

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RENE BOY DIMAPILIT Y ABELLADO, ACCUSED-APPELLANT.*G.R. No. 210802. August 09, 2017*

Ponente: LEONEN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-210802/>**LEONEN, J.:**

A witness' inconsistency on minor details does not affect his or her credibility as long as there are no material contradictions in his or her absolute and clear narration on the central incident and positive identification of the accused as one (1) of the main assailants.[1] Any inconsistency, which is not relevant to the elements of the crime, "is not a ground to reverse a conviction." [2]

This Court resolves this appeal[3] filed by Rene Boy Dimapilit y Abellado (Rene Boy) from the August 30, 2013 Decision[4] of the Court of Appeals in CA-GR. C.R.-H.C. No. 05091, which affirmed the Regional Trial Court ruling[5] that he was guilty beyond reasonable doubt of murder.

On February 11, 2007, victim Diego Garcia (Diego) informed his live-in partner Magdalena Apasan (Magdalena) that he would go to Pastor Dimapilit's (Pastor) house as Pastor wanted to rent his tricycle.[6] Diego informed Magdalena that he would be back immediately because he would be sending off his brother, Simeon Garcia (Simeon), [7] who was visiting from Mindoro at that time.[8]

When twenty minutes passed and Diego was still not home, Magdalena worried, since Pastor and his sons were reputed troublemakers in their place.[9] Thus, Magdalena and Simeon decided to go to Pastor's house.[10]

As they approached Pastor's house, Magdalena saw one (1) of Pastor's sons, Junnel Dimapilit (Junnel), box Diego's face. Diego tried to escape but Junnel caught him. Pastor hit Diego's head with a piece of wood, rendering Diego unconscious. Accused Rene Boy, another son of Pastor, hit Diego's face with a crowbar (bareta).[11]

Pastor and his sons Junnel and Joel Dimapilit (Joel) kept on boxing Diego, prompting Simeon to shout, "Tigilan na po ninyo ang pagbugbog at pagbareta sa mukha ng aking kapatid." [12]

Rene Boy then responded, "Putang-ina mo, ikaw na ang susunod na mapapatay." [13]

For fear that the assailants might pursue her, Magdalena hid behind a mango tree. Simeon ran for help. When Pastor and his sons left, Magdalena went to Diego's aid, whose face was unrecognizable.[14]

Barangay officials came and volunteered to report the incident to the police. By the time Simeon, and his two (2) sons, arrived, the assailants had already left.[15]

Meanwhile, a report on the killing incident reached Tuy Municipal Police Station. PO3 Ruelito Fronda, PO3 Pedro Oronico, SPO1 Augusto Sanchez, PO2 Joy Jimenez, and PO2 Michael Canlubo responded pursuant to the orders of their Chief of Police, PO3 Gary Bulaclac (PO3 Bulaclac).[16]

They arrived at the crime scene at around 2:10 p.m., where they saw Diego lying on the ground, drenched in

blood, with his tricycle 20 meters away and his sandals scattered about.[17]

Magdalena told the police that Pastor, Junnel, Rene Boy, and Joel killed Diego.[18] With the information gathered, the police made a follow up operation.[19]

At around 3:00 p.m. and 4:30 p.m., they arrested Pastor in Barangay Lumbangan, Tuy, Batangas and Junnel in Lian, Batangas, both of whom they delivered to the police station.[20]

Dr. Jaime Valientes (Dr. Valientes), a Municipal Health Officer in Tuy, Batangas, noted the following findings in Diego's medico-legal report:

- 1)
hacking wound sub mandibular area extending to the left mandible from temporo mandibular joint 17.3 x 7 x 2 cm;
- 2)
Periorbital hematoma right;
- 3)
Lacerated wound right post auricular area 1 x .5 x .5 cm;
- 4)
Lacerated wound mid upper lip 1 x .5 x 1 cm;
- 5)
Complete fracture mandibular area extending to the left mandible from temporo mandibular joint 17.3 x 7 x 2 cm;
- 6)
Superficial laceration 7.5 x .2 x .1 cm at the abdomen;
- 7)
Positive evisceration right eye ball; and
- 8)
Depressed fracture mid nasal bridge 1x4 cm.[21]

He concluded that the first, third, fourth, fifth, and sixth wounds "were caused by a bladed weapon considering that the edges of these wounds were smooth." The second, seventh, and eighth injuries were due to "any blunt or hard object like a piece of wood or an iron bar." [22]

According to Dr. Valientes, the first wound primarily caused Diego's immediate demise.[23] He noted in the Death Certificate that Diego's traumatic head injury caused his death.[24]

Rene Boy, Pastor, Junnel, and Joel were charged with Murder, docketed as Crim. Case No. 5970, before Branch 9, Regional Trial Court, Balayan, Batangas.[25]

The Information read:

That on or about the 11[th] day of February, 2007, at 12:20 o'clock [sic] in the afternoon, at Barangay Talon,

Municipality of Tuy, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, accused Pastor Dimapilit y Cornejo alias "Astor", armed with a big "sianse" and a piece of wood, Rene Boy Dimapilit y Abellado armed with a crowbar (taktak/bareta), conspiring and confederating together with accused Junnel Dimapilit y Abellado alias "Nonoy" and Joel Dimapilit y Abellado, acting in common accord and mutually helping one another, with intent to kill, with the qualifying circumstances of treachery, evident premeditation, and with abuse of superior strength and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and hit with the said weapons one Diego Garcia y Mauro, suddenly and without warning, thereby inflicting upon the latter multiple wounds and other injuries on the different parts of his body which directly caused his death.

