

SECOND DIVISION

[G.R. No. 223715, June 03, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
MARCELINO SALTARIN Y TALOSIG, ACCUSED-APPELLANT.**

D E C I S I O N

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision dated February 26, 2015^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 06536 affirming with modification the trial court's verdict of conviction against appellant for murder.

The Proceedings before the Trial Court

The Charge

Appellant was charged with murder for the killing of Joval Benitez de Jesus, thus:

That on or about November 6, 2011, in the City of Manila, Philippines, the said accused, with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of JOVAL BENITEZ DE JESUS, by then and there stabbing the latter with a bladed weapon ("kutsilyo") thrice, hitting him once on the chest, thereby inflicting upon him a mortal stab wound which was the direct and immediate cause of his death thereafter.

ACTS CONTRARY TO LAW. ^[2]

The case was raffled to the Regional Trial Court-Branch 37, City of Manila.

On arraignment, appellant pleaded *not guilty*. During the pre-trial, the parties stipulated on the jurisdiction of the trial court, the identity of the accused, and the cause of death of the victim Joval Benitez de Jesus. Thereafter, trial followed.

The Prosecution's Evidence

Lone prosecution witness fifteen-year old **Gerry Narido**^[3] testified that he considered the victim Joval Benitez de Jesus his *tatay-tatayan*. On November 6, 2011, around 11 o'clock in the evening, he and the victim were outside a junk shop when appellant asked for coins from them. The victim obliged but refused to give more when appellant asked a second time. After appellant left, he and the victim sat inside a *kuliglig* parked nearby.

When appellant returned, he handed a cigarette to the victim. The latter responded "*mabait ka naman pala*." Appellant stepped back a bit and instantly thrust a knife

into the victim's chest. He delivered two more blows but missed. Appellant then fled.

He (Narido) got shocked and froze but soon regained his composure when he noticed the victim was already losing his strength. He took the victim out of the *kuliglig* and brought him to the Gat Andres Hospital. Little did he know that it was the last time he would be seeing his *tatay-tatayan* alive. The victim died that same night due to the stab wound hitting his heart.^[4]

On cross, Narido clarified that although it was dark at the *locus criminis*, he clearly saw appellant because the latter was only an arm's length away when he stabbed the victim. Also, he saw the incident up close since he was seated right beside the victim on board the *kuliglig*.

During the trial, the parties further stipulated on the nature of the testimonies of (1) arresting officer **PO1 Christopher Razon**,^[5] (2) attending doctor **Jesille Cui Baluyot**,^[6] (3) investigating officer **SPO2 Edmundo Cabal**,^[7] and (4) the victim's mother, **Teresita de Jesus**.^[8]

The prosecution offered the following documentary exhibits: (1) Letter Referral dated November 8, 2011 of the Manila Police District Homicide Section endorsing the case to the inquest prosecutor of Manila; (2) the victim's Certificate of Death; (3) SPO2 Cabal's Crime Report dated November 7, 2011; (4) Affidavit of Apprehension executed by PO2 Roman Fajardo and PO1 Christopher Razon; (5) the Booking Sheet; and (6) SPO2 Cabal's Arrest Report.^[9]

The Defense's Evidence

Appellant testified as lone witness for the defense. According to him, on November 6, 2011, around 11 o'clock in the evening, while he was walking home, the victim blocked his path to ask for cigarette. He obliged then walked away. The victim followed him and this time asked for money. He replied he did not have any left. The victim suddenly held him by the arm and forced his hand inside his pocket. He resisted but the victim held his neck and drew a knife. He then realized the victim had four other companions, including Narido. They all surrounded him and the victim. He grappled for the knife and rolled with the victim on the ground. After getting back on his feet, he immediately ran home. The following morning, the victim's relatives came to his house and accused him of stabbing the victim. The next day, he got arrested in the church.

The Trial Court's Ruling

By Decision dated November 28, 2013,^[10] the trial court found appellant guilty as charged, thus:

WHEREFORE, the Court finds accused Marcelino Saltarin y Talosig GUILTY beyond reasonable doubt of the crime of Murder and there being no mitigating or aggravating circumstances present, hereby sentences him to suffer the penalty of *reclusion perpetua*.

