

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
RESURRECION JUANILLO MANZANO, JR. AND REZOR JUANILLO
MANZANO, ACCUSED, REZOR JUANILLO MANZANO,
ACCUSED-APPELLANT.**

G.R. No. 217974. March 05, 2018

Ponente: MARTIRES, J.

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MARTIRES, J.:

This resolves the appeal of accused-appellant Rezor Juanillo Manzano (accused-appellant) from the 29 October 2014 Decision[1] of the Court of Appeals (CA), Twentieth Division in CA-G.R. CR-HC No. 01473 affirming in toto the 17 April 2012 Decision[2] of the Regional Trial Court (RTC), Branch 12, San Jose, Antique, finding him guilty beyond reasonable doubt of Murder under Article (Art.) 248 of the Revised Penal Code (RPC).

THE FACTS

The accused-appellant and his elder brother Resurrecion Manzano (Resurrecion) were charged with murder before the RTC of San Jose, Antique, in an Information[3] docketed as Crim. Case No. 10-07-8009, the accusatory portion of which reads:

That on or about the 19th day of March 2010, in the Municipality of Hamtic, Province of Antique, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with knives, conspiring, confederating, and mutually helping one another, with intent to kill, did then and there, willfully, unlawfully, and feloniously attack, assault, and stab with said knives one Lucio Silava, thereby inflicting upon the latter wounds on his body which caused his instantaneous death.

With qualifying circumstance of treachery and abuse of superior strength.

Contrary to the provisions of Article 248 of the Revised Penal Code, as amended.

The parties agreed to have an inverted trial after the accused-appellant who, pleading not guilty during the arraignment, raised the justifying circumstance of self-defense. Resurrecion remained at large.

To prove his claim of self-defense, the accused-appellant himself testified. SPO2 Roberto Javier (SPO2 Javier) of the Hamtic police office took the witness stand to prove that the accused-appellant voluntarily surrendered.

The prosecution tried to prove its case against the accused-appellant by calling to the witness stand Dr. Ma. Eva D. Pacificador (Dr. Pacificador), Victoria N. Silava (Victoria), Atty. Rean S. Sy (Atty. Sy), and Luisa P. Monteclaro (Luisa).

Version of the Defense

At about 9:30 p.m. on 19 March 2010, while the accused-appellant was home sitting by the window, he saw Lucio Silava (Lucio) throwing stones at his house. The electric lamppost was lighted, thus, the accused-appellant, who

was then eighteen years old, was sure that it was Lucio.[4]

The accused-appellant immediately went out to inquire from Lucio why he was throwing stones at his house but Lucio threw a stone at him that hit his right knee and caused him to fall down. Lucio rushed towards the accused-appellant to stab him with a knife but was unsuccessful as they grappled for its possession. It was at that instance that the accused-appellant called out to Resurrecion, who was home that time, to run away so that he would not be involved. Because Lucio was very drunk, the accused-appellant was able to take hold of the knife, but blacked out and started stabbing Lucio. Thereafter, the accused-appellant ran away and proceeded to the house of Reno Manzano (Reno), an elder brother, at Barangay San Angel, San Jose, Antique, where he also met Resurrecion. The following day, the accused-appellant surrendered to the police authorities.[5]

The accused-appellant had known Lucio for eight years already since the latter's house was in front of his house and were separated only by the road. Accused-appellant was as tall as Lucio but the latter had a bigger body build. Resurrecion had a dislocated right shoulder and a smaller build than that of Lucio and the accused-appellant.[6]

Version of the Prosecution

At about 9:00 p.m. on 19 March 2010, the spouses Lucio and Victoria were inside their store fronting the accused-appellant's house. Lucio was having his dinner at the kitchen inside the store while Victoria was watching the store when the accused-appellant and Resurrecion called out from the gate saying that they would buy cigarettes. Because the gate leading to the store was already closed, Lucio told the accused-appellant and Resurrecion to come in.[7]

Resurrecion stood outside the store and told Victoria that he wanted to buy Fortune white cigarettes and handed her P20.00. The accused-appellant entered the store and proceeded to where Lucio was having dinner. After realizing that she had no more stock of the Fortune white cigarette, Victoria told Resurrecion who, in reply, said that he would no longer buy cigarettes and then proceeded towards the kitchen. Thereafter, Victoria heard Lucio ask, "What wrong have I committed?" Victoria rushed to the kitchen and there saw Lucio bloodied and leaning on the door, while the accused-appellant and Resurrecion were stabbing him.[8]

Victoria went out of the store shouting for help and saying that the accused-appellant and Resurrecion were stabbing Lucio. When Victoria went back inside, she saw Lucio run outside the store but still within the fenced premises, and the accused-appellant and Resurrecion were going after him. From where she stood, Victoria saw Resurrecion hold Lucio's hands while the accused-appellant, who was positioned behind Lucio, held Lucio's body with one arm while with his other hand stabbed Lucio's back. When Resurrecion released his grip on Lucio, the latter fell face down but the accused-appellant and Resurrecion continued to stab him causing Victoria to utter, "I will let you eat the whole body of my husband alive." The accused-appellant and Resurrecion thereafter ran towards the direction of the farm.[9]

Lucio was brought to the hospital but Victoria had to stay behind to find money for his medical expenses. On her way to the hospital, Victoria was informed that Lucio had died. Luisa, a cousin of Lucio, took pictures of the dead body. Victoria had the pictures[10] developed and secured Lucio's death certificate.[11] Victoria incurred a total of P15,000.00[12] for the funeral expenses.[13]

On 23 March 2010, Dr. Pacificador conducted a postmortem examination on the body of Lucio, the results of which follow:

Left Anterior Thorax

Stab Wound # 1 - Horizontal in direction about 3 cm in length located at the left anterior chest below the left clavicle penetrating the upper lobe of the left lung and aorta.