Contrary to law.[26]

Only Rene Boy was arraigned on February 12, 2008 as Pastor and Junnel escaped from detention on May 12, 2007.[27] Rene Boy pleaded not guilty to the charge.[28]

The prosecution presented the following witnesses: Magdalena; Diego's son, Rommy Garcia (Rommy); PO3 Bulaclac; and Dr. Valientes.[29]

Magdalena testified about Diego's death on February 11, 2007.[30] On cross-examination, she asserted that she did not know "any personal grudge between [Rene Boy] and Diego." [31]

She did not mention anything about Simeon in her sworn statement although he was with her in following Diego at Pastor's house. She just stated that she hid behind a mango tree out of fear. She admitted failing to ask for help in spite of the people in the vicinity in broad daylight.[32]

On direct-examination, she narrated that Simeon asked Rene Boy to stop beating Diego. Rene Boy was only two (2) arms' length from Simeon when the former threatened the latter. From their position, Magdalena and Simeon saw Rene Boy beat Diego as there was no obstruction to their view. However, she did not bring this up in her sworn statement because she was allegedly afraid and confused.[33]

She admitted saying in her sworn statement that she saw Junnel box Diego's jaw. Diego tried to escape but Joel caught him and boxed him. In her direct examination, she said that it was Junnel and not Joel who ran after Diego. However, it was really Joel who pursued Diego. Diego's unexpected demise and the similarity in the names allegedly confused her.[34]

Rommy confirmed the damages they suffered and the actual funeral expenses spent on Diego's interment.[35]

PO3 Bulaclac testified that he and five (5) other police officers responded when they learned about the incident.[36]

Dr. Valientes attested that he conducted the cadaver's post-mortem examination and accordingly prepared the needed report.[37]

On the other hand, the defense presented as its sole witness, Rene Boy, who denied all the accusations against him.[38]

Rene Boy testified that on February 10, 2007, he and his wife slept at his parents' house in Barangay Talon, Tuy, Batangas to attend his cousin's birthday the next day. He said that they hurriedly left around 9:00 a.m. the next day as they were invited by his brother Junnel to have lunch at the house of Junnel's parents-in-law in Bungahan, Lian, Batangas. Together with Junnel and his wife, they rode a tricycle and reached their destination at around 10:00 a.m. After lunch, Rene Boy claimed that he and his wife immediately went home to check on the charcoal he was making.[39] It was only when he was arrested on October 6, 2007 that he discovered that he was one (1)

of the suspects for Diego's death. He averred not to know anything about the incident, his father being a suspect, or his father's and brother Junnel's arrest just a few days after the incident. However, he later admitted that he learned about Junnel's apprehension but not his father's.[40]

During trial, Rene Boy alleged that Junnel suggested leaving the party as only pancit and juice were served.[41]

He gave inconsistent answers on the actual time of Junnel's invitation to leave. He clarified that he was already in Lian when Junnel invited him. They were constrained to leave the celebration as he needed to watch over the charcoal he was making and he wanted to cook delicious food. [42]

He claimed that his house was in Baldeo, Lian, Batangas and Junnel's house was only 10 kilometers away or about a six (6)-minute walk away.[43]

The Regional Trial Court found that Diego was killed by the four (4) accused.[44]

It gave more credence to Magdalena's positive identification of Rene Boy as the offender.[45] Similarly, Magdalena's statements were substantiated by the testimony of Dr. Valientes.[46] It ruled that Magdalena was a credible witness who had no ill motive to fabricate false charges against the accused.[47]

Furthermore, the trial court found that there was treachery, qualifying the killing to murder,[48] Despite Diego's helpless condition, the accused repeatedly hacked him to ensure his death.[49] However, evident premeditation could not be appreciated as there was no showing that the collective acts of the accused "were preceded by a reflection that led to a determined plan to kill [Diego] after sufficient time had passed from the hatching of the plan." [50] The dispositive portion of the Decision read:

WHEREFORE, the foregoing considered, this Court hereby finds accused Rene Boy Dimapilit y Abellado GUILTY beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code, as amended, and sentences him to suffer the penalty of Reclusion Perpetua and to pay the heirs of victim Diego Garcia represented by private complainant Rommy Garcia the following amounts: Seventy Five Thousand Pesos (P75,000.00) as civil indemnity for the victim's death, One Hundred Forty-eight Pesos (P148,000.00) as actual damages, Fifty Thousand Pesos (P50,000.00) as moral damages, Fifty Thousand Pesos (P50,000.00) for attorney's fees and Thirty Thousand Pesos (P30,000.00) for litigation expenses. With Costs.

