PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNALDO DE GUZMAN, BERNARDO DE GUZMAN, RUSSEL ABAD, AND GILBERT DOLORES, ACCUSED.

G.R. No. 124037. October 02, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

This case finds its roots in a sickening drinking spree common among the idle. It began with a frivolous mood of camaraderie, but ended in the tragic death of a young man, simply because he had refused to serve more liquor.

The Case

Before us are the appeals of Reynaldo de Guzman, Bernabe de Guzman Jr. and Russel Abad,[1] seeking to set aside the September 29, 1995 Decision[2] of the Regional Trial Court (RTC) of Quezon City (Branch 103) in Criminal Case No. Q-93-40959. The Decision found them guilty of murder beyond reasonable doubt, for which they were sentenced to reclusion perpetua and to pay the heirs of their victim P50,000 as actual damages and P100,000 as moral damages.

Quezon City Assistant City Prosecutor Leopoldo E. Baraquia filed an Information,[3] dated January 22, 1993, charging the four accused with murder allegedly committed as follows:

> "That on or about the 22[nd] day of July, 1992, in Quezon City, Philippines[,] the above-named accused, conspiring together, confederating with and mutually helping one another, without any justifiable cause, did, then and there, wilfully, unlawfully and feloniously with intent to kill, qualified by evident premeditation and treachery, assault, attack and employ personal violence upon the person of one ROMMEL PAGUL Y AZADA, by then and there stabbing him with a kitchen knife, hitting him on the different parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of ROMMEL PAGUI Y AZADA."[4]

When arraigned, all of them, with the assistance of their respective lawyers, entered a plea of not guilty.[5] The four accused were arrested on different dates, because they could not be located at their given addresses as shown in the return of their Warrants. Trial proceeded against the De Guzman brothers and Abad.

A co-accused, Gilbert Dolores, was arrested only after the prosecution had rested its case, because he had gone hiding in Mindanao to evade arrest.[6] After entering a plea of not guilty,[7] his counsel filed a Motion for Leave to File Demurrer to Evidence.[8] The Motion was denied by the trial court, because it "needs to hear and appreciate the defense evidence to rest its mind that there will be no miscarriage of justice in this case."[9] Hence, it ordered the prosecution to present all over again its entire evidence against the accused.

On October 17, 1995, the RTC promulgated its assailed Decision, the decretal portion of which reads as follows:

> "ACCORDINGLY, judgment is hereby rendered finding the accused, GILBERT DOLORES, REYNALDO DE GUZMAN, BERNABE DE GUZMAN, & RUSSEL ABAD GUILTY beyond reasonable doubt as

co-principals in the crime of MURDER charged in this case and they are all sentenced to suffer an imprisonment term of reclusion perpetua.

"On the civil aspect, the four (4) accused are all hereby ordered solidarily to indemnify the heirs of the victim Rommel Pagui [in] the sum of fifty thousand pesos (P50,000.00) as actual damages and one hundred thousand pesos (P100,000.00) as moral damages."[10]

The FactsProsecution's Version

In its Brief,[11] the Office of the Solicitor General summarized the prosecution's version of the facts as follows:

"At about 9:30 in the evening of July 22, 1992, Mrs. Fe Asada, together with her nephew Rommel Pagui, was tending her sari-sari store situated in the front unit of an apartment rowhouse which she owned, located at 283 Ermin Garcia Street, Cubao, Quezon City (TSN, p. 8, May 5, 1993). Momentarily, a group of men composed of appellants Reynaldo de Guzman and Bernabe de Guzman, Jr., Gilbert Dolores and Russel Abad arrived at the store. They ordered beer. After each one had consumed a bottle of beer, the group ordered more. Rommel told them that they had no more ice-cold beer. This remark enraged the group. At one point Gilbert Dolores told Rommel `Dada ka ng dada, kakatayin kita!' (TSN, pp. 10-14, May 5, 1993). In an effort to avoid trouble, Mrs. Asada curtly told the four customers to go home. After they had left, at about 10:30 p.m., Mrs. Asada closed the store, and proceeded to her room while Rommel went to the living room adjacent to the store to watch television (TSN, pp. 16-17, May 5, 1993). Mrs. Asada noted that when the four men arrived at her store, they reeked of liquor and were sniffing a white substance while they drank beer (TSN, p. 15, May 5, 1993).

