

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ORLANDO MORALES Y CAULAN AND PEEJAY MORALES Y NARAG, ACCUSED-APPELLANTS.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

This is an appeal from the Decision dated 14 August 2012 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 03 (RTC), in Criminal Case No. 12280, the dispositive portion of which reads:

“IN VIEW OF ALL THE FOREGOING, the Court finds both ORLANDO MORALES y Caulan, [and] PEEJAY MORALES y Narag, GUILTY beyond reasonable doubt of the felony of MURDER, defined and penalized under Article 248 of the Revised Penal Code, and hereby sentences them:

- To suffer imprisonment of reclusion perpetua;

- To pay the heirs of Jerome Mallilin:

- P75,000.00 as death indemnity;

- P50,000.00 as moral damages;

- P25,000.00 as exemplary damages;

- P25,000.00 as temperate damages; and

- To pay the costs.

SO ORDERED.”[1]

THE CHARGE

In an Information dated 19 August 2008 filed with the RTC, accused-appellants Orlando (ORLANDO) and his son, Peejay (PEEJAY), both surnamed Morales, (appellants) were charged with the crime of murder for conspiring with one another in the fatal stabbing of Jerome Mallilin (or MALLILIN). The accusatory portion of the Information reads:

“That on August 15, 2008, in City of Tuguegarao, Province of Cagayan and within the jurisdiction of this Honorable Court, the [appellants], armed with a bladed weapon, with intent to kill and qualified by treachery,

evident premeditation and use of superior strength, and by conspiring and confederating with one another, then and there willfully, unlawfully and feloniously, stab the victim JEROME MALLILIN, son of the private complainant CIPRIANO MALLILIN, inflicting upon the victim fatal stab wounds that caused his untimely death.

x x x

x x x

x x x

Contrary to law. "[2]

At their arraignment, the Information was read and translated to the Itawis dialect which both appellants understood and, with the assistance of a counsel de parte, appellants entered separate plea of "not guilty".[3]

During the pre-trial conference, the defense admitted: (1) appellants' presence at Dupaya Cockpit, Pengue, Tuguegarao City, at the time of the stabbing incident; (2) the fact that prior to the stabbing incident, SPO1 Pedro Binarao, Jr. (SPO1 BINARAO) pacified PEEJAY and MALLILIN who were then engaged in a heated altercation; and (3) the cause of death of MALLILLIN was two stab wounds on his chest.[4]

During trial, the prosecution presented as witnesses the following: (1) Robie Magora (MAGORA), a cockfight bettor who was beside MALLILIN when the stabbing incident occurred; (2) PO3 Proceso Luga (PO3 LUGA), a police officer who was then watching the cock derby; (3) SPO1 BINARAO, a police officer assigned to maintain peace and order in the cockpit arena; (4) Dr. Jomar Marcelo (DR. MARCELO), one of the hospital's emergency room physicians who attended to MALLILIN; and (5) Ferdinand Corsino (CORSINO), who saw that MALLILIN was twice stabbed by ORLANDO, and then boxed and kicked by PEEJAY.

To prove their pleas of self-defense and defense of relative, the defense presented ORLANDO and PEEJAY, as well as William Jose (WILLIAM), who was also inside the cockpit arena at the time of the stabbing incident.

The Facts

Version of the Prosecution

The Solicitor General summarized the events that led to the stabbing incident based on the testimonies of MAGORA, CORSINO, PO3 LUGA, SPO1 BINARAO. Thus:

"At around 10 o'clock in the evening of August 15, 2008, [MAGORA] and the victim, [MALLILIN] were at the bleachers inside the Dupaya Cockpit Arena located in Carig Sur, Tuguegarao City. [MAGORA], who placed a bet in the cock derby won P540 and was given a P500 peso bill as his winning. Since he needed to return the excess P50, [MALLILIN] gave him a P100 peso bill. [MAGORA] then asked [PEEJAY] if he could change the P100 peso bill into two Fifty peso bills. But [PEEJAY] reacted by getting mad and in a loud voice he uttered the following, 'Magpapalit ka pa alam mo na ngang natalo ang tao.' Despite [MAGORA's] apologies [PEEJAY] slapped the latter without any warning. [MALLILIN] then intervened by saying, 'Bro, huwag mo naman sigawan yung bata, nagpapalit lang naman' to which [PEEJAY] answered, 'isa ka pa, kung gusto mo magsuntukan na lang tayo.' After which [PEEJAY] then boxed [MALLILIN].