Let the necessary mittimus for the transfer and detention of accused Rene Boy Dimapilit for the service of his sentence in the National Bilibid Prisons, Muntinlupa City, be issued.

As regards accused Pastor Dimapilit y Cornejo, Junnel Dimapilit y Abellado and Joel Dimapilit y Abellado, let the instant case against them be ARCHIVED.

SO ORDERED.[51] (Emphasis in the original)

In his appeal, Rene Boy insisted that his guilt was not proven beyond reasonable doubt as Magdalena's testimony was allegedly "tainted with material and substantial inconsistencies." [52]

In its August 30, 2013 Decision, the Court of Appeals affirmed the trial court ruling.[53] In issues involving the credibility of witnesses, the findings of the trial court are given great respect since it has the opportunity to "observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth." [54] In the absence of any showing that it has overlooked or misapplied some facts, its findings of facts will not be disturbed on appeal.[55]

It ruled that the minor inconsistencies in Magdalena's testimony did not affect her credibility as a witness.[56] One cannot suppose that witnesses could give errorless testimonies especially when they are relating the "details

of a harrowing experience."[57]

Moreover, it also ruled that Rene Boy failed to substantiate his defense of denial.[58] His self-serving assertions were inadmissible as proof of the alleged facts he was asserting.[59] The dispositive portion of its Decision provided:

WHEREFORE, the Decision appealed from, being in accordance with law and the evidence, is hereby AFFIRMED.

SO ORDERED.[60]

An appeal before this Court was filed.

On February 3, 2014,[61] the Court of Appeals elevated to this Court the records of this case pursuant to its Resolution[62] dated September 26, 2013, which gave due course to the Notice of Appeal[63] filed by Rene Boy.

In its Resolution[64] dated March 12, 2014, this Court noted the records of the case forwarded by the Court of Appeals. The parties were then ordered to file their supplemental briefs, should they so desired, within 30 days from notice.

On May 6, 2014, the Office of the Solicitor General filed a Manifestation[65] on behalf of the People of the Philippines stating that it would no longer file a supplemental brief. A similar Manifestation[66] was filed on May 9, 2014 by the Public Attorney's Office on behalf of Rene Boy.

The sole issue for resolution is whether or not Rene Boy Dimapilit's guilt was proven beyond reasonable doubt.

Rene Boy underscores the material inconsistencies in Magdalena's testimony and insists that they cannot serve as a basis for finding him guilty.[67]

1) Magda[lena] stated that she saw accused Junnel as the one who boxed Diego which statement she negated during the next hearing when she claimed that it was Joel; 2) Magda[lena] was insistent that she was with Simeon, the victim's brother, when she went to the place of the incident, which is in contradiction to her initial report wherein she never mentioned of Simeon; 3) Magda[lena] hid herself behind a mango tree because she feared for her life and still managed to witness what really transpired on that fateful afternoon which according to the defense is inconsistent to human experience because if it were true, she should have been too afraid to peek and see for herself what was happening; and 4) She never asked anyone for help which is contrary to human experience that a person whose loved one is being assaulted will just stand, wait and do nothing.[68]

Furthermore, Rene boy argues that the trial court erred in equating the idea that Magdalena could have no other motive than to ensure justice to "the conclusion that a witness is credible because the defense has not shown any ill motive that would motivate him or her to falsely testify."[69] Citing *People v. Rodrigo*, the conclusion only pertains to "third parties who are detached from and who have no personal interest in the incident that gave rise to the trial."[70]

In this case, he claimed that a common-law wife is not a detached witness.[71] Her testimony "should be handled with the realistic thought that they have . . . material and emotional ties to the subject of litigation."[72] Her testimony cannot be readily accepted as credible merely because the defense failed to prove any ill motive on her part.[73]

Accordingly, he argues, the trial court could not automatically disregard his defense of denial since "not all denials should be regarded as fabricated, emphasizing that if the accused is truly innocent, he [or she] can have no other defense but denial and alibi."[74]

He then concludes that "not all the elements of [murder] were proven with moral certainty." [75]

On the other hand, the Office of the Solicitor General maintains that the minor inconsistencies in Magdalena's testimony do not affect her credibility. [76]

Magdalena herself was shocked when she narrated that it was Junnel, not Joel, who boxed Diego. At that time, Magdalena was emotional when she recounted the traumatic incident that happened. Hence, Magdalena did not deliberately intend to commit the alleged contradictions. [77] Provided that the witness' testimonies conform to material points, "the slight clashing statements dilute neither the witness' credibility nor the veracity of [his or her] testimonies." [78]

Furthermore, Magdalena's testimony on how Diego was hit with a crow bar and a piece of wood was substantiated by the medico-legal report. Similarly, PO3 Bulaclac's testimony corroborated Magdalena's narration of events regarding the injuries sustained by Diego and regarding Simeon's presence in the crime scene. [79]

Nevertheless, regardless of who really overtook Diego, Magdalena's testimony "as a whole is sufficient to support [Rene Boy's] conviction. There could be no mistake as to the identity of all the assailants, since the killing happened at daytime and Magdalena was just two arms['] length or more away from the crime scene." [80]

Moreover, the relationship itself of a witness to an accused or complainant does not automatically discredit him or her. [81] On the contrary, "kinship by blood or marriage to the victim would deter one from implicating innocent persons, as one's natural interest would be to secure conviction of the real culprit." [82]

The Office of the Solicitor General asserts that denial cannot overcome a credible witness' positive identification of the accused. [83] Given that all the elements of murder were present and proven in this case, Rene Boy's conviction is warranted. [84]

The appeal lacks merit.

