

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RENATO BACOLOT Y IDLISAN, ACCUSED-APPELLANT.

G.R. No. 233193. October 10, 2018

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CAGUIOA, J:

Before this Court is an appeal[1] filed under Section 13, Rule 124 of the Rules of Court from the Decision[2] dated April 27, 2017 of the Court of Appeals (CA), Twentieth (20[th]) Division in CA-G.R. CR-HC No. 01965, which affirmed the Decision[3] dated September 22, 2014 of the Regional Trial Court, Eighth Judicial Region, Branch 13, Carigara, Leyte (RTC), in Crim. Case No. 4887, finding herein accused-appellant Renato Bacolot y Idlisan (Renato or accused-appellant) guilty of the crime of murder under Article 248 of the Revised Penal Code (RPC).

The Facts

On June 12, 2008, an Information was filed charging Renato of the crime of murder allegedly committed as follows:

That on or about the 14[th] day of May 2008 in the Municipality of Carigara, Province of Leyte and within the jurisdiction of the Honorable Court, the said accused, armed with a bladed weapon, and with evident intent to kill, with treachery, evident premeditation and employing means to insure and afford impunity did then and there willfully, unlawfully and feloniously attacked (sic), assault and hacked (sic) Rodolfo Leona Jabayjabay with his weapon resulting in the untimely death of said Rodolfo L. Jabayjabay.

CONTRARY TO LAW.[4]

Upon arraignment, Renato's counsel manifested that Renato was suffering from mental disorder and requested for his examination at the Eastern Visayas Regional Medical Center (EVRMC), Psychiatric Department, Tacloban City, which the RTC granted.[5]

The medical report submitted by Dr. Lorelei Grace C. Genotiva (Dr. Genotiva) of the EVRMC affirmed that Renato was mentally incompetent to stand for trial; hence, trial was suspended and Renato was sent to the National Center for Mental Health, Mandaluyong City, for further evaluation and treatment.[6]

On February 18, 2009, the RTC received a letter from Dr. Edison C. Galindez, Chief of the Forensic Psychiatry Section of the National Center for Mental Health, attesting that Renato had regained competency to stand trial and recommended his discharge from the institution.[7]

On May 20, 2009, Renato was arraigned. He pleaded not guilty.[8]

Version of the Prosecution

The prosecution presented witnesses Arnulfo Jabayjabay (Arnulfo), Dr. Bella Profetana (Dr. Profetana), and Angeles Jabayjabay (Angeles).[9]

Arnulfo, the brother of the victim Rodolfo Leona Jabayjabay (Rodolfo), testified that on May 14, 2008, while

having a drinking spree with Renato and some other companions, including Rodolfo who subsequently joined them, Renato suddenly took a scythe (matabia) from Arnulfo's waist and hacked Rodolfo three times hitting the latter on the neck, back, and fingers. The hacking happened while Rodolfo was singing with his face turned towards the television. Renato then turned towards Arnulfo and hacked him too on the neck, head, and left shoulder. Arnulfo survived, but Rodolfo died.[10]

Dr. Profetana conducted the post-mortem examination on Rodolfo. She testified that the cause of Rodolfo's death was hypovolemic shock, secondary to blood loss due to hacking wounds. There were four wounds: one, on the right side of Rodolfo's neck; another at his back; the third an incised wound on his arm; and the fourth an incised wound on his right hand. Of these, the neck injury was fatal, while the rest were not. Dr. Profetana opined that the hacking wound on the neck might have been inflicted when the victim was in a position lower than the assailant.[11]

Lastly, Angeles, mother of Rodolfo and Arnulfo, testified that she was on her way to attend to Arnulfo who was already in the hospital when she happened to pass by the lifeless body of Rodolfo lying at the side of the road of Brgy. Sta. Fe, Carigara, Leyte. She informed Brgy. Kagawad Emeriata Dacara of the death of her son, and the latter, in turn, reported via a text message, the matter to the police authorities.[12]

