



**Republic of the Philippines**  
**Supreme Court**  
**Manila**  
**FIRST DIVISION**

**PEOPLE OF THE G.R. No. 247907**  
**PHILIPPINES,**

Plaintiff-Appellee,

Present:

PERALTA, *CJ.*,  
*Chairperson,*  
 CAGUIOA,  
 CARANDANG,  
 ZALAMEDA, and  
 GAERLAN, *JJ.*

-versus-

**ANTONIO ANSUS,**

Promulgated:

Accused-Appellant.

**DEC 02 2020**

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**D E C I S I O N**

**CARANDANG, J.:**

This is an appeal<sup>1</sup> seeking to reverse and set aside the Decision<sup>2</sup> dated December 7, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09711. The assailed Decision of the CA affirmed the Decision<sup>3</sup> dated July 10, 2017<sup>4</sup> of the Regional Trial Court (RTC) of Sorsogon City, Branch 53 finding accused-appellant Antonio Ansus (Ansus) guilty beyond reasonable doubt of murder and sentencing him to suffer the penalty of *reclusion perpetua*.

On November 3, 2011, Ansus was charged with the murder of Antonio M. Olitan, Jr:

That on or about 9:30 o'clock in the evening of August 15, 2011 at Barangay Pandan, Municipality of Castilla, Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a deadly weapon, with intent to kill, and by treachery and evident premeditation, did then and there willfully,

<sup>1</sup> *Rollo*, pp. 27-28.

<sup>2</sup> Penned by Associate Justice Amy C. Lazaro-Javier (now a Member of this Court), with the concurrence of Associate Justices Remedios A. Salazar-Fernando and Marie Christine Azcarraga-Jacob; *id.* at 3-26.

<sup>3</sup> Penned by Judge Rofebar F. Gerona; *CA rollo*, pp. 54-67.

<sup>4</sup> Penned by Presiding Judge Rofebar F. Gerona; *id.* at 54-67.

unlawfully and feloniously attack, assault and strike ANTONIO M. OLITAN, JR., inflicting upon the latter mortal wounds in the head, which caused his immediate death, to the damage and prejudice of his legal heirs.

CONTRARY TO LAW.<sup>5</sup>

When arraigned, Ansus pleaded not guilty.<sup>6</sup> During pre-trial conference,<sup>7</sup> the following were stipulated: (1) the identity of appellant as the person arraigned, (2) the fact of death of Antonio Olitan (Olitan) based on his Death Certificate<sup>8</sup> but not as regards the time, date, and place of the incident, (3) the existence and due execution of the Spot Report<sup>9</sup> but not its contents, and (4) the existence and due execution of the Blotter Certification<sup>10</sup> but not the contents thereof. Trial on the merits then ensued.

The prosecution presented: (1) Myrna Olitan; (2) Dr. Salve Bermundo-Sapinoso; (3) Magno Lacsa; and (4) Erlindo Buatis as its witnesses.

During trial, Myrna Olitan (Myrna) testified that on August 15, 2011 at 9:30 p.m., she and her husband Olitan were inside their home watching television when they noticed that a stone was hurled on their roof. After this happened for the second time, Myrna and Olitan went outside and they saw Ansus in front of his house, which is 12 meters away from their home. Olitan asked Ansus why he was hurling stones at their house. Both Myrna and Olitan walked towards Ansus.<sup>11</sup> Suddenly, Myrna saw – from 12 meters away – Ansus strike Olitan once at the back on the neck with a crow bar. Seeing her husband fall on the ground, Myrna felt scared, urinated, and immediately went inside their house.<sup>12</sup>

Fifteen minutes later, Myrna heard the voices of the members of the Philippine Army. Six of them went to her house along with Barangay Tanods Danilo Atisado and Jimmy Timban. Myrna went outside of their home and brought her husband to the hospital but he was declared dead on arrival.<sup>13</sup> When asked if she said anything to the responding members of the Philippine Army and the barangay tanods, Myrna disclosed that she was not able to say anything to them and that she even lost consciousness because she was so afraid that her husband is already dead.<sup>14</sup> She stated that the back of her husband was turned towards Ansus when Ansus struck her husband with a crow bar approximately one meter in length.<sup>15</sup> She shared that prior to the killing of her husband, Ansus and Olitan had a heated argument regarding Ansus' fence which encroached the land of their daughter's, Mylene Andes.<sup>16</sup>

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<sup>5</sup> Records, p. 1.  
<sup>6</sup> Id. at 40-41.  
<sup>7</sup> Id. at 47-48.  
<sup>8</sup> Id. at 25.  
<sup>9</sup> Id. at 26.  
<sup>10</sup> Id. at 27.  
<sup>11</sup> TSN dated May 23, 2012, pp. 4-6.  
<sup>12</sup> Id. at 7-10.  
<sup>13</sup> Id. at 11-13.  
<sup>14</sup> Id. at 13.  
<sup>15</sup> Id. at 14-15.  
<sup>16</sup> Id. at 25-26, 41.