I

Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, [85] prescribes murder. It provides:

Article 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, or 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.

To warrant a conviction of murder, the following elements should be proven:

(1)

that a person was killed;

(2)

that the accused killed him or her;

(3)

that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and

(4)

that the killing is not parricide or infanticide.[86]

Diego's death on February 11, 2007 due to a "traumatic head injury," as evinced by his death certificate, is already settled.[87] Disputed, however, is whether accused Rene Boy participated in killing him.

There were contradicting testimonies from the prosecution witnesses and the defense. Magdalena directed to the accused as one (1) of the (4) offenders. She testified that on February 11, 2007, Pastor, Junnel, Rene Boy, and Joel "mutually helped each other in beating and stabbing" Diego. On the other hand, Rene Boy denies participation asserting that he knew nothing about Diego's death.[88]

In resolving Diego's appeal, this Court necessarily 'ascertains the credibility of Magdalena's testimony as a witness for the prosecution.[89]

It is already established that "assignment of values to the testimony of a witness is virtually left, almost entirely, to the trial court which has the opportunity to observe the demeanor of the witness on the stand." [90] Except for significant matters "that might have been overlooked or discarded, the findings of credibility by the trial court will not generally be disturbed on appeal." [91]

The trial court explicitly stated that Magdalena's testimony was categorical and consistent.[92] Based on the evidence presented before it, the trial court sustained the prosecution's stand.[93] Given that the trial court ruling on the credibility of Magdalena's testimony was also affirmed by the Court of Appeals,[94] this Court does not see any reason to deviate from the general rule. Hence, this Court is persuaded that Rene Boy participated in the killing since Magdalena has given a detailed account of the incident and has positively identified him as one (1) of the assailants.

However, Rene Boy hinges on the purported inconsistencies in Magdalena's testimony to assail her credibility.

The alleged inconsistencies in Magdalena's testimony only pertain to minor details. Hence, they do not affect her credibility. What is essential is that there are no material contradictions in her "complete and vivid narration [on] the principal occurrence and the positive identification" of the accused as one (1) of the main offenders.[95]

Admittedly, there were discrepancies between Magdalena's testimony before the court and her sworn statement. While she mentioned in court that she went with Simeon to follow Diego at Pastor's house, she failed to disclose this information in her sworn statement.[96] This failure, however, does not automatically cast doubt on her credibility as a witness. As explained in *People v. Nelmidia*: [97]

Inconsistencies between the sworn statement and direct testimony given in open court do not necessarily discredit the witness. An affidavit, being taken ex-parte, is oftentimes incomplete and is generally regarded as

inferior to the testimony of the witness in open court. Judicial notice can be taken of the fact that testimonies given during trial are much more exact and elaborate than those stated in sworn statements, which are usually incomplete and inaccurate for a variety of reasons. More so, because of the partial and innocent suggestions, or for want of specific inquiries. In addition, an extrajudicial statement or affidavit is generally not prepared by the affiant himself [or herself] but by another who uses his [or her] own language in writing the affiant's statement, hence, omissions and misunderstandings by the writer are not infrequent. Indeed, the prosecution witnesses' direct and categorical declarations on the witness stand are superior to their extrajudicial statements.[98] (Emphasis supplied)

Whether Magdalena was alone or with Simeon in following Diego to Pastor's house does not really matter. "An inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction." [99]

Magdalena's confusion with the names of the accused also does not affect her credibility as a witness. It is possible that she might have interchanged the name of "Junnel" to "Joel" due to their vivid similarity. This Court cannot assume that Magdalena would deliver errorless narrations while recalling the details of the harrowing killing incident. Instead of weakening her credibility, the trivial lapses strengthen her statements as they indicate that she was not "coached or [her] answers contrived." [100]

Moreover, the fact that Magdalena did not ask for help is not contrary to human experience. She clearly saw how the four (4) assailants took turns in beating Diego to death as the incident happened in broad daylight. Similarly, she heard how Rene Boy threatened Simeon.[101] Probably, out of fear for her life, Magdalena was constrained to be mum and helpless. "Witnesses of startling occurrences react differently depending upon their situation and state of mind, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience." [102] Hence, the trivial inconsistencies in Magdalena's testimony do not affect the fact that she witnessed how Rene Boy participated in killing Diego.

Furthermore, Magdalena's testimony on how the assailants took turns in beating and injuring Diego with their weapons was substantiated by the testimony and medico-legal report of Dr. Valientes.[103]

Magdalena recounted that Diego became unconscious when Pastor hit his head with a piece of wood.[104] Concomitantly, Dr. Valientes concluded that some of Diego's wounds were "caused by a bladed weapon considering that the edges of these wounds were smooth." [105]

Similarly, Magdalena also narrated how Rene Boy hit Diego's face with a crowbar.[106] Accordingly, Dr. Valientes also found that the other wounds sustained by Diego were due to a "hard object like a piece of wood or an iron bar." [107]

The Court of Appeals correctly pointed out that Magdalena's statements were corroborated by the testimony of PO3 Bulaclac regarding the following:

- 1) the receipt of a report of a killing incident; 2) finding victim sprawled on the road with wounds on his face from a bladed weapon; 3) the victim sustained injury in his jaw and hematoma in the left side of his body and left arm; 4) victim's tricycle of more or less twenty (20) meters away from the cadaver; and 5) they found Magdalena together with Simeon, her brother, in the crime scene.[108]

Magdalena's testimony was irrefutably supported by evidence. Hence, this cannot be outweighed by Rene Boy's baseless denial. This Court held:

Denial, like alibi, as an exonerating justification, is inherently weak and if uncorroborated, regresses to blatant impotence. Like alibi, it also constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[109]

II

In a further attempt to evade liability, Rene Boy asserts that the trial court erred in automatically accepting Magdalena's testimony as credible merely because the defense allegedly failed to prove that she had basis to falsely charge him.[110] Citing *People v. Rodrigo*,[111] he concludes that this assumption cannot apply to Magdalena as it only applies to detached third parties.[112]

The factual milieu of Rodrigo is different from the case at bar.

In Rodrigo, a restaurant owned by spouses Paquito (Paquito) and Rosita (Rosita) Buna was robbed by three (3) armed men. One (1) of the assailants fired at Paquito three (3) times, causing his death. Based on the sworn statement of Rosita, Lee Rodrigo (Rodrigo) was one (1) of the assailants. The two (2) others, however, remained at large.[113]

An Information for special complex crime of robbery with homicide was filed against Rodrigo. Rosita, as prosecution witness, identified Rodrigo in court as one (1) of the robbers.[114] On re-cross examination, however, she conceded "that she initially identified Rodrigo by means of a photograph shown to her at the police station." [115] Thus, the photo "was the only one shown to her at that time." [116]

On the other hand, the defense presented Rodrigo as its witness who interposed the defense of denial, contending that he was at home at the time of the incident.[117]

The trial court convicted Rodrigo of the crime charged. It ruled that Rosita's testimonies were "candid, straightforward, firm, and without any trace of any improper motive." [118]

On appeal, Rodrigo's conviction was upheld. The Court of Appeals, however, modified the award of civil indemnity. It underscored that Rosita had positively identified him from the photo given to her at the police station. Then months later, she saw him at San Jose del Monte Police Station.[119] Also, Rosita pointed to Rodrigo in court as one (1) of the assailants.[120]

Rodrigo appealed before this Court, pointing out the inconsistencies in Rosita's testimony. Allegedly, Rosita's inconsistencies coupled by Rodrigo's defense of denial corroborated that he was not at the crime scene.[121] He also asserted that the recognition made through photograph was not enough to prove that he was one (1) of the assailants because this kind of identification impaired the witness' credibility.[122]

Purportedly, Rosita's action was only "expected from someone who had just lost a loved one unexpectedly." [123] He insisted that before claiming that "positive identification prevails over denial or alibi." the identification must be "positive and beyond question." [124]

This Court acquitted Rodrigo of the charge since his guilt was not proven beyond reasonable doubt.[125] This Court ruled that since Rosita's identification would be the sole basis for Rodrigo's conviction, it should be handled with great caution.[126] Thus, the flawed procedure in the photographic identification made the witness' recognition undependable.[127] This Court concluded that:

In the context of this case, the investigators might not have been fair to Rodrigo if they themselves, purposely or unwittingly, fixed in the mind of Rosita, or at least actively prepared her mind to, the thought that Rodrigo was one of the robbers.[128]

Among others, this Court also considered the fact that "Rosita did not know the robbers" and "she [only] saw them for the first time during the robbery." [129] Hence,

This fact can make a lot of difference as human experience tells us: in the recognition of faces, the mind is

more certain when the faces relate to those already in the mind's memory bank; conversely, it is not easy to recall or identify someone we have met only once or whose appearance we have not fixed in our mind.[130]

Nothing in the records revealed that the witnesses' statements were instantly gathered after the incident.[131] Thus, there was no point of comparison between Rosita's immediate memory of the assailants' description and her subsequent identification.[132] Further, this Court also discussed that:

Separately from these considerations, we entertain serious doubts about the validity of the reasoning, made by both the trial and the appellate courts, that a widow's testimony — particularly, her identification of the accused — should be accepted and held as credible simply because the defense failed to show by evidence that she had reasons to falsify.

Arguably, a widow who testifies about the killing of her husband has no motive other than to see that justice is done so that her testimony should be considered totally credible. This assumption, however, is not the same as the conclusion that a witness is credible because the defense has not shown any ill motive that would motivate him or her to falsely testify. Strictly speaking, this conclusion should apply only to third parties who are detached from and who have no personal interest in the incident that gave rise to the trial. Because of their presumed detachment, the testimonies of these detached parties can be presumed credible unless impugned by the adverse party through a showing of an ill or ulterior motive on the part of the witnesses.

