

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALFREDO GALLEGO, SAMUEL DELLONA, LEOBERT GAJETO, ERWIN VILLAROS, ROBERTO APINAN, TINGTING GAJETO, ERNESTO AROLLADO, JOHN DOE @ “JUN”...

G.R. No. 127489. July 11, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Certified to this Court for review by the Court of Appeals, pursuant to Section 13, Rule 124 of the Rules of Court, is the Decision[1] of the Regional Trial Court of Masbate, Branch 48, finding the appellants guilty of homicide. In its Decision[2] in CA-G.R. CR. No. 16723, the CA ruled that the appellants are guilty of murder as charged, and sentenced each of them to suffer the penalty of reclusion perpetua.

On March 12, 1993, appellants Alfredo Gallego, Samuel Dellona, Leobert Gajeto and Erwin Villaros, together with Roberto Apinan, Tingting Gajeto, Ernesto Arollado, a certain John Doe alyas Jun, and another Richard Doe alyas Dimas, were charged with murder before the Regional Trial Court of Masbate, in an Information[3] which reads:

That on December 2, 1992, in the evening thereof while on board the fishing boat F/B EVER IV and anchored at Panguiranan River, Balud, Masbate, Philippines, within the preliminary jurisdiction of this Honorable Court, the above-named accused, taking advantage of nighttime, with intent to kill, evident premeditation, treachery and abuse of superior strength, did then and there wilfully, unlawfully and feloniously conspiring and helping one another and armed with pieces of wood and knives, struck and stabbed one Alexander Adrias with pieces of wood and deadly weapons, hitting the latter and thereby inflicting fatal wounds that caused his instantaneous death.

CONTRARY TO LAW.[4]

On their arraignment on April 28, 1993, the four appellants pleaded not guilty to the charge.[5] The other accused remained at large. Thereafter, trial ensued.

The Evidence of the Prosecution [6]

On December 2, 1992, at about 5:00 p.m., the fishing boat F/B Ever IV dropped anchor at the Panguiranan River, Panguiranan, Balud, Masbate. On board were Ernesto Arollado, the captain and radio operator; Roberto Apinan, the second captain; and the members of the crew, including herein appellants. Alexander Adrias boarded the vessel to buy fish from the crew members, but was told that the fish cold storage would be opened later at 9:00 p.m. Thereafter, Alexander invited all the nine crew members to his house at Barangay Salvacion, Balud, Masbate, just across the Panguiranan River, for a drinking spree. The crew members agreed. The group went ashore on board Alexander's banca. Alexander had also earlier invited Elpidio Suarez to go back to the fishing boat with him later that night to buy fish. Elpidio agreed. At 8:00 p.m., Alexander and his visitors had consumed

eight bottles of Tanduay Rhum ESQ. The group went back to the fishing boat on board Alexander's banca. Elpidio followed them in his own banca. When Elpidio was by the outrigger on his way to the deck of the boat, he was shocked when he saw Alexander on the deck, about three arm's length away, being stabbed by the accused and the appellants. The boat was lit by "trouble lights" located at its rear and center. Leobert stabbed the victim at the back; Samuel on the right jaw; Erwin on the body; Alfredo on the chest; and Roberto on the body below the right breast. Tingting and Ernesto each hit the victim with a piece of wood at the back of the head. Elpidio could not recall how many times the victim was stabbed. Shocked by what he saw, Elpidio forthwith paddled back to shore and rushed to the house of Tomas Codera, the victim's stepfather to inform the latter of the gruesome incident.

