

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERT SANCHEZ Y GALERA, ACCUSED-APPELLANT.

G.R. No. 188610. June 29, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

For review is the Decision[1] of the Court of Appeals (CA) dated February 27, 2009, in CA-G.R. CR-H.C. No. 02902, which affirmed with modification, the decision of the Regional Trial Court (RTC) of Marikina City in Criminal Case Nos. 06-8245-MK, 06-8246-MK, 06-8247-MK and 06-8248-MK, finding appellant Albert Sanchez y Galera guilty of two (2) counts of murder and two (2) counts of frustrated murder.

The accusatory portions of the criminal informations filed against Sanchez for the crimes aforesated are respectively reproduced below:

Criminal Case No. 06-8245-MK for Murder

That on or about the 27[th] day of January 2006, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with knife, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Jufer James De leon y Cruz, a minor, 11 years of age, thereby inflicting upon him fatal wounds which caused his death soon after the said killing having attended by the qualifying circumstance of treachery and evident premeditation, which upgrades the killing to Murder.

CONTRARY TO LAW.

Criminal Case No. 06-8246-MK for Murder

That on or about the 27[th] day of January 2006, in the City of Marikina, Philippines and within the jurisdiction of this Court, the above-named accused, armed with knife, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Edgar De Leon, thereby inflicting upon him fatal wounds which caused his death soon thereafter the said killing having attended by the qualifying circumstance of treachery and evident premeditation, which upgrades the killing to Murder.

CONTRARY TO LAW.

Criminal Case No. 06-8247-MK for Frustrated Murder

That on or about the 27[th] day of January 2006, in the City of Marikina, Philippines and within the jurisdiction of this Court, the above-named accused, armed with knife, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Jeane De Leon y Cruz, thereby inflicting upon [her] stab wounds which would ordinarily [cause] her death, thus performing all the acts of execution which would have produced the crime of murder as a consequence thereof, but nevertheless did not produce it by reason of cause/s independent of [his] will that is due to the timely and able medical assistance rendered to said Jeane de Leon y Cruz, which prevented [her] death.

CONTRARY TO LAW

Criminal Case No. 06-8248-MK for Frustrated Murder

That on or about the 27[th] day of January 2006, in the City of Marikina, Philippines and within the jurisdiction of this Court, the above-named accused, armed with knife, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Jelyn Mae de Leon y Cruz, thereby inflicting upon the latter stab wounds which would ordinarily [cause] her death, thus, performing all the acts of execution which would have [produced] the crime of murder as a consequence thereof, but nevertheless did not produce it by reason of cause/s independent of his will, that is due to the timely and able medical assistance rendered to said Jelyn May De Leon y Cruz, which prevented her death.

CONTRARY TO LAW.

When arraigned, Sanchez, duly assisted by counsel, pleaded not guilty to all the charges.

In the ensuing trial, the prosecution presented in evidence the testimonies of John Ray De Leon, Jelyn Mae De Leon, Jeane De Leon, Dr. Arnel Marquez, the Medico-Legal Officer of Rizal who performed an autopsy on the cadaver of two of the victims, and the arresting and investigating police officers.[2]

On the other hand, the defense waived its right to present evidence.

The pertinent facts, as gathered from the records, may be summarized as follows:

On June 26, 2006, siblings John Ray, Jufer James[3] (Jufer), Jelyn Mae (Jelyn), Jorvi and Junel, all surnamed De Leon, were at home by themselves, their parents, Edgar and Jeane,[4] having gone out to buy certain items for their catering business. Between 9:00 to 10:00 p.m. of that day, Sanchez entered the De Leon's house in dela Paz St., Marikina City, and there and then told John Ray, then 10 years old, that his father Edgar would give him some money. Sanchez then proceeded to the master's bedroom at the second floor of the house.[5] John Ray was familiar with Sanchez, the latter having once stayed with the family as a houseboy. When John Ray asked him to leave, Sanchez proceeded to the comfort room on the ground floor where Jufer was then inside defecating. Sanchez was still inside that room when spouses Jeane and Edgar arrived.

Later learning where Sanchez was, Edgar asked the former to come out. Sanchez would thereafter request Edgar for money, claiming that his sister is confined in a hospital in a nearby town.

From her room, Jeane later went downstairs, joined Edgar and Sanchez, and explained to their irritated-looking former houseboy that they could only spare PhP 100 as they had just purchased several items for their business. In the meantime, Edgar handed Sanchez P100, telling him just to come back the following day. With a hostile expression, Sanchez accepted the money, then left. Later, Jufer confided to his mother that Sanchez, while in the rest room, had pointed a knife at and threatened to kill him. Obviously terrified by the threat, Jufer slept in his parents' room that night.

Very early the following morning, June 27, Jeane prepared breakfast for her school children. Noticing Jufer's absence at the breakfast table, she asked the 13-year-old Jelyn to get her kid brother down.[6] Jelyn went to Jufer's bedroom upstairs and there found him lying on his bed face down. Suddenly, somebody grabbed her from behind, covered her mouth, pointed a knife on her neck and later stabbed her.[7] The assailant then pushed her towards the bed, told her to be quiet and pressed her face down near her brother until she could not breathe. Jelyn recognized the voice to be that of Sanchez. And while Jelyn was calling out to get Jufer's attention whom she thought was merely asleep, Sanchez stabbed her on the chest. Jelyn reacted by boxing and kicking Sanchez, shouting for help at the same time. And even as Sanchez gave her a piece of cloth to wipe the blood in her neck and motioned her to keep quiet, Jelyn managed to plead for her life.[8]

Meanwhile, Jeane who decided to look for Jufer herself heard a commotion and a thudding sound. When she checked what it was, son Jorvi rushed towards her to inform her that Sanchez was inside the house. The nervous Jeane then hurried to Jufer's room upstairs where she saw Sanchez holding a knife against Jelyn's bloodied neck. Then Jeane uttered, "Dali, tumawag ka ng 161." [9] At that instance, Sanchez shoved Jeane inside Jufer's room even as she pleaded for their lives. In response, Sanchez placed his fingers on his lips to signal silence. Thereafter, Jeane turned her son, Jufer, upside down only to discover that he was bathed in blood. Jufer weakly uttered, "Mama, si Kuya Albert sinaksak ako." [10] At this point, Sanchez ran outside the room.

Jeane, cradling her bloodied son, intending to bring him to the hospital, again instructed daughter Jelyn to call 161. While carrying Jufer outside the room, Jeane noticed Sanchez assaulting Edgar near the stairs. She then brought Jufer to her room so she could help Edgar. In the process, she spotted a knife in the hallway floor, and picked it up as she approached Edgar who was then sitting on the floor. At that juncture, Sanchez turned his ire towards her and stabbed her on the lower left side of the chest [11]. When the injured Edgar stood up in an obvious bid to help his wife, Sanchez again lunged at and stabbed the former. Her own attempt to hit Sanchez with the knife she picked up earlier, however, proved unsuccessful. In fact, Sanchez continued with his stabbing spree inflicting on her injuries on her lower left eye and stomach. Then he returned to Edgar, stabbing him on the stomach and side, causing his large intestines to spill out. Only after Edgar again fell did Sanchez run out of the house.

After Sanchez has left, Jeane helped her husband up, gathered all her children in one room, placed her bloodied son beside his equally bloodied father and locked the door. She then cried out for help. At this time, Jufer was no longer moving, while Edgar was hardly breathing.

At around 6:35 in the morning of January 27, 2006, POI Reynaldo Candelaria, responding to radio call reporting a stabbing incident, proceeded to the De Leons' place. A trembling John Ray met and told him who stabbed his father. When Candelaria opened the gate of the house, he saw Sanchez running towards the back of the house holding a knife. And after a chase, Candelaria, with the help of nearby residents, caught up with and arrested Sanchez. At the Amang Rodriguez Hospital where police operatives brought him and where Jeane and Jelyn were sent for treatment, mother and daughter identified Sanchez as the assailant.

Meanwhile, the bodies of Jufer and Edgar de Leon were brought to the Eastern Police District crime laboratory for autopsy.