"At about 11:00 o'clock that same night, a commotion broke the peace in the apartment compound of Mrs. Fe Asada. A loud thud emanating near the store stirred up the apartment residents (TSN, pp. 50-51, April 3, 1995). Then, Rommel Pagui went out of the apartment through the main gate. A few seconds later, he was seen running towards the interior of the driveway stretched along the length of the apartment compound (TSN, p. 59, April 3, 1995). There were four men chasing Rommel at the time, namely: appellants, Bernabe de Guzman, Jr., Reynaldo de Guzman, Gilbert Dolores and Russel Abad (TSN, p. 37, May 4, 1993). Before he retreated to the rear of the driveway, Rommel shouted, `Bakit ninyo ako sinaksak?' (TSN, p. 50, May 3, 1995). The group caught up with Rommel at the rear end of the apartment compound where he was cornered. A few moments later, the same group composed of appellants, Bernabe de Guzman, Jr., Reynaldo de Guzman, Gilbert Dolores and Russel Abad rushed towards the gate of the apartment and out into the street. Gilbert Dolores was seen holding a bloodied knife and as he swung it, blood streaked from it onto the concrete fence of the apartment, (TSN, pp. 39-40, May 4, 1993).

"Thereafter, Mrs. Fe Asada, Rommel's aunt and a boarder of Mrs. Asada, Elizabeth Cataniag, sought out Rommel in his room located in front of Mrs. Asada's bedroom. Failing to find him there and noting that appellant's group had already left, the two went to the rear portion of the apartment driveway (TSN, pp. 71-75, April 3, 1995).

"Medico-Legal findings on the cadaver of Rommel reveal that the victim sustained nine stab wounds, four of which were fatal in character (TSN, pp. 34-39, April 3, 1995)."[12]

Defense's Version

In their Briefs,[13] the De Guzman brothers gave the following version of the facts:

"7. Appellant Bernabe de Guzman, Jr., then 23 years old, denied the accusation against him and testified before the trial court that: since he was a little boy his nickname was `Junior' and that he was known by such appellation; that at about 7:30 in the evening of July 22, 1992 he was at his neighbor's (i.e., Alice Rodriguez) place located above his residence at 295 Ermin Garcia Street, Cubao, Quezon City watching television with `Ate Alice (i.e., Alice Rodriguez), Ate Miriam (i.e., Cynthia Kolong), Manang Itchang (i.e. Sonia Kolong), Ate Manlik (i.e., Lanilyn Kolong), Lenlen, Kuya Alex (i.e. Alex Anaban), Bebe (i.e., Amado Alauig) and my

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mother and my father'; that he fell asleep watching television; he was awakened later by one of his parents and was very sleepy when he transferred to the room of Amado Alauig (or Alaoig) which was beside the room of Alice Rodriguez; the next thing he knew was that he woke up at about 7:00 o'clock the next day (i.e., July 23, 1992) and was told of the death of Rommel Pagul by his Aunt Saling (i.e., Rosalina Querobin); he went outside and even joined the people `kibitsing around . . . in the scene' at 283 Ermin Garcia Street, Cubao, Quezon City; in the process he saw policemen and x x x Police Officer Pasco and further, with his brother, conversed with the people milling around the scene; thereafter, he returned to his house, prepared for work and proceeded to the security agency where he was employed (i.e., Citizen Protective Agency); he was later assigned to a post at the corner of Aurora Boulevard and 20th Avenue were he was on duty from 7:00 in the evening of July 23, 1992 to 9:00 a.m. of July 24, 1992 (pp. 8-52, t.s.n. May 23, 1994).

