

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO SAMPONG Y GONZALES, RAUL SAMPONG Y GONZALES AND GENEROSO VALERIO Y PRODIGALIDAD, ACCUSED.

Ponente: CRUZ, J.

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CRUZ, J.:

For the slaying of Atty. Ariston Urcia (or “Atty. Urcia”) and his children Maria Angela F. Urcia (or “Angela”), 15, and Adrian F. Urcia (or “Adrian”), 13, three informations for murder were filed against Romeo Sampong y Gonzales (or “Romeo”), Raul Sampong y Gonzales (or “Raul”) and Generoso Valerio y Prodigalidad (or “Valerio”) before the Regional Trial Court of Cavite (Cavite City, Branch 17), while for the wounds inflicted on Atty. Urcia’s son Arvin Christian F. Urcia (or “Arvin”), 18, an information for frustrated murder was filed against Romeo, Raul and Valerio in the same court.

The informations for murder, docketed as Crim. Cases Nos. 407-2000, 408-2000 and 409-2000, are similarly worded except on the name of the victim. The information in Crim. Case No. 407-2000 pertinently reads:

“That on or about the 14[th] day of August 2000, in the Municipality of Rosario, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, armed with knives or bladed weapons, with intent to kill, with treachery and evident premeditation, did, then and there, wilfully, unlawfully and feloniously assault, attack and stab several times one ATTY. ARISTON URCIA y DIMAALA, inflicting upon him mortal wounds on the different parts of his body which caused his death, to the damage and prejudice of his heirs.

CONTRARY TO LAW.”

The victims named in the informations in Crim. Cases Nos. 408-2000 and 409-2000 are Adrian and Angela, respectively.

On the other hand, the information for frustrated murder, docketed as Crim. Case No. 410-2000, in part, reads:

“That on or about the 14[th] day of August 2000, in the Municipality of Rosario, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, armed with knives or bladed weapons, with intent to kill, with treachery and evidence (sic) premeditation, did, then and there, wilfully, unlawfully and feloniously assault, attack and stab several times one ARVIN CHRISTIAN F. URCIA, 18 years old, thereby inflicting upon him multiple wounds on the different parts of his body, thus performing all the acts of execution which would have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of some causes independent of accused’s will, that is, due to the immediate and effective medical assistance given to said Arvin Christian F. Urcia, which prevented his death, to his damage and prejudice.

CONTRARY TO LAW.”

Upon arraignment, Romeo entered pleas of guilty to all the charges, whereas Raul and Valerio pleaded not guilty to the same charges.

Crim. Cases Nos. 407-2000 to 410-2000 were consolidated (order dated September 26, 2000) and were, therefore, tried jointly.

After trial, Valerio filed, with leave of court, a demurrer to evidence. In an order dated April 29, 2003, the trial court granted the demurrer to evidence and dismissed the cases as against Valerio.

The evidence for the prosecution is summarized by the Office of the Solicitor General (or “OSG”), as follows:

“On August 14, 2000, around 11:30 in the evening, Arvin Urcia was awakened when he heard his sister, Angela, screaming from the second floor of their house in Brgy. Sapa, Rosario, Cavite. He noticed that the two (2) doors leading to the back of their house were slightly open. On his way to the second floor, Arvin was met and stabbed in the chest by appellant Romeo Sampong, one of the caretakers of the next door farm owned by a certain Armando Gabriel; Arvin tried and succeeded to wrest the knife from Romeo. The latter immediately fled and climbed the perimeter fence at the back of the Urcia residence going to the farm. (TSN, March 12, 2001, pp. 16-17; 19-25) About the same time, Arvin’s neighbor, Nida Laxamana, also heard Angela’s screams. She also saw appellant Raul, another farm caretaker, running from the back door of the Urcia residence, and jumping over the fence going to the farm. After five (5) minutes, she likewise saw Romeo running and jumping towards the same direction. (TSN, March 21, 2001, pp. 6-11)