[PO3 LUGA], who was just nearby and who saw the incident, pacified the parties and endorsed them to [SPO1 BINARAO], the peace officer detailed at the Dupaya Cockpit Arena at the time. [SPO1 BINARAO] brought [PEEJAY and MALLILIN] to the holding area of the cockpit where he encouraged the parties to settle their differences, to which they agreed. A moment later, [ORLANDO] who is the father of [PEEJAY],... arrived and

upon being apprised of the incident uttered 'bassit ngay bagay dayta, ayusin tayu lattan,' which in English means 'that's a little thing we can settle.' Thereafter, both appellants... went inside the cockpit and stayed at the lower portion while [MALLILIN and MAGORA] proceeded to the upper portion of the arena.

However, after about twenty to thirty minutes, another commotion at the upper portion of the arena occurred. It turned out that [PEEJAY] approached [MALLILIN and MAGORA], and was intending to box [MAGORA] when [MALLILIN] timely intervened. [PEEJAY] then turned his ire on [MALLILIN] and boxed him several times thus causing a fight to ensue. Junior Cabrera came to pacify the parties by holding the neck of [MALLILIN]. When [MALLILIN] was able to release himself from Junior's grip, appellant [ORLANDO] suddenly appeared and stabbed [MALLILIN] at the left side portion of his body with the use of a knife causing a wound which was considered fatal as it produced massive bleeding. [ORLANDO] then stabbed [MALLILIN] a second time on the right side of his chest. Despite his being mortally wounded, [MALLILIN] was able to run towards a higher portion of the arena but fell. While in said lying position and with blood oozing from his body, [PEEJAY] came, boxed and kicked his nape about three times. Upon seeing the incident, [SPO1 BINARAO] approached and pacified [PEEJAY] by pulling his hand downward away from the body of the victim. In the meantime, PO1 Ian Cris Soriano, a companion of [SPO1 BINARAO] placed [ORLANDO] who was then holding a bladed weapon stained with blood under arrest. [SPO1 BINARAO] then asked some persons to carry the body of [MALLILIN] and bring him to the hospital. [MALLILIN] was brought to the Cagayan Valley Medical Center where he eventually died.

[DR. MARCELO], the attending physician of the victim, testified that the cause of death of [MALLILIN] was respiratory arrest due to stab wounds. The victim sustained two stab wounds on the left and right side of his chest. The former wound was considered fatal because it produced massive bleeding.”[5]

Version of the Defense

The defense version of facts show that on 15 August 2008 at 10:00 p.m., PEEJAY was inside the Dupaya Cockpit Arena engaged in an argument with MAGORA when MALLILIN suddenly boxed him on the face. After they had been pacified by a policeman, PEEJAY proceeded to the upper portion of the cockpit arena, but MAGORA, MALLILIN and Serafin Cabrera, alleged uncle of MALLILIN, followed him. Cabrera then suddenly struck PEEJAY with the butt of a small firearm, hitting the latter on the left side of his forehead. Then, MAGORA, MALLILIN and Cabrera mauled PEEJAY until he lost consciousness.

When PEEJAY regained consciousness, he saw his father, ORLANDO, beside him being handcuffed by a police officer. PEEJAY claimed that that was the first time he saw his father at the cockpit arena.

Meanwhile, WILLIAM testified that he was at the lower portion of the cockpit arena sitting beside ORLANDO[6] when he saw three (3) persons made their way towards the upper portion of the arena where PEEJAY was. He saw PEEJAY while being mauled and hit on the head by unknown persons. WILLIAM thus alarmed ORLANDO that PEEJAY was being mauled. ORLANDO ran towards the upper portion of the arena to help his son, but was boxed on the chest by someone from the group of MALLILIN, which caused him to stumble on the 11[th] step[7]. At this point, WILLIAM saw somebody he could not identify draw a knife, and shortly thereafter, a rumble ensued. He was no longer able to observe the subsequent events.