At about 9:15 p.m., the F/B Sweetie Pie dropped anchor at Barangay Salvacion across the Panguiranan River. Tomas, the boat captain, saw the F/B Ever IV, at a distance of about fifteen meters from his boat, lift anchor on its way out of the river going towards the direction of Barangay Calumpang. He saw Alexander's banca being untied from the F/B Ever IV. Tomas retrieved the banca and brought it to shore. When Tomas arrived home, he inquired from his wife where Alexander was. He was told that Alexander had gone to the F/B Ever IV on board his banca with the crew, and that the group had a drinking spree earlier in the afternoon. Shortly thereafter, Elpidio arrived and informed Tomas that Alexander had been stabbed on the deck of the F/B Ever IV. Elpidio, however, did not reveal the identity of the assailants. Tomas forthwith returned to the F/B Sweetie Pie and cruised along the river looking for the F/B Ever IV, but failed to locate it. The next day, at 7:00 a.m., Tomas informed Rosita of her husband's death. Tomas, via cb radio, heard that the cadaver of Alexander had already been turned over to the police authorities at Barangay Calumpang, Balud. Tomas rushed to the police station in the said barangay and was able to recover Alexander's body from the police authorities and brought it back to Barangay Salvacion.

Dr. Oscar B. Acuesta, Medical Officer V of the Balud Municipal Hospital, performed an autopsy on the body of the victim and submitted a report on his findings, thus:

PHYSICAL FINDINGS :

- Cadaver was embalmed
- Stabbed [sic] [w]ound at the level of fourth intercostal space
Right chest penetrating the chest cavity hitting the Right Lung, wound two inches in length
- Stabbed Wound three inches in length at the level of fifth intercostal space Right chest penetrating the Right lung
- Stabbed Wound multiple (4 points) at the level of Right scapular area penetrating the chest cavity hitting the Right Lung.
- Stabbed Wound about 4 inches in length at the upper arm
- Stabbed Wound about 2 inches in length at the upper arm

- Lacerated Wound .5 inch in length at the left temporal area

CAUSE OF DEATH :

HEMORRHAGE, SEVERE SECONDARY TO MULTIPLE STABBED WOUND [7]

On December 7, 1992, another autopsy was conducted at the Veronica Memorial Chapel by Dr. Maximo L. Reyes, Medico-Legal Officer of the National Bureau of Investigation (NBI), who submitted a more detailed description of the injuries inflicted on the victim as incorporated in his Medico-Legal Report No. N-92-3370, to wit :

POSTMORTEM FINDINGS

Body, previously embalmed.

Hemothorax, 1,000 cc. right; 1,200 left, consisting of fluid and clotted blood.

Hemorrhage, meningeal: subdural and subarachnoidal, extensive.

Contused abrasions, 1.0 x 2.0 cm. right side of face; 1.0 x 2.0 cm. upper outer quadrant, left chest; 1.0 x 6.0 cm. posterior aspect, upper third, right forearm; 1.0 x 6.0 cm. left arm.

Hematoma, interstitial, scalp from both parietal area extending into the vertex.

Lacerated wound, 2.0 cm. left temporal area.

STAB WOUNDS :

- Elliptical, gaping, 3.5 cm. with clean cut edges and with one extremity sharp, other is contused, located over the right side of chest, 3.0 cm. from anterior median line, level of 3rd intercostal space, directed backward, laterally and downward, entering the chest, severing the upper lobe of right lung with an approximate depth of 10.5 cm.

- Elliptical, gaping, 4.0 cm. with clean cut edges and one extremity sharp, other is contused, located over the sternal area along midline, level of 2nd costal cartilage, directed backward, downward and to the left, entering the chest severing the descending aorta with an approximate depth of 11.0 cm.

- Four (4) in number, all with clean cut edges and with one extremity sharp, other is contused, with sizes of biggest is 2.0 cm. and smallest of 1.0 cm. all located over the interscapular area of right side, covering an area of 7.0 x 10.0 cm. all directed forward, downward and medially, only the upper two entered the posterior chest wall, severing the middle and upper lobe of right lung, the lower two is non-penetrating.

All other internal organs are pale.

Stomach, ½ filled with undigested food materials.

