

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ARMANDO ARCHIVIDO Y ABENGOZA, ACCUSED-APPELLANT.

G.R. No. 233085. September 21, 2020

Ponente: GAERLAN, J.

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GAERLAN, J.:

This resolves the appeal[1] filed by accused-appellant Armando Archivido y Abengoza (Armando), praying for the reversal of the December 16, 2016 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07306, which in turn affirmed the October 10, 2012 Joint Decision[3] of the Regional Trial Court (RTC), Branch 39, Daet, Camarines Norte convicting him of murder and frustrated murder.

The Antecedents

Armando was charged in two separate Informations for the crime of murder and frustrated murder, committed as follows:

Criminal Case No. 13933

That on or about 10:00 in the morning of July 31, 2009 at Brgy. San Pascual, Municipality of Basud, Province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, evident premeditation, treachery and superior strength, did, then and there willfully, unlawfully and feloniously, while armed with a bladed weapon, repeatedly hack LILIA ARCHIVIDO y DECEREZ, in blatant disregard of the respect due to her on account of her sex, thereby inflicting upon her fatal wounds which caused her untimely death, to the damage and prejudice of the heirs of the victim.

Criminal Case No. 13937

That on or about 10:00 in the morning of July 31, 2009 at Brgy. San Pascual, Municipality of Basud, Province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, evident premeditation, treachery and superior strength, did, then and there willfully, unlawfully and feloniously, while armed with a bladed weapon, repeatedly hack RUBEN ARCHIVIDO y AVENGOZA, thereby, inflicting upon him fatal wound, thus the accused preformed all the acts of execution which would produce the crime of MURDER, as a consequence, but which nevertheless did not produce it by reason of causes independent of the will of the accused, but due to the timely and able medical assistance rendered to the private complainant which prevented his death, to his damage and prejudice.[4]

Armando admitted the charges, but interposed self-defense. After the pre-trial, a reverse trial ensued.[5] The prosecution established the following version of facts:

Armando and Ruben Archivido (Ruben) are brothers. Their parents owned an eight-hectare parcel of land in San Pascual, Basud, Camarines Norte. Sometime in 1979, the lot was subdivided and each brother was given 2.68 hectares each. However, in 1989, Armando demanded a bigger share. Ruben and their mother Lydia Archivido (Lydia) refused to accede to his demand. Armando was infuriated.[6]

The dispute between the brothers dragged for a number of years. On July 2, 2009, the fight escalated and Armando threatened to kill Ruben and his wife Lilia Archivido (Lilia). The incident was recorded in the barangay blotter.[7]

At around 10:00 a.m. of July 31, 2009, while Ruben and Lilia were on their way home after cultivating their land at San Pascual, they chanced upon Armando who was on his way to the mountains. Armando intentionally bumped Lilia, which resulted in an argument. Ruben intervened and urged Armando and Lilia to just move on. They agreed. However, immediately after Ruben and Lilia turned their backs, Armando suddenly hacked Lilia from behind. Upon hearing a thud, Ruben turned around and saw Armando hacking Lilia with his bolo. Lilia retaliated but was no match for Armando. She was severely injured and fell on the ground.[8]

Ruben rushed to his wife's aid. While he was removing his raincoat and unloading the cassava he was carrying, Armando suddenly started hacking him, inflicting injuries on his face, shoulders and arms. Then, Armando left to wash his bolo.[9]

Ruben left Lilia's side to seek help from people in the barrio. On his way, he met Edgar Ponaya (Edgar), who went to the barangay and reported the matter.[10] Thereafter, Edgar took Ruben to the Camarines Norte Provincial Hospital, where he was treated by Dr. Edmundo Dizon (Dr. Dizon). Dr. Dizon noted that Ruben had six hacking wounds, which caused severe bleeding and would have been fatal if not for immediate medical attention. Ruben was confined for 16 days.[11]

Unfortunately, Lilia succumbed to her injuries. When the barangay officials arrived at the crime scene, they discovered Lilia's lifeless body.[12]

Dr. Jose Magana, Municipal Health Officer of Daet, Camarines Norte conducted a Post-Mortem Examination on Lilia. He noted several hacking wounds on her right leg and left leg, and declared that the cause of death was hemorrhagic shock caused by the wounds.[13]

On the other hand, Armando interposed self-defense. He related that he met Lilia and Ruben while he was on his way to the mountain. Lilia threatened him to refrain from testifying in a case that was being filed against her by Glenda Sablawan. He retorted that Lilia should not tell him what to do. When he turned his back to leave, he was suddenly struck with a bolo.[14]