For his part, ORLANDO testified that when he reached the upper portion of the cockpit arena, he spotted PEEJAY lying on the floor bleeding. He tried to pacify PEEJAY's attackers but one of them boxed him in the chest and face, causing him to fall on his knees. Unable to stand up, ORLANDO was then attacked by MAGORA with a knife, but he was able to parry the blow and grab the knife. At the sight of his attackers approaching him, ORLANDO swung the knife, forcing them to run away.

After somebody took away the knife from his hands, ORLANDO proceeded to help PEEJAY who was then

unconscious. At this point, ORLANDO heard people shouting that somebody had been stabbed. Then, two (2) police officers arrived to arrest him. They also arrested PEEJAY who at the time had regained consciousness.

The RTC Decision

The RTC convicted appellants of the crime of murder. It rejected the defense claim that PEEJAY had lost consciousness prior to the stabbing incident. It concluded that the appellants acted in conspiracy with one another in attacking MALLILIN and treacherously stabbing him to death while he was then busy fending off PEEJAY's attack. It also stressed that after taking the knife from MAGORA, there was no more need for ORLANDO to use the knife against the inept aggressors who had been disarmed, hence, his claim of self-defense and defense of relative must fail.

The Issues

Dissatisfied with the verdict, appellants are now before Us seeking their acquittal on four grounds, viz:

- “1. THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED ORLANDO MORALES TO HAVE NOT ACTED IN DEFENSE OF RELATIVE AND SELF DEFENSE;
2. xxx IN FINDING THAT THE QUALIFYING CIRCUMSTANCE OF TREACHERY ATTENDED THE KILLING OF THE VICTIM;
3. xxx IN FINDING THE EXISTENCE OF CONSPIRACY IN THIS CASE;
4. xxx IN CONVICTING THE ACCUSED GIVING CREDENCE TO THE TESTIMONIES OF PROSECUTION'S WITNESSES AND OVERLOOKING MATERIAL DISCREPANCIES.”[8]

The Court's Ruling

We find the appeal bereft of merit.

The rule is long and well-settled that the findings of the trial court pertaining to the credibility of witnesses are entitled to great weight and respect since it has the unique opportunity to observe their demeanor on the witness stand.[9] Such findings are, in fact, binding and accorded finality,[10] unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood, or misappreciated and which, if properly considered, would alter the results of the case.[11] Finding none of these circumstances in the case at bench, We perceive neither strong nor cogent reason to warrant a departure from the foregoing principles. Thus, We defer to the findings of the RTC that appellants conspired together in treacherously attacking MALLILIN, resulting to his death.

Our own review of the testimonies of the witnesses impels us to uphold the RTC's findings and assessment of the witnesses credibility. In answer to the queries of the defense counsel on cross-examination, prosecution witness MAGORA, who was only a meter away from PEEJAY and MALLILIN at the time of the stabbing incident,[12] never wavered in his narrative of the incident and how ORLANDO suddenly stabbed MALLILIN who was then being boxed by PEEJAY,[13] viz.:

“Q

After you [saw ORLANDO and PEEJAY at the lower level of the cockpit arena] what happened next, Mr. witness?

A

[PEEJAY] immediately went up [the] stairs and he wants to box me but [MALLILIN] pacified and [PEEJAY] boxed [[MALLILIN] several times, sir.

Q

And what did you do when [PEEJAY] boxed [the victim] several times?

x x x

x x x

x x x

A

I pacified, sir.

Q

And were you able to pacify them, Mr. witness?

A

No, sir.

Q

What transpired next when you were not able to pacify them, Mr. witness?

A

Here comes [ORLANDO] and [he] stabbed [MALLILIN], sir.

Q

And what instrument was used [by ORLANDO] in stabbing [MALLILIN], Mr. witness?

A

A 16 inches knife, sir.”[14]

Corroborating MAGORA's account, CORSINO, who was at the ring side[15] of the cockpit arena, and at a distance of about three (3) meters[16] away, stated that he witnessed how PEEJAY fought with MALLILIN,[17]

and how ORLANDO carried out the surprise attack on MALLILIN:[18]

“Q

When [MALLILIN] and [PEEJAY] went back inside the Dupaya cockpit arena, what happened next, Mr. witness?

A

[MALLILIN] was at the upper level and [PEEJAY] was at the lower level... and I saw [PEEJAY] talking to [ORLANDO], sir.

x x x

x x x

x x x

Q

... how long [ORLANDO and PEEJAY] talked when you saw them after [MALLILIN] went upstairs?

A

More or less, ten minutes, sir.

Q

After this, what happened next, Mr. Witness?

A

[PEEJAY] suddenly went upstairs to challenge [MALLILIN to] a fist fight, sir.

Q

How about [ORLANDO], did you see him Mr. Witness?

A

No, sir.

Q

After [PEEJAY] challenged [MALLILIN] to a fist fight, what transpired next, if any?

A

They fought, sir.

Q

How far were you when [PEEJAY and MALLILIN] fought?

A

More or less, three (3) meters, sir.

Q

And what else happened in that fight of [PEEJAY and MALLILIN]?

A

Junior Cabrera pacified them and held the neck of [MALLILIN], sir.

Q

After this Junior Cabrera held the neck of [MALLILIN], what happened next?

A

Then [MALLILIN] tried to get out from the grip of Junior Cabrera and suddenly [ORLANDO] went up, sir.

Q

By the way, where in particular [MALLILIN] was and where was [ORLANDO] coming from?

A

Downstairs, sir.

Q

And when [ORLANDO] went up coming from downstairs, what did he do if you can still remember?

A

When [MALLILIN] was able to get out from the grip of Junior Cabrera, [ORLANDO] drew his knife and met [MALLILIN] with his thrust, sir.

Q

Was [MALLILIN] hit with the thrust of [ORLANDO] with his knife?

A

Yes, sir.

x x x

x x x

x x x

Q

By the way, when [ORLANDO] thrust the knife to [MALLILIN], what part of his body was hit?

INTERPRETER

WITNESS POINTED TO HIS LEFT SIDE OF THE BODY.[19]

It is noteworthy that no ill-motive was imputed by the defense for CORSINO and MAGORA to falsely implicate appellants in the fatal stabbing of MALLILIN. Taken together with these prosecution witnesses' clear and straightforward testimonies, such lack of improper motive on their part suffices to accord CORSINO's and MAGORA's accounts with full faith and credence.

As for PEEJAY's defense that he could not have taken part in the treacherous attack on MALLILIN, as he fell unconscious upon being attacked by MALLILIN's group, such denial is outweighed by positive identification that is categorical, consistent and untainted by any ill-motive by the eyewitnesses who testified on the same event. The settled rule is that if not substantiated by clear and convincing evidence, denial is a negative and self-serving evidence undeserving of weight in law.[20] Thus, despite being corroborated by his father ORLANDO's testimony, PEEJAY's denial deserves scant consideration as it was corroborated by a relative[21] whose testimony is shrouded with bias and partiality due to their close family ties.

Moreover, there is no merit in appellants' contention that the credibility of MAGORA was diminished due to his failure to mention[22] (1) in his testimony the presence of Junior Cabrera during the assault on MALLILIN, and (2) in his affidavit (Exhibit "B")[23] the act of PEEJAY of boxing and kicking the bloodied and fallen MALLILIN, which details were related by the other prosecution witnesses.

As correctly pointed out by the Solicitor General,[24] quoting *People v. De Gracia*,[25] "witnesses testifying on the same event do not have to be consistent in every detail as differences in recollection or viewpoints or impressions are inevitable. Total recall or perfect symmetry is not required for as long as the witnesses concur on material points, slight differences in their remembrance of the details do not reflect on the essential veracity of their testimony. Indeed, if rights were to be lost merely because witnesses, while agreeing on the essential fact, fail to testify harmoniously to all the particulars, in a very large proportion of cases involving wrongs to be redressed the law would fail to furnish a remedy. Hence, variations in the testimony of witnesses on the same side in respect of minor, collateral, or incidental matters do not usually impair the weight of their united testimony to

the prominent facts.”