"8. Appellant Bernabe de Guzman, Jr. further testified that he later learned of the arrest of his brother Reynaldo de Guzman when he went home the morning of July 24, 1992 and later on joined his brother, who was with a Police Officer, and accompanied him to the Police Station where he stayed until 10:00 the morning of July 25, 1992. He even saw the father of the victim at the police station on July 25, 1992 and told the lat[t]er that he was not present in the incident whe[n] the victim died. He was told by the victim's father to `help him to locate Hill' which appellant tried to do by getting the address of appellant Gil Dolores from the same security agency where he was working at that time and eventually gave the same to x x x Police Officer Pasco. Thereafter, appellant Bernabe de Guzman, Jr. continued residing at his given address at Ermin Garcia and even attended the preliminary investigation hearings which followed before the Quezon City Prosecutor's Office sometime November and December, 1992 (Exhibits `3', `3-A', `3-D'). Sometime May, 1993, upon learning of a warrant of arrest having been issued against him he voluntarily surrendered before the police station at Kamuning but he was not detained as the warrant bore a different name (Bernardo de Guzman, Jr.). Eventually, however, he surrendered himself anew to the police sometime July 2, 1993 and has been detained since then (pp. 53-91, t.s.n. of May 23, 1994).

"9. For his part, Reynaldo de Guzman testified that about 6:00 p.m. of July 22, 1992, he ate his dinner at his house at 295 Ermin Garcia Street, Cubao, Quezon City. He was [fetched] by a friend, Nicasio Upao a known resident of 274 Ermin Garcia Street, Cubao, Quezon City, whom he accompanied to watch a movie at about 6:30 p.m. at the Coronet I Theatre in Cubao (i.e., `Lucio Margallo by Philip Salvador') and came back at about 9:00 in the evening. Upon their return they met appellant Gilbert Dolores who `was already drunk, his face was red' who insisted that they accompany him to drink. Nicasio Upao was able to decline but appellant was `forced' by Gilbert Dolores to accompany him to the store of Azada which was still open at that time (pp. 3 to 7, t.s.n. of September 12, 1994).

"10. At the Azada store, Gilbert Dolores ordered three (3) bottles of beer from `Manang Fe' (i.e., Maria Fe Azada) and ordered Reynaldo's cousin to call Russel Abad who was staying with his (i.e., Abad's) cousin nearby (i.e., 279 Ermin Garcia Street, Cubao, Quezon City[)]. Soon thereafter, an acquaintance named `Totoy', who also resided at Ermin Garcia Street, arrived. Gilbert Dolores then invited appellant, Russel Abad, and Totoy to go for a stroll using Totoy's vehicle. They went to Kamuning then to a certain Jerry also in Kamuning and then back to Ermin Garcia at Totoy's place. They left Totoy thereat and the three, Dolores, Abad, and appellant parted ways in front of the house of Russel Abad. Appellant thereafter went home at about 10:30 in the evening and slept straight until 6:00 in the morning of July 23, 1992 (pp. 7 to 16, t.s.n. of September 12, 1994)."[14]

Appellant Abad denied the accusations against him and set up the defense of alibi.

The Trial Court's Ruling

Because of several inconsistencies and significant lapses in the testimonies of the four accused, the trial court gave credence to the testimonies of the prosecution witnesses and dismissed those of the defense as totally unbelievable.

The RTC ruled that the flight of Dolores and Abad right after the incident had been prodded by a guilty conscience.

It appreciated the qualifiying circumstance of abuse of superior strength and explained as follows: "[Although] Elizabeth did not see who actually stabbed Rommel, the evidence shows some kind of a struggle because Rommel had several bruises in addition to nine (9) major stab wounds, four (4) of which were fatal wounds. All [of these show] that there was employment of grave abuse of superior strength as to render the victim helpless in fighting off his attackers as they ganged up on him."

Finally, the testimony of the victim's father on the expenses he had incurred in connection with his son's death was given full credit by the trial court, which awarded to the victim's heirs P50,000 as actual damages and P100,000 as moral damages.

Hence, these appeals by the De Guzman brothers and Abad only.[15]

Issues

In their respective Briefs, appellants contend that the court a quo erred in finding (1) that conspiracy attended the killing of Rommel Pagui, (2) that abuse of superior strength aggravated the crime, and (3) that the prosecution evidence was sufficient.[16]

This Court's Ruling

The appeals have no merit.

First Issue:
Conspiracy

The trial court correctly ruled that appellants conspired to commit murder. The detailed accounts of Prosecution Witnesses Fe Asada (a sari-sari store owner) and Elizabeth Cataniag (a college student) illustrate how appellants, irked by the victim's refusal to serve them more cold beer, decided to get back at him 30 minutes after they had been driven out of the store. Pertinent portions of their respective testimonies show how appellants, collectively and consciously, attacked and stabbed Rommel Pagui that fateful night.