CAUSE OF DEATH: - STAB WOUNDS OF BODY; INTRACRANIAL HEMORRHAGE, TRAUMATIC, CONTRIBUTORY. [8]

In the meantime, Alfredo surrendered to the police officers and admitted stabbing the victim. He claimed, however, that he did so in self-defense. He was forthwith detained. SPO1 Samuel S. Capasilan and PO3

Elmerando V. Santiago, Jr. prepared and signed a Police Report dated December 3, 1992 stating that Alfredo was the suspect in the killing of the victim. In the meantime, Samuel, Leobert, and Erwin were also detained in the municipal jail. On December 5, 1992, Elpidio arrived in the police station and was brought to the detention cell where he saw Leobert, Alfredo, Samuel and Erwin. He identified the four as Alexander's assailants. He then gave a sworn statement to SPO3 Vicente Aragona of the Balud Police Station alleging inter alia that Alfredo, Samuel, Leobert and Erwin stabbed the victim.[9] On December 6, 1992, a criminal complaint was filed with the Municipal Circuit Trial Court of Balud, Masbate charging Alfredo, Samuel, Leobert and Erwin with murder for the killing of Alexander. Elpidio testified during the preliminary investigation.

On January 27, 1993, Elpidio Suarez executed a supplemental affidavit alleging inter alia that the other persons who ganged up on and helped in killing the victim were Ernesto Arollado, Roberto Apinan, Tingting Gajeto, a certain "Dimas" and one named "Jun" whose surname he did not know.[10]

The Evidence of the Appellants [11]

Appellant Alfredo Gallego admitted stabbing and killing the victim but claimed that he acted in self-defense. The other appellants denied involvement in the killing. The appellants adduced evidence that the crew members and Alexander, had a drinking spree in the latter's house. They consumed eight bottles of Tanduay ESQ and feasted on cooked fish. Shortly after their drinking spree, the group went back to F/B Ever IV. Exhausted and intoxicated, the appellants, except Alfredo, went to sleep. As soon as they arrived at the motor boat at about 8:00 p.m., Alexander ordered food from Alfredo, the cook of the boat. Alfredo only gave rice to Alexander, and told the latter that he was not able to cook any viand. Alexander was incensed and told the appellant that he was a useless cook and it would be better for him to resign from his employment. The appellant ignored Alexander's diatribes and went to the kitchen to tidy things up. Meanwhile, Alexander went to the kitchen and took the knife from the tray near the door. With the knife in his hand, Alexander went near the appellant. The appellant moved backward towards the front part of the boat but Alexander pursued the appellant. When he was cornered, Alfredo was forced to grapple with Alexander for the possession of the knife. With his left hand, Alfredo held the victim's right forearm, and with his right hand, twisted the victim's right hand towards the chest. Alexander placed his left hand on Alfredo's shoulder. Alfredo was able to wrest possession of the knife, and stabbed the victim on the chest. Alexander placed his right hand on Alfredo's other shoulder, as he was stabbed on the chest, on the abdomen and on the back. Alexander fell, his head hitting the edge of the deck. Alfredo could no longer remember the number of times he stabbed the victim. He forthwith awakened the other appellants and informed them that he had just killed Alexander. They saw Alexander prostrate on the deck, and immediately started the engine, pulled anchor and left Panguiranan River. Alfredo suggested that they leave for Barangay Calumpang. At about 11:15 p.m., the boat arrived at Barangay Calumpang, Balud, Masbate, where Alfredo surrendered to police officers SPO1 Samuel S. Capasilan and PO3 Elmerando V. Santiago, Jr. of the PNP Detachment. He admitted to the police officers that he killed Alexander and surrendered the knife he used in stabbing the victim.

On December 4, 1992, appellants Dellona, Gajeto and Villaros, arrived at the police station to visit appellant Alfredo and give him clothes and some money. At 5:00 a.m., Elpidio and Rosita arrived at the station. Elpidio asked the names of the appellants. Later at 8:00 p.m., appellants Dellona, Gajeto and Villaros were told to stay in the police station and were detained. A criminal complaint for murder against them was filed on December 6, 1992 with the MCTC. Elpidio executed an affidavit and identified the appellants as the assailants of Alexander.[12]

On May 6, 1994, the trial court rendered judgment finding the appellants guilty of homicide, the decretal portion of which reads:

WHEREFORE, the Court finds the accused Alfredo Gallego, Samuel Dellona, Leobert Gajeto and Erwin Villaros GUILTY beyond reasonable doubt of the crime of Homicide and hereby sentences each one of said accused to suffer imprisonment of TEN (10) YEARS and ONE (1) DAY of Prison Mayor as Minimum to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY of Reclusion Temporal as Maximum and to pay the heirs of the victim, Alexander Adrias, the amount of Fifty Thousand (P50,000.00) Pesos and to pay Eight Thousand (P8,000.00) Pesos for vigil and burial expenses without subsidiary imprisonment in case of insolvency and to pay the costs.

SO ORDERED.[13]

On appeal to the Court of Appeals, the appellants contend that:

I

THE LOWER COURT ERRED IN FINDING ACCUSED SAMUEL DELLONA, LEOBERT GAJETO AND ERWIN VILLAROS GUILTY OF THE CRIME OF HOMICIDE.

II

THE TRIAL COURT ERRED IN NOT CONSIDERING THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER AND PLEA OF GUILT, AND THE EXEMPTING CIRCUMSTANCE OF SELF-DEFENSE AGAINST ACCUSED ALFREDO GALLEGO.

III

THE TRIAL COURT FAILED TO EXERCISE COLD NEUTRALITY IN FINDING THE ACCUSED GUILTY OF THE CRIME OF HOMICIDE AMOUNTING TO GRAVE ABUSE OF DISCRETION.[14]

In its Decision, the Court of Appeals ruled that all the appellants are criminally liable as principals by direct participation for the killing of Alexander and that the crime was qualified by abuse of superior strength; hence, the appellants are guilty of murder, and sentenced the appellants, except Alfredo to reclusion perpetua.

Consequently, the Court of Appeals certified the case to this Court in view of the penalty imposed on some of the appellants.

While awaiting resolution of the instant appeal, appellant Samuel Dellona y Bebing filed on February 2, 1999, an "Urgent Motion to Withdraw Appeal" from the trial court's May 6, 1994 judgment. The Court, in a Resolution dated June 9, 1999,[15] dismissed the appeal insofar as appellant Samuel B. Dellona was concerned. The Resolution became final on July 21, 1999. Hence, the present appeal involves only the remaining three other appellants: Alfredo Gallego, Leobert Gajeto and Erwin Villaros. The May 6, 1994 Decision of Branch 48 of the Regional Trial Court of Masbate, Masbate in Criminal Case No. 6955 has now become final and executory as to appellant Samuel Dellona.

The appellants did not file an additional Brief with this Court; hence, this case will be resolved by the Court on the basis of the Briefs of the parties in the Court of Appeals.

The issues posed in this case may be synthesized, thus: (a) whether appellant Alfredo acted in self-defense; and (b) whether the three appellants are guilty of murder.

Appellant Alfredo Gallego's
plea of self-defense is barren

of merit.

Like alibi, self-defense in criminal prosecutions is a weak defense because it is easy to fabricate and difficult to disprove.[16] Whether or not an accused acted in self-defense, complete or incomplete, is a factual issue to be determined by the trial court based on the evidence on record. Where the accused interposes self-defense as a justifying circumstance, he thereby admits having killed the victim; the burden of evidence shifts from the prosecution to the accused to prove with clear and convincing evidence the confluence of the following essential requisites: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself.[17] Unlawful aggression is an essential and indispensable requisite, for without unlawful aggression on the part of the victim, there can be, in a jural sense, no complete or incomplete self-defense. The accused must rely on the strength of his own evidence and not on the weakness of that of the prosecution because even if the evidence of the prosecution were weak, the same can no longer be disbelieved after the accused has admitted killing the victim; hence, the conviction of the accused must ensue as a matter of consequence.[18] An act of aggression when its author does not persist in his purpose, or when he discontinues his aggression such that the object of his attack is no longer in peril, is not unlawful aggression.[19] Self-defense must be distinguished from retaliation; in that in retaliation, the ineptual unlawful aggression had already ceased when the accused attacked him. In self-defense, the unlawful aggression was still existing when the aggressor was injured or disabled by the person making the defense.[20]

In this case, the trial court and the Court of Appeals debunked appellant Alfredo's defense and gave credence with full probative weight to the testimony of Elpidio Suarez. We agree with the trial court and the Court of Appeals. Indeed, the evidence on record belies his plea of self-defense.

