



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 226475

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 REYES,
 JARDELEZA, and
 TIJAM, JJ.

CYRUS VILLANUEVA y
ISORENA alias “Tutoy” and
ALVIN SAYSON y ESPONCILLA
 alias “*Alvin Talangka,*”
 Accused-Appellants.

Promulgated:

March 13, 2017

x-----*Michael S. Lina*-----x

DECISION

REYES, J.:

On appeal¹ is the Decision² dated April 21, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07069. The CA affirmed the conviction of Cyrus Villanueva y Isorena (Villanueva) and Alvin Sayson y Esponcilla (Sayson) (collectively, the accused-appellants) for Murder as defined and penalized under Article 248 of the Revised Penal Code (RPC) rendered by the Regional Trial Court (RTC) of Muntinlupa City, Branch 276, in its Decision³ dated September 16, 2014 in Criminal Case No. 12-001.

¹ Under Section 13(c) of Rule 124 of the Rules of Court, as amended.

² Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Stephen C. Cruz and Ramon Paul L. Hernando concurring; CA *rollo*, pp. 93-103.

³ Issued by Presiding Judge Antonietta Pablo-Medina; *id.* at 40-50.

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Facts

The accused-appellants were charged in an Information dated January 2, 2012, the accusatory portion of which reads:

That on or about the 1st day of January, 2012, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, and with the presence of the qualifying circumstance of abuse of superior strength, conspiring and confederating with one another did then and there willfully, unlawfully and feloniously attack, assault and stab one, **ENRICO ENRIQUEZ y VINLUAN** on the left side of his chest, thus causing fatal injury which directly caused his death.⁴

On January 19, 2012, the prosecution moved to admit an amended information to include Christian Jay Valencia (Valencia) as an accused, which was granted by the RTC in its Order dated February 8, 2012. A warrant of arrest was, thus, issued against Valencia, but he could not be located and still remains at large. Upon arraignment, the accused-appellants entered a plea of not guilty to the charge against them. After pre-trial conference, trial on the merits of the case ensued.⁵

The prosecution alleged the following:

At around past 5:00 a.m. of January 1, 2012, Arnie Bañaga (Bañaga) was selling *tapsilog* to a group of persons playing *cara y cruz* at the corner of an alley in Summitville, Barangay Putatan, Muntinlupa City. Thereupon, Bañaga saw the accused-appellants and Valencia arrive and ask the group if they know Enrico Enriquez (Enrico), to which they answered in the negative. Thereupon, the accused-appellants and Valencia went to the tricycle terminal, which was about 10 to 15 meters away, where they saw Enrico. They then simultaneously attacked Enrico. Villanueva punched Enrico on the face twice while Sayson hit the latter at the back of the head with a stone wrapped in a t-shirt. Valencia then stabbed Enrico on the left side of his armpit twice. Enrico tried to fight back to no avail. The assailants thereafter fled. However, Villanueva was caught by men aboard a pursuing tricycle.⁶

At that time, Barangay Police Djohann Gonzales (Gonzales) was on duty in their office at the Barangay Hall of Putatan, Muntinlupa City. Gonzales then received a call requesting their assistance on a stabbing incident at the tricycle terminal in Summitville. Gonzales then went to the said terminal with Romeo Arciaga. Thereat, Gonzales saw a bloodied man,

⁴ Id. at 40.

⁵ Id. at 94.

⁶ Id. at 67-68.

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who was later identified as Villanueva, being held by the tricycle drivers. Gonzales brought Villanueva to the Barangay Hall where the stabbing incident was recorded in the barangay police blotter. Thereafter, Villanueva was brought to the Criminal Investigation Division (CID) office of the Muntinlupa City Police Station where Villanueva's sister arrived and informed the authorities that Sayson was still in their house in Purok 1, Bayanan, Muntinlupa City. Antonio Enriquez, Enrico's brother, was also at the police station when Villanueva was brought there.⁷

Enrico was brought to the Muntinlupa Medical Center, but he was declared dead on arrival.⁸ Dr. Roberto Rey C. San Diego, medico-legal officer of the National Bureau of Investigation, conducted an autopsy on Enrico's body. He noted two stab wounds on the left side of Enrico's chest, one of which penetrated the left atrium of the heart.⁹