Then, Ruben and Lilia moved towards him with their arms raised and clutching their bolos. While he was about to draw his bolo, Ruben hit him on his right arm. Ruben tried to hack him several times but he was able to parry the attacks and fight back. Then, Ruben pleaded for him to stop, so he left. He proceeded to the barangay hall of San Pascual to surrender. However, there was no barangay official present. He asked a certain Eduardo to accompany him to the Basud Police Station. On their way, they ran into barangay tanod Morada, who brought him to the police station.[15]

While at the police station, he had the incident recorded in the police blotter. Thereafter, he was taken to the hospital for treatment.[16] Dr. Antonio Dee (Dr. Dee) attended to his wounds. Dr. Dee noted that his injuries were superficial and may not lead to death. He returned to the police station after being discharged from the hospital.[17]

Ruling of the RTC

On October 10, 2012, the RTC rendered a Joint Decision[18] finding Armando guilty beyond reasonable doubt of murder and frustrated murder. The RTC held that the prosecution proved all the essential elements of the crimes charged. The RTC rejected Armando's plea of self-defense as well as his claim of voluntary surrender.

The dispositive portion of the RTC ruling reads:

WHEREFORE, foregoing premises considered, accused ARMANDO ARCHIVIDO y ABENGOZA is hereby found GUILTY beyond reasonable doubt of the crime of MURDER in Criminal Case No. 13937. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. He is hereby ordered to indemnify the heirs of Lilia L. Archivido the following:

- PhP 75,000.00 as civil indemnity;
- PhP 50,000.00 as moral damages; and
- PhP 30,000.00 as exemplary damages

In Criminal Case No. 13937, accused ARMANDO ARCHIVIDO y ABENGOZA is hereby found GUILTY beyond reasonable doubt of the crime of FRUSTRATED MURDER. He is hereby sentenced to suffer the penalty of EIGHT (8) YEARS and ONE DAY of PRISION MAYOR as MINIMUM, to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of RECLUSION TEMPORAL, as MAXIMUM.

SO ORDERED.[19]

Aggrieved, Armando filed a Notice of Appeal.[20]

Ruling of the CA

On December 16, 2016, the CA rendered the assailed Decision affirming the RTC ruling with modification as to the penalty and damages.

In affirming Armando's guilt for murder and frustrated murder, the CA held that the prosecution sufficiently proved that the attacks against Lilia and Ruben were attended with treachery. The spouses were blindsided and completely caught off-guard. Lilia was hacked after she had turned her back against Armando.[21] Armando deliberately and consciously adopted this manner of attack to eliminate any possible risk to himself.[22]

However, the CA opined that the prosecution failed to prove the qualifying circumstance of evident premeditation. There was no showing that Armando deliberately and carefully planned his attack against Ruben and Lilia, and that a considerable amount of time lapsed for him to reflect upon the consequences of his act. All that was proved was that he suddenly hacked Lilia and Ruben at the moment they turned their backs.[23]

Moreover, the CA rejected Armando's claim of self-defense, both complete and incomplete. According to the CA, Armando failed to prove that the spouses mounted unlawful aggression against him.[24] Similarly, his claim that the spouses ganged up on him was belied by the physical evidence.[25]

Finally, the CA found that Armando was entitled to the mitigating circumstance of voluntary surrender. He immediately went to the barangay hall after the incident to surrender, and he even proceeded to the police station when there were no persons in the barangay hall.[26]

The dispositive portion of the CA ruling reads:

WHEREFORE, in view of the foregoing, the Appeal is DISMISSED. The Joint Decision dated October 10, 2012 of the Regional Trial Court of Daet, Camarines Norte, Branch 39 is hereby AFFIRMED with MODIFICATIONS insofar as the penalties and monetary awards are concerned, viz.:

In Criminal Case No. 13933, Accused Armando Archivido y Abengoza is hereby found guilty beyond reasonable doubt of the crime of Murder. He is hereby sentenced to suffer the penalty of reclusion perpetua and is ordered to pay the heirs of Lilia Archivido the following amounts:

1. PhP 75,000.00 as civil indemnity;

2. PhP 75,000.00 as moral damages; and
3. PhP 75,000.00 as exemplary damages.

In Criminal Case No. 13937, Accused Armando Archivido y Abengoza is hereby found guilty beyond reasonable doubt of the crime of Frustrated Murder. He is hereby sentenced to suffer the penalty of 8 years and 1. day of prison mayor, as minimum, to (14) years of reclusion temporal as maximum, and is ordered to pay Ruben Archivido the following amounts:

1. PhP 50,000.00 as civil indemnity;
2. PhP 50,000.00 as moral damages; and
3. PhP 50,000.00 as exemplary damages.

An interest at the rate of six percent (6%) per annum shall be imposed on all the damages awarded, reckoned from the date of the finality of judgment until fully paid.

