

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLEOFE BAROQUILLO Y VILLANUEVA AND LEONARDO MAHILUM Y CAÑETE, ACCUSED-APPELLANTS.

G.R. No. 184960. August 24, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This Appeal was filed by accused-appellants Cleofe Baroquillo y Villanueva (Cleofe) and Leonardo Mahilum y Cañete (Leonardo) to challenge the January 31, 2008 Decision [1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 00395 MIN, which affirmed the judgment of conviction for Murder rendered against them by the Regional Trial Court (RTC), Branch 6, of Iligan City on October 7, 2002, in Criminal Case No. 06-8614.

The antecedents of this case, which were succinctly summarized by the Court of Appeals from the transcript of stenographic notes (TSN), are as follows:

Accused Lorenza Madeloso y Demecillo (Lorenza hereinafter) and victim Nelson Madeloso (Nelson hereinafter) are spouses with five children. Sometime in 1994, accused Lorenza met accused Cleofe Baroquillo y Villanueva (Cleofe hereinafter) [as they were both employees of the Abalos family in Kolambugan; TSN, March 5, 2002, p. 27]. [Their membership in the] congregation of a religious group, the Couple's (sic) for Christ, x x x nurtured a special friendship that culminated to an amorous relationship.

Sometime in October 2000, accused Lorenza disclosed to her kumare Ellen Dajao (Ellen hereinafter), her intimacy with accused Cleofe. Accused Lorenza even introduced accused Cleofe to Ellen as her second husband. In one of their conversations, Lorenza told Ellen how much she loves accused Cleofe. Ellen also recounted that accused Lorenza and accused Cleofe had a furious argument over the surname of accused Lorenza's fourth child, suspected to be of accused Cleofe's. Apparently, the latter wanted said child to carry his surname but accused Lorenza refused out of respect [for] her husband Nelson. Accused Lorenza further intimated to Ellen that she wanted her husband killed because he no longer gives her money.

On 5 January 2001, accused Lorenza went to her father-in-law Gregorio Madeloso (Gregorio hereinafter), in Cotabato City to get the twenty[-]three thousand pesos (P23,000.00) which the latter promised as financial assistance for her intended trip abroad. On the same day, accused Lorenza went back to Iligan City with the money. On her way to their house, she spotted her husband Nelson, sitting by the store of Vicky Ababa, approached him and angrily shouted: "Wala ko makadala ug cuarta kay wala ang imong papa mohatag." She also threatened Nelson saying: "Dili ka magdugay [Nel]son; pipila na lang ka adlaw, ipapatay ta ka."

On 10 January 2001, at around twelve o'clock noon, accused Lorenza met and had lunch with accused Cleofe and accused Leonardo Mahilum (Leonardo hereinafter) at Dado's Lechon House in Tibanga, Iligan City. Meanwhile, at around eight o'clock in the evening, Nelson went out of their house and asked Promelito Jimenez (Promelito hereinafter), their neighbor who was then sitting outside their house, for the time. Promelito answered and asked him where he was going. Nelson replied, "Mamang called for me," and then hurriedly left. Nelson fondly called his wife mamang or mama.

At around 8:15 p.m., Lorenza, with one of her children, arrived home. Meantime, Nelson chanced upon Meneleo Tumampil (Meneleo hereinafter), another neighbor driving his motorcycle bound for Villaverde, Iligan City. Nelson flagged down Meneleo. When the latter asked where he was headed, Nelson responded, "Mamang called for me." Nelson then requested Meneleo if he could drop him off at the crossing of St. Mary and Bagong Silang. Meneleo acceded and the two rode off together. When Nelson reached the place, he alighted and left Meneleo on his way.

At around nine o'clock in the evening, in Bagong Silang, Nelson was shot dead by accused Leonardo. The prosecution witness, Ricky Ramos (Ricky hereinafter), saw the gruesome incident while walking on his way home from the house of a friend. He vividly recounted that he saw Nelson sitting by the gutter of the road when two (2) men, identified later on as accused Cleofe and Leonardo, crossed the street and approached Nelson. Accused Cleofe pulled Nelson up towards him and held him, while Leonardo pulled out a gun from his side and shot Nelson in the head several times.

Soon after, the Iligan City police received a report that there had been a shooting incident in Bagong Silang. Several members of the Iligan police went to the crime scene to investigate and found the victim, Nelson, prostrate on the ground drenched with his own blood.

