



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **September 12, 2022** which reads as follows:*

“G.R. No. 238912 (*People of the Philippines, plaintiff-appellee v. Louie S. Castro, Jeffrey C. Santos, Gerry O. Notario, Edgardo A. Mercado, Ronaldo D. Avellana,* Edmond A. Mercado, Armando N. Reli, Arnel Santos, Mark D. Paloma, Michael Yap, Victor C. Abareque, accused; Louie S. Castro, Jeffrey C. Santos, and Mark D. Paloma, accused-appellants*). — This Court resolves the appeal from the Decision¹ dated December 22, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06383, affirming the Consolidated Decision² dated November 20, 2012 and the Order³ dated April 18, 2013 of the Regional Trial Court (RTC), Branch 266, Pasig City in Criminal Case No. 117771-H, which found accused-appellants Louie S. Castro (*Louie*), Jeffrey C. Santos (*Jeffrey*) and Mark D. Paloma (*Mark*) guilty beyond reasonable doubt of the crime of murder.

The present case arose from three separate Informations filed before the RTC:

In Criminal Case No. 117771-H, accused Victor C. Abareque (*Victor*), Ronaldo D. Avellana (*Jon-Jon*), Gerry O. Natario (*Gerry*), Edgardo A. Mercado (*Edgardo*), and Edmond A. Mercado (*Edmond*), and accused-appellants Louie, Jeffrey and Mark were charged with the murder of Raul Balderama (*Raul*) in an Information, the accusatory portion of which reads:

On or about February 11, 2000, in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together with *Jek-Jek*, Arman and other seven unidentified male persons, who are still at-large and whose true identities and present whereabouts are still unknown and all of them mutually helping and aiding one another, armed with bladed weapon, baseball bat, and pieces of wood, with intent to kill and with treachery, evident premeditation and use of superior strength did then and there willfully, unlawfully and feloniously attack, assault, strike and stab one Raul Balderama y Garado with said

* Also spelled as “Avillana” in some parts of the records.

¹ Penned by Associate Justice Sesinando E. Villon (Chairperson), with Associate Justices Maria Elisa Sempio-Diy and Henri Jean Paul B. Inting (now a member of this Court), concurring; *rollo*, pp. 2-33.

² Penned by Presiding Judge Toribio E. Ilao, Jr; *id.* at 136-148.

³ CA *rollo*, pp. 183-184.

weapons, on the vital parts of his body, thereby inflicting upon the latter fatal wounds which directly caused his immediate death.

Contrary to law.⁴

In Criminal Cases Nos. 118304 and 118305, accused Arnel Santos (*Arnel*), Victor, Gerry, Michael Yap (*Michael*), Jon-Jon, Armando N. Reli (*Armando*), Edgardo, and Edmond, and accused-appellants Louie, Jeffrey, and Mark were charged with the attempted murder of Melanie Balderama (*Melanie*) and Renato Panis (*Renato*), respectively, in an Information, the accusatory portions of which read:

Criminal Case No. 118304

On or about February 11, 2000, in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating, together [with] other several male persons, who are still at-large and whose true identities and whereabouts still unknown and all of them mutually helping and aiding one another, with intent to kill and with abuse of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault, stab, hit and stone Melanie Balderama with baseball bats, knives and pieces of wood, hitting and injuring the different parts of her body, thus commencing the commission of murder directly by overt act, but nevertheless did not produce the felony, by reason of cause independent of their will, that is due to the timely arrival of witnesses.

Contrary to law.⁵

Criminal Case No. 118305

On or about February 11, 2000, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating, together with other several male persons, whose true identities and whereabouts still unknown and all of them mutually helping and aiding one another, with intent to kill and with abuse of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault, stab, hit and stone Renato Panis with baseball bats, knives and pieces of wood, hitting and injuring the different parts of his body, thus commencing the commission of murder directly by overt act, but nevertheless did not produce the felony, by reason of cause independent of their will, that is due to the timely arrival of witnesses.

Contrary to law.⁶

Upon motion of accused-appellant Mark, the three cases were consolidated and tried before the RTC, Branch 262, Pasig City. Meanwhile, accused Arnel remained at-large.⁷

⁴ Records (Criminal Case No. 117771-H), Vol. 1, pp. 1-2.

⁵ Records (Criminal Case No. 118304), Vol. 1, p. 2.

⁶ Records (Criminal Case No. 118305), Vol. 1, p. 53.

⁷ *Rollo*, p. 6.

On arraignment, the accused and the accused-appellants pleaded not guilty to the charges against them. After pre-trial conference, trial ensued. On November 4, 2004, the RTC, Branch 262, Pasig City dismissed the cases against accused Armando in view of his death. Subsequently, the consolidated cases were re-raffled to the RTC, Branch 266, Pasig City.⁸

The prosecution presented Raul's wife, Melanie, Renato, and the medico-legal, Dr. Renato Bautista (*Dr. Bautista*), as witnesses.

