

## SECOND DIVISION

[ G.R. No. 227865, November 07, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODEL MAGBUHOS\* Y DIOLA ALIAS "BODIL," ACCUSED-APPELLANT.**

### DECISION

**CAGUIOA, J:**

This is an appeal<sup>[1]</sup> from the Decision<sup>[2]</sup> dated September 29, 2015 ("assailed Decision") of the Court of Appeals, Fifth (5<sup>th</sup>) Division (CA), in CA-G.R. CR-HC No. 05812, which affirmed with modification as to the award of damages, the Decision<sup>[3]</sup> dated July 17, 2012 of the Regional Trial Court of Rosario, Batangas, Fourth Judicial Region, Branch 87 (RTC), in Criminal Case No. R03-046, finding accused-appellant Rodel Magbuhos y Diola alias "Bodil" (Rodel) guilty beyond reasonable doubt of the crime of Murder defined and penalized by Article 248 of the Revised Penal Code (RPC).

### The Facts

Rodel was charged with the crime of Murder under the following Information:

"That on or about the 6th day of October 2002, at about 1:30 o'clock in the afternoon, at Barangay Buhaynasapa, Municipality of San Juan, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, armed with a fan knife (balisong), with intent to kill, with the qualifying circumstances of treachery and evident premeditation and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said fan knife, suddenly and without warning one Enrique E. Castillo, thereby inflicting upon the latter stab wound on his left chest, which directly cause his death.

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

Rodel pleaded not guilty to the offense charged.<sup>[5]</sup>

The prosecution presented as witnesses Angelito Yolola (Angelito) and Michael Castillo (Michael), the victim's nephew and son, respectively.<sup>[6]</sup>

Angelito testified that on October 6, 2002 at about 2 o'clock in the afternoon, he was at the billiard hall of his father and brother at Barangay Buhay na Sapa, San Juan, Batangas, when he saw Rodel approach his uncle, Enrique Castillo (Enrique), who was then sitting.<sup>[7]</sup> Angelito noticed that when Rodel arrived at the billiard hall, he was already under the influence of liquor as his body was swaying while walking

towards the billiard hall.<sup>[8]</sup> Without saying a word, Rodel suddenly stabbed Enrique on his left chest.<sup>[9]</sup> Rodel then ran towards the south direction and left the billiard hall. Enrique was brought to a hospital in San Juan, Batangas but died on the way to the Villa Hospital in Lipa City where he was about to be transferred.<sup>[10]</sup>

Michael testified that at about 1:30 o'clock in the afternoon of October 6, 2002, he was watching billiard games at the billiard hall of his uncle Juanito Yolola (Juanito) at Brgy. Buhay Na Sapa, San Juan, Batangas.<sup>[11]</sup> There were a lot of people inside the billiard hall.<sup>[12]</sup> His father, Enrique, was also inside the billiard hall, seated at the bamboo bench at the right side of the entrance, when Rodel approached his father and using a fan knife, stabbed his father once at the left chest.<sup>[13]</sup> Michael immediately attended to his father and noticed that Rodel had run away.<sup>[14]</sup> They brought his father to the San Juan District Hospital and they decided later on to transfer him to the Villa Hospital in Lipa City but he died on the way to said hospital.<sup>[15]</sup>

Rodel, on the other hand, raised self-defense. He testified that at 8:00 o'clock in the morning of October 6, 2002, he went to the house of his cousin Arnold Diola and had a drinking session with four other persons. From the said drinking session, he proceeded to the billiard hall owned by Juanito at more or less 12:00 o'clock in the afternoon. When he arrived at the billiard hall, there were many people playing, whose names he could not recall anymore. He seated near the billiard table, watched the game and fell asleep. He was awakened when Enrique tapped his chest telling him to leave because he was just causing disturbance inside the billiard hall. Rodel told Enrique that he would leave later as he was still feeling dizzy. Enrique stood up and boxed him. Enrique then drew a fan knife but was pacified by the people inside the billiard hall. While Enrique was uttering invectives, Rodel told the latter not to utter those words at him. Rodel then noticed that Enrique drew his fan knife and attempted to attack. Somebody from behind handed Rodel a fan knife but Rodel did not notice who gave it to him because there were many people inside the billiard hall and he was too drunk at that time. As soon as he got hold of the knife, and while Enrique was approaching him, Rodel was able to stab Enrique once in the chest. After hitting the victim, Rodel left the place and went home. He surrendered to Councilor Maring Umali of San Juan, Batangas and later on to the Police Station.<sup>[16]</sup>

### *RTC Ruling*

In its Decision dated July 17, 2012, the RTC found Rodel guilty of Murder, to wit:

**WHEREFORE**, in view of the foregoing, judgement is hereby rendered finding the accused **Rodel Magbujos y Diola alias "Bodil", GUILTY beyond reasonable doubt** of the crime of **MURDER** defined in and penalized by Article 248 of the Revised Penal Code as amended by Republic Act 7659 hereby imposes on said accused the penalty of **RECLUSION PERPETUA**, with all the accessory penalties of the law. Furthermore, the accused is ordered to pay the heirs of the deceased the amount of Seventy Five Thousand Pesos (Php75,000.00) as civil indemnity; Seventy Five Thousand Pesos (P75,000.00) as moral damages; Seventy Five Thousand Pesos (P75,000.00) as exemplary damages and, Twenty Five Thousand Pesos (P25,000.00) as temperate

damages.

SO ORDERED.<sup>[17]</sup>

The RTC rejected Rodel's claim of self-defense for failing to substantiate it with clear and convincing proof. According to the RTC, Rodel failed to present any evidence of unlawful aggression on the part of the victim to prove that there was a justification for him to defend himself.

The RTC, however, failed to discuss the presence of treachery and evident premeditation, the two qualifying circumstances alleged in the Information.

#### *CA Ruling*

In the assailed Decision, the CA affirmed with modification the ruling of the RTC, to wit:

**WHEREFORE**, in view of the foregoing, the Decision dated July 17, 2012 of the Regional Trial Court of Rosario, Batangas, Branch 87, is hereby **AFFIRMED with MODIFICATION**. Accused-appellant Rodel Magbuhos y Diola is found **GUILTY** beyond reasonable doubt of Murder as defined in Article 248 of Revised Penal Code, as amended, and he is sentenced to suffer the penalty of *Reclusion Perpetua*. Accused-appellant is **ORDERED** to pay the heirs of the victim, Enrique Castillo the amount of: (a) P75,000.00 as civil indemnity for the death of said victim; (b) P50,000.00 as moral damages; and (c) P30,000.00 exemplary damages provided by the Civil Code in line with recent jurisprudence, with cost. In addition, all award for damages, shall bear legal interest at the rate of six [percent] (6%) per annum from the date of finality of judgment until fully paid.

**SO ORDERED.**<sup>[18]</sup>

The CA held that the testimonies of the prosecution witnesses clearly established that Rodel was the one who killed Enrique. The CA also ruled that the killing of Enrique was attended by the qualifying circumstance of treachery because the assault was totally unexpected by the victim that the latter had no opportunity to defend himself, much less retaliate.<sup>[19]</sup>

Further, the CA agreed with the RTC that Rodel fell short of proving his claim that he acted in self-defense. Thus, the CA found no reason for disturbing the factual findings of the trial court as to the guilt of the accused.<sup>[20]</sup>

As regards the award of damages, the CA modified the same in consonance with the case of *People v. Lucero*.<sup>[21]</sup>

Hence, this appeal.

### **Issues**

Whether the CA gravely erred in affirming Rodel's conviction for Murder despite clear

and convincing proof that his action was justified under the circumstances of the case.

Granting, for the sake of argument, that Rodel may be held criminally liable, the CA gravely erred in qualifying the crime to Murder despite the absence of clear and convincing evidence supporting the presence of treachery or evident premeditation as alleged in the information.

Whether the award of exemplary damages should be modified to conform with prevailing jurisprudence.<sup>[22]</sup>

### **The Court's Ruling**

The appeal is partly meritorious.

It is settled that findings of fact of the trial courts are generally accorded great weight, except when it appears on the record that the trial court may have overlooked, misapprehended, or misapplied some significant fact or circumstance which if considered, would have altered the result.<sup>[23]</sup> This is axiomatic in appeals in criminal cases where the whole case is thrown open for review on issues of both fact and law, and the court may even consider issues which were not raised by the parties as errors.<sup>[24]</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>[25]</sup>

In the present case, Rodel was charged with Murder, qualified by treachery and evident premeditation. The RTC did not discuss the presence of the qualifying circumstances and yet found Rodel guilty of the crime of Murder. The CA, on the other hand, found that the qualifying circumstance of treachery was established.

After a careful review and scrutiny of the records, the Court holds that Rodel can only be convicted of Homicide, not Murder.

*The accused failed to prove self-defense.*

In this case, Rodel admits to stabbing Enrique but claims that his action was necessary to defend himself. An accused who pleads self defense has the burden to prove, by clear and convincing evidence, that the killing was attended by the following circumstances: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.<sup>[26]</sup> All three, including unlawful aggression, are important and indispensable. Unlawful aggression refers to "an actual physical assault, or at least a threat to inflict real imminent injury, upon a person."<sup>[27]</sup> Without unlawful aggression, the justifying circumstance of self-defense has no leg to stand on and cannot be appreciated.<sup>[28]</sup>

In this case, the Court agrees with the courts a quo that Rodel failed to discharge his burden. Rodel failed to show by clear and convincing evidence that Enrique committed unlawful aggression by hurling invectives at him and attempting to stab