THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDILBERTO DURADO, SR., SALVADOR DURADO, AND EDILBERTO DURADO, JR., ACCUSED-APPELLANTS.

G.R. No. 121669. December 23, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 52, Palawan, finding accused-appellants Edilberto Durado, Sr., Edilberto Durado, Jr., and Salvador Durado guilty beyond reasonable doubt of murder and sentencing each of them to suffer the penalty of reclusion perpetua and to pay the heirs of the victim, Juanito Galanto, P50,000.00 as death indemnity and P20,000.00 as moral damages. Two other accused, Edmundo Durado and Danilo Durado were acquitted for insufficiency of evidence.

The information[2] against accused-appellants and their co-accused, Edmundo Durado and Danilo Durado, alleged ¾

> That on or about the 5th day of July, 1993, at Sitio Decala in Barangay Caruray in the Municipality of San Vicente, Province of Palawan, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating, together and mutually helping one another, with evident premeditation and treachery, and with the use of superior strength, while armed with deadly weapons and with the intent to kill, did then and there willfully, unlawfully, and feloniously attack, assault, and hack and spear one JUANITO GALANTO, hitting him in the different vital parts of his body and inflicting upon him multiple hacked wounds and stabbed wounds on the midclavicular line, right side, which were the direct and immediate cause of his instantaneous death.
>
> CONTRARY TO LAW.

All of the accused pleaded not guilty to the charge, whereupon trial commenced. The prosecution presented two eyewitnesses, Patricio Galanto and Agustin de los Santos, and other corroborating witnesses, Maria Galanto and Dr. Purificacion Reyes.

Patricio Galanto is the older brother of the victim Juanito Galanto. He testified that on July 5, 1993, at around 8:00 in the morning, he went to the forest in the Upper Interior with his brother and Edmundo Durado to cut wood. Patricio carried a bolo and an ax, while Juanito and Edmundo had bolos. According to Patricio, they were walking single file with Juanito leading the way when suddenly Edmundo rushed in front of them and disappeared around a bend. Three minutes later, they were stopped by accused-appellants Edilberto Durado, Jr. and Salvador Durado. Without any warning, Salvador Durado thrice struck Juanito Galanto with his bolo, saying “Lumaban ka na.” Edilberto Durado, Jr. held Patricio Galanto at bay by pointing a firearm with a spear attached to it. Danilo Durado and Edmundo Durado were present, armed with bolos. In a while, Edilberto Durado, Sr. arrived and told his sons, “Banatan na ninyo mga anak, kamadahin natin ang patay.” Upon hearing this, Patricio said he got scared and ran away. After running a distance of about 30 meters, he claimed that he looked back and saw his brother

Juanito on the ground being attacked by the Durados with bolos. He resumed running until he met his sister-in-law, Maria Galanto, who is the common-law wife of accused-appellant Edilberto Durado, Sr. After telling her what happened, he went home, gathered his family and took them to the forest for safety. After about two hours, he went back to the crime scene and found his brother Juanito already dead. The barangay captain later arrived and found the lifeless body of Juanito Galanto with 17 stab wounds.[3]

Another eyewitness, Agustin de los Santos, was a resident of Ibaba, Sitio Decala in the same barangay. He testified that, at around 8:00 in the morning of July 5, 1993, he was riding on a carabao which was pulling a sled on his way to the Upper Interior of Sitio Decala to gather rattan poles. He claimed that accused-appellants Edilberto Durado, Sr., Edilberto Durado, Jr., Salvador Durado, together with Edmundo Durado and Danilo Durado, came from behind and overtook him. Edilberto, Sr., Edmundo, and Danilo were carrying bolos, while Edilberto, Jr. and Salvador were armed with rifles. Soon thereafter, he saw, at a distance of about 70 meters, the group surrounding Juanito Galanto. Edilberto, Sr. was on the left side of Juanito Galanto, Edmundo was in front of the victim, while Danilo was on the right side. They took turns hacking the victim with their bolos. On the other hand, Salvador and Edilberto, Jr. stayed at the right side of the victim with their guns aimed at him. Agustin de los Santos said he saw Edilberto, Sr. hit Juanito Galanto twice with a bolo. He was so stunned by what he saw, that, out of fright, he turned back and went home, leaving his sled behind. Agustin de los Santos said he told his wife and the barangay captain about what he had seen. He later gave a sworn statement concerning the incident to the police.[4]