SO ORDERED.[27] (Emphasis in the original)

Dissatisfied with the ruling, Armando filed a Notice of Appeal.[28]

Issues

Both parties filed separate Manifestations[29] indicating that they are adopting the Briefs they submitted before the CA in lieu of their Supplemental Briefs.

Seeking exoneration from the charges, Armando pleads self-defense. He claims that Lilia and Ruben attacked him first by hacking the back of his head. Although the wound was later declared to be superficial, at the time of the attack, he honestly believed that his life was in danger, thereby prompting him to retaliate.[30] The means he employed were reasonably necessary to parry the assault. Moreover, he did not cause any sufficient provocation. He merely refused to accede to Lilia's request for him not to testify against her.[31] He further claims that the threats he allegedly uttered against Lilia and Ruben occurred more than one month prior to the incident. No other threats were reported since then.[32]

Alternatively, Armando argues that should he be found guilty, he may only be convicted of homicide and frustrated homicide.[33] The prosecution failed to establish the qualifying circumstances of treachery and evident premeditation. He avers that the prosecution's narration of events is unbelievable. If he truly wanted to attack Ruben and Lilia without any danger to himself, then he would have attacked Ruben first, the latter being the stronger opponent, and attack a more delicate part of the body — the head, neck or abdomen.[34] Neither was the prosecution able to prove that the assault was deliberately and consciously adopted.

Finally, Armando claims that he is entitled to the mitigating circumstance of voluntary surrender.[35] He went to the barangay hall immediately after the incident in order to surrender. However, since no one was present thereat, he proceeded to the Basud Police Station.[36]

On the other hand, the People, through the Office of the Solicitor General (OSG), counters that Armando failed to prove his plea of complete and incomplete self-defense. His defense was based on his "lone and doubtful testimony" which pales in comparison to the statements of the prosecution witnesses.[37] Likewise, his claim that Ruben and Lilia ganged up on him is unbelievable, and is belied by the physical evidence.[38]

Similarly, the OSG maintains that the attack was attended with treachery and evident premeditation. Armando hacked the spouses as soon as they turned their backs against him.[39] This proves that Armando employed means to ensure the success of his attack with the least harm to himself.[40] Evident premeditation existed considering the Armando had an ongoing dispute with the spouses and even made a threat to kill them. Armando fulfilled his threat by killing Lilia and injuring Ruben.[41]

Ruling of the Court

Armando is Guilty Beyond

Reasonable Doubt of Murder and

Frustrated Homicide

Article 248 of the Revised Penal Code (RPC) defines the crime of murder as the unlawful killing of a person, which is not parricide or infanticide, committed with any of the following qualifying circumstances, to wit:

- 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 street car or locomotive, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.
- On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any 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.[42] (F.mphasis and underscoring supplied)

Essentially, the elements of murder are: (i) that a person was killed; (ii) that the accused killed him or her; (iii) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (iv) that the killing is not parricide or infanticide.[43]

It is an elementary rule in criminal law that each of the qualifying circumstances must, be alleged in the Information[44] and must be proven as clearly as the crime itself.[45] In the absence of a qualifying circumstance, the crime committed is homicide, not murder.[46]

In the case at bar, Armando was indicted for murder qualified by treachery and evident premeditation. Parenthetically, there is treachery or *alevosia* when the offender commits any of the crimes against persons, employing means, methods or forms to ensure its execution, without risk to himself/herself arising from the defense which the offended party might make.[47] "The essence of treachery is that 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." [48]

In Criminal Case No. 13933 for murder, Armando attacked Lilia in a sudden, unexpected and rapid motion. Although Armando and Lilia had a prior argument, Lilia believed that the matter was already settled. Hence, she and Ruben turned their backs against Armando and started walking home. However, in a swift move, and taking advantage of his position, Armando hacked Lilia from behind. The onslaught was so sudden and swift that Lilia had no chance to mount a defense. She had no inkling that an attack was forthcoming and was completely unaware of the imminent peril. The deliberate swiftness of the attack significantly diminished the risk to Armando that may be caused by Lilia's retaliation. Thus, there can be no denying that Armando's attack against Lilia reeks of treachery.[49]