Further, We find that the intervention of Junior Cabrera in the fight between PEEJAY and MALLILIN is a trivial and collateral matter. Not being relevant to the elements of the crime of murder, an inconsistency on such matter will not discredit the testimony of MAGORA nor diminish his credibility. It is well-settled that an inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction.[26] On the contrary, such inconsistency enhances the truthfulness of MAGORA's account as it removed any suspicion that his testimony was rehearsed or contrived.[27]

We likewise hold that the incompleteness of MAGORA's affidavit (Exhibit “B”)[28] cannot be negatively construed against him. Jurisprudence[29] acknowledges that ex parte affidavits are usually abbreviated, inaccurate, and incomplete; and affidavits cannot be expected to contain a complete compendium of the details of the event narrated by the affiant.[30] The infirmity of an affidavit as a species of evidence is a matter of judicial experience.[31] Besides, the defense failed to confront MAGORA on his alleged inconsistent statements in his affidavit and open court testimony in accordance with Section 13, Rule 132 of the Rules of Court, which provides for the procedure of impeaching witnesses by evidence of inconsistent statements.

Meanwhile, ORLANDO's failure to establish self-defense and defense of relative erased any doubt on his responsibility for the death of MALLILIN.

In law, a plea of self-defense is an admission of the crime while, at the same time, professing non-liability therefor. It is, in a very real sense, a confession in avoidance. And because the plea admits the commission of the offense, upon him who invokes it rests the burden of establishing his claim by clear and convincing evidence. As the burden of evidence is shifted to him, he must rely on the strength of his own evidence and not on the weakness of the prosecution.[32]

In admitting[33] that he inflicted the fatal stab wounds on the victim, ORLANDO must establish three elements to successfully claim self-defense, viz: (1) the victim committed unlawful aggression amounting to actual or imminent threat to the life and limb of the person claiming self-defense; (2) there was reasonable necessity in the means employed to prevent or repel the unlawful aggression; and (3) there was lack of sufficient provocation on the part of the person claiming self-defense or at least any provocation executed by the person claiming self-defense was not the proximate and immediate cause of the victim's aggression.[34]

On the other hand, in order for the justifying circumstance of defense of a relative to prosper, the following requisites must be proven: (1) unlawful aggression by the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) in case the provocation was given by the person attacked, that the person making the defense took no part therein.[35]

Of the three elements of self-defense and defense of a relative, unlawful aggression on the part of the victim is the foremost element because there can be no self-defense or defense of a relative, whether complete or incomplete, if the defense failed to establish the alleged act of the victim constituting unlawful aggression.[36] A condition sine qua non for said justifying circumstances to apply,[37] unlawful aggression refers to an assault or attack, or a threat thereof in an imminent and immediate manner, which places the defendant's life in actual peril. There is an unlawful aggression on the part of the victim when he puts in actual or imminent danger the life, limb, or right of the person invoking self-defense. There must be actual physical force or actual use of weapon. To constitute unlawful aggression, the person attacked must be confronted by a real threat on his life and limb; and the peril sought to be avoided is imminent and actual, not merely imaginary.[38]

However, unlawful aggression ceases as soon as the inceptual aggressor is disarmed by the person attacked and

the former no longer committed any overt act evidencing persistence to consummate the unlawful aggression.[39] As distinguished from unlawful aggression, retaliation exists when the inceptual unlawful aggression of the victim has already ceased and there is no evidence that he persists in consummating the same. The accused cannot invoke self-defense if he kills the victim by way of retaliation.[40]

In the present case, ORLANDO failed to prove the essential element of unlawful aggression.

ORLANDO testified that he wrested the knife then held by MAGORA and swung it towards MALLILIN's group,[41] eventually hitting MALLILIN. By ORLANDO's own account, the imminent danger posed on his life and limb had already ceased the moment he had seized the knife from MAGORA. Thus, his act of stabbing MALLILIN is an act of retaliation and not self-defense. Jurisprudence holds that when unlawful aggression ceases, the defender has no more right to kill or wound the former aggressor, otherwise, retaliation and not self-defense is committed.[42]

Neither can ORLANDO plead defense of relative because at the time he stabbed MALLILIN, PEEJAY was no longer under threat from the supposed unlawful aggression by the victim's group. ORLANDO claimed that MALLILIN, MAGORA, and Serafin Cabrera had already directed their attack on him when he swung the knife to fend off the aggression against him.[43] He was, therefore, defending himself, and not PEEJAY, when he stabbed MALLILIN.

