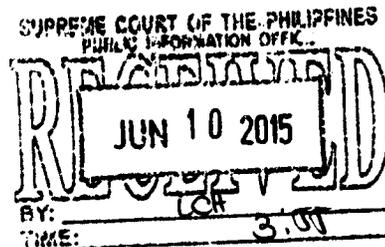




Republic of the Philippines
 Supreme Court
 Baguio City

FIRST DIVISION



PEOPLE OF THE PHILIPPINES, G.R. No. 213214

Plaintiff-Appellee, Present:

- versus -

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, JJ.

EUGENE SAMUYA,
 Accused-Appellant.

Promulgated:

APR 20 2015

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 RESOLUTION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal¹ filed by accused-appellant Eugene Samuya (Eugene) assailing the Decision² dated December 13, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 01345, which affirmed with modification the Judgment³ dated May 5, 2011 of the Regional Trial Court of Kalibo, Aklan, Branch 8 (RTC) in Crim. Case No. 8064 finding him guilty beyond reasonable doubt of the crime of Murder.

The Facts

Eugene and Rudy Samuya (Rudy) were charged with the crime of Murder, defined and penalized under Article 248⁴ of the Revised Penal Code

¹ See Notice of Appeal dated February 5, 2014; *rollo*, pp. 16-18.
² Id. at 4-15. Penned by Associate Justice Maria Elisa Sempio Diy with Associate Justices Edgardo L. delos Santos and Pamela Ann Abella Maxino concurring.
³ CA *rollo*, pp. 27-33. Penned by Presiding Judge Nelson J. Bartolome.
⁴ Art. 248. *Murder*. – Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:
 1. With treachery, x x x.
 x x x x

(RPC), as amended, under an Information,⁵ the accusatory portion of which reads:

That on or about the 19th day of November, 2006, in the evening, in Barangay Sta. Cruz, Municipality of Ibajay, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to kill, evident premeditation, treachery, with the use of superior strength and taking advantage of nighttime, did then and there willfully, unlawfully and feloniously attack, assault and shoot one GABRIEL S. SAMONTE, thereby inflicting upon the latter the following fatal injuries:

- “1. Gunshot wound, point of entry, chest, left, 5th intercostal space, 115.5 cm from heel, 7.5 cm from midline; contusion collar 1 cm x 1 cm; wound diameter 0.8 cm x 0.5 cm; direction downward, medially and backward, with no point of exit.
2. Wound, laceration, right shoulder, 2.8 cm x 1 cm.
3. Massive hemorrhage, secondary.”

per Postmortem Examination Report issued by Dr. Antonio S. Maagma, Jr., Rural Health Physician, Rural-Health Unit II, Ibajay, Aklan, hereto attached as Annex “A” and forming an integral part of this information; that as a direct consequence of the illegal acts of the accused, the victim died to the damage and prejudice of the surviving heirs of the deceased in the approximate sum of ONE HUNDRED THOUSAND PESOS (₱100,000.00).

CONTRARY TO LAW.

Upon arraignment, Eugene and Rudy pleaded not guilty.⁶ Thereafter, trial on the merits ensued.

The prosecution alleged that in the evening of November 19, 2006, Florenio Castro (Florenio), Anthony Dumalaog (Anthony), Jonel Samuya (Jonel), and the victim, Gabriel Samonte (Gabriel), were sitting outside Florenio’s house in Sta. Cruz, Aklan when Rudy arrived and asked where “Nat-Nat” was.⁷ When Anthony replied that “Nat-Nat” wasn’t there, Rudy approached Anthony and cocked a gun at him.⁸ At that point, Eugene arrived and, without any warning, shot Gabriel in the chest. Gabriel was able to run away, and as Eugene was chasing him, Florenio heard another gunshot. Moments later, Eugene returned alone and left together with Rudy. Florenio tried to contact Gabriel and when the latter did not respond, Florenio went to look for him. Eventually, Gabriel was found dead in a *kangkong* swamp.⁹ Dr. Antonio S. Maagma, Jr. who conducted a post-mortem examination on Gabriel’s body confirmed that Gabriel sustained a

⁵ Records, pp. 1-2.

⁶ *Rollo*, p. 6.

⁷ *CA rollo* p. 28.

⁸ *Rollo*, pp. 6-7.

⁹ *Id.* at 7. See also *CA rollo*, p. 28.

