



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 191063

Present:

CARPIO, J.,
 Chairperson,
 BRION,
 DEL CASTILLO,
 PEREZ, and
 PERLAS-BERNABE, JJ.

- versus -

ALDRIN M. GALICIA,
 Accused-Appellant.

Promulgated:

OCT 09 2013

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DECISION

PEREZ, J.:

On appeal is the Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03143 promulgated on 14 November 2008, which affirmed with modification the 5 November 2007 Decision² of the Regional Trial Court (RTC) of Makati City, Branch 58, finding the appellant guilty beyond reasonable doubt of the crime of murder in Criminal Case No. 05-1602.

The Facts

On 10 January 2005,³ accused-appellant Aldrin M. Galicia (Galicia) and co-accused Jun Asuncion were charged with the crime of Murder

¹ CA *rollo*, pp. 155-175; Penned by Associate Justice Mariflor P. Punzalan Castillo with Presiding Justice Conrado M. Vasquez, Jr. and Associate Justice Rosmari D. Carandang concurring.
² Id. at 102-120.
³ Records, Vol. 1, pp. 1-3.

punishable under Article 248 of the Revised Penal Code in an Information,⁴ the accusatory portion of which reads:

That on or about 11:45 in the morning of June 10, 2004, at N. Gonzales St., cor. F. Platon St., Barangay II, Poblacion, Tanauan City and within the jurisdiction of this Honorable Court, the above named accused conspiring and confederating and mutually helping one another, with treachery and evident premeditation, one of the accused **JUN ASUNCION y NOBERO**, armed with a firearm, and with deliberate intent to kill, did then and there willfully, unlawfully and feloniously in an unexpected manner, shot Judge Voltaire Rosales, hitting the latter on his head and neck thus causing fatal injuries which resulted to the instantaneous death of said Judge Rosales. Said accused escaped through the use of a motorcycle then driven by the accused **ALDRIN GALICIA y MICOSA**.

Upon arraignment, Galicia pleaded not guilty⁵ to the charge. On the other hand, accused Jun Asuncion remained at large.

Thereafter, trial on the merits ensued.

The prosecution evidence, established primarily from the eyewitness accounts of Maricel Flores (Flores) and Ramil Enriquez (Enriquez), is culled by the summary⁶ of State's evidence of guilt presented by the Office of the Solicitor General (OSG), quoted hereunder:

On June 10, 2004, at 9:15 in the morning, [Flores] was tending to a garden of the carinderia located at No. 58 N. Gonzales St., Tanauan, Batangas where she was working, when she noticed two (2) men three to four meters away. x x x

One of them approached her and asked what she was planting. She replied that she does not know the name of the plant. She noticed that the man has big eyes, dark skin and has a prominent jaw (pangahin). He was wearing a black jacket and a helmet which was open in front. The other man remained where he was standing and was wearing a gray jacket. That man was later identified by [Flores] as [Galicia]. Beside him was a black motorcycle which has no plate number and the engine still running. x x x

When [Flores] noticed that it was about to rain, she invited them to come inside the carinderia. As [Flores] entered the diner, she turned her face towards the two men and stared hard. x x x

⁴ Id. at 1.

⁵ Id. at 97.

⁶ CA *rollo*, pp. 133-135; Appellee's Brief.

After a few moments while she was attending to the chores inside the diner, she heard successive gunshots. Immediately she looked out of the window and from her vantage point, she saw a green Pajero 7 to 10 meters away, slowly crossing and swerving to the right toward Platon St. x x x

After the shots were fired, she saw the two men she talked to earlier riding their motorcycle and speeding away. The motorcycle was driven by [Galicia]. Then in a split second, she saw the Pajero hitting the wall at the corner of Platon and N. Gonzales St. x x x

Moments later, policemen arrived and they took pictures of the Pajero as well as the crime scene. x x x

