Decision dated December 19, 2007 in CA-G.R. CR-H.C. No. 00163. No pronouncement as to costs.

SO ORDERED.

Carpio-Morales,[*] (Acting Chairperson), Tinga, Leonardo-De Castro,**] and Brion, JJ., concur.

[*] As per Special Order No. 618 dated April 14, 2009.

**] Additional member as per Special Order No. 619 dated April 14, 2009.

[1] Penned by Associate Justice Michael P. Elbinias and concurred in by Associate Justices Teresita Dy-Liacco Flores and Rodrigo F. Lim, Jr.

[2] Penned by Judge Jesus M. Barroso, Jr.

[3] Records, p. 14.

[4] CA rollo, p. 18.

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

[6] Rollo, pp. 15-16.

[7] People v. Roma, G.R. No. 147996, September 30, 2005, 471 SCRA 413, 426-427.

[8] People v. Abesamis, G.R. No. 140985, August 28, 2007, 531 SCRA 300, 310-311.

[9] People v. De Guzman, G.R. No. 169082, August 17, 2007, 530 SCRA 631, 638.

[10] People v. Glino, G.R. No. 173793, December 4, 2007, 539 SCRA 432, 457.

[11] Id. at 462.

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.