The uniform entry, "Stab wounds, trunk", appeared in the separate autopsy reports [12] prepared by Medico Legal Officer Jose Arnel M. Marquez [13] as the cause of death of both Jufer and Edgar De Leon. [14] On the other hand, the Medico-Legal Certificate [15] issued by Dr. Alejandro Geronimo stated that Jeane de Leon was confined at the hospital from January 27, 2006 to February 4, 2006 for treatment of multiple stab wounds. [16] In the case of Jelyn, she was confined and treated also for multiple wounds. [17]

Jeanne and Jelyn's combined hospital bills amounted to PhP 300,000, while the internment and burial expenses for Edgar and Jufer totaled to PhP 150,000. [18]

When the defense was called for initial presentation of its evidence, the defense counsel, in open court, manifested, with the conformity of the accused, that the defense is waiving its right to present evidence. [19]

On July 23, 2007, in consolidated Crim. Case Nos. 06-8245-MK to 068248-MK the Regional Trial Court (RTC) of Marikina City, Branch 272, the RTC [20] rendered a decision finding accused Sanchez guilty of two (2) counts of murder and two (2) counts of frustrated murder. The dispositive portion of the decision states:

WHEREFORE, in view of the foregoing, judgment is hereby rendered, as follows:

1. In Criminal Case No. 06-8245-MK, accused ALBERT SANCHEZ y GALERA is found GUILTY beyond reasonable doubt of the crime of MURDER as defined and penalized under Article 248 of the Revised Penal Code qualified by treachery and evident premeditation and is hereby sentenced to Reclusion Perpetua and to pay the heirs of the victim Jufer James de Leon the amount of P50,000.00 as indemnity for his death, P42,500.00 as actual damages, and P100,000.00 as moral damages.

2. In Criminal Case No. 06-8246-MK, accused ALBERT SANCHEZ y GALERA is also found GUILTY beyond reasonable doubt of the crime of MURDER as defined and penalized under Article 248 of the Revised Penal Code qualified by treachery and evident premeditation and is hereby sentenced to reclusion perpetua and to pay the heirs of the victim Edgar De Leon the amount of P50,000.00 as indemnity for his death, P42,500.00 as actual damages and P100,000.00 as moral damages;

3. In Criminal Case No. 06-8247-MK, accused ALBERT SANCHEZ y GALERA is found GUILTY beyond reasonable doubt of the crime of FRUSTRATED MURDER under Article 248 in relation to Article 6 of the Revised Penal Code. Applying the indeterminate Sentence Law, and in the absence of modifying circumstances, he is hereby sentenced to in indeterminate prison term of TEN (10) YEARS and ONE (1) DAY of prison mayor as minimum, to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of reclusion temporal as maximum, and to pay his victim Jeane de Leon the amount of P40,786.55 as actual expenses and P 50,000.00 as moral damages; and

4. In Criminal Case No. 06-8248-MK, the accused ALBERT SANCHEZ y GALERA is found GUILTY beyond reasonable doubt of the crime of FRUSTRATED MURDER under Article 248 in relation to Article 6 of the Revised Penal Code. Applying the indeterminate Sentence Law, and in the absence of modifying circumstances, he is hereby sentenced to in indeterminate prison term of TEN (10) YEARS and ONE (1) DAY of prison mayor as minimum, to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of reclusion temporal as maximum, and to pay his victim Jelyn Mae de Leon the amount of P66,341.85 as actual expenses and P50,000.00 as moral damages.

The period during which the herein accused was in detention during the pendency of these cases shall be credited to him in full provided he agrees to abide by and comply with the rules and regulations of the City Jail of Marikina.

SO ORDERED.

Therefrom, Sanchez went to the CA on appeal, docketed as CA G.R. HC-No. 02902, on the lone submission that the RTC erred in convicting him of murder and frustrated murder when the qualifying circumstances of treachery and evident premeditation have not been proven beyond reasonable doubt.

Eventually, the CA rendered on February 27, 2009 a Decision affirming that of the RTC, with the following modification: the increase in the award of civil indemnity, but the reduction of the award for moral damages in Criminal Case Nos. 06-8245-MK and 06-8246-MK, respectively. The fallo of the CA's decision reads:

WHEREFORE, the appeal is DENIED and the appealed decision dated 23 July 2007 is AFFIRMED with MODIFICATIONS in that: (a) the awards of civil indemnity in Criminal Case Nos. 06-8245-MK and 06-8246-MK are respectively increased to P75, 000.00; while the amounts of moral damages in said cases are reduced to P50, 000.00 respectively.

As did the RTC, the CA found the killing of Edgar and Jufer and the wounding of the Jeane and Jelyn to have been attended by treachery and evident premeditation.

On March 12, 2009, appellant filed a timely Notice of Appeal of the appellate court's decision.

By Resolution of September 16, 2009, the Court accepted the appeal and required the parties to submit

supplemental briefs, if they so desire within 30 days from notice. Each, however, manifested the willingness to submit the case on the basis of the records and the pleadings already submitted.

The Ruling of the Court

By virtually reiterating his arguments raised before the CA, appellant admits criminal responsibility for the death of Edgar and Jufer and the almost fatal injuries of Jelyn and Jeane. He now presents the following point as conclusion that the appellate court should have made: that the prosecution failed to prove with moral certainty the circumstance of treachery and evident premeditation, hence, he should be acquitted of the crimes charged convicting him instead of the lesser crimes of homicide and frustrated homicide.

The desired downgrading of appellant's criminal liability, from murder to homicide (two counts) and from frustrated murder to frustrated homicide (two counts) cannot be granted. The instant appeal is, accordingly, dismissed.

Article 248[21] of the Revised Penal Code defines "Murder" as the unlawful killing of a person, which is not parricide or infanticide, provided that treachery or evident premeditation, among other circumstances, attended the killing. The presence of one of the circumstances enumerated in Art. 248 of the Code would suffice to qualify a killing as murder.

There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms which tend directly and specially to ensure its execution, without risk to himself arising from the defense, which the offended party might make. For treachery to be appreciated, two conditions must concur:

- (1) The employment of means, methods or manner of execution that would ensure the offender's safety from any defense or retaliatory act on the part of the offended party; and
- (2) The offender's deliberate or conscious choice of means, method or manner of execution.[22]

In the case at bar, circumstances do obtain to justify the finding of treachery in the killing of Jufer. Consider: Appellant surreptitiously entered the De Leons' residence at around 5:00 o'clock in the morning of June 27, 2006 and snuck up inside Jufer's bedroom, while the other De Leon children were busy preparing for school and their mother attending to their breakfast. The family was unaware that appellant went to the second floor and stabbed Jufer, at that time merely 11 years old who most likely had no opportunity, but surely without the needed heft and strength to ward off, much less overpower, the appellant.

The essence of treachery is the sudden attack by an aggressor without the slightest provocation on the part of the victim, depriving the latter of any real chance to defend himself, thereby ensuring the commission of the crime without risk to the aggressor.[23] The trial court correctly appreciated the qualifying aggravating circumstance of treachery in the killing of Jufer.

The Court can grant that no one witnessed the actual killing of Jufer. This fact alone, however, is not an argument against the criminal liability of the appellant for the lad's gruesome death. As may be recalled, appellant was in Jufer's room, holding a bloody knife over the unmoving boy lying face down on bed when Jelyn entered his brother's room. More importantly, Jufer, before breathing his last, positively identified appellant him as his assailant.

Jurisprudence teaches that there is treachery when an adult person attacks and causes the death of a child of tender years.[24] As the Court elucidated in *People vs. Cabarrubias*,[25] the killing of a child is characterized by treachery even if the manner of assault is not shown. For, the weakness of the victim due to his tender years results in the absence of any danger to the accused.

What Jufer uttered just before he expired - "Mama, si Kuya Albert, sinaksak ako"- is admissible in evidence against the appellant pursuant to Section 37, Rule 130 of the Rules of Court.

Sec. 37. Dying declaration. -- The declaration of a dying person, made under the consciousness of an impending death, may be received in any case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death.

A dying declaration is an evidence of the highest order; [26] it is entitled to the utmost credence on the premise that no one person who knows of his impending death would make a careless and false accusation. At the brink of death, all thoughts of concocting lies disappear.