On July 7, 2004, she summoned her courage to disclose what she knew and executed an affidavit before the Tanauan Police Station. She disclosed what she witnessed because her conscience bothered her. x x x

Likewise, on June 10, 2004 in the morning, [Enriquez], an agent of the Surety Commonwealth Insurance Company of Tanauan City, Batangas was walking at N. Gonzales St., Tanauan City headed towards Jollibee when he noticed a black Enduro motorcycle without plate number with two riders cruising the streets. x x x

Suddenly from where [Enriquez] was standing, he saw a green Mitsubishi Pajero pass by. Then he saw the two riders of the motorcycle firing upon somebody inside the vehicle. He saw appellant manning the motorcycle. x x x

After firing the shots, the motorcycle sped away. [Enriquez] later learned that the occupant of the Green Mitsubishi Pajero was Judge Voltair[e] Rosales. He knew him considering his job as bondsman. x x x

On the part of Galicia, the Public Attorney's Office (PAO) rendered the following version of events:⁷

At about 11:45 a.m. of June 10, 2004, Judge Voltaire Rosales was killed while on board his Pajero van at N. Gonzales St. Corner F. Platon St., Barangay II, Poblacion, Tanauan, Batangas. At about one o' clock of the same day, a team of SOCO Investigators from PNP Region 4, Canlubang, Laguna, arrived at the scene of the crime and conducted an investigation. The PNP-SOCO's investigation revealed that the "assailants (of Judge Voltaire Rosales) were wearing "black bonnets" (Exh. "A"). Nobody questioned by the police investigators could identify the assailants.

On January 24, 2005, seven months after the incident, an Information for Murder was filed against Galicia and one Jun Asuncion in the Regional Trial Court, Tanauan City, Batangas.

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Id. at 66-68; Brief for Accused-Appellant.

The Information alleged thus:

The undersigned State Prosecutors of the Department of Justice accuse ALDRIN GALICIA y MICOSA and JUN ASUNCION y NOBERO of the crime of MURDER defined under Article 248 of the Revised Penal Code as amended by Republic Act 7659, committed as follows:

x x x x

CONTRARY TO LAW.

Having been arrested, Galicia filed an Application For Bail on the ground that the Prosecution's evidence against him is not strong.

After hearing, the Regional Trial Court of Makati, Branch 145, thru Judge Cesar Santamaria, denied the application for bail.

Upon motion for inhibition filed by Galicia, the case was re-raffled and assigned to Branch 58 of the same Regional Trial Court, which conducted the trial and convicted Galicia in its Decision subject of the appeal.

The prosecution presented as witnesses the following PNP SOCO Investigators, namely: Police Supt. Ligaya Sim Cabal of the PNP Regional Crime Laboratory, Calamba City, Laguna; Gregorio de Guzman, Chief Inspector and Team Leader of the SOCO team dispatched to the crime scene; Jerome Quiasao, Chief Forensic Photographer and Operating Officer, PNP Regional Crime Laboratory, Camp Vicente Lim, Calamba, Laguna; and Jupri Delantar, the forensic chemical officer of the Batangas Provincial Crime Laboratory. The Prosecution also presented Antonio Vertido, medico-legal officer of the NBI, Southern Tagalog Region and two civilians, namely: [Flores] and [Enriquez].

The medico-legal officer and the PNP-SOCO Investigators testified on post-crime matters. Civilian witnesses [Flores] and [Enriquez], who claimed to be within the area where the crime was committed, testified on facts which they allegedly and purportedly observed.

On the other hand, Galicia presented himself and the following as his witnesses, namely: Lourdes Rosales, Teresita Mabilangan-Lucido and Katherine Sison Ramilo.

In essence, the defense witnesses testified that Galicia could not have committed the crime charged because on the day and time of the incident, he was attending the wake of his grandfather Armando Lucido in Brgy. Pantay Matanda, Tanauan City, who testified that Armando Lucido died on June 7, 2004 and was in state at his house in Pantay Matanda, Tanauan City from June 8, 2004 until June 11, 2004 when his remains were brought to Cabanatuan City, where his wife and children reside, for final interment.

