



Republic of the Philippines  
Supreme Court  
Manila  
SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Appellee,

G.R. No. 209346

Present:

CARPIO, J., Chairperson,  
VELASCO, JR.,\*  
DEL CASTILLO,  
MENDOZA, and  
LEONEN, JJ.

- versus -

ARNALDO BOSITO y CHAVENIA,  
Appellant.

Promulgated:  
JAN 12 2015

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DECISION

CARPIO, J.:

The Case

Before the Court is an appeal assailing the Decision<sup>1</sup> dated 19 April 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05289. The CA affirmed with modification the Decision<sup>2</sup> dated 29 September 2011 of the Regional Trial Court (RTC) of Tabaco City, Albay, Branch 15 in Criminal Case No. T-4696, convicting appellant Arnaldo Bosito y Chavenia (Bosito) of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua*.

The Facts

Bosito was charged in an Information for murder, defined and penalized under Article 248<sup>3</sup> of the Revised Penal Code. The Information states:

\* Designated Acting Member per Special Order No. 1910 dated 12 January 2015.

<sup>1</sup> Rollo, pp. 2-17. Penned by Associate Justice Rebecca de Guia-Salvador, with Associate Justices Apolinario D. Bruselas, Jr. and Agnes Reyes-Carpio concurring.

<sup>2</sup> CA rollo, pp. 23-39. Penned by Judge Alben C. Rabe.

<sup>3</sup> Article 248. *Murder*. – Any person who, not falling within the provision of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

That [on or] about 1:00 in the afternoon of June 11, 2007 at P-1, Barangay Hacienda, San Miguel Island, City of Tabaco, Philippines, and within the jurisdiction of this Honorable Court, the [above-named accused], with intent to kill and with treachery, and while armed with a bolo, did then and there willfully, unlawfully, feloniously attack, assault, and hack WILLY BERBA BONAOBRA, thereby inflicting upon the latter multiple mortal wounds which directly caused his death, to the damage and prejudice of his legal heirs.

ACTS CONTRARY TO LAW.<sup>4</sup>

Upon arraignment, Bosito pleaded not guilty and invoked self-defense.

On 14 January 2008, at the pre-trial conference, the following facts offered for stipulation by the prosecution were admitted by the defense: (1) the identity of Bosito; (2) that Bosito and the victim, Willy Berba Bonaobra (Bonaobra) knew each other; (3) that Bosito was in Hacienda, San Miguel, Tabaco City on 11 June 2007; (4) that Bosito saw Bonaobra in Hacienda in the afternoon of 11 June 2007; (5) that Bonaobra is already dead; (6) that Bosito hacked Bonaobra several times at the house of Rosemarie Bongon in Hacienda, San Miguel, in the afternoon of 11 June 2007; and (7) that Bonaobra did not die immediately at the scene of the incident but expired at the hospital.

The prosecution presented the following witnesses: (1) Adonis Bosito (Adonis), Bosito's nephew and the eyewitness to the crime; (2) Vicente Bonaobra, father of the victim; (3) Dr. Nicanor Manzano III, the attending physician of Bonaobra at the Bicol Regional Training and Teaching Hospital where the victim was brought after the hacking incident; (4) Atty. William Balayo, the lawyer who assisted Bosito when he gave his extrajudicial confession; and (5) SPO1 Dennis Biron, the Investigator and Blotter Custodian of Tabaco City Police Force.

The prosecution summed up its version of the facts from the testimony of Adonis, the eyewitness to the crime: Bonaobra arrived at the house of his sister Rosemarie Bongon (Rosemarie) at around noon of 11 June 2007. After 30 minutes, Bosito arrived at Rosemarie's house. Bosito stood beside Bonaobra and watched a card game being played by other guests. Bonaobra offered Bosito some peanuts which Bosito accepted.

At around 1:00 in the afternoon, without warning, Bosito hacked Bonaobra with a *bolo* as the victim was trying to sit. The blow to his head caused Bonaobra to slump to the ground. He tried to crawl away but Bosito

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1. **With treachery**, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;

x x x x (Emphasis supplied)

*Rollo*, p. 3.

hacked him again and hit him in the leg. Despite his injuries, Bonaobra was still conscious and continued crawling. Bosito then positioned himself behind Bonaobra and hacked him in the head two more times. Although already mortally wounded, Bonaobra still managed to stand up and run away.

After Bonaobra's escape, Adonis picked up a wooden post from the ground and told Bosito to stop. However, Bosito waved his *bolo* and told Adonis not to come near him. Bosito then walked toward the direction of his house and threatened Adonis and his companions that they would be next should they follow him.

Later, Adonis saw Bonaobra being boarded on a boat and found out that Bonaobra was taken to a hospital. On 14 June 2007, Bonaobra died of aspiration pneumonia due to sustained multiple hack wounds.

Adonis testified that Bonaobra did not provoke Bosito. Adonis suspected that Bosito thought that Bonaobra came to Tabaco City to avenge Edgar Binas, who was also hacked by Bosito three years earlier.

Dr. Nicanor Manzano III, the attending physician of Bonaobra when he was brought to the hospital issued two medico-legal certificates showing that Bonaobra sustained: (1) a skull fracture which caused brain evisceration; (2) severe neck trauma; (3) thoracic area posterior trauma; and (4) left gluteal area trauma. Dr. Manzano testified that all of Bonaobra's wounds were to the back of his head and the back side of his torso. Among all his wounds, the most fatal was the first head trauma which caused Bonaobra's brain tissues to come out from his skull.

Atty. William Balayo testified that upon the request of PO2 Joel Zubeldia, he assisted Bosito in executing his extrajudicial confession. Atty. Balayo ensured that Bosito understood his constitutional rights and Bosito, having understood the implication of his act, voluntarily gave his confession. Atty. Balayo stated that Bosito admitted striking the victim only once. However, upon learning that Bonaobra died in the hospital several days after due to multiple hack wounds, Atty. Balayo decided not to assist anymore because of Bosito's misrepresentation.

SPO1 Dennis Biron brought to court and read into the records Police Blotter Entries 062156, 062158 and 062189 and attested to the correctness of the certification submitted in court as documentary exhibits.

The defense, on the other hand, presented (1) appellant Bosito; (2) Analisa Balderama (Analisa), appellant's sister; and (3) Walter Dumaguin, appellant's friend.

Bosito testified that while on their way to the rice field, he and his sister Analisa passed by the house of Rosemarie Bongon where Adonis was having a drinking spree with his brothers, Juan and Arnold, and Bonaobra. The group called on Bosito to join them and when he approached them, Adonis struck him with a piece of wood, hitting his wrist as he parried the blow. While still holding the piece of wood, Bonaobra, together with Juan and Arnold, who were all drunk and holding bladed weapons surrounded Bosito. Just as Bonaobra was about to stab him, Bosito immediately pulled out his *bolo* and hacked the victim. Bonaobra ran away and fell to the ground about a kilometer away from the crime scene. The others scampered away. Bosito went home, left his *bolo* there and surrendered himself to the *barangay* captain.

Analisa testified that she and her brother Bosito were on their way to the rice field when they passed by Bonaobra, Adonis, Juan and Arnold on a drinking spree at Rosemarie's house. Adonis invited Bosito for a drink which the latter refused. Bonaobra then pushed Bosito and struck Bosito with a *bolo* four times but Bosito evaded these thrusts. They grappled for possession of the *bolo* which Bosito eventually wrestled out of Bonaobra's hand and hacked Bonaobra maybe four times. She tried to pacify them but to no avail. Analisa stated that prior to this incident, Bonaobra had been threatening Bosito for about seven months already whenever Bonaobra was drunk.

Walter Dumaguin, a fishpond operator in Hacienda, San Miguel, testified that he was a friend of Bosito and visited him in jail for about 10 minutes the day after the incident. Dumaguin did not give any other relevant information.

In its Decision dated 29 September 2011, the RTC found Bosito guilty beyond reasonable doubt of the crime of murder. The RTC accorded full faith and credence to the testimony of Adonis and disregarded Bosito's claim of self-defense. The RTC stated that Adonis testified in a straightforward and candid manner that Bosito mercilessly hacked Bonaobra four times, with his *bolo*. The RTC stated further that Bosito's version of self-defense was incredulous and unbelievable since Bosito was unharmed and unwounded compared to the number of hacked wounds sustained by the victim. The RTC declared Bosito guilty of the crime of murder attended by the qualifying circumstance of treachery and abuse of superior strength due to the sudden and unexpected attack made by Bosito which afforded no opportunity for Bonaobra to defend himself. The dispositive portion of the decision states:

WHEREFORE, foregoing premises considered, judgment is hereby rendered finding accused Arnaldo Bosito y Chavenia guilty beyond reasonable doubt of the crime of Murder. He is hereby sentenced to suffer the penalty of imprisonment of *Reclusion Perpetua*.

Accused is likewise ordered to indemnify the heirs of Willy Berba Bonaobra the following:

- a) ₱50,000.00 as civil indemnity;
- b) ₱50,000.00 as moral damages;
- c) ₱15,505.45 as actual damages;
- d) ₱1,392,120.00 representing the loss of earning capacity.

SO ORDERED.<sup>5</sup>

Bosito filed an appeal with the CA and raised a lone error by the RTC:

THE TRIAL COURT GRAVELY ERRED IN NOT GIVING CREDENCE TO THE ACCUSED-APPELLANT'S SELF-DEFENSE [THEORY].<sup>6</sup>

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

In its Decision dated 19 April 2013, the CA affirmed with modification the decision of the RTC. The CA found no cogent reason to deviate from the trial court's factual findings and conclusion. The CA stated that Bosito's plea of self-defense has been rebutted by the positive and categorical testimony of prosecution witness Adonis who had convincingly established that the unlawful aggression emanated from Bosito and not from the victim. The CA added that the trial court correctly accorded credence to Adonis whose testimony it found spontaneous, straightforward, candid and evincing credence and belief. Further, the CA ruled out the presence of ill-motive on the part of Adonis to falsely implicate his uncle.

The CA deleted the award of (1) actual damages of ₱15,505.45 since jurisprudence holds that when actual damages proven by receipts during the trial amount to less than ₱25,000, the award of temperate damages of ₱25,000 is justified in lieu of actual damages in a lesser amount; and (2) damages for loss of earning capacity since no documentary evidence was presented by the prosecution to substantiate the claim and the victim does not fall under any of the recognized exceptions. Nevertheless, the CA granted the amount of ₱25,000 as temperate damages in lieu of actual damages of ₱15,505.45 supported by receipts and ₱30,000 as exemplary damages pursuant to Article 2230<sup>7</sup> of the Civil Code. The dispositive portion of the decision states:

<sup>5</sup> CA rollo, pp. 86-87.

<sup>6</sup> Id. at 57.

<sup>7</sup> Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

WHEREFORE, with the MODIFICATIONS:

1. Ordering Appellant Arnaldo Bosito y Chavenia to pay the heirs of the victim temperate damages of Twenty-Five Thousand Pesos (Php25,000.00) and exemplary damages in the amount of Thirty Thousand Pesos (Php30,000.00);
2. Deleting the award of actual damages and damages for loss of earning capacity; and
3. Ordering the payment of interest at the legal rate of 6% per annum computed from the date of finality of this Decision until fully paid on the total amount of damages adjudged in favor of the heirs of the victim,

the appealed 29 September 2011 Decision of the Regional Trial Court of Tabaco City, Branch 15, in Criminal Case No. T-4696 is AFFIRMED in all other respects.

SO ORDERED.<sup>8</sup>

Appellant Bosito now comes before the Court, submitting for resolution the same issue argued before the CA. In a Manifestation<sup>9</sup> dated 28 February 2014, Bosito stated that in lieu of supplemental brief, he is adopting the Appellant's Brief<sup>10</sup> dated 21 June 2012 submitted before the CA. Likewise, the Office of the Solicitor General manifested that it no longer desires to file a supplemental brief and instead adopts the Appellee's Brief<sup>11</sup> dated 12 November 2012 which it filed before the CA.<sup>12</sup>

Appellant assails the decisions of the RTC and CA for not giving credence to his contention of self-defense.

### **The Ruling of the Court**

The appeal lacks merit.

We agree with the RTC and the CA in ruling that the prosecution fully established Bosito's guilt for the crime of murder beyond reasonable doubt. Adonis positively identified Bosito as the person who hacked Bonaobra and caused his death. Considering that Adonis and Bosito were blood relatives, Adonis was candid, straightforward, spontaneous and firm in his narration of the events.

In the present case, Bosito would like us to believe that he acted in self-defense. In his Appellant's Brief, Bosito admitted hacking Bosito although in self-defense. By invoking self-defense, appellant admits killing

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<sup>8</sup> *Rollo*, p. 16.

<sup>9</sup> *Id.* at 26-27.

<sup>10</sup> *CA rollo*, pp. 55-69.

<sup>11</sup> *Id.* at 99-114.

<sup>12</sup> *Rollo*, pp. 32-34.

the victim and the constitutional presumption of innocence is effectively waived. The burden of evidence then shifts to the appellant that the killing was justified and that he incurred no criminal liability.<sup>13</sup> Thus, it is incumbent upon appellant to prove the elements of self-defense: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person claiming self-defense.<sup>14</sup>

Bosito claims that the unlawful aggression consisted of Bonaobra's group ganging up on him and attempting to stab him with a knife. However, aside from Bosito's self-serving testimony, the defense did not present any witness to corroborate his testimony that Bonaobra pulled a knife and tried to stab him. Likewise, Bosito failed to present the knife which he said he grabbed during the tussle and kept in his possession. In *People v. Satonero*,<sup>15</sup> we held that the failure to account for the non-presentation of the weapon allegedly wielded by the victim is fatal to the plea of self-defense.