Witness Cataniag narrated the incident thus:[17]

> "FISCAL PONFERRADA:
>
> Q.
>
> Do you recall where were you or what were you doing on or about midnight of July 22, 1992 Miss Witness?
>
> WITNESS:
>
> A.
>
> I was [in] our bedroom reviewing for our exams.
>
> Q.

This house[,] where is it located Miss Witness?

A.

It is located at the second floor of our house, sir.

Q.

What is the address of this house?

A.

No. 283 Ermin Garcia Street, Cubao, Quezon City.

Q.

While you were there [at] that particular time studying your lessons for your exams the following morning, do you remember if there was [any] unusual incident that happened.

A.

Yes, sir.

Q.

Miss Witness please tell us what was that unusual thing that happened?

A.

I heard the sound, loud sou(n)d of an object which I took for x x x a stone which was thrown on the rooftop of Manang Fe's house, sir.

Q.

And who is that Manang Fe, Ms. Witness?

A.

She is my land lady, sir.

Q.

Do you know her complete name Miss Witness?

A.

Maria Fe Asada, sir.

Q.

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When you heard this stone at your house what did you do Miss Witness?

"COURT:

House of the land lady.

"FISCAL PONFERRADA:

Yes, [w]hat did you do if you did anything Miss Witness?

WITNESS:

I went out of our bedroom and went down to the ground floor, sir.

Q.

You said you went down to the groundfloor [sic]. What did you [see] when you went down to the groundfloor Miss Witness?

A.

I saw Rommel going out of the house, sir.

Q.

What else did you see after that Miss Witness?

A.

I went to the living room on the groundfloor. I heard that there was a commotion happening outside, sir.

Q

You said you heard a commotion, what else did you hear, if any, [M]iss Witness?

A.

It so happened that one of the [slats of the] jalousie, one of the leaves of the jalousie was broken, I peeped through there sir.

Q.

And what did you see Miss Witness?

A.

I saw Rommel running towards the Royal Espiritu Compound, sir.

Q.

What is the family name of Rommel, if you know?

A

Pagui, sir.

Q

What else did you see Miss Witness?

A

I saw four male persons chasing Rommel, sir.

Q

Did you recognize those persons who were chasing Rommel Miss Witness?

A

Yes, sir.

Q

Who were they Miss Witness?

A

Gilbert Dolores, Reynaldo de Guzman, Bernardo de Guzman, and this Russel Abad, sir.

Q

Now, these persons that you named, Reynaldo de Guzman, Russel Abad, who chased Rommel Pagui, are they the same persons that you have identified in this courtroom?

A.

Yes, sir the two of them are [here] but the other two are not here in the courtroom.

Q

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You said you recognized them and that is already midnight. How did you come to recognize these four persons who chased Rommel Pagui?

A

Because at that time the florescent lamp [was] lighted, sir.

Q

What happened when you saw these four persons [who] chased Rommel Pagui, Mr. Witness?

A

When they were at the back Manang Fe asked me what [was] happening and I told her what was happening and we peeped [through] the jalousie, sir. And then saw the four persons running towards the gate of the apartment and I saw one of them holding a knife, sir.

Q

Did you recognize that person who was holding a knife Miss Witness?

A

Yes, sir.

Q

Who was that person Miss Witness?

A

It was Gilbert Dolores, sir.

Q

After that what happened Miss Witness?

A

I saw Gilbert Dolores holding the knife full of blood and then he swung it into the air against the wall, and of course the wall was full of blood also, sir.

Q

What else did you see after that Miss Witness?

A

When the four male persons were no longer there, we went inside the room of Manang Fe.

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Q

What did you do inside the room Miss Witness?

A

We cried and cried, sir.

Q

And then?

A

We waited for Rommel and after ten to fifteen minutes we went to the room of Rommel but he was not there, sir.

Q

So what did you do?

A

We went out, sir.

Q

For what purpose did you go out?

A

To locate the whereabouts of Rommel, sir.

Q

Where did you proceed to look for Rommel Miss Witness?

