

willfully, unlawfully and feloniously, stab to death victim PERFECTO NARAG, husband of complainant EDERLINA A. NARAG, inflicting upon him mortal stab wounds which caused his untimely death.

That the crime was committed with the aggravating circumstance[s] of dwelling, and in disregard of the respect due to the offended party on account of his age, being an old man.

Contrary to law.¹

Arraigned thereon, appellant entered a plea of "not guilty". Trial on the merits ensued.

The prosecution presented the following as witnesses:

Ederlina A. Narag (Ederlina), widow of Perfecto; Villamor Pagulayan (Villamor), a tricycle driver; SPO4 Avelino Guinucay (SPO4 Guinucay) of the Philippine National Police (PNP) of Tuguegarao City; and Dr. Eugenio P. Dayag (Dr. Dayag), former City Health Officer of Tuguegarao City.

Ederlina testified that on the afternoon of February 9, 2004, appellant arrived at their house and asked where her husband Perfecto was. Surprised at his arrival, Ederlina asked appellant why he was looking for Perfecto. Instead of replying to her query, appellant barged into their house and proceeded to Perfecto's room. Seeing that appellant was carrying a bladed weapon, Ederlina shouted to Perfecto to close the door to his room.

While Perfecto was attempting to close the door to his room, appellant grabbed his neck and immediately stabbed him at the right chest while uttering the words "I will kill you." Ederlina tried to stop the appellant from stabbing her husband but he pushed her away and stabbed her instead at the right wrist and forehead. She pleaded with appellant to stop stabbing his uncle, Perfecto, but appellant did not heed her plea. Perfecto also pleaded with him to stop his stabbing frenzy, but he paid no attention to his pleas.

Ederlina narrated that at this point, Villamor, the tricycle driver in their employ, came in and forced appellant out of Perfecto's room. However, appellant was able to return inside the room and stabbed Perfecto at the back again. Ederlina added that after appellant left their house, she saw him and his brother Martin Soriano (Martin) at the street, with appellant himself yelling "Winner."

¹ Records, p. 1.

Corroborating Ederlina's testimony, Villamor testified that he was at the garage of the victim's house when he heard Ederlina's screams. He ran inside the house and saw appellant, Perfecto, and Ederlina inside Perfecto's room. He saw appellant stab Perfecto several times. So he grabbed appellant by the neck and brought him outside the room. But appellant freed himself from his (Villamor's) hold and returned to Perfecto's room and again repeatedly stabbed the latter until he died. Appellant also turned his ire against Villamor and tried to stab him, too, but Villamor succeeded in avoiding serious injury by rushing out of the house. On his way out he ran into Martin, appellant's brother, whom he entreated to help pacify appellant. But Martin instead grabbed Villamor's neck and warned him not to report the incident to the police. However, Villamor broke off from Martin, and went to the police station where he reported the incident.

SPO4 Guinucaay testified that he and a fellow police officer went to the scene of the crime to investigate the reported incident. There they found the lifeless Perfecto in a pool of blood, with multiple stab wounds.

Dr. Dayag, testified that he conducted an autopsy upon the 71-year old Perfecto. His autopsy yielded the following results:

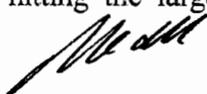
Findings:

- Multiple stab wounds, head, chest & back region
- Laceration on the left hand
- Lacerated wound on the left side of the face

Cause of Death:

Severe internal injuries due to multiple stab wounds, head, chest and back region

Dr. Dayag described the injuries, as follows:

- two (2) stab wounds on the forehead:
 1. stab wound measuring .8 inches by 2 inches caused by sharp pointed instrument but non-penetrating;
 2. stab wound measuring 1.02 inches by .2 inches deep hitting the skull but non-penetrating caused by a sharp pointed instrument;
 - one laceration on the cheek measuring 2 inches wide and 1.2 inches deep caused by sharp bladed instrument;
 - three (3) internal hematomas on the chest which were not fatal or more or less, superficial;
 - one stab wound just below the nipple measuring 3.2 inches that hit the lungs which could cause internal hemorrhage; inflicted with use of sharp pointed knife; a fatal wound
 - a stab wound on the abdomen just at the left umbilicus measuring 1.2 by 3 inches hitting the large and small intestines; non-fatal wound;
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- contusions on the abdomen just below the rib; superficial;
- a stab wound caused by a knife on the inguinal area measuring 1.2 inches by 3 inches in thickness; possibly caused by sharp pointed instrument; inflicted injuries to the large intestines and urinary bladder which, if not immediately attended to, would be fatal;
- another stab wound measuring 1.2 inches by 3 inches caused by sharp pointed instrument; inflicted injuries to the large intestines and urinary bladder which, if not immediately attended to, would be fatal
- four (4) stab wounds on the back region:
 1. stab wound measuring 2 by 2.4 inches hitting the lungs; possibly caused by a sharp pointed instrument; fatal wound;
 2. Stab wound measuring 2 x 2.2 inches deep hitting the left kidney; caused by a sharp pointed instrument; fatal wound;
 3. Stab wound measuring 2 inches deep and 2 inches wide; on level with the lumbar area on the left hitting the large intestines; possibly caused by a sharp bladed instrument;
 4. Stab wound measuring 2 inches by 3 inches deep on the right side of the lumbar area hitting the large and small intestines; possibly caused by sharp bladed pointed instrument; non-fatal;

On cross-examination x x x Dr. Dayag [declared] that when he conducted the autopsy, [Perfecto's] cadaver was already [in] *rigos mortis* x x x[; that it] is possible that the wounds [inflicted] on the back of the victim were caused by a chisel[; t]he Autopsy Report does not bear the depths and sizes of the wounds but he had them in his notebook x x x.²

On the other hand, the appellant claimed that there had been a long-standing bad blood between his (appellant's) family and his now deceased uncle, Perfecto, who was an elder brother of his mother; and that this family feud was caused by Perfecto's desire to deprive appellant's mother of her legitimate share in the common residential compound at Linao East, Tuguegarao City. He claimed that on that fateful day of February 9, 2004, Perfecto went near a store he was tending right inside the common residential compound; that at a distance of about five meters, Perfecto yelled at him to step outside; that when he stepped outside their store, Perfecto swung his knife at him and injured his knee; that he ran inside the kitchen and armed himself with a chisel; that when Perfecto tried to hurt him again, he was able to stab him first; that several persons witnessed the incident but nobody tried to interfere; that after the stabbing incident, he surrendered to *Barangay* Councilman Benigno Lucas who brought him to the police station in Annaturan, Tuguegarao City where he was investigated; and that afterwards, he was

² Id. at 259-261.

brought to a hospital for treatment but said hospital did not issue a medical certificate.

On cross-examination, appellant admitted that Ederlina was present during the stabbing incident in question, and that when Ederlina intervened, she was in fact injured by him; that later, Ederlina filed against him a criminal case for frustrated murder before Branch I of the RTC in Tuguegarao City, to which criminal case he pleaded guilty.

Ruling of the Regional Trial Court

The RTC of Tuguegarao City, Branch 3, synthesized the evidence at bar in this wise:

The totality of the circumstances leads to the inevitable conclusion that the victim was caught unaware and unable to defend himself and the accused deliberately chose a manner of attack that insured the attainment of his violent intention with no risk to himself.

The fact that Ederlina Narag was able to shout at the victim to close his room does not rule out the presence of treachery. It has been ruled that while a victim may have been warned of possible danger to his person, [there is treachery nonetheless when] the attack was executed in such a manner as to make it impossible for the victim to retaliate. The case at bar typifies this doctrine for the victim had no opportunity to defend himself precisely because it was simply unexpected to be the subject of an attack right inside his own abode and he was unarmed, with no opportunity to put up a defense. It must also be noted that the victim was already old and that his reflexes could have been worn down by age so he could not have been in a position to swiftly and sufficiently ward off the attack. It is worthy to note the injuries sustained by the victim. According to Dr. Dayag, the victim sustained various injuries not only in front of [his] body but also [on] his forehead and at his back and that the cause of his death is severe internal injuries due to multiple stab wounds, head, chest, and back region.

The version of the accused that the stabbing incident happened outside their house cannot be given credence. First, it is uncorroborated even if accused claimed that there were persons outside their house during the incident. Second, the testimony of prosecution witnesses Villamor Pagulayan and Ederlina Narag that the accused [stab] the victim inside the latter's room was corroborated by SPO4 Avelino Guinucay who testified that he found the victim's body with multiple stabbed wounds lying inside his room [in a] pool of blood. Defense conveniently did not present evidence on what happened to the victim after the stabbing incident that should have explained why the victim's body was found in his room even if the stabbing incident happened outside the house of the accused.

To warrant a finding of evident premeditation, the prosecution must establish the confluence of the following requisites: (a) the time when the



offender determined to commit the crime; (b) an act manifestly indicating that the offender clung to his determination [to commit the crime]; and (c) a sufficient interval of time between the determination and the execution of the crime to allow him to reflect upon the consequences of his act.

Prosecution evidence [failed] to show when the accused planned to commit the offense and that he reflected on the means to bring about its execution following an appreciable length of time. The Court cannot rest easy in appreciating this aggravating circumstance.

Dwelling aggravates a felony where the crime was committed in the dwelling of the offended party, if the latter has not given provocation or if the victim was killed inside his house. Dwelling is considered aggravating primarily because of the sanctity of privacy [that] the law accords to [the] human abode. He who goes to another's house to hurt him or do him wrong is more guilty than he who offends him elsewhere. The offense of Murder may be committed without the necessity of trespassing the sanctity of the offended party's house.

The victim was killed not merely in his house but in his own room. The accused could have killed him elsewhere but he decided to commit the crime at the victim's home; thus the aggravating circumstance of dwelling should be appreciated against the accused.

The Court is also convinced that the offense was committed in disregard of the respect due to the age of the victim. The accused knew fully well that the victim was already old because he is his uncle. The accused perpetrated the act against his ageing uncle knowing that by himself, said victim's physical condition due to old age would not allow him to sufficiently defend himself anymore.

The mitigating circumstance of voluntary surrender is appreciated in favor of the accused. Police officer Tangan testified that police officers x x x Remolacio, Batulan and Abadu, who brought accused to PTU Don Domingo where he was on duty informed him that he accused surrendered to Barangay Councilman Benigno Lucas, Linao East, Tuguegarao City. The reason why the accused was no longer at the place of incident when police officer Guinucay investigated and that the accused did not give himself up to any of the police officers was sufficiently explained by the accused upon his testimony that he left the place of incident and proceeded to the barangay hall where he surrendered to Barangay Councilman Benigno Lucas. It is significant to note that there is no evidence to show that the police or any law enforcement agency exerted any effort to locate the accused. By 5:00 o'clock in the afternoon, the accused was already turned over to PTU Don Domingo.

The information alleges two (2) qualifying aggravating circumstances, to wit: treachery and evident premeditation and two (2) generic aggravating circumstances of dwelling and disrespect to the victim who is already old. Only one qualifying circumstance of treachery with the two generic aggravating circumstances were proved. Applying the provision of paragraph 4, Article 64 of the Revised Penal Code, the mitigating circumstance of voluntary surrender offsets one generic aggravating circumstance, thus leaving one more generic aggravating circumstance. Under Article 248 of the Revised Penal Code, as amended by R.A. No. 7659,



murder is punishable by *reclusion perpetua* to death, which are both indivisible penalties. Article 63 of the same Code provides that in all cases in which the law prescribes a penalty composed of two indivisible penalties, the greater penalty shall be applied when the commission of the deed is attended by one aggravating circumstance. Under this state of facts, the proper penalty to be imposed upon the accused should be death.

However, in view of the enactment of Republic Act No. 9346 or the Act Prohibiting the Imposition of Death Penalty on June 24, 2006, the penalty that should be meted is *reclusion perpetua* x x x

x x x x

Pursuant to the same law, the accused shall not be eligible for parole x x x.³

The dispositive portion of the trial court's Judgment⁴ reads as follows:

WHEREFORE, the accused MARLON SORIANO y Narag is found GUILTY beyond reasonable doubt of MURDER as defined in Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659 and is hereby sentenced to suffer the penalty of *Reclusion Perpetua* without possibility of parole. Said accused is ORDERED to pay the heirs of Perfecto Narag the amounts of ₱75,000.00 as civil indemnity; ₱75,000.00 as stipulated actual damages; ₱50,000.00 as moral damages; and ₱25,000.00 as exemplary damages; and to pay the costs of suit.

SO ORDERED.⁵

Aggrieved, appellant sought recourse before the Court of Appeals.

Ruling of the Court of Appeals

The appellate court however threw out the appellant's appeal ratiocinating as follows:

Testimonies of Prosecution's Witnesses More Credible than Accused-Appellant's

It has been held time and again that factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies and the conclusions based on these factual findings are to be given the highest respect because it had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination. On the other hand, the reviewing magistrate has none

³ Id. at 265-267.

⁴ Id. at 256-268; penned by Judge Marivic A. Cacatian-Beltran.