X X X X

Witness Lourdes Rosales, the Barangay Chairwoman of the place where the incident happened, testified in essence that on June 11, 2004 at around 6 p.m., she was asked by her cousin Carmelita Yabut, the owner of the carinderia where [Flores] works, to go to their house to talk to [Flores]. When she arrived at the house, she saw policemen who wanted to talk to [Flores] but the latter refused to talk to them. As a Barangay Chairwoman, she asked [Flores] to talk to the policemen so they will not keep coming back and to tell them the truth of what happened. Finally, [Flores] was convinced to talk to the policemen with the barangay chairwoman accompanying her. During the interview by the policemen, [Flores] said that “she did not see the incident and also did not see the perpetrator.”

After evaluating the evidence presented by the parties, the trial court rendered a Decision⁸ dated 5 November 2007, finding the appellant guilty of murder, the dispositive portion of which reads:

WHEREFORE, premises considered, this Court renders judgment finding the accused ALDRIN GALICIA **GUILTY** beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA**. Consequently, he is hereby ordered to indemnify the victim the amount of Php50,000.00 as civil damages.

Considering that the Court has not yet acquired jurisdiction over the person of accused Jun Asuncion who has remained at large, let an alias warrant of arrest be issued against him.

Aggrieved, Galicia assailed the decision on appeal. The CA sustained the trial court’s finding and found the same to be in order.

The appellant now seeks recourse in this Court maintaining the issues raised before the CA as reversible errors committed by the *court a quo* in giving credence to the testimonies of Flores and Enriquez despite serious contradictions and material inconsistencies, while disregarding or ignoring the testimony of defense witness *Barangay* Chairwoman Lourdes Rosales.

Our Ruling

We find the appeal bereft of merit.

⁸

Id. at 102-120.

Time and again, we have ruled that factual findings of the trial court, especially those affirmed by the CA, are conclusive on this Court when supported by the evidence on record.⁹ In numerous instances, this Court observes restraint in interfering with the trial court's assessment of the witnesses' credibility, absent any indication or showing that the trial court overlooked some material facts or gravely abused its discretion, more so, when the CA sustained such assessment, as in this case, where it affirmed the trial court's findings of fact, the veracity of the testimonies of the witnesses, the determination of physical evidence and conclusions.

As exception to the rule, the only time a reviewing court is not bound by the trial court's assessment of credibility arises upon a showing of a fact or circumstance of weight and influence that was overlooked which, if considered, could affect the outcome of the case.¹⁰ With this exception as basis we reviewed the records for any indication of arbitrariness or clear oversight of some fact or circumstance of weight that can warrant a reversal of the findings of the courts *a quo*. We found none.

Galicia calls our attention to the discrepancy between the respective testimonies and affidavits of prosecution witnesses Flores and Enriquez, to wit:

A. Testimony of Flores:¹¹

1. She pointed to "Galicia" as the man driving the motorcycle while the other man approached her in the garden at back x x x. However, she contradicted herself and said that she asked the first man who approached her, this time pointing to Galicia who was in court, to go inside the carinderia (canteen) since it was raining x x x;
2. She also declared that after she heard the gunshots, she looked out of the window of the carinderia and saw Judge Rosales' Pajero moving slowly then hitting the wall at the corner of Gonzales and Platon Streets. [Flores] testified that she did not know how the Pajero was fired upon, how the firing began, and how it ended, and she did not see the persons who fired the gun; and
3. She also declared in court that the two assailants were wearing helmets. The portion of the helmet going down the right and left sides of their faces to the chin measured two inches wide, thereby the impossibility of recognizing the face.

⁹ *People v. Barde*, G.R. No. 183094, 22 September 2010, 631 SCRA 187, 209.