A

We went to Royal Espiritu Compound[;] when we were at 283-C I saw the lifeless body of Rommel Pagui.

Q

And what did you do when you saw the lifeless body of Rommel Pagui, Miss Witness?

A

We went to the house of Royal Espiritu and asked for help, we asked for assistance.

Q

And was assistance given to you?

A Yes, sir.

Q

And what happened after that Miss Witness?

A

Manong Roy told us just to go home, sir.

Q

Who told you that?

A

Manong Roy, sir.

Q

And what did you do, Miss Witness?

A

We went home and cried and cried. The[n] we called up their house, the house of Rommel which is located at Project 6, sir."

The foregoing narration was corroborated by Asada, who joined Cataniag after hearing the commotion. Pertinent portions of her testimony are reproduced hereunder:[18]

"FISCAL PONFERRADA:

Q.

Why do you know the accused?

"Witness:

A.

They are our neighbors.

Q.

How long have you been neighbors?

A.

For a long long time.

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Q.

Do you recall where were you on July 22, 1992 at around 10:30 in the evening?

A.

I was in my store.

Q.

And where is this store located?

A.

283 Ermin Garcia.

Q.

Quezon City?

A.

Yes, sir.

Q.

What were you doing at that store during the time?

A.

I was still selling to my customers.

Q.

Were you alone on that time?

A.

No, sir.

Q.

Who was with [you]?

A.

My nephew Rommel Pagui.

Q.

Who is this Rommel Pagui?

A.

My nephew, sir.

Q.

In relation to this case?

A.

He was the one who died.

Q.

Who were your customers you said you were selling [to at] that particular time?

A.

Gil Dolores and the two brothers Rene and Russel Abad.

Q.

And what were they doing there at the time?

A.

They were buying beer.

Q.

Who ordered the beer?

A

Gil Dolores.

Q.

At the time Dolores ordered the beer where was Rommel Pagui?

A.

He [was] inside my store.

Q.

What was the reaction of Rommel Pagui to the order of the beer?

"ATTY. PASCUA:

Objection, your Honor there is no basis.

"COURT:

Overruled.

"Witness:

A.

Rommel Pagui said '[T]ama na wala nang malamig na beer.'

"COURT:

Q.

At that time this Gil was ordering beer, did you notice anything about their persons?

A.

I noticed they were already drunk.

Q.

When Rommel made this [remark], what was the reaction of the group of Gil?

A.

Gil said to Rommel `[D]ada ka nang dada, kakatayin kita diyan.'

xxx xxx xxx

Q.

That evening was there anything unusual that happened?

A.

Yes, there was.

Q.

What was that unusual thing [that] happened.

A.

About 12:00 midnight I heard a sound that seem[ed] like [the] sound of a stone being thrown and it landed in front of our store against the wall.

Q.

When you heard that, what did you do?

A.

[When] I was awaken[ed] by the sound that I heard so I got out of the bed and went out of my room.

Q

When you went out of your bedroom, what did you see?

A.

I came out of my bedroom I saw Elizabeth Cataniag peeping thru the window.

Q.

Who is this Elizabeth Cataniag that you saw peeping thru the window when you went out?

A.

She is not a relative of mine. She is a Border.

Q.

What did you do when you saw Elizabeth peeping thru the window.

A.

Of course I also peep[ed] thru the window.

Q.

And what did you see when you peeped thru the window?

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A.

I saw Gil Dolores with his companion and Gil was holding a knife.

Q.

Who were these companions that you saw?

A.

Rene and Bert de [Guzman] and Russel Abad."

"FISCAL PONFERRADA:

Q.

Why do you know the accused?

"Witness:

A.

They are our neighbors.

Q.

How long have you been neighbors?

A.

For a long long time.

Q.

Do you recall where were you on July 22, 1992 at around 10:30 in the evening?

A.

I was in my store.

Q.

And where is this store located?

A.

283 Ermin Garcia.

Q.

Quezon City?

A.

Yes, sir.

Q.

What were you doing at that store during the time?

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A.

I was still selling to my customers.

Q.

Were you alone on that time?

A.

No, sir.

Q.

Who was with [you]?

A.

My nephew Rommel Pagui.