Treachery is likewise appreciated in the stabbing of Jelyn. When Jelyn went up to look for Jufer, appellant approached her from behind, covered her mouth and stabbed her. The relative physical positions of the unsuspecting Jelyn and appellant when the latter commenced the attack and the suddenness thereof caught Jelyn unaware and unable to defend herself. Jelyn's testimony on direct examination established the elements of treachery:[27]

Court:

What time was it when you were eating?

Witness:

5:30 O'clock in the morning your Honor.

Court:

Of what date?

Witness:

January 27, 2006 Your Honor.

x x x x

Atty. Gonzales:

You said that after eating you were looking for Jufer, what did you do to find him?

Witness:

I went to their room sir.

Atty. Gonzales:

When you said to their room, which room are you referring?

Witness:

The room of Jufer, sir.

x x x x

Atty. Gonzales:

What happened next after that?

Witness:

I was looking for him and when I found him, somebody covered my mouth, sir.

x x x x

Court:

Where was he [Jufer], inside the room?

Witness:

He was on the bed lying face down, Your Honor.

Atty. Gonzales:

You said that someone covered your mouth, what did you do when that somebody covered your mouth?

Witness:

I kept silent, I felt something x x x a pointed object on my neck, sir.

Atty. Gonzales:

After that, what transpired next, if any?

Witness:

I was pinned down and I was stabbed, sir.

Court:

Did you see this someone who covered your mouth?

Witness:

Not yet Your Honor.

x x x x

Atty. Gonzales:

Madam witness, you said a person covered your mouth, you did not do anything but despite that he stabbed you?

Witness:

Yes, sir.

Atty. Gonzales:

You said that you were pinned down by this person, what happened next?

Witness:

He pressed my head until I could not breath[e] anymore, sir.

x x x x

Atty. Gonzales:

But at the time you were stabbed by that person, were you not able to talk to your brother Jufer?

Witness:

No sir. (Underscoring added.)

The notion of Jelyn being helpless when appellant made his brutal moves finds corroboration from her mother's testimony, as follows:

COURT:

What time did you wake up during the day [June 27, 2006]?

WITNESS:

5:00 o'clock in the morning your Honor.

COURT:

What about the children?

WITNESS:

Same time your Honor.

x x x x

ATTY. GONZALES: What did he [Jorvi] tell you?

WITNESS:

When he approached me, he told me, "Mama, nasa itaas si Kuya Albert"

ATYY. GONZALES: What was your reaction when your son told you that Kuya Albert was upstairs?

WITNESS:

I felt nervous because I realized that the commotion I heard was coming from upstairs, sir.

ATTY. GONZALES: What did you do after that?

WITNESS:

I immediately went inside the house and went upstairs, sir.

ATTY. GONZALES: When you were upstairs, what happened next?

WITNESS:

When I went upstairs I saw my daughter Jelyn Mae bloodied at the right side of her neck, sir.

ATTY. GONZALES: What was your reaction when you saw that your daughter was bloodied at the right side of her neck?

WITNESS:

I immediately uttered, "dali tumawag ka ng 161"

ATTY. GONZALES: After that what happened?

WITNESS:

I went inside the room of Jufer, sir. And when I entered the room, Albert shoved me, sir.

ATTY. GONZALES: By the way, where was this Albert when you entered the room?

WITNESS:

When I saw Jelyn, Albert was on her back holding a knife, sir.

ATTY. GONXALES: What was Jelyn doing at that time?

WITNESS:

I saw there was fear on her face, sir.

x x x x

COURT:

Was your son still alive at that time?

WITNESS:

Yes, Your Honor. He said something to me x x x "Mama, si Kuya Albert, sinaksak ako"

COURT:

Where was the accused when your son Jufer told you that?

WITNESS:

He suddenly ran outside, Your Honor."