¹⁰ *People v. Valdez*, G.R. No. 175602, 18 January 2012, 663 SCRA 272, 282 citing *People v. Darilay*, G.R. Nos. 139751-752, 26 January 2004, 421 SCRA 45, 54.

¹¹ CA *rollo*, pp. 67-71.

B. Testimony of Enriquez:¹²

1. In his Sinumpaang Salaysay taken on September 8, 2004 taken by PO3 Johnson Melgar , he declared that on June 10, 2004 at about 12:00 p.m noontime, he was walking along F. Platon Street towards N. Gonzales Street, when at a distance of about 15 meters from the intersection, he saw a black Enduro motorcycle stop;
2. In his testimony before the Honorable Court on February 15, 2007, [Enriquez] testified that on June 10, 2004 at about 11:45 AM to 12:00 o' clock noon, he was walking along N. Gonzales Street when he saw a black Enduro motorcycle;
3. [Enriquez] testified that he was very familiar with F. Platon and N.Gonzales Streets in Tanauan City because he often passed these streets;
4. On cross-examination, however, when he was confronted with these material contradictions, [Enriquez] could only offer an explanation that he signed his Sinumpaang Salaysay x x x without reading the same x x x and that at that time when he signed the said Sinumpaang Salaysay, "he was so confused that he did not know anymore what to do x x x. He was still confused at the time his Sinumpaang Salaysay x x x was filed at the fiscal's office x x x. Even at the time he signed Exhibit "00" during the hearing of this instant case before the lower court on February 15, 2007, Ramil Enriquez declared that he was still confused;
5. While he was about 15 meters away from the intersection of N. Gonzales and F. Platon Streets, he saw an "Enduro" motorcycle. When questioned further on cross-examination, [Enriquez] declared that he is not a motorcycle enthusiast and, in fact, does not know anything about this "Enduro" motorcycle;
6. What is more telling is when [Enriquez] testified that there was no word "Enduro" on the motorcycle that he saw x x x. With all these factors, it is highly improbable for the witness to say that what he saw at a distance of 15 meters away was an "Enduro" motorcycle;
7. In his Sinumpaang Salaysay, [Enriquez] declared that "the one who was driving the motorcycle (who he later pointed to as "Galicia") had a slim body, brown complexion, 5'7" or 5'8" in height, and wearing black jacket and camouflaged pants.

On cross-examination, however, he testified that the one driving the motorcycle was wearing a long-sleeved grey jacket and long camouflaged pants, and that the jacket covered his entire body and his hands, while the pants covered his entire legs. With his long-sleeved jacket and long camouflaged pants, it would be physically impossible to see the color and complexion of the one driving the

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Id. at 83-87.

motorcycle. To state that his complexion is brown is simply a lie. Later, [Enriquez] relented in his testimony and said that what he testified was a speculation, assumption and conclusion; and

8. [Enriquez] also declared that the one driving the motorcycle is 5'7" or 5'8" in height. On cross-examination, however, he testified that the driver remained sitting and that he never alighted from the motorcycle.

Given all these observations, Galicia insists that either the prosecution has no evidence at all against him or its evidence is weak and insufficient to convict him beyond reasonable doubt.

We are not swayed. A judicious review and examination of the entire record of the instant case provide compelling reason to affirm Galicia's conviction.

At the outset, let it be emphasized that the issue being raised is one of credibility which is naturally factual – a domain of the trial court that had the opportunity to observe the deportment and manner of the witnesses as they testified¹³ whose finding is, as such, entitled to respect. And we do not consider the accused's observations as relevant facts of substance which can affect the result of the case.

Deciding on the merit of the submitted inconsistencies between the prosecution witnesses' testimonies and affidavits, we reiterate our ruling in *People v. Villadares*,¹⁴ where we held that discrepancies and/or inconsistencies between a witness' affidavit and testimony do not necessarily impair his credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack or absence of searching inquiries by the investigating officer. What is important is, in the over-all analysis of the case, the trial court's findings and conclusions are duly supported by the evidence on record.