Also, when the alleged unlawful aggression by MALLILIN's group against PEEJAY had ceased, ORLANDO no longer had any right to kill or wound the aggressors. As what occurred in this case is clearly a retaliation, defense of relative no longer avails because the aggression that was allegedly begun by MALLILIN against PEEJAY had already ceased when ORLANDO attacked the former.[44]

Self-defense and defense of relative are inherently weak defenses which can easily be fabricated. These defenses cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself. They require independent and competent evidence to be entitled to credence and belief.[45]

Here, ORLANDO's claims of self-defense and defense of relative are wholly based on his own self-serving assertion, and unsupported by clear and convincing evidence from unbiased witnesses. It bears stressing that defense witness WILLIAM failed to recognize the person who stabbed MALLILIN,[46] while PEEJAY was allegedly unconscious when MALLILIN was stabbed to death.[47]

Moreover, in view of the principle that the nature and number of wounds inflicted on the victim are important indicia to disprove a plea of self-defense or defense of relative,[48] We find that the nature and location of MALLILIN's stab wounds reveal ORLANDO's determined effort to kill the former and not just to defend himself. In this regard, DR. MARCELO testified that MALLILIN sustained stab wounds at the left and right portions of his chest; and that the 3 cm. wound on the left chest caused his instantaneous death.[49]

Further, we give short shrift to ORLANDO's claim that he was attacked by the group of MALLILIN. ORLANDO's testimony that he was boxed in his upper left eye[50] was belied by the Medical Certificate (Exhibit "4") [51] which showed injuries to his knee and forehead only.[52] Physical evidence is a mute but eloquent manifestation of truth and rates highly in the hierarchy of trustworthy evidence.[53] Thus, Exhibit "4" enjoys a far more superior probative weight than the self-serving story of ORLANDO.

In fine, ORLANDO was not acting in self-defense or defense of a relative when he stabbed MALLILIN with a knife. Having determined the absence of unlawful aggression in this case, We find no further necessity to dwell at length on the second and third elements of said justifying circumstances.

When two or more persons aim their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative indicating closeness of personal association and a concurrence of sentiment, conspiracy may be inferred. And where there is conspiracy, the act of one is deemed the act of all.[54]

As correctly determined by the trial court, conspiracy can be inferred from the acts of PEEJAY and ORLANDO in attacking MALLILIN, thus:

“[PEEJAY] attacked [MALLILIN] first. [ORLANDO] stabbed the victim at the time that the latter was busy parrying the blows of [PEEJAY]. ... The coordinated acts of both [appellants] point to their common objective and concerted action to disable the victim most especially because there was a previous incident between [PEEJAY] and the victim. Both [appellants] were seen together at the ring side of the cockpit immediately prior to the stabbing incident.”[55]

PEEJAY's acts of chasing, kicking and boxing MALLILIN even after the latter had run away with a stab wound inflicted by ORLANDO[56] are a clear indication of PEEJAY's concurrence with ORLANDO's aim of ending the life of MALLILIN.

On the other hand, for treachery to be appreciated, these elements must concur: (1) that the means of execution were employed as to give the person attacked no opportunity to defend himself or retaliate; and (2) that the means of execution were deliberately or consciously employed.[57] The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected attack, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.[58] What is decisive is that the execution of the attack made it impossible for the victim to defend himself or retaliate.[59]

We agree with the trial court that treachery attended the killing of MALLILIN. PEEJAY's act of first engaging MALLILIN in a fistfight was obviously designed to draw MALLILIN's attention and ensure that ORLANDO's attack would be undetected. Thus, MALLILIN was caught off guard and made no parrying motion when ORLANDO stabbed him with a 16-inch knife. MALLILIN was unaware of the imminent peril to his life and was rendered incapable of defending himself from the sudden attack of ORLANDO.[60]

We also uphold the trial court in disregarding the aggravating circumstances of abuse of superior strength and evident premeditation. Abuse of superior strength is absorbed by treachery,[61] while evident premeditation was not proven by the prosecution evidence.[62]

To sustain a conviction for murder, the following elements must be proved beyond reasonable doubt: (1) that a person was killed; (2) that the accused killed that person; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) that the killing is not parricide or infanticide.[63] The presence of these elements has been established by the prosecution beyond reasonable doubt. Appellants conspired in killing MALLILIN by simultaneously attacking and stabbing him in a treacherous manner.

