

EN BANC

[**G.R. NO. 171272 (Formerly G.R. Nos. 150047-48), June 07, 2007**]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEOSON DELA CRUZ Y ECHECHE, APPELLANT.

DECISION

QUISUMBING, J.:

For automatic review is the Decision^[1] dated August 18, 2005 of the Court of Appeals in CA-G.R. CR-HC No. 00780, affirming with modification the Decision^[2] dated May 17, 2001 of the Regional Trial Court (RTC) of Marikina City, Branch 272. The trial court had found appellant Leoson dela Cruz y Echeche guilty of murder and frustrated murder in Criminal Cases Nos. 99-3101-MK and 99-3102-MK, respectively.

The amended informations charging appellant with murder and frustrated murder, respectively, read as follows:

**Criminal Case No. 99-3101-MK
(For Murder)**

x x x x

That on or about the 20th day of November 1999, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a kitchen knife, with intent to kill by means of treachery and evident premeditation and taking advantage of superior strength and using disguise, fraud and craft to enter the dwelling of one JULIANA RICALDE y RODRIGUEZ, and once inside, did then and there, with insult to or in disregard of the respect due the latter on account of rank, age and sex, willfully, unlawfully and feloniously attack, assault and stab said JULIANA RICALDE y RODRIGUEZ, thereby inflicting upon the latter mortal wounds which directly caused her death. (Underscoring omitted.)

CONTRARY TO LAW.^[3]

**Criminal Case No. 99-3102-MK
(For Frustrated Murder)**

x x x x

That on or about the 20th day of November 1999, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a kitchen knife, with intent to kill by means of treachery and evident premeditation, and using disguise, fraud and craft to enter the dwelling of PELAGIO RICALDE y TAN, and once inside, did then and there, with insult to and in disregard of the respect due the latter on account of rank, willfully, unlawfully and feloniously attack, assault and stab said PELAGIO RICALDE y TAN, thereby inflicting upon the latter stab wounds which ordinarily would have caused his death, thus performing all the acts of execution which should have produced the crime of Murder, as a consequence, but nevertheless did not produce it by reason of cause independent of his will, that is, due to the timely and able medical assistance rendered to said Pelagio Ricalde y Tan which prevented his death. (Underscoring omitted.)

CONTRARY TO LAW.^[4]

When arraigned, appellant pleaded not guilty.

The facts below as found by the RTC and confirmed by the Court of Appeals were gleaned from the testimonies of (1) Atty. Pelagio T. Ricalde, survivor and husband of the victim Juliana; (2) Rebecca R. Ricalde, their 19-year-old daughter; (3) Sgt. Robert D. Esgana, the guard-on-duty at Gate 3 of the Cinco Hermanos Subdivision; (4) Godofredo E. Meriel, the responding subdivision guard; (5) SPO4 Conrado J. Cruz and (6) SPO4 Jaime E. Gamueda,^[5] crime investigators from the Marikina Police; (7) SPO4 Celso J. Cruz, evidence custodian of the Marikina Police; (8) Drs. Bu C. Castro and (9) Noel B. Minay, medico-legal officer of St. Luke's Medical Center and the National Bureau of Investigation (NBI), respectively; and (10) Aida V. Magsipoc, Forensic Chemist of the NBI.

It appears that around 10:00 a.m. on November 20, 1999, appellant dela Cruz presented an I.D. with the name Allan B. Reyes to Sgt. Esgana, the guard-on-duty at Gate 3 of the Cinco Hermanos Subdivision in Marikina City. Sgt. Esgana recorded the entry in his logbook.^[6]

Upon reaching the house of Pelagio, dela Cruz told Rebecca, Pelagio's daughter who met him at the gate, that her father had told him to go there. He stepped in the small gate in the garage that was already opened, and Rebecca walked ahead of him to fetch her father. As the father and daughter returned, dela Cruz was already in the kitchen. According to Rebecca, she first heard the two converse quietly as dela Cruz asked her father for a job recommendation. It was then that she noticed dela Cruz's blue backpack. Suddenly, she heard her father scream, "*Becca, tulungan mo ako.*"^[7] She screamed, "*Daddy, Daddy,*"^[8] as she ran towards him, and noticed dela Cruz holding a knife. She screamed for help and saw her mother, Juliana, rushing in. Her father was covered with blood and she sought help to rush him to the hospital.

According to Pelagio, dela Cruz was a messenger in his law firm who got fired based on his secretary's recommendation that dela Cruz had been absent without leave at least three times.^[9] This information was corroborated by Priscila M. Dimaano, Pelagio's secretary.^[10] When his daughter informed him that dela Cruz wanted to

talk to him, he met with dela Cruz who was by then in their kitchen already. He told him he did not have his stationery with letterhead and had to still check with the companies he knew which had vacancies. He said that he would write dela Cruz a recommendation letter which the latter could pick up from the office. As he escorted dela Cruz out towards the garage gate, the latter suddenly stabbed him at the back and kept on stabbing him until he lost his balance. When he managed to turn and face dela Cruz, the latter kept on stabbing him frontally. He tried to put his arms around dela Cruz but his attacker shook him off. As he ran towards the kitchen, dela Cruz chased and kept on stabbing him at the back of his left shoulder. At this point, Juliana appeared and rushed to him begging, "*Leo, tama na, tama na, tama na.*"^[11] Dela Cruz dropped the knife and ran towards the garage.^[12]

As Juliana was attending to her husband, dela Cruz suddenly reappeared and stabbed her at the back with a letter opener. As she jerked backward, she received another stab below the left shoulder. She tried to ward off the letter opener with her left hand, but again was stabbed at the back of her left arm. Pelagio shouted, "*Huwag Leo, si Julie yan.*"^[13] When the letter opener broke, dela Cruz dropped the instrument and rushed outside where he was apprehended by Meriel, the guard-on-duty in Gate 1.

In court, Meriel,^[14] SPO4 Conrado J. Cruz^[15] and SPO4 Gamueda^[16] all identified that dela Cruz was the person who was arrested in connection with the incident in the Ricalde residence. SPO4 Gamueda, who recovered the weapons used in the stabbing, identified the same in court. SPO4 Celso J. Cruz, the evidence custodian of the Marikina Police, identified the kitchen knife and the letter opener, one bloodied yellow and blue backpack, one striped blue and white t-shirt with the word MAUI printed on it with the initials "J.G.," and one khaki pants marked Geraldo Jelleni with initials "J.G."^[17]

Dr. Castro, medico-legal officer of the St. Luke's Medical Center, examined and described the wounds of Pelagio. He said that the first and second wounds of Pelagio could have been fatal were they not timely treated; that the knife was made of aluminum softer than Pelagio's bone and was bent as it hit the bone; and that Pelagio also sustained multiple bruises in the body.^[18]

Dr. Minay, medico-legal officer of the NBI, conducted the post-mortem on Juliana. He described eight stab wounds inflicted on Juliana, and said the first wound caused her internal bleeding that proved fatal. All the wounds were inflicted by a pointed instrument with one-sided blade. Three of them were inflicted on her back.^[19]

Forensic chemist Magsipoc testified that the DNA profile of the bloodstain on the backpack and on the khaki pants, which were presented in evidence, matched the DNA profile of Pelagio although the stains in the t-shirt did not.

Dela Cruz denied the accusations against him. He admitted that he went to the Ricalde residence to ask for a job recommendation from Pelagio upon Pelagio's instruction. Pelagio denied he gave this instruction.^[20] Dela Cruz said he traveled one and a half hours and took three rides to get there. He presented his I.D. card to the guard-on-duty and saw the guard make an entry in the logbook. He said he was frisked and his bag was inspected. He claimed that he was frequently at the Ricalde

residence and had at times, when the owners were abroad, slept there and watched the place for them. According to him, when Rebecca led him in and when Pelagio saw him, Pelagio was red-eyed and was furious when he reminded Pelagio that it was the latter who had told him to be there. At this juncture, Pelagio shouted at him, "*Shit, bullshit, putang ina,*"^[21] then shoved him towards the garage gate. Still furious, Pelagio continued shouting, "*Tang-ina mo, wala akong kakilalang Leo.*"^[22] Dela Cruz recalled that as he was leaving, Pelagio was blocking the gate so he just stared back. Then, Pelagio grabbed a kitchen knife in the nearby sink, three steps away from the gate. Pelagio was about to stab him so he grabbed the knife and stood up. As Pelagio was still blocking his exit, he saw Juliana hand a knife to Pelagio. It appeared to him that Pelagio was in a daze and did not recognize anyone. Pelagio tried to stab him but started hitting Juliana instead. According to dela Cruz, Pelagio stopped only when Juliana dropped to her knees. He saw Pelagio embrace Juliana. Then, dela Cruz added, he rushed outside where he was apprehended and brought to the Marikina Police Station.^[23] He said he did not know how Pelagio got his wounds and how the knife was bent as he was busy grappling for the knife.^[24]

During rebuttal, Rebecca testified that there was no sink in the garage, disputing dela Cruz's story that Pelagio got the knife from there. She said that the sink was located in the generator/engine room that could be accessed through a door with an iron shutter that was always locked.^[25] This information was corroborated by SPO4 Gamueda.^[26]

Dr. Rocco B. Paragas, resident surgeon at the Amang Rodriguez Medical Center, treated dela Cruz. He testified that dela Cruz had contusions on the right hand and left thigh and had wounds on the fifth digit of the right hand. The wounds were probably caused by sharp object like a knife. They could also be defense wounds. The hematomas on the hand and on the left thigh were probably caused by hitting a blunt object or falling hard atop a hard object.^[27] He first explained that it was improbable for dela Cruz to have the incise wounds in the fifth digit of the right hand, considering the relative positions of the protagonists as they grappled for the knife, but did not rule out the possibility that the incise wounds were sustained if dela Cruz's fingers slipped towards the knife, as he was being stabbed by the attacker or when while holding the knife, he hit a hard object.^[28]

On May 17, 2001, the trial court convicted appellant. The dispositive portion of the decision reads,

WHEREFORE, foregoing premises considered, the accused LEOSON DELA CRUZ y ECHECHE is hereby found GUILTY beyond reasonable doubt of the crime of murder in Criminal Case No. 99-3101-MK and of frustrated murder in Criminal Case No. 99-3102-MK penalized under Art. 248 of the Revised Penal Code, as amended, and is sentenced to suffer the maximum penalty of DEATH by lethal injection and the penalty of RECLUSION PERPETUA, respectively, the crime having been qualified with treachery and attended with the generic aggravating circumstance of dwelling. The accused is further ordered to indemnify the heirs of Atty. Juliana Ricalde y Rodriguez the amount of P50,000.00 for the latter's death, the amount of P200,000.00 as moral damages and another amount of P200,000.00 as exemplary damages for both cases. The court,

however, cannot award actual damages for the death of the victim Atty. Juliana Ricalde y Rodriguez and for the damages sustained by Atty. Pelagio Ricalde in view of the failure of the prosecution to substantiate such damages with official receipts and other documents to support the same.

SO ORDERED.^[29]

Following *People v. Mateo*,^[30] the cases were transferred to the Court of Appeals for review.

On August 18, 2005, the appellate court affirmed with modification the trial court's decision. The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the instant appeal is **DENIED** for lack of merit. The joint Decision dated 17 May 2001 of the Regional Trial Court of Marikina City, Branch 272, in the cases entitled "*People of the Philippines vs. Leoson Dela Cruz y Echeche*," docketed as Criminal Cases Nos. 99-3101-MK and 99-3102-MK, is hereby **AFFIRMED** with the following **MODIFICATIONS**:

In Criminal Case No. 99-3101-MK, appellant LEOSON DELA CRUZ Y ECHECHE is found **GUILTY** beyond reasonable doubt of the crime of **MURDER** qualified by treachery with the aggravating circumstances of evident premeditation and dwelling and is hereby SENTENCED to the supreme penalty of **DEATH**.

The appellant is further ordered to pay the heirs of the victim Atty. Juliana Ricalde the amounts of: (a) Php50,000.00 as civil indemnity; (b) Php50,000.00 as moral damages; (c) Php25,000.00 as exemplary damages; (d) Php25,000.00 as temperate damages; and (e) Php2,441,423.00 for the victim's loss of earning capacity.

In Criminal Case No. 99-3102-MK, the appellant LEOSON [DELA] CRUZ Y ECHECHE is found **GUILTY** beyond reasonable doubt of the crime of **FRUSTRATED MURDER** qualified by treachery with the aggravating circumstances of evident premeditation and dwelling and is hereby SENTENCED to an indeterminate penalty of **twelve (12) [y]ears of prison mayor as minimum to twenty (20) years of reclusion temporal as maximum**.

The appellant is further ordered to pay the victim Atty. Pelagio Ricalde the amounts of: (a) Php50,000.00 as moral damages; (b) Php25,000.00 as exemplary damages; and (c) Php30,000.00 as civil indemnity.

SO ORDERED.^[31]

Appellant and the Office of the Solicitor General (OSG) opted not to submit their respective supplemental briefs.^[32] However, on record we find their briefs filed before the appellate court on the following issues brought before it, to wit: