

## SECOND DIVISION

[ G.R. No. 215750, August 17, 2016 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CARLITO TAYAO Y LAYA, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

Subject of this appeal is the June 3, 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05532, which affirmed with modification the July 27, 2011 Decision<sup>[2]</sup> of the Regional Trial Court, Branch 90, Dasmarinas, Cavite (*RTC*), finding the accused-appellant, Carlito Tayao y Laya (*Carlito*) guilty beyond reasonable doubt of the crime of parricide, defined and penalized under Article 246 of the Revised Penal Code (*RPC*). The Information charging Carlito with the crime of parricide reads:

That on or about the 22nd day of November 2000, in the Municipality of Dasmarinas, Province of Cavite, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, qualified by treachery and abuse of superior strength, did, then and there, willfully, unlawfully and feloniously maul and strangle his wife, MA. THERESA TAYAO y FERNANDEZ, with whom he was united in lawful wedlock, with the use of stretchable (elastic) hose, inflicting upon the latter injuries and asphyxia by ligature strangulation which resulted to her instantaneous death, to the damage and prejudice of the latter's heirs.

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

On September 16, 2008, Carlito was arraigned and he pleaded "not guilty" to the crime charged in the Information. Pre-trial and trial ensued.

During the trial, the prosecution presented Clarisse F. Tayao (*Clarisse*) and Cherry F. Tayao (*Cherry*), daughters of Carlito; and Dr. Antonio Vertido (*Dr. Vertido*), National Bureau of Investigation (*NBI*) Medico-Legal Officer, as its witnesses. The parties stipulated that Dr. Vertido, who conducted a post-mortem examination on the body of the victim, Ma. Theresa Tayao y Fernandez (*Ma. Theresa*), would testify that she died of asphyxia by ligature strangulation and they agreed to dispense with his testimony. Likewise, the presentation of Cherry as a witness was dispensed with after it was stipulated that her testimony would only corroborate that of her sister, Clarisse's.

*Version of the Prosecution*

As succinctly recited in the CA decision, the version of the prosecution is as follows:

The evidence for the prosecution established that on November 22, 2000, at about 9:00 a.m., inside the Tayao residence located at Block 64, Lot 6-B, Barangay Sto. Cristo, DBB, Dasmarinas, Cavite, Clarisse woke up from her sleep and decided to go to the bathroom. She woke up her sister, Charmaine F. Tayao, to accompany her to the bathroom since she was afraid to go alone. The two (2) girls thereafter found their mother, Ma. Theresa, lying lifeless on the floor somewhere between the bathroom and the kitchen, with a plastic transparent hose (the kind used for nebulizers) tied around her neck and with blood oozing from her nose. Horrified, the girls started crying. Their aunt, Rizza F. Tayao (Rizza), who lives in a room right beside their house, came rushing in after hearing their cries. The Accused-Appellant, who was still sleeping, was awakened by the commotion. Rizza then loosened the plastic hose around Ma. Theresa's neck and tried to revive her. The Accused-Appellant looked on and told her, "*Wala na 'yan,*" to which she replied, "*Hindi,*" *kailangang dalhin natin ito sa ospital.*" Thereafter, Nelio Fernandez (Nelio), father of Ma. Theresa, came. Rizza and Nelio rushed Ma. Theresa to the hospital but she was pronounced dead on arrival. Meanwhile, the Accused-Appellant went to fetch his other daughters Cherry and Cate Lynn, from school. Nelio advised him not to go anywhere thereafter. When Rizza came back in the afternoon to check on the Accused-Appellant, she saw him sitting down and then went on to hang clothes which he just washed, as if unfazed by the death of his wife.

From the documentary exhibits of the prosecution, it was also gathered that the Accused-Appellant and Ma. Theresa were in a love-hate relationship; that they fought and shouted at each other the night before the incident; that the Accused-Appellant is capable of killing Ma. Theresa since he physically abused her and their children; that he hit his child, Clarisse, on the head and feet with a broom for several times and banged her head against the wall; that he banged the head of his other daughter, Cate Lynn, against the wall; that the Accused-Appellant was allegedly using illegal drugs; and, that the post-mortem examination of Ma. Theresa's body by Dr. Vertido revealed that the cause of death was not suicide but asphyxia by ligature strangulation.<sup>[4]</sup>

#### *Version of the Defense*

The defense, on the other hand, presented the testimonies of Carlito and his daughter, Cate Lynn, which narrated the following:

The Accused-Appellant denied the charges against him. He testified that at about 9:00 in the morning of November 22, 2000, he was awakened by the cries of his daughter, Clarisse. When he asked her what was wrong, she replied that her mother was at the door of the bathroom. He then saw his wife, Ma. Theresa, in a sitting position, lifeless and with a plastic transparent hose tied around her neck. Worried and scared, he asked her, "*Ano ba ang ginagawa mo d'yan?*" and immediately cut the hose, which other end was tied to a decorative block inside the

bathroom. He tried to resuscitate her by blowing air into her mouth but she was no longer moving. He asked help from one of his brothers, Charlie Tayao, who went to fetch Nelio. Rizza also came and tried to revive Ma. Theresa.

The Accused-Appellant then proceeded to the nearby Barangay health center to look for an ambulance. Thereat, he met his father-in-law, Nelio, who suddenly boxed him in the stomach. A neighbor, who saw what happened, commented that they should help Ma. Theresa first. Nelio went to his daughter and, together with Rizza, brought the former to the hospital. Nelio warned the Accused-Appellant not to leave the house.

In the afternoon, Rizza came back to the house and confirmed to the Accused-Appellant that Ma. Theresa was dead. He thought that Ma. Theresa killed herself because she got jealous of the fact that he still talks with his ex-girlfriend. He did not leave the house for fear that once he did, he would look guilty and be blamed for her death. Thereafter, the police came and brought him to the police station.

Thereat, the police officers urged the Accused-Appellant to admit that he killed Ma. Theresa and asked him to hold the plastic hose that was tied around her neck. He insisted that he did not kill his wife.

During his cross-examination, the Accused-Appellant admitted that he failed to submit a counter-affidavit despite being given the opportunity to do so; that the plastic hose wrapped around Ma. Theresa's neck was elastic; that the height of the door of the bathroom was too low for her to hang herself; that he and his wife had a fight the night before; and, as per the medico-legal certificate issued by Dr. Vertido, the cause of death was asphyxia by ligature strangulation.

Cate Lynn testified that her mother, Ma. Theresa, killed herself. She disclosed that two (2) days prior to Ma. Theresa's death or on November 20, 2000, she and her three (3) siblings saw their mother trying to commit suicide inside their bedroom. They called their father, the Accused-Appellant, who then removed the hose tied around their mother's neck and asked her the reason why she was trying to kill herself. She then saw their parents talk between themselves about the said incident.

When asked by the trial court if she knew of any reason why Ma. Theresa would want to end her life, Cate Lynn answered that she did not know the specific reason but their mother always asked them if they would want her dead. She also told the trial court that her testimony was the truth.

On cross-examination, Cate Lynn admitted that she did not see her mother hang herself and that her father banged her (Cate Lynn) head on the wall of their house for several times on November 19, 2000.<sup>[5]</sup>

In its July 27, 2011 Decision, the RTC found Carlito guilty as charged. In so finding, the RTC wrote:

The testimony of the accused is incredible. His demeanor in Court is far from convincing that he did not kill his wife. While his daughter [Cate Lynn] has tried to convince this Court that her father did not kill his mother, yet, one fact still remains, she was at school at the time of the incident and she did not see how her mother had died. On the other hand, the testimony of Clarisse is a lot credible than her sister Caitlin's testimony. The testimony and the findings of the medico-legal officer although simply stipulated by the prosecution and the defense have clearly established that the cause of death of the victim was asphyxia by ligature strangulation.

Research shows that suicides by ligature strangulation are rare events (14550616, Pub Med - Indexed for MEDLINE, Google Search). Strangulation is death by crushing the throat until breathing ceases. A ligature is an item other than the hands. This could be a rope, pantyhose, necktie, shoelaces or anything else that can be wrapped around the neck tightly. This is often a weapon of opportunity that the killer finds at the scene. In this case, the weapon used was a stretchable plastic hose, which item could be easily found in the household by the accused. Verily, the victim was found with the ligature in her neck as she was slumped near the bathroom door. The accused even admitted that his wife could not hang from the low bathroom door. Somehow, the Court could not mistake this ligature strangulation with suicide. Based on the post-mortem examination of Dr. Antonio Vertido, whose testimony on his findings was stipulated upon, the victim was found with contused abrasion and hematoma on the forehead; hence, in the mind of the Court, it is not possible that the victim had committed suicide. Obviously, the victim was banged and beaten before the accused tied the ligature around her neck, until he had already killed his wife. He did not even give any resistance to his wife's relatives when he was told not to leave his house. Neither did he lift a finger to bring his wife to the hospital. His claim that he was scared of his wife's relatives is downright hard to believe. Likewise, his story that the police officers have forced him to admit to his wife's murder is totally unfounded.

However, the expenses for the interment of the victim were not duly proven by proper receipts. Neither did anyone testify as to such fact. Likewise, the award of moral damages is not warranted for lack of factual and legal basis. However, the accused is liable for the payment of indemnity for death or homicide which is pegged by the courts to a minimum of Php 50,000.00.<sup>[6]</sup>

Accordingly, the RTC disposed:

WHEREFORE, premises considered, the Court hereby finds the accused CARLITO TAYAO y LAYA "guilty" beyond reasonable doubt of the crime of Parricide as defined and penalized under Article 246 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua, considering that the penalty of death can no longer be