On the other hand, the accused-appellants denied the allegations against them. Villanueva claimed that on January 1, 2012, at around 2:00 a.m., the accused-appellants and Valencia went to the house of their friend in Summitville to eat. Thereafter, Valencia invited them to have a drinking spree with Alvin Abad and Charlotte. At around 4:30 a.m., Valencia left the group and, 30 minutes thereafter, the accused-appellants also went home. On their way home, the accused-appellants saw Valencia arguing with Enrico which led to a fistfight. They tried to pacify Valencia and Enrico, but the latter suddenly fell on the ground. Valencia immediately ran away, leaving the accused-appellants standing near the body of Enrico. Villanueva then ran away as he was scared that the bystanders in the tricycle terminal would gang up on them. On his way home, Villanueva noticed a tricycle boarded by Bañaga and his companions. Bañaga then forced him to board the tricycle and, once inside, he was beaten up by Bañaga and his companions. Villanueva was then brought to the Philippine General Hospital to be treated.¹⁰

On January 3, 2012, Villanueva was brought to the CID office for investigation and thereafter to the Muntinlupa City Jail where he was detained. Villanueva alleged that Bañaga pinpointed him as one of the assailants since he was angry at him as he belonged to the same group as Valencia. Sayson corroborated Villanueva's testimony as regards the stabbing incident. He averred that after Enrico fell on the ground, he ran to his house. He was surprised when the two barangay officials arrived at his house later in the morning that same day to invite him for questioning.¹¹

⁷ Id. at 68-69.

⁸ Id. at 69.

⁹ Id. at 42-43.

¹⁰ Id. at 26-27.

¹¹ Id. at 27.

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Ruling of the RTC

On September 16, 2014, the RTC rendered a Decision,¹² the decretal portion of which reads:

WHEREFORE, in view of the foregoing, this Court finds [the accused-appellants] GUILTY beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the [RPC] and accordingly sentences them to suffer the penalty of *reclusion perpetua*.

[The accused-appellants] are likewise directed to pay, jointly and severally, the heirs of the victim [Enrico] the following:

1. ₱50,000.00 as civil indemnity;
2. ₱26,032.02 as actual damages;
3. ₱75,000.00 as moral damages; and
4. ₱30,000.00 as exemplary damages.

The Branch Clerk of Court is hereby ordered to prepare the mittimus for the immediate transfer of the [accused-appellants] to the New Bilibid Prison, Muntinlupa City.

Considering that [VALENCIA] remains at large, let an alias Warrant of Arrest be issued against him to be returned only upon his arrest and in the meantime send this case into the archives insofar as [Valencia] is concerned.

SO ORDERED.¹³

The RTC held that there was conspiracy among the accused-appellants and Valencia.¹⁴ In convicting them of the crime of murder, the RTC appreciated the qualifying circumstance of abuse of superior strength considering that Enrico was all alone when he was attacked by the accused-appellants and Valencia.¹⁵

Unperturbed, the accused-appellants appealed the RTC decision to the CA,¹⁶ claiming that the RTC erred in ruling that the prosecution was able to prove all the elements of the crime of murder. They maintained that the RTC improperly appreciated the qualifying circumstance of abuse of superior strength.¹⁷ They also assailed the legality of the warrantless arrest effected by the barangay officials upon Villanueva.¹⁸

¹² Id. at 40-50.

¹³ Id. at 49-50.

¹⁴ Id. at 47-48.

¹⁵ Id. at 45-46.

¹⁶ Id. at 11.

¹⁷ Id. at 30; 33.

¹⁸ Id. at 29.

Ruling of the CA

On April 21, 2016, the CA rendered the herein assailed Decision¹⁹ affirming the conviction of the accused-appellants for the crime of murder rendered by the RTC in its Decision dated September 16, 2014. Thus:

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The judgment dated September 16, 2014 of the [RTC] Branch 276 of Muntinlupa City in Criminal Case No. 12-001 is hereby **AFFIRMED**.

SO ORDERED.²⁰

Hence, this appeal. Both the accused-appellants and the Office of the Solicitor General manifested that they would no longer file with the Court supplemental briefs, and adopted instead their respective briefs with the CA.²¹

Issue

Essentially, the issue for the Court's resolution is whether the CA erred in affirming the RTC Decision dated September 16, 2014, which found the accused-appellants guilty beyond reasonable doubt of the crime of murder.

Ruling of the Court

The appeal is partly meritorious.

To warrant a conviction for the crime of murder, the following essential elements must be present: (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 of the RPC; and (4) that the killing is not parricide or infanticide.²² One of the circumstances mentioned in Article 248, which qualifies the killing of the victim to murder, is abuse of superior strength.

After a thorough perusal of the records of this case, the Court is convinced that the evidence presented by the prosecution amply demonstrate that Enrico was killed and that it was the accused-appellants and Valencia

¹⁹ Id. at 93-103.

²⁰ Id. at 103.

²¹ *Rollo*, pp. 28-30; 24-27.

²² *People v. Lagman*, 685 Phil. 733, 743 (2012).

who killed him. Prosecution eyewitness Bañaga was able to identify the accused-appellants and Valencia who killed Enrico. He actually witnessed what exactly happened on that fateful day and was able to narrate the individual participation of each of the accused-appellants and Valencia in killing Enrico. They simultaneously attacked Enrico while he was standing at the tricycle terminal. Villanueva punched Enrico twice on the face while Sayson hit the latter with a rock. Thereafter, Valencia stabbed Enrico in the chest, twice, which ultimately caused his death.

Nevertheless, the prosecution failed to establish the qualifying circumstance of abuse of superior strength. Both the lower courts concluded that the accused-appellants and Valencia, having the intent to kill Enrico, employed abuse of superior strength to ensure the execution and success of the crime. The RTC concluded that the facts that Enrico was all alone when he was attacked by the accused-appellants and Valencia, who were armed by a knife and a stone, are clear indicia of the abuse of superior strength employed by the accused-appellants and Valencia against Enrico.²³ The RTC's conclusion was entirely adopted by the CA.²⁴

The foregoing conclusion is baseless. The fact that the accused-appellants and Valencia, armed with a knife and a stone, ganged up on Enrico does not automatically merit the conclusion that the latter's killing was attended by the qualifying circumstance of abuse of superior strength. In *People v. Beduya, et al.*,²⁵ brothers Ric and Elizer Beduya (Elizer) were charged for the death of Dominador Acope, Sr.; it was shown that Ric slapped the victim while Elizer stabbed the latter. The Court, elucidating on the proper appreciation of the circumstance of abuse of superior strength, ruled that:

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 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.²⁶ (Citations omitted)

²³ CA *rollo*, p. 46.

²⁴ Id. at 102.

²⁵ 641 Phil. 399 (2010).

²⁶ Id. at 410-411.

In *Valenzuela v. People*,²⁷ brothers Ramie and Hermie Valenzuela (Hermie) were charged with the crime of frustrated murder committed against Gregorio Cruz (Gregorio). It was shown in that case that when Gregorio was walking, Ramie and Hermie suddenly appeared behind him; that Ramie held his shoulder, while Hermie stabbed him twice at the left side of his back. The Court ruled that the qualifying circumstance of abuse of superior strength was not sufficiently established in the said case, viz.:

Both the trial and appellate courts concluded that abuse of superior strength was present because the petitioner “held the arms of [Gregorio] to facilitate the stabbing by his brother (Hermie) and to limit the degree of resistance that [Gregorio] may put up.” The trial court, in particular, held that “there is no doubt that accused took advantage of their combined strength when one held [Gregorio] by the shoulder and armpit and the other inflicted two stab wounds on the left side of his back.” We find this reasoning erroneous.

Abuse of superior strength is present whenever there is a notorious inequality of forces between the victim and the aggressor/s that is plainly and obviously advantageous to the aggressor/s and purposely selected or taken advantage of to facilitate 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. To take advantage of superior strength means to purposely use force excessively 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.

In the present case, the prosecution failed to present evidence to show a relative disparity in age, size, strength, or force, except for the showing that two assailants, one of them armed with a knife, attacked the victim. The presence of two assailants, one of them armed with a knife, is not *per se* indicative of abuse of superior strength. Mere superiority in numbers does not indicate the presence of this circumstance. Nor can the circumstance be inferred solely from the victim’s possibly weaker physical constitution. In fact, what the evidence shows in this case is a victim who is taller than the assailants and who was even able to deliver retaliatory fist blows against the knife-wielder.²⁸ (Citations omitted)

In this case, the prosecution failed to present evidence as regards the relative disparity in age, size, strength or force between the accused-appellants and Valencia, on one hand, and Enrico, on the other. Indeed, the lower courts merely inferred the existence of qualifying circumstance of abuse of superior strength on the facts that Enrico was attacked by three assailants, the accused-appellants and Valencia, who were armed with a knife and a stone. However, mere superiority in numbers does not *ipso facto* indicate an abuse of superior strength.²⁹

²⁷ 612 Phil. 907 (2009).

²⁸ Id. at 916-918.

²⁹ See *People v. Escoto*, 313 Phil. 785, 800 (1995).

Accordingly, the Court is compelled to disregard the finding of the existence of abuse of superior strength by the lower courts. The accused-appellants' guilt is, thus, limited to the crime of homicide.

The accused-appellants' claim that there was no proof of the conspiracy among them and Valencia is untenable. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.³⁰ "Conspiracy can be inferred from and established by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interests."³¹ The evidence presented by the prosecution was able to establish beyond reasonable doubt that the accused-appellants and Valencia, through their acts, indeed agreed to kill Enrico. On this score, the RTC's disquisition is *apropos*:

From the testimony of the principal eyewitness, it is clear that the three (3) accused were united by a single purpose, that is, to bring about the death of the victim. They acted with a common objective to harm and inflict fatal blows on the victim. The three (3) accused were together looking for the victim Enrico. When they saw Enrico, they simultaneously attacked him. While [the accused-appellants] respectively boxed and hit with a stone the victim Enrico, [Valencia] delivered the fatal stabs. The individual acts of the three accused, taken together, undoubtedly points to a single objective which is to harm or inflict serious injuries to the victim, or x x x put an end to his life. This is the very essence of conspiracy. It is settled that to be held guilty as a co-principal by reason of conspiracy, the accused must be shown to have performed an overt act in pursuance or furtherance of the complicity.³²

Likewise, without merit is the accused-appellants' contention as regards the validity of their warrantless arrest. The accused-appellants never raised the supposed illegality of their arrest prior to their arraignment. In fact, nowhere in any part of the proceedings before the RTC did the accused-appellants assail the validity of their arrest. The accused-appellants only brought up the supposed irregularity in their arrest for the first time in their appeal to the CA. It has been ruled time and again that an accused is estopped from assailing any irregularity with regard to his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground **before his arraignment**. Any objection involving the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.³³

³⁰ REVISED PENAL CODE, Article 6.

³¹ *Quidet v. People*, 632 Phil. 1, 12 (2010).

³² CA rollo, p. 48.

³³ *People v. Tan*, 649 Phil. 262, 277 (2010).

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The penalty for homicide under Article 249 of the RPC is *reclusion temporal*. Since there are no mitigating or aggravating circumstances, the penalty should be fixed in its medium period. Applying the Indeterminate Sentence Law,³⁴ each of the accused-appellants should be sentenced to an indeterminate term, the minimum of which is within the range of the penalty next lower in degree, *i.e.*, *prision mayor*, and the maximum of which is that properly imposable under the RPC, *i.e.*, *reclusion temporal* in its medium period.

Accordingly, minimum term of the prison sentence that should be imposed upon each of the accused-appellants must be within the range of six (6) years and one (1) day to twelve (12) years of *prision mayor*. On the other hand, the maximum term of the indeterminate prison sentence must be within the range of fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months of *reclusion temporal* in its medium period.

The Court affirms the award of actual damages to the heirs of Enrico in the amount of ₱26,032.02 considering that the said amount was properly supported by receipts.³⁵ Pursuant to *People of the Philippines v. Ireneo Jugueta*,³⁶ the award of civil indemnity in the amount of ₱50,000.00 is affirmed. However, the award of moral damages should be decreased from ₱75,000.00 to ₱50,000.00. Also, the award of exemplary damages is deleted in the absence of any aggravating circumstance. All monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

WHEREFORE, in consideration of the foregoing disquisitions, the appeal is **DISMISSED**. The Decision dated April 21, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07069 is hereby **AFFIRMED WITH MODIFICATION**. Accused-appellants Cyrus Villanueva y Isorena and Alvin Sayson y Esponcilla are hereby found **GUILTY** beyond reasonable doubt of the crime of Homicide under Article 249 of the Revised Penal Code and shall accordingly each suffer an 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 victim Enrico Enriquez ₱26,032.02 as actual damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages. They are likewise ordered to pay interest on all monetary awards for damages at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully satisfied.

³⁴ Republic Act No. 4103, as amended.

³⁵ CA rollo, p. 49.

³⁶ G.R. No. 202124, April 5, 2016.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

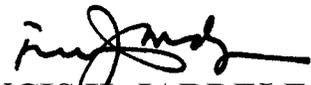
WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



FRANCIS M. JARDELEZA
Associate Justice



NOEL G. TIJAM
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.



PRESBITERO J. VELASCO, JR.
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

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