The presumed detachment that applies to third parties obviously cannot apply to a widow whose husband has been killed, or for that matter, to a relative whose kin is the victim, when the testimony of the widow or the relative is offered in the trial of the killer. The widow or the relatives are not detached or disinterested witnesses; they are parties who suffered and experienced pain as a result of the killing. In fact, they are better characterized as aggrieved parties as even the law recognizes them as such through the grant of indemnities and damages ...

Thus, the testimonies from aggrieved parties should not simplistically be equated to or treated as testimonies from detached parties. Their testimonies should be handled with the realistic thought that they come from parties with material and emotional ties to the subject of the litigation so that they cannot be accepted and held as credible simply because the defense has not adduced evidence of ill-motivation. It is in this light that we have examined Rosita's identification of Rodrigo, and we hold as unpersuasive the lower courts' conclusion that Rosita deserved belief because the defense had not adduced any evidence that she had motives to falsely testify. The better rule, to our mind, is that the testimony of Rosita, as an aggrieved party, must stand, on its independent merits, not on any failure of the defense to adduce evidence of ill-motivation.[133] (Emphasis supplied)

In Rodrigo, the procedure in the photographic identification was already flawed from the beginning. Accordingly, in that case, this Court was constrained to doubt the lower court ruling that the witness' testimony, especially her identification of the accused, "should be accepted and held as credible" for the failure of the defense to adduce evidence that Rosita had reasons to fabricate such allegations.[134]

Unlike the witness in Rodrigo, Magdalena's testimony can stand on its own.[135] Her identification of Rene Boy was unquestionable since she knew the accused even before the incident happened. She even referred to them as known troublemakers in their place.[136]

Contrary to Rene Boy's imputation, the trial court in this case did not automatically accept Magdalena's testimony as credible on the ground that the defense failed to show any proof that Magdalena had reasons to falsely testify against him. A perusal of its decision showed that after considering the pertinent elements of the charge, the trial court merely added that conclusion:

Untarnished with ill motive to falsely testify against the accused, witness Magdalena Apasan is certainly a

credible witness whose testimony should be, as it has been, accorded due weight and credence.[137] (Emphasis supplied)

Hence, the fact that Magdalena had no apparent motives against Rene Boy only corroborated the totality of evidence which favored the prosecution's case. After considering Magdalena's well-substantiated testimony and reliable identification of the accused, the trial court accordingly gave more credence to her as a witness rather than Rene Boy's baseless denial.

III

Diego's killing was qualified by treachery.

Treachery exists "when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make." [138] For treachery to be appreciated, two (2) elements should be proven:

(1) [T]he employment of means of execution that gives the persons attacked no opportunity to defend themselves or retaliate; and (2) the means of execution were deliberately or consciously adopted.[139]

Diego went to Pastor's house, believing in good faith that Pastor would just borrow his tricycle. Diego was never forewarned that danger awaits his destination, He even assured Magdalena that he would immediately return since he would be sending off his brother to Mindoro.[140] Not expecting any peril for his life, he proceeded to Pastor's house "unarmed and alone." [141]

The four (4) accused took turns in beating and hitting him. Trapped and obviously outnumbered, Diego was undoubtedly put in a position where he was helpless and unable to protect himself.[142]

When Junnel beat Diego, he tried to escape but Joel grabbed him. Joel then punched him on the face.[143] Consequently, Pastor hit him with a piece of wood rendering him unconscious. Despite this, however, Rene Boy still proceeded to hit him with a crowbar. Rene Boy seemingly assured himself that Diego would not be able to endure the attack. With these, the four (4) accused succeeded in killing him "without risk to themselves." [144] Collectively, these are indicative of treachery. Hence, the means employed by the assailants were knowingly sought to ensure Diego's death.

As to evident premeditation, the following must concur to ascertain its presence:

(1) [T]he time when the accused determined to commit the crime; (2) an act manifestly indicating that the accused clung to his determination; and (3) sufficient lapse of time between such determination and execution to allow him to reflect upon the circumstances of his act.[145]

"The essence of evident premeditation is that the execution of the criminal act must be preceded by cool thought and reflection upon the resolution to carry out the criminal intent during a space of time sufficient to arrive at a calm judgment." [146]

In this case, the prosecution failed to present any evidence showing that the acts of the assailants "were preceded by a reflection that led to a determined plan to kill [Diego] after sufficient time had passed from the [inception] of the plan." [147] "In the absence of clear and positive evidence, mere presumptions and inferences of evident premeditation, no matter how logical and probable, are insufficient." [148]

Abuse of superior strength, however, attended Diego's killing.