Remarkably, in *People v. Kalipayan*, [50] the Court held that an attack against a victim whose back was turned against the aggressor is treacherous. This manner of attack is a sign of the accused's conscious choice to employ the specific means and methods to kill the victim. It cannot be regarded as a sudden emotional response.[51]

Similarly, in *People v. Saure*,^[52] the Court affirmed the presence of treachery even though there was a prior altercation between the accused and the victim:

Treachery is evidently present in the instant case as the accused-appellant, stealthily and without warning, rushed towards the victim from behind and stabbed him in the chest. The victim, who was then seated, was not aware of any impending danger. Although there had been prior verbal altercation, the victim had reasons to believe that the matter has already been settled after Alinsub's intervention.^[53] (Emphasis supplied)

Likewise, in *People v. PO3 Feliciano*,^[54] a prior verbal tussle between the accused and the victim did not eliminate treachery. The victim had no reason to believe that he was in danger, considering that the accused left after the squabble.^[55]

In the same vein, in *People v. Beltran*^[56] *People v. Jabian*^[57] *People v. Alpapara, et al.*,^[58] *People v. Forca, et al.*,^[59] and *People v. Montemayor*,^[60] treachery was appreciated considering that the assault took place after the altercation had ceased. Said altercation was no longer regarded as a warning of the oncoming onslaught. In *People v. Vallespin*,^[61] the Court clarified that a prior altercation negates treachery only insofar as it forewarned the victim about the impending danger.^[62]

Furthermore in *People v. Coscos*,^[63] the Court likewise considered the nature of the fight, noting that "it was not intense to provoke a shooting," and could not have served as a potent warning.^[64] Applied to the case at bar, the testimonies of both the defense and the prosecution reveal that the altercation was too shallow to have served as a sufficient warning of a life-threatening peril. Armando related that the altercation originated from his refusal to accede to Lilia's request for him not to testify against her. Meanwhile, Ruben claimed that the quarrel erupted because Armando bumped into Lilia when their paths crossed. In both instances, the reasons behind the squabble were too shallow and juvenile to have warned Lilia that her life was in serious danger.

Concededly, the Court is aware of its pronouncements in the cases of *People v. Antonio*^[65] *People v. Placer*,^[66] and *People v. Cayabyab*,^[67] where it held that treachery cannot be appreciated in cases where a prior altercation preceded the attack. It bears stressing that in those cases, the fight between the accused and the victim was ongoing, such that the victim was aware of the imminent danger. In contrast, in the instant case, the squabble between Armando and Lilia had ended. Lilia believed that the matter was settled, and thus, proceeded to leave. Armando grabbed this opportunity and surreptitiously attacked Lilia.

Finally, the fact that the accused suffered no injuries, evidences treachery.^[68] Here, Lilia died due to severe blood loss caused by the severity of her wounds, whereas Armando was practically unscathed.

However, the same circumstances do not obtain in Criminal Case No. 13937 for frustrated murder against Ruben.

The facts show that after Lilia and Ruben turned their backs against Armando and proceeded on their way, Ruben suddenly heard a loud thud, which prompted him to turn around. Then, he saw Armando attacking Lilia. He immediately rushed to Lilia's aid and tried to stop Armando. Ruben's narration is enlightening:

PROSECUTOR APUYA:

Q: And when you met Armando with your wife walking ahead of you, what happened next?

A: Armando bumped my wife, they had an argument.

Q: How far were you then from them while they were arguing?

A: Around two (2) arms length, ma'am.

Q: And what did you do when you saw that they were arguing?

A: I told my wife not to argue with him because she will get nothing.

Q: And what was your wife's response, if any?

A: I likewise told Armando to proceed to where he was going and the two (2) of us, me and my wife turn[ed] our back[s].

Q: Were you walking side by side when you turned your back at Armando?

A:

Yes, ma'am.

Q: And what happened after that?

A: While our back was turned against him, I heard a thud, and when I turned around I saw that my wife was hacked by Armando hitting her - (witness pointing to his left ankle)

Q: And upon seeing that Armando hacked your wife what did you do?

A: When I was removing the cassava from my back he suddenly hack[ed] me hitting my two (2) hands.

Q: Why is it that you were hit on your arms what are you doing?

A: After I was about to remove my things at the back he started to hack me so I was not able to do anything but parried [sic] his hack.

Q: How many times did he hack you, Mr. witness?

A: Six (6) ma'am. (Witness pointing to different parts of his body.)[69]

The foregoing testimony shows that although the assault against Lilia was sudden and unexpected, Ruben's case was different. He turned around, saw the onslaught, and was forewarned of the impending danger. He was aware that in saving Lilia, he would likewise be vulnerable to an attack by Armando.