Version of the Defense

Renato pleaded insanity as defense. His lone witness, Dr. Genotiva, testified that she had previously examined Renato in the year 2005 prior to his arrest. That was when Renato tried to burn himself and had to be admitted for his suicidal tendencies. Dr. Genotiva diagnosed Renato then as having "auditory hallucinations, depressed mood with appropriate effect," and was "able to converse, but he was not oriented to time and place, he had poor memory recall of the incidents, and he had blank stares." [13]

Dr. Genotiva again examined Renato after his arrest on August 15, 2008, September 12, 2008, and October 10, 2008. Recent psychological tests led her to recommend against Renato's trial as he still had psychotic trends despite his calm behavior. According to Dr. Genotiva, Renato had poor memory recall of the incidents relating to the commission of the crime and that he did not know what he did at the time. Also, Renato showed not only psychotic trends, but a full-blown psychosis, and that his schizophrenia had no chance of being completely healed.[14]

Ruling of the RTC

After trial on the merits, in its Decision[15] dated September 22, 2014, the RTC convicted Renato of the crime of murder. The dispositive portion of said Decision reads:

WHEREFORE, finding the accused RENATO BACOLOT y IDLISAN, GUILTY, beyond reasonable doubt, of the crime of MURDER, this Court, hereby sentences accused RENATO BACOLOT, a penalty of RECLUSION PERPETUA.

Further, accused is hereby ordered to pay the heirs of the victim, civil indemnity, in the amount of Seventy Five Thousand (Php75,000.00) Pesos, moral damages in the amount of Seventy Five Thousand (Php75,000.00) Pesos, exemplary damages in the amount of Thirty Thousand (Php30,000.00) Pesos and temperate damages in the amount of Fifteen Thousand (Php15,000.00) Pesos.

No costs.

SO ORDERED.[16]

The RTC gave credence to the positive identification of Renato by eyewitness Arnulfo which, according to the

court a quo, was corroborated by the testimonies of the other witnesses and documentary evidence. The RTC emphasized that the defense did not deny that Renato killed Rodolfo, but failed to present evidence to support Renato's plea of insanity. Thus, the RTC concluded that Renato was sane at the time he killed Rodolfo; hence, criminally liable.[17]

Ruling of the CA

In the assailed Decision[18] dated April 27, 2017, the CA affirmed the RTC's conviction of Renato and held that (1) the prosecution was able to sufficiently prove the elements of murder; (2) the element of treachery was present in the killing of Rodolfo; and (3) Renato's defense of insanity was not proven. The dispositive portion reads:

WHEREFORE, the appeal is DENIED for lack of merit. The Decision dated September 22, 2014 of the Regional Trial Court, Eight Judicial Region, Branch 13, Carigara, Leyte, in Criminal Case No. 4887 is hereby AFFIRMED with the MODIFICATION that the award of exemplary damages is increased to Php75,000.00. All damages awarded shall earn interest at the rate of 6% per annum from the date of finality of this judgment until fully paid.

SO ORDERED.[19] (emphases in the original)

The CA, however, modified the award of damages to be paid to the heirs of Rodolfo. As to exemplary damages, it increased the award from P30,000.00 to P75,000.00.[20]

Issues

For resolution of the Court are the following issues submitted by the accused-appellant:

(1)

Whether the CA gravely erred in convicting the accused-appellant of the crime charged despite the fact that the defense was able to prove insanity; and

(2)

Whether the CA gravely erred in convicting the accused-appellant of murder despite the prosecution's failure to establish the qualifying circumstances of treachery and evident premeditation.

The Court's Ruling

The appeal is partly meritorious. The Court affirms the conviction of the accused-appellant, but only for the crime of homicide, instead of murder, as the qualifying circumstance of treachery was not present in the killing of Rodolfo.

Accused-appellant's defense of insanity was not proven

The accused-appellant claims exemption from criminal liability and insists on his acquittal due to his alleged insanity immediately prior to, during and immediately after hacking Rodolfo. According to him, he was completely deprived of intelligence, making his criminal act involuntary. To prove his alleged insanity, accused-appellant presented as witness Dr. Genotiva of EVRMC, who diagnosed him to be suffering from psychosis and schizophrenia.