On the other hand, Maria Galanto was married to the victim's brother, Valeriano Galanto, Sr. After the death of her husband, Maria Galanto started living with accused-appellant Edilberto Durado, Sr. in 1975. Testifying for the prosecution, she said that, in the afternoon of July 4, 1993, her grandchild, Edgar, was baptized in a ceremony locally called "pabuhos." The ceremony was held in the house of her son, Valeriano Galanto, Jr., with accused-appellant Edilberto Durado, Sr. officiating. After the ceremony, food and drinks were served. A heated argument later arose between Edilberto, Sr. and Valeriano, Jr. Addressing Valeriano, Jr., Edilberto, Sr. asked, "Jun, galit ka yata sa akin. Papatayin mo ba ako?" According to Maria Galanto, she tried to pacify Edilberto, Sr. and prevailed upon him to go home but, upon reaching their house, they had an argument. Maria testified that when she accused Edilberto, Sr. of being angry at Valeriano, Jr. because the latter had given him only one sack of rice, Edilberto, Sr. did not bother to reply. Instead, he went upstairs to get his gun. Maria followed him upstairs and tried to take the gun from him, but she failed to do so as he vowed "Itaga mo sa haligi, bukas may iyakan ang mga Galanto," and left for his son's house and did not return home that night.

Maria testified that the next day, July 5, 1993, she got up at around 6:30 in the morning to go to the house of her other son, Jerry Galanto, to get the bolo and the hat of Edilberto, Sr. which the latter had left the previous night. In Jerry's house, she saw Edmundo Durado who later went with the victim, Juanito Galanto, to the forest to cut some logs. Later, she met Patricio Galanto who told her that Juanito Galanto had been killed by the Durados. She, therefore, decided not to go home and, instead, hide in the forest where she stayed for three hours. She later went to the house of Rosa Depeno until the barangay captain arrived. She accompanied the body of the victim to the Galanto residence.[5]

Dr. Purificacion Reyes, medical officer of the Provincial Hospital of Palawan, testified that she conducted the exhumation of the body of Juanito Galanto on July 22, 1993 from 4:00 to 4:45 in the afternoon in Caruray, San Vicente, Palawan, in the presence of the victim's wife and relatives of the victim as well as the barangay captain and some members of the barangay council. In her report,[6] she identified nine major wounds on the body of the victim, to wit:

1. Hacking wound middle 3rd lateral aspect of the R thigh.

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2. Hacking wound distal third medico-lateral aspect of the R forearm.

3. Hacking wound middle third lateral aspect of the R arm.

4. Hacking wound middle portion of the left deltoid.

5. Hacking wound divided L hand up to the wrist between the ring and middle finger.

6. Hacking wound distal third lateral aspect of the forearm.

7. Hacking wound right plantar area from the middle 3rd and 4th phalanx.

8. Hacking wound medio-lateral of the right parietal area.

9. Stab wound 3rd Intercostal Space midclavicular line R.

Dr. Reyes testified that the cause of Juanito Galanto's death was "exsanguination" or massive loss of blood due to the hack wounds. She also said that there were other wounds found in the body but they could no longer be identified due to the advanced state of decomposition of the corpse. She opined that two or more "heavy cutting instruments like big bolos, axes and like instruments" could have been used in inflicting the wounds.[7]

For its part, the defense presented accused-appellants Edilberto Durado, Sr. and Edmundo Durado, and Raul Villanueva.

Accused-appellant Edilberto Durado, Sr. affirmed that he and prosecution witness Maria Galanto had been living in common-law relation for the last 18 years. On July 4, 1993, he performed baptismal rites on a grandchild of Maria Galanto in Sitio Decala, Barangay Caruray, San Vicente, Palawan. On that occasion, an altercation arose between one Marcos de los Santos and Valeriano Galanto, Jr., son of Maria Galanto. He claimed that he tried to pacify the protagonists, but Valeriano, Jr. resented his intervention. Valeriano, Jr. tried to strangle him until Maria Galanto stopped her son. Edilberto, Sr. and Maria then went to their home in Sitio Salaksakan, about 5 km. away. He denied that he quarreled with his wife and got his gun and returned to the house of Valeriano Galanto, Jr. He claimed that he stayed home all night. The next day, July 5, 1993, at around 7:00 in the morning, he left his house to get some wood from the forest. On the road, he met Agustin de los Santos who warned him, "Tay, beware the Galantos will kill you." He paid no heed and proceeded on his way, and later met Marcos de los Santos, Juanito Galanto (the victim), Patricio Galanto, and Edmundo Durado. The four were walking single file in that order. When he was about two arms'-length from Juanito Galanto, the latter tried to draw his bolo, at the same time saying, "Now, I will kill you." According to accused-appellant, he struck Juanito at the wrist with his bolo, but the latter still tried to draw his blade. So, Edilberto, Sr. dealt him two successive blows, the first caused the victim's right forearm to be severed while the second severed the left arm from the elbow. Edilberto, Sr. claimed that the victim tried to use his feet to fight back, so he hit him on the feet which caused the victim to fall on his back. He then stabbed the victim on the stomach and hacked him on the left shoulder and on the right posterior part of the head.[8]