Significantly, in *People v. Se*[70] the Court stressed that once it appears that the victim was forewarned of the danger he was in, and instead of fleeing from it, met it and was killed as a result, then the qualifying circumstance of treachery cannot be appreciated. Treachery presupposes a sudden, unexpected, and unforeseen attack on the victim.[71]

Similarly, in *People v. Casas*[72] the Court held that there can be no treachery if the victim knew of the

impending danger to his life, and was fully aware of the peril he may be faced with:

Under these circumstances, it is the Court's observation that Joel was fully aware of the danger posed in assisting Eligio. He knew that Casas was armed with a knife and had just used the same on Eligio. Joel elected to intervene, and even armed himself with a bamboo pole. Accordingly, it is rather obvious that Joel was aware of the danger to his life, x x x Thus, insofar as the incidents in Crim. Case No. 136842 go, the Court downgrades the conviction to the crime of Homicide, x x x[73]

In *People v. Mantes*,[74] the Court articulated that "there is no treachery where the victim was aware of the danger to his life; when he chose to be courageous instead of cautious." [75] Essentially, in assessing whether treachery attended the commission of the offense, any doubt must be resolved in favor of the accused.[76]

Accordingly, it becomes all too apparent that the attack against Ruben was in no way treacherous, inasmuch as the obvious danger he faced was not sudden, unexpected, or unforeseen. Hence, Armando may only be held liable for frustrated homicide in Criminal Case No. 13937.

There is no doubt that the attack against Ruben was a frustrated felony. In *Serrano v. People*,[77] the Court characterized a frustrated crime as one where the perpetrator performed all the acts of execution which should produce the felony as a consequence, but was not accomplished due to some cause independent of the assailant's will.[78]

Particularly, in frustrated homicide, "the main element is the accused's intent to take his victim's life. The prosecution has to prove this clearly and convincingly to exclude every possible doubt regarding homicidal intent." [79] The crucial points to consider are the means employed by the offender, as well as the nature, location and number of wound/s inflicted.[80] These must be supported by independent proof showing that the injuries were sufficient to cause the victim's death without timely medical intervention.[81]

Notably, the medical certificate states that Ruben suffered six wounds that caused severe bleeding and would have been fatal if not for the immediate medical attention he received.[82]

The Prosecution Failed to Prove Evident Premeditation

The CA correctly ruled that there was no evident premeditation in the attacks against Lilia and Ruben. Fundamentally, "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 the space of time sufficient to arrive at a calm judgment." [83] The premeditation to kill must be plain and notorious, and thereafter proven by evidence of outward acts showing such intent to kill.[84] "It is imperative to prove that the accused underwent a process of cold and deep meditation, and a tenacious persistence in the accomplishment of the criminal act." [85]

In *People v. Grabador, Jr., et al.*, [86] the Court enumerated the requisites to establish evident premeditation:

Accordingly, in order to establish the existence of evident premeditation, the following requisites must be proven during the trial: (i) the time when the offender determined to commit the crime, (ii) an act manifestly indicating that he clung to his determination, and (iii) a sufficient lapse of time between the determination and execution, to allow him to reflect upon the consequences of his act, and to allow his conscience to overcome the resolution of his will. Evident premeditation cannot be presumed in the absence of evidence showing when and how the accused planned, and prepared for the crime, and that a sufficient amount of time had lapsed between his determination and execution. It bears stressing that absent any clear and positive evidence, mere presumptions and inferences of evident premeditation, no matter how logical and probable, shall be deemed insufficient.[87] (Citations omitted)

The prosecution failed to identify the time when Armando decided to kill Lilia and Ruben. Without this crucial data, it is impossible to conclude that there was indeed a sufficient period of time that passed between Armando's determination to kill and his actual execution, that allowed him to reflect on his plans. Armando's threats to kill Ruben and Lilia, and the ongoing dispute between them are not sufficient proof of a plan to kill. At best, his threats could only be regarded as an expression of hatred.