There is abuse of superior strength "whenever there is a notorious inequality of forces between the victim and the

aggressor/s that is plainly and obviously advantageous to the aggressor/s and purposely selected or taken advantage of to facilitate the commission of the crime." [149]

Abuse of superior strength means "to purposely use force excessively out of proportion to the means of defense available to the person attacked." [150] Thus, in considering this aggravating circumstance, this Court looks into "the age, size and strength of the parties." [151]

Diego was 72 years old when he was killed. His assailants, namely, Pastor, Rene Boy, and Junnel were respectively 50, 27, and 18 years old. Given the disparity in their ages, the assailants were physically stronger than the victim. Additionally, the manner by which the assailants killed Diego reflects how they "took advantage of their superior strength to weaken the defense and guarantee execution of the offense." [152] It is, therefore, apparent that the victim "was besieged by [their] concerted acts." [153]

When treachery and abuse of superior strength coincides, abuse of superior strength is absorbed in treachery. [154] Given that there was neither any aggravating nor any mitigating circumstances that attended Diego's killing, the proper penalty to be imposed is reclusion perpetua pursuant to Article 63, paragraph 2 of the Revised Penal Code. [155]

After evaluating the records of this case, this Court resolves to affirm the conviction of the accused and dismiss the appeal, there being no reversible error in the assailed decision that would warrant the exercise of this Court's appellate jurisdiction. However, in accordance with *People v. Jugueta*, [156] where this Court clarified that "when the circumstances of the crime call for the imposition of reclusion perpetua only, the civil indemnity and moral damages should be P75,000.00 each, as well as exemplary damages in the amount of P75,000.00." [157] This Court retains the award of civil indemnity at P75,000.00 but modifies the award of moral damages and exemplary damages to P75,000.00 each.

The trial court found that the actual damages were sufficiently substantiated by receipts and proofs of the same nature, indicating that they were incurred for Diego's funeral expenses. [158] The award of P148,000.00 as actual damages, therefore, was established with reasonable assurance. [159] Hence, it is warranted in this case.

This Court deletes the attorney's fees for the failure of Diego's heirs to substantiate it with actual proof. [160] "Attorney's fees are in the concept of actual or compensatory damages allowed under the circumstances provided for in Article 2208 of the Civil Code, and absent any evidence supporting its grant, the same must be deleted for lack of factual basis." [161] Similarly, this Court also deletes the award for litigation expenses since nothing in the records shows that there was evidence presented to support the claim. [162]

WHEREFORE, the assailed August 30, 2013 Decision of the Court of Appeals is **AFFIRMED** with **MODIFICATION**. Accused-appellant Rene Boy Dimapilit y Abellado is found **GUILTY** beyond reasonable doubt of the crime of Murder. He is sentenced to suffer the penalty of reclusion perpetua and to pay the heirs of Diego Garcia, represented by private complainant Rommy Garcia, the following amounts: P148,000.00 as actual damages, P75,000.00 as civil indemnity, P75,000.00 as moral damages, P75,000.00 as exemplary damages, and the costs of the suit. The award for attorney's fees and litigation expenses are **DELETED**.

In line with current jurisprudence, interest at the legal rate of six percent (6%) per annum shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid. [163]

SO ORDERED.

Carpio (Chairperson), Peralta, Mendoza, and Martires, JJ., concur.

-
- [1] *People v. Mamaruncas*, 680 Phil. 192, 206 (2012) [Per J. Del Castillo, First Division].
- [2] *People v. Nelmida*, September 11, 2012, 694 Phil. 529, 559 (2012) [Per J. Perez, En Banc].
- [3] CA rollo, pp. 145-147.
- [4] *Id.* at 135-144. The Decision was penned by Associate Justice Samuel H. Gaerlan and concurred in by Associate Justices Rebecca L. De Guia-Salvador and Apolinario D. Bruselas, Jr. of the Third Division, Court of Appeals, Manila.
- [5] *Id.* at 15-34. The Decision, docketed as Crim. Case No. 5970, was penned by Presiding Judge Carolina F. De Jesus-Suarez of Branch 9, Regional Trial Court, Balayan, Batangas.
- [6] *Id.* at 26.
- [7] *Id.* at 19.
- [8] *Id.* at 26.
- [9] *Id.*
- [10] *Id.*
- [11] *Id.*
- [12] *Id.*
- [13] *Id.*
- [14] *Id.*
- [15] *Id.*
- [16] *Id.*
- [17] *Id.* at 26-27.
- [18] *Id.* at 26.
- [19] *Id.* at 27.
- [20] *Id.*
- [21] *Id.*
- [22] *Id.*
- [23] *Id.*
- [24] *Id.* at 28.
- [25] *Id.* at 15.
- [26] *Id.*
- [27] *Id.* Pursuant to the return of subpoena dated August 21, 2007.
- [28] *Id.*

[29] Id. at 136.

[30] Id.

[31] Id. at 19.

[32] Id.

[33] Id.

[34] Id.

[35] Id. at 136.

[36] Id. at 21.

[37] Id. at 136.

[38] Id. at 23.

[39] Id. at 23-24.

[40] Id. at 24-25.

[41] Id. at 25.

[42] Id.

[43] Id.

[44] Id. at 28.

[45] Id. at 33.

[46] Id. at 29.

[47] Id.

[48] Id. at 31.

[49] Id. at 30.