Accused-appellant Edmundo Durado, one of the sons of Edilberto Durado, Sr., testified that prior to July 5, 1993, he had been staying in the victim's house for more than a month because he was working in the victim's rattan furniture shop. He claimed that in the morning of July 5, 1993, he was working in the victim's house together with one Marcos de los Santos when the victim asked them to go with him to gather wood in the forest. Before proceeding to the forest, they passed by the house of Patricio Galanto, the brother of Juanito Galanto. Juanito then asked Patricio to help them cut some wood in the forest. According to Edmundo, the Galantos and Marcos de los Santos carried bolos while he had none. He carried instead a thermos bottle with hot water and a kettle containing uncooked rice. Patricio also had an ax which he carried on his shoulder. He testified that Marcos de los Santos

was leading the way, followed by Juanito, then Patricio, and himself, and that while thus walking, they met his father, accused-appellant Edilberto Durado, Sr., who came from the seashore. The latter was alone. Edmundo claimed that his father, Edilberto, Sr., struck Juanito Galanto with a bolo as the latter was drawing his bolo from its scabbard. He said he tried to stop his father saying, "Tay, have mercy on him." Marcos de los Santos and Patricio were frightened and ran away. He fled shortly thereafter and proceeded to the house of his brothers Danilo, Salvador and Edilberto Durado, Jr., and told them what had happened. When asked on direct examination if his brothers owned guns, Edmundo stated that they did not.[9]

On cross-examination, Edmundo Durado stated that his father was angry at Valeriano Galanto, Jr. because the latter tried to strangle him (his father) at the "pabuhos" the day before. He said that the victim Juanito Galanto, tried to pacify the protagonists (Valeriano Galanto, Jr. and Edilberto Durado, Sr.). He then heard Juanito Galanto shout at Edilberto, Sr., "Pare, the next time we meet, there will be no exchange of words, we will just hack each other." Edmundo denied that he and his brothers participated in the killing of Juanito Galanto. He claimed that it was only his father who killed Juanito. He stated that his father and the victim did not have any exchange of words before the former hacked the latter.[10]

The last defense witness, Raul Villanueva, was presented to prove the alibi of Salvador Durado, Danilo Durado, and Edilberto Durado, Jr. According to him, on July 5, 1993, from 7:00 a.m. to 10:00 a.m., he was at the Interior of Sitio Decala, cleaning rattan poles together with Salvador, Danilo, and Edilberto, Jr. He claimed that at 9:00 a.m., Edmundo Durado arrived and told them that their father, Edilberto, Sr., had killed Juanito Galanto. He explained that he did not tell the police that the Durado brothers had no part in the killing of Juanito Galanto because he did not know that the three had been arrested. He said that he learned of the death of the victim only on July 6, 1993.[11]

On February 23, 1995, the trial court rendered its decision finding accused-appellants Edilberto Durado, Sr., Salvador Durado, and Edilberto Durado, Jr., guilty as co-principals in the murder of Juanito Galanto. It rejected Edilberto, Sr.'s claim that he acted in self-defense, and Edilberto, Jr. and Salvador's alibi in view of their positive identification by the eyewitnesses. On the other hand, Edmundo Durado and Danilo Durado were acquitted on the ground of insufficiency of evidence. The dispositive portion of the trial court's decision reads:

> WHEREFORE, premises considered, judgment is hereby [rendered] finding co-accused Edilberto Durado, Sr., Salvador Durado, and Edilberto Durado, Jr. guilty beyond reasonable doubt as co-principals of the crime of murder, and without any modifying circumstances appreciated, and not being entitled to the application of the Indeterminate Sentence Law, the said accused are sentenced to reclusion perpetua, to pay the heirs of Juanito Galanto, jointly and severally, actual and compensatory damages corresponding to:
>
> Indemnity for the death of Juanito Galanto
>
> P50,000.00
>
> Funeral and burial expenses
>
> P20,000.00
>
> Total
>
> P70,000.00
>
> and to pay the costs.
>
> For insufficiency of evidence of their complicity and/or participation in the actual commission of the offense, co-accused Danilo Durado and Edmundo Durado are acquitted of the offense charged.