The Court is not convinced with accused-appellant's defense.

In the case of *People v. Isla*[21], the Court stated that:

Article 12 of the [RPC] provides for one of the circumstances which will exempt one from criminal liability

which is when the perpetrator of the act was an imbecile or insane, unless the latter has acted during a lucid interval. This circumstance, however, is not easily available to an accused as a successful defense. Insanity is the exception rather than the rule in the human condition. Under Article 800 of the Civil Code, the presumption is that every human is sane. Anyone who pleads the exempting circumstance of insanity bears the burden of proving it with clear and convincing evidence. It is in the nature of confession and avoidance. An accused invoking insanity admits to have committed the crime but claims that he or she is not guilty because of insanity. The testimony or proof of an accused's insanity, must, however, relate to the time immediately preceding or simultaneous with the commission of the offense which he is charged.[22] (Emphasis and underscoring supplied)

For the defense of insanity to be successfully invoked as a circumstance to evade criminal liability, it is necessary that insanity must relate to the time immediately preceding or simultaneous with the commission of the offense with which the accused is charged. In short, in order for the accused to be exempted from criminal liability under a plea of insanity, he must successfully show that: (1) he was completely deprived of intelligence; and (2) such complete deprivation of intelligence must be manifest at the time or immediately before the commission of the offense.[23]

Having invoked the defense of insanity, accused-appellant is deemed to have admitted the commission of the crime. Accordingly, he has the onus to establish with certainty that he was completely deprived of intelligence because of his mental condition or illness.[24]

After a careful review of the records of the case, the Court finds that the accused-appellant failed to prove that he was insane at the time or immediately before the commission of the offense.

As can be gleaned from Dr. Genotiva's testimony, there was no finding whatsoever that accused-appellant exhibited any of the myriad symptoms associated with schizophrenia immediately before or simultaneous with the hacking of Rodolfo. This facet of Dr. Genotiva's testimony surfaced upon the RTC's prodding, viz.:

Cross-examination of Dr. Genotiva –

COURT:

Q: This psychosis and schizophrenia, doctor, is of course a state of mind condition?

A: Yes Your Honor, it is a thinking disorder.

Q: Wherein you could only know the state of mind of a person if on that time you have conducted his mental condition.

A: Yes Your Honor, right immediately, if he was arrested immediately after the murder.

Q: Everything he did before does not mean that he was at that time suffering from psychosis?

A: Because I was not able to examine the client at the time immediately, I could not say that.

Q: But it could be deciphered according to the situation or the circumstances affecting the situation, am I correct?

A: It could be, Your Honor. Yes, Your Honor, I was not able to examine, I cannot speak for him.[25] (Emphasis and underscoring supplied)

Although the accused-appellant was diagnosed with schizophrenia in 2005, and again a few months after the stabbing incident in 2008, this evidence of insanity may be accorded weight only if there is also proof of abnormal psychological behavior immediately before or simultaneous with the commission of the crime. The evidence on the alleged insanity must refer to the time preceding the act under prosecution or to the very moment of execution.[26]

Furthermore, the Court agrees with the CA that the accused-appellant's defense of insanity is belied by the

following circumstances: First, his claim that he has absolutely no recollection of the hacking incident amounts to a mere general denial that can be made with facility. This, by itself, does not prove that the accused-appellant had lost his grip on reality on that occasion. It has been held that the professed inability of the accused to recall events before and after the stabbing incident, as in the instant case, does not necessarily indicate an aberrant mind, but is more indicative of a concocted excuse to exculpate himself.[27] Second, accused-appellant's voluntary surrender the following day belies his claim of insanity. This act tends to establish that he was well aware of what he had just committed, and that he was capable of discernment.[28] Lastly, Dr. Genotiva's testimony regarding accused-appellant's mental condition refers to the time he was examined in 2005, which is three years prior to the incident and in August 15, 2008, which is three months after the commission of the crime. The testimony of Dr. Genotiva failed to show the mental condition of accused-appellant between 2005 and 2008. Hence, the Court cannot second guess whether the accused-appellant was insane at the time the crime was committed. Time and again, this Court has stressed that an inquiry into the mental state of accused-appellant should relate to the period before or at the precise moment of doing the act which is the subject of the inquiry, and his mental condition after that crucial period or during the trial is inconsequential for purposes of determining his criminal liability.[29]

Indubitably, the defense failed to meet the quantum of proof required to overthrow the presumption of sanity.