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laceration on his right shoulder and a gunshot wound on his chest that caused massive bleeding and resulted to his death.¹⁰

In his defense, Eugene admitted shooting Gabriel but claimed that he merely acted in self-defense.¹¹ He averred that on the date of the incident, he had just come home from a birthday party when Rudy arrived and asked him to accompany him (Rudy) to buy whisky. On their way to the store, they saw Florenio and Anthony, and Rudy greeted them. As they were talking, Eugene saw Gabriel rushing towards them with a knife in his hand and about to attack him. To defend himself, he drew his gun and shot Gabriel who immediately ran away.¹² Meanwhile, Rudy denied seeing Gabriel's alleged attack on Eugene and admitted that he only heard the gunshot and saw Eugene holding a gun.¹³

The RTC Ruling

In a Judgment¹⁴ dated May 5, 2011, the RTC convicted Eugene as charged, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the heirs of Gabriel ₱75,000.00 in civil indemnity. Rudy, on the other hand, was acquitted on account of the prosecution's failure to prove that he conspired with Eugene in shooting Gabriel.¹⁵

It refused to give credence to Eugene's claim of self-defense, pointing out that no credible testimony or evidence to support such claim was presented. On the other hand, the prosecution presented eyewitnesses who positively identified Eugene as the perpetrator and had no reason to perjure themselves.¹⁶ Further, it appreciated treachery as a qualifying circumstance since the attack was so sudden and unexpected, without warning on the victim and, thus, made it impossible for him to defend himself even if the attack was frontal.¹⁷ The other aggravating circumstances of evident premeditation, use of superior strength, and nighttime were, however, not appreciated since the prosecution failed to establish their existence.¹⁸

Dissatisfied, Eugene appealed¹⁹ to the CA.

¹⁰ *Rollo*, p. 7. See also TSN, July 3, 2007, pp. 6-9.

¹¹ See records, pp. 13-15 and 128-140.

¹² See *rollo*, p. 8.

¹³ *Id.*

¹⁴ *CA rollo*, pp. 27-33.

¹⁵ *Id.* at 32-33.

¹⁶ *Id.* at 28-29.

¹⁷ See *id.* at 31-32.

¹⁸ See *id.* at 29-31.

¹⁹ See Notice of Appeal dated May 9, 2011; records, pp. 155-156.



The CA Ruling

In a Decision²⁰ dated December 13, 2013, the CA affirmed Eugene's conviction but modified the award of damages.²¹

It agreed with the RTC's finding that treachery attended the killing of Gabriel, considering that the attack was so sudden and unexpected, thus depriving the latter of any opportunity to defend himself even if the attack was frontal.²² It also agreed with the RTC's observation that the plea of self-defense was self-serving, it being uncorroborated by credible testimony or evidence.²³ However, the CA modified the award of damages in favor of Gabriel's heirs and ordered Eugene to pay, in addition to the civil indemnity, ₱50,000.00 as moral damages, ₱30,000.00 as exemplary damages, and interest on all damages awarded at the rate of six percent (6%) per annum from the date of finality of judgment until all amounts awarded have been fully paid.²⁴

Hence, the instant appeal.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the CA correctly upheld Eugene's conviction for Murder.

The Court's Ruling

The appeal is bereft of merit.

In order to convict a person charged with the crime of Murder, the prosecution must establish beyond reasonable doubt that: (a) a person was killed; (b) the accused killed him or her; (c) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (d) the killing does not constitute Parricide or Infanticide.²⁵

Among the qualifying circumstances found in Article 248 of the RPC is treachery. Under Article 14 of the same Code, there is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially

²⁰ *Rollo*, pp. 4-15.

²¹ *Id.* at 14.

²² "The elements of the crime of murder are the following: (1) that a person was killed; (2) that the accused killed that person; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) that the killing is not parricide or infanticide." (*Id.* at 9-10, citing *People v. Sameniano*, 596 Phil. 916, 928 [2009].)

²³ See *id.* at 12.

²⁴ *Id.* at 14.

²⁵ *People v. Zapuiz*, G.R. No. 199713, February 20, 2013, 691 SCRA 510, 518-519.

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to insure its execution, without risk to himself arising from the defense which the offended party might make. In *People v. Tan*,²⁶ the Court held that the essence of treachery is the sudden and unexpected attack, without the slightest provocation on the part of the person attacked. In *People v. Perez*,²⁷ it was explained that a frontal attack does not necessarily rule out treachery. The qualifying circumstance may still be appreciated if the attack was so sudden and so unexpected that the deceased had no time to prepare for his or her defense.

In this case, the prosecution was able to prove that Eugene's attack on Gabriel was so swift and sudden, and without any warning. Eyewitnesses testified that immediately upon his arrival and without any exchange of words, Eugene pulled out his gun and shot Gabriel.²⁸ As the RTC and CA aptly pointed out, although the attack was frontal, it was so sudden and unexpected which made it impossible for Gabriel to defend himself. The gunshot wound on Gabriel's chest caused massive bleeding which led to his death not long after.²⁹ Thus, in view of the long-standing principle that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect,³⁰ the Court concludes that treachery was correctly appreciated.

Anent Eugene's claim of self-defense, which he invoked as a justifying circumstance before the trial court and, later, as a mitigating circumstance before the CA,³¹ the Court finds the same without merit.

The existence of unlawful aggression is the basic requirement in a plea of self-defense,³² either to justify the commission of a crime or to mitigate the imposable penalty. It is settled that without unlawful aggression, there can be no self-defense, whether complete or incomplete.³³ For unlawful aggression to justify or mitigate a crime, the same must be an actual, sudden, unexpected attack or imminent danger thereof, and not merely threatening and intimidating attitude, towards the one claiming self-defense.³⁴

Here, Eugene claims that he saw Gabriel rushing towards his direction, armed with a knife. Fearing that Gabriel was going to attack him, he pulled his own gun and shot the victim. However, as duly observed by the RTC and the CA, Eugene's account of events remained uncorroborated as no witness was ever presented to support his story. In fact, his co-accused,

²⁶ 373 Phil. 990, 1010 (1999).

²⁷ 404 Phil. 380, 382 (2001).

²⁸ See TSN, July 17, 2007, p. 6. See also TSN, November 12, 2007, p. 5.

²⁹ See TSN, July 3, 2007, pp. 6-9.

³⁰ See *Almojuela v. People*, G.R. No. 183202, June 2, 2014.

³¹ See CA rollo, pp. 16 and 28-29. See also rollo, pp. 11-12.

³² *People v. Gonzales*, G.R. No. 195534, June 13, 2012, 672 SCRA 590, 595.

³³ See *Guevarra v. People*, G.R. No. 170462, February 5, 2014.

³⁴ See *People v. Gonzales*, supra note 35, at 595-596; citation omitted.

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Rudy, even denied seeing Gabriel rush towards them, brandish a knife, and threaten to attack Eugene. Thus, apart from Eugene's self-serving testimony, nothing on record supports his claim that Gabriel was about to attack him. On this score, Eugene's plea of self-defense – whether as a justifying or as a mitigating circumstance – should fail.

In view of the foregoing, the RTC and the CA correctly sentenced Eugene to *reclusion perpetua*. However, Eugene shall not be eligible for parole.³⁵

On the matter of damages, case law provides that for death resulting from the crime of Murder, the heirs of the victim are entitled to the following awards: (a) civil indemnity *ex delicto* for the death of the victim without need of evidence other than the commission of the crime;³⁶ (b) actual or compensatory damages to the extent proved,³⁷ or temperate damages when some pecuniary loss has been suffered but its amount cannot be provided with certainty;³⁸ (c) moral damages;³⁹ and (d) exemplary damages when the crime was committed with one (1) or more aggravating circumstances.⁴⁰

In line with recent jurisprudence, the Court is impelled to increase the award of moral damages from ₱50,000.00 to ₱75,000.00.⁴¹ However, the awards of ₱75,000.00 as civil indemnity and ₱30,000.00 as exemplary damages stand.

Further, while records do not show that the prosecution was able to prove the amount actually expended for burial and funeral expenses, prevailing jurisprudence⁴² nonetheless allows the Court to award temperate damages in the amount of ₱25,000.00 to the victim's heirs as it cannot be denied that they suffered pecuniary loss due to the crime committed. And lastly, interest at the legal rate of six percent (6%) per annum from date of finality of this Resolution until fully paid is imposed on all monetary awards.⁴³

WHEREFORE, the appeal is **DENIED**. The Decision dated December 13, 2013 of the Court of Appeals in CA-G.R. CR-HC. No. 01345

³⁵ Pursuant to Section 3 of Republic Act No. 9346 which states that “[p]ersons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. [4103], otherwise known as the Indeterminate Sentence Law, as amended.” (See *People v. De Los Santos*, G.R. No. 207818, July 23, 2014; See also *People v. Tadah*, G.R. No. 186226, February 1, 2012, 664 SCRA 744, 747.)

³⁶ See *People v. Escleto*, G.R. No. 183706, April 25, 2012, 671 SCRA 149, 160.

³⁷ Civil Code, Article 2199.

³⁸ Civil Code, Article 2224.

³⁹ Civil Code, Article 2217.

⁴⁰ Civil Code, Article 2230. See also *People v. Escleto*, supra note 40.

⁴¹ See *People v. De Los Santos*, supra note 39.

⁴² See *People v. Lucero*, 651 Phil. 251, 261 (2010); citations omitted. See also *People v. Gunda*, G.R. No. 195525, February 5, 2014.

⁴³ See *People v. Escleto*, supra note 40, at 161.

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finding accused-appellant Eugene Samuya **GUILTY** beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, as amended, is hereby **AFFIRMED** with **MODIFICATION** sentencing him to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and ordering him to pay the heirs of Gabriel S. Samonte the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱30,000.00 as exemplary damages, and ₱25,000.00 as temperate damages, in lieu of actual damages, all with legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment.

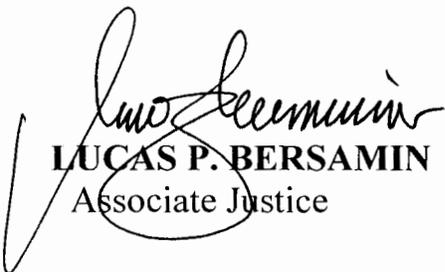
SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson

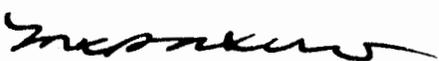

TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
 Chief Justice