SO ORDERED.

Hence, this appeal. Accused-appellants contend that ¾

THE LOWER COURT ERRED IN NOT CONSIDERING THE TESTIMONY OF EDILBERTO DURADO, SR. THAT HE ALONE AND NONE OTHER KILLED JUANITO GALANTO.

Accused-appellants claim that conspiracy must be proved with as much certainty as the crime itself.[12] According to them, except for only accused-appellant Edilberto Durado, Sr. who admitted killing Juanito Galanto, there is no sufficient evidence to convict all three of them.

This contention is without merit.

The trial court's findings are fully supported by the evidence on record. The testimonies of the eyewitnesses, Patricio Galanto and Agustin de los Santos, were straightforward. Both witnesses positively identified accused-appellants Edilberto Durado, Sr. and his sons, Salvador and Edilberto, Jr., as the assailants in the killing of Juanito Galanto. Patricio Galanto testified:

PROS. MEREGILLANO

(to witness)

Q

Will you tell this Honorable Court what was that unusual incident, Mr. witness?

A

While we were on our way and while we have negotiated a distance of half kilometer, Edmundo Durado went ahead of us and after 3 minutes Edilberto Durado, Jr. and Salvador Durado came and immediately, Salvador hacked Juanito.

Q

Who hacked Juanito Galanto?

A

Salvador Durado, sir.

Q

While Salvador Durado was hacking Juanito Galanto, what were the other Durados doing?

A

Junior Durado is aiming his gun to me with spear attached to it, so, I was afraid, I retreated backwards.

Q

How many times did Salvador Durado hack Juanito Galanto after Salvador and Edilberto arrived?

A

He hacked my brother three (3) times.

Q

What was the interval of hacking?

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A

Three (3) successive hackings and he told my brother “lumaban ka na”.

Q

To whom was he saying that?

A

To Juanito Galanto, sir.

Q

Who uttered those words?

A

Salvador Durado, sir.

Q

You said that Salvador Durado delivered three (3) hacking blows, where was Juanito Galanto hit?

A

In his hands, forearms and both left and right forearms.

Q

At what point in time did Salvador Durado say “Papa, lumaban ka na”?

A

While he was hacking Juanito Galanto.

Q

Why was your brother Juanito hit on both left and right forearms of the three (3) hacking blows of Salvador Durado?

A

Because he is raising his hands.

Q

Why was he raising his hands?

A

He is parrying the hacking blows.

Q

After Salvador Durado hacked Juanito Galanto and while Edilberto Jr. was pointing the gun to you, do you know where the other Durados?

A

The other two (2) children were around.

Q

Who are these two (2) children?

A

Danilo and Edmundo.

Q

And, what were Edilberto Durado, Jr., Danilo Durado and Edmundo Durado and Edilberto Sr. bringing?

A

All were bringing bolos.

Q

When Edilberto Sr. arrived, do you remember what transpired next?

A

He shouted “Banatan na ninyo mga anak, kamadahin natin ang patay”, and when I heard it, I immediately run away.

Q

Why did you immediately run away?

A

I remember my family and the other members left at our house.

Q

You said that you immediately ran away, do you remember if after negotiating a distance, you turn your back to see what is happening to your brother?

A

When I run, I turned my back and I notice they were hacking my brother.

Q

How far have you gone, Mr. Witness?

A

Around thirty (30) meters, sir.

Q

You said that the Durados were helping one another in hacking your brother Juanito Galanto, in what manner have they been helping each other?

A

My brother was already lying down and while lying down, they were helping one another in hacking him.

Q

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When Juanito Galanto is already falling down, where were the Durados in relation to Juanito?

A

The Durados were encircling him.

Q

At that instance you looked back and saw your brother being hacked by the Durados, who in particular did you see hacking your brother?

A

The five (5) of them, sir.

Q

Now Mr. Witness, you said that you turned your back and run and you run towards where?

A

When I ran more or less 100 meters away from our house, I met Maria Galanto and I told her Juaning is already dead.