As we have observed, the testimonies of Flores and Enriquez when taken together, would point to the culpability of Galicia and his cohort as the perpetrators in the killing of Judge Voltaire Rosales. It may be true that Flores did not witness the actual shooting as she recounted only the time immediately prior to and after the shooting transpired. However, such missing detail as to the actual shooting was supplied by state witness

¹³ *People v. Meris*, 385 Phil. 667, 683 (2000).

¹⁴ 406 Phil. 530, 540 (2001).

Enriquez who testified in a straightforward manner how Galicia and his co-accused fired upon the Pajero.

A perusal of the testimony of Flores would reveal that she was in a position to positively identify the appellant as one of the two motorcycle riding men in the scene of the crime before and after the fatal shooting of the victim. On the witness stand, Flores stated that the co-accused of Galicia approached and talked to her at a distance of merely 3 to 4 meters, whereas, his companion identified later on as Galicia was on the motorcycle.¹⁵ Prior to being approached, Flores was in the garden in front of which Galicia and his co-accused stood,¹⁶ thus, she had a good enough view of the appearance of the two men. Besides, Flores was then alarmed by their presence as she was entertaining thoughts of the carinderia being robbed by them; reason why she took a hard look at their faces. In fact, she was able to describe their physical features and so identified appellant Galicia in open court. She even insisted during her cross-examination that despite the helmet, the faces of appellant and his co-accused were exposed.¹⁷

We entertain no doubt as to the culpability of Galicia and his co-accused even though Flores did not see the actual shooting. Note that, she stated in a categorical manner that after she heard the gunshots, she looked out of the window and saw the two men riding in the motorcycle she saw earlier, who were speeding away from the Pajero.¹⁸ She was situated barely 7 to 10 meters from where the incident happened at the corner of Platon and N. Gonzales Streets,¹⁹ the same location where prosecution witness Enriquez saw the actual shooting.

The testimonial accounts of the prosecution witnesses jibed with the physical evidence and the medico-legal report. Dr. Antonio Vertido who conducted the autopsy²⁰ on Judge Rosales' body certified that the cause of death was the gunshot wounds sustained at the head and the area of the neck and jaw.

So that, the inconsistencies in the color of Galicia's clothes, his complexion, the brand of the motorcycle and his height are trivial and cannot affect the credibility of the prosecution witnesses. As aptly held, the evaluation by the trial court of the testimony of a witness is accorded with

¹⁵ TSN, 24 November 2005, pp. 9-11.

¹⁶ Id. at 8.

¹⁷ Id. at 65-66 and TSN 8 December 2005, pp. 5-6.

¹⁸ TSN 24 November 2005, pp. 20-22.

¹⁹ Id. at 23-26.

²⁰ Records, Vol. I, p. 247; Autopsy Report BTNO-04-221, Exhibit "M" to "M-1."

highest respect because the trial court had the direct and singular opportunity to observe the facial expression, gesture and tone of voice of a witness while testifying and therefore, competent to determine whether or not the witness is telling the truth.²¹

The variance in the testimonies of Flores and Enriquez, in some minor details, is considered natural. As inconsequential is the initial hesitation and/or failure of witness Flores to divulge to *Barangay* Chairwoman Rosales what she had witnessed. What is significant is that the testimonies are categorical on material aspects, specifically on the positive identification of Galicia as the person responsible for the crime.

We also consider in this case that no ill motive was found on the part of the witnesses that could have impelled them to testify against Galicia. In *People v. Nogra*,²² we ruled that where there is nothing to show that the witnesses for the prosecution were actuated by improper motive, their positive and categorical declarations on the witness stand, under the solemnity of an oath, deserve full faith and credence. It necessarily prevails over alibi and denial, especially when neither alibi nor denial is substantiated by clear and convincing evidence.

We agree with the lower courts that treachery attended the killing of Judge Rosales. The attack, as testified to by the prosecution witnesses, was sudden and unexpected. The victim had no inkling that an attack was forthcoming and had no opportunity to put up any defense.

In the same vein, contrary to the finding of the CA, we appreciate the existence of the qualifying circumstance of evident premeditation. The essence of evident premeditation is that the execution of the criminal act is preceded by cool thought and reflection upon the resolution to carry out the criminal intent within a space of time sufficient to arrive at a calm judgment. In this case, it was clearly shown that the two accused who were “riding in tandem” hatched the means on how to carry out and facilitate the commission of the crime. The time that had elapsed while the accused were waiting for their victim to pass by, is indicative of cool thought and reflection on their part that they clung to their determination to commit the crime. We are therefore convinced that the elements of evident premeditation were established by the trial court with equal certainty as the criminal act itself.²³ Since the crime has already been qualified to murder by

²¹ *People v. Villadares*, supra note at 14 at 537 citing *People v. Cortes*, G.R. No. 129693, 24 January 2000, 323 SCRA 131.

²² G.R No. 170834, 29 August 2008, 563 SCRA 723, 735.

²³ *People v. Sia*, 421 Phil. 784, 800 (2001).

the attendant circumstance of treachery, the other proven circumstance of evident premeditation should be appreciated as a generic aggravating circumstance.²⁴

The Penalties

The crime of murder qualified by treachery is penalized under Article 248 of the Revised Penal Code, as amended, with *reclusion perpetua* to death. For the death of Judge Voltaire Rosales, given the aggravating circumstance of evident premeditation that attended the commission of the crime, the penalty of death should have been meted against Galicia. However, due to the dictates of Republic Act No. 9346²⁵ prohibiting its imposition, the lower courts correctly sentenced the appellant to suffer the penalty of *reclusion perpetua* only.

As to Damages

The award of moral damages by the CA should be increased from ₱50,000.00 to ₱100,000.00.²⁶ As borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family. It is inherently human to suffer sorrow, torment, pain and anger when a loved one becomes the victim of a violent or brutal killing. Such violent death or brutal killing not only steals from the family of the deceased his precious life, deprives them forever of his love, affection and support, but often leaves them with the gnawing feeling that an injustice has been done to them. For this reason, moral damages must be awarded even in the absence of any allegation and proof of the heirs' emotional suffering.²⁷

Likewise, in conformity with our ruling in *People v. Halil Gambao, et al.*,²⁸ where the penalty for the crime committed is death which, however, cannot be imposed as earlier discussed, we increase the award of civil indemnity from ₱50,000.00 to ₱100,000.00. In addition, the award of exemplary damages in the amount of ₱100,000.00, is in order. Further, in accordance with current policy, we also impose on all the monetary awards for damages an interest at the legal rate of 6% from date of finality of this Decision until fully paid.²⁹

²⁴ See Aquino, *The Revised Penal Code*, Vol. 1, 1976 ed., page 341 citing cases. See also *People v. Dueno*, 179 Phil. 14, 29 (1979).

²⁵ An Act Prohibiting the Imposition of Death Penalty in the Philippines approved on 24 June 2006.

²⁶ *People v. Halil Gambao, et al.*, G.R. No. 172707, 1 October 2013.

²⁷ *People v. Cabote*, 420 Phil. 867, 879 (2001).

²⁸ *Supra* note 26.

²⁹ *People v. Campos*, G.R. No. 176061, 4 July 2011, 653 SCRA 99, 116 citing *People v. Dela Cruz*, G.R. No. 174371, 11 December 2008, 573 SCRA 708, 721-722.

WHEREFORE, the appealed judgment is **AFFIRMED with the MODIFICATION** that appellant Aldrin M. Galicia is ordered to pay the heirs of the victim Judge Voltaire Rosales the amount of ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages, all in addition to the interest on all these damages assessed at the legal rate of 6% from date of finality of this Decision until fully paid.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice