

## FIRST DIVISION

[ G.R. No. 241632, October 14, 2020 ]

**PEOPLE OF THE PHILIPPINES, Plaintiff- Appellee, VS. ANGELITO DAYRIT y HIMOR, Accused-Appellant.**

### D E C I S I O N

**PERALTA, J.:**

This is an appeal from the March 21, 2018 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06982, which affirmed with modifications the July 28, 2014 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 269, Valenzuela City.

#### *The Facts*

Accused-appellant Angelito Dayrit y Himor (*Dayrit*) was indicted for two (2) counts of Murder as defined and penalized under Article 248 of the Revised Penal Code (RPC). The accusatory portion of the Informations dated September 4, 2013 alleged:

#### Criminal Case No. 1218-V-13

That on or about August 31, 2013 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with another person, whose name, identity and present whereabouts are still unknown, with deliberate intent to kill, treachery and evident premeditation, and while on board a motorcycle, did then and there willfully, unlawfully, and feloniously shot with a handgun one ARIEL SERENILLA y DE CHAVEZ, the latter not being armed and not in a position to retaliate and defend himself due to the suddenness of the attack, hitting him on the neck, chin and chest, which caused his death.

CONTRARY TO LAW.<sup>[3]</sup>

#### Criminal Case No. 1219-V-13

That on or about August 31, 2013 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with another person, whose name, identity and present whereabouts are still unknown, with deliberate intent to kill, treachery and evident premeditation, and while on board a motorcycle, did then and there willfully, unlawfully, and feloniously shot with a handgun one LOURDES SERENILLA y ESPELETA, the latter not being armed and not in a position to retaliate and defend himself due to the suddenness of the attack, hitting her on the neck,

which caused her death.

CONTRARY TO LAW.<sup>[4]</sup>

In his arraignment, Dayrit pleaded not guilty<sup>[5]</sup> to the offense charged in the Informations. Thereafter, trial on merits ensued.

The prosecution presented seven (7) witnesses, namely, PSI Jocelyn Cruz, PO3 Alexander Buan, SPO1 Alexander Manalo, victims' son Aliven Serenilla, Lloyd Ontiveros, John Moises Vista and Joseph Emmanuel Soliman. The defense for its part presented four (4) witnesses, including the accused Dayrit, Billy Bragais, Michael John Aquino and Joseph Cabero.

### **Version of the Prosecution**

On August 31, 2013, at around 10 o'clock in the evening, minors Lloyd Ontiveros, John Moises Vista and Joseph Emmanuel Soliman were playing along Anak Dalita Street, Barrio Bitik, Marulas, Valenzuela City. At that time, a man wearing a black jacket and a helmet arrived on board a green and black motorcycle. This man alighted from his motorcycle and removed his helmet to wipe off his perspiration, he is observing a group of persons and among them was Ariel Serenilla (*Ariel*). Thereafter, Ontiveros approached the man since he recognized him as Angelito Dayrit, who was a school security guard at Serrano Elementary School. Ontiveros then asked Dayrit "*Kuya, bakitpo kayo palakadlakad.* " Dayrit replied that he was just waiting for someone. After that, Dayrit boarded the motorcycle and left. Ontiveros then went back to his friends to continue playing. A few second later, Dayrit came back in the same motorcycle with a companion, who also was wearing a black jacket and a helmet. Dayrit, together with his companion, drove back and forth on the same street.

Afterwards, a certain Nino asked Ontiveros to buy some cigarettes. On his way to the store, Ontiveros met Ariel and his wife Lourdes Serenilla (*Lourdes*). Ontiveros walked together with them and was teased by Ariel. Ariel also had a bicycle in tow. While walking, Ontiveros noticed that the two (2) persons on board the motorcycle he saw earlier were following Ariel and Lourdes. When they reached the store, Ontiveros stayed behind, while the spouses continued walking towards the tricycle. As the spouses were boarding the tricycle, two persons on board a motorcycle blocked their way and the back-rider thereof fired a gun four times fatally shooting the spouses. The motorcycle then sped away and went to the direction of Serrano Street.

Meanwhile, Aliven Serenilla, the son of Ariel and Lourdes, was in the house of his cousin at Tampoy, Marulas, Valenzuela City when he learned that his parents were shot. He rushed to the scene where it happened and learned that his parents were brought to Fatima Medical Center. Upon his arrival at the said hospital, he was told that the latter were already dead.

At around 11 o'clock in the evening, the Station Investigation Division of the Valenzuela City Police Station received a telephone call from a security guard of the Fatima Medical Center informing them that the victims from a shooting incident were brought to the said hospital. SPO1 Alexander Manalo, PO3 Edwin Mapula and PO2 Joel Madregalejo arrived at the said hospital and were informed that the victims

were being treated inside the emergency room. The police officers were also informed that the shooting incident transpired at Little Tagaytay, Serrano Street corner Anak-Dalita Street to which they proceeded to conduct an investigation. The scene of the crime was already cordoned off by their fellow police officers from Police Community Precinct 3. After the case was turned over to them, they also sought the assistance of the NPD-SOCO Satellite Office in Valenzuela City. They discovered that the spouses victims were about to board a tricycle when two (2) persons on board a motorcycle suddenly shot Ariel and Lourdes, successively. The gunmen fled to the direction going to Serrano Street towards MacArthur Highway. The witnesses who saw the shooting incident were not willing to give their sworn statements.

Further investigation was then conducted by PO3 Alexander Buan, SPO3 Conrado Sy and PO3 Vladimir Magsino. PO3 Buan found out from Genero Dudlao, Lourdes' sibling, that Ariel had a misunderstanding with a certain Angelito Dayrit, and that three (3) children witnessed the shooting incident. Subsequently, the children were fetched and were shown a picture of Dayrit to which they identified as the one who shot the spouses.

On September 2, 2013, PSI Jocelyn Cruz, a medico-legal officer, conducted a post-mortem examination of the cadavers of Ariel and Lourdes. In her medico-legal report, Ariel sustained three (3) gunshots, one on his face, the other on his neck and another one on his pelvic region. These wounds caused blood loss which resulted radic shock and eventually, his death. In the case of Lourdes, the gunshot's point of entry is located at her lateral neck region. From the injuries sustained by Lourdes, PCI Cruz inferred that these caused her instantaneous death.

On September 3, 2013, the police officers proceeded to the Karuhatan National High School, arrested Dayrit and informed him of his constitutional rights. Dayrit was brought to the police station and, thereafter, to the Valenzuela Medical Center for medical examination.

### **Version of the Defense**

On August 31, 2013, at around 8 o'clock in the evening, accused-appellant Dayrit was at home with his family in Magsaysay Street, Manilas, Valenzuela City, watching television. His cousins, Michael John Aquino, Billy Joe Bragais and other relatives were also there and were discussing about their children's performance in school. At around 11:30 in the evening, Dayrit went to sleep.

Joseph Cabero was in Anak-Dalita Street on the same date, between 9:30 to 10 o'clock in the evening. He saw Ariel and Lourdes walk towards a tricycle. After Lourdes boarded the side car of the vehicle and Ariel was about to board, a motorcycle arrived and stopped beside the tricycle. The motorcycle driver, whom Cabero did not recognize, shot Ariel twice and Lourdes once. Joseph did not see the face of the shooter, but said that the latter had a smaller built compared to Dayrit. Shocked by what he saw, Cabero fled and hid at the side of an apartment across the street. Ten (10) minutes later, he left but he saw the tricycle driver, Raymond, being investigated by the police authorities. He, likewise, gave his statement to the investigator.

On September 3, 2013, while Dayrit was on duty at the Karuhatan National High

School, two (2) barangay officials and three (3) police officers in civilian clothes arrived and approached him. The police officers confiscated Dayrit's gun and arrested him. According to Dayrit, he was neither informed of the reason of his arrest nor a warrant of arrest was shown to him. Dayrit was brought to a detention cell at the city hall. The police authorities asked Dayrit about the gun and motorcycle which he allegedly used in killing Ariel and Lourdes but he had no idea who the latter were. Dayrit stated that he does not even own a license to drive a motorcycle. Later on, he was told to stand in line with six (6) other persons.

On July 28, 2014, the RTC convicted Dayrit of the crime charged. The dispositive portion of the Decision states:

WHEREFORE, accused ANGELITO DAYRIT y HIMOR is hereby found GUILTY beyond reasonable doubt of two counts of Murder under Article 248 of the Revised Penal Code for the death of Ariel Serenilla and Lourdes Serenilla; and is hereby imposed the penalty of *reclusion perpetua* for each count. The accused is further ordered to pay the heirs of the victims P100,000.00 as civil indemnity, P50,000.00 as temperate damages, and P100,000 as moral damages.

The accused may be credited with the corresponding period that he has served under preventive imprisonment, in accordance with Article 29 of the Revised Penal Code and applicable rules.

Cost against the accused.

SO ORDERED. <sup>[6]</sup>

In concluding the guilt of Dayrit, the RTC ratiocinated:

x x x x

The identification by Ontiveros of the accused was strongly corroborated by the two other child-witnesses with whom he was playing at the time the accused first arrived near their play area on his orange and black motorcycle. On that first stop, the accused took off his helmet and wiped his perspiration, thus, the children saw his face. Their playmate, Ontiveros, also talked with him; hence they gave notice to him. Thus, when they saw the accused again in a lineup of six persons at the detention cell of Valenzuela City Police Station a few days later, they recognized him as the person in black jacket and on board a motorcycle colored orange and black who stopped near their play area and went to look at the group of Ariel Serenilla in the evening of August 31, 2013, just prior to the shooting incident.

The shooting of both victims was sudden and unexpected. The couple apparently had no warning whatsoever of the impending assault. They were simply walking down the road, x x x. They were simply boarding a tricycle when all of a sudden, without any warning at all, they were gunned down. Ariel was shot from behind while boarding the tricycle. Lourdes, although shot frontally after Ariel, was seated inside the small sidecar with only one entrance on the side where Ariel was shot. Under

the circumstances, both victims had absolutely no chance to evade the assault. They were clearly treacherously assaulted.

The prior acts of the accused plainly evince evident premeditation on his part. He initially checked the presence of his prey. He and his cohort dressed themselves similarly with black jackets and helmets, evidently to conceal their identities. In going back and forth to Anak-Dalita Street, they ensured that their target was still in the area and were obviously waiting for the right time to carry out their ill design. They were armed with a gun, an object not readily available to anyone. In other words, the accused clearly planned and prepared for murder of his victims.<sup>[7]</sup>

On appeal, the CA agreed with the findings of the trial court in giving credence to the testimonies of the prosecution witnesses, particularly of the children, who were the eyewitness of the crime. The appellate court was convinced that the qualifying circumstances of treachery and evident premeditation were duly appreciated. Likewise, the CA finds it proper to consider the generic aggravating circumstances of use of a motor vehicle that attended the commission of the crime which the trial court failed to appreciate. The records show that Dayrit was riding a motorcycle when he trailed and fatally shot the victims. It was also used to facilitate his escape after the commission of the crime. Lastly, the award of damages was modified by adding exemplary damage in the amount of One Hundred Thousand Pesos (P100,000.00). The *falla* of the March 21, 2018 Decision reads:

WHEREFORE, the instant *Appeal* is DENIED. The July 28, 2014 Decision of the Regional Trial Court, Branch 269, Valenzuela City in Criminal Case Nos. 1218-V-13 and 1219-V-13 is AFFIRMED with the following MODIFICATIONS:

a) Accused-appellant ANGELITO DAYRIT y HIMOR is GUILTY beyond reasonable doubt of two (2) counts of Murder defined under Article 248 of the Revised Penal Code, attended by the aggravating circumstances of evident premeditation and use of motorcycle, and is hereby sentenced to suffer *reclusion perpetua* for each count without eligibility of parole;

b) He is also ORDERED to PAY the heirs of Ariel and Lourdes Serenilla the following amounts for each victim: (a) P100,000.00 as civil indemnity (b) P100,000.00 as moral damages (c) P100,000.00 as exemplary damages; and (d) P50,000.00 as temperate damages; and

c) Lastly, he is further ORDERED to pay interest on all monetary awards for damages at the rate of six percent (6%) *per annum* from the date of finality of this *Decision* until full satisfaction thereof.

SO ORDERED.<sup>[8]</sup>

Now before Us, the People and Dayrit, manifested that that they would no longer file a Supplemental Brief, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA.

The Court resolves to dismiss the appeal for failure to sufficiently show reversible