Q.

Who is this Rommel Pagui?

A.

My nephew, sir.

Q.

In relation to this case?

A.

He was the one who died.

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A.

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What was that unusual thing [that] happened.

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Q.

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When you heard that, what did you do?

A.

[When] I was awaken[ed] by the sound that I heard so I got out of the bed and went out of my room.

Q

When you went out of your bedroom, what did you see?

A.

I came out of my bedroom I saw Elizabeth Cataniag peeping thru the window.

Q.

Who is this Elizabeth Cataniag that you saw peeping thru the window when you went out?

A.

She is not a relative of mine. She is a Border.

Q.

What did you do when you saw Elizabeth peeping thru the window.

A.

Of course I also peep[ed] thru the window.

Q.

And what did you see when you peeped thru the window?

A.

I saw Gil Dolores with his companion and Gil was holding a knife.

Q.

Who were these companions that you saw?

A.

Rene and Bert de [Guzman] and Russel Abad."

Conspiracy is present when the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose; direct proof of a previous agreement to commit the crime is not necessary. After conspiracy is proven, evidence as to who among the accused rendered the fatal blow is not necessary.[19] Hence, all the perpetrators herein are liable as principals.[20]

Second Issue: Abuse of Superior Strength

While the Information states that the killing was "qualified by evident premeditation and treachery," it does not, however, allege abuse of superior strength. Thus, we cannot agree with the trial court's use of such aggravating circumstance.

First, even assuming that the RTC's finding on the presence of this circumstance was supported by the evidence on record, abuse of superior strength cannot be used to qualify the offense or aggravate the penalty. The

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Constitution requires that the accused must be informed of the "nature and cause of the accusation against him." Because the circumstance was not alleged in the Information, it cannot be used against the accused.[21] Moreover, abuse of superior strength is already absorbed by treachery,[22] which will be discussed shortly.

Second, qualifying and aggravating circumstances must be alleged in the information, per Sections 8 and 9 of Rule 110 of the Rules of Court, which we quote:

> "Sec. 8. Designation of the offense. - The complaint or information shall state the designation of the offense given by statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.
>
> "Sec. 9. Cause of Accusation.- The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment."

Considering that the above procedural provisions are favorable to the accused, they should be given retroactive effect.[23]

However, the killing of the victim was still murder, because of the qualifying circumstance of treachery. From the facts of the case, Rommel Pagui, who was inside the house, was lured outside by a loud thud. Investigating the source of the noise, he was, suddenly and without any warning, attacked simultaneously by the four accused, one of whom was armed with a knife. Alone and unarmed, he tried to run for cover towards the Royal Espiritu compound. But he was overtaken and thus assaulted individually and concertedly by the four accused. The manner in which they attacked him ensured the complete execution of their nefarious deed without incurring any risk to themselves and without affording him any chance to defend himself.[24]

Even if the attack was frontal, the victim had no time to prepare any defense and was therefore left with no option but to run for his life.[25] Treachery is essentially a swift and an unexpected attack on an unarmed and unsuspecting victim.[26] In this case, the victim was deprived of any defense, because of the sudden and unexpected attack by the four accused who, irked by his refusal to serve them more beer, decided to get back at him.

Third Issue: Credibility and Sufficiency of Prosecution Evidence

When the issue involved is the assessment of the credibility of the witnesses, it is well-settled that findings of trial courts deserve the highest degree of respect.[27] Their assessment may be disregarded only if they have committed substantial errors or overlooked determinative facts that would have otherwise dictated a different conclusion or verdict.[28] We find no cogent reason to depart from this doctrine.

The evidence supports the findings of the RTC. The three vital eyewitnesses, who had no ill motive to testify against appellants, clearly pointed to them as the culprits. They positively and unequivocally testified that they saw appellants before, during, and immediately after the mauling and the killing of the victim that fateful night.

Appellants put up the defenses of denial and alibi. Such defenses, however, cannot prevail over the prosecution witnesses' positive testimonies, detailing how appellants collectively and individually perpetrated the crime.[29] Their alibi cannot prosper, because they failed to prove the physical impossibility of their presence at the scene of the crime around the time of the stabbing incident.[30] Undisputed is the fact that they and their co-accused, who were residents of Ermin Garcia Street, drank beer at the sari-sari store that night, contrary to their protestations

that they were then at home sleeping. Clearly, in the case at bar, the defense miserably failed to negate their presence at the situs of the crime or its immediate vicinity during its commission.