Q

Why did you say that to Maria?

A

Because it was her husband Edilberto Durado Sr. who hacked my brother, Juanito Galanto. And after that I proceeded to tell my family about it and we packed up and hide.[13]

PROS. MEREGILLANO

(to witness)

Agustin de los Santos, on the other hand, testified as follows:

Q

While you were going to the Interior of Sitio Decala in that particular morning, do you know a group of men who passed by you in going to the Interior of Sitio Decala?

A

Yes, Sir.

Q

And who were these persons who passed by you?

A

Edilberto Durado, Sr., Edilberto Durado, Jr., Salvador Durado, Edmundo Durado and Danilo Durado.

Q

How many were they who passed by you?

A

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Five of them.

COURT

Who are they?

A

Edilberto Durado Sr., Edilberto Durado, Jr., Edmundo Durado, Salvador Durado and Danilo Durado.

Q

When they passed by you, were they riding on something or were they walking?

A

They were just walking.

Q

In what manner were they walking?

A

Almost running, tatakbo-takbo.

Q

Do you remember if they were carrying something when they passed by you?

A

They were bringing with them bolos and two guns.

Q

Who among them were bringing bolos?

A

Edilberto Durado Sr., Edmundo Durado and Danilo Durado.

Q

And who among them were bringing guns?

A

Edilberto Durado, Jr. and Salvador Durado.

Q

Do you know what kinds of guns that Edilberto Durado, Jr. and Salvador Durado were bringing with them?

A

I did not recognize what kind of guns they were bringing because they passed by me in a hurry.

Q

Tell the Court if these are short or long guns.

A

They are long barreled guns.

Q

Now, after the Durados, whom you have named, passed by you and after you have negotiated ahead at a distance of more or less 70 meters, do you remember what unusual incident that you saw?

A

Yes, sir.

A

On the left side of Juanito Galanto.

Q

How about Edmundo Durado and Danilo Durado?

A

In front and on the side, right side of Juanito Galanto.

Q

How about Salvador Durado and Edilberto Durado, Jr., where were they?

A

On the right side of Juanito Galanto aiming their guns.

Q

Who were hacking Juanito Galanto?

A

Edilberto Durado, Sr., Edmundo Durado and Danilo Durado.

Q

While the three Durados were hacking Juanito Galanto, what were the two other Durados holding guns doing?

A

They were aiming their guns.

Q

To whom?

A

To Juanito Galanto.

Q

How many times did you observe the three Durados hacked Juanito Galanto?

A

I saw Edilberto Durado, Sr. hacked him two times.

Q

How about the other Durados?

A

I was not able anymore to count how many hacks the others gave because I already returned back.

Q

How far were you when you saw the Durados surrounding Juanito Galanto and helping one another hacked Juanito Galanto?

A

About 30 meters.[14]

In People v. Lopez,[15] we held that "the identification of appellant by the witnesses as the perpetrator of the crime is entitled to full faith and credit considering that there appears no evidence to show that they were moved by improper motive to falsely testify against the appellant."

The trial court gave credence to the foregoing testimonies of the two eyewitnesses. Indeed, the fact that Patricio Galanto is the older brother of the victim does not detract from his credibility. It is settled that in the absence of a showing of an improper motive on the part of a witness, his testimony is not affected by his relationship to the victim.[16]

Nor is there any reason to doubt the testimony of Maria Galanto. She and accused-appellant Edilberto Durado, Sr. had lived together for 18 years. There is no showing that she merely concocted her story. In fact, when accused-appellant Edilberto Durado, Sr., testified in his defense, he did not impute any improper motive on the part of Maria Galanto in testifying against him.

Accused-appellants have not shown why we should depart from the rule that findings of fact of the trial court carry great weight and are entitled to respect by appellate courts. For indeed the trial court is in a better position to decide the question of credibility having heard the witnesses and observed their deportment and manner of testifying during the trial.[17]

Nor do we find material the inconsistencies in the testimonies of the eyewitnesses as to which weapon was brought by whom among the accused. These minor incompatibilities do not raise doubt as to the fact established by both testimonies that accused-appellants acted in concert in killing Juanito Galanto.

It is noteworthy that the testimony of Maria Galanto corroborates the testimonies of Patricio Galanto and Agustin de los Santos. The pertinent portion of her testimony is as follows:

PROSECUTOR

(to witness)

Q

And while the group including Edilberto Durado, Sr., Edmundo Durado, and the Galantos were partaking beer and pulutan, do you remember if there was any unusual incident that took place between those drinks?