⁵ Id. at 268.

of the advantages peculiar to the trial judge's position, and could rely only on the cold records of the case and on the judge's discretion. Thus, the trial court's assessment of the credibility of witnesses and their testimonies would not be disturbed absent any showing that it has overlooked, misapprehended or misapplied certain facts or circumstances of weight and substance which could substantially affect the outcome of the case. We assiduously examined the records and We find no reason to either depart from this established doctrine or to review, much less, overturn the factual findings of the court *a quo*.

Marlon tried to destroy the credibility of the prosecution's witnesses by belaboring on their relationship with the victim, Ederlina and Villamor being Perfecto's wife and nephew, respectively. Such emphasis is misplaced. Blood relationship between a witness and the victim does not, by itself, impair the credibility of the witness. In fact, the relationship with the victim would render the testimony more credible as it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody [else] other than the real culprit. There is absolutely nothing in our laws to disqualify a person from testifying in a criminal case in which said person's relative was involved, if the former was really at the scene of the crime and was a witness to the execution of the criminal act. Indisputably, Ederlina was with Perfecto in their home when Marlon attacked his uncle. She clearly described the events that took place before, during, and after her husband was stabbed and her testimony remained consistent and unwavering even on cross-examination. Thus, her positive testimony is enough to convict Marlon of the crime charged.

Further, Marlon's claim that the stabbing occurred outside of their respective houses does not inspire belief. We quote with approval the following disquisition of the RTC, *viz.*:

The version of the accused that the stabbing incident happened outside their house cannot be given credence. First, it is uncorroborated even if accused claimed that there were persons outside their house during the incident. Second, the testimony of prosecution witnesses Villamor Pagulayan and Ederlina Narag that the accused stabbed the victim inside the latter's room was corroborated by SPO4 Avelino Guinucay who testified that he found the victim's body with multiple stabbed (*sic*) wounds lying inside his room [in] a pool of blood. Defense conveniently did not present evidence on what happened to the victim after the stabbing incident that should have explained why the victim's body was found in his room even if the stabbing incident happened outside the house of the accused.

There is also no merit in Marlon's contention that his testimony was corroborated by SPO1 Tangan. It bears stressing that SPO1 Tangan did not witness the stabbing incident; his testimony surrounding Perfecto's killing was purely based on Marlon's narration and not of his own personal knowledge. As such, his testimony regarding the killing is inadmissible for being hearsay. It is a basic rule in evidence that a witness can testify [to] the facts that he knows of his own personal knowledge or those which are derived from his own perception. He may not testify [to] what he merely learned, read or heard from others because such testimony is considered



hearsay and may not be received as proof of the truth of what he has learned, read or heard.⁶

With particular reference to the qualifying circumstance of treachery, which according to the appellant did not at all attend his stabbing-to-death of his uncle Perfecto, the appellate court postulated thus:

Treachery: Duly Established; Qualified the Killing to Murder

x x x x

It may be said, as postulated herein, that the suddenness of the attack would not, by itself, suffice to support a finding of treachery. However, where proof obtains that the victim was completely deprived of a real chance to defend himself against the attack, as in the instant case, thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victim, the qualifying circumstance of treachery ought to and should be appreciated. Verily, what is decisive is that the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate.

As earlier discussed at length, the positive testimony of Ederlina established that Marlon purposely sought the unsuspecting Perfecto with intent to inflict mortal wound on him. Perfecto was unarmed at that time and there was no means of escape because he was trapped inside his room. In fact, Perfecto was about to close the door to his room when Marlon suddenly and swiftly stabbed him. Lastly, Marlon aimed at Perfecto's head, chest and back ensuring that he would not have a chance to retaliate. Obviously, the way it was executed made it impossible for the victim to respond or defend himself. He just had no opportunity to repel the sudden attack, rendering him completely helpless.

The following observation of the RTC is also apt:

The fact that Ederlina Narag was able to shout at the victim to close his room does not rule out the presence of treachery. It has been ruled that while a victim may have been warned of possible danger to his person, in treachery what is decisive is that the attack was executed in such a manner as to make it impossible for the victim to retaliate. The case at bar typifies this doctrine for the victim had no opportunity to defend himself precisely because it was simply unexpected to be the subject of an attack right inside his own abode and he was unarmed, with no opportunity to put up a defense. It must also be noted that the victim was already old and that his reflexes could have been worn down by age so he could not have been in a position to swiftly and sufficiently ward off the attack. x x x

Accordingly, We sustain the findings of the RTC that Marlon is guilty beyond reasonable doubt of murder.⁷

⁶ CA rollo, pp. 129-131.