The prosecution failed to prove treachery

In the assailed Decision, the CA affirmed the RTC's finding that the qualifying circumstance of treachery was present, thereby making Renato liable for murder instead of homicide. The CA held:

Additionally, this Court finds no reason to deviate from the finding of the RTC that the qualifying circumstance of treachery attended the killing of Rodolfo.

x x x x

The evidence for the prosecution, again through the eyewitness account of Arnulfo Jabayjabay, prove that, while the victim was singing, and his face and attention were focused on the television in front of him, accused-appellant, without provocation from anyone or warning from himself, took hold of the scythe then tucked in the waist of Arnulfo. With it, the accused-appellant delivered a series of thrusts and swings at Rodolfo and succeeded in inflicting four (4) wounds from which Rodolfo eventually died. As opined by Dr. Profetana, one wound, the one at Rodolfo's neck, is fatal and may have been inflicted while the victim was in a position lower than accused-appellant.[30]

On the other hand, accused-appellant posits that the RTC misappreciated the qualifying circumstance of treachery. He insists that the means he used in killing Rodolfo was not deliberately and consciously adopted since he did not hatch a plan to kill Rodolfo prior to their merriment, and the bladed weapon used was not even his but that of Arnulfo.

On this issue, the Court rules in favor of accused-appellant.

There is treachery when the offender commits any of the crimes against persons, employing means and methods or forms in the execution thereof which tend to directly and specially ensure its execution, without risk to himself arising from the defense which the offended party might make.[31] To qualify as an offense, the following conditions must exist: (1) the assailant employed means, methods or forms in the execution of the criminal act which give the person attacked no opportunity to defend himself or to retaliate; and (2) said means, methods or forms of execution were deliberately or consciously adopted by the assailant.[32] The essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself.[33]

Treachery has two elements, which must be read in conjunction with each other. Thus, it was an error for both the RTC and the CA to conclude that the killing was attended by the qualifying circumstance of treachery simply because it was alleged by the prosecution that the attack made it impossible for the victim to defend himself or retaliate. There must also be a showing that the offender consciously and deliberately adopted the particular means, methods and forms in the execution of the crime which tended directly to insure such execution, without risk to himself.[34]

In the case at bar, the following circumstances negate the presence of treachery: First, the stabbing incident happened during a drinking spree in which accused-appellant was a part. He did not deliberately seek the presence of the victim as he was already in the same vicinity as the latter when he hacked the victim. Second, in killing the victim, accused-appellant did not even use his own weapon – he merely took a scythe from Arnulfo, who was sitting beside him. In a similar case, the Court held that treachery cannot be presumed merely from the fact that the attack was sudden. The suddenness of an attack does not, of itself, suffice to support a finding of alevosia, even if the purpose was to kill, so long as the decision was made suddenly and the victim's helpless position was accidental.[35] Based on the first and second circumstances abovementioned, accused-appellant's decision to attack the victim was more of a sudden impulse on his part than a planned decision.

Considering the foregoing, it was not proven that the means Renato used in killing Rodolfo was deliberately and consciously adopted by the former. The incident, which happened at the spur of the moment, negates the possibility that accused-appellant consciously adopted the means to execute the crime committed.[36] Thus, it is not possible to appreciate treachery against Renato.