Melanie and Renato sought to establish that on February 11, 2000, at 1:00 a.m., Raul, Melanie, and Renato alighted from a tricycle to eat at the *tapsilogan* located at P. Mariano Street, Ususan, Taguig City. Upon arriving at the restaurant, they saw a group of people composed of Louie, Gerry, Jon-Jon, Jeffrey, and Edmond. Suddenly, Raul shouted "*Pinagtritripan nyo ba ako?*" to Louie's group. Renato apologized to the group for Raul's behavior, telling them that Raul was merely intoxicated. Raul, however, pulled out an icepick, prompting an altercation between him and Louie's group. When Renato tried to pacify them, he was hit by Louie and Edmond with a piece of wood. Jon-Jon also tried to hit Renato with a steel bat, but the latter was able to evade the attack and successfully grab the steel bat away from Jon-Jon. Renato then chased after Louie, Edmond, and Jon-Jon with the steel bat on his hands for 15 to 20 minutes, but gave up and returned to the *tapsilogan* where Raul and Melanie were.⁹

When he came back, Renato saw Mark, who was armed with a knife, with Jeffrey, Edgardo, Arnel, Gerry, Armando, Victor, Michael, and other unidentified persons, mauling Raul. Mark passed the knife to Jeffrey who stabbed Raul on the left side of his body near his armpit, causing the latter to fall down on the ground. Melanie tried to shield Raul with her own body, but the attacks on Raul by the group persisted. Renato tried to help Raul but he was hit by Jon-Jon with a piece of wood on his neck. Meanwhile, Mark also passed the knife to Victor who stabbed Raul's foot. Edgardo and Edmond followed, likewise stabbing Raul, this time on his hip. Finally, Louie and Jeffrey hit Raul's head with a piece of adobe and a steel bat, respectively.¹⁰

Based on the autopsy conducted by Dr. Bautista, Raul sustained several abrasions, contusions, lacerated wounds, and seven stab wounds on his body. A stab wound was found on the posterior left side of the chest, while another was found on the left lumbar region of the left kidney. There were also five wounds on Raul's leg. The cause of death was multiple stab wounds and contributory head injury or hemorrhage on the right side of the brain.¹¹

⁸ *Id.*

⁹ *Id.* at 6-7.

¹⁰ *Id.* at 7.

¹¹ *Id.*

Meanwhile, the defense presented Louie, Jeffrey, Gerry, Jon-Jon, Edmond, Mark, Edgardo, Victor, and a tricycle driver, Bernabe Placide (*Bernabe*), on the witness stand.

Louie, Jeffrey, Gerry, Jon-Jon, and Edmond, testified that on the night of February 11, 2000, they celebrated Louie's birthday at Arnel's house in P. Mariano Street, Ususan, Taguig City. There, they drank beer and afterwards proceeded to the nearby *tapsilogan* to eat. Raul, Melanie, and Renato, meanwhile, alighted from a tricycle, and suddenly, Raul uttered to them "*Pinagtrtripan nyo ba ako?*" Renato apologized on behalf of Raul who was allegedly drunk, but the latter continued to challenge Louie's group and pulled an icepick from his behind. As a response, Gerry boxed Raul, who then went after Louie's group.¹²

Louie testified that Raul ran after him and stabbed him on the back. He ran towards the *tapsilogan* and then went home immediately.¹³

For his part, Jeffrey testified that he ran away during the altercation, but he witnessed Raul and Renato chasing after other persons. He returned to the *tapsilogan* a little later and saw Raul together with a group of people on the street. He stayed inside the *tapsilogan* with his girlfriend and mother for 10 minutes and went home after.¹⁴

Gerry stated that after he boxed Raul, he ran and fell on Renato who hit him with a steel bat. He ran to his house after that.¹⁵

Jon-Jon similarly testified that he ran away when Raul chased the group around him with an icepick. When he looked back, he saw a commotion and saw somebody stabbed Raul. He went home directly.¹⁶

Edmond also testified that when Raul started chasing people, he only threw a stone at him but immediately went home.¹⁷

Mark, Edgardo, and Victor, meanwhile, interposed the defense of alibi. They averred that they were not at the crime scene on the night of February 11, 2000. Mark was allegedly working from 9:00 a.m. to 8:00 p.m. in the *tapsilogan* that day and went home to No. 59, P. Mariano Street, Ususan, Taguig City immediately. Meanwhile, Edgardo averred that he was similarly

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 8.

¹⁶ *Id.*

¹⁷ *Id.*

at his home during the time of the crime cooking for his wife. Finally, Victor contended that from 6:00 p.m. of February 11, 2000 to 5:00 a.m. of the next day, he was at his home in Ibayo, Ususan, Taguig.¹⁸

Bernabe, the tricycle driver, testified that he saw Jon-Jon run away at the onset of the commotion. On the other hand, he ran to the house of his friend for an hour and did not witness the entire commotion.¹⁹

After the defense presented its evidence, Michael filed a Motion to Dismiss by Way of Demurrer to Evidence, which was granted by the RTC on June 21, 2011.²⁰

In its Consolidated Decision²¹ dated November 20, 2012, the RTC disposed of the cases as follows:

WHEREFORE, in Criminal Case No. 117771-H, judgment is hereby rendered finding accused Louie Castro, a.k.a. “*Diablo*[.]” Jeffrey Santos a.k.a. “*Jay*” and “*Long Hair*[.]” Edgardo Mercado, a.k.a. “*Ega*[.]” Jon-Jon Avillana, a.k.a. “*Ucla* [.]” Edmond Mercado, a.k.a. “*Epak*[.]” Mark Paloma, and Victor Abareque a.k.a. “*Pempe*[.]” GUILTY beyond reasonable doubt as principals of the offense of Murder defined and penalized under Article 248 of the Revised Penal Code, and there being neither mitigating nor aggravating circumstances appreciated, they are hereby sentenced to suffer the penalty of *reclusion perpetua*, with full credit for the period of their preventive imprisonment pursuant to Article 29 of the Revised Penal Code, and ordering them to solidarily pay the heirs of the deceased Raul Balderama the amount of P75,000.00 as death indemnity in accord with current jurisprudence, P89,422.00 as reimbursement for the expenses for the funeral and burial of Raul as supported by proper receipts, and P50,000[.00] as moral damages. Accused Gerry Natario a.k.a. “*Bocay*” is ACQUITTED for murder for insufficiency of evidence.

In Criminal Case No. 118304, judgment is rendered ACQUITTING accused Louie Castro, a.k.a. “*Diablo*[.]” Jeffrey Santos a.k.a. “*Jay*” and “*Long Hair*[.]” Gerry Natario, a.k.a. “*Bocay*[.]” Edgardo Mercado, a.k.a. “*Ega*[.]” Jon-Jon Avillana, a.k.a. “*Ucla*[.]” Edmond Mercado, a.k.a. “*Epak*[.]” Mark Paloma, Michael Yap a.k.a. “*Mumu*[.]” and Victor Abareque a.k.a. “*Pempe*” for insufficiency of evidence.

In Criminal Case No. 118305, judgment is rendered finding accused Jon-Jon Avillana, a.k.a. “*Ucla*” GUILTY beyond reasonable doubt as principal of the offense of slight physical [i]njuries defined and penalized under Article 266 of the Revised Penal Code, and is hereby sentenced to suffer the penalty of thirty (30) days *arresto menor*. Accused Louie Castro, a.k.a. “*Diablo*[.]” Jeffrey Santos a.k.a. “*Jay*” and “*Long Hair*[.]” Gerry Natario, a.k.a. “*Bocay*[.]” Edgardo Mercado, a.k.a. “*Ega*[.]” Edmond Mercado, a.k.a. “*Epak*[.]” Mark Paloma, Michael Yap a.k.a. “*Mumu*[.]” and

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ CA rollo, pp. 70-84.

Victor Abareque a.k.a. “*Pempe*” are ACQUITTED for insufficiency of vidence.

Considering that Arnel Santos is still at[-]large despite a warrant having been issued for his arrest, let the records of these cases be sent to the ARCHIVES subject to their revival upon the apprehension of said accused.

It appearing that accsued Jon-Jon Ocla is one and the same person, as Jon-Jon Avillana a.k.a. “*Ucla*” who, in this Consolidated Decision has been convicted for Murder in Criminal Case No. 117771-H and Slight Physical Injuries in Criminal Case No. 118304, the standing warrant for the arrest of said “Jon Jon Ocla” is therefore ordered LIFTED and SET ASIDE.

SO ORDERED.²²

The RTC gave full credence to the testimonies of Renato and Melanie which it held to be consistent and corroborating. It noted that both of them positively identified the accused and accused-appellants who took part in the mauling and killing of Raul on the night of February 11, 2000. Renato, particularly, was familiar with their identities since he works as a tricycle driver in the area and drove frequently by the *tapsilogan*.²³ The testimonies of Renato and Melanie were likewise supported by the medico-legal findings and testimony of Dr. Bautista with respect to the nature and location of the injuries sustained by Raul.²⁴

The RTC said that in view of the positive identification of the accused and the accused-appellants, their defenses of denial must fail. Moreover, the defenses of alibi of Mark, Edgardo, and Victor lack merit since they failed to show that it was impossible for them to be at the scene of the crime.²⁵

The RTC also dismissed the claim of self-defense, noting that the group of the accused and accused-appellants consisted of more or less 12 persons, at least two of whom were armed with a piece of wood and a steel bat. It held that this circumstance rather qualified the crime to murder since there was a notorious inequality between the victim and the aggressors, which worked to the advantage of the latter in committing the offense.²⁶

Finally, the RTC ruled that there was conspiracy in the killing of Raul as shown by the concerted action of the accused and the accused-appellants which were indicative of a common objective. Hence, the act of one is the act of all.²⁷

²² *Id.* at 83-84.

²³ *Rollo*, pp. 175-177.

²⁴ *Id.* at 177.

²⁵ *Id.*

²⁶ *Id.* at 178.

²⁷ *Id.* at 11.

Louie, Jeffrey, Edgardo, Jon-Jon, Edmond, and Mark, on one hand, and Victor, on the other, filed their respective Motions for Partial Reconsideration, which were both denied by the RTC in its Order²⁸ dated April 18, 2013.

Aggrieved, Louie, Edmond, Edgardo, Mark, and Jeffrey appealed to the CA. In its assailed Decision²⁹ dated December 22, 2017, the CA affirmed with modification the ruling of the RTC, thus:

WHEREFORE, the appeal is hereby **DENIED**. The Consolidated Decision dated November 20, 2012 of the Regional Trial Court of Pasig City, Branch 266, is hereby **AFFIRMED** with **MODIFICATION**. **ACCORDINGLY**, the awarded damages, which shall be paid to the heirs of the victim are hereby modified as follows:

1. Seventy-Five Thousand Pesos (P75,000.00) as Civil Indemnity;
2. Seventy-Five Thousand Pesos (P75,000.00) as Exemplary Damages;
3. Seventy-Five Thousand Pesos (P75,000.00) as Moral Damages; and
4. Eighty-Nine Thousand Four Hundred Twenty-Two Pesos (P89,422.00) as actual damages.

All the herein awarded damages shall bear interest at the rate of six percent (6%) *per annum* from the finality of this judgment until full payment thereof.

In all other respects, the appealed Consolidated Decision of the court *a quo* is hereby **AFFIRMED**.

SO ORDERED.³⁰

The CA ruled that the prosecution was able to clearly demonstrate the existence of all the elements of murder, including the qualifying circumstance of abuse of superior strength. It held that the prosecution was able to prove the presence of conspiracy.

The CA similarly gave credence to the testimony of Melanie and Renato which, according to it, was characterized by sincerity, candor, and spontaneity as they recounted the harrowing event that they witnessed and experienced. It noted that Melanie's and Renato's consistency in their account of what transpired dispels insinuation of an untrue testimony.³¹

Finally, citing prevailing jurisprudence, the CA modified the award of moral damages to ₱75,000.00, awarded exemplary damages in the amount of

²⁸ CA rollo, pp. 183-184.

²⁹ Rollo, pp. 2-33.

³⁰ *Id.* at 32.

³¹ *Id.* at 27-28.

₱75,000.00, and affirmed the award of civil indemnity and actual damages by the RTC.³²

Hence, this appeal filed by accused-appellants Louie, Jeffrey, and Mark.

In accordance with this Court's Resolution³³ dated June 20, 2018, the Office of the Solicitor General (*OSG*), and accused-appellants Mark and Louie manifested that in lieu of supplemental brief, they are adopting their respective briefs filed before the CA.³⁴ Meanwhile, Jeffrey filed a Supplemental Brief³⁵ dated December 6, 2018. Subsequently, Louie filed a Supplemental Brief³⁶ dated July 31, 2020.

Jeffrey argues in the main that the testimonies of Renato and Melanie are unreliable and inconclusive. He avers that Melanie herself admitted during cross-examination that she did not know any of the accused or accused-appellants prior to the incident. Renato, on the other hand, gave an unclear account of what transpired that night.³⁷ Jeffrey insists that conspiracy was not established since the meeting between their group and Raul was casual and unarranged, and the aggression ensued at the spur of the moment. He should thus be held liable for the acts committed by him alone.³⁸

Likewise, Louie assails the credibility of the testimonies of Renato and Melanie. He points out that it was only during direct examination that Renato identified him as one of those who participated in the crime, and that his name was never mentioned in Renato's written statement that was submitted to the police right after the incident. He avers that conspiracy and abuse of superior strength were not sufficiently established by the prosecution.³⁹

For his part, Mark insists that the testimonies of Renato and Melanie are incredible and riddled with inconsistencies. He contends that Melanie failed to identify him as the one who supposedly handed a knife to Victor when she testified on January 8, 2003, despite the fact that he was familiar to the latter who was a frequent visitor of the *tapsilogan*. Thus, there is doubt as to whether the knife actually came from him, especially considering that Melanie also failed to name him in the written statement she submitted to the police after the commotion.⁴⁰ Assuming *arguendo* that he indeed handed a knife to Victor, his liability should be that of an accomplice only and not of a

³² *Id.* at 32.

³³ *Id.* at 40.

³⁴ *Id.* at 47-52; 42-46.

³⁵ *Id.* at 56-71.

³⁶ *Id.* at 87-108.

³⁷ *Id.* at 57-60.

³⁸ *Id.* at 60.

³⁹ *Id.* at 101-108.

⁴⁰ *Id.* at 123-132.

principal to the crime since his participation or cooperation thereto is not indispensable.⁴¹

The People, through the OSG, counters that the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge. Here, the RTC and the CA did not err in finding Melanie's and Renato's testimonies credible since these were given in a clear and straightforward manner.⁴² Moreover, it asserts that contrary to the contentions of accused-appellants, the fact of conspiracy and abuse of superior strength were both duly established by the prosecution.⁴³

The sole issue for this Court's resolution is whether accused-appellants are guilty of the crime of murder.

The appeal is partly meritorious.

According to the RTC and the CA, the commission of the crime was established by the testimonies of Renato and Melanie, which they respectively found to be consistent and corroborating,⁴⁴ as well as characterized with sincerity, candor, and spontaneity.⁴⁵

Time and again, this Court has held that the task of taking on the issue of credibility is a function properly lodged with the trial court.⁴⁶ This is because the trial judge is in a better position to ascertain the conflicting testimonies of witnesses after hearing them and observing their deportment and mode of testifying during trial.⁴⁷ When the issue is one of credibility of witness, this Court will generally not disturb the trial court's findings especially when affirmed in full by the Court of Appeals, as in this case.⁴⁸

Here, Renato narrated the circumstances surrounding the killing of Raul as follows:

- Q: Mr. Witness, will you tell us where you were on February 11, 2000 between the hours of 1:00 to 2:00 o'clock in the morning?
 A: I was at E. Hermosa Street, Pateros, Metro Manila, sir.
- Q: Were you alone at that time, Mr. Witness?
 A: We were three, I was with Melanie and Raul Balderama, sir.

⁴¹ *Id.* at 159.

⁴² *Id.* at 255-256.

⁴³ *Id.* at 252-254.

⁴⁴ *Rollo*. p. 144.

⁴⁵ *Id.* at 27.

⁴⁶ *People v. Heteroza*, G.R. No. 232499, December 2, 2020, citing *People v. Iluis*, 447 Phil. 517, 524 (2003)

⁴⁷ *Id.*, citing *People v. Aspa*, 838 Phil. 302, 312 (2018).

⁴⁸ *People v. Castrence*, G.R. No. 227882, August 27, 2020 (Minute Resolution).

x x x x

Q: Why, what happened?

A: At that time we were boarded in a tricycle and before the tricycle reached the *tapsilogan* we saw these accused and they were forming in line after the *tapsilogan*, sir.

x x x x

Q: You said on the two of you alighted (*sic*)?

A: Yes, sir.

Q: Who?

A: Melanie Balderama, sir.

Q: How about the other person?

A: He was left inside the tricycle, sir.

Q: So, after alighting, where did you go?

A: We were about to proceed at the *tapsilogan* to order *tapsilog*, sir.

Q: Were you able to enter the place?

A: No, sir.

Q: Tell us why?

A: Because when I was about to order I heard somebody shouted (*sic*) "*pinagtritripan ninyo ba ko?[,]*" sir.

Q: Among the person lined here (*sic*)?

A: No, sir, it came from my companion Raul Balderama.

x x x x

Q: Raul Balderama alighted also and followed you, am I correct?

A: Yes, sir, when I looked back at him I saw him alighting from the tricycle?

Q: And the person who uttered the words "*pinagtritripan ninyo ba ako*" was Balderama, is it correct?

A: Yes, sir.

Q: To whom was he facing at that time?

A: He was facing the people who were forming in a line, sir.

x x x x

Q: What transpired after that, upon hearing the words "*pinagtritripan ninyo ba ako*?"

A: Jerry Notario approached, sir.

x x x x

Q: What happened?

A: I saw him he was the first one who punch (*sic*) or hit Raul, sir.

Q: Was he hit Mr. Witness, Balderama?

A: Yes, sir.

Q: What part of the body?

A: On the face, sir.

Q: What happened to him after he was hit?

A: When I was about to pacify, the other three (3) persons from the group approached and hit me, sir.

x x x x

Q: Alright, what did you do upon seeing that Balderama was hit on the face?

A: I tried to pacify them but one of the male person[s] from the group approached me and hit me with a *dos por dos*, sir.

Q: Who hit you with a piece of wood?

A: Jon-Jon Avillana, sir.

x x x x

Q: Were you hit[,] Mr. Witness?

A: No, sir, I was able to evade.

Q: What transpired after that?

A: Louie attacked and hit me, sir.

x x x x

Q: What happened after that?

A: Edmond also hit me, sir.

x x x x

Q: What happened after that?

A: When Jon-Jon hit me, I was able to grab the "pamalo," sir.

Q: What did you do after that?

A: The three of them ran away so I chased them while the other member[s] of the group [were] left with Raul Balderama, sir.

x x x x

Q: After stopping from chasing these people what did you do next after that, if any?

A: I went back to my companion Raul Balderama, sir.

x x x x

Q: What did you see and what happened when you were already there, Mr. Witness?

A: **I saw Jay Santos stabbed Raul Balderama, sir.**

x x x x

Q: What was the position of Raul Balderama at that time?
A: He was still standing but at that time he was being gang[ed] up by the other members of the group who were left behind, some were hitting him already, sir.

Q: How many were still there?
A: More or less twelve (12), sir.

x x x x

Q: What happened to Raul after the stabbing incident and the hitting of the lumber wood?
A: When I reached Raul, the other members of the group saw me holding a piece of wood and that was the reason they ran away and after that, Raul Balderama fell on the ground, sir.

x x x x

Q: What did you do after that?
A: When Raul fell on the ground, I tried to help him and at that time saw the three male persons who I chased a while ago and after they hit me on my nape, sir.

x x x x

Q: And then what followed?
A: When they saw me fell, they stopped hitting me and they turned their attention to my companion and they started hitting him with *dos por dos* one after another and also stabbing him on the feet, sir.

x x x x

Q: Who was the original person who was handing it, from where did the knife come from?
A: **The knife came from the tapsilogan but it was Mark Paloma who gave it to Victor Abareque, sir.**

x x x x

Q: But you never tell (sic) us about Melanie Balderama, what happened to her?
A: Melanie was trying to pacify them, in fact, she tried to cover Raul Balderama by lying on top of him, and that was the reason why they were able to stab Raul Balderama on the feet only, sir.

Q: Aside from the stabbing, the hitting of the wood, are there other instruments used by these people, Mr. Witness?
A: Yes, sir, there was.

Q: What?
A: **Louie was holding a stone, sir.**

Q: What is the size of the stone?
A: "*Tipak ng adobe[,]*" sir.

COURT:

How again was this “adobe” stone used?

A: “*Paganyan po[,]*” Your Honor.

Interpreter:

The witness demonstrated by raising his both arm and demonstrating as if he was holding a stone and dropping it in front of him.

COURT:

Who was hit by the “*adobe*” stone?

A: **Raul Balderama was hit on his head, Your Honor.**⁴⁹

Renato’s testimony was corroborated by Melanie, who also testified that the accused and accused-appellants each had their respective participation in the mauling and killing of Raul. Particularly, she identified accused-appellant Jeffrey as the one who stabbed Raul on the side of his body⁵⁰ and hit him on the head with a steel bat,⁵¹ while it was accused-appellant Louie who dropped the “*adobe*” stone on Raul’s head.⁵²

Contrary to the assertions of accused-appellants, the narration of Renato and Melanie of what transpired the night Raul was killed, is credible in itself, “such as the common experience and observation of mankind can approve as probable under the circumstances.”⁵³ Their respective accounts of how the incident began and progressed is consistent and corroborating in its material points. It is, moreover, replete with details and nuances, which this Court finds difficult to fabricate if one did not personally witness the crime.

It should also be emphasized that the testimonies of Renato and Melanie are supported by the medical findings of Dr. Bautista on the nature and location of the injuries sustained by Raul. As the RTC stated, Dr. Bautista found the following injuries on Raul: (a) one stab wound on the posterior side left side of the chest; (b) five stab wounds on the leg; (c) abrasions, contusions, lacerations; and (d) head injury or hemorrhage on the right side of the brain. These findings, to be sure, confirm the statements of Melanie and Renato on how accused-appellants mauled and inflicted injury on Raul.⁵⁴

Notably, accused-appellants could only raise denial and alibi as their defense. Alibi and denial, however, are “inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused, as in this case.”⁵⁵ It has been repeatedly held that “as between a categorical testimony which has the ring of

⁴⁹ *Rollo*, pp. 17-23, citing TSN, August 23, 2001, pp. 7-27. (Emphasis supplied)

⁵⁰ *Id.* at 145, citing TSN, September 14, 2009, p. 8.

⁵¹ *Id.*, citing TSN, January 8, 2003, p. 17 and TSN, September 14, 2009, pp. 10-13.

⁵² *Id.*

⁵³ *People v. Sota*, 821 Phil. 887, 901 (2017), citing *Idanan v. People*, 783 Phil. 429, 436 (2016).

⁵⁴ *Rollo*, pp. 146-147.

⁵⁵ *People v. Las Piñas, et al.*, 739 Phil. 502, 528 (2014), citing *People v. Lacaden*, 620 Phil. 807, 826-827 (2009).

truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail.”⁵⁶ Moreover, in order for a defense of alibi to prosper, the accused must prove not only that he was at some other place when the crime was committed, but also that it was physically impossible for him to be at the scene of the crime or its immediate vicinity through clear and convincing evidence.⁵⁷ Here, as correctly pointed out by the RTC, accused-appellant Mark’s assertion that he was in his house located in Taguig City shows that it was not physically impossible for him to be at the scene of the crime. In fact, the RTC noted the proximity of accused-appellant Mark’s house to the area where the killing took place.⁵⁸

In order for the charge of murder to prosper, the following elements must be established by the prosecution: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (4) that the killing was not parricide or infanticide.⁵⁹

In the present case, the first, second, and fourth elements were duly established by the evidence on record: (a) Raul was killed; (b) Melanie and Renato positively identified the accused and accused-appellants who took part in the mauling and stabbing of Raul, eventually leading to his death; and (c) the killing was neither parricide nor infanticide as there was no relationship between Raul and his assailants. Nevertheless, this Court disagrees with the findings of the RTC and the CA on the presence of the third element, particularly, that the killing of Raul was attended by the qualifying circumstance of abuse of superior strength.

There is abuse of superior strength –

x x x whenever there is inequality of force between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor, and the latter takes advantage of it in the commission of the crime. Evidence must show that the assailants consciously sought the advantage or that they had the deliberate intent to use this advantage. The appreciation of the aggravating circumstance of abuse of superior strength depends on the age, size and strength of the parties. x x x⁶⁰

Here, the RTC ruled that there was abuse of superior strength since there was a notorious inequality between the victim and the aggressors, which worked to the advantage of the latter in committing the offense. It noted that the aggressors of Raul were more or less a dozen, with seven of them

⁵⁶ *People v. Piosang*, 710 Phil. 519, 527 (2013), citing *People v. Narido*, 374 Phil. 489, 508 (1999).

⁵⁷ *People v. Cuarto*, G.R. No. 233246, October 17, 2018 (Minute Resolution), citing *People v. Desalisa*, 451 Phil. 869, 876 (2003).

⁵⁸ *Rollo*, p. 146.

⁵⁹ *People v. Estoya*, G.R. No. 222650, December 5, 2018 (Minute Resolution), citing *People v. Lagman*, 685 Phil. 733, 743 (2012).

⁶⁰ *People v. Serafin*, G.R. No. 246197, July 29, 2020.

positively identified by Renato as those who ganged up on Raul. The CA agreed, adding that not only did the aggressors outnumber their victim, they also took advantage of their combined strength to successfully commit the crime.

It appears, however, that the RTC and the CA primarily inferred the existence of the qualifying circumstance of abuse of superior strength on the fact that Raul was outnumbered by his aggressors, who then each had a participation in the commission of the crime. Mere superiority in numbers, to emphasize, does not *ipso facto* indicate an abuse of superior strength.⁶¹ To appreciate the qualifying circumstance of abuse of superior strength, there must be a clear showing that the aggressors consciously and purposely adopted means to create an inequality of force between them and the victim which worked to their advantage in ensuring the commission of the crime. Here, the commotion which eventually led to the killing of Raul was stirred by the victim himself. The accused and the accused-appellants merely reacted, albeit unreasonably and collectively, to his advances and threats. In other words, the incident between the victim and his aggressors was unplanned and unpremeditated. It cannot be said, therefore, that there was a conscious attempt on the part of the accused and the accused-appellants to use or take advantage of any superior strength that they enjoyed at the time.⁶²

Considering the foregoing circumstances, the presence of the qualifying circumstance of abuse of superior strength must be ruled out. Thus, accused-appellants' guilt for the crime of homicide is in order.

Accused-appellants' claim that there is no proof of conspiracy among them is untenable. There is conspiracy if at the time of the commission of the offense, the acts of two or more accused show that they were animated by the same criminal purpose and were united in their execution, or where the acts of the malefactors indicate a concurrence of sentiments, a joint purpose and a concerted action.⁶³

In the present case, the acts of accused-appellants during the commission of the crime clearly show that they were roused by the same purpose of killing Raul. It does not matter that they each had a different participation in the mauling of Raul, and that it cannot be determined which or who exactly caused the death of the latter. This Court held that:

To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act . . . Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their

⁶¹ *People v. Villanueva*, 807 Phil 245, 255 (2017), citing *People v. Escoto*, 313 Phil. 785, 800 (1995).

⁶² See *People v. Beduya*, 641 Phil. 399, 411 (2010).

⁶³ *People v. Pilpa*, G.R. No. 225336, September 5, 2018, citing *People v. Aquino*, 390 Phil. 1176, 1184-1185 (2000.)

common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.⁶⁴

To support the finding of conspiracy, direct evidence is not indispensable, as it “may be deduced from the mode, method, and manner in which the offense was perpetrated; or inferred from the acts of the accused when those acts point to a joint purpose and design, concerted action, and community of interests.”⁶⁵ In this case, the prosecution sufficiently established a community of criminal design among accused-appellants. To reiterate, accused-appellants’ collective acts during the incident establish a joint purpose and intent to kill Raul. On this score, this Court dismisses accused-appellant Mark’s argument that his participation in the crime, if any, should be limited to that of an accomplice only and not a principal. The records indicate that it was accused-appellant Mark who handed Victor the knife which was then used to stab Raul multiple times. His participation in the crime, therefore, cannot be simply discounted to that of an accomplice, since it also manifested a concerted action in the killing of Raul.

Under Article 249 of the Revised Penal Code (*RPC*), homicide is punishable by *reclusion temporal*. Since there are no mitigating or aggravating circumstances, the penalty to be imposed upon accused-appellants should be fixed in its medium period. Applying the Indeterminate Sentence Law,⁶⁶ each of the accused-appellants should be sentenced to an indeterminate term, the minimum of which is within the range of penalty next lower in degree, that is, *prision mayor*, and the maximum of which is that properly imposable under the *RPC*, or *reclusion temporal* in its medium period.

Accordingly, the minimum term of the prison sentence that should be imposed upon the individual accused-appellants must be within the range of six years and one day to 12 years of *prision mayor*. On the other hand, the maximum term must be within the range of 14 years, eight months and one day to 17 years and four months of *reclusion temporal* in its medium period.

This Court affirms the RTC’s award to the heirs of the late Raul, the amount of ₱89,422.00 as actual damages representing funeral and burial expenses which were supported with receipts, as well as civil indemnity in the amount of ₱75,000.00. This Court likewise affirms the CA’s grant of moral and exemplary damages in the amount of ₱75,000.00 each, being in accord with *People v. Jugueta*.⁶⁷

⁶⁴ *People v. Medice*, 679 Phil. 338, 349 (2012), citing *People v. Anticamara*, 666 Phil. 484, 504 (2011).

⁶⁵ *People v. Pondivida*, 705 Phil. 201, 207 (2013), citing *Aquino v. Paiste*, 578 Phil. 244, 248 (2008).

⁶⁶ Act No. 4103, as amended.

⁶⁷ 783 Phil. 806 (2016).

The monetary awards shall bear interest of 6% *per annum* reckoned from the finality of this Resolution until full satisfaction.⁶⁸

As a final point, this Court notes that accused Ronaldo D. Avellana and Victor Abareque, and accused Edgardo A. Mercado and Edmond A. Mercado, did not appeal their conviction for murder before the CA and this Court, respectively. Nevertheless, they shall benefit from the favorable decision of this Court with respect to accused-appellants. Under Section 11, Rule 122 of the Rules of Court, “[a]n appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.” Considering that the conclusions arrived at in the present case are similarly applicable to accused Ronaldo D. Avellana, Victor Abareque, Edgardo A. Mercado, and Edmond A. Mercado, they should, likewise, be found guilty only for the crime of homicide.

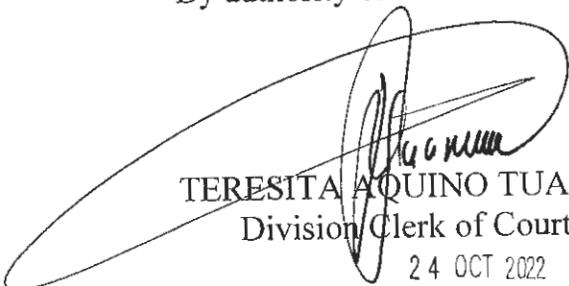
FOR THESE REASONS, the appeal is **PARTLY GRANTED**. The Decision dated December 22, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 06383 is hereby **MODIFIED**. Accused-appellants **LOUIE S. CASTRO, JEFFREY C. SANTOS, and MARK D. PALOMA** and accused **RONALDO D. AVELLANA, VICTOR ABAREQUE, EDGARDO A. MERCADO, and EDMOND A. MERCADO** are found **GUILTY** of **HOMICIDE** and are hereby **SENTENCED** to suffer the indeterminate prison term of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum. They are **DIRECTED** to **PAY** the heirs of the late Raul Balderama the amounts of ₱89,422.00 as actual damages; ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages, plus interest of 6% *per annum* reckoned from the finality of this Resolution until full satisfaction.

Accused-appellants shall further pay the costs of the suit.

SO ORDERED.” (*Leonen, J., on official leave; Lazaro-Javier, J., Acting Chairperson per Special Order No. 2909 dated September 9, 2022. Lopez, M., J., no part due to prior action in the Court of Appeals; Caguioa, J., designated additional member per Raffle dated October 29, 2020*)

⁶⁸ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

By authority of the Court:


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