The manner appellant assaulted and eventually killed Edgar also indicated treachery. Like his wife and children, Edgar had at the start no idea of appellant's armed and dangerous presence in the house on the fateful morning in question. Jelyn testified[28] that, while she and her mother were being held in the room by appellant, Edgar came up but appellant pushed past Edgar by the stairs, stabbed him, then grabbed another knife from the kitchen before coming back upstairs to finish Edgar off. The attack against Edgar when he was on his way to the upper floor was so sudden and unexpected, negating any suggestion that he was in a position to defend himself. These circumstances are manifestly indicative of the presence of conditions under which treachery may be appreciated, i.e., the employment of means of execution that affords the person attacked no opportunity to defend himself. Even more, the fact that appellant inflicted more stabbing blows on Edgar after he fell on his bottom gravely wounded and with his large intestines spilling out, clearly exhibits the treacherous nature of the killing.

Joshua Ray De Leon testified being awakened by the noise and seeing his father near the top of the stairs, while appellant, wielding a knife, was at the middle of the stairs following the former. Because of fear, he hid in the hallway bathroom but witnessed the stabbing through the slightly opened bathroom door.

Treachery is not, however, attendant in the stabbing of Jeane. While at the back of their house, son Jorvi informed her that appellant was upstairs. In fact, she instructed her daughter Jelyn to call 611 as she asked the appellant to spare their lives. Appellant even warned her to keep quiet.[29] After she discovered that Jufer was wounded, she started to carry him outside their bedroom, only to see her husband wrestling with the appellant. She had the presence of mind to put down her son, pick up a knife she found on the floor and attempted to stab the accused.

ATTY. GONZALES: Going back to my question, after you saw your husband wrestling with Albert Sanchez, what did you do if any?

WITNESS: I ran towards to help my husband because I saw Albert stabbed him on his side and my husband fell down, sir.

x x x x

ATTY. GONZALES: Now while the accused was stabbing your husband, what did you do next?

WITNESS: I ran and I noticed a knife and I held it, sir.

ATTY. GONZALES: After you were able to hold the knife, what did you do next?

WITNESS: I approached him while Edgar was sitting down. When I approached him, he stabbed me (witness pointed to her lower side of the chest), sir.

x x x x

COURT: According to you, you were able to see a knife?

WITNESS: I noticed the knife on the hallway, Your Honor.

COURT: On your way out of the room?

WITNESS: Yes Your Honor.

COURT: On the floor?

WITNESS: Yes Your Honor.

COURT: After you went out of the room, did you notice if the accused was still holding a knife?

WITNESS: Yes Your Honor. Because he was stabbing Edgar.

COURT: You picked up that knife from the floor?

WITNESS: I just saw another knife, Your Honor.

COURT: The one you noticed?

WITNESS: I picked it up, Your Honor.

COURT: You went to the accused?

WITNESS: Yes Your Honor.

x x x

COURT: When you were stabbed, you were holding a knife?

WITNESS: Yes, Your Honor.

COURT: You did not fight back?

WITNESS: When I saw the intestines of my husband, I trusted the knife on him, I thought I was able to stab him, Your Honor.

In fine, Jeane was sufficiently forewarned of the aggression against her and her family by the appellant. Appellant was on a killing frenzy when Jeane faced him up close at Jufer's room. An attack from appellant was then something not unexpected. Hence, treachery cannot be appreciated against appellant, although his sex and weapon gave him superiority of strength as against Jeane. An attack by a man with a deadly weapon upon an armed and defenseless woman constitutes the circumstance of abuse of that superiority which his sex and weapon used in the act afforded him, and from which the woman was unable to defend herself.[30]

The next issue is whether or not the aggravating circumstance of evident premeditation attended the assault on the De Leon family. Both the RTC and the CA resolved the question in the affirmative.

We agree with their parallel determinations.

For evident premeditation to be considered, the following must be established: (1) the time when the accused determined (conceived) to commit the crime; (2) an overt act manifestly indicating that he clung to his determination to commit the crime (kill his victim); and (3) a sufficient lapse of time between the decision to commit the crime and the execution thereof to allow the accused to reflect upon the consequences of his act.[31] Premeditation presupposes a deliberate planning of the crime before executing it. The execution of the criminal act, in other words, must be preceded by cool thought and reflection. As here, there must be showing of a plan or preparation to kill, or proof that the accused meditated and reflected upon his decision to execute the crime.[32]

In the case at bar, the interplay of the following circumstances indicate the presence of evident premeditation. First, the night before the stabbing incidents, appellant went to the De Leon residence to ask for money. Edgar, with much reluctance, gave appellant only P100. Jeane noted appellant receiving the money with a hostile expression on his face. Appellant was no longer working for the De Leon, so he was not required to go back to the house. But he did return the following morning, January 27, 2006, armed, surreptitiously entering the house and proceeding to Jufer's bedroom while everyone was busy having breakfast and preparing for school.