Stab Wound # 2 - Vertical in direction about 3 cm in length located below wound #1 resulting into fracture of 3rd rib.

Right Anterior Thorax

Stab Wound # 3 - Vertical in direction about 2 cm in length on the left shoulder, non-penetrating.

Stab Wound # 4 - Vertical in direction about 4.5 cm in length located below right clavicle penetrating the upper lobe of the right lung.

Stab Wound # 5 - Vertical in direction about 4 cm in length below the sternum penetrating the liver.

Stab Wound # 6 - Vertical in direction about 4.5 cm in length about 3 cm below wound # 5 penetrating the liver.

Stab Wound # 7 - Vertical in direction about 1.5 cm in length below wound # 6 non-penetrating.

Extremities

Stab Wound # 8 - Vertical in direction about 3.5 cm in length located on the left upper arm going through the axilla.

Stab Wound # 9- Horizontal in direction about 2.5 cm in length on the left lower arm below the left antecubital fossa, non-penetrating.

Stab Wound# 10- Horizontal in direction about 3 cm in length just below wound # 9 left lower arm.

Stab Wound# 11 -Horizontal in direction about 2 cm in length located below left wrist, non-penetrating.

Posterior Thorax

Stab Wound # 12- Vertical in direction about 2.5 cm in length just below the neck in between scapula, non-penetrating.

Stab Wound# 13- Vertical in direction about 5 cm in length just below wound # 12, non-penetrating.

Stab Wound # 14 - Vertical in direction about 2 cm in length below wound # 13, non-penetrating.

Stab Wound # 15- Horizontal in direction about 1.5 cm in length on the right lumbar area, non-penetrating.

Cause of death:

Hypovolemic Shock secondary to Hemorrhage secondary to Multiple Stab Wounds.[14]

It was a week after the stabbing incident that Atty. Sy took pictures[15] of the place where Lucio was attacked. He saw splatters of dried blood inside the store and within the fenced perimeter enclosing the crime scene.[16]

The Ruling of the RTC

According to the RTC, a careful and deeper examination of the facts and circumstances tend to contradict the accused-appellant's version of the incident and his claim that he acted in self-defense. In so ruling, the RTC considered the following: that if there was no intention on the part of the accused-appellant and Resurrecion to kill Lucio, they could have easily overpowered him because he was very drunk at that time; it was not convinced that Lucio hit the accused-appellant on his right knee causing him to fall since the latter failed to present a medical certificate notwithstanding his contention that he was brought by a police officer to a doctor for his knee injury; it was not satisfied with the accused-appellant's version that after he fell down, Lucio held his neck and stabbed him because not once was the accused-appellant hit; the number of stab wounds sustained by Lucio negates

self-defense; the serious injuries sustained by Lucio demonstrate the accused-appellant's intent to kill; the splattered blood inside the store and on the bamboo slats serving as wall of the kitchen are proofs that the incident started at the kitchen of Lucio's store and continued outside but still within the fenced perimeter; that when the accused-appellant blacked out, he was still able to shout at Resurrecion to run away so as not to be involved in the incident; the portrayal on how the accused-appellant singlehandedly stabbed Lucio was not worthy of credence; the claim of the accused-appellant that he hit Lucio frontally was denied by the postmortem examination results; the only plausible explanation for Lucio's back injuries was that these were inflicted by either the accused-appellant or Resurrecion or by both of them; and the accused-appellant had not assailed or contradicted, by testimonial or documentary evidence, the truthfulness and trustworthiness of Victoria's testimony.[17]

On the one hand, the RTC found that the accused-appellant and Resurrecion conspired as shown by their concerted action of surprising Lucio in the kitchen and, without justifiable reason, helping each other assault their victim. Moreover, the RTC ruled that the commission of the felony was attended by the aggravating circumstance of nocturnity which facilitated the assailants' escape. According to the RTC, it was unfortunate that this circumstance was not properly appreciated as this was not alleged in the information.[18]

The RTC, however, was not convinced that the accused-appellant voluntarily surrendered considering the following reasons: he fled from the locus criminis and proceeded to Reno's house in San Jose instead of going to the Hamtic police station; he did not surrender to the San Jose police; and it was Reno who informed the Hamtic police station of the accused-appellant's presence in San Jose, thus, the policemen proceeded to Reno's house and took custody of the accused-appellant.

The dispositive portion of the RTC decision reads:

PREMISES CONSIDERED, judgment is hereby rendered convicting accused REZOR MANZANO y JUANILLO, beyond reasonable doubt, of Murder under Art. 248 of the Revised Penal Code. Accordingly, he is hereby sentenced to suffer the penalty of reclusion perpetua.

He is also ordered to indemnify the legal heirs of Lucio Silava the amount of P75,000.00 for the death of the said victim and to pay the said legal heirs actual expenses in the amount of P15,000.00 as well as moral damages amounting to P25,000.00 and to pay the costs.

