

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANG ANGELES Y GUARIN, JAMES SANTOS @ “CHITA,” DENNIS RAMOS AND SONNY BAYNOSA @ “JONG,” ACCUSED,

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal from the decision[1] of the Regional Trial Court of Lingayen, Pangasinan, Branch 38 (RTC) in Criminal Case Nos. L-8886, L-8887 and L-8888 dated August 12, 2011 finding accused-appellant Dang Angeles y Guarin guilty beyond reasonable doubt of the crimes of murder, attempted murder and frustrated murder under Article 248 in relation to Articles 6 and 250 of the Revised Penal Code.

Accused-appellant was charged with murder in an amended information,[2] which reads:

“Criminal Case No. L-8886
AMENDED INFORMATION

The undersigned hereby accuses DANG ANGELES y GUARIN, JAMES SANTOS @ “Chita”, DENNIS RAMOS, and SONNY BAYNOSA @ “Jong” of the crime of MURDER committed as follows: “That on or about 11:45 in the evening of April 27, 2010 in Brgy. Gayaman, Binmaley, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with treachery, abuse of superior strength and evident premeditation, with intent to kill, did, then and there, willfully, unlawfully and feloniously attack, assault and stab ABELARDO Q. EVANGELISTA, with the use of a bladed weapon inflicting upon him injuries as shown in the autopsy report which caused his instantaneous death, to the damage and prejudice of his heirs.

Contrary to Article 248 of the Revised Penal Code.”[3]

During the arraignment of accused-appellant, he pleaded not guilty to the crime charged.

The prosecution presented Eric Evangelista, SPO1 Ricardo de Vera, Mark Ryan Evangelista, PO1 Tristan Fernandez, Rolando Quinto and Dr. Cipriano C. Fernandez as witnesses. On the other hand, the defense presented accused-appellant as its sole witness.

Before the case was submitted for decision, two criminal cases for frustrated murder (Criminal Case Nos. L-8887 and L-8888) involving the same four (4) accused and arising out of the same incident were consolidated with the murder case, the latter bearing the lowest docket number among the three. The amended informations in the two other cases read, as follows:

“Criminal Case No. L-8887
AMENDED INFORMATION

The undersigned hereby accuses DANG ANGELES y GUARIN, JAMES SANTOS @ “Chita”, DENNIS RAMOS, and SONNY BAYNOSA @ “Jong” of the crime of FRUSTRATED MURDER committed as follows:

“That on or about 11:45 in the evening of April 27, 2010 in Brgy. Gayaman, Binmaley, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, armed with knives, conspiring, confederating, and mutually helping one another, with intent to kill, with treachery, and taking advantage of their superior strength, did, then and there, willfully, unlawfully and feloniously attack, stab and hit ERIC Q. EVANGELISTA inflicting upon him “lacerated wound 1 cm back scapula area”, secondary to stabbing, the accused having thus performed all the acts of execution which would have produced the crime of Murder but which did not produce it by reason of cause/s independent of the will of the accused, that is due to the timely medical assistance rendered to ERIC Q. EVANGELISTA, to his damage and prejudice. Contrary to Article 248 in relation to Art. 6 of the Revised Penal Code.”⁴

“Criminal Case No. L-8888
AMENDED INFORMATION

The undersigned hereby accuses DANG ANGELES y GUARIN, JAMES SANTOS @ “Chita”, DENNIS RAMOS, and SONNY BAYNOSA @ “Jong” of the crime of FRUSTRATED MURDER committed as follows:

“That on or about 11:45 in the evening of April 27, 2010 in Brgy. Gayaman, Binmaley, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, armed with knives, conspiring, confederating, and mutually helping one another, with intent to kill, with treachery, and taking advantage of their superior strength, did, then and there, willfully, unlawfully and feloniously attack, stab and hit MARK RYAN Q. EVANGELISTA inflicting upon him “Grade II Liver injury R Lobe Hmoritorcum secondary to stab wound R lumbar posterior aspect”, the accused having thus performed all the acts of execution which would have produced the crime of Murder but which did not produce it by reason of cause/s independent of the will of the accused, that is due to the timely medical assistance rendered to MARK RYAN Q. EVANGELISTA, to his damage and prejudice.

Contrary to Article 248 in relation to Art. 6 of the Revised Penal Code.”^[5]

The prosecution's version of the facts is as follows:

On April 27, 2010, a dance party was held at the residence of Evangelistas in Barangay Gayaman, Binmaley, Pangasinan to celebrate the forthcoming wedding of Kathy Evangelista; that at around 11:30 in the evening, Eric Evangelista (Eric) and his brother, Mark Ryan Evangelista (Mark Ryan) went out of their house and approached Sonny Baynosa alias “Jong” (Sonny) who made loud noises out of the muffler of his motorized tricycle; that Sonny was in the company of accused-appellant, James Santos alias “Chita” (James), and Dennis Ramos (Dennis); that Eric saw accused-appellant alight from the tricycle and stab Elmer Evangelista (Elmer), Eric's brother, with a foot-long knife; that Eric was only two and a half meters away from Elmer; that Elmer fell down after he was stabbed in his right abdomen; that Eric tried to carry Elmer in order to bring him to the hospital but Sonny stabbed Eric at the right side of the back, just below his shoulder; that Eric also saw Dennis and James stab Abelardo Evangelista (Abelardo) successively; that accused-appellant also stabbed Abelardo at the left chest, followed by Sonny who stabbed the latter in his right chest with an icepick; that Abelardo died instantaneously because of the stab wounds he sustained, while Elmer, Mark Ryan and Eric were brought to the hospital; and that the four accused left the crime scene on board the same tricycle.^[6]

The defense, on the other hand, presented the facts as follows:

Accused-appellant Dang Angeles y Guarin denied the charges against him; that on April 27, 2010, at about 11:45 in the evening, he was outside the house of Domingo Evangelista watching the dance party for the forthcoming wedding of the latter's daughter; that he saw Sonny driving a tricycle with James and Dennis as passengers; that because of the loud noise emitted by the tricycle, Eric and Mark Ryan went out and shouted at the driver

thereof;[7] that Sonny and Dennis alighted from the tricycle and confronted Eric and Mark Ryan; that they shouted at each other; that the situation worsened when Eric and Mark Ryan boxed Dennis; that Abelardo came out and hit Dennis with a bottle on the head; that when Abelardo attacked Dennis with the bottle the second time, the latter got a knife from his back pocket and stabbed the former;[8] that when Eric and Mark Ryan saw what happened, they also boxed Dennis; that Sonny and James went to the tricycle and got their own weapons and struck Eric and Mark Ryan; that after Eric and Mark Ryan fell down, he left the crime scene;[9] that subsequently, to his surprise and consternation, he was arrested by the police officers who were with Domingo Evangelista; that he learned at that moment that he was accused of stabbing the Evangelista brothers.[10]

On August 12, 2011, the RTC rendered a decision,[11] the dispositive portion of which reads:

“WHEREFORE, in Criminal Case No. 8886, the Court finds accused Dang Angeles y Guarin GUILTY beyond reasonable doubt for the crime of MURDER as defined and penalized under Article 248 of the Revised Penal Code and is sentenced to suffer the penalty of reclusion perpetua. He is further ordered to pay the heirs of Abelardo Evangelista P50,000.00 as civil indemnity ex delicto, P80,650.00 as actual damages, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

In Criminal Case No. 8887, the Court finds accused Dang Angeles y Guarin GUILTY beyond reasonable doubt for the crime of ATTEMPTED MURDER, and is hereby sentenced to suffer the penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum, with all the accessory penalties imposed by law. He is further ordered to pay Eric Evangelista the amounts of P7,032.00 as actual damages, P40,000.00 as moral damages, and P20,000.00 as exemplary damages.

In Criminal Case No. 8888, the Court finds accused Dang Angeles y Guarin GUILTY beyond reasonable doubt for the crime of FRUSTRATED MURDER, and is sentenced to suffer an indeterminate penalty from 6 years and 1 day of prision mayor as minimum, to 14 years, 8 months and 1 day of reclusion temporal as maximum. In addition, he is ordered to pay the victim Mark Ryan Evangelista the amount of P40,000.00 as moral damages, P68,712.00 as actual damages, and P25,000.00 as exemplary damages.

Let the records of these cases be sent to archives insofar as accused James Santos, Dennis Ramos and Sonny Baynosa are concerned, to be revived upon their arrest.

SO ORDERED.”

Accused-appellant filed this appeal, assigning the following errors to the trial court:

“I THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER, FRUSTRATED AND ATTEMPTED MURDER DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II GRANTING, BUT NOT NECESSARILY CONCEDED, THAT THE ACCUSED-APPELLANT MAY BE HELD CRIMINALLY RESPONSIBLE FOR THE DEATH OF ABELARDO, HE CANNOT BE MADE LIABLE FOR FRUSTRATED AND ATTEMPTED MURDER FOR LACK OF EVIDENCE TO SUPPORT THAT THERE WAS CONSPIRACY AMONG THE ACCUSED.

III EVEN ASSUMING ARGUENDO THAT THE ACCUSED-APPELLANT MAY BE HELD LIABLE, THE TRIAL COURT ERRED IN CONSIDERING THE QUALIFYING CIRCUMSTANCE OF TREACHERY DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE SAME WITH MORAL CERTAINTY.[12]

Accused-appellant contends that his guilt was not proven beyond reasonable doubt because the testimonies of the witnesses for the prosecution were incredible, illogical and inconsistent, thus, making them of doubtful veracity;

that the prosecution failed to establish that there was conspiracy among the four accused, making him liable for all the crimes allegedly committed by the other accused; and that the court a quo erred in appreciating the qualifying circumstance of treachery.

The appeal is devoid of merit.

Murder is the unlawful killing by the accused of a person, which is not parricide or infanticide, committed with any of the attendant circumstances enumerated in Article 248 of the Revised Penal Code.[13] The essential elements of murder, which the prosecution must prove beyond reasonable doubt, are:

1. A person was killed.
2. The accused killed him.
3. The killing was attended by any of the qualifying circumstances mentioned in Art. 248.
4. The killing is not parricide or infanticide.

In the case at bar, the attendant circumstance present to qualify the crime into murder is treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specifically to ensure the execution of the crime without risk to himself arising from the defense which the offended party might make. To establish treachery, two elements must concur: (a) that at the time of the attack, the victim was not in a position to defend himself; and (b) that the offender consciously adopted the particular means of attack employed.[14]

In the instant case, it is evident that the attack on the victim made by accused-appellant and by the other accused was sudden and deliberate. The attack was unexpected on the part of the unarmed victims considering that they were in their house celebrating the forthcoming wedding of their sister. The attack was executed in a manner that the victims were rendered defenseless and unable to retaliate. The severity of the wounds forestalled any possibility of resisting the attack. Without doubt, accused-appellant and his co-accused took advantage of this situation. The acts of accused-appellant and his co-accused were clear indications that they employed means and methods which tended directly and specifically to ensure the successful execution of the offenses.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The presence of conspiracy in this case may be inferred from the following circumstances where all the accused acted in concert at the time of the commission of the offense,[15] to wit: (1) The accused-appellant together with the other accused arrived at the crime scene at the same time, (2) Accused-appellant alighted from the same tricycle where the other accused rode, (3) Accused-appellant and the other accused successively assaulted the victims – a) accused-appellant stabbed Elmer with a foot-long knife in his right abdomen; b) Eric tried to carry Elmer to bring him to the hospital but Sonny stabbed the former at the right side of the back; c) Dennis and James stabbed Abelardo successively; d) accused-appellant also stabbed Abelardo's left chest, followed by Sonny who stabbed the latter in his right chest with an icepick; and e) James stabbed Mark Ryan; and (4) All accused fled the crime scene immediately after the stabbing incident. The above circumstances plainly show the common design and the unity of purpose between the accused-appellant and the other accused in executing their plan to kill the victims. Moreover, when there is conspiracy, it is not important who delivered the fatal blow since the act of one is considered the act of all.[16]

Article 6 of the Revised Penal Code defines the stages in the commission of felonies:

Art. 6. Consummated, frustrated, and attempted felonies.— Consummated felonies as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.

There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.

In *Serrano vs. People*,^[17] the Supreme Court distinguished a frustrated felony from an attempted felony in this manner:

- 1.) In a frustrated felony, the offender has performed all the acts of execution which should produce the felony as a consequence; whereas in an attempted felony, the offender merely commences the commission of a felony directly by overt acts and does not perform all the acts of execution.
- 2.) In a frustrated felony, the reason for the non-accomplishment of the crime is some cause independent of the will of the perpetrator; on the other hand, in an attempted felony, the reason for the non-fulfillment of the crime is a cause or accident other than the offender's own spontaneous desistance.

In frustrated murder, there must be evidence showing that the wound would have been fatal were it not for timely medical intervention. If the evidence fails to convince the court that the wound sustained would have caused the victim's death without timely medical attention, the accused should be convicted of attempted murder and not frustrated murder.^[18]

In the instant case, the prosecution was able to establish beyond reasonable doubt the crimes of murder, frustrated murder and attempted murder. Firstly, the killing of Abelardo was consummated because he died instantaneously due to the stab wounds he sustained. Secondly, the treacherous stabbing of Mark Ryan is frustrated murder because the wound he sustained would have been fatal were it not for timely medical intervention. Lastly, the treacherous stabbing of Eric is attempted murder because the wound he sustained was not fatal. The attending physician, who examined Eric after the stabbing incident admitted that the wound would have healed for a period of seven (7) to ten (10) days. Thus, the trial court correctly convicted accused-appellant of murder, frustrated murder and attempted murder.

Accused-appellant's denial and alibi were worthless in the face of his positive identification by the prosecution witnesses as one of the assailants of the victims. As the Supreme Court has oft pronounced, both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. For the defense of alibi to prosper, it is not sufficient that appellant proves that he was somewhere else when the crime was committed, he must also show that it was physically impossible for him to be at the locus criminis or its immediate vicinity when the crime was perpetrated.^[19] In this case, accused-appellant failed to prove that it was physically impossible for him to be at the locus criminis or its immediate vicinity when the crime was committed.

The crime of murder is penalized under Article 248 of the Revised Penal Code, as amended, with reclusion perpetua to death. Accused-appellant is sentenced to suffer the penalty of reclusion perpetua for the death of Abelardo, since there were no aggravating or mitigating circumstances that attended the commission of the crime.

In Criminal Case No. L-8888, the correct penalty for frustrated murder is reclusion temporal. Under Article 61, paragraph 2 of the Revised Penal Code, as amended, the penalty for frustrated murder is one degree lower than reclusion perpetua to death, which is reclusion temporal. Reclusion temporal has a range of twelve (12) years and one (1) day to twenty (20) years. Applying the Indeterminate Sentence Law, the maximum of the indeterminate

penalty should be taken from the medium of reclusion temporal, since no aggravating or mitigating circumstances attended the commission of the crime. The minimum of the indeterminate penalty shall be taken from the full range of prision mayor which is one degree lower than reclusion temporal. The indeterminate penalty 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 should be imposed.[20]

In Criminal Case No. L-8887, the corresponding penalty for attempted murder shall be two degrees lower than that prescribed for consummated murder under Article 248, that is, prision correccional in its maximum period to prision mayor in its medium period. Thus, accused-appellant should serve an indeterminate sentence ranging from two (2) years, four (4) months and one (1) day of prision correccional, as minimum to eight (8) years and one (1) day of prision mayor, as maximum.[21]

Moral damages may be awarded in murder cases despite the absence of proof of mental and emotional suffering of the victims' heirs. A violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family. With or without proof, this fact can never be denied; because it is undisputed, it must be considered proved.[22] Exemplary damages should be awarded in accordance with Article 2230[23] of the Civil Code given the presence of treachery which qualified the killing to murder. The amount of P30,000.00 as exemplary damages to the heirs of Abelardo is thus, proper.[24] The award in the amount of P20,000.00 as exemplary damages to Eric and Mark Ryan, is also in order.[25]

When actual damages proven by receipts during the trial amount to less than P25,000.00, the award of temperate damages for P25,000 is justified in lieu of actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds P25,000.00 then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted.[26]

In the instant case, the heirs of Abelardo Evangelista incurred funeral and burial expenses in the total amount of P80,650.00 which were duly supported by receipts.[27] On the other hand, Mark Ryan Evangelista incurred medical expenses in the total amount of P68,712.00 which were also duly supported by receipts.[28] Thus, the heirs of Abelardo and Mark Ryan are entitled to the aforementioned sums of money for actual damages.

In the case of Eric Evangelista, the actual damages proven during the trial amount to less than P25,000.00. Only medical expenses amounting P7,032.00 were duly supported by receipts.[29] Thus, the award of temperate damages of P25,000.00 in lieu of P7,032.00 as actual damages is justified.

Consistent with prevailing jurisprudence, the heirs of Abelardo is granted P75,000.00 for death indemnity, P50,000.00 for moral damages, and P30,000.00 as exemplary damages. Damages in such amounts are to be granted whenever the accused are adjudged guilty of a crime covered by R.A. 7659, like the murder charge which was proved herein. Indeed, the principal consideration for the award of damages is the penalty provided by law or imposable for the offense because of its heinousness, not the public penalty actually imposed on the offender. In other words, the litmus test in the determination of the civil indemnity is the heinous character of the crime committed, which would have warranted the imposition of the death penalty, regardless of whether the penalty actually imposed is reduced to reclusion perpetua.[30]

Accused-appellant is also liable to pay P40,000.00 for moral damages and P20,000.00 for exemplary damages in relation to Criminal Case No. L-8888 and Criminal Case No. L-8887.