The penalty for murder under Article 248 of the Revised Penal Code is reclusion perpetua to death. Applying Article 63, paragraph 2 of the same Code, there being no other modifying circumstance other than the qualifying circumstance of treachery, the trial court correctly imposed the penalty of reclusion perpetua. By the express mandate of Section 3 of Republic Act No. 9346[64], appellants are disqualified to be paroled.

On the civil liability of appellants, the trial court correctly awarded moral damages at Php50,000.00[65] and temperate damages of Php25,000.00.[66] Moral damages are mandatorily awarded in cases of murder without need of allegation and proof other than the death of the victim,[67] while temperate damages are awarded

pursuant to Article 2224 of the New Civil Code because the heirs of MALLILIN undeniably suffered pecuniary loss for his wake, funeral and burial, although the exact amount thereof was not proved with certainty.[68]

However, the amount of civil indemnity which is automatically awarded in cases of murder[69] should be reduced from Php75,000.00 to Php50,000.00. Civil indemnity of Php75,000.00 is awarded only in cases where the proper imposable penalty is death, if not for RA 9346 which prohibited the imposition thereof.[70]

The existence of the qualifying circumstance of treachery merits the grant of exemplary damages under Article 2230 of the New Civil Code, but the amount thereof should be raised from Php25,000.00 to Php30,000.00, in line with current jurisprudence.[71]

Finally, the awarded damages shall earn interest at the legal rate of 6% per annum from the finality of this judgment until fully paid.[72]

WHEREFORE, the appealed decision is AFFIRMED with the MODIFICATION: (1) declaring appellants Peejay and Orlando Morales ineligible for parole; (2) reducing the amount of civil indemnity to Php50,000.00; (3) increasing the amount of exemplary damages to Php30,000.00; and (4) imposing interest of 6% per annum from the date of finality of this judgment until fully satisfied.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Garcia, R.R. and [*]Sorongon, E.D., JJ., concur.

[*] Vice Justice Danton Q. Bueser, as per Office Order No. 223-14-ABR dated May 21, 2014.

[1] Records, pp. 62-63.

[2] Records, p. 01.

[3] Records, p. 57.

[4] Records, p. 67.

[5] Rollo, pp. 93-94. Citations omitted.

[6] TSN, 12 October 2012, p. 12.

[7] TSN, 12 October 2012, p. 13.

[8] Rollo, p. 33

[9] People vs. Suarez, G.R. No. 153573-76, 15 April 2005; People vs. Sapigao, Jr., G.R. No. 178485, 04 September 2009.

[10] People vs. Iglesia, 365 SCRA 156

[11] People vs. Marino, G.R. No. 168693, 19 June 2009; People vs. Relos, Sr., G.R. No. 189326, 24 November 2010.

