



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **December 7, 2022** which reads as follows:*

“G.R. No. 258857 (People of the Philippines, Plaintiff-appellee v. Eddie Demaguila y Oriñas and Ariel Villegas y Calamiong, Accused-appellants). — This Court resolves an Appeal¹ assailing the Decision² of the Court of Appeals in CA-G.R. C.R. HC No. 13346, which affirmed the Decision³ of the Regional Trial Court, finding the accused-appellants Eddie Demaguila y Oriñas (*Demaguila*) and Ariel Villegas y Calamiong (*Villegas*) guilty of the crime of murder.

The instant case stemmed from an Information filed against Demaguila and Villegas, along with Joseph Calamiong (*Calamiong*) and Joel Abela (*Abela*), the accusatory portion of which reads:

That on or about the 9th of November 2003, in Quezon City, Philippines, the said accused, conspiring together, confederating with, and mutually helping one other, with intent to kill qualified by evident premeditation and treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault[,] and employ personal violence upon the person of one TIRSO TAPANAN by then and there, mauling and stabbing him on the chest thereby inflicting upon him serious and grave wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said Tirso Tapanan.

CONTRARY TO THE LAW.⁴

During the arraignment on November 16, 2004, Calamiong entered a plea of not guilty.⁵

¹ *Rollo*, pp. 3–5.

² *Id.* at 8–24. The February 22, 2021 Decision in CA-G.R. CR-HC No. 13346 was penned by Associate Justice Louis P. Acosta, and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Bonfacio S. Pascua of the Special Sixteenth Division, Court of Appeals, Manila.

³ *Records*, pp. 507–539. The Decision in Criminal Case No. Q-04-127744 was Penned by Judge Janet Abergos-Samar of Branch 219, Regional Trial Court, Quezon City.

⁴ *Id.* at 1.

⁵ *Rollo*, p. 9.

Handwritten mark

On October 22, 2012, the case against Calamiong was provisionally dismissed for failure of the prosecution witnesses Gina T. Mulles (*Mulles*), the wife of the victim, and Joseph Tapanan (*Joseph*), the cousin of the victim, to appear despite show cause orders sent to them. On the same day, the Regional Trial Court issued alias warrants of arrest against Demaguila and Villegas, who were both arrested by the operatives of Police Station 6 of the Quezon City Police District. They were both arraigned on May 23, 2013, wherein they pleaded “not guilty” to the charge against them.⁶

On August 18, 2014, the pre-trial conference was terminated, and the documentary evidence presented against Calamiong was adapted.⁷

During trial, the prosecution presented the following witnesses: (1) the private complainant, Mulles; (2) Merlinda Joaquin (*Joaquin*); and (3) P/Supt. Felimon Porciuncula. For the defense, Demaguila and Villegas took the witness stand.⁸

The prosecution narrated that on November 9, 2003, at 2:00 a.m., Joaquin was inside her house waiting for her husband to return home when she suddenly heard people shouting outside her house.⁹

Joaquin immediately went outside to check the commotion when she saw her brother, Tirso Tapanan (*Tirso*), lying on the ground while being attacked by Demaguila, Villegas, Calamiong, Abela, Abel Nova (*Nova*), and Geoffrey Lucero (*Lucero*).

Joaquin was only five meters away from them when she saw Abela hold Tirso by his neck, while Demaguila and Villegas repeatedly punched him. Then, Calamiong took a drinking glass and hit Tirso with it on the head, while Demaguila, Villegas, and Abela continued to punch and kick him.

In the meantime, Tirso’s cousin, Joseph, arrived at the scene and tried to help him stand up. He allegedly brought a bladed weapon to disperse the commotion, but the assailants threw stones at him, prompting him to retreat. Joaquin also went back inside her house out of fear. Then, she heard the assailants repeatedly shout “*Patayin na yan, patayin na yan!*” (Kill him, kill him!).

Finally, Joaquin saw Demaguila stab the victim, who was lying on the street.¹⁰ Thereafter, Demaguila, Villegas, and the four other assailants fled.¹¹ As a result of the attack, Tirso died.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 10.

¹⁰ *Id.*

¹¹ *CA rollo*, p. 107.

Tirso's remains were examined by Mary Ann P. Gajardo (*Gajardo*) of the Philippine National Police Crime Laboratory Office. P/Supt. Porciuncula, the Chief of the Medico-Legal Division of the Central Police District Crime Laboratory Office, identified the medico-legal report and other relevant documents that were prepared by Gajardo. Based on the said documents, Tirso suffered 11 stab wounds, and the cause of his death was cardio-respiratory arrest secondary to hemorrhage and shock due to the stab wounds on the chest.¹²

On November 24, 2003, Joaquin affirmed her affidavit and identified Demaguila and Villegas in open court as among the assailants of the victim.¹³

Medico-Legal Report No. M-482-03¹⁴ stated that the victim sustained several stab wounds, one of which was a chest injury where the heart of the victim was penetrated, causing his death. P/Supt. Porciuncula testified that the cause of death of the victim was cardio-respiratory arrest secondary to hemorrhage and shock as a result of the stab wounds on his chest.¹⁵

Further, Mulles testified that she spent a total of PHP 105,080.00 for the wake and burial of her husband, which included the following: 1) PHP 1,000.00 for the transfer of the cadaver from Prime Funeral to Tajuna Funeral Services; 2) PHP 24,000.00 for the funeral services; 3) PHP 43,000.00 for the food and drinks during the seven-day wake; 4) PHP 25,000.00 for the interment expenses; and 6) PHP 12,000.00 for the cemetery expenses.¹⁶

Lastly, Joaquin also claimed that her brother was employed at CK Cellular Corporation at the time of his death. To prove this, she presented a Certificate of Employment issued by Cathy Co, General Manager of CK Cellular Corporation which stated that the basic monthly salary of the deceased was PHP 6,500.00.¹⁷

For their part, Demaguila and Villegas denied the accusations against them and set up alibis as their defense.¹⁸

Demaguila testified that in the early morning of November 9, 2003, he was sleeping at his house when he was awakened by the sounds of dogs barking and people scampering outside. He claimed that he went outside to pacify the dogs when he saw a person lying down the street. Demaguila

¹² TSN, November 27, 2017, pp. 4-13.

¹³ *Rollo*, p. 10.

¹⁴ Dated November 18, 2003. Records, p. 90.

¹⁵ *Rollo*, p. 10.

¹⁶ *Id.* at 10-11.

¹⁷ *Id.* at 11.

¹⁸ *Id.*

averred that it was normal for him to see cadavers in their neighborhood, so he just went back home. He was later arrested on April 21, 2013.¹⁹

Villegas, who is the stepson of Demaguila, testified that in the early morning of November 9, 2003, he was inside his house taking care of his one-month-old son who was sleeping, when he also heard dogs barking and people running outside. He went to check for the source of the noise and saw the victim, Tirso, lying down on the street. Villegas observed that people began to gather in the area, so he went home. He was also arrested on April 21, 2013.²⁰

Villegas stated that prior to Tirso's death, he had no previous altercation with the latter, the eyewitness, Joaquin, and Mulles. However, he stated that Tirso had an altercation with Abela before the incident that led to his death.²¹

In its Decision,²² the Regional Trial Court found Demaguila and Villegas guilty of murder, *viz.*:

WHEREFORE, premises considered, Eddie Demaguila [y] Oriñas, and Ariel Villegas [y] Calamiong are GUILTY beyond reasonable doubt of Murder, as defined and penalized under Article 248 of the Revised Penal Code, for the death of Tirso Tapanan; and each accused is sentenced to suffer the penalty of *reclusion perpetua*. They are further ordered to solidarily pay the heirs of Tirso Tapanan SEVENTY-FIVE THOUSAND PESOS ([PHP] 75,000.00) as civil indemnity [*ex delicto*], SEVENTY-FIVE THOUSAND PESOS ([PHP] 75,000.00) as moral damages, SEVENTY-FIVE THOUSAND PESOS ([PHP] 75,000.00) as exemplary damages, FIFTY THOUSAND PESOS ([PHP] 50,000.00) as temperate damages, and ONE MILLION FOUR HUNDRED FOUR THOUSAND PESOS ([PHP] 1,404,000.00) for loss of earning capacity.

The monetary awards shall earn a 6% legal interest per *annum* from the date of the finality of this Decision until fully paid.

The case against Joel Abela, who remains at large and has yet to be arraigned, was archived on October 22, 2012. As to Joseph Calamiong, the case was provisionally dismissed on October 22, 2012.

SO ORDERED.²³

The Regional Trial Court ruled that all the elements of the crime of murder and that the guilt of Demaguila and Villegas were established beyond reasonable doubt by the testimonial and documentary evidence presented by the prosecution.²⁴

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Dated November 7, 2018. *Id.* at 27–59.

²³ *Id.* at 58–59.

²⁴ *Id.* at 50–51.

Moreover, the Regional Trial Court pronounced that Demaguila and Villegas acted in conspiracy with one another in committing the crime. Both Demaguila and Villegas performed synchronized acts in simultaneously assaulting the victim by continuously delivering fistic blows and kicking the victim while Abela held him by his neck. Additionally, Calamiong also smashed a drinking glass on the head of the victim. All these acts indicated their common purpose and community of interest as co-conspirators. Therefore, each of them is responsible for all the acts done in the execution of their common design even though it was not intended as part of the original design.²⁵

Anent the qualifying circumstances, the information against Demaguila and Villegas alleged that the killing of the victim was attended by evident premeditation, treachery, and abuse of superior strength.²⁶

The Regional Trial Court found that the prosecution failed to prove the attendance of treachery. For treachery to be appreciated, it emphasized that at the time of the attack, the victim must not have been in a position to defend himself and the offender must have consciously adopted the particular means, method, or form of attack employed.²⁷ In cases of continuous aggression, the circumstance of treachery must be present at the inception of the attack. Treachery was not established as no particulars were known regarding the way the aggression began or developed against the victim.²⁸

Similarly, the Regional Trial Court found that evident premeditation was not established or that the execution of the criminal act was preceded by the cool thought, reflection, and resolve to carry out the criminal intent in an interval of time sufficient to arrive at a calm judgment. To support this, it underlined that no witnesses were presented to show that Demaguila and Villegas or their co-conspirators previously devised a deliberate plot to kill the victim.²⁹

However, the Regional Trial Court held that Demaguila, Villegas, and their co-conspirators did take advantage of their superior strength in attacking the victim.

The Regional Trial Court gave credence to the testimony of Joaquin wherein she categorically stated that she witnessed Demaguila, Villegas, and four other male persons simultaneously mauled the victim. Moreover, it noted that the injuries sustained by Tirso were spread all over his body, namely on his: (1) forehead, (2) face, (3) chest area, (4) stomach, and (5) right leg which

²⁵ *Id.* at 39-42.

²⁶ *Id.* at 42-49.

²⁷ *Id.* at 44.

²⁸ *Id.* at 45.

²⁹ *Id.* at 46.

are physical evidence of the simultaneity of the attack against his person by his six assailants.³⁰

Therefore, the Regional Trial Court meted Demaguila and Villegas the penalty of *reclusion perpetua*, in line with Article 248 of the Revised Penal Code.³¹

Anent the civil indemnity *ex delicto* and compensatory damages, the Regional Trial Court awarded compensatory damages for the victim's loss of earning capacity in the total amount of PHP 1,404,000.00.³²

The amount of actual damages worth PHP 24,000.00 was awarded to Tirso's heirs for the interment expenses as provided for through receipts. The Regional Trial Court likewise awarded an amount of PIIP 50,000.00 as temperate damages for those expenses spent by the heirs that were unsubstantiated. Lastly, moral and exemplary damages in the amount of PHP 75,000.00 were also awarded to the heirs of Tirso.³³

Undaunted, Demaguila and Villegas filed a Notice of Appeal³⁴ on June 28, 2019.

In its assailed Decision,³⁵ the Court of Appeals affirmed *in toto* the conviction of Demaguila and Villegas, the dispositive portion of which reads:

WHEREFORE, the Decision dated 28 June 2019 of the Regional Trial Court ("RTC"), Branch 219, Quezon City, finding accused-appellants Eddie Demaguila [y] Oriñas and Ariel Villegas [y] Calamiong guilty for murder in Criminal Case No. Q-04-127744 is hereby AFFIRMED.

SO ORDERED.³⁶

The Court of Appeals ruled that the prosecution sufficiently established the existence of all the elements of the crime of murder, namely: (1) the fact of death of the victim as evidenced by the certificate of death which was corroborated by the certificate of identification of dead body and consent for Autopsy, Medico-Legal Report No. M-482-03, and the Autopsy Protocol; (2) the positive identification of accused-appellants as the perpetrators of the crime; (3) the attendance of abuse of superior strength, as among the

³⁰ *Id.* at 48.

³¹ *Id.* at 55.

³² *Id.* at 57–58.

³³ *Id.* at 56–57.

³⁴ Records, p. 540.

³⁵ Dated February 22, 2021. *Pollo*, pp. 8–24.

³⁶ *Id.* at 23.

qualifying circumstances in Article 248 of the Revised Penal Code; and (4) the killing of the victim was neither parricide nor infanticide.³⁷

Further, it found that the prosecution was able to prove that conspiracy attended the murder. According to the Court of Appeals, this is gleaned from how each of the perpetrators ensured the success of their acts in eliminating Tirso.³⁸

The Court of Appeals also gave credence to the testimony of Joaquin, who witnessed the incident and positively identified Demaguila and Villegas as among those who attacked and killed the victim.³⁹

Hence, this Appeal.

The question for this Court's resolution is whether the Court of Appeals erred in affirming the Regional Trial Court in finding Demaguila and Villegas guilty beyond reasonable doubt for the crime of murder against Tirso Tapanan.

The appeal is unmeritorious.

Article 248 of the Revised Penal Code, which defines and penalizes the crime of murder, states that:

Article 248. *Murder*. – Any person who, not falling within the provisions 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:

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.

In relation to this, murder requires the establishment of the following elements: (1) a person was killed; (2) the accused killed him/her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) the killing is neither parricide nor infanticide.⁴⁰

After a thorough perusal of the records of this case, this Court is convinced that the evidence presented by the prosecution amply demonstrates

³⁷ *Id.* at 14.

³⁸ *Id.* at 20.

³⁹ *Id.* at 21.

⁴⁰ *People v. Adriano*, 764 Phil. 144, 154 (2015) [Per J. Perez, First Division].

that Tirso was killed and that it was Demaguila and Villegas who killed him.

In her *Malaya at Kusang-Loob na Salaysay*,⁴¹ Joaquin categorically and unequivocally testified as to the following facts, to quote:

5. T : Sino-sino naman ang anim (6) na lalaki na nakita mong pumatay kay TIRSO TAPANAN at saan naman sila maaring matagpuan kung iyong nalalaman?
S : Siia po ay sina ABEL NAVA, EDDIE DEMAGUILA, GEOFFREY LUCERO, JOSEPH CALAMIONG, ARIEL VILLEGAS at si JOEL ABELA na lahat sila ay matatagpuan sa Liwanag Compound (Squatter's area), Brgy. Old Balara, QC.
6. T : Nasaan naman ikaw ng mangyari ang insidente na ito?
S : Bale po kasalukuyan po akong nasa loob ng aming bahay habang hihintay ko ang asawa ko mula sa trabaho ng makarinig ako ng mga sigaw mula sa labas ng mga katagang: "BANATAN NYO NA YAN, PATAYIN [NYO] NA YAN!"
7. T : Ano naman ang iyong ginawa sa mga sandaling yuon?
S : Lumabas po agad ako ng bahay dahil na rin sa sa aking pag-aalala na baka asawa ko na ang napa-away.
8. T : Ano naman ang iyong nakita ng lumabas ka ng iyong bahay?
S : Bale po nakita ko ang biktimang si TIRSO TAPANAN na nakahandusay sa kalsada habang pinagtulong-tulungan ng anim na lalaking nabanggit na gulpihin siya.
9. T : Ano ang sumunod na nangyari?
S : Nakita ko po itong si JOEL ABELA na kanyang itinayo itong si TIRSO mula sa kanyang pagkakahiga at punwesto sa kanyang likuran, hawak-hawak ang leeg ng biktima habang patuloy naman sa panununtok nina EDDIE DEMAGUILA at ARIEL VILLEGAS.
10. T : Ano ang sumunod mong nasaksihan?
S : Bigla pong umeksena itong si JOSEPH CALAMIONG na may hawak-hawak na isang baso at walang sabi-sabi niya itong iihampas sa ulo ni TIRSO. Hindi na po naawa ang mga ito dahil matapos hampasin ng baso ay patuloy parin ang panununtok nitong sina EDDIE DEMAGUILA, ARIEL VILLEGAS at JOEL ABELA.
11. T : Ano ang sumunod na nangyari?
S : Nakita ko pong lumabas ang pinsan ni TIRSO na si JOSEPH TAPANAN bitbit ang isang kutsilyo para

⁴¹ Dated November 24, 2003. Records, pp. 28-29.

umawat ngunit siya ay sinalubong ng mga bato mula sa grupo at agad din siyang umatras at hindi na nakalapit sa kinaroroonan ng kanyang pinsan. Sa akin pong takot na baka matamaan ako ay pumasok na lang po ako ng bahay.

12. T : Habang nasa loob ka ng iyong bahay meron ka pa bang narinig na hindi kanais-nais mula sa labas?

S : Bale po nakarinig po ako ng mga katagang "PATAYIN NA YAN! PATAYIN NA YAN!" ng paulit-ulit kaya lumabas po ako sa ikalawang pagkakataon at sa aking paglabas ay nakita ko itong si EDDIE DEMAGUILA na sinaksak itong si TIRSO habang nakahiga siya sa kalsada matapos yuon ay sabay-sabay silang nagsipag-takbuhan.⁴²

The *Salaysay* of Joaquin was subsequently adopted as part of her direct testimony.⁴³

In relation to this, before the Regional Trial Court, Joaquin averred that:

Q: Maam kung matatandaan mo[,] ano ang partisipasyon ni Eddie Demaguila sa pagkamatay ni Tirso Tapanan?
A: Si Eddie po yung sumaksak sa biktima.

Q: How about Villegas Villegas... ano ang partisipasyon ni Ariel Villegas sa pagkamatay ni Tirso Tapanan[?]
A: Si Ariel Villegas ang kasama ni Kuya Ed na gumulpi at siya ang kasama ni Kuya Ed noong sinaksak nya yung biktima.⁴⁴

As a result of the incident, Tirso died.⁴⁵

From the foregoing, it is clear that Tirso was killed and that Demaguila and Villegas were the ones who killed him.

Still, Demaguila and Villegas insist that the prosecution failed to prove the qualifying circumstance of abuse of superior strength, specifically that they purposely sought and used disparity of their strength against the victim. According to them, the fact that they were on a drinking spree with their fellow assailants prior to the fight showed that the assault was borne out of a spontaneous reaction, and not due to the conscious adoption to ensure the success in mauling the latter.

⁴² *Id.*

⁴³ TSN, February 19, 2019, p. 8.

⁴⁴ *Id.* at 7-8.

⁴⁵ Records, p. 31.

We disagree.

The fact that Demaguila and Villegas were engaged in a drinking spree only negates the qualifying circumstance of treachery.

In *People v. Ramelo*,⁴⁶ this Court found that:

There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in their execution, and tending directly and specially to insure their execution without risk to himself arising from any defense which the offended party might make. Moreover, the essence of treachery is the sudden and unexpected attack by the aggressor on the unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor and without the slightest provocation on the part of the victim.

For treachery to be appreciated, two concurring conditions must be established: *first*, the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and *second*, the means of execution was deliberately or consciously adopted. Stated differently, mere suddenness and unexpectedness of the assault does not necessarily give rise to treachery. It must be shown that the means employed for the commission of the crime have been consciously or deliberately adopted by the accused. For this reason, it has been held that when the meeting between the accused and the victim was casual and the attack was done impulsively, treachery could not be appreciated even if the attack was sudden and unexpected.⁴⁷ (Citations omitted)

As stated by the Regional Trial Court, there are no particulars averred as to how the incident transpired between the parties. Thus, it cannot be ascertained if the means employed by Demaguila and Villegas were deliberately or consciously adopted. Further, the mere usage of the term *treachery* in the Information, without anything more did not suffice, for such term was a conclusion of law, not a factual averment.⁴⁸

Anent the qualifying circumstance of abuse of superior strength, this Court affirms the Regional Trial Court and the Court of Appeals.

In *People v. Villanueva y Isorena*,⁴⁹ abuse of superior strength was explained in this wise:

Abuse of superior strength is present whenever there is a notorious inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor selected or taken advantage of by him in the commission of the crime. The

⁴⁶ 821 Phil. 636 (2017) [Per J. Martires, Third Division].

⁴⁷ *Id.* at 647-648.

⁴⁸ *People v. Dasmarinas*, 819 Phil. 357 (2017) [Per J. Bersamin, Third Division].

⁴⁹ 807 Phil. 245 (2017) [Per J. Reyes, Third Division].

fact that there were two persons who attacked the victim does not per se establish that the crime was committed with abuse of superior strength, there being no proof of the relative strength of the aggressors and the victim. The evidence must establish that the assailants purposely sought the advantage, or that they had the deliberate intent to use this advantage. To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked. The appreciation of this aggravating circumstance depends on the age, size, and strength of the parties.⁵⁰ (Citation omitted)

In relation to this, in *People v. Serafin y Vinegas*,⁵¹ this Court discussed how abuse of superior strength may be manifested, thus:

The notorious inequality of forces between Sionita and Felimon, was highlighted in: (1) Felimon being a male; (2) Felimon's use of a bolo; and (3) the physical position of unarmed Sionita, where she was not able to defend herself. Thus, the Court agrees that the crime committed by Felimon was murder qualified by abuse of superior strength.⁵²

Here, there were six male persons involved in simultaneously attacking the victim: Demaguila, Villegas, and four other people. It bears to note that during the incident, Tirso, the victim, was completely unarmed.

The testimony of Joaquin conveyed the unequal position that Tirso had against his perpetrators. To repeat, Joaquin, who was present at the time, witnessed Abela holding Tirso by his neck, while Demaguila and Villegas repeatedly punched him. Then, Calamiong took a drinking glass and hit Tirso with it on the head, while Demaguila, Villegas, and Abela continued to punch and kick him. Joaquin also heard one of the assailants utter: "*Patayin niyo na! Patayin niyo na!*" (Kill him! Kill him!) until Demaguila was seen stabbing the victim with a bladed weapon, causing Tirso's eventual death.

Collectively, they took advantage of their superiority in number and strength when they attacked the victim.

This was also highlighted in the Regional Trial Court ruling, where the various injuries sustained by the victim due to the attack enlisted therein, to quote:

The injuries sustained by the victim spread all over his body, i.e., forehead (hematoma measuring 8 x 7 [cm].), face (hematoma in the right eye portion measuring 7 x 7 [cm].), three (3) stab wounds in the chest area {(i.) 2.7 x 2 [cm] on the sternal region which is 12 cm deep piercings, among others, the heart; (ii.) 2 x 0.7 [cm] in the right mammary region; and (iii) 2.7 x 1 [cm] in the epigastric region with a re-entry wound measuring 3 x 0.7 cm

⁵⁰ *Id.* at 253.

⁵¹ G.R. No. 246197, July 29, 2020 [Per J. Delos Santos, Second Division].

⁵² *Id.*

at the upper abdomen}; stomach (3 x 0.7 [cm] stab wound adjacent to the navel); shoulder (3 x 2 [cm], abrasion in the rear shoulder); and three (3) stab wounds in the right leg {(i.) 2 x 0.7 [cm] in the thigh; (ii) 3 x 1 [cm] in the knee; and (iii) 2 x 0.7 [cm] below the knee}, are physical evidence of the simultaneity of the attack on the deceased by his six assailants.

In fact, the victim's knife-armed cousin who tried to come to his aid was easily repelled and cowed by the 6 aggressors. Obviously, when the 6 attackers joined forces and concertedly assaulted the victim, they took advantage of their superiority in number and strength. This qualified the killing of the victim to Murder.⁵³

As testified by Joaquin, accused-appellant Demaguila was seen stabbing the victim, whereas accused-appellant Villegas accompanied the former and helped assault the victim.

Thus, the qualifying circumstance of abuse of superior strength was properly appreciated by the Regional Trial Court against them.

Similarly, this Court affirms the Regional Trial Court and Court of Appeals ruling that conspiracy exists in this case.

Conspiracy exists if, at the time of the commission of the offense, the acts of two or more accused show that they were moved by the same criminal purpose and were united in their execution.

Demaguila and Villegas argued that the finding of conspiracy against them was incorrect for the prosecution failed to establish that it was either Demaguila or Villegas who delivered the fatal knife blow against Tirso.

In *People v. Ferrer*,⁵⁴ this Court explained conspiracy as a means to commit a crime, namely that:

[T]he acts of accused-appellants before, during, and after the commission of the crime clearly show that they were animated by the same purpose of killing Bulatao. It does not matter that it was only Mendoza who actually triggered the gun and shot Bulatao. In *People v. Dollendo, et al.*, the Court discussed that:

To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act. x x x 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 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

⁵³ *Rollo*, pp. 48-49.

⁵⁴ G.R. No. 237215, June 28, 2021 [Per J. J. Lopez, Third Division].

becomes secondary, since all the conspirators are principals.⁵⁵
(Citation omitted)

Moreover, in *People v. Manzanilla y De Asis*,⁵⁶ this Court discussed the concept of implied conspiracy, that:

An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment. Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably pointing to a joint purpose, a concert of action and a community of interest.

In a conspiracy, a person is guilty as co-principal when he or she performs an overt act, that is, either “by actively participating in the actual commission of the crime, by lending moral assistance to his co-conspirators by being present at the scene of the crime, or by exerting moral ascendancy over the rest of the conspirators as to move them to executing the conspiracy.” In this case, the intent and character of the participation of each accused are irrelevant. It need not be identified who inflicted the fatal blow; all the conspirators are equally liable as the act of one is the act of all.⁵⁷
(Citations omitted)

Here, Demaguila and Villegas contributed to the death of the victim when they attacked Tirso and when Demaguila stabbed him, causing his eventual death.

Also, Demaguila and Villegas simultaneously attacked Tirso with the intention of killing him and this was established not just by their acts but through their words.

In *Manzanilla*, this Court discussed the implications of utterances of one to another in the commission of a crime:

The words “*yariin na*” is unequivocal. Literally translated in English, it means to “finish off”; in tagalog slang, it means “to kill.” The words are neither thoughtless nor spontaneous as they were uttered in a situation specifically sought for the purpose of killing the victim. Further, the accused-appellant’s dominance over Roberto is evident from the fact that immediately after the words of command were uttered, Roberto was moved into action by approaching the victim and then bringing him to a dark place and there, shooting him.⁵⁸ (Citation omitted)

⁵⁵ *Id.*

⁵⁶ G.R. No. 235787, June 8, 2020 [Per J. Gaerlan, Third Division].

⁵⁷ *Id.*

⁵⁸ *Id.*

Herein, the very words uttered by Demaguila and Villegas “*Patayin niyo na! Patayin niyo na!*” (Kill him! Kill him!) leave no further room for interpretation that it impelled them to commit the crime.

Demaguila and Villegas’ defense of alibi and denial cannot prevail against Joaquin’s categorical and credible testimony revealing the details of Tirso’s killing.

In order for a defense of alibi to prosper, the accused must prove not only that they were at some other place when the crime was committed, but also that it was physically impossible for them to be at the scene of the crime or its immediate vicinity, through clear and convincing evidence.

As the Court of Appeals aptly highlighted, the crime was committed in the same barangay where the victim and the accused-appellants Demaguila and Villegas resided. Both Demaguila and Villegas claimed that they were inside their residence when the incident happened. This does not support their respective assertions of alibis, as it negates the physical impossibility for the accused-appellants to be at the place of the crime when it occurred.⁵⁹

Further, in our jurisdiction, the defenses of alibi and denial are inherently weak against the sufficient and positive ascertainment of the identity of the accused.

At any rate, the alibis of Demaguila and Villegas remained uncorroborated by other witnesses. The Court of Appeals even emphasized that both the *Malaya at Kusang-Loob na Salaysay* and the testimony of Joaquin before the Regional Trial Court on February 19, 2019 were in complete congruence.

Again, Joaquin witnessed the attack as she was within the direct proximity and relative illumination of the *locus criminis* bolstering the credibility of her identification of Demaguila and Villegas as among the persons who attacked the victim. In the absence of ill motive on her part, her testimony must stand.

Finally, Demaguila and Villegas’ joint act of fleeing the scene after committing the crime militate their defenses.

The flight of an accused, in the absence of a credible explanation, is a circumstance from which an inference of guilt may be established “for a truly

⁵⁹ *Rollo*, p. 22.

innocent person would normally grasp the first available opportunity to defend himself and to assert his innocence.”⁶⁰

From the foregoing, this Court finds no reason to disturb the rulings of the Regional Trial Court and the Court of Appeals as they properly convicted Demaguila and Villegas of the crime of murder.

Thus, this Court affirms the imposition of the penalty of *reclusion perpetua* on Demaguila and Villegas, in accordance with Article 248 of the Revised Penal Code.

On the imposition of damages, We affirm the Regional Trial Court’s award to the heirs of the late Tirso in the amount of PHP 1,404,000.00 for the loss of earning capacity of the victim.

In arriving at this amount, the Regional Trial Court stated in its ruling, to quote:

[C]ompensatory damages for loss of earning capacity should be awarded to the heirs of the victim. The Certificate of Employment (Exhibit “M”) issued by the General Manager of the victim’s employer – CK Cellular Corporation, shows that his monthly salary is [PHP] 6,500.00.

The formula for computing loss of earning capacity is:

Net earning capacity (x) = life expectancy x gross annual income - living expenses (50% of gross annual income) or 2/3 [80-age at the time of death] x [gross annual income - 50% of gross annual income]

The victim was born on November 24, 1976 and was only 26 years old at the time of his death on November 9, 2003. He was then earning a monthly salary of [PHP] 6,500.00 as an employee at CK Cellular Corporation (Exhibit “M”). Thus, the loss of earning capacity is computed as follows:

$$\begin{aligned} X &= \frac{2}{3} [(80-26) \times ([\text{PHP}] 78,000.00 - [\text{PHP}] 39,000.00)] \\ &= \frac{2}{3} [(54) \times (39,000.00)] \\ &= \frac{2}{3} ([\text{PHP}] 2,106,000.00) \\ &= \frac{[\text{PHP}] 4,212,000.00}{3} \\ X &= [\text{PHP}] 1,404,000.00^{61} \end{aligned}$$

⁶⁰ G.R. No. 233194, September 14, 2020 [Per J. Peralta, First Division].

⁶¹ *Rollo*, pp. 57–58.

Further, in accordance with *People v. Jugueta*,⁶² this Court affirms the award of the Regional Trial Court of temperate damages in the amount of PHP 50,000.00, the grant of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, and PHP 75,000.00 as exemplary damages for the crime of murder.

Furthermore, all monetary awards shall bear interest of six percent (6%) per annum reckoned from the finality of this Resolution until fully paid.

FOR THESE REASONS, the instant appeal is **DENIED**. The Decision dated February 22, 2021 of the Court of Appeals in CA-G.R. C.R. HC No. 13346 is hereby **AFFIRMED**.

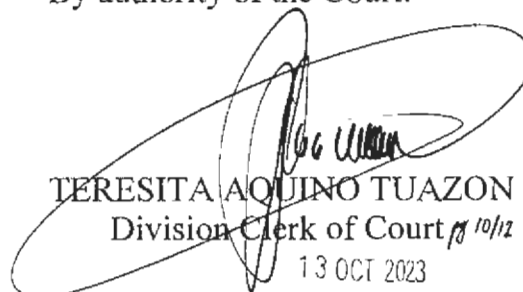
Accused-appellants **EDDIE DEMAGUILA y ORIÑAS and ARIEL VILLEGAS y CALAMIONG** are **GUILTY** beyond reasonable doubt of **MURDER**, as defined and penalized under Article 248 of the Revised Penal Code, for the death of Tirso Tapanan; and each accused is sentenced to suffer the penalty of *reclusion perpetua*.

They are further **ORDERED** to solidarily pay the heirs of the late Tirso Tapanan, the amounts of PHP 1,404,000.00 as indemnity for loss of earning capacity; PHP 50,000.00 as temperate damages; PHP 75,000.00 as civil indemnity; PHP 75,000.00 as moral damages; and PHP 75,000.00 as exemplary damages. The monetary awards herein shall earn a six percent (6%) legal interest per annum from the date of finality of this Resolution until its full satisfaction.

They shall further pay the costs of the suit.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *per* 10/12
13 OCT 2023

⁶² *People v. Jugueta*, 783 Phil. 806, 846 (2016) [Per J. Peralta, *En Banc*].

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

EDDIE DEMAGUILA y ORINAS (reg)
ARIEL VILLEGAS y CALAMIONG (reg)
Accused-Appellants
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 219
1100 Quezon City
(Crim. Case No. Q-04-127744)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 13346

*For this resolution only
Please notify the Court of any change in your address.
GR258857. 12/7/2022B(282)URES *lc0/l*