Meanwhile, Arvin rushed upstairs where he saw his sister Angela bathed in her own blood inside the bedroom. She was lying on the floor facedown. At the adjacent master bedroom, he saw his father, Atty. Ariston Urcia bleeding and lying on his back. His brother, Adrian, was on top of the bed also bleeding and vomiting. He shook his father but there was no response. He ran to the terrace of the master’s bedroom and shouted for help. A number of neighbors immediately came to his aid and helped bring Atty. Urcia, Angela and Adrian to the Grace Hospital where they were pronounced dead on arrival. Arvin was also taken to Savior Hospital where his wounds were treated. (supra, pp. 26-27; 31-33)

In the following morning, police officers Fernando Garcia, Ricardo dela Cruz, and Jaime Rollan, together with a photographer and a number of neighbors proceeded to the farm at the back of Urcia residence where Nida Laxamana and Arvin saw appellants Romeo and Raul flee. Inside the quarters of Romeo and Raul, only around thirty (30) meters away from the Urcia residence, they found a pair of maong pants, checkered polo, several beer bottles, and a knife with an inscription ‘Raul’, all stained with blood. Thereafter, they went to the Urcia residence to take pictures of the bloodstained floors and bed. They also recovered another knife in the house. (TSN, March 19, 2001; pp. 13-19; 52-53; 61-67)

In the afternoon of the same day, Romeo Sampong surrendered in Camp Crame. He executed a sinumpaang salaysay where he completely exonerated Raul from any participation. He stated that he had an altercation with Arvin Urcia which led to a bloody chase in the Urcia residence. (TSN, February 17, 2003; p. 22) The police investigation, however, showed that both Romeo and Raul Sampong participated in the murder of the Urcia family.

Dr. Jocelyn Tigrol-Dignos, medical health officer of Rosario, Cavite, testified that Atty. Ariston Urcia sustained fourteen (14) stab wounds, a number of which punctured his lungs, heart and kidneys. Several wounds were also found in his arms, which, as observed by Dr. Dignos, were defense wounds from a struggle. (TSN, March 11, 2002, pp. 17-18) Angela likewise sustained fourteen (14) fatal wounds, while Adrian (sic) had six (6). (Id., p. 25) Dr. Dignos observed that the stab wounds of the victims were inflicted by two (2) different knives. (Id., pp. 48; 54-55). Arvin Urcia, on the other hand, sustained two (2) stab wounds in the left side of his chest and abdomen. (TSN, March 12, 2001, pp. 22-25)”

On the other hand, the evidence for the defense is synthesized by the trial court as follows:

“Accused Romeo Sampong took the witness stand and, consistent with his plea, admitted that he stabbed the victims. He testified that he has been residing at the house at San Andres Compound, Rosario, Cavite for more

