

## SECOND DIVISION

[ G.R. No. 181247, March 19, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICHARD NAPALIT  
Y DE GUZMAN, APPELLANT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Under paragraph 16, Article 14 of the Revised Penal Code, the qualifying circumstance of treachery is present when the offender employs means, methods, or forms in the execution of the crime which tend directly and especially to insure its execution without risk to himself arising from any defensive or retaliatory act which the victim might make.<sup>[1]</sup> What is decisive is that the execution of the attack, without the slightest provocation from a victim who is unarmed, made it impossible for the victim to defend himself or to retaliate.<sup>[2]</sup>

In this case, appellant Richard Napalit y De Guzman assails the August 15, 2007 Decision<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01137 which affirmed with modification the April 10, 2005 Decision<sup>[4]</sup> of the Regional Trial Court (RTC) of Malabon City, Branch 170, finding him guilty beyond reasonable doubt of murder.

#### ***Factual Antecedents***

On October 26, 2001, an Information<sup>[5]</sup> was filed charging appellant Richard Napalit y De Guzman, together with two John Does who are still at large, with the crime of murder. The accusatory portion of the Information reads:

That on or about the 16<sup>th</sup> day of October, 2001 in the City of Malabon, Philippines and within the jurisdiction of this Honorable court, the above-named accused, conspiring, confederating and helping one another, while armed with a bladed weapon, with intent to kill, treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously attack, assault and stab one JOSEPH GENETE, hitting him on the nape and back of the body, thereby [inflicting] injuries which caused his death.

CONTRARY TO LAW.

Appellant pleaded not guilty to the charge when arraigned on November 27, 2001.<sup>[6]</sup>

The prosecution presented Glen Guanzon (Guanzon), Marivic G. Duavis (Duavis), and Dr. Bienvenido G. Torres (Dr. Torres), as witnesses.

Based on their testimonies, the prosecution established that at around 2:00 o'clock in the morning of October 16, 2001, the victim, Joseph Genete (Genete), together with Guanzon and three other companions were walking along Langaray Street, Malabon, after a drinking spree. When they passed by the group of the appellant, the latter shouted "*ano, gusto n'yo, away?*" and then stabbed Genete with an ice pick at the back. Guanzon attempted to help Genete but the former was also stabbed by a companion of the appellant known only as alias *Paksiw*. Genete, Guanzon and their companions attempted to flee but they were pursued by the group of the appellant. At a distance of about 10 meters, Genete fell to the ground. The appellant and his companions then fled from the crime scene.

Guanzon and Genete were brought to the hospital but Genete died the following day. Guanzon survived and identified the appellant as the perpetrator of the crime.

Dr. Torres testified that the cause of death of the victim was hypovolemia or extensive loss of fluid and blood due to stab wound.<sup>[7]</sup> Duavis testified on the expenses incurred as a result of the incident.

The defense presented appellant as its sole witness. Appellant denied knowing Guanzon or Genete or participating in the killing of the latter. He also claimed that he was asleep in his house located at Block 14-B, Lot 40, Phase II, Area 3, Dagat-Dagatan, Malabon, when the crime was committed.

### ***Ruling of the Regional Trial Court***

The trial court found the version of the prosecution more credible. It noted that the series of events as narrated by Guanzon, who claimed to have personally witnessed the crime, and who was also stabbed by appellant's companion, led to no other conclusion than that it was the appellant who fatally stabbed the victim. Moreover, the trial court found Guanzon's testimony to be credible, straightforward, and without any sign of a coached or rehearsed account. No ill motive was likewise imputed on Guanzon for testifying against the appellant.

The trial court also found the qualifying circumstance of treachery to have attended the commission of the crime. Thus:

The killing of the victim was attended by the qualifying circumstance of treachery. The victim was not warned of the danger to his person as the assault was so sudden and unexpected making it impossible for the victim to defend himself or to retaliate. The essence of treachery is the swift and unexpected attack by an aggressor on an unarmed and unsuspecting victim [without the] slightest provocation, depriving the latter of any real chance to defend himself.<sup>[8]</sup>

The dispositive portion of the Decision reads:

WHEREFORE, in the light of the foregoing, the Court finds accused RICHARD NAPALIT y DE GUZMAN guilty beyond reasonable doubt of the crime charged and x x x sentence[s him to] *reclusion perpetua* and to

pay the heirs of the victim the amount of P52,849.00 as actual damages and P50,000.00 as civil indemnity, together with costs of suit.

Let the accused be credited with whatever preventive imprisonment he has undergone by reason of this case.

SO ORDERED.<sup>[9]</sup>

### ***Ruling of the Court of Appeals***

Appellant appealed to the CA raising the following as errors:

- I. THE COURT A *QUO* ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
- II. ASSUMING ARGUENDO THAT THE ACCUSED IS GUILTY THE TRIAL COURT ERRED IN CONVICTING HIM FOR MURDER INSTEAD OF HOMICIDE CONSIDERING THAT NEITHER THE QUALIFYING CIRCUMSTANCE OF TREACHERY NOR PREMEDITATION WAS DULY ESTABLISHED.<sup>[10]</sup>

The defense argued that there was no treachery because the victim was forewarned of the attack when the appellant shouted "*ano, gusto n'yo, away?*". It also claimed that the prosecution failed to prove that appellant consciously adopted the mode of attack as to insure its commission without risk to himself.<sup>[11]</sup>

The Office of the Solicitor General (OSG), on the other hand, insisted that the trial court properly disregarded appellant's defenses of denial and alibi in view of Guanzon's positive identification that appellant was the one who assaulted and fatally stabbed the victim.<sup>[12]</sup> The OSG asserted that Guanzon's testimony is entitled to full faith and credit because it was not shown that he had ill motive to testify against the appellant.<sup>[13]</sup>

The OSG further averred that the trial court properly appreciated the qualifying circumstance of treachery because the victim was surprised by the attack and had no opportunity to raise any defense. There was also no evidence of any prior altercation between the parties or that the victim provoked the attack. The OSG likewise opined that the infliction of the wound at the back of the victim showed that appellant consciously adopted the mode of the attack to avoid any risk to himself.<sup>[14]</sup>

On August 15, 2007, the CA rendered the herein assailed Decision which affirmed the factual findings of the trial court that it was appellant who fatally stabbed Genete.<sup>[15]</sup> At the same time, the CA adopted the findings of the trial court that treachery attended the commission of the crime.<sup>[16]</sup> Anent the award of actual damages, the CA found that only the amount of P33,693.55 out of the P52,849.00 awarded by the trial court, was duly supported by receipts.<sup>[17]</sup>

The dispositive portion of the Decision of the CA reads:

WHEREFORE, the decision of the Regional Trial Court of Malabon, Branch 170 is hereby AFFIRMED with MODIFICATION. Accused-appellant RICHARD NAPALIT y DE GUZMAN 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 with treachery and is sentenced to suffer the penalty of *Reclusion Perpetua*. RICHARD NAPALIT y DE GUZMAN is ordered to pay the heirs of the deceased the amount of P50,000.00 as civil indemnity and as modified, the reduced amount of P33,693.55 as actual damages.

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

Hence, this appeal.

On March 5, 2008, we directed the parties to file their respective supplemental briefs.<sup>[19]</sup> On May 8, 2008, appellant manifested that he will no longer file a supplemental brief because the issues have already been thoroughly discussed in his appellant's brief.<sup>[20]</sup> On even date, appellee likewise manifested that it will no longer file a supplemental brief and that it is adopting *in toto* the arguments presented in its appellee's brief.<sup>[21]</sup>

### **Our Ruling**

The appeal lacks merit.

In his brief filed before the CA, appellant did not anymore contest the findings of the trial court that he was the one who fatally stabbed the victim. Appellant presented no argument to rebut the finding that he was the perpetrator of the crime other than the general declaration that an accused must be presumed innocent unless proven otherwise by proof beyond reasonable doubt. At any rate, we reviewed the records of the case and we find no cogent reason not to adopt the findings of the court *a quo* which was affirmed by the CA that, indeed, it was appellant who killed the victim. Moreover, we note that the findings of the trial court as affirmed by the appellate court are duly supported by the records of the case.

The only issue before us is whether the killing was attended by the qualifying circumstance of treachery, which both the trial court and the CA found in the affirmative.

There is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.<sup>[22]</sup>

The eyewitness account of Guanzon undoubtedly showed that the killing was