The Court clarified in *People v. Padama, Jr., et al.*[88] and *People v. Narit*[89] that mere expressions of anger are not evidence of a predetermined plan to kill." As elaborated in *Narit*: [90]

An intimation or expression of hatred does not necessarily imply a resolution to commit a crime and a determination to carry it out. A criminal intent cannot be presumed from hatred or ill-will, unless the expression of the latter is accompanied or thereafter followed by outward acts clearly and manifestly showing such intent. Evident premeditation must be based on external acts and must be evident, not merely suspected, indicating deliberate planning. Otherwise stated, there must be a demonstration by outward acts of a criminal intent that is notorious and manifest. Or, as stated in *People vs. Mendova*, 100 Phil. 811, "it is not enough that premeditation be suspected or surmised, but the criminal intent must be evidenced by notorious outward acts evincing determination to commit the crime." [91]

Armando's Claim of Self-Defense
(Complete and Incomplete) is Solely
Wanting

Interestingly, when the accused invokes self-defense, in effect, he or she admits to the commission of the acts for which he or she was charged, albeit under circumstances that, if proven, would exculpate him or her. [92]

Consequently, the burden of proving that the act was justified, shifts upon him or her. [93] The accused must prove through clear and convincing evidence that there was (i) unlawful aggression on the part of the victim; (ii) reasonable necessity of the means employed to prevent or repel such aggression; and (iii) lack of sufficient provocation on the accused's part. [94]

It bears noting that unlawful aggression is a condition sine qua non for upholding self-defense. [95] For every plea of complete and incomplete self-defense, the accused must establish the concurrence of the three elements of unlawful aggression, namely: "(i) there must have been a physical or material attack or assault; (ii) the attack or assault must be actual, or, at least, imminent; and (iii) the attack or assault must be unlawful." [96] It must be proven that the aggression caused by the victim put the accused's life in real and grave peril. [97]

Armando's claim of self-defense is unbelievable. His tale that Lilia and Ruben ganged up on him and attacked him first is self-serving, uncorroborated, and belied by the medical records. Lilia's autopsy indicates that she died due to massive bleeding caused by the wounds inflicted by Armando. Also, Ruben suffered six hacking wounds that resulted to severe blood loss and may have caused his untimely demise, if not for the prompt medical attention he received. On the other hand, Armando emerged out of the alleged fight practically unscathed. His wounds were described as "superficial" and "not fatal." [98]

At any rate, even assuming *arguendo* that Lilia initiated the attack as Armando insists, suffice to say, in the case of *People v. Dulin*, [99] the Court declared that the fact that the victim was the initial aggressor does not *ipso facto* prove unlawful aggression. Although the victim may have initiated the attack, he ceased to be the aggressor as soon as he was dispossessed of the weapon. Any subsequent act on the part of the accused is no longer self-defense, but retaliation. [100]

In the instant case, Armando attacked Lilia and Ruben after they had peacefully parted ways. Certainly, at this point, Armando was no longer motivated by a legitimate impulse to defend himself, but was animated with an evil

desire to harm Lilia and Ruben.

Moreover, guided by the ruling in *Velasquez, et al. v. People*,^[101] even assuming that Lilia and Ruben were the initial aggressors, the assault inflicted by Armando was glaringly in excess of what would have sufficed to neutralize the spouses.^[102]

Armando is Entitled to the Mitigating Circumstance of Voluntary Surrender

Voluntary surrender is regarded as a mitigating circumstance provided that the following requisites obtain: "(i) the accused has not been actually arrested; (ii) the accused surrenders himself to a person in authority or the latter's agent; and (iii) the surrender is voluntary." ^[103] "The essence of voluntary surrender is spontaneity and the intent of the accused to submit himself to the authorities either because he acknowledged his guilt or he wished to save the authorities the trouble and expense that may be incurred for his search and capture."^[104]

After the attack, Armando voluntarily went to the barangay hall to surrender to the proper authorities to save them the trouble and expense for his search and capture.^[105] However, since there was no one present there, he proceeded to the police station. On his way, he met Tanod Morada. He offered no resistance and surrendered to be taken to the police station.

Added to this, SPO1 Arnold Lamadrid confirmed that after Armando had been discharged from the hospital, he voluntarily returned to the police station.^[106] Certainly, these acts evince a sincere desire to surrender to the proper authorities.

The Penalty and Pecuniary Liability for Criminal Case No. 13933 for Murder

Article 248 of the RPC, as amended by Republic Act No. 7659, prescribes the penalty of reclusion perpetua to death for the crime of murder. Apart from treachery, which is already deemed a qualifying circumstance, the prosecution failed to prove the existence of any other aggravating circumstance which attended the murder of Lilia. Furthermore, Armando is entitled to the lone mitigating circumstance of voluntary surrender.

Article 63(3) of the RPC applies when the law prescribes a penalty composed of two indivisible penalties and states that, "[w]hen the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied." Thus, the CA correctly imposed a penalty of reclusion perpetua in Criminal Case No. 13933.

Anent the damages, the CA correctly awarded (i) P75,000.00 as civil indemnity; (ii) P75,000.00 as moral damages; and (iii) P75,000.00 as exemplary damages, pursuant to the Court's ruling in *People v. Jugueta*.^[107] The amounts shall be subject to a legal interest of six percent (6%) per annum from the finality of this Court's ruling until full satisfaction.

The Penalty and Pecuniary Liability for Criminal Case No. 13937 for Frustrated Homicide

Article 50 of the RPC states that "[t]he penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony."

In line with this, Article 249 of the RPC provides that the imposable penalty for homicide is reclusion temporal. However, considering that the crime committed is merely frustrated homicide, then, the imposable penalty shall be the penalty next lower in degree than reclusion temporal, which is prision mayor.

In addition, in view of the presence of the mitigating circumstance of voluntary surrender, the maximum penalty shall be taken from the minimum period of prision mayor, which ranges from six (6) years and one (1) day to eight (8) years.

Next, applying the Indeterminate Sentence Law, the minimum penalty shall be taken from any of the periods of the penalty next lower in degree than prision mayor, which is anywhere within the range of six (6) months and one (1) day to six (6) years of prision correccional.

In view of the foregoing, the Court imposes an indeterminate sentence of four (4) years and two (2) months of prision correccional as minimum to eight (8) years of prision mayor as maximum.

Furthermore, pursuant to *People v. Jugueta*,^[108] in frustrated homicide, the accused shall be liable to pay P30,000.00 as civil indemnity, and P30,000.00 as moral damages.^[109] As ruled, there shall be no award of exemplary damages unless an aggravating circumstance was proven during the trial,^[110] which does not obtain in the instant case. The amounts due shall earn a legal interest of six percent (6%) per annum from the finality of the Court's ruling until full satisfaction.^[111]

WHEREFORE, the Court AFFIRMS with MODIFICATION the December 16, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07306, as follows:

(1) In Criminal Case No. 13933, Armando Archivido y Abengoza is found GUILTY beyond reasonable doubt of murder and is sentenced to suffer a penalty of reclusion perpetua. He is ordered to pay the heirs of Lilia Archivido (i) P75,000.00 as civil indemnity; (ii) P75,000.00 as moral damages; and (iii) P75,000.00 as exemplary damages; and

(2) In Criminal Case No. 13937, Armando Archivido y Abengoza is declared GUILTY beyond reasonable doubt of frustrated homicide and is sentenced to suffer a penalty of four (4) years and two (2) months of prision correctional as minimum to eight (8) years of prision mayor as maximum. He is ordered to pay the victim Ruben Archivido (i) P30,000.00 as civil indemnity, and (ii) P30,000.00 as moral damages.

All monetary awards shall be subject to an interest of six percent (6%) per annum reckoned from the finality of this Decision until full satisfaction.

SO ORDERED.

Leonen, (Chairperson), Gesmundo, and Carandang, JJ., concur.
Zalameda, J., On official leave.

[1]Rollo, pp. 22-23.

[2]Id. at 2-19; penned by Associate Justice Ramon A. Cruz, with Associate Justices Marlene Gonzales-Sison and Maria Elisa Sempio Diy, concurring.

[3]CA rollo, pp. 71-76; penned by Judge Winston Racoma.

[4]Id. at 71-72.

[5]Id. 72.

[6]Id.

[7]Id.

- [8]Id.
- [9]Id. at 104.
- [10]Id.
- [11]Id. at 73.
- [12]Id. at 104.
- [13]Id. at 73.
- [14]Id. at 72.
- [15]Id at 55.
- [16] Id. at 56.
- [17]Id. at 73
- [18]Id. at 71-76.
- [19]Id. at 76.
- [20]Id. at 29.
- [21]Id. at 11.
- [22]Id. at 12.
- [23]Id. at 13.
- [24]Id. at 14.
- [25]Id. at 15.
- [26]Id. at 16.
- [27]Id. at 18-19.
- [28]Id at 22-23.
- [29]Id. at 30-31; 35-36.
- [30]Id. at 59-60.
- [31]Id. at 60.
- [32]Id.
- [33]Id. at 67.
- [34]Id. at 62-63.
- [35]Id. at 66.
- [36]Id.
- [37]Id. at 106.
- [38]Id. at 107.

- [39]Id.
- [40]Id. at 109.
- [41] Id. at 109-110.
- [42]REVISED PENAL COD1-, Art. 248, ns amended
- [43]People v. Gaborne, 791 Phil. 581, 592 (2016).
- [44]People v. Wilson Lab-eo, 424 Phil. 482, -188 (2002).
- [45]People v. Dadivo, 434 Phil. 684, 68S-6S9 (2002)
- [46]People v. Bugarin, 807 Phil. 55S, 598-599 (2017.) citing People v. Placer 719 Phil. 268, 280 (2013).
- [47]Id.
- [48]Id. at 600-601.
- [49]People v. Las Pinas, et al., 739 Phil. 502, 525 (2014).
- [50]824 Phil. 173(2018).
- [51]Id. at 186-187.
- [52]428 Phil. 916(2002).
- [53]Id. at 932-933.
- [54]418 Phil. 88(2001).
- [55]Id. at 107.
- [56]534 Phil. 850 (2006).
- [57]408 Phil. 465 (2001).
- [58]619 Phil. 797 (2009).
- [59]388 Phil. 1079(2000).
- [60]452 Phil. 283 (2003).
- [61]439 Phil. 816 (2002).
- [62]Id. at 827-828
- [63]424 Phil. 886 (2002).
- [64]Id. at 902-903
- [65]390 Phil. 989 (2000).
- [66]Supra note 46
- [67]340 Phil. 498 (1997).
- [68]People v. Racal, 817 Phil. 665, 677-678 (2017).
- [69]Rollo, pp. 11-12.

[70]469 Phil. 763,771 (2004).

[71]Id. at 771.

[72]755 Phil. 210(2015).

[73]Id. at 221-222.

[74]420 Phil. 751 (2001).

[75]Id. at 760.

[76]People v. Escarlos, 457 Phil. 580, 599 (2003), citing People v. Doctolero Sr., 415 Phil. 632 (2001).

[77]637 Phil. 319(2010).

[78]Id. at 335, citing Palaganas v. People, 533 Phil. 169, 192 (2006).

[79]Abella v. People, 719 Phil. 53, 66 (2013), citing Colinares v. People, 678 Phil. 482, 494 (2011), citing People v. Pagador, 409 Phil. 338, 35 I (2001); Rivera v. People, 515 Phil. 824, 832 (2006).

[80]Id.

[81]Serrano v. People, supra note 77 at 336.

[82]Rollo, p. 5.

[83]People v. Isla, 699 Phil. 250, 270 (2012), citing People v. Garcia, 467 Phil. 1102, 1107 (2004).

[84]People v. Davido, 434 Phil. 684, 688-689 (2002).

[85]People v. Grabador, Jr. et al, G.R. No. 227504, June 13, 2018, citing People v. Macaspac, G.R. No. 198954, February 22, 2017, citing People v. Gonzales, 76 Phil. 473, 479 (1946), citing United Slates v. Cimanan, 37 Phil. 777(1918).

[86]People v. Grabador, Jr. et al., id.

[87]Id.

[88]374 Phil. 511 (1999).

[89]274 Phil. 613 (1991), citing People v. Aide, 64 SCRA224; U.S. v. Banagale, 24 Phil. 69 (1913).

[90]Id. at 631.

[91]Id.

[92]Velasquez, et al. v. People, 807 Phil. 438, 449 (2017).

[93]Dela Cruz v. People, et al., 747 Phil. 376, 384-385 (2014), citing Jacobo v. Court of Appeals, 337 Phil. 7, 18(1997).

[94]Guevarra, et al. v. People, 726 Phil. 183, 194 (2014), citing People v. Silvano, 403 Phil. 598, 606 (2001); and People v. Plaza, 403 Phil. 347, 357 (2001).

[95]Miranda v. People, G.R. No. 234528, January 23, 2019, People v. Dulin, 752 Phil. 24, 36 (2015).

[96]Id.

[97]Id.

[98]Rollo, p. 7.

[99]Supra note 94, citing *People v. Gamez*, 720 Phil. 561 (2013).

[100]Id. at 38, id. at 571-572.

[101]Supra note 91.

[102]Id. at 453.

[103]*People v. Placer*, supra note 46, citing Article 13, paragraph 7, Revised Penal Code; see also *People v. Ignacio*, 719 Phil. 268, 281 (2013); *People v. Antonio*, 390 Phil. 989, 1013 (2000).

[104]*Almojuela v. People*, 734 Phil. 636, 650 (2014), citing *De Vera v. De Vera*, 602 Phil. 877, 886-887 (2009).

[105]CA rollo, p. 66.

[106]Id. at 56.

[107]*People v. Jugueta*, 783 Phil. 806 (2016), citing *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

[108]Id.

[109]Id.

[110]Id.

[111]Id.

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