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On cross-examination, Myrna admitted that she never saw Ansus throwing stones on the roof of their house.<sup>17</sup> She explained that she was not able to report to the members of the Philippine Army nor to the barangay tanods that Ansus killed her husband because: (a) she lost consciousness on the night her husband was slain; and (b) that she regained consciousness when the cadaver was already loaded inside the vehicle. She divulged to the authorities that Ansus killed her husband only after the latter's burial.<sup>18</sup>

When questioned by the RTC, Myrna demonstrated that her husband was positioned sideways to Ansus when the latter struck him. Myrna added that Ansus threatened her and her husband on April 20, 2011 but she did not report the incident to the police because she still has confidence in Ansus because they are neighbours.<sup>19</sup>

Magno Lacsa (Lacsa) – Olitan's brother-in-law and *compadre* to Ansus – recounted that on August 8, 2011 at 3:00 p.m., he was at Mylene Andes' (Andes) house to borrow money from his niece. Andes informed Lacsa that her father, Olitan, and Ansus had an argument.<sup>20</sup> Lacsa asked Andes where he can find Ansus and Andes answered that Ansus was home. Lacsa went to Andes' house and advised Ansus to peacefully resolve his issue with Olitan. Ansus told Lacsa that he would not have been upset if Olitan did not bring their issue to the barangay. When Lacsa was about to leave, Ansus followed him and asked, "If I kill your brother-in-law, will you side with him?" Lacsa replied, "It depends."<sup>21</sup>

On cross-examination, Lacsa revealed that Myrna is the sister of his wife but Myrna did not talk to him at all about the killing of Olitan. He stated that Ansus was angry because Olitan's fence, the house where Andes lives, encroaches on Ansus' land. He admitted that this matter was already settled before the barangay but Ansus and Olitan were arguing over the same issue once more.<sup>22</sup>

When questioned by the RTC, Lacsa initially declared that although he believed Ansus has intent on killing Olitan, he just went home and did not warn Olitan nor Andes. However, Lacsa subsequently professed that from Ansus' home, he went to Andes' house and warned her of Ansus' plan to kill her father.<sup>23</sup>

On re-direct examination, Lacsa stated that he did not tell Olitan of Ansus' plan to kill him to avoid another confrontation between them.<sup>24</sup> On re-cross-examination, Lacsa admitted that while it was his moral obligation to inform Olitan of the threat on his life, he did not bother to tell Olitan of such fact because he lived in Sitio Look which was far from Olitan's house.<sup>25</sup>

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<sup>17</sup> Id. at 27.

<sup>18</sup> Id. at 32-34.

<sup>19</sup> Id. at 37-40.

<sup>20</sup> TSN dated November 13, 2012, pp. 5-6.

<sup>21</sup> Id. at 7-8.

<sup>22</sup> Id. at 10-14.

<sup>23</sup> Id. at 17-19.

<sup>24</sup> Id. at 20.

<sup>25</sup> Id. at 21.

Erlindo Buatis (Erlindo) – claiming to be an eyewitness to the incident – narrated that on August 15, 2011 at 9:30 p.m., he was on his way to the barangay proper to buy snack for his daughter-in-law, Rosiel, who was about to give birth and to fetch the midwife. While traversing the road in front of Ansus' house, he saw Ansus – from a distance of four and a half meters – strike Olitan on the nape with a corrugated and pointed-tip crow bar. Scared when he saw Olitan fall down, Erlindo went back to his home at Sitio Look – which was one and a half kilometres away from where the incident took place.<sup>26</sup> When he got home, Erlindo just lied down and did not tell anyone about the incident that he witnessed because his daughter-in-law gave birth already at that time and he was afraid that she might bleed. Erlindo revealed that he presented himself as a witness only on February 5, 2013 since his conscience bothered him and he wanted to give Olitan justice. He added that his fear of the ire of Ansus' relatives prevented him from coming forward earlier as a witness.<sup>27</sup>

When confronted on cross-examination that it was Ricky Buatis (Ricky) – not him – who fetched the midwife, Erlindo denied that he testified fetching the midwife and insisted that he testified only in buying bread for the midwife's snack. Erlindo stated that neither Olitan nor Ansus saw him at that time. He admitted that he did not execute a sworn statement on the incident which he allegedly saw on the night of August 15, 2011.<sup>28</sup>

Dr. Salve Bermundo-Sapinoso (Dr. Bermundo-Sapinoso), the Municipal Health Officer of Castilla, Sorsogon, conducted the post-mortem examination<sup>29</sup> on the victim's body and the following are her findings:

HEAD : deep incised wound, 1.0cm in diameter, left occipital area, penetrating the skull.  
 : deep incised wound, 2.0cm in diameter, left parietal area, penetrating the skull.  
 : incised wound, 3.0cm in diameter, left temporal area.  
 : deep incised wound, 4.0cm in diameter, left frontal area, penetrating the skull.  
 : deep incised wound, 4.0cm in diameter, right frontal area, penetrating the skull.  
 : incised wound, 2.0cm in diameter, frontal area.

CHEST : no findings.  
 ABDOMEN : no findings.  
 BACK : no findings.  
 EXTREMITIES: (Upper) abrasions, left arm  
 : (Lower) no findings.

CAUSE OF DEATH: HYPOVOLEMIC SHOCK  
 SEVERE HEMORRHAGE

MULTIPLE HACKING WOUNDS<sup>30</sup>

<sup>26</sup> TSN dated February 19, 2013, pp. 5-8.

<sup>27</sup> Id. at 8-9.

<sup>28</sup> TSN dated June 25, 2013, pp. 4-6.

<sup>29</sup> Records, p. 24.

<sup>30</sup> Id.

Considering the nature of the wounds sustained by the victim, Dr. Bermundo-Sapinoso attested that: (1) the assailant could have been in front and at the back left side of the victim when the wounds were inflicted; (2) the victim will not die instantly; and (3) the victim died of severe blood loss. She acknowledged that she did not prepare the victim's death certificate<sup>31</sup> but she signed the same as part of her functions as the Municipal Health Officer.<sup>32</sup>

On cross-examination, Dr. Bermundo-Sapinoso consistently declared that a sharp-bladed instrument caused the: (a) four deep incised wounds that penetrated the victim's skull; and (b) two incised wounds. She likewise confirmed that contusion or hematoma and laceration – which are present in injuries caused by blunt objects – were absent in each injury. She added that a crow bar inflicts a lacerated wound and that two or more individuals could have caused the victim's injuries.<sup>33</sup>

On the other hand, Ansus, Randy Bueno, Teresita Artizado, Melina Ansus, and Gil Pareja testified for the defense.

Ansus narrated that around midnight of August 15, 2011, he and his wife, Melina, were awakened by a commotion. Peeping through his window made of bamboo slots, it turned out that Barangay Captain Randy Bueno, barangay police, and army personnel were investigating a dead body.<sup>34</sup> He saw Myrna crying and heard the authorities asking her, "*Mrs. Olitan, nakita mo ba kung sino ang pumatay sa asawa mo?*" to which she replied, "*Hindi po sir dahil tulog na tulog po ako.*"<sup>35</sup> Ansus denied killing Olitan and emphasized that their boundary dispute has already been settled<sup>36</sup> in the barangay. He likewise denied that he mentioned to Lacsá any plan of killing Olitan. He exposed that Lacsá visited him in jail and informed him that Myrna promised to pay him in exchange for his testimony against Ansus.<sup>37</sup>

On cross-examination, appellant stated that he heard the conversation between Myrna and the investigator since they were just at the road in front of his house. He did not go out of his house because his wife was ill at that time. He said that Lacsá visited him at the Sorsogon Provincial Jail where the latter told him about the pay-off.<sup>38</sup>

When questioned by the RTC, Ansus stated that the police started investigating him for Olitan's death only when he received a subpoena.<sup>39</sup>

Melina Ansus (Melina), Ansus's wife, shared that at 9:45 p.m. of August 15, 2011, she and her husband were awakened by a commotion outside of their home. Ansus stood up and peeped through the window. Ansus told

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<sup>31</sup> Id. at 25.  
<sup>32</sup> TSN dated July 17, 2012, pp. 3-10.  
<sup>33</sup> Id. at 11-14.  
<sup>34</sup> TSN dated August 5, 2014, pp. 5-7.  
<sup>35</sup> Id. at 8-9.  
<sup>36</sup> Records, pp. 14-15.  
<sup>37</sup> TSN dated August 5, 2014, pp. 10-11.  
<sup>38</sup> Id. at 17-18.  
<sup>39</sup> Id. at 21.

her that he saw the barangay captain who was with a crying Myrna.<sup>40</sup> She revealed that she did not allow her husband to go out since she was bleeding at that time because of myoma.<sup>41</sup>

Randy Bueno (Bueno) – who was the Barangay Chairman at the time of Olitan’s killing – testified that on the night of August 15, 2011, barangay tanods Danilo Atisado and another Jimmy Timban reported to him that there was a dead person’s body in front of the Barangay Health Center. Bueno proceeded to the place of the incident and he saw members of the Philippine Army. He identified the victim as Olitan. He saw Andes, the victim’s daughter, and he asked her to fetch her mother, Myrna. According to Bueno, when he asked Myrna if she noticed or if she was notified that her husband was already dead, Myrna replied that she did not know because she was asleep when the incident happened. He reported the incident to the police but he was not able to give them any information regarding a possible suspect.<sup>42</sup>

On cross-examination, Bueno denied being Ansus’ relative, not even a distant one.<sup>43</sup> Bueno admitted that Olitan’s body was found in front of Ansus’ home but he did not question Ansus at that time. He shared that Mryna kept on crying when she arrived and that she did not divulge to him the identity of her husband’s killer.<sup>44</sup>

Teresita Artizado (Artizado) – a trained and practicing *hilot* for 10 years – narrated that on August 15, 2011 at 5:30 p.m., Ricky, Erlindo’s son, fetched her to assist his wife in giving birth.<sup>45</sup> From Ricky’s house, they – Artizado, Erlindo, Erlindo’s wife, Anching, Ricky, and Ricky’s wife – transferred to Lacsá’s house at 8:30 p.m.. The baby boy was born at 9:45 p.m. At 10:00 p.m., Ariel and Joven Andes arrived. She heard Joven Andes, Olitan’s son-in-law, tell Lacsá, “Pay Magno, my father-in-law is already gone.” She relayed that Erlindo did not react when he heard the news.<sup>46</sup>

When cross-examined, Artizado denied that she was related to Ansus and that she is a cousin of Ansus’ wife, Melina.<sup>47</sup> Artizado revealed that from 8:30 p.m. until the time Ricky’s wife gave birth at 9:35 p.m., Erlindo never left Lacsá’s house and the persons there were conversing during that time.<sup>48</sup>

Artizado was recalled to the witness stand and she brought a notebook containing a chronological listing of births which she administered from the year 2003 until the year 2014. She pointed to and identified entry no. 125<sup>49</sup> relating to the birth of Rixel F. Buatis on August 15, 2011 at 9:45 p.m. She relayed that Ricky caused the registration of the child birth in the Civil Registry.<sup>50</sup>

<sup>40</sup> TSN dated June 23, 2015, pp. 4-5.

<sup>41</sup> Id. at 6, 10.

<sup>42</sup> TSN dated November 4, 2014, pp. 4-6.

<sup>43</sup> Id. at 7.

<sup>44</sup> Id. at 7-10.

<sup>45</sup> TSN dated February 16, 2015, pp. 3-5.

<sup>46</sup> Id. at 5-8.

<sup>47</sup> Id. at 9.

<sup>48</sup> Id. at 12-13.

<sup>49</sup> Records, p. 147.

<sup>50</sup> TSN dated April 15, 2015, pp. 4-6.

On rebuttal, Myrna stated that she and her daughter, Andes, were already at the crime scene before Bueno arrived. She denied approaching Bueno nor speaking with him at all. She reasoned that Bueno was angry at them because she called Bueno's attention for using the irrigation fund to entertain his visitors. She insisted that Milena and Bueno are cousins.<sup>51</sup> She averred that at the time of the incident, Bueno was asleep and he was only summoned by the Army commander to the crime scene. She maintained that she did not tell any government agent present at that time who killed her husband because she was in a state of shock. She was not aware that Bueno caused the recording of the incident in the police blotter on August 16, 2011 at 10:55 p.m.<sup>52</sup> She acknowledged receiving a copy of Bueno's affidavit but she did not file a reply thereto. She admitted that after her husband's cadaver was released from the morgue and brought to their house, she did not bother to record her husband's killing in the police blotter.<sup>53</sup>

For his part, Lacsa denied on rebuttal that he: (a) was paid in exchange for his testimony against appellant; (b) met the appellant after he testified in court; and (c) visited the appellant at the Sorsogon Provincial Jail after Ansus' testimony. He admitted, however, going to the Sorsogon Provincial Jail on February 2016 to visit his son. He disclosed that since August 2015, his son has been detained for illegal possession of fire arm and that they could not post the required bail of a ₱100,000.00.<sup>54</sup>

The defense presented Gil Pareja (Pareja) on sur-rebuttal to corroborate Ansus' statement that Lacsa was paid in exchange for his testimony against Ansus. According to Pareja, a visitor of Sorsogon Provincial Jail is allowed to go inside the prisoner's cell and eat with him. He claimed that sometime in September 2015, Lacsa and a companion visited and ate with Ansus, his cellmate since July 2015. He shared that he did not see Lacsa visit his son, Argie Lacsa (Argie), who stays in cell #10.<sup>55</sup>

The defense submitted a Certification<sup>56</sup> issued by the Office of the Provincial Warden stating that the said office: (1) didn't have a visitor's logbook from 2014 until the present; and (2) allowed the inmate's immediate family to go inside their prison cells during Saturday and Sunday. The defense likewise submitted a certified true copy of the Order<sup>57</sup> dated March 16, 2016 of the RTC of Sorsogon City, Branch 65. The said Order approved and allowed Argie's provisional liberty in Criminal Case No. 15-1698 for violation of Republic Act No. 10591<sup>58</sup> upon his posting of the necessary bailbond. The defense contended that the date of release of Argie coincided with the date of his father's rebuttal testimony,<sup>59</sup> with the defense trying to

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<sup>51</sup> TSN dated September 30, 2015, pp. 4-6.

<sup>52</sup> Id. at 7-9.

<sup>53</sup> Id. at 11-12.

<sup>54</sup> TSN dated March 16, 2016, pp. 4-7

<sup>55</sup> TSN dated September 5, 2016, pp. 3-6

<sup>56</sup> Records, p. 187.

<sup>57</sup> Id. at 188.