than a year. Together with his brother, accused Raul Sampong, he takes care of the fighting cocks of their employer, Arnaldo Gabriel. On August 14, 2000, at 5 pm, he, Raul, accused Generoso Valerio, and another friend, were drinking beer in their house. After more than two hours, Valerio and his friend went home while he and Raul watched TV. At 11 pm, Raul went to sleep and he (Romeo) was left alone in the terrace. After switching off the TV and as he sat on the terrace, 'something bad entered in his mind' ('may pumasok na masama sa isip ko'). He thought of entering the house of Atty. Urcia because he needed money. Earlier that day, he had received a call from his mother in the province, asking for money. As they did not have money, he became confused, thus the malevolent thought entered his mind. While his brother Raul slept in the house, he climbed the concrete perimeter fence at the back of the Urcia house and went down a stairway in the backyard. He entered the house through the kitchen door which was open and went upstairs. There he was met by Atty. Urcia who shouted at him and asked him what he was doing in the house. As he was surprised when Atty. Urcia saw him, he stabbed Urcia who was able to reach his bedroom before collapsing on the floor. Thereupon, the son of Atty. Urcia was awakened and embraced him (accused Romeo Sampong), thus prompting him to stab the son also. Urcia's son fell on the bed. As accused ran out of Urcia's room, the door near him opened and a person was shouting. Surprised, accused also stabbed that person and as his victim fell, he realized that he had stabbed a girl. Now confused and not knowing what to do, he ran downstairs and there he met Arvin with whom he struggled for possession of the knife. Thereafter, he ran out of the house and went home to wake up his brother Raul. He told him that he had stabbed Atty. Urcia and his kids and instructed him that should anyone look or ask about him that he (Raul) does not know anything. He then changed his bloodied clothes and went outside to wait for a tricycle. He was able to hail a tricycle but it did not stop for him. Whereupon, he saw a tanod approach (sic) him so he went back inside the house. On returning to the house, he noticed that his brother Raul had followed him and Valerio was also there because Raul had awakened him and they thought that he (Romeo) had encountered an enemy. He instructed Raul and Valerio that if anyone looks for him they should say that they have not seen him. His brother Raul told him that he would go with him but he (Romeo) should wait because he (Raul) had to put on his short parts (sic), as he was only wearing briefs at that time. However, Romeo did not wait anymore but instead took off and proceeded to the house of a brother in Novaliches where he told the people there that he had stabbed Atty. Urcia. After an hour, his brother, who followed him, also arrived in Novaliches. At 3 pm, his uncle, brother, and cousin accompanied him to Camp Crame. When the police saw his wound, they made him undergo a medical examination and told him that they had to question his brother. Accordingly, he accompanied them to the house of his uncle and they fetched his brother. Accused claims that his purpose in entering the house was to rob Atty. Urcia. He identified the bladed instrument (Exh. III-2) as the one he used on the evening in question.

x x x x x x x x

Raul Sampong testified that at about 5:30 pm of August 14, 2000 he was feeding the fighting cocks and thereafter joined Valerio and his nephew, and accused Romeo Sampong in drinking beer. After drinking, he watched TV until 9:30 pm and went to sleep. Romeo stayed outside watching TV. Thereafter, he was roused from his sleep by his brother Romeo. He was surprised to see Romeo bloodied and Romeo told him not to tell anyone where he would be. He followed Romeo inside the room as the latter changed his clothes. Romeo asked him to bind his wound but he could not do it as he was shaking in fear upon seeing the blood. They then went to the house of Valerio to ask for help at about 11 pm. Valerio was awakened by his sister and he came out of his house. Raul told Valerio: 'Ma, si Romeo nakaaway iyong anak ni Attorney'. As they were talking outside the gate, a person suddenly arrived wielding a wooden club ('pamalo') but left when he saw them. At that time, Romeo was not with them as he had left. Valerio told them to go home and they will talk about it the following day. Raul went home and could not find Romeo there. As he sat in the terrace, he heard a commotion outside and someone was banging on their gate, calling his name, ordering him to open the gate, and shouting invectives. Thinking that it was the people looking for his brother, he became afraid and hid behind banana trees at the back of the house for an hour. From his hiding place, he heard gunshots inside the house. When it became quiet inside the compound, he came out, rode a tricycle, and went to Novaliches, Quezon City. He left Rosario at 3 am. In Novaliches, he saw Romeo who told him that he (Romeo) had an

altercation with the son of Atty. Urcia. When they asked Romeo if he wants to surrender the latter agreed.”

On August 25, 2003, the lower court rendered a decision, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered finding accused ROMEO SAMPONG y GONZALES and accused RAUL SAMPONG y GONZALES guilty beyond reasonable doubt of THREE (3) counts of MURDER and sentencing each of them to suffer the penalty of RECLUSION PERPETUA for each count.

Judgment is also hereby rendered finding accused ROMEO SAMPONG y GONZALES and accused RAUL SAMPONG y GONZALES guilty beyond reasonable doubt of the crime of ATTEMPTED MURDER and sentencing accused ROMEO SAMPONG y GONZALES to suffer the indeterminate penalty of six (6) years prision correccional as minimum to seven (7) years prision mayor as maximum and accused RAUL SAMPONG y GONZALES the indeterminate penalty of six (6) years prision correccional as minimum to eight (8) years (and) one (1) day prision mayor as maximum.