WHEREFORE, the appeals are DENIED and the assailed Decision is AFFIRMED with the modification that the heirs of Rommel Pagui are granted indemnity ex delicto in the sum of P50,000. Cost against appellants.

SO ORDERED.

Melo, (Chairman), Vitug, and Sandoval-Gutierrez, JJ., concur.

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* Spelled "Bernabe de Guzman Jr." per RTC records and Appellant's Brief.

* Spelled "Bernabe de Guzman Jr." per RTC records and Appellant's Brief.

[1] Co-accused Gilbert Dolores did not file a notice of appeal.

[2] Written by Judge Jaime N. Salazar Jr.; records, pp. 290-296.

[3] Records, pp. 1-2.

[4] Ibid., p. 1.

[5] Id., pp. 26, 34, 76.

[6] Id., p. 155.

[7] Id., p. 186.

[8] Id., p. 247.

[9] RTC Order, p. 1; records, p. 25-A.

[10] RTC Decision, p. 8; records, p. 296.

[11] Signed by Sol. Gen. Simeon V. Marcelo, Asst. Sol. Gen. Antonio L. Villamor, and Sol. Enrique Z. Trespeces.

[12] Appellee's Brief, pp. 2-4; rollo, pp. 223-225.

[13] Appellant Abad's Brief was signed by Atty. Leonardo Byron R. Perez Jr., while the De Guzman brothers' Brief was signed by Atty. Teodoro C. Pascua of Pascua and Zuñiga.

[14] Appellant's Brief, pp. 5-8; rollo, pp. 179-82.

[15] This case was deemed submitted for resolution on April 26, 2001, when the Court received Appellee's Brief. The filing of a reply brief was deemed waived, as none had been submitted within the reglementary period.

[16] Rollo, pp. 48, 133.

[17] TSN, May 4, 1993, pp. 36-43.

[18] Ibid., May 5, 1993, pp. 6-11, 17-21.

[19] People v. Bernas, 309 SCRA 74, July 5, 1999.

[20] People v. Bitoon Sr. 309 SCRA 209, June 28, 1999.

[21] Article III, § 14(2) Constitution; People v. Perez, 296 SCRA 17, September 24, 1998; People v. Agunias, 279 SCRA 52, September 12, 1997; People v. Evangelista, 256 SCRA 611, May 8, 1996; People v. Reyes, 242 SCRA 264, March 9, 1995. See also People v. Medina, 300 SCRA 98, December 11, 1998; People v. Ramos, 296 SCRA 559, September 25, 1998; People v. Garcia, 281 SCRA 463, November 6, 1997.

[22] People v. Gutierrez Jr., 302 SCRA 643, February 8, 1999. See also People v. Manes, 303 SCRA 231, February 17, 1999; People v. Cawaling, 293 SCRA 293 SCRA 267, July 28, 1998; People v. Cheng, 279 SCRA 129, September 15, 1997.

[23] Regalado, Criminal Law Conspectus, 1st ed. 2000, pp. 120-123, citing Lapuz v. CA, 94 Phil 710, March 30, 1954; People v. Parel, 44 Phil 437, January 27, 1923; People v. Garcia et al., 105 SCRA 6, June 11, 1981; Buiser v. People et al.; 117 SCRA 750, October 23, 1982.

[24] People v. Panaga, 306 SCRA 695, May 5, 1999.

[25] TSN, May 4, 1993, pp. 36-40.

[26] People v. Valdez, 304 SCRA 611, March 11, 1999.

[27] Lorenzana v. People, GR No. 138666, March 1, 2001.

[28] People v. Dumayan, GR No. 116280, May 21, 2001, citing People v. Gornes, 230 SCRA 270, 275, February 23, 1994.

[29] People v. Yambot, GR No. 120350, October 13, 2000.

[30] Ibid.; People v. Patalin Jr., 311 SCRA 188, July 27, 1999; People v. Gallarde, 325 SCRA 835, February 17, 2000.

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