<sup>58</sup> Otherwise known as the "Comprehensive Firearms and Ammunition Regulation Act."

<sup>59</sup> TSN dated November 29, 2016, pp. 2-4.

imply that Lacsá testified against Ansus in exchange for financial consideration to fund Argie's bailbond.

### **Ruling of the Regional Trial Court**

On July 10, 2017, the Sorsogon City RTC rendered a Decision<sup>60</sup> finding Ansus guilty of murder. The RTC held that while the prosecution established accused-appellant's motive in killing Olitan – the complaint filed by Olitan against Ansus arising from their boundary dispute – and that Lacsá knew of accused-appellant's idea to do so, such do not constitute evident premeditation in the absence of clear and convincing evidence that accused-appellant decided to kill Olitan, he clung to his decision, and he adopted a particular plan to carry it out. The RTC, however, found that treachery attended Olitan's killing notwithstanding that the attack was preceded by accused-appellant hurling stones at Olitan's house which prompted the latter and his wife to come out and investigate. The RTC asserted that appellant suddenly struck the victim when the latter was about to go back to his house after confronting appellant. The RTC declared that while Myrna did not see the entire incident, she was there at the onset and she saw how her husband was struck with a crowbar on his nape in a sudden and treacherous manner. The RTC added that Myrna's narration was corroborated by Erlindo, who lacked any cause or reason to pin down Ansus, making him a reliable witness. The RTC stressed that the victim's body was found close to accused-appellant's house. For the RTC, accused-appellant's failure to go out of his house while authorities were at the crime scene was highly suspicious, but at the same time, found it puzzling why the authorities did not summon appellant and his co-inhabitants for questioning.<sup>61</sup>

Accused-appellant was sentenced to suffer the penalty of *reclusion perpetua* and to indemnify Olitan's heirs: (a) civil indemnity; (b) moral damages; and (c) exemplary damages in the amount of ₱75,000.00 for each.<sup>62</sup>

Aggrieved, Ansus appealed his conviction to the CA.<sup>63</sup> In his Brief,<sup>64</sup> Ansus alleged that the prosecution witnesses' testimonies identifying him as the assailant are replete with irreconcilable inconsistencies and inherent improbabilities pertaining to material facts. For Myrna, while she claimed that she reported the incident to the police after her husband's burial, she failed to present any evidence, such as the police blotter, to substantiate the same. She failed to disclose in her *Sinumpaang Salaysay*<sup>65</sup> dated September 2, 2011 that she went out of their house 15 minutes after her husband fell on the ground. Neither did she disclose that her daughter was at the place of the incident. Ansus surmised that these were deliberately done to make it appear that Myrna had a clear and positive view of him as the assailant. It is incomprehensible for a wife who witnessed her husband's murder not to give a statement to the responding authorities even after her husband's body was already brought to

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<sup>60</sup> Supra note 3.

<sup>61</sup> CA rollo, pp. 65-66.

<sup>62</sup> Id. at 67.

<sup>63</sup> Id. at 14.

<sup>64</sup> Id. at 37-53.

<sup>65</sup> Records, pp. 28-29.



the hospital. Although delay in making a criminal accusation does not necessarily impair the witness' credibility, Myrna failed to satisfactorily explain her one-month silence which is inconsistent to her status as a person in authority being a barangay kagawad at that time.<sup>66</sup>

Accused-appellant's alleged identification by Erlindo was belatedly established, unsubstantiated, uncorroborated, and therefore, unreliable. Aside from Erlindo's admission that he had blurry vision and that he cannot properly recall the midwife's name, his testimony contained contradictory statements. While he testified on direct-examination that he was on his way to the barangay proper to buy snack for his daughter-in-law and to fetch the midwife, he changed his statement on cross-examination and insisted that he testified only in buying bread for the midwife's snack. Accused-appellant noted that Erlindo came forward as a purported eyewitness only on February 5, 2013, or more than three years after the incident. Accused-appellant added that the prosecution failed to rebut Artizado allegations that she was with Erlindo at Lacsá's residence from 6:30 p.m. until 9:45 p.m. on August 15, 2011.<sup>67</sup>

Appellant averred that although Lacsá claimed that appellant told him that he would kill Olitan, Lacsá pointed out that the previous altercation between appellant and Olitan has already been settled several months prior to the latter's demise. These statements contradict each other and only unsuccessfully attempts to put him in a bad light.<sup>68</sup>

Ansus maintained that his version of the events on the night of August 15, 2011 is corroborated by several and impartial witnesses and are united in significant details.<sup>69</sup> The qualifying circumstance of treachery was not proven to have attended the commission of the offense.<sup>70</sup> Lastly, he insisted on the theory that "if [Ansus] deliberately prepared to kill [Olitan], it is quite baffling that he let Myrna live given the latter's claim that she witnessed the crime. If [Ansus] really planned to kill [Olitan] and succeeded in doing so, with Myrna as the eyewitness, common sense would dictate that he should have likewise eliminated Myrna so that he would have executed his plan scot-free."<sup>71</sup>

The Office of the Solicitor General (OSG), appearing for the prosecution, stated that the prosecution has proven accused-appellant's guilt beyond reasonable doubt. The OSG argued that Myrna positively identified accused-appellant as the perpetrator of the crime. Myrna's sworn statement is not inconsistent with her testimony and even if there are minor discrepancies between them, these would not render automatically her testimony incredible and outright justify appellant's acquittal. The OSG justified that Myrna cannot be faulted for not immediately revealing her husband's assailant since she was still in shock due to her husband's untimely passing and she took time to process her grief. Myrna also explained that she was terrified of accused-

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<sup>66</sup> CA *rollo*, pp. 43-44.

<sup>67</sup> *Id.* at 44-47.

<sup>68</sup> *Id.* at 47.

<sup>69</sup> *Id.* at 48.

<sup>70</sup> *Id.* at 49.

<sup>71</sup> *Id.* at 50.

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appellant because he threatened them previously because of the boundary dispute. The OSG reasoned that being an eye-witness to the crime makes Myrna an ultimate target as well so she cannot be expected to confront her husband's killer.<sup>72</sup> The OSG added that accused-appellant was likewise positively identified by Erlindo, another disinterested witness. While Erlindo may have trouble reading documents, he can see very well from a distance. The inconsistencies pointed out in his testimony are merely trivial matters that do not relate to any element of the crime and they do not affect his credibility. The OSG reminded that a perfect merging of account by different witnesses could indicate that their testimonies are fabricated and rehearsed. Lastly, accused-appellant's sudden attack with a crowbar on the victim's nape consisted of treachery.<sup>73</sup>

### Ruling of the Court of Appeals

In its Decision<sup>74</sup> dated December 7, 2018, the CA affirmed the Decision of the RTC. The CA ruled that Myrna positively identified that accused-appellant killed Olitan, and Myrna's narrative was corroborated by Erlindo. For the CA, matters pertaining to: (1) the presence of Myrna's daughter at the *situs criminis*; (2) how much time she took to come out of their house again; (3) the midwife's name; and (4) the purchase of bread refer to minor details which have no bearing on accused-appellant's identity as the one who murdered the victim.<sup>75</sup> Myrna was naturally driven to obtain justice for her husband's murder. The failure of Myrna and Erlindo to give their statements to the police right after the incident does not affect their credibility as eyewitnesses because there is no law requiring that the testimony of a prospective witness should be reduced in writing in order for his statements in court at a future date may be believed. Myrna was understandably in a state of shock at the time of investigation.<sup>76</sup> Both Myrna and Erlindo admittedly feared for their safety due to possible retaliation from Ansus' relatives. The blurry vision of Erlindo neither overthrows the credibility of his testimony because he had no trouble seeing from afar and he was only four meters away from Olitan when the latter was struck by appellant. Finally, the CA held that the qualifying circumstance of treachery was present when in a swift motion, Ansus struck Olitan with a crowbar, "catching the latter off guard and without any opportunity to defend himself or to fight back." It added that even if the appellant was in front of the victim when he struck the latter with a crow bar on the nape, a frontal attack is still treacherous when unexpectedly made on an unarmed victim who is no position to repel or to avoid the attack.<sup>77</sup>

Ansus filed a Notice of Appeal.<sup>78</sup> Both the OSG and accused-appellant manifested that they will no longer file any supplemental brief.<sup>79</sup>

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<sup>72</sup> Id. at 86-90.

<sup>73</sup> Id. at 90-93.

<sup>74</sup> Supra note 2.

<sup>75</sup> *Rollo*, pp. 15-18.

<sup>76</sup> Id. at 19-20.

<sup>77</sup> Id. at 23-24.

<sup>78</sup> Id. at 27-28.

<sup>79</sup> Id. at 35-36, 40-42.

### Issue

The sole issue to be determined is whether the prosecution established Ansus' guilt beyond reasonable doubt for murder.

### Ruling of the Court

The appeal is meritorious.

This Court repeats that “an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.”<sup>80</sup> “The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.”<sup>81</sup>

In *People v. Pineda*,<sup>82</sup> We reminded that “[a] conviction for a crime rests on two bases: (1) credible and convincing testimony establishes the identity of the accused as the perpetrator of the crime; and (2) the prosecution proves beyond reasonable doubt that all elements of the crime are attributable to the accused.”<sup>83</sup>

In the present case, accused-appellant was identified as the perpetrator by two (2) eyewitnesses: Myrna and Erlindo. In *People v. Nunez*,<sup>84</sup> We revisited our ruling in *Pineda* wherein We “identified 12 danger signals that might indicate erroneous identification.” The list, though not exhaustive, is as follows:

1. the witness originally stated that he could not identify anyone;
2. the identifying witness knew the accused before the crime, but made no accusation against him when questioned by the police;
3. a serious discrepancy exists between the identifying witness' original description and the actual description of the accused;
4. before identifying the accused at the trial, the witness erroneously identified some other person;
5. other witnesses to the crime fail to identify the accused;
6. before trial, the witness sees the accused but fails to identify him;
7. before the commission of the crime, the witness had limited opportunity to see the accused;
8. the witness and the person identified are of different racial groups;

<sup>80</sup> *Rivac v. People*, 824 Phil. 157, 166 (2018), citing *People v. Dahil*, 750 Phil. 212, 225 (2015). Citation omitted.

<sup>81</sup> *Id.*; *People v. Comboy*, 782 Phil. 187, 196 (2016).

<sup>82</sup> 473 Phil. 517, 537 (2004), citing *People v. Casinillo*, 288 Phil. 688 (1992).

<sup>83</sup> *Id.*

<sup>84</sup> 819 Phil. 406 (2017).

9. during his original observation of the perpetrator of the crime, the witness was unaware that a crime was involved;
10. a considerable time elapsed between the witness' view of the criminal and his identification of the accused;
11. several persons committed the crime; and
12. the witness fails to make a positive trial identification.<sup>85</sup>

Three of these danger signals – numbers 1, 2, and 10 – apply to the prosecution witnesses' identification of accused-appellant as the perpetrator of the crime:

1. On August 15, 2011, Myrna initially told then Barangay Captain Bueno and the members of the Philippine Army that she could not identify the killer of her husband.
2. Myrna likewise knew Ansus before the crime was committed, but she did not accuse him of any wrongdoing when she was questioned by the authorities on the said date. **She only named Ansus as her husband's killer on September 2, 2011 when she executed her *Sinumpaang Salaysay*.**
3. For Erlindo, a considerable time has elapsed – more than two years after the incident – between his view of Ansus as the perpetrator and his subsequent identification of Ansus.

Myrna justified her delay in revealing the identity of her husband's killer because she was still in a state of shock and that she lost consciousness. Curiously, she did not elaborate when her fainting spells happened and she had the presence of mind to go inside their home after seeing her husband fall to hide from the accused. Moreover, her fear of retaliation from the accused would have been mitigated if she only divulged his identity as her husband's killer on August 15, 2011. At that time, the authorities would have taken appellant in custody and they could have possibly recovered the weapon used. She would not have dealt with fear and the idea that her husband's killer lives three houses away from her. She seemed to have forgotten to be fearful also for her daughter's sake who lives just beside the appellant. Indeed, such revelation of Myrna, if made, would have been more in accord with human reaction and experience. In other words, her failure to act immediately and report her neighbor Ansus as the killer of her husband is contrary to human experience.

In *Madrid v. Court of Appeals*,<sup>86</sup> which involved a mother and daughter as eyewitnesses who belatedly revealed the person responsible for the husband and father's death, We explained:

Likewise, the considerable length of time which lapsed before Merdelyn and Remedios Sunido made their statements before the police puts into question the claim that

<sup>85</sup> Id. at 432.

<sup>86</sup> 388 Phil. 366. (2000)

they actually witnessed the killing of Angel Sunido. It is true that delay in reporting a crime, if adequately explained, is not sufficient to cast doubt on the truthfulness of a witness' testimony as, for instance, the delay may be explained by the natural reticence of most people and their abhorrence to get involved in a criminal case.

But the eyewitnesses involved in this case are the wife and daughter of the victim. One would naturally expect that they would not be anxious to help the police arrest the person or persons responsible for the killing of their loved one. Instead of doing so, however, Remedios and Merdelyn Sunido only made their statements to the police on June 1, 1992 and June 2, 1992, respectively, more than one week after the incident they allegedly witnessed. This fact is made even more strange by the statements of Remedios and Merdelyn Sunido that not long after the incident, Barangay Councilman Amor de los Santos arrived followed by members of the Buguey Police. In a similar case where a daughter delayed in reporting to the proper authorities who was responsible for her father's death, the Court held:

x x x She had a very early opportunity to do so because the police officers of the town were there at the scene of the crime, where she was also, just two hours after her father was shot and killed. The most natural reaction of a witness to such an incident, indeed a *res gestae*, would have been to tell her mother about it, and subsequently the police authorities, who had, as earlier adverted to, responded to the summons for help two hours after the reported murder. Human nature would have compelled her to declare that she had seen, and in fact, could identify, the assailant of her father. But she withheld that vital information from everybody for an unreasonable length of time (at least four days after the commission of the crime, by her own statement), which makes her testimony suspect. Teresita's testimony smacks of fabrication and, therefore, can not support a conviction.<sup>87</sup> (Citations omitted)

Erlindo, on the other hand, reasoned that: (1) he did not tell anyone of what he saw because his daughter-in-law just gave birth and she might bleed; and (2) his fear of the ire of Ansus' relatives prevented him from coming forward earlier as a witness. Erlindo's reasoning is flawed because his daughter-in-law bleeding is irrelevant in sharing what he knows about the incident. As for his second justification, his fear is unfounded since he testified that neither the appellant nor victim saw him because he just suddenly arrived at the scene of the incident.<sup>88</sup> If at all, no one knew that he was an eyewitness to the crime.

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<sup>87</sup> Id. at 398-399.

<sup>88</sup> TSN dated June 25, 2013, p. 5.

Besides, Artizado testified that from 8:30 p.m. until the time Ricky's wife gave birth at 9:45 p.m., Erlindo never left Lacsá's house. Supported by her notebook where she chronologically lists the births she administered since 2003,<sup>89</sup> this Court finds more consistency in the testimony of Artizado rather than that of Erlindo. It is unimaginable for someone to invent all the names, dates, and time recorded in the notebook presented. The notebook shows that Erlindo's daughter-in-law gave birth at 9:45 p.m.. It was around this time when Olitan was killed, which Erlindo claims to have witnessed as he was on his way to fetch Artizado. Given this timestamp, it is *impossible* to believe that Erlindo was actually on his way to fetch Artizado because Erlindo's daughter-in-law had already given birth.

For evidence to be believed, "it must not only proceed from the mouth of a credible witness but must be credible in itself such as the common experience and observation of mankind can approve under the circumstances. The test to determine the value of the testimony of a witness is whether such is in conformity with knowledge and consistent with the experience of mankind. Whatever is repugnant to these standards becomes incredible and lies outside of judicial cognizance."<sup>90</sup>

As for the physical evidence, while Myrna and Erlindo uniformly testified that Ansus struck Olitan on the neck or nape, the Post-Mortem Examination Report<sup>91</sup> revealed only: (a) six wounds on the head of the victim, with four of those wounds deeply penetrating his skull; and (b) abrasions on his left arm. Significantly, no wounds were found on the victim's neck or nape. According to Dr. Bermundo-Sapinoso, these six wounds are all incised wounds, which are caused by a "sharp bladed" instrument and not likely by a "blunt object". If a crow bar – a blunt object<sup>92</sup> – was used, the wound inflicted would be lacerated.<sup>93</sup> Notably, contusion or hematoma and laceration – which are present in injuries caused by blunt objects – were absent in each injury. While the prosecution argued that a crow bar has a pointed edge which could have inflicted the wounds sustained by the victim, it is highly improbable for appellant to precisely strike the victim six times using the pointed edge to inflict just incise wounds without bruising or lacerations. "Physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses. They have been characterized as that mute but eloquent manifestations of truth which rate high in our hierarchy of trustworthy evidence."<sup>94</sup>

All told, if a reasonable doubt exists as to the identity of the perpetrator of the crime charged, the verdict must be one of acquittal.

<sup>89</sup> TSN dated April 15, 2015, p. 4.

<sup>90</sup> *People v. Contilla*, 442 Phil. 641, 651 (2002).

<sup>91</sup> Records, p.24.

<sup>92</sup> TSN dated July 17, 2012, p. 6.

<sup>93</sup> *Id.* at 12.

<sup>94</sup> *Daayata v. People*, 807 Phil. 102 (2017), citing *People v. Sacabin*, 156 Phil. 707 (1974) and *People v. Vasquez*, 345 Phil. 380 (1997) citing *People v. Uycoque*, 316 Phil. 930 (1995).



**WHEREFORE**, the appeal is **GRANTED**. The Decision dated December 7, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09711 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Antonio Ansus is **ACQUITTED** on reasonable doubt, and is **ORDERED** to be **IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause.

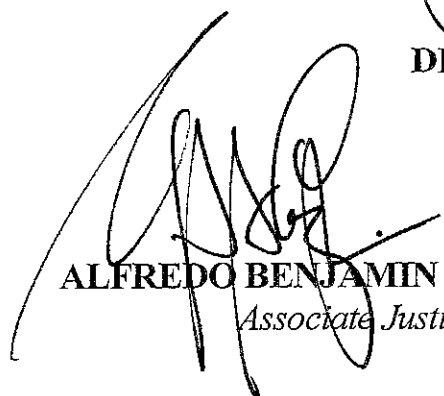
Let a copy of this Decision be furnished the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. The said Director General is **DIRECTED** to report the action he has taken to this Court, within five (5) days from receipt of this Decision.

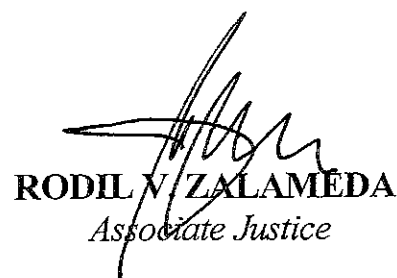
**SO ORDERED.**


  
ROSMARIE D. CARANDANG  
*Associate Justice*

**WE CONCUR:**

  
DIOSDADO M. PERALTA  
*Chief Justice*


  
ALFREDO BENJAMIN S. CAGUIOA  
*Associate Justice*

  
RODIL V. ZALAMEDA  
*Associate Justice*

  
SAMUEL H. GAERLAN  
*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.

  
DIOSDADO M. PERALTA  
*Chief Justice*