Further, accused ROMEO SAMPONG y GONZALES and RAUL SAMPONG y GONZALES are hereby ordered to solidarily pay the heirs of the victims the following: 1) P150,000, as civil indemnity for the deaths of Ariston Urcia, Adrian Urcia and Ma. Angela Urcia; 2) P150,000, as moral damages for the deaths of said victims, and 3) P3,006,000, as actual damages (wake and funeral expenses and unearned income of Ariston Urcia). Both accused are also ordered to solidarily pay Arvin Urcia P1,500.00 as nominal damages for the physical injuries suffered by him.

SO ORDERED.”

In convicting Romeo and Raul (or “appellants”, when collectively) of murder, on three counts, for the killing of Atty. Urcia, Angela and Adrian, and of attempted murder for the wounding of Arvin, the trial court found that the crimes were attended by the qualifying circumstances of evident premeditation and treachery. Nevertheless, the trial court appreciated the mitigating circumstance of plea of guilty in favor of Romeo and found no aggravating circumstance against him while, in the case of Raul, it found neither mitigating nor aggravating circumstance.

Appealing their conviction, appellants fault the trial court –

1. “(I)n considering the plea of guilty of accused Romeo Sampong as judicial admission and evidence of the highest order”;
2. “(I)n finding that there was sufficient circumstantial evidence which prove beyond reasonable doubt the participation of accused Raul Sampong’s participation (sic) and culpability as principal”;
 - 2.1 “(I)n not doubting the observation of prosecution witness Nida Laxamana”;
 - 2.2 “(I)n concluding that the physical evidence shows that there was more than one assailant”;
 - 2.3 “(I)n concluding that the evidence shows that there were two (2) bloodstained knives recovered by the police”;
 - 2.4 “(I)n admitting as evidence another knife, with the name ‘Raul’ engraved on it (Exh. HHH-2, Exh. U, Exh. AAA-6), from the quarters of accused”;
 - 2.5 “(I)n finding that accused Raul Sampong had motive”;
3. “(I)n concluding that the killings were qualified by evident premeditation and treachery (sic)”;
4. “(I)n finding the guilt of both accused of the crimes of murder for three (3) counts and the crime of attempted murder”; and

5. (I)n not believing the version of accused Romeo Sampong that the crimes he committed alone were attempted robbery, three (3) counts of homicide and one (1) count of attempted homicide.”

We now resolve.

The issues can be delimited to two: (i) whether or not Raul’s participation in the crimes charged was proven; and (ii) whether or not appellants were properly convicted of murder on three counts and attempted murder.

Raul denies participation in the crimes as he was allegedly asleep in his quarters at the time of their perpetration. On the other hand, Romeo claims sole authorship of the crimes and denies that the same were committed with treachery and evident premeditation as the same were purportedly incidental to his attempt to rob Atty. Urcia.

It is noteworthy that these findings of the trial court are undisputed:

“x x x. Based on Exh. KKK, the following facts may be gathered: (1) the knife measuring 13 cms. Long, including the handle, the Jag short pants, the Nike jacket and the scrapings taken from the floor of the house of Armando Gabriel are all positive for human blood, Type A; x x x; and (3) the blood samples from the victims Atty. Urcia and Angela Urcia is type O; and (4) the blood sample from victim Adrian Urcia is Type A. Exh. JJJ shows that x x x (3) the kitchen knife with black handle and scrapings from the main door of the Urcia house is positive for human blood Type O.” (Decision, p. 8)

In other words, both Atty. Urcia and Angela had type O blood, whereas Adrian had type A blood; two knives were recovered, one from Atty. Urcia’s house and the other from the quarters of appellants, and both knives had human blood; and the blood in the knife recovered from Atty. Urcia’s house was type O while the blood in the knife taken from appellants’ quarters was type A.

On the other hand, Raul testified that on August 15, 2000, at 3:00 a.m., after hiding behind banana trees at the back of his quarters as people were looking for Romeo, he left Rosario, Cavite for Novaliches, Quezon City (Decision, p. 15).

Raul’s participation as principal and co-conspirator of the crimes in question was established by circumstantial evidence. As aptly observed by the lower court:

“a) He was at the scene of the crime. Prosecution witness Nida Laxamana positively testified that after she heard the shouts of Angela she saw accused Raul Sampong jumping over the fence and fleeing from the Urcia compound and he was followed shortly thereafter by accused Romeo Sampong (TSN 3/21/01, pp. 9-10). x x x.

b) The physical evidence shows that there was more than one assailant. In his testimony accused Raul Sampong admitted that Ariston Urcia is much taller (5’7” or 5’8”) and much bigger than accused Romeo Sampong who, this Court notes, is only 5 feet tall, more or less, with slight build (TSN 2/17/03, p. 51). Given this significant disparity in physical size, this Court cannot believe that accused Romeo Sampong, even if he was armed with a knife and had the element of surprise, could have easily subdued a much bigger protagonist by himself. Certainly, Ariston Urcia could have put up a fight, created noise, or even yelled for help before succumbing to the vicious attack. x x x. These injuries clearly show that Ariston Urcia was not only taken by surprise but was easily subdued by numerically superior force. The defense wounds on his fingers are simply the result of an instinctive, albeit futile, effort to parry the numerous knife thrusts and to cling on to life. The severity and multiplicity of the injuries show that he was easily overcome by his attackers who must have helped each other in subduing him. x x x. This only goes to show that there was superiority in arms and number in favor of the malefactors and the mode and timing of the attack added to that advantage. That accused Romeo Sampong could not have easily overpowered Ariston Urcia and his son Adrian by himself is also demonstrated by the fact that Arvin Urcia, the lone survivor of the carnage, who was not as big and heavy as his father, was able to tangle with said accused and successfully grab the knife from him. This Court notes that Arvin has the wiry build of a young man his age.

c) Accused Romeo Sampong claimed that he used only one knife during the entire episode (TSN 2/17/03, pp. 28-29, TSN 1/14/03, p. 16; Exh. III-2; Exh. W). However, the evidence shows that there were two (2) bloodstained knives recovered by the police, namely, a kitchen knife (Exh. III-2; Exh. W) from the bedroom of Ariston Urcia and another knife, with the name 'Raul' engraved on it (Exh. HHH-2; Exh. U; Exh. AAA-6), from the quarters of accused. Both were positive for human blood. Further, the doctor who conducted the autopsy on the victims expressed the opinion that based on the length of the wounds 'the weapon used on the body of Angela was different from that of the weapon used on the bodies of Atty. Urcia and Adrian' (TSN 3/11/02 p. 54-55). It is therefore reasonable to deduce that the 'Raul' knife was also used in the killings and the same could not have been used also by accused Romeo Sampong because said accused admitted that he used only one knife. In which case, there is only one other person, positively identified by a witness as one of two persons fleeing from the scene of the crime, who could have used said knife – accused Raul Sampong.

d) Accused Raul Sampong had motive. He testified that he was aware of the financial need of their mother because his brother, accused Romeo Sampong, had told him so (TSN 2/17/03, pp. 54-55). Such being the case, it is not difficult to believe that they in fact talked about the problem and agreed on how to address it." (Decision, pp. 16-18)

The foregoing findings of the trial court, coupled with Raul's flight from the scene of the crimes which is an indication of guilt (People vs. Abatayo, 433 SCRA 562), prove his participation therein.

Appellants assail the credibility of Nida Laxamana (or "Nida") whose testimony was to the effect that after hearing the screams of Angela, she saw Raul running from the rear of Atty. Urcia's house and jumping over the fence separating said house and the quarters of appellants. However, no improper motive or ill-will has been shown why Nida would falsely testify against Raul which could possibly cause his incarceration for a long time, if not the termination of his life (before abolition of the death penalty). Hence, Nida's testimony is entitled to full faith and credit (People vs. Gomez, 332 SCRA 661). As correctly observed by the trial court:

"x x x. This Court has no reason to doubt her observation. During the ocular inspection conducted at the scene of the crime, it was observed that one could indeed see the side of the house even from the street because the fence is made of iron grills. Laxamana also stated that the place was lighted at the time and she is familiar with the faces of both accused, having known them as the caretakers of fighting cocks at the back of the Urcia house. Furthermore, there is nothing in the evidence to show that Laxamana had ill-motives to implicate the accused brothers, specifically Raul Sampong. The defense tried to show that Laxamana harbored ill feelings against Raul Sampong because she was not allowed to get fruits from the farm while the other neighbors were so permitted. This Court can not believe this claim because accused Raul Sampong in the same breath admitted that he never asked Laxamana about the matter and he never had any quarrel with Laxamana (TSN, 2/17/03, pp. 52-53). Furthermore, even if the grudge were true it is so insignificant or petty to impel Laxamana to implicate accused Raul Sampong to a crime as grave as murder."

We agree with the trial court that there was more than one assailant. As earlier stated, both Atty. Urcia and Angela had type O blood, while Adrian's blood was type A; and the knife recovered from Atty. Urcia's house, which was the same weapon wrested by Arvin from Romeo, was positive for human blood, type O, while the knife taken from appellants' quarters was found positive for human blood, type A. These circumstances indicate that one knife (with type O blood) was used in stabbing either Atty. Urcia or Angela or both, while another knife (with type A blood) was thrust into Adrian.

Given Romeo's declaration that he used only one knife, another knife must have been wielded by a different person and, therefore, there were at least two assailants. Under the situation, questions raised concerning the admissibility of the second knife are of no moment.

Consequently, Raul's participation in the crimes in question cannot be denied. Indeed, We concur with the

observation of the lower court that “the admission of Romeo Sampong is a stratagem aimed at saving at least one of the brothers from criminal responsibility.” (Decision, p. 18)

We shall now delve into the nature of the offenses committed by appellants.

Any person who, not falling within the provisions of Art. 246 (on parricide) of the Revised Penal Code, shall kill another, is guilty of murder if committed with attendant circumstances, among which are treachery and evident premeditation (Art. 248, [1] and [5], *id.*); if none of the circumstances enumerated in Art. 248, *id.*, is present, the crime is merely homicide (Art. 249, *id.*).

The essence of treachery is the sudden and unexpected attack by the aggressor against the unsuspecting victim without the slightest provocation on the latter's part, thereby depriving the latter of any real chance of defending himself. Otherwise stated, there is treachery when the following conditions concur: (i) employment of means of execution that gives the person attacked no opportunity to defend himself or retaliate and (ii) the means of execution was deliberately or consciously adopted (*People vs. Delmindo*, 429 SCRA 546).

Treachery must be established as clearly and as cogently as the crime itself. To prove said qualifying circumstance, the evidence must show that the accused made some preparation to kill the victim in such a manner as to ensure the execution of the crime or to make it impossible or hard for the person attacked to defend himself (*People vs. Aquino*, 431 SCRA 501).

The trial court concluded that treachery attended the crimes for these reasons:

“x x x. In the case at bar, there can be no question that the victims were killed at midnight on August 14, 2000. Considering the lateness of the hour, it is not difficult to imagine that Ariston Urcia and his children Adrian, Angela were already lying or sleeping in their beds when they were attacked. x x x. In a word, the Urcias were unsuspecting and defenseless victims. Thus, when in the dead of night accused stealthily made their way inside the house, it can safely be said that accused, with weapons of death in hand, had in fact deliberately timed their entry such that their victims would be caught completely unaware and defenseless. x x x.” (Decision, p. 20)

However, the foregoing ratiocinations are inconsistent with the trial court’s own findings, to wit:

“x x x. She (Dr. Jocelyn Tirol Dignos, Municipal Health Officer of Rosario, Cavite) opined that the wounds on the hands of Ariston Urcia are defense wounds x x x.” (Decision, p. 9)

“x x x. Certainly, Ariston Urcia could have put up a fight, created noise, or even yelled for help before succumbing to the vicious attack. x x x.” (Decision, p. 17)

Moreover, Arvin testified that on the date and time in question, he was awakened by Angela’s screams, “Daddy! Daddy!” (Decision, p. 5); while Nida declared that as she was passing by Atty. Urcia’s house, she heard Angela shouting, “Daddy, Daddy, saklolo, saklolo” (Decision, p. 6). Furthermore, Romeo testified that after stabbing Atty. Urcia, Adrian was awakened and embraced him (Romeo), prompting him to stab Adrian (Decision, p. 13).

The abovequoted findings of the trial court and testimonies of the prosecution and defense witnesses demonstrate that the victims were all awake and were not absolutely defenseless when the gruesome crimes were perpetrated by appellants. Stated differently, the execution of the attack did not make it impossible for the victims to defend themselves or to retaliate (*People vs. Demate*, 420 SCRA 229). Consequently, treachery was not sufficiently established.

On the other hand, the trial court appreciated the qualifying circumstance of evident premeditation on the basis of Romeo’s testimony that as early as 12:00 noon of August 14, 2000, after receiving a call from his mother asking for P3,000.00 and failing to raise the money, he already formed a resolution to rob the victims (Decision, p.19).

The elements of evident premeditation are: (i) time when the offender determined or conceived to commit the crime; (ii) act manifestly indicating that the offender had clung to his determination; and (iii) sufficient lapse of time between the determination and the execution to allow the accused time to reflect upon the consequences of his act (*People vs. Delmindo*, supra).

Evident premeditation cannot be appreciated in this case. As the OSG observed, “it was not clear when Romeo had formed a resolve to steal, whether it was right after the call from his mother or during or after his drinking spree with his friends. Furthermore, one cannot speculate on whether murder, robbery, or both were in the minds of both appellants.” (Appellee’s Brief, p. 11)

Considering that the offenses in question were not attended by any qualifying circumstance, the crimes committed by appellants are homicide, on three counts, for the slaying of Atty. Urcia, Angela and Adrian and attempted homicide for the wounds inflicted on Arvin. However, Romeo should be credited with the mitigating circumstance of voluntary confession of guilt (Art. 13 [7], *id.*).

WHEREFORE, the appealed decision of the Regional Trial Court of Cavite (Cavite City, Branch 17) is MODIFIED in that the first and second paragraphs of the dispositive portion thereof shall now read as follows:

“WHEREFORE, premises considered, judgment is hereby rendered (i) finding accused-appellants Romeo Sampong y Gonzales and Raul Sampong y Gonzales guilty beyond reasonable doubt in Crim. Cases Nos. 407-2000, 408-2000 and 409-2000 of the crime of homicide on three counts; and (ii) sentencing accused-appellant Romeo Sampong y Gonzales to suffer in each case the indeterminate penalty of twelve (12) years of prision mayor, as minimum, to fourteen (14) years and eight (8) months of reclusion temporal, as maximum, and accused-appellant Raul Sampong y Gonzales to suffer in each case the indeterminate penalty of twelve (12) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum.

Judgment is also rendered finding (i) accused-appellants Romeo Sampong y Gonzales and Raul Sampong y Gonzales guilty beyond reasonable doubt in Crim. Case No. 410-2000 of the crime of attempted homicide; and (ii) sentencing accused-appellant Romeo Sampong y Gonzales to suffer the indeterminate penalty of six (6) months of arresto mayor, as minimum, to two (2) years and four (4) months of prision correccional, as maximum, and accused-appellant Raul Sampong y Gonzales to suffer the indeterminate penalty of six (6) months of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum.”

The appealed judgment is AFFIRMED in all other respects.

SO ORDERED.

Reyes, Jr. and Lanzanas, JJ., concur.

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