[Promelito Jimenez, another neighbor of the Madelosos, overheard] Major Celso Regencia inform accused Lorenza about the shooting incident x x x. [He added that] accused Lorenza's reaction [to hearing about Nelson's death] was strangely opposed to ordinary human experience - she did not really look surprised, as if she was expecting the news.

Promelito, and a few other neighbors, then accompanied accused Lorenza to Bagong Silang. When accused Lorenza saw her husband's lifeless body, she embraced him and cried but her cry allegedly x x x appeared feigned and insincere [to Promelito] Nelson's bloody corpse was then taken to Mansueto Funeral homes.

At Mansueto Funeral Homes, SPO2 Genaro Enchavez asked Lorenza a few questions. When the police received the information of accused Lorenza and accused Cleofe's extra-marital affair, Lorenza was invited to the police station for further questioning where she confessed her illicit relation with accused Cleofe. Thereupon, the police proceeded to accused Cleofe's house at Riverside, Kolambogan by patrol car. The police met accused Cleofe's wife and asked her what time accused Cleofe arrived home. She replied that her husband came home between eleven and twelve o'clock midnight. When the police invited accused Cleofe to the station for questioning, his wife exhorted them to incarcerate her husband because of his alleged love affair with the wife of Nelson.

In the morning of 11 January 2001, while at the police station, Lorenza received a phone call from Leonardo. With the permission of the police, Lorenza answered the call. Leonardo instructed her to meet him at around twelve o'clock noon at Dado's Lechon House to which she agreed with the approval of the police. At around eleven-thirty o'clock in the morning, accused Lorenza, together with the police, arrived at Dado's Lechon House. After thirty minutes, more or less, accused Leonardo arrived and sat at the table occupied by accused Lorenza. The police, who were sitting nearby, approached the two accused persons and invited accused Leonardo to the police station for questioning. After investigation, the accused-appellants, Cleofe, Leonardo and Lorenza were charged with murder.[2]

On January 15, 2001, Cleofe and Leonardo, along with Lorenza Madeloso (Lorenza), were charged with Murder under Article 248 of the Revised Penal Code before the RTC, Branch 6 of Iligan City. The pertinent portion of the Amended Information[3] reads as follows:

That on or about January 10, 2001, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring with and confederating together and mutually helping one another, armed with a deadly weapon, with intent to kill and evident premeditation and by means of treachery, did then and there willfully, unlawfully and feloniously attack, assault, [shoot,] and wound one Nelson

Madeloso, thereby inflicting upon him the following physical injuries, to wit:

- Cranicerebral injury
- Multiple Gunshot Wounds

and as a result thereof, the said Nelson Madeloso died.

Contrary to and in violation of Article 248 of the Revised Penal Code with the aggravating circumstances of treachery and evident premeditation.

All three accused pleaded not guilty to the crime of Murder during their Arraignment on January 31, 2001.[4] They also filed three separate Petitions for Bail,[5] which were all denied by the RTC on August 28, 2001.[6]

Trial on the merits followed the pre-trial conference,[7] also conducted and concluded on January 31, 2001.

As can be gleaned from the antecedents above, the prosecution presented Ellen Dajao[8] and Estrella Bailo[9] to testify on the extra-marital affair between Lorenza and Cleofe and how Lorenza wanted her husband dead; and Gregorio Madeloso,[10] Marichel Paler,[11] Meneleo Tumampil,[12] Senior Police Officer 2 (SPO2) Genaro Echavez,[13] SPO2 Rodney Diez,[14] SPO1 Andres Lluch,[15] Promelito Jimenez,[16] and Ricky Ramos[17] to testify on the circumstances that led to the shooting of Nelson Madeloso (Nelson), how his body was discovered, and the events that transpired after. The prosecution also presented Dr. Leonardo Labanon, the Iligan City Health Office physician who examined the dead body of Nelson and who accomplished the Necropsy Report[18] and Certificate of Death.[19] Dr. Labanon testified that on January 11, 2001, he examined the cadaver of Nelson, whom he determined to have died of craniocerebral injury due to multiple gunshot wounds. He explained that a craniocerebral injury is damage caused to the brain substance (cerebral) and the skull protecting the brain (cranium).[20] Dr. Labanon also elaborated on the other injuries found on Nelson's body, including a gunshot wound that entered the left side and exited through the right side of his head, a "raccoon sign"[21] on his left eye, a gunshot wound on his lower right jaw with an upward trajectory,[22] an abrasion on his left foot, a "thru and thru"[23] gunshot wound on his upper right back, and a laceration on the middle portion of his back.[24] When asked which of the wounds Nelson sustained was fatal, the Doctor answered that gunshot wounds to the head are always fatal.[25]

After the prosecution rested its case, the three accused took the stand and denied killing Nelson.

Leonardo claimed that on January 10, 2001, he left his house before lunchtime to go to Villaverde for his cousin, Bonifacio Patac's birthday party. On his way there, he passed by Dado's Lechon eatery where he saw his childhood friend Cleofe. Cleofe was accompanied by Lorenza and her child, whom Leonardo met for the first time. After Lorenza and her child left, Leonardo and Cleofe transferred to Anduyan's where they watched an NBA game and drank beer until 6:00 p.m., when they parted ways. Cleofe went towards his house in Kolambugan, and Leonardo, towards his cousin's party in Villaverde. Leonardo alleged that he reached his cousin Bonifacio's house in Villaverde between 7:00 p.m. and 7:30 p.m. and stayed there until the following morning, then he proceeded to Dado's Lechon in acquiescence to Lorenza's text message to him to meet her there for lunch.[26]

In support of Leonardo's alibi, the defense presented the birthday celebrator himself, Bonifacio Patac, and another cousin, Rowela Gabinera (Rowela), who was also present at Bonifacio's birthday celebration. Rowela testified that Leonardo arrived at around eight o'clock in the evening; and from then until about 10:00 p.m., they ate and played the card game tong-its. She also alleged that Leonardo spent the night at their house and when she left at 12:30 p.m. the following day to go to class, Leonardo was still there.[27] Bonifacio backed-up Leonardo's and Rowela's claims that they were both present at his birthday celebration. He also corroborated Rowela's testimony that at 9:00 p.m., Leonardo was in their house playing tong-its with them, further adding that he, Leonardo, and another male cousin slept together in their living room an hour later. Bonifacio also confirmed that Leonardo

stayed there for the night because he was still sleeping in the living room when Bonifacio woke up at 6:30 a.m. the following day.[28]

Cleofe also denied killing Lorenza's husband and alleged that he was at home in Riverside, Kolambugan when Nelson was killed. Cleofe testified that on January 10, 2001, before nine o'clock in the morning, he went to Iligan to have his wife's mobile phone repaired. As lunchtime drew near, he looked for a place to eat and ended up at Dado's Lechon, which was within walking distance from where he was. While at Dado's Lechon, he saw Leonardo on his bicycle, so he called him and invited him for lunch. They parted ways between 5:00 p.m. and 5:30 p.m. When Cleofe reached his house in Kolambugan at about 7:30 p.m., he ate dinner with his family and watched television until he went to sleep between 9:00 p.m. and 10:00 p.m.[29]

Lita Balatero Daviz (Lita) corroborated Cleofe's alibi that he was at home in the evening of January 10, 2001. Lita was Cleofe's neighbor in Kolambugan and she used to go to Cleofe's house every night to watch television as she had none of her own. Lita claimed that Cleofe was at his house the entire time she was there, which was from 7:30 p.m. to 9:00 p.m.[30]

Lorenza, for her part, claimed that she had no reason to have her husband killed as she loved him. She averred that aside from the normal spats between couples, she and Nelson had a harmonious and peaceful marital life due largely to Nelson's patience. She admitted receiving the ₱23,000.00 she had asked from Nelson's father, Gregorio, but claimed that Nelson borrowed ₱10,000.00 to redeem the service motorcycle he had mortgaged. Lorenza testified that on January 10, 2001, she met Cleofe at Ladies Burger in Tibanga, Iligan City, to fetch her child, whom she entrusted to Cleofe earlier that morning. When she arrived there, Cleofe was playing billiards with a man whom she later on came to know as Leonardo. The three of them had lunch at Dado's Lechon until about 1:30 p.m. After some window shopping, she and her child made their way back home to Abigail Subdivision. Lorenza alleged that at exactly 7:15 p.m. they entered their house and she found her husband Nelson and their other children there. After dinner, Nelson left with the Twenty Pesos (₱20.00) he had previously asked from her.[31]

On October 7, 2002, the RTC convicted all three accused of Murder. The dispositive portion of its Decision[32] reads:

WHEREFORE, the court finds the accused Cleofe Baroquillo y Villanueva, Leonardo Mahilum y Cañete and Lorenza Madeloso y Demecillo GUILTY beyond reasonable doubt as principals of the crime of murder qualified by treachery defined and penalized in Art. 248 of the Revised Penal Code, as amended, and there being no other aggravating circumstance (superior strength is absorbed in treachery) attending the offense, hereby sentences each of them to the single and indivisible penalty of RECLUSION PERPETUA with the corresponding accessory penalties prescribed by law. The accused are further ordered to indemnify solidarily the heirs of the deceased Nelson Madeloso the sums of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P10,000.00 as nominal damages and P1,655,640.00 as loss of earning capacity and/or support without subsidiary imprisonment in case of insolvency.

The accused Lorenza Madeloso is further disqualified from receiving any inheritance from the deceased Nelson Madeloso as well as the proceeds of any life insurance of the latter even if said accused has been named beneficiary therein.

The three accused have been under preventive detention since January 11, 2001 until the present. The period of such preventive imprisonment shall be credited in full in favor of each of the accused in the service of their respective sentences.[33]

The RTC dissected each piece of evidence submitted by the parties. It said that the fact that there was an extra-marital affair between Cleofe and Lorenza was duly established by the prosecution through the testimonies

of the Madelosos' friends who knew of the affair, and through pictures of Lorenza and Cleofe submitted in evidence[34] It also proclaimed that on January 10, 2001, about nine hours before Nelson was killed, the three accused had lunch together. In convicting Cleofe and Leonardo, the RTC held that they were not able to satisfy the burden of proof to establish their defense of alibi. The RTC believed the testimony of Ricky Ramos, the lone eyewitness, as it was "clear, coherent and responsive." [35] The RTC, citing *People v. Oquiño*, [36] said that "it is also well-settled that the testimony of a single witness which satisfies the court in a given case is sufficient to convict." [37] The RTC was intrigued that Cleofe and Leonardo tried to make it appear that their lunch meeting at Dado's Lechon was purely coincidental "in direct contrast" to Lorenza's claim that she and Cleofe had previously agreed to meet at Ladies Burger, a restaurant near Dado's Lechon. [38] The RTC also found it curious why Leonardo had to leave before lunch to go to an evening party and why he took the longer route to Villaverde. The RTC concluded that all circumstances point to the conclusion that the lunch meeting among the three was not at all accidental. [39]

The established extra-marital affair between Cleofe and Lorenza, Lorenza's threats to kill Nelson, Lorenza's receipt of ₱23,000.00 from Nelson's father, her eventual denial that she received such money, the January 10, 2001 lunch meeting at Dado's Lechon, Meneleo's testimony that Nelson hitched a ride with him at around 8:00 p.m. to Bagong Silang because "Mamang" [40] had wanted him to go there, and the fact that an hour later Nelson was shot at Bagong Silang, all led the RTC to conclude that Lorenza conspired with Cleofe and Leonardo to kill her husband. The RTC held that while it is difficult to establish conspiracy, it can be proven when "the facts from which the inference is derived are proven and the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt." [41]

On intermediate appellate review, the Court of Appeals was faced with the lone assignment of error as follows:

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO ESTABLISH THEIR GUILT BEYOND REASONABLE DOUBT. [42]

On January 31, 2008, the Court of Appeals promulgated its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Decision dated 7 October 2002 of the Regional Trial Court, Branch 6, Iligan City is hereby AFFIRMED in so far as it found accused Cleof[e] Baroquillo y Villanueva and Leonardo Mahilum y Cañete GUILTY of murder and sentenced them to reclusion perpetua. The award of P10,000.00 as nominal damages is, however, DELETED. Instead, they are ordered to pay jointly and severally to the heirs of the deceased Nelson Madeloso the amounts of P50,000.00 as death indemnity, P50,000.00 as moral damages, P1,655,640.00 as loss of earning capacity, and P25,000.00 as temperate damages.

Considering that the accused Cleof[e] Baroquillo y Villanueva and Leonardo Mahilum y Cañete are detention prisoners, let the period of their detention be credited to the service of their sentence pursuant to Article 29 of the Revised Penal Code.

Accused Lorenza Madeloso y Demecillo is ACQUITTED of the crime of murder. The Superintendent of the Correctional Institution for Women is directed to cause the immediate release of Lorenza Madeloso y Demecillo, unless the latter is being lawfully held for another cause; and to inform the Court of the date of her release, or the reasons for her continued confinement, within ten (10) days from notice. [43]

While the Court of Appeals agreed that Cleofe and Leonardo were guilty beyond reasonable doubt for the murder of Nelson, it found the evidence against Lorenza insufficient to convict her as a principal by inducement. In acquitting Lorenza, the Court of Appeals ratiocinated:

Indubitably, the prosecution presented none of the *percepto* (command) or *pacto* (consideration) required to

establish the liability of accused Lorenza. It bears stressing that it is incumbent upon the prosecution to prove that accused Lorenza had an influence over accused Cleofe and Leonardo so great that such inducement would be the determining cause of the commission of the crime by the material executor. We can only surmise, at the very least, the motive of the other accused, Cleofe and Leonardo, in killing Nelson. But, our surmises and conjectures, no matter how strong, are no substitute to proof beyond reasonable doubt.

Verily, the circumstances proffered by the prosecution and relied upon by the trial court, albeit taken to be established and credible, only go [so] far as to create a suspicion of guilt or innocence. The hornbook principle is that "x x x when the inculpatory facts and circumstances are capable of two or more interpretations, one of which is consistent with the innocence of the accused and the other or others consistent with his guilt, then the evidence, in view of the constitutional presumption of innocence, has not fulfilled the test of moral certainty and is thus insufficient to support a conviction". No court, when confronted with issues that affect the life and liberty of citizens in a free society, should treat flippantly the latter's constitutional guarantees and supply deficiencies in the evidence for the prosecution with its own bias, suspicion or speculation.[44]

Accused-appellants Cleofe and Leonardo are now before us, praying for a reversal of their conviction, on the same arguments[45] posited before the Court of Appeals.

Ruling of the Court

Cleofe and Leonardo were charged and convicted of Murder under Article 248 of the Revised Penal Code:

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, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity;
- In consideration of a price, reward, or promise;
- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin;
- On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity;
- With evident premeditation;
- With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

Cleofe and Leonardo assert that the lower courts' assessment of their defense of alibi as weak is erroneous because they were properly supported by the testimonies of witnesses who were with them at the time of the commission of the crime.[46]

This Court has reviewed the entire records of the case and finds no reason to overturn the conviction of Cleofe and Leonardo.

The two accused-appellants contend that "contrary to the common notion, alibi is in fact a good defense,"[47] and that "it cannot be haphazardly concluded that the accused-appellants conspired with each other to kill Nelson x x x, moreso (sic) when such conclusion was only brought about by the statements of the prosecution witnesses that the three (3) accused-appellants were seen eating lunch together on the day of the commission of the crime

charged." [48]

We agree with Cleofe and Leonardo that alibi is indeed a good defense and could certainly exculpate a person accused of a crime. However, this is true only if the accused's alibi strictly meets the following requisites:

- His presence at another place at the time of the commission of the crime; and
- The physical impossibility of his presence at the scene of the crime. [49]

In *People v. Bihag, Jr. and Hilot*, [50] this Court elucidated on the concept of alibi and its elements to prosper as a defense:

This Court has ruled consistently that alibi is an inherently weak defense and should be rejected when the identity of the accused is sufficiently and positively established by the prosecution. Moreover, for alibi to overcome the prosecution's evidence, the defense must successfully prove the element of physical impossibility of the accused's presence at the crime scene at the time of the perpetration of the offense. Physical impossibility in relation to alibi takes into consideration not only the geographical distance between the scene of the crime and the place where accused maintains he was, but more importantly, the accessibility between these points. x x x. [51]

However, neither Cleofe nor Leonardo was able to establish by clear and convincing evidence that not only was he somewhere else when Nelson was killed, but also that it was physically impossible for him to have been at the scene of the crime. "By physical impossibility, we refer to the distance and the facility of access between the situs criminis and the place where he says he was when the crime was committed." [52]

Noting the distances between Bagong Silang, where Nelson was killed, and the respective locations of Leonardo and Cleofe at the time the crime was committed, the trial court correctly concluded that given the relative proximity of the places, the availability of transportation, and the physical fitness of both accused to travel, it was not impossible for them to have traversed to and from the scene of the crime and their alleged locations that fateful evening of January 10, 2001.

The testimonies of Cleofe's and Leonardo's witnesses who corroborated their alibis, did little to help their case as they were either relatives or close family friends of the accused. In fact, one of Leonardo's witnesses, Rowela, was caught in a lie when she testified that she saw Leonardo, still in their house on January 11, 2001 at 12:30 p.m., contrary to Leonardo's own testimony that he was at Dado's Lechon at that time to meet Lorenza for lunch. Not a single disinterested witness was presented by Cleofe or Leonardo to support their alibis. In *People v. Abatayo*, [53] this Court held that "alibi becomes less plausible as a defense when it is corroborated only by a relative or a close friend of the accused." [54]

Furthermore, contrary to Cleofe's and Leonardo's arguments, their conviction was not based on circumstantial evidence but on the positive identification of an unbiased witness. It is well-settled that since alibi is a weak defense for being easily fabricated, it cannot prevail over and is worthless in the face of the positive identification by a credible witness that an accused perpetrated the crime. [55]

The issue therefore boils down to the credibility of the prosecution's lone eyewitness, Ricky Ramos. This Court sees no reason to disturb the trial court's evaluation and assessment of the credibility of Ricky Ramos, which the Court of Appeals also sustained. We have, time and again, explained our reason for respecting the trial court's findings as follows:

Jurisprudence teaches us that the findings of the trial court judge who tried the case and heard the witnesses are not to be disturbed on appeal unless there are substantial facts and circumstances which have been overlooked and which, if properly considered, might affect the result of the case. The trial judge's evaluation of the

witness' credibility deserves utmost respect in the absence of arbitrariness. Furthermore, conclusions and findings of the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and valid reasons because the trial court is in a better position to examine the demeanor of the witnesses while testifying on the case.[56]

The RTC adequately addressed and rebuked each doubt the defense tried to cast on Ricky Ramos's testimony. Moreover, it sufficiently explained why Ricky Ramos's testimony was enough to convict the accused-appellants, to wit:

The credibility of evidence is not necessarily determined by the number of witnesses but by the quality of the testimony. (People v. Pascual, Jr. 127 SCRA 179). The court notes that Mr. Ramos is a complete stranger to the deceased Nelson Madeloso or to his father Gregorio and all of the accused. Immediately after his arrival home, he told his wife who advised him not to get involved. Nonetheless in the afternoon of the [f]ollowing day, he saw SPO2 Rodney Diez to inform him of his knowledge of the incident. There is no evidence or any other indication in record that his motive was tainted by any cause or reason other than the call of conscience. His relationship by affinity to Officer Diez is immaterial since the latter himself does not [have] an evil motive other than to do his duty as a police officer. His testimony was clear, coherent and responsive. Although he is a lone witness, "it is well-settled that the testimony of a single witness which satisfies the court in a given case is sufficient to convict." (People v. Oquiño, supra.)[57]

A perusal of the records will not yield any trace of bias in the testimony of Ricky Ramos. In fact, when asked if he was sure of his identification of the two accused, considering the gravity of the crime charged against them, he categorically replied that "[he] can stand on [his] words." [58] It is contrary to human nature for a witness to finger innocent persons as the perpetrators of a very serious crime.[59] Thus, absent any showing that there was any ill motive on the part of Ricky Ramos, his categorical, consistent, and positive identification deserves full weight and credit.

This Court also agrees with the lower courts' appreciation of the attendance of the qualifying circumstance of treachery, and the conspiracy between Cleofe and Leonardo to kill Nelson.

Article 14, No. 16, paragraph 2 of the Revised Penal Code provides:

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 arising from the defense which the offended party might make.

It was established in this case that Nelson was attacked with treachery because aside from having had no idea of what was to befall him when he stood up as Cleofe and Leonardo approached him, Nelson was also defenseless against the sudden gunshots Leonardo delivered to him. The fact that the attack on Nelson was frontal does not preclude the presence of treachery in this case as the same made the attack no less unexpected and sudden.[60]

Conspiracy was also duly established as Ricky Ramos testified that while Cleofe pulled Nelson, Leonardo fired shots at Nelson. Conspiracy was evident from the coordinated movements of the two accused, their common purpose, being, to kill Nelson. In People v. Quinao,[61] we expounded on the concept of conspiracy as follows:

It is well-settled that conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it. Proof of the agreement need not rest on direct evidence, as the same may be inferred from the conduct of the parties indicating a common understanding among them with respect to the commission of the offense. It is not necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or the details by which an illegal objective is to be carried out. The rule is that conviction is proper upon proof that the accused acted in concert, each of them doing his part to fulfill the common design to kill the victim. In such a case, the act of

one becomes the act of all and each of the accused will thereby be deemed equally guilty of the crime committed.[62]