In addition, and in conformity with current policy, this Court also imposes on all the monetary awards for damages an interest at the legal rate of six percent (6%) from date of finality of this decision until fully paid.[31]

WHEREFORE, the appeal is DENIED. The decision of the Regional Trial Court of Lingayen, Pangasinan,

Branch 38 (RTC) is AFFIRMED with MODIFICATION as follows:

In Criminal Case No. L-8886, accused-appellant Dang Angeles y Guarin is found guilty beyond reasonable doubt of murder and is sentenced to suffer the penalty of reclusion perpetua. Accused-appellant is ordered to pay the heirs of Abelardo Q. Evangelista the amounts of Seventy-Five Thousand Pesos (P75,000.00) for civil indemnity, Fifty Thousand Pesos (P50,000.00) for moral damages, Thirty Thousand Pesos (P30,000.00) for exemplary damages and Eighty Thousand Six Hundred Fifty Pesos (P80,650.00) for actual damages as well as interest on all these damages assessed at the legal rate of 6% from date of finality of this decision until fully paid.

In Criminal Case No. L-8887, accused-appellant Dang Angeles y Guarin is found guilty beyond reasonable doubt of attempted murder and is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum to eight (8) years and one (1) day of prision mayor, as maximum. Accused-appellant is ordered to pay Eric Q. Evangelista the amounts of Forty Thousand Pesos (P40,000.00) for moral damages, Twenty Thousand Pesos (P20,000.00) for exemplary damages and Twenty-Five Thousand Pesos (P25,000.00) for temperate damages as well as interest on all these damages assessed at the legal rate of 6% from date of finality of this decision until fully paid.

In Criminal Case No. L-8888, accused-appellant Dang Angeles y Guarin is found guilty beyond reasonable doubt of frustrated murder and is sentenced to suffer the indeterminate penalty 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. Accused-appellant is ordered to pay Mark Ryan Q. Evangelista the amounts of Forty Thousand Pesos (P40,000.00) for moral damages, Twenty Thousand Pesos (P20,000.00) for exemplary damages and Sixty-Eight Thousand Seven Hundred Twelve Pesos (P68,712.00) for actual damages as well as interest on all these damages assessed at the legal rate of 6% from date of finality of this decision until fully paid.

SO ORDERED.

Tijam, N.G., Chairperson and Lopez, M.V., JJ.,

[1] Rollo, pp. 19-29.

[2] Records, pp. 1-2.

[3] Records, pp. 29-30.

[4] Records, pp. 28-29.

[5] Records, p. 31.

[6] TSN dated August 16, 2010, pp. 9-17.

[7] TSN dated November 3, 2010, pp. 3-4.

[8] TSN dated November 3, 2010, pp. 5-6.

[9] Ibid, p. 7.

[10] Ibid, p. 8.

[11] Rollo, pp. 19-29.

[12] Rollo, pp. 54-55.

- [13] People of the Philippines vs. Benny Cabtalan, G.R. No. 175980, February 15, 2012
- [14] People of the Philippines vs. Samson Escleto, G.R. No. 183706, April 25, 2012.
- [15] People of the Philippines vs. Rolly Angelio, G.R. No. 197540, February 27, 2012.
- [16] See People of the Philippines vs. Rolly Angelio, G.R. No. 197540, February 27, 2012.
- [17] G.R. No. 175023, July 5, 2010.
- [18] People of the Philippines vs. Regie Labiaga, G.R. No. 202867, July 15, 2013.
- [19] People of the Philippines vs. Adriano Leonardo y Dantes, G.R. No. 181036, July 6, 2010.
- [20] People of the Philippines vs. Antonio Baldomar y Liscano, G.R. No. 197043, February 29, 2012.
- [21] People of the Philippines vs. Regie Labiaga, G.R. No. 202867, July 15, 2013.
- [22] People of the Philippines vs. Victoriano Ernosa (acquitted), Rosendo Ernosa, and Nicolas S. Tarasona @ "Felagio" (deceased), Accused, Rosendo Ernosa, Accused-Appellant, G.R. No. 137273, September 17, 2002.
- [23] ART. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.
- [24] People v. Asis, G.R. No. 177573, July 7, 2010.
- [25] People of the Philippines vs. Antonio Baldomar y Liscano, G.R. No. 197043, February 29, 2012.
- [26] People v. Villanueva, G.R. No. 139177, August 11, 2003.
- [27] Records, pp. 94-95; Rollo, p. 28.
- [28] Records, pp. 170-186.
- [29] Records, pp. 161-168.
- [30] People of the Philippines vs. Gilberto Villarico Sr. aka "Berting", Gilberto Villarico Jr., Jerry Ramentos, and Ricky Villarico, G.R. No. 158362, April 4, 2011.
- [31] People of the Philippines vs. Bingky Campos and Danny "Boy" Acabo, G.R. No. 176061, July 4, 2011.

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