

SECOND DIVISION

**[G.R. NO. 172966 [Formerly G.R. No. 158387],
February 08, 2007]**

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EUGENIO
PILIIN Y GARCIA, APPELLANT.**

D E C I S I O N

TINGA, J.:

For automatic review is the Decision^[1] of the Court of Appeals dated 31 March 2006, affirming with modification the Regional Trial Court's (RTC's) Decision^[2] convicting Eugenio Piliin (appellant) for the crime of murder.

On 1 December 1997, an Information^[3] for murder of Rodrigo Zayenis (Rodrigo) was filed against appellant, Alex Yu (Yu) and Giovanni Caballes (Caballes) before the RTC of Siniloan, Laguna. It reads:

That on or about 7:20 in the evening of November 19, 1997 at Jose Rizal St., Municipality of Siniloan, Province of Laguna and within the jurisdiction of this Honorable Court, accused EUGENIO PILIIN, while conveniently armed with a Cal. 38 Revolver (paltic) handgun, conspiring, confederating and mutually helping with the other accused, Alex A. Yu and Giovanni E. Caballes, who acted as lookouts, with intent to kill, with treachery and evident premeditation and the commission of the crime was committed during nighttime, in consideration of a price, reward and promise and in disregard of the respect due to the offended party/victim, being an Assistant Provincial Prosecutor of Laguna, did then and there willfully, unlawfully and feloniously shoot and hit RODRIGO B. ZAYENIS on the head, thereby inflicting upon the victim fatal gunshot wound which caused his instantaneous death, to the damage and prejudice of his surviving heirs.

That the [qualifying] and aggravating circumstances of treachery, evident premeditation, and the crime was committed during [nighttime], were all present.

CONTRARY TO LAW.

The three accused pleaded not guilty. Thereafter, upon motion of the prosecution, this Court ordered a change of venue and the case was transferred to Branch 275 of RTC Las Piñas.^[4]

During the trial that ensued, the prosecution sought to establish the following facts. On 19 November 1997, at around 7:20 p.m., Rodrigo, Assistant Provincial Prosecutor of Laguna, arrived at the gate of his house in Siniloan, Laguna,

aboard an owner-type jeep he was driving. His wife, Norma Zayenis (Norma), who was inside the house at the time, went out to open the gate. When Rodrigo was about to park his jeep, a man, later identified as appellant, suddenly approached him, poked his gun, and fired at him, hitting the left side of his neck. Rodrigo fell unconscious and the man quickly ran away.^[5] Rodrigo was initially brought to two (2) hospitals in Laguna, but for reasons not appearing on record, he was refused admission. He was then brought to St. Luke's Hospital in Quezon City, where he fell into coma and succumbed to a gunshot wound.^[6]

The police received a tip from an informant that three persons were involved in the shooting incident, two of whom acted as lookouts. Appellant was invited for questioning in connection with a carnapped tricycle. He later confessed to the killing of Rodrigo and implicated Yu and Caballes as his co-perpetrators. He also identified the house at Libis ng Nayon Resort, Bgy. Paagahan, Mabitac, Laguna where the firearm used was kept. The police proceeded to the resort and found Yu and Caballes sleeping inside a room. They were apprehended. The police also recovered the firearm, a .38 caliber Smith and Wesson, on the bedside.^[7]

A paraffin test was conducted and appellant was found positive for gun powder nitrates.^[8]

During the custodial investigation, the three (3) accused executed three (3) separate extra-judicial confessions,^[9] admitting their complicity in the killing of Rodrigo.

On 24 November 1997, a criminal complaint^[9] was filed before the Municipal Circuit Trial Court of Siniloan Famy, Laguna. A preliminary investigation was conducted. In a Resolution^[11] dated 27 November 1997, Judge Solemnidad Evasco-Urriza forwarded the case to the Office of the Assistant Provincial Prosecutor for the filing of the corresponding information.

The evidence of the defense consisted of the testimonies of the three (3) accused who denied knowing the victim Rodrigo, much less their involvement in the crime. They each interposed alibi as their defense.

Appellant claimed that he was at the "*peryahan*" in Bgy. San Miguel, Mabitac, Laguna in the evening of 19 November 1997. He allegedly arrived at around 7:15 p.m. and went home at 10:00 p.m.

An hour later, his grandfather asked him to go to the Barangay Hall and answer questions about a missing tricycle. When he returned home, the police went to his house at 2:00 a.m. and asked him again about the tricycle. He was then brought to the Municipal Hall of Famy, Laguna and detained. At 5:30 a.m., he was transferred to the detention cell in Sta. Cruz, Laguna. Three (3) hours after, he was brought to the provincial hospital for examination. When he returned to the detention cell, he was then asked to sign a document. When he refused to sign, he was mauled by two (2) policemen. He was then forced to sign the document.^[12]

Yu was allegedly on duty as a lifeguard of a resort owned by Tirso dela Cruz on 19 November 1997. His shift ended at 7:00 p.m. after which he ate dinner and went to

sleep. At around 5:00 a.m., he was arrested by police operatives on charge of carnapping. Upon reaching the Sta. Cruz police station, he was asked to sign a document in exchange for his release. After signing, the policemen informed Yu that he was a suspect in the murder of Rodrigo. He was likewise brought to the hospital for examination and brought back to his detention cell.^[13]

Caballes narrated that he and his brother, Alvin, were sleeping at Yu's house at around 7:20 p.m. on 19 November 1997. Upon waking up the following day, he saw Alvin being invited by the police officers for questioning. He then volunteered to accompany Alvin. While in the precinct, he was asked to write his name on a blank sheet of paper. Caballes, together with Yu, was brought to the hospital and then transferred to the detention cell in Sta. Cruz and eventually to the Provincial Jail.^[14]

After trial, appellant was found guilty for murder. The two other accused, Yu and Caballes were acquitted for insufficiency of evidence. The trial court considered the extrajudicial confessions of the three accused as inadmissible on the ground that they were not adequately informed of their constitutional right to engage a counsel of their own choice.^[15] The court *a quo* nevertheless found that the prosecution evidence is sufficient to convict appellant. It relied on the testimony of the widow, Norma, who positively identified appellant as the one who shot her husband. The trial court appreciated the qualifying and aggravating circumstances of treachery, evident premeditation and nighttime in sentencing appellant to the penalty of death for the crime of murder.

The records of this case were originally transmitted to this Court on automatic review. However, pursuant to the ruling in *People v. Mateo*,^[16] this Court issued a Resolution^[17] dated 24 August 2004 transferring the case to the Court of Appeals.

On appeal, the appellate court rendered judgment affirming the RTC decision, with modification that the death penalty be reduced to *reclusion perpetua*. The *fallo* of the decision reads:

WHEREFORE, the appealed decision of the Regional Trial Court of Las Piñas City (Branch 275) is **AFFIRMED** with **MODIFICATION** in that (i) the death penalty imposed on accused-appellant Eugenio Piliin is lowered to *reclusion perpetua*; (ii) the award of moral damages and civil indemnity is reduced to P50,000.00 each; and (iii) accused-appellant Eugenio Piliin is ordered to pay to the heirs of the deceased Rodrigo B. Zayenis the sum of P25,000.00 as exemplary damages.

SO ORDERED.^[18]

The appellate court ruled out the aggravating circumstance of nighttime when it modified the sentence to *reclusion perpetua* in accordance with Article 63(2) of the Revised Penal Code.

The two issues presented before us are: (1) whether the trial court erred in convicting appellant of murder and (2) whether the trial court erred in disregarding appellant's defense of alibi. The Office of the Solicitor General, in behalf of the People, did not contest before this Court the non-appreciation of nighttime as an aggravating circumstance.

Appellant argues that the prosecution failed to establish the existence of treachery. According to appellant, the witness failed to

see the inception of the attack because she was in the act of opening the gate for her husband when the latter was shot. She lacked knowledge of the attending circumstances prior to the shooting incident. Hence, the trial court's finding of treachery becomes speculative.^[19]

The conviction of appellant, as well as the appreciation of treachery, was based on the testimony of Norma, an eyewitness to the shooting of her husband. We reiterate the rule that factual findings of the trial court, especially when affirmed by the appellate court, are binding on us. The trial court's evaluation of the testimonies of witnesses is accorded great respect because it had the opportunity to observe the demeanor and conduct of witnesses on the stand.^[20]

The trial court properly appreciated the presence of the qualifying circumstance of treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in their execution, without risk to himself arising from the defenses which the offended party might make.^[21] To establish treachery, two elements must concur: (1) that at the time of the attack, the victim was not in a position to defend himself, and (2) that the offender consciously adopted the particular means of attack employed.^[22] The essence of treachery is the unexpected and sudden attack on the victim which renders the latter unable and unprepared to defend himself by reason of the suddenness and severity of the attack.^[23] Appellant's wife witnessed the incident from its inception up to its consummation. She testified:

Q- Madam Witness, at about 7:20 in the evening of November 19, 1997, do you recall where were you then?

A- I was inside our house and I went out of the house to open our gate, Sir.

Q- When was that?

A- More or less 7:20 in the evening.

Q- What was the reason why you went outside to open the gate?

A- Because my husband will enter our gate and park his jeep inside.

Q- Who is your husband?

A- Fiscal Rodrigo B. Zayenis, Sir.

Q- And while you were then opening your gate, do you remember what happened next, if any?

A- My husband was on the act of parking his jeepney when one person suddenly arrived holding a gun.