SO ORDERED.[19]

Feeling aggrieved with the decision of the RTC, the accused-appellant appealed before the CA.

The Ruling of the CA

The CA noted the absence of unlawful aggression on the part of Lucio which made the claim of self-defense unavailable. According to the CA, the accused-appellant must rely on the strength of his evidence and not on the weakness of the prosecution's evidence since he had admitted that he killed Lucio. The CA held that there was no proof that the RTC failed to appreciate facts and circumstances which would have merited the accused-appellant's acquittal.[20]

The CA sustained the ruling of the RTC that treachery and abuse of superior strength attended the killing of Lucio, and that the accused-appellant had not voluntarily surrendered to the police authorities.[21]

In view of its findings, the CA affirmed in toto the decision of the RTC, thus:

WHEREFORE, the appeal is hereby DENIED. The Decision dated March 20, 2012 of the RTC, Branch 12, San Jose, Antique in Criminal Case No. 10-07-8009 is hereby AFFIRMED in toto.

SO ORDERED.[22]

ISSUES

I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE INCONSISTENT AND IMPROBABLE TESTIMONY OF VICTORIA SILAVA.

II

THE TRIAL COURT ERRED IN NOT APPRECIATING INCOMPLETE SELF-DEFENSE BY ACCUSED-APPELLANT REZOR MANZANO, AS A PRIVILEGED MITIGATING CIRCUMSTANCE.

III

THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED-APPELLANT ACTED WITH ABUSE OF SUPERIOR STRENGTH.

IV

THE TRIAL COURT ERRED IN NOT APPRECIATING THE ACCUSED-APPELLANT'S VOLUNTARY SURRENDER AS A MITIGATING CIRCUMSTANCE.[23]

OUR RULING

The appeal does not deserve any merit.

The findings of the RTC as to the credibility of witnesses should be respected especially when these are affirmed by the CA.

It has been trenchantly maintained in a catena of cases that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect.[24] The assessment of the credibility of the witnesses and their testimonies is best undertaken by the trial court because of its unique opportunity to observe the witnesses first hand and to note their demeanor, conduct, and attitude under grueling examination. These factors are the most significant in evaluating the sincerity of witnesses and in unearthing the truth, especially in the face of conflicting testimonies.[25] The factual findings of the RTC, therefore, are accorded the highest degree of respect especially if the CA adopted and confirmed these,[26] unless some facts or circumstances of weight were overlooked, misapprehended or misinterpreted as to materially affect the disposition of the case.[27] In the absence of substantial reason to justify the reversal of the trial court's assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the former's findings.[28]

It must be noted that it is a general rule in criminal cases that an examination of the entire records of a case may be explored for the purpose of arriving at a correct conclusion; as an appeal in criminal cases throws the whole case open for review, it being the duty of the appellate court to correct such error as may be found in the judgment appealed from, whether they are made the subject of the assignment of errors or not.[29] It is for this reason that the Court has painstakingly reviewed the records of this case; yet, it found no reason to depart from the well-entrenched rule that the findings of the RTC as to the credibility of witnesses should not be disturbed considering the absence of any showing that it had overlooked a material fact that otherwise would change the outcome of the case or had misunderstood a circumstance of consequence in their evaluation of the credibility of the witnesses.[30]

The testimony of Victoria identifying the accused-appellant and Resurrecion as the ones who assaulted Lucio was

positive, convincing, and straightforward, viz:

Q.

You said a while ago that your store is lighted with bulb, what is the voltage of the electric bulb?

A.

Ten (10) watts.

Q.

So, what did you do after you heard your husband said those words?

A.

I immediately went towards the door of the store towards the kitchen area and I saw my husband leaning on the wall full of blood and the two accused simultaneously stabbing my husband.

Q.

So both of them are holding a knife?

A.

Yes, sir.

Q.

And you saw both of them stabbing your husband?

A.

Yes, sir.

Q.

Please tell us how near is your door to the [location] of your husband when he was stabbed?

A.

(Witness as this juncture pointed at the distance from the witness stand to the place occupied by Atty. Rivero which is estimated to be about two (2) meters, as agreed upon by the prosecution and the defense, as the distance from the door to the [location] where the husband was stabbed.)

Q.

And when you came out of your door that was your distance from your husband after he was being stabbed?

A.

Yes, sir.

Q.

And please describe to us what did you do immediately after coming out of that door?

A.

From the door, I saw my husband leaning on the wall full of blood with the two accused simultaneously stabbing him.

Q.

And you saw that there was no structure blocking your side?

A.

No, sir.

Q.

While they were stabbing your husband, can you tell us if the two accused uttered any words?

A.

Nothing, sir.

Q.

Can you recall while standing how many times did the two accused stab your husband?

A.

I cannot count how many times the two accused stabbed my husband but I saw both of them stabbing my husband.

Q.

At that time your husband is facing you?

A.

Yes, sir because he was leaning on the wall.

Q.

What did you do next?

A.

After that I ran out of [the] house and ran towards the fence and shouted that Resurrecion and Rezor are stabbing my husband and I went back inside the house after saying those words.

Q.

When you [said] that, you went out and asked for help?

A.

Yes, sir.

Q.

When you said those words you came back to your house, please tell us when you came back to your house, you entered the main gate or front of the road?

A.

Just in front of our store when I shouted for help.

Q.

While standing on the road facing your husband, please tell us what did you see?

A.

While I was standing on the road, I saw Resurrecion holding my husband and holding [his] hands while Rezor was behind my husband and one hand was holding the body of my husband and the other hand was stabbing at the back of my husband.

Q.

At that point did you see on what portion of the body of your husband was Rezor stabbing him?

A.

At the back.

Q.

How far were you from them?

A.

Very near. (x x x two (2) meters, as agreed upon by both counsel)

Q.

Please tell us, when the two accused Resurrecion and Rezor were holding your husband and Resurrecion was

stabbing on the back, in what portion were they located?

A.

In front of our store.

COURT:

Q.

Are you telling the court that the two accused were already outside the store?

A.

Yes, sir.

ATTY. SY:

Q.

Outside the store but within the gate?

A.

Yes, sir.

COURT:

Q.

From inside the kitchen, can you tell the court where did the three pass by?

A.

My husband was able to run outside the house.

Q.

So when your husband ran outside the house, the two accused followed him?

A.

Yes, sir.

Q.

When you saw your husband and the two accused in that position they were directly in front of your store but still within the gate?

A.

Yes, sir.

Q.

Is this store lighted?

A.

Yes, sir, it is lighted with a bulb.

Q.

And from your position you can properly see their faces?

A.

Yes, sir.

Q.

Tell us what happened next?

A.

At that particular moment, I saw Resurrecion holding the two hands of my husband while Rezor's [other] hand was holding my husband while the other hand was stabbing my husband. I cannot recall which hand was used by him in stabbing my husband.

COURT:

Q.

You said you saw Rezor stabbing your husband, why [is it that] you cannot recall what hand was holding the knife?

A.

Because at that time I was in a state of shock. Resurrecion was holding my husband with his two hands, while Rezor was stabbing my husband.

x x x x

Q.

So, are you telling the court that Rezor was in the grip of your husband?

A.

Yes, sir.

x x x x

Q.

Now, do you realize that both injuries of your husband were in [the] front portion of his body?

A.

Yes, sir.

Q.

About how many times did you see Resurrecion stab your husband while he was at the back of your husband?

A.

I saw Rezor stabbed my husband once and that was the time that Resurrecion released my husband from his grip and so my husband fell to the ground facing down.

x x x x

ATTY. SY:

x x x x

Q.

So, when your husband fell down, what did you do next?

A.

Rezor and Resurrecion helped each other in stabbing him and at that point in time I told Rezor and Resurrecion "I will let you eat the whole body of my husband alive," and then that was the time the two accused ran away."^[31]

It was clear from the testimony of Victoria that she was able to personally witness when the accused-appellant and Resurrecion assaulted Lucio; and that she could not be mistaken as to the assailants' identity since the place where the crime happened was well-lighted.

Accused-appellant tried to dent the credibility of Victoria by asserting that she did not actually see the scuffle between him and Lucio as verified by her admission during the cross-examination by the defense.[32]

The contention of the accused-appellant is without merit. The records bear out that Victoria admitted that right after she heard Lucio utter "What wrong did I commit," she immediately went to the kitchen and found her husband leaning on the kitchen door, bloodied, while the accused-appellant and Resurrecion were stabbing him. Contrary to the claim of the accused-appellant, a review of the testimony of Victoria would show that what she claimed she did not witness was the scuffle, if there was any, between Lucio and the accused-appellant prior to her hearing her husband utter "What wrong did I commit?" It was also pointed out that Victoria had claimed that she did not hear anything from the accused-appellant and Resurrecion before she heard Lucio utter these words in a soft and pleading manner, hence, accentuating the fact that no such scuffle had taken place.

In the same vein, the position of the accused-appellant that Victoria could not have seen the actions of Lucio and the accused-appellant as she had gone out of the house to ask for help,[33] fails to persuade. Victoria stated that after running out to the street and shouting for help, she went back inside the fenced premises of the store; thus, she was able to see Lucio run outside from the kitchen, and saw the accused-appellant and Resurrecion follow Lucio, get hold of him, and stab him again.[34]

In stark contrast to the allegation of the accused-appellant that Victoria's statements before the trial court were inconsistent and incredible, a perspicacious review of her testimony sustains a finding that her narration of what happened on that fateful day of 19 March 2010 was plausible, being consistent in all important details. For sure, the records are bereft of any showing that Victoria's testimony was inspired by ill motive or was attended by bad faith. Jurisprudence holds that when there is no evidence to show any improper motive on the part of the witness to testify falsely against the accused or to pervert the truth, the logical conclusion is that no such motive exists, and that the former's testimony is worthy of full faith and credit.[35]

We underscore that, except for the alleged inconsistencies which to the mind of the Court are inconsequential, the accused-appellant failed to proffer any convincing and material variations in the testimony of Victoria that would warrant the Court to reverse the RTC's finding as to her credibility. It is settled in this jurisdiction that as long as the testimony of the witness is coherent and intrinsically believable as a whole, discrepancies in minor details and collateral matters do not affect the veracity or detract from the essential credibility of the witnesses' declarations.[36] Of utmost meaning to this case is the ruling laid down in *Velasquez v. People*,[37] viz:

Jurisprudence is replete with clarifications that a witness' recollection of [a] crime need not be foolproof: "Witnesses cannot be expected to recollect with exactitude every minute detail of an event. This is especially true when the witnesses testify as to facts which transpired in rapid succession, attended by flurry and excitement." This is especially true of a victim's recollection of his or her own harrowing ordeal. One who has undergone a horrifying and traumatic experience "cannot be expected to mechanically keep and then give an accurate account" of every minutiae.