Next, the means employed by Bosito to prevent or repel the supposed unlawful aggression was beyond reasonably necessary. As correctly found by the trial and appellate courts, the number, nature, and gravity of the wounds sustained by Bonaobra reveal a determined effort to kill and contradict Bosito's claim of self-defense. The prosecution's evidence shows that Bonaobra sustained and died from multiple hack wounds. The records show that after Bonaobra received the first blow to his head, which proved to be the most fatal, Bosito still continued to thrust his *bolo* to the victim three more times. Even Analisa, Bosito's sister, who gave her testimony for the defense, confirmed that Bosito hacked Bonaobra four times. Clearly, the means utilized was not reasonable under the circumstances.

In *People v. Obordo*,<sup>16</sup> we held that self-defense, to be successfully invoked, must be proven by clear and convincing evidence that excludes any vestige of criminal aggression on the part of the person invoking it. Bosito failed to present adequate evidence to prove otherwise. Thus, his claim of self-defense cannot stand.

Further, we agree with the lower courts in appreciating treachery as a qualifying circumstance. The essence of treachery is the sudden and unexpected attack on an unsuspecting victim, depriving the victim of any chance to defend himself. Here, the sudden attack of Bosito with a *bolo* against Bonaobra while they were watching a card game caught the victim by surprise. Bonaobra was unprepared and had no means to put up a defense. Such aggression insured the commission of the crime without risk

<sup>13</sup> *Beninsig v. People*, 551 Phil. 755, 767 (2007), citing *Catalina Security Agency v. Gonzalez-Decano*, 473 Phil. 690, 707 (2004).

<sup>14</sup> Article 11, par. 1 of the Revised Penal Code.

<sup>15</sup> 617 Phil. 983, 993 (2009), citing *People v. Camacho*, 411 Phil. 715, 725 (2001).

<sup>16</sup> 431 Phil. 691, 701-702 (2002); *People v. Asuela*, 426 Phil. 428, 444 (2001), citing *People v. Sanchez*, 367 Phil. 545, 566 (1999).

on Bosito. Also, we agree with the trial court when it held that abuse of superior strength is deemed absorbed in treachery. Since treachery qualifies the crime of murder, the generic aggravating circumstance of abuse of superior strength is necessarily included in the former.<sup>17</sup>

In sum, we find no cogent reason to depart from the decision of the trial and appellate courts. Bosito is guilty beyond reasonable doubt of the crime of murder and is sentenced to suffer the penalty of *reclusion perpetua* **without eligibility for parole**, in accordance with Sections 2 and 3 of Republic Act No. 9346;<sup>18</sup> and with all the accessory penalties provided by law. As for damages, the CA awarded these amounts: (1) ₱50,000 as civil indemnity; (2) ₱50,000 as moral damages; (3) ₱25,000 as temperate damages; and (4) ₱30,000 as exemplary damages. To conform with recent jurisprudence,<sup>19</sup> the amount of civil indemnity awarded by the CA is hereby increased to ₱75,000. Moreover, the amounts of damages awarded are subject to interest at the legal rate of 6% *per annum* from the date of finality of this judgment until fully paid.

**WHEREFORE**, we **DISMISS** the appeal. We **AFFIRM** the Decision dated 19 April 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 05289 **WITH THE MODIFICATIONS** that:


- (1) appellant Arnaldo Bosito y Chavenia is found **GUILTY** beyond reasonable doubt of the crime of murder, and sentenced to *reclusion perpetua* without eligibility for parole;
- (2) the amount of civil indemnity is increased to ₱75,000; and
- (3) appellant is ordered to pay interest on all damages at the legal rate of 6% *per annum* from the date of finality of this judgment until fully paid.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice

<sup>17</sup> *People v. Sanchez*, 367 Phil. 545, 566 (1999), citing *People v. Violin*, 334 Phil. 197, 206 (1997).

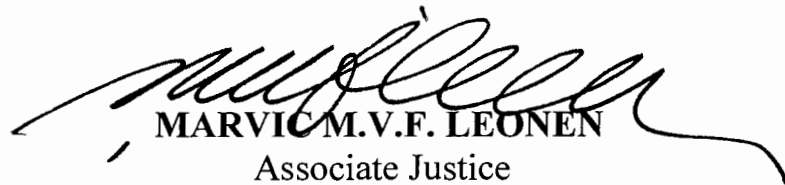
<sup>18</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines; approved on 24 June 2006.

<sup>19</sup> *People v. Villarnea*, G.R. No. 200029, 13 November 2013, 709 SCRA 528, 544.




  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
Associate Justice


### ATTESTATION

I attest that the conclusions in the above Decision had been 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

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been 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