

SECOND DIVISION

[G.R. No. 220486, June 26, 2019]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ELINJER CORPUZ Y DAGUIO, ACCUSED-APPELLANT.**

D E C I S I O N

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision^[1] dated February 18, 2015 of the Court of Appeals in CA-G.R. CR-H.C. No. 06274 affirming appellant's conviction for murder with modification of the monetary awards.

The Proceedings Before the Trial Court

The Charge

Appellant Elinjer Dagui Corpuz was charged with murder for the death of Jerry Corpuz, viz:

That on or about the 2nd day of September, 2011, at around 4:00 o'clock in the afternoon at Brgy. Padapada, Municipality of Sta. Ignacia, Province of Tarlac, Philippines, and within the jurisdiction of this Honorable Court, the said accused armed with a gun, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously shot Jerry Corpuz on the head causing his instantaneous death.^[2]

The case was raffled to Regional Trial Court, Branch 68, Camiling, Tarlac.

On arraignment, appellant pleaded "not guilty".^[3] Trial thereafter followed. Ofelia Domingo Corpuz and Jerick Corpuz testified for the prosecution. On the other hand, appellant and Jomer Corpuz testified for the defense.

The Prosecution's Evidence

Prosecution witnesses testified that on September 2, 2011, about 4 o'clock in the afternoon, Jerry left their house and rode his motorcycle to buy feeds. Just after a few meters, he was flagged down by Porfirio Corpuz, Jr..^[4] When Jerry stopped, Porfirio confronted him about a dog. Jerry's wife Ofelia saw the altercation and she got worried. Together with her son Jerick, she walked toward the direction where Jerry and Porfirio were arguing and pushing each other. She saw Jerry falling to the ground and Porfirio immediately going on top of him. While the two were fighting, Porfirio's brother, appellant appeared with a gun in hand. He walked up to Jerry and shot the latter twice.

Ofelia shouted for help and begged Porfirio to help bring Jerry to the hospital. But Jerry died even before they got to the hospital. Meanwhile, appellant, still holding his gun, walked away into the fields.

The Defense's Evidence

Appellant denied the charge and averred that on September 2, 2011, about 4 o'clock in the afternoon, he was cooking dinner inside his house in Pada-Pada, Sta. Ignacia, Tarlac. He later stepped out to gather malunggay leaves for the dish he was cooking. He saw his brother Porfirio who was holding a "*pamalo and pamingwit ng palaka*".

On his way back to the house, he also saw Jerry's motorcycle parked by the roadside. When Jerry saw him, he blocked his path and angrily asked him, "*Hoy! Papanam?*" (Where are you going?). He replied "*Ni apay? Annia ti problema, uncle?*" (Why, what is the problem, uncle?). Jerry uttered, "*Maysa kamet a gago.*" (You are also a fool.) Then, Jerry suddenly drew out his .38 caliber gun. Appellant was shocked and tried to grab the gun from Jerry. He was able to get hold of the gun, but Jerry pulled his shirt and whipped him with it. As a result, appellant accidentally pulled the trigger and fired the gun. But Jerry persisted in taking back the gun from him until they both slid and fell.

While Jerry was down on his knees, appellant noticed he was reaching for a knife from his back. He tried once again to wrestle the gun away from Jerry. Then another shot was fired, hitting Jerry in the chest. He was shocked when he saw him falling to the ground. Soon after, he heard people rushing toward them. He got scared and ran.

The Trial Court's Ruling

The trial court rendered a verdict of conviction. It gave full credence to the testimonies of the prosecution witnesses. It found treachery attended the killing for although appellant's brother had already pinned the victim to the ground, appellant just walked in and shot the hapless victim. Appellant's sudden, swift and unexpected attack effectively deprived the victim of the ability to defend himself, let alone, retaliate. The trial court thus ruled:

WHEREFORE, premises considered, accused Elinjer Daguio Corpuz is found guilty beyond reasonable doubt of the offense of Murder punishable under Article 248 of the Revised Penal Code, as amended and hereby sentences him to a penalty of *reclusion perpetua*.