Pursuant to prevailing jurisprudence,[63] this Court is increasing the award of civil indemnity from Fifty Thousand Pesos (P50,000.00) to Seventy-Five Thousand Pesos (P75,000.00). Both the RTC and the Court of Appeals failed to award exemplary damages to the heirs of the victim. In view of the presence of the qualifying aggravating circumstance of treachery, the award of exemplary damages in the amount of Thirty Thousand Pesos (P30,000.00) in accordance with Article 2230 of the Civil Code,[64] is in order.[65]

WHEREFORE, the decision dated January 31, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00395 MIN is hereby **AFFIRMED** insofar as it found the accused-appellants Cleofe Baroquillo y Villanueva and Leonardo Mahilum y Cañete **GUILTY** beyond reasonable doubt of the crime of **MURDER** and sentenced to suffer the penalty of reclusion perpetua. They are hereby ordered to indemnify the heirs of Nelson Madeloso the following: (a) P75,000.00 as civil indemnity; (b) P50,000.00 as moral damages; (c) P30,000.00 as exemplary damages; (d) P25,000.00 as temperate damages; (e) P1,655,640.00 as loss of earning capacity; and (f) interest on all damages awarded at the rate of 6% per annum from the date of finality of this judgment.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 5-23; penned by Associate Justice Mario V. Lopez with Associate Justices Romulo V. Borja and Elihu A. Ybañez, concurring.

[2] Id. at 5-9.

[3] Records, pp. 11-12.

[4] Id. at 24.

[5] Id. at 36-38, 22, 48-49.

[6] Id. at 138-141.

[7] Id. at 31-32.

[8] TSN, February 28, 2001.

[9] TSN, February 22, 2001.

[10] TSN, March 2, 2001

[11] TSN, April 6, 2001.

[12] TSN, April 20, 2001.

[13] TSN, May 21, 2001.

[14] TSN, May 28, 2001.

[15] TSN, June 1, 2001.

[16] TSN, August 17, 2001.

[17] TSN, June 5, 2001.

- [18] Records, p. 14.
- [19] Id. at 13.
- [20] TSN, February 21, 2001, p. 11.
- [21] Id. at 18; a diagnostic cerebral injury.
- [22] Id. at 38.
- [23] Id. at 20.
- [24] Id. at 11-22.
- [25] Id. at 24.
- [26] TSN, October 17, 2001, pp. 7-22.
- [27] TSN, September 19, 2001, pp. 2-12.
- [28] TSN, September 26, 2001, pp. 2-9.
- [29] TSN, January 15, 2002, pp. 3-16.
- [30] TSN, October 18, 2001, pp. 25-27.
- [31] TSN, March 5, 2002, pp. 2-12.
- [32] CA rollo, pp. 50-65.
- [33] Id. at 65.
- [34] Id. at 58-59.
- [35] Id. at 61.
- [36] 207 Phil. 676 (1983).
- [37] Id. at 684.
- [38] CA rollo, p. 61.
- [39] Id. at 62.
- [40] Id. at 63.
- [41] Id.
- [42] Id. at 168.
- [43] Rollo, pp. 22-23.
- [44] Id. at 21.
- [45] Id. at 36-39.
- [46] CA rollo, p. 143.
- [47] Id.
- [48] Id. at 144.

[49] *People v. Juan*, 379 Phil. 645, 665 (2000).

[50] 396 Phil. 289 (2000).

[51] *Id.* at 298-299.

[52] *People v. Visperas, Jr.*, 443 Phil. 164, 175 (2003).

[53] G.R. No. 139456, July 7, 2004, 433 SCRA 562.

[54] *Id.* at 579.

[55] *People v. Sion*, 342 Phil. 806, 829 (1997).

[56] *People v. Doepante*, 331 Phil. 998, 1015-1016 (1996).

[57] CA rollo, p. 61.

[58] TSN, June 5, 2001, p. 9.

[59] *People v. Piandiong*, 335 Phil. 1028, 1036 (1997).

[60] *People v. Dinglasan*, 334 Phil. 691, 711 (1997).

[61] 336 Phil. 475 (1997).

[62] *Id.* at 488-489.

[63] *People v. Asis*, G.R. No. 177573, July 7, 2010, 624 SCRA 509, 530.

[64] Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[65] *People v. Asis*, *supra* note 63 at 531.

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