A

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At first there was nothing untoward but about the end of the celebration their conversation became heated arguments so I asked Edilberto Durado, Sr., to go home with me.

Q

Why did you specifically asked Edilberto Durado, Sr. your common law husband to go home?

A

Because he was already making bad remarks and I heard him saying, “Jun, galit ka yata sa akin, papatayin mo ba ako?”

Q

To whom was Edilberto Durado, Sr., addressing that statement?

A

He was referring to my son Valeriano Galanto, Jr.

Q

When you asked Edilberto Galanto Sr., to leave the house of Valeriano Galanto Jr. and to go home how did Edilberto Durado, Sr. react?

A

He acceded to my invitation but when we arrived home he was already very angry.

Q

With whom was he very angry?

A

With my son Valeriano, Jr.

Q

Why do you say that he was very angry with your son Valeriano, Jr.?

A

Because I asked him why are you mad at my son and he told me, really I am angry with your son because he wanted to kill me and I wanted to kill him, and then I told him you were only mad because you were only given one sack of rice.

Q

What was the answer of Edilberto Sr. when you told him he was only mad because he was just given one sack of rice?

A

He just proceeded going upstairs our house and took his gun and I went upstairs and we wrestled for the possession of the gun but he was able to get possession of the gun then he went downstairs and told me “Itaga mo sa haligi, bukas may iiyakan ang mga Galanto,” then he told me not to follow him because he might first shoot me.

Q

When he went down the house and uttered those threatening statement do you know where he was going?

A

He told me he is going to his child at Sugod Salaksakan and that the Galanto family will be mourning for a member of the family on the following morning.

Q

How about you when he left what did you do?

A

I stayed and home and went to sleep I was hoping he will come home but he did not come back.[18]

Moreover, the number of wounds on the body of the victim belies the defense's contention that only accused-appellant Edilberto Durado, Sr. killed the victim. As this Court has held,[19] the numerous wounds on the body of the victim indicate plurality of assailants. In this case, the victim sustained 17 hack wounds, as found by the barangay captain, nine of which were major ones according to Dr. Purificacion Reyes. Dr. Reyes testified that the hack wounds were caused not by one bladed weapon but by two or more heavy weapons like big bolos and axes. According to her:

Q

Now Doctor, on the basis of your exhumation, would you please tell the Court what would be the main cause of the death of Juanito Galanto?

A

Based on the number of wounds I saw on the patient or victim, I believe it is exsanguination or massive loss of blood.

Q

What is the cause of the massive loss of blood?

A

The several wounds.

Q

What kind of wound?

A

I consider them hacking wounds because I believe that the instruments used in inflicting those injuries were heavy cutting instruments like big bolos and the like.

Q

Were you able to count the number of wounds?

A

Only the bigger wounds were noted. I can no longer count the smaller wounds. Actually the patient or victim was already in that far advanced stage or stage of decomposition. The patient [was] bloated, the moment I lifted the right foot, the bones fell on the floor and what was left was the nails, toe nails and also the skin.

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Actually, I did not do anymore post mortem examination because of the far advanced state of decomposition of the cadaver.

Q

At least how many days already?

A

17 days

Q

About how many wounds were you able to see and locate on the body of Juanito Galanto? Wounds which were readily visible.

A

I noted nine (9) wounds. These were hacking wounds

Q

And Doctor, these 9 injuries enumerated in your exhumation report generally they were denominated as hacking wounds, what kind of instruments must have been used?

A

As I mentioned earlier, the possible instruments used in producing these hacking wounds are bolos, ax or any heavy cutting instruments.

Q

Could you tell the Court, more or less, on the basis of the injuries found on the body of Juanito Galanto, if it is possible that two or more weapons could have been used?

A

I can say that two or more weapons could have been used in inflicting the wounds on the patient. As I said earlier, wounds have two natures, hacking wound and stab wound. Knife could produce a stabbing or stab wound and big instruments could not produce stab wound.[20]

The evidence, taken as a whole, sufficiently proves conspiracy on the part of accused-appellants. It is a settled rule that for collective responsibility to be established, it is not necessary that conspiracy be proved by direct evidence of a prior agreement to commit a crime. It is sufficient that at the time of the commission of the offense, all the accused acted in concert showing that they had the same purpose or common design and that they were united in its execution.[21] In People v. Datun,[22] it was held that conspiracy was shown by the fact that the appellants surrounded the victim and, without a word, hacked and stabbed him to death. Similarly, in this case, at the time of the commission of the crime, accused-appellants' actions clearly showed a unity of purpose and a concerted effort to bring about the death of the victim.