Second, Jufer told his mother that while relieving himself in the comfort room, appellant pointed a knife at him. John Ray corroborated the pointing-of- knife scenario. On the witness box, John Ray testified that on the night of June 26, 2006, appellant was toying with a knife while talking to him and Jufer, threatening to kill them both should they report the matter to their parents.

Last but not least, six different knives, all with blood stains, were found at the crime scene.[33] Two pairs of gloves[34] were discovered near Jufer's body. These compelling pieces of evidence presuppose planning.

There can be no serious argument that appellant was determined to commit a crime as early as on the night of January 26, 2006, when he uttered the threat to kill Jufer at the bathroom. Jelyn and Joshua Ray testified to seeing appellant holding a knife while talking to Jufer.[35] Appellant had the whole night to contemplate his action and reflect upon its consequences before he entered the household the following morning. Finally, the covert manner appellant gained entry in the house and stabbed the victims showed a careful deliberation of his criminal intent. As the CA aptly observed, taking into stock the incidents that happened on the night of January 26, 2006, the fact that he hid in the room of Jufer after sneaking into the De Leon's household early the next morning and the real evidence found in the house, appellant's "commission of the crime was not clearly a product of accident, it was evidently a premeditated one."

Clearly then, the presence of the attending circumstances of treachery and/or evident premeditation qualified the killing of Edgar and Jufer to murder, which, under Art. 248 of the Revised Penal Code, as amended, is punishable by reclusion perpetua to death. Article 63[36] of the same Code provides that if the penalty prescribed is composed of two indivisible penalties, as in the instant case, and there is an aggravating circumstance the higher penalty should be imposed. Since, evident premeditation can be considered as an ordinary aggravating circumstance, treachery, by itself, being sufficient to qualify the killing, the proper imposable penalty - the higher sanction - is death. However, in view of the enactment of Republic Act No. 9346,[37] prohibiting the imposition of the death penalty, the penalty for the killing of each of the victim is reduced to reclusion perpetua without eligibility for parole.[38] The penalty of reclusion perpetua thus imposed by the CA on appellant for each count of murder is correct. So is the award of Php 75,000 as civil indemnity ex delicto.[39]

The Court, however, modifies the award of moral damages, which is mandatory in homicide and murder without need of allegation and proof other than the death of the victim.[40] To conform with recent jurisprudence on heinous crimes where the proper imposable penalty is death, if not for R.A. 9346, the award of moral damages is

increased to PhP 75,000 for each count of murder.[41] The award of exemplary damages in the amount of PhP 30,000 is additionally in order if, as here, the crime was committed with an aggravating circumstance, be it generic or qualifying.[42] The Court thus grants the same to serve as deterrent to serious wrongdoings, as a vindication of the wanton invasion of the rights of the victims, or punishment for those guilty of outrageous conduct.[43]

As to the stabbings of Jeane and Jelyn, appellant committed frustrated murder as he inflicted on them mortal wounds which could have had taken their lives had it not been for the prompt medical intervention, a cause independent of appellant's will.

WHEREFORE, the appeal is DENIED. The Decision of the Court of Appeals dated February 27, 2009 in CA-G.R. CR.-H.C. No. 02902 finding Albert Sanchez y Galera guilty of two counts of murder and two counts of frustrated murder and sentencing him to serve prison terms therein defined without parole is hereby AFFIRMED with the MODIFICATION that appellant is ordered to pay the heirs of Jufer James and Edgar De Leon the increased amount of PhP 75,000 as moral damages and the amount of PhP 30,000 as exemplary damages, respectively, for each count of murder in Criminal Case Nos. 06-8245-MK and 06-8246-MK.

No pronouncements as to costs.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] Penned by Associate Justice Vicente S.E. Veloso with the concurrence of Justice Edgardo P. Cruz and Justice Ricardo R. Rosario.

[2] P/Chief Inspector Canon Manalo, a member of the SOCO team and PO1 Reynaldo Candelaria.

[3] 11 years old

[4] Referred to as Jeanne in some pleadings.

[5] TSN, June 5, 2006, p. 14, Records, Folder 2.

[6] TSN, September 12, 2006, p. 57.

[7] TSN, June 5, 2006, p. 54, Records, Folder 2.

[8] Id. at 49-65.

[9] TSN, September 19, 2006, p. 56.

[10] Id. at 60.

[11] Id. at 67.

[12] Exh. "M" & "N".

[13] Dated January 27, 2006, Exhibit "M", Folder 2, Documentary Exhibits, p. 22.

[14] As for Jufer James C. De Leon:

x x x

(1) Multiple abrasions, right cheek, measuring 7 x 6 cm, 5 cm from the anterior midline.

(2) Ligature mark, neck, measuring 18 x 0.4cm, bisected by the anterior midline.

(3) Hematoma, right shoulder measuring 7 x 3.5 cm from the anterior midline. x x x

Conclusion: Cause of death, Stab wounds, trunk.

As for Edgar C. De Leon:

x x x

(1) Stab wound, neck, measuring 3 x 0.3 cm. 8 cm left of the anterior midline.

(2) Stab wound, right pectoral region, measuring 4 x 0.5cm, 18 cm from the anterior midline.

Conclusion: Cause of death is stab wounds, trunk

[15] Exhibit "K", Folder 2, Documentary Exhibits, p. 21

lacerated wound 3cm left suborbital

Lacerated wound less than 2 cm left cheek #2

Stab wound 5 cm upper left quadrant

Expor Lap

Vejorrhaphy Gastrorrhaphy

[17] Supra, Exhibit "L"; Stab wound Zone II neck right

mandibular area right

Supraclavicular area right

S/P Wound Exploration

Ligation of Bleeders

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[18] As shown by the receipts, Exhibits "Q" to "Q-26".

[19] Order dated March 26, 2007, Records, Main Folder, p. 155.

[20] Presided by Judge Felix P. Reyes.

[21] 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:

1. With treachery x x x;

x x x

5. With evident premeditation.

[22] People v. Bohol, G.R. No. 178198 December 10, 2008.

[23] People v. Guzman, G.R. No. 169246, January 26, 2007; citing People v. Fallorina, G.R. No. 137347, March 4, 2004, 424 SCRA 655, 674.

[24] Reyes, The Revised Penal Code, 16[th] Ed., 2006, p. 471; citing People v. Valerio, Jr., No. L-4116, February 25, 1982, 112 SCRA 231

[25] Nos. L-94709-10, June 15, 1993.

[26] *People v. Cortejano*, G.R. No. 140732, January 29, 2002.

[27] TSN, June 5, 2006, p. 52.

[28] TSN, June 5, 2006, p. 70.

[29] TSN, September 19, 2006.

[30] *People v. Ermita*, 383 Phil. 656 (2000).

[31] *People v. Herida*, G.R. No. 127158, March 5, 201, 353 SCRA 650.

[32] *People v. Guzman*, supra note 23.

[33] Exh. "D", "D-1", "D-2", and "D-3".

[34] Exh. "C-7" and "C-8."

[35] TSN, June 5, 2006, p. 26.

[36] Art. 63. Rules for the application of indivisible penalties - xxx In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof: 1. When the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

[37] An Act Prohibiting the Imposition of the Death Penalty, signed into law on June 24, 2006.

[38] Sec. 3 of RA 9346 provides that "persons convicted of offenses with reclusion perpetua or whose sentences will be reduced to reclusion perpetua shall not be eligible for parole."

[39] *People v. Quiachon*, G.R. No. 170236, August 31, 2006, 500 SCRA 704.

[40] *People v. Bajar*, 460 Phil 683 (2003).

[41] *People v. Regalario*, G.R. No. 174483, March 31, 2009, 582 SCRA 738.

[42] *Id.*

[43] *People v. Guzman*, supra; *People v. Orilla*, G.R. Nos. 148939-40, February 13, 2004, 422 SCRA 620.

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