- [12] TSN, July 16, 2009, p. 17.
- [13] TSN, 24 November 2009, pp. 04-05.
- [14] TSN, 16 July 2009, pp. 06-07.
- [15] TSN, 13 November 2009, pp. 07-08.
- [16] TSN, 13 November 2009, p. 08.
- [17] TSN, 13 November 2009, pp. 08-09.
- [18] TSN, 13 November 2009, pp. 08-10.
- [19] TSN, 13 November 2009, pp. 07-10.
- [20] People vs. Tomas Visperas, Jr., G.R. No. 147315, January 13, 2003; People vs. Felix Montes, G.R. Nos. 148743-45, November 18, 2003; People vs. Veno Esperas, G.R. No. 128109, November 19, 2003.
- [21] People vs. Baniaga, G.R. No. L-14905, January 28, 1961.
- [22] Rollo, pp. 48-49.
- [23] Records, p. 09.
- [24] Rollo, p. 99.
- [25] G.R. 112984, 14 November 1996.
- [26] People vs. Resurreccion, G.R. No. 188310, 13 June 2013.
- [27] People vs. Asilan, G.R. No. 188322, 11 April 2012.
- [28] Records, p. 09.
- [29] Kummer vs. People, G.R. No. 174461, 11 September 2013, citations omitted.
- [30] People vs. Agando, G.R. No. 130670, 31 May 2000.
- [31] People vs. Bulawin, 29 SCRA 710.
- [32] People vs. Carriaga, 411 SCRA 40, 56 (2003) citing People vs. Bates, 400 SCRA 95 (2003), citing People vs. Belaje, 345 SCRA 604 (2000).
- [33] TSN, 05 August 2011, p. 21.
- [34] People vs. Gabrino, G.R. No. 189981, 09 March 2011.
- [35] People vs. Dano, G.R. No. 117690, 01 September 2000, citing People vs. Bausing, 199 SCRA 355, 361 (1991).
- [36] People vs. Credo, G.R. No. 197360, 03 July 2013.
- [37] People vs. Arizala, 375 Phil. 666, 674-675 (1999).
- [38] Palaganas vs. People, G.R. No. 165483, 12 September 2006, 501 SCRA 533, 549-550.
- [39] People vs. Delos Reyes, G.R. No. 140680, 28 May 2004.

- [40] Ibid.
- [41] TSN, 05 August 2011, pp. 06-07, and 19.
- [42] People vs. Vicente, G.R. No. 137296, June 26, 2003; People vs. Maceda, 197 SCRA 499 (1991).
- [43] TSN, 05 August 2011, p. 07.
- [44] People vs. Aleta, G.R. No. 179708, 16 April 2009, citing Razon vs. People, G.R. No. 158053, 21 June 2007.
- [45] People vs. Marcelo, G.R. No. 179708, 16 April 2009.
- [46] TSN, 12 October 2010, pp. 21.
- [47] TSN, 16 January 2012, pp. 07 and 13.
- [48] People vs. Damitan, G.R. No. 140544, 07 December 2001.
- [49] TSN, 27 January 2010, pp. 05- 06.
- [50] TSN, 05 August 2011, p. 06.
- [51] Records, p. 34.
- [52] TSN, 05 October 2011, p. 09.
- [53] Rabanal vs. People, G.R. No. 160858, 28 February 2006.
- [54] G.R. No. 179708, 16 April 2009.
- [55] Page 09 of the assailed Decision.
- [56] TSN, 13 November 2009, p. 11 and 24 November 2009, p. 05.
- [57] People vs. Dolorido, G.R. No. 191721, 12 January 2011.
- [58] People vs. Rosas, 570 SCRA 117 (2008)
- [59] People vs. Eling, 553 SCRA 724 (2008)
- [60] See TSN, 27 January 2010, p. 05.
- [61] People vs. Rebucan, G.R. No. 182551, July 27, 2011.
- [62] Its elements are (1) the time when accused decided to commit the crime; (2) an overt act manifestly indicating that the accused has clung to his determination; and, (3) sufficient lapse of time between such a determination and the actual execution to allow the accused time to reflect upon the consequences of his act.
- [63] People vs. Valdez, 350 SCRA 189 (2001)
- [64] SEC. 3. Person convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.
- [65] People vs. Alawig, G.R. No. 187731, 18 September 2013.
- [66] People vs. Escleto, G.R. No. 183706, 25 April 2012.
- [67] People vs. Bajar, G.R. No. 143817, 27 October 2003.

[68] People vs. Bernardo, G.R. No. 198789, 3 June 2013.

[69] Id.

[70] People vs. Rodriguez, G.R. No. 189091, 25 August 2010; People vs. Alawig, *supra.*; People vs. Buyagan, G.R. No. 187733, 08 February 2012; People vs. Anod, G.R. No. 186420, 25 August 2009.

[71] People vs. Alawig, *supra.*; and People vs. Buyagan, *supra.*

[72] People vs. Cayanan, G.R. No. 200080, 18 September 2013.

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