It was also shown that the killing of the Juanito Galanto on July 5, 1993 was attended by treachery and abuse of superior strength. As the trial court held:

The evidence presented upholds appreciation of the qualifying circumstance of evident premeditation. As early as the evening of July 4, 1993, Edilberto Durado, Sr., has vowed to put to death one of the Galantos. He had until the following morning to mull over [and] ponder on that resolve. He persisted on that resolve and before 8:00 o'clock

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in the morning of July 5, 1993, he carried out with his sons, Salvador and Edilberto Durado, Jr., executi[on] of the felonious acts. . . .

The deceased Juanito Galanto was with his brother, Patricio Galanto, and Edmundo Durado, one of the accused, when met and attacked by Salvador Durado, Edilberto Durado, Sr. and Edilberto Durado, Jr. The presence of Patricio Galanto was rendered inconsequential as he was held at bay with a gun by Edilberto Durado, Jr. Thus, with impunity, co-accused Edilberto Durado, Sr. and his other son, Salvador Durado, took the liberty of simultaneously or taking turns in assaulting Juanito Galanto. It was not surprising therefore, that in the process, the offenders inflicted a total of 17 wounds on the deceased.[23]

Thus, the victim was completely stripped of his capacity to defend himself or retaliate against the Durados, considering not only their number and the fact that they were fully armed but also the swiftness of their attack. The trial court, therefore, correctly held accused-appellants guilty of murder.

The trial court ordered accused-appellants to pay the heirs of the victim P50,000.00 as civil indemnity and P20,000.00 as actual damages for the expenses incurred for the victim's burial. The award of civil indemnity, being in accordance with our decisions,[24] should be affirmed. However, in accordance with our recent rulings also, the heirs of the victim should also be paid moral damages in the amount of P50,000.00.[25]

WHEREFORE, the decision of the Regional Trial Court, Branch 52, Palawan, is AFFIRMED with the MODIFICATION that accused-appellants are ordered to pay the heirs of the victim, Juanito Galanto, the sum of P50,000.00 as moral damages.

SO ORDERED.
Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Per Judge Folomeno A. Vergara.

[2] RTC Records, p. 1.

[3] TSN, pp. 3-20, Nov. 24, 1993.

[4] TSN, pp. 3-13, Nov.17, 1993.

[5] TSN, pp. 3-20, Nov. 11, 1993.

[6] RTC Records, p. 9.

[7] TSN, pp. 6-16, Dec. 16, 1993.

[8] TSN, pp. 4-7, March 10, 1994.

[9] TSN, pp. 2-14, March 9, 1994.

[10] TSN, pp. 14-20, March 9, 1994.

[11] TSN, pp. 2-10, April 21, 1994.

[12] Brief for Accused-appellants, p. 6; Rollo, p. 60.

[13]13 TSN, pp. 5-8, Nov. 24, 1993.

[14] TSN, pp. 6-8, Nov. 17, 1993.

[15] 245 SCRA 95, 104 (1995).

[16] People v. Floro, G.R. No. 120641, October 7, 1999; People v. Guillermo, G.R. No. 113787, January 28, 1999.

[17] People v. Bautista, G.R. No. 96092, August 17, 1999; People v. Verde, G.R. No. 119077, February 10, 1999.

[18] TSN, pp. 10-12, Nov. 11, 1993.

[19] People v. Caritativo, 256 SCRA 1 (1996); People v. Laredo, 185 SCRA 383 (1990).

[20] TSN, pp. 7-9, Dec. 16, 1993.

[21] People v. Magallano, 266 SCRA 305 (1997); People v. Tami, 244 SCRA 1 (1995).

[22] 272 SCRA 380 (1997).

[23] RTC Decision, pp. 22-23; Rollo, pp. 39-40.

[24] People v. Suplito, G.R. No. 104944, September 16, 1999.

[25] People v. Floro, G.R. No. 120641, October 7, 1999; People v. Bautista, G.R. No. 96092, August 17, 1999; People v. Atrejenio, G.R. No. 120160, July 13, 1999; People v. Panida, G.R. Nos. 127125 & 138952, July 6, 1999.

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