He is also ordered to pay the heirs of the victim Jerry Corpuz the amount of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages, Php30,000.00 as exemplary damages, and Php100,000.00 as actual damages.^[5]

SO ORDERED.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of murder despite the alleged inconsistencies and improbabilities in the testimonies of the prosecution witnesses; his defense that the shooting was an accident; and the supposed lack of evidence showing that treachery attended the killing.^[6]

On the other hand, the Office of the Solicitor General (OSG) through Solicitor General Francis H. Jardeleza (now an Associate Justice of the Supreme Court), Assistant Solicitor General Ma. Antonia Edita C. Dizon and Associate Solicitor John Dominic S. Obias riposted that the trial court correctly relied on the direct and straightforward account of the eyewitnesses Ofelia and Jerick regarding the slaying and the presence of treachery.^[7]

The OSG further invoked the rule that the trial court's factual findings will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case.^[8]

The Court of Appeals' Ruling

In its assailed *Decision*^[9] dated February 18, 2015, the Court of Appeals affirmed with modification as to the amount of damages. It concurred with the trial court's findings that treachery attended the killing of Jerry. It deleted the award of actual damages, and in lieu thereof, granted Php25,000.00 as temperate damages.

Its dispositive portion reads:

WHEREFORE, all the foregoing considered, the Decision of the Regional Trial Court of Camiling, Tarlac, Branch 68, is hereby **AFFIRMED with MODIFICATION**. Accused-appellant Elinjer Daguio Corpuz 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, qualified by treachery, and he is sentenced to suffer the penalty of *Reclusion Perpetua*. Accused-appellant is **ORDERED** to pay the heirs of Jerry Corpuz, the following sums: a) Php75,000.00 as and for civil indemnity; b) Php50,000.00 as and for moral damages; c) Php25,000.00 as and for temperate damages, as there was no evidence of burial and funeral expenses; and d) Php30,000.00 as and for exemplary damages as provided by the Civil Code in line with recent jurisprudence, with costs.

SO ORDERED.^[10]

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal.^[11] In compliance with *Resolution*^[12] dated November 23, 2015, both OSG and appellant manifested^[13] that in lieu of supplemental briefs, they are adopting their respective briefs submitted before the Court of Appeals.

Issue

Did the Court of Appeals err in affirming appellant's conviction for murder?

Ruling

The appeal utterly lacks merit.

Murder is defined and penalized under Article 248 of the Revised Penal Code, *viz*:

Article 248. *Murder*. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity;

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Murder requires the following elements: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) the killing is not parricide or infanticide.^[14]

We focus on the second and third elements, the presence of which appellant vigorously disclaims.

Second Element: Appellant was positively identified as the assailant who fatally shot the victim

Ofelia Corpuz, the victim's wife, narrated in detail the circumstances attendant to the slaying of her husband, thus:

Q: Mr. (sic) Witness, do you recall where were you (sic) on September 2, 2011 at around 4:00 in the afternoon?

A: Yes, sir.

Q: Where were you then?

A: In our house, sir.

Q: How about this Jerry Corpuz, do you recall where was he at that time?

A: On that date and time, he is (sic) going to buy feeds, sir.

Q: What vehicle did he use if there is any?

A: A motorcycle, sir.

Q: What kind of motorcycle?

A: Honda TMX, sir.

Q: Were you able to see him going away from the house?

A: Yes, sir.

Q: As you said, you saw your husband going away from the house. Do you remember if there was anything that transpired?

A: None, sir. When my husband left our house he said he is going to buy feeds.

Q: While going to buy feeds, what happened if there was any?

A: It is about the flagging down, sir.

Q: Who stopped your husband?

A: Junior, sir.

Q: What is the full name of that Junior?

A: Porfirio Corpuz, Jr., sir.

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PROS. GUARDIANO:

Q: At the distance, were you able to see what is happening when your husband was flagged down by Porfirio Corpuz, Jr.?

A: Yes, sir.

Q: What was that?

A: He confronted my husband about the dog, sir.

Q: You mean to say, Porfirio Corpuz confronted your husband about the dog. What happened next after Porfirio Corpuz Jr. confronted your husband about the dog?

A: They had a verbal altercation, sir.

Q: What did you do when you saw your husband and Porfirio Corpuz Jr. had an altercation?

A: I called my son, sir.

Q: Who is your son?

A: Jerick, sir.

Q: Did your son arrive when you called him?

A: Yes, sir.

Q: What did you do when your son arrived?

A: We went to the place where my husband and Porfirio Corpuz were.

x x x

Q: What did you see if there was any while you were going near the place?

A: When I ran towards my husband and Porfirio Corpuz, Jr., I saw them pushing each other and my husband fell down.

Q: What did you see when your husband fell down?