Generally, findings of fact of the trial courts are accorded great weight, particularly in the determination of credibility of witnesses as said courts have the opportunity to observe the witness and the manner in which they testified.[37] However, this can be disregarded when it appears on the record that the trial court may have overlooked, misapprehended, or misapplied some significant fact or circumstance which if considered, would have altered the result.[38] This is axiomatic in appeals in criminal cases where the whole case is thrown open for review on issues of both fact and law, and the Court may even consider issues which were not raised by the parties as errors.[39]

Therefore, with the removal of the qualifying circumstance of treachery, the crime is homicide and not murder. Under Article 249 of the RPC, any person found guilty of homicide shall be meted the penalty of reclusion temporal, a penalty which contains three periods.[40] Given that Renato voluntarily surrendered himself, Article 64 (2) states that when only a mitigating circumstance attended the commission of the felony, the penalty shall be imposed in its minimum period.[41] Thus, applying the Indeterminate Sentence Law, the maximum penalty shall be reclusion temporal in its minimum period, while the minimum penalty shall be prision mayor in any of its periods.[42] Thus, Renato is to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum.[43]

Finally, in view of the Court's ruling in *People v. Jugueta*,[44] the damages awarded in the questioned Decision are hereby modified to civil indemnity, moral damages, and temperate damages of P50,000.00 each.

WHEREFORE, in view of the foregoing, the appeal is hereby PARTIALLY GRANTED. The Court DECLARES accused-appellant Renato Bacolot y Idlisan GUILTY of HOMICIDE, with the mitigating circumstance of voluntary surrender, for which he is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum. He is further ordered to pay the heirs of Rodolfo L. Jabayjabay the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages, and Fifty Thousand Pesos (P50,000.00) as

temperate damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, and A. Reyes, Jr., JJ., concur.
J. Reyes, Jr.,[*] J., on wellness leave.

[*] Designated additional Member per Special Order No. 2587 dated August 28, 2018; on wellness leave.

[1] See Notice of Appeal dated May 19, 2017; rollo, pp. 20-21.

[2] Id. at 4-19. Penned by Associate Justice Gabriel T. Robeniol with Associate Justices Pamela Ann Abella Maxino and Pablito A. Perez concurring.

[3] CA rollo, pp. 40-55. Penned by Presiding Judge Emelinda R. Maquilan.

[4] Id.

[5] Rollo, pp. 5-6.

[6] Id. at 6.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 7.

[12] Id.

[13] Id.

[14] Id. at 7-8.

[15] Supra note 3.

[16] CA rollo, p. 55.

[17] Rollo, p. 8.

[18] Supra note 2.

[19] Id. at 18.

[20] Id.

[21] 699 Phil. 256 (2012) citing *People v. Tibon*, 636 Phil. 521 (2010).

[22] Id. at 266-267.

[23] *People v. Cacho*, G.R. No. 218425, September 27, 2017, p. 5.

[24] Id.

- [25] Rollo, pp. 15-16.
- [26] *People v. Estrada*, 389 Phil. 216, 232 (2000), citing *People v. Austria*, 328 Phil. 1208 (1996).
- [27] *People v. Tibon*, 636 Phil. 521, 531 (2010), citing *People v. Ocfemia*, 398 Phil. 210 (2000).
- [28] Rollo, pp. 16-17.
- [29] *People v. Villa, Jr.*, 387 Phil. 155, 166 (2000).
- [30] Rollo, p. 11.
- [31] *People v. Duran, Jr.*, G.R. No. 215748, November 20, 2017, p. 11.
- [32] *Id.*, citing *People v. Dulin*, 762 Phil. 24 (2015).
- [33] *Id.*, citing *People v. Escoto, Jr.*, 448 Phil. 749, 786 (2003).
- [34] *Id.*, citing REVISED PENAL CODE, Art. 14, par. 16.
- [35] *People v. Escoto*, 313 Phil. 785, 802 (1995).
- [36] *Fantastico and Villanueva v. Malicse, Sr. and People*, 750 Phil. 120, 137 (2015).
- [37] *People v. Duran, Jr.*, *supra* note 31 at 14.
- [38] *Id.*, citing *People v. Gaspar*, 376 Phil. 762, 785 (1999).
- [39] *Id.* at 14-15, citing *Luz v. People*, 683 Phil. 399, 406 (2012).
- [40] *People v. Endaya, Jr.*, G.R. No. 225745, February 28, 2018, p. 9.
- [41] *Id.*
- [42] *Id.*
- [43] *Id.*
- [44] 783 Phil. 806 (2016).

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