⁷ Id. at 131-133.

The appellate court nonetheless modified the sums awarded by the RTC in concept of actual damages and exemplary damages, to wit:

Damages

However, We find it necessary to modify accused-appellant's civil liability. The RTC correctly awarded ₱75,000.00 civil indemnity and ₱50,000.00 moral damages but the actual damages should be reduced to ₱25,000.00 which is the amount of expenses stipulated by Ederlina in her testimony. The awarded exemplary damages should also be increased to ₱30,000.00 in line with recent jurisprudence.

All the foregoing monetary awards shall earn interest at the legal rate of 6% per annum from the date of finality of this decision until fully paid.⁸

The decretal portion of the appellate court's Decision⁹ reads as follows:

WHEREFORE, the appeal is DENIED and the October 30, 2009 Judgment of the Regional Trial Court Branch 3, Tuguegarao City, Cagayan in Criminal Case No. 10121 is AFFIRMED with MODIFICATIONS. As modified, accused-appellant MARLON SORIANO Y NARAG is hereby ordered to pay the Heirs of Perfecto Narag ₱25,000.00 actual damages and ₱30,000.00 exemplary damages, and all monetary awards are subject to 6% per annum from the time of finality of this Decision until fully paid. All other aspects of the October 30, 2009 Judgment stand.

SO ORDERED.¹⁰

Our Ruling

It is almost trite to say that the factual findings of the trial court, its assessment of the credibility of the witnesses, the probative weight of their testimonies and the conclusions drawn from these factual findings are accorded the highest respect by the appellate court, whose revisory power and authority is limited to the bare and cold records of the case. This explains why this Court, which is not a trial court, is loathe to re-examine and re-evaluate the evidence that had been analyzed and dissected by the trial court, and sustained and affirmed by the appellate court. In the case at bench, we see no reason at all to overturn the findings of facts and the conclusions of law made by both the trial court and the appellate court relative to the fact that treachery or alevosia in fact attended the stabbing-to-death of Perfecto by the appellant at the time and place alleged in the Information.



⁸ Id. at 133.

⁹ CA rollo, pp. 124-134; penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Seseinando E. Villon and Florito S. Macalino.

¹⁰ Id. at 133-134.

The awards for damages can stand some modification, however. Notably, the appellate court awarded ₱25,000.00 as actual damages which is the amount stipulated by the parties.¹¹ However, it is settled that “only expenses supported by receipts and which appear to have been actually expended in connection with the death of the [victim] may be allowed.”¹² Hence, the award of ₱25,000.00 as actual damages is deleted. In lieu thereof, “it is proper to award temperate damages x x x since the heirs of the victim suffered a loss but could not produce documentary evidence to support their claims.”¹³ In line with prevailing jurisprudence, we award ₱50,000.00 as temperate damages. As regards the awards for civil indemnity, moral damages and exemplary damages, it was held in *People v. Jugueta*¹⁴ that for a felony like murder where the penalty imposed is death, but reduced to *reclusion perpetua* because of Republic Act No. 9346, the amount is fixed at ₱100,000.00 each for civil indemnity, moral damages, and exemplary damages.

WHEREFORE, the appeal is hereby **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 04241 is **AFFIRMED with MODIFICATIONS**. Appellant Marlon Soriano y Narag is **ORDERED** to pay the heirs of Perfecto Narag the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱50,000.00 as temperate damages.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

¹¹ See TSN, September 5, 2008, p. 4.

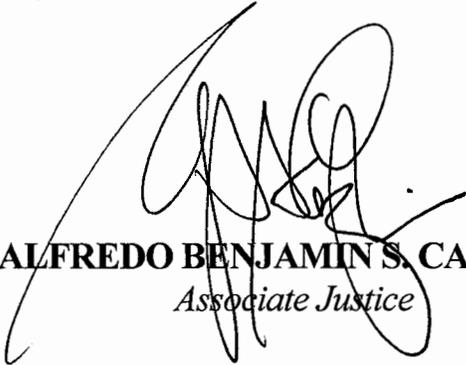
¹² *People v. Salibad*, G.R. No. 210616, November 25, 2015, 775 SCRA 566, 584.

¹³ *Id.*

¹⁴ G.R. No. 202124, April 5, 2016, 788 SCRA 331, 383.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

M. Perl
ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision 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

M. Perl