Accused is ordered to pay the heirs of the victim the sum of Php13,500.00 as actual damages, Php50,000.00 as civil indemnity, Php50,000.00 as moral damages, and Php30,000.00 as exemplary damages.

SO ORDERED.^[11]

The trial court ruled that appellant's denial cannot prevail over Narido's positive identification of him as the one who fatally stabbed the victim. The trial court also appreciated treachery to have attended the killing since appellant's sudden and unexpected attack caught the victim off guard. It did not appreciate evident premeditation though for lack of any showing that appellant hatched a plan to kill the victim.

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of murder despite the lack of positive identification. Appellant pointed out that the crime happened around 11 o'clock in the evening along a dark street, rendering it impossible for Narido to recognize his offender. Appellant also cited the supposed uncertainties in Narido's testimony, *i.e.* Narido was unable to answer simple questions pertaining to the address of the junkshop where the *kuliglig* was parked, and the exact date of the incident. Narido claimed he did not know him before the incident, and yet, Narido mentioned his complete address when he testified in court.

Appellant likewise found it contrary to human nature that Narido did not shout for help despite the presence of other people in the vicinity. Finally, he imputed ill-motive on Narido who testified he would do everything to protect the interest of his *tatay-tatayan*.^[12]

On the other hand, the Office of the Solicitor General (OSG) through State Solicitor Maria Victoria V. Sardillo defended the trial court's verdict of conviction and the credibility of Narido's testimony. The OSG argued that despite the minor gaps in Narido's testimony, the same sufficiently established that appellant's sudden and unpredicted attack amounted to treachery. The OSG also emphasized that appellant's positive testimony prevailed over appellant's denial.

The Court of Appeals' Ruling

The Court of Appeals affirmed, with modification through its assailed Decision dated February 26, 2015, thus:

WHEREFORE, the November 28, 2013 Decision of the Regional Trial Court of Manila, Branch 37, in Criminal Case No. 11-287986, finding accused-appellant Marcelino Saltarin guilty beyond reasonable doubt of murder is **AFFIRMED** with the following **MODIFICATIONS**:

1. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* **without eligibility of parole**;
2. The awards of civil indemnity and moral damages are **increased to P75,000.00 each**; and
3. **All damages awarded shall earn an interest of 6% per annum computed from the finality of this judgment until fully paid.**

In all other respects, the assailed decision is **AFFIRMED**.

SO ORDERED.^[13]

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution dated June 28, 2016,^[14] both appellant and the OSG manifested that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.^[15]

Issue

Did the Court of Appeals err when it affirmed appellant's conviction for murder, with modification of the penalty and monetary awards?

Ruling

The appeal must fail.

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 the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity;

xxx

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 does not amount to parricide or infanticide.^[16]

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 stabbed the
victim**

Fifteen-year old Gerry Narido recounted in detail how appellant stabbed the victim to death, thus:

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Q Mr. Witness, do you know a person by the name of Juval de Jesus?

A Yes, sir.

Q Where is this person right now if you are aware?

A He is already dead, sir.

Q Do you know the reason why this person died?

A Yes, sir.

Q What is the reason why this person Juval died?

A At first Saleng was asking for coins from Juval and Juval was able to give Saleng coins.

Q Who is this Saleng you are referring to?

A Saleng

Q Is this person Saleng inside this court room right now?

A Yes, sir.

Q Will you kindly point him to us?

Interpreter

Witness is pointing to accused seated at the back row of the court room, third person from left wearing yellow t-shirt who, when asked by the Court, answered by the name of Marcelino Saltarin.

Q You said this Saleng asked for coins from Juval. Do you affirm that Mr. Witness?

A Yes, sir.

Q When did this Saleng ask coins from Juval?

A It was night time, sir.

Q Do you still remember the exact date?

A Yes, sir.

Q What is the exact date to your recollection Mr. Witness?

A It was eleven in the evening, sir.

Q What happened after Saleng asked coins from Juval?

A Saleng again asked coins from Juval and Juval said enough.

Q What happened after Juval refused to give Saleng more coins?

A Saleng went home and immediately got a knife.

Q Were you able to see where did Saleng got the knife?

A No, sir.