The accused-appellant assumes the burden of establishing his plea of self-defense by credible, clear, and convincing evidence.

Jurisprudence instructs that an accused who pleads a justifying circumstance under Article 11[38] of the Revised Penal Code admits to the commission of acts, which would otherwise engender criminal liability.[39] Corollary thereto, the rule consistently adhered to in this jurisdiction is that when the accused admit that they are the authors of the death of the victim, and their defense is anchored on self-defense, it becomes incumbent upon them to prove the justifying circumstance to the satisfaction of the court.[40] With this admission, the burden of evidence is shifted to the appellant to prove that all the essential elements of self-defense are present.[41] Verily, to invoke

self-defense effectually, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack.[42] Self-defense, to be successfully invoked, must be proven by clear and convincing evidence that excludes any vestige of criminal aggression on the part of the person invoking it.[43] Conviction follows if the evidence for the accused fails to prove the existence of justifying circumstances.[44]

Accused-appellant contends that he merely repelled the unlawful aggression of Lucio, viz: when Lucio threw a stone at him that hit his knee; and when Lucio rushed towards him to stab him. Additionally, accused-appellant avers that his testimony was credible that he alone inflicted the stab wounds on Lucio.[45]

To successfully invoke self-defense, an accused must establish: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.[46]

On the first element, the consistent teaching by the Court on unlawful aggression is as follows:

Unlawful aggression on the part of the victim is the primordial element of the justifying circumstance of self-defense. Without unlawful aggression, there can be no justified killing in defense of oneself. The test for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself; the peril must not be an imagined or imaginary threat. Accordingly, the accused must establish the concurrence of three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.

Unlawful aggression is of two kinds: (a) actual or material unlawful aggression; and (b) imminent unlawful aggression. Actual or material unlawful aggression means an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury. Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist in a mere threatening attitude, nor must it be merely imaginary, but must be offensive and positively strong (like aiming a revolver at another with intent to shoot or opening a knife and making a motion as if to attack). Imminent unlawful aggression must not be a mere threatening attitude of the victim, such as pressing his right hand to his hip where a revolver was holstered, accompanied by an angry countenance, or like aiming to throw a pot.[47]

The evidence before the Court palpably lend negative credence to the presence of unlawful aggression. Primarily, when compared to Victoria's testimony which withstood the crucible of intense cross-examination by the defense and the clarificatory questioning by the trial court, accused-appellant's testimony was not only incongruous with the evidence on record but also improbable.

The version of the defense was that the unlawful aggression began with Lucio who was outside the accused-appellant's house throwing stones at its roof. Allegedly, Lucio likewise threw a stone at the accused-appellant when he came out of the house which hit his knee and caused him to fall down. Lucio was about to stab the accused-appellant with a knife but then a scuffle ensued for its possession. When the accused-appellant got hold of the knife, he "blackened out" and stabbed Lucio several times.

The defense's version of the events is swiftly denied by the prosecution's pictures[48] showing Lucio's blood splattered in the kitchen of Victoria's store and at the fenced premises. These pictures are silent evidence that confirm the truth of Victoria's testimony and easily weaken the defense's version that when the accused-appellant acted in self-defense to Lucio's unlawful aggression, they were at the road in front of accused-appellant's house. Where the physical evidence on record runs counter to the testimonies of witnesses, the primacy of the physical evidence must be upheld.[49]

It is noteworthy that the accused-appellant has neither witness nor evidence to fortify his claim that the unlawful aggression started with Lucio. Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself.[50] The fact that Resurrecion is still in hiding instead of giving his testimony before the trial court to boost the theory proffered by the accused-appellant well confirms the finding that the defense's version of the events was contrived.

To amplify his position that he acted in self-defense, the accused-appellant tried to make issue of his absence of motive to stab Lucio. The accused-appellant basically anchored his position on the ruling laid down by the Court in *Borguilla v. Court of Appeals*,[51] that "the absence of motive is important in ascertaining the truth as between two antagonistic theories or versions of the killing. Herein, it was the victim who had reason to harm the accused." [52]

The quoted ruling in *Borguilla* does not find meaning in this case considering that the identity of the accused-appellant as the assailant of Lucio has been firmly established by the prosecution. For sure, even the accused-appellant admitted that he stabbed Lucio several times after he blacked out. In *Borguilla*, because of the contradictory accounts of the event by both parties, the Court resorted to searching for facts or circumstances which could be used as valuable aids in evaluating the probability or improbability of a testimony; thus, the Court had appreciated the presence of motive of the victim to harm the accused in ascertaining which of the versions was true. In the present case, however, both the testimonial and documentary evidence of the prosecution demonstrably disproved the defense's version that unlawful aggression was initiated by Lucio. Also revealing was that, in contrast to the *Borguilla* ruling, there was conspicuous dearth of evidence to establish that Lucio had motive to kill the accused-appellant.

Notwithstanding the accused-appellant's contention that he has no motive in killing Lucio, we point out that motive is not material in this case. As a general rule, proof of motive for the commission of the offense charged does not show guilt; and the absence of proof of such motive does not establish the innocence of accused for the crime charged such as murder.[53] To emphasize, "motive is irrelevant when the accused has been positively identified by an eyewitness. Intent is not synonymous with motive. Motive alone is not a proof and is hardly ever an essential element of a crime." [54]

It is vigorously underscored that the pith and soul of the justifying circumstance of self-defense is the presence of unlawful aggression; thus, the absence of this requisite readily converts the claim of self-defense into nothingness even with the existence of the other elements because the two other essential elements of self-defense would have no factual and legal bases without any unlawful aggression to prevent or repel.[55] As case law puts it, there can be no self-defense unless the victim committed unlawful aggression against the person who resorted to self-defense.[56]

Accused-appellant's plea of self-defense is controverted by the nature, number, and location of the wounds inflicted on the victim, since the gravity of said wounds is indicative of a determined effort to kill and not just to defend.[57] The postmortem examination[58] conducted by Dr. Pacificador on the body of Lucio revealed that he sustained fifteen wounds, four of which were fatal, and that the cause of his death was hypovolemic shock secondary to hemorrhage secondary to multiple stab wounds. The findings of Dr. Pacificador justify a declaration that there was undeniable intent on the part of the accused-appellant to kill Lucio.

The absence of unlawful aggression on the part of Lucio in this case unmistakably belies the accused-appellant's claim of self-defense, whether complete or incomplete. In view of this, the Court finds no reason to further discuss the other elements of the justifying circumstance of self-defense and will proceed to determine the offense committed by the accused-appellant.

The crime committed by the accused-appellant was murder.

The accused-appellant averred that the trial court erred in convicting him of murder; he maintained that he was guilty only of homicide in view of the absence of the qualifying circumstances of treachery and abuse of superior strength.[59]

The crime of murder, under Article (Art.) 248[60] of the Revised Penal Code (RPC), is committed by any person who, not falling within the provisions of Art. 246[61] of the same Code, shall kill another 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.[62] Jurisprudence provides that to warrant a conviction for the crime of murder, the following essential elements must be present: (a) that a person was killed; (b) that the accused killed him or her; (c) that the killing was attended by any of the qualifying circumstances mentioned in Art. 248 of the RPC; and (d) that the killing is not parricide or infanticide.[63]

There is no question that the first, second, and fourth elements are present in this case. It is the resolution of the issue on whether the qualifying circumstances of treachery and abuse of superior strength that attended the killing of Lucio can determine whether the accused-appellant should be held liable for murder. The presence of any one of the circumstances enumerated in Article 248 of the Code is sufficient to qualify a killing as murder.[64] On the one hand, if the qualifying circumstances are not present or cannot be proven beyond reasonable doubt, the accused may only be convicted with homicide under Art. 249[65] of the RPC.[66]

Both the trial and the appellate courts appreciated treachery and abuse of superior strength in convicting the accused-appellant of murder.

Treachery is present when the offender commits any of the crimes against a 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.[67] Treachery is not presumed but must be proved as conclusively as the crime itself.[68] Treachery, whenever alleged in the information and competently and clearly proved, qualifies the killing and raises it to the category of murder.[69]

For the qualifying circumstance of treachery to be appreciated, the following elements must be shown: (1) the employment of means, method, or manner of execution would ensure the safety of the malefactor from the defensive or retaliatory acts of the victim, no opportunity being given to the latter to defend himself or to retaliate; and (2) the means, method, or manner of execution was deliberately or consciously adopted by the offender.[70]

Relative to the first element, the legal teaching consistently upheld by the Court is that the essence of treachery is when the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape the sudden blow.[71]

As to the second element, jurisprudence requires that there must be evidence to show that the accused deliberately or consciously adopted the means of execution to ensure its success[72] since unexpectedness of the attack does not always equate to treachery.[73] The means adopted must have been a result of a determination to ensure success in committing the crime.[74]

Additionally, in murder or homicide, the offender must have the intent to kill; otherwise, the offender is liable only for physical injuries.[75] The evidence to prove intent to kill may consist of, inter alia, the means used; the nature, location, and number of wounds sustained by the victim; and the conduct of the malefactors before, at the time of or immediately after the killing of the victim.[76]

The prosecution established that the accused-appellant and Resurrecion deliberately made it appear to Victoria

and Lucio on the night of 19 March 2010, that their main purpose in coming to the store was to buy cigarettes. They came at night when neighbors were probably asleep which would make it impossible for them to lend assistance to Lucio. Once the accused-appellant and Resurrecion were allowed to enter the premises, the accused-appellant immediately went inside the store and proceeded to the kitchen where Lucio was having dinner. In the meantime, Resurrecion engaged Victoria in a talk by pretending that he was buying cigarettes but he, too, forthwith went to the kitchen upon being told by Victoria that she had run out of the cigarette he was looking for. Thereafter, Victoria heard Lucio uttering softly, "What wrong have I committed"; and then she saw her bloodied husband being stabbed by the accused-appellant and Resurrecion. The absence of scuffle among Lucio, the accused-appellant, and Resurrecion substantiate the finding that the attack was swift and deliberate so that the unarmed and unsuspecting Lucio had no chance to resist or escape the blow from his assailants.

The intent to kill by the accused-appellant and Resurrecion was confirmed by the fact that they were armed with knives when they attacked Lucio who sustained a total of fifteen wounds. Despite the fact that Lucio was already bleeding from his wounds, he was able to run away from his assailants who pursued him. Resurrecion stood in front of Lucio while the accused-appellant held him at the back and both assailants continued to stab him. According to Dr. Pacificador, there were four fatal wounds inflicted on Lucio, i.e., wounds numbered 1, 4, 5, and 6 which penetrated his major organs.[77]

It must be pointed out that since treachery had qualified the crime to murder, the generic aggravating circumstance of abuse of superior strength is necessarily included in the former.[78]

The RTC and the CA were correct in not appreciating the mitigating circumstance of voluntary surrender.

For voluntary surrender to be appreciated as a mitigating circumstance, the following elements must be present, to wit: (1) the accused has not been actually arrested; (2) the accused surrenders himself to a person in authority or the latter's agent; and (3) the surrender is voluntary.[79] The essence of voluntary surrender is spontaneity and the intent of the accused to give himself up and submit himself to the authorities, either because he acknowledges his guilt or he wishes to save the authorities the trouble and expense that may be incurred for his search and capture.[80]

Records show that it was Reno who went to the Hamtic police station to request that they take custody of the accused-appellant who was then in his house.[81] Undoubtedly, when the police went to Reno's house at San Angel, San Jose, Antique, it was for the purpose of arresting the accused-appellant and not because he was surrendering to them voluntarily. Simply put, Reno merely facilitated the accused-appellant's arrest. Thus, without the elements of voluntary surrender, and where the clear reasons for the supposed surrender are the inevitability of arrest and the need to ensure his safety, the surrender is not spontaneous and therefore cannot be characterized as "voluntary surrender" to serve as a mitigating circumstance.[82]

The penalty to be imposed upon the accused-appellant

Pursuant to Art. 248 of the RPC, the penalty for murder is reclusion perpetua to death. Applying Art. 63(2)[83] of the RPC, the lesser of the two indivisible penalties, i.e., reclusion perpetua, shall be imposed upon the accused-appellant in view of the absence of any mitigating or aggravating circumstance that attended the killing of Lucio.

Following the jurisprudence laid down by the Court in *People v. Jugueta*, [84] accused-appellant shall be held liable for civil indemnity, moral damages, and exemplary damages in the amount of P75,000.00 each. It was also ruled in *Jugueta* that when no documentary evidence of burial or funeral expenses is presented in court, the amount of P50,000.00 as temperate damages shall be awarded. In this case, Victoria showed that she spent a total

of P13,000.00 for the funeral expenses of Lucio. In conformity with the jurisprudence in *Ocampo v. People*,^[85] the temperate damages of P50,000.00 shall likewise be awarded instead of the damages substantiated by the receipts. In addition, interest at the rate of six percent (6%) per annum shall be imposed on all monetary awards from date of finality of this decision until fully paid.^[86]

On the loss of earning capacity, it is noted that Victoria failed to substantiate her claim that her husband was receiving a monthly income of P20,000.00. The Court reiterates its ruling that "for lost income due to death, there must be unbiased proof of the deceased' average income. Self-serving, hence unreliable statement, is not enough."^[87]

WHEREFORE, the appeal is DISMISSED. The assailed Decision of the Court of Appeals in CA-G.R. CR-HC No. 01473 finding the accused- appellant Rezor Juanillo Manzano guilty beyond reasonable doubt of Murder and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED but with MODIFICATION as to the award of damages to the heirs of Lucio Silava, as follows: civil indemnity of P75,000.00; moral damages of P75,000.00; exemplary damages of P75,000.00; and temperate damages of P50,000.00. In addition, interest at the rate of six percent (6%) per annum shall be imposed on all monetary awards from the date of finality of this decision until fully paid.

SO ORDERED.

Velasco, Jr. (Chairperson), Bersamin, Leonen, and Gesmundo, JJ., concur.

[1] Rollo, pp. 4-22. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Ramon Paul L. Hernando and Marie Christine Azcarraga-Jacob.

[2] Records, pp. 236-249. Penned by Judge Rudy P. Castrojas.

[3] Id. at 1.

[4] TSN, 7 March 2011, pp. 4-9.

[5] Id. at 9-17, 25-26 and 29.

[6] Id. at 8, 10-11 and 14-15.

[7] TSN, 14 June 2011, pp. 15-17.

[8] Id. at 17-23.

[9] Id. at 23-27.

[10] Records, pp. 50-51; Exhs. "B to "B-3."

[11] Id. at 52; Exh. "C."

[12] Id. at 53-57; Exhs. "D" to "D-4."

[13] TSN, 14 June 2011, pp. 29-30; TSN, 9 August 2011, p.3; TSN, 29 November 2011, pp. 17-19.

[14] Records, p. 15.

[15] Id. at 58-79, Exhs. "E" to "E-21."

[16] TSN, 29 November 2011, pp. 10-14.

- [17] Records, pp. 245-248.
- [18] Id. at 248.
- [19] Id. at 249.
- [20] Rollo, pp. 15-18.
- [21] Id. at 20-21.
- [22] Id. at 22.
- [23] CA rollo, pp. 21-22.
- [24] *People v. Dayaday*, G.R. No. 213224, 16 January 2017.
- [25] *People v. Macaspac*, G.R. No. 198954, 22 February 2017.
- [26] *People v. Delector*, G.R. No. 200026, 4 October 2017.
- [27] *People v. Macaspac*, supra note 25.
- [28] *People v. Labraque*, G.R. No. 225065, 13 September 2017, citing *People v. Alberca*, G.R. No. 217459, 7 June 2017.
- [29] *People v. Aycardo*, G.R. No. 218114, 5 June 2017.
- [30] *People v. Amar*, G.R. No. 223513, 5 July 2017.
- [31] TSN, 14 June 2011, pp. 21-27.
- [32] CA rollo, pp. 27-28.
- [33] Id. at 28.
- [34] TSN, 14 June 2011, pp. 23-24.
- [35] *Ocampo v. People*, 759 Phil. 423, 433 (2015).
- [36] *People v. Amoc*, G.R. No. 216937, 5 June 2017.
- [37] G.R. No. 195021, 15 March 2017.
- [38] Article II. Justifying circumstances. - The following do not incur any criminal liability:
1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur;
First. Unlawful aggression;
Second. Reasonable necessity of the means employed to prevent or repel it;
Third. Lack of sufficient provocation on the part of the person defending himself.
 2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or his relatives by affinity in the same degrees and those consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the revocation was given by the person attacked, that the one making defense had no part therein.
 3. Anyone who acts in defense of the person or rights of a stranger, provided that the first and second requisites mentioned in the first circumstance of this Article are present and that the person defending be not induced by revenge, resentment, or other evil motive.
 4. Any person who, in order to avoid an evil or injury, does not act which causes damage to another, provided

that the following requisites are present;
First. That the evil sought to be avoided actually exists;
Second. that the injury feared be greater than that done to avoid it;
Third. That there be no other practical and less harmful means of preventing it.
5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.
6. Any person who acts in obedience to an order issued by a superior for some lawful purpose.

[39] Velasquez v. People, supra note 37.

[40] Ocampo v. People, supra note 35 at 431.

[41] People v. Ramos, 715 Phil. 193,204 (2013).

[42] Belbis, Jr. v. People, 698 Phil. 706, 720 (2012).

[43] People v. Bosito, 750 Phil. 183, 193 (2015).

[44] Velasquez v. People, supra note 37.

[45] CA rollo, p. 29.

[46] Velasquez v. People, supra note 37.

[47] People v. Dulin, 762 Phil. 24, 37 (2015), citing People v. Nugas, 677 Phil. 168, 177-178 (2011).

[48] Records, pp. 64-68, Exhs. "E-6," "E-7," "E-8," "E-9" and "E-10."

[49] Ocampo v. People, supra note 35 at 432.

[50] Belbis, Jr. v. People, supra note 42 at 719.

[51] 231 Phil. 9 (1987).

[52] Id. at 26; cited in CA rollo, pp. 29-30.

[53] People v. Buenafe, G.R. No. 212930, 3 August 2016, 799 SCRA 454, 463.

[54] Id. at 463, citing People v. Ducabo, 560 Phil. 709, 723-724 (2007).

[55] People v. Dulin, supra note 47 at 36.

[56] People v. Casas, 755 Phil. 210, 219 (2015).

[57] Ocampo v. People, supra note 35 at 433.

[58] Records, p. 81, Exh. "G."

[59] CA rollo, p. 31.

[60] 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, 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.
2. In consideration of a price, reward or promise.
3. 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.

4. 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.

5. With evident premeditation.

6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. (As amended by R.A. No. 7659 entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as amended, Other Special Penal Laws, and for Other Purposes.")

[61] Art. 246. Parricide. - Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.

[62] *People v. Bugarin*, G.R. No. 224900, 15 March 2017.

[63] *People v. Villanueva*, G.R. No. 226475, 13 March 2017.

[64] *People v. Jugueta*, G.R. No. 202124, 5 April 2016, 788 SCRA 331, 348.

[65] Article 249. Homicide. - Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

[66] *Cirera v. People*, 739 Phil. 25, 39 (2014).

[67] *People v. Sibbu*, G.R. No. 214757, 29 March 2017.

[68] *People v. Bugarin*, *supra* note 62.

[69] *People v. Macaspac*, *supra* note 25.

[70] *People v. Bugarin*, *supra* note 62.

[71] *Id.*

[72] *People v. Oloverio*, 756 Phil. 435, 449 (2015).

[73] *Cirera v. People*, *supra* note 66 at 28.

[74] *Id.* at 45.

[75] *Id.* at 39.

[76] *Escamilla v. People*, 705 Phil. 188, 196-197 (2013).

[77] TSN, 14 June 2011, p. 8.

[78] *People v. Bosito*, *supra* note 43 at 193.

[79] *People v. Placer*, 719 Phil. 268, 281-282 (2013).

[80] *Belbis, Jr. v. People*, *supra* note 42 at 724.

[81] TSN, 8 March 2011, p. 11.

[82] *Belbis, Jr. v. People*, *supra* note 42 at 724.

[83] 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:

1. xxxx
 2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.
- x x x x

[84] Supra note 64.

[85] Supra note 35 at 435.

[86] People v. Jugueta, supra note 64 at 388.

[87] People v. Sanchez, 372 Phil. 129, 148 (1999).

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