[50] Id.

[51] Id. at 34.

[52] Id. at 139.

[53] Id. at 143.

[54] Id. at 140.

[55] Id.

[56] Id. at 141.

[57] Id.

[58] Id. at 142.

[59] Id.

- [60] Id. at 143.
- [61] Rollo, p. 1.
- [62] Id. at 15.
- [63] Id. at 12-14.
- [64] Id. at 18.
- [65] Id. at 21-25.
- [66] Id. at 26-30.
- [67] CA rollo, pp. 61-62.
- [68] Id. at 139-140.
- [69] Id. at 64.
- [70] Id.
- [71] Id.
- [72] Id. at 65.
- [73] Id.
- [74] Id. at 66.
- [75] Id.
- [76] Id. at 108.
- [77] Id.
- [78] Id. at 109.
- [79] Id. at 109-110.
- [80] Id. at 110.
- [81] Id. at 115.
- [82] Id.
- [83] Id. at 118.
- [84] Id. at 119-120.
- [85] Death Penalty Law (1993).
- [86] *People v. Las Piñas*, 739 Phil. 502, 524 (2014) [Per J. Leonardo-de Castro, First Division].
- [87] CA rollo, p. 28.
- [88] Id.
- [89] Id. at 140, CA Decision
- [90] *People v. Harovilla*, 436 Phil. 287, 293 (2002) [Per J. Ynares-Santiago, First Division].

- [91] Id.
- [92] CA Rollo, p. 28.
- [93] Id.
- [94] Id. at 140-141.
- [95] People v. Mamaruncas, 680 Phil. 192, 206 (2012) [Per J. Del Castillo, First Division].
- [96] CA rollo, p. 19.
- [97] 694 Phil. 529 (2012) [Per J. Perez, En Banc].
- [98] Id. at 559.
- [99] Id.
- [100] People v. Garcia, 447 Phil. 244, 256 (2003) [Per J. Callejo, Sr. En Banc].
- [101] CA rollo, p. 26.
- [102] People v. Bañez y Baylon, 770 Phil. 40, 46 (2015) [Per J. Peralta Third Division].
- [103] CA rollo, pp. 141-142.
- [104] Id. at 28.
- [105] Id. at 27.
- [106] Id. at 28-29.
- [107] Id. at 27.
- [108] Id. at 142.
- [109] People v. Villacorta, 672 Phil. 712, 721 (2011) [Per J. Leonardo-de Castro, First Division].
- [110] CA rollo, p. 64.
- [111] 586 Phil. 515 (2008) [Per J. Brion, Second Division].
- [112] CA rollo, p. 64.
- [113] People v. Rodrigo, 586 Phil. 515, 522 (2008) [Per J. Brion, Second Division].
- [114] Id.
- [115] Id. at 524.
- [116] Id.
- [117] Id.
- [118] Id.
- [119] Id.
- [120] Id.
- [121] Id.

- [122] Id. at 525.
- [123] Id. at 526.
- [124] Id.
- [125] Id. at 527.
- [126] Id. at 528.
- [127] Id. at 529-531.
- [128] Id. at 529.
- [129] Id. at 534.
- [130] Id.
- [131] Id. at 536.
- [132] Id. at 536.
- [133] Id. at 538-539.
- [134] Id. at 538.
- [135] Id.
- [136] CA rollo, p. 26.
- [137] Id. at 29.
- [138] *People v. Dela Cruz y Balobal*, 626 Phil. 631, 639-640 (2010) [Per J. Velasco Jr., Third Division]
- [139] Id. at 640.
- [140] Id. at 26.
- [141] CA rollo, p. 29.
- [142] Id.
- [143] Id.
- [144] Id.
- [145] *People v. Duavis*, 678 Phil. 166, 177 (2011) [Per J. Peralta, Third Division].
- [146] Id. at 176-177.
- [147] CA rollo, p. 30.
- [148] *People v. Dadivo y Mendoza*, 434 Phil. 684, 689 (2002) [Per J. Ynares-Santiago, First Division].
- [149] *Valenzuela v. People*, 612 Phil. 907, 917 (2009) [Per J. Brion, Second Division].
- [150] Id.
- [151] Id.
- [152] CA rollo, p. 31.

[153] Id.

[154] *People v. Aquino y Cendana*, 724 Phil. 739, 757 (2014) [Per J. Leonardo-De Castro, First Division].

[155] Id. See REV. PEN. CODE, art. 63 stating:

Article 63. Rules for the Application of Indivisible Penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

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:

....

(2) When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[156] G.R. No. 202124, April 5, 2016 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/202124.pdf> > [Per J. Peralta, En Banc].

[157] Id. at 27.

[158] CA rollo, p. 34.

[159] *People v. Ducabo*, 560 Phil. 709, 727 (2007) [Per J. Chico-Nazario, Third Division].

[160] *People v. Likiran*, 735 Phil. 397, 408 (2014) [Per J. Reyes, First Division].

[161] Id.

[162] *Almojuela y Villanueva v. People*, 734 Phil. 636, 651 (2014) [Per J. Brion, Second Division].

[163] See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

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.