First. The victim sustained no less than six (6) stab wounds; two of the stab wounds were elliptical, on the right side of the chest, severing the upper lobe of the right lung and the descending aorta, while the other four (4) stab wounds were located at the right side of the interscapular area. The number, locations and depth of the wounds sustained by the victim belie appellant Alfredo's pretension that he killed the victim in self-defense; the same are proof that Alfredo intended to kill the victim and not merely to defend himself.

Dr. Maximo Reyes testified that the multiplicity and nature of the injuries inflicted on the victim clearly indicate that there was more than one attacker. He also confirmed that stab wounds nos. 1 and 2 in his autopsy report, even if attended medically, were bound to cause the victim's instantaneous death due to severe blood loss since the said wounds cut the blood vessels going to the heart and lungs, and severed circulation from the aorta to the heart.[21] This was corroborated by Dr. Acuesta who, in addition, testified that the wounds on the arms of the victim showed that it was the victim who tried to defend himself from his assailants.[22] It certainly defies reason why Alfredo had to inflict such injuries on the victim if he was only defending himself. The findings of the trial court belie appellant Alfredo's claim that he also stabbed the victim with his knife:

Moreover, the Court has carefully examined and measured the fatal knife. It was six (6) inches long with the blade of the knife about two and a half (2½) inches long and the handle is three and one half (3½) inches long. The blade of the knife was one (1) centimeter wide at its widest part. It was sharp on one side of the blade but not the back part. Yet, some of the stab wounds were six (6) or ten (10) inches deep.

We have held that physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses.[23]

Second. Appellant Alfredo managed to wrest possession of the knife from the victim. While the appellant was grappling for the possession of the knife, the victim placed his left hand on the appellant's right shoulder. Even

after appellant had wrested possession of the knife, he stabbed the victim while the latter placed his right hand on the appellant's other shoulder. The ineptual aggression of the victim had already ceased after the appellant had wrested possession of the knife. Nevertheless, the appellant stabbed the hapless victim six more times. Two of the stab wounds were at the back of the victim. The testimony of appellant Alfredo reads:

COURT

to the witness)

Q When you feel that you were cornered on the front deck, how did you hold the victim first?

A On his forearm.

Q Please demonstrate?

A (Witness showing his right forearm between the hand and the elbow)

Q That was the first act that you did while the victim was approaching you you held him on the forearm?

A Yes, Your Honor.

Q What was the immediate reaction of the victim when you held his forearm?

A When I held his forearm I felt that he is stronger than me, I immediately caught his hand and twisted it towards his body.

Q That hand you twisted was the right hand of the victim holding the knife?

A Yes, Your Honor.

Q And you twisted that hand holding the knife with your left hand because you said your right hand was holding the forearm?

A No, Your Honor.

Q Which is correct?

A My left hand was the hand I used in holding his forearm and my right hand twisted his hand holding the knife.

Q So it is very clear now that your first act was to hold the forearm of the victim with your left arm?

A Yes, Your Honor.

(ATTY. CELERA continuing)

Q You will not change that anymore?

A No.

Q While your left hand was holding the forearm of the victim, your right hand grabbed the hand of the victim holding the knife?

A Yes, Your Honor.

Q And your right hand twisted the right hand of the victim towards the body of the victim, is that correct?

A Yes, Your Honor.

Q Are you sure of that?

A Yes, Your Honor.

Q And you twisted that hands holding the knife towards the left hand of the victim?

A Towards the chest of the victim.

Q And you said while you were twisting the right hand of the victim with the knife with your right hand, the knife was closed to the chest of the victim, is that correct?

A I only tried to take possession of the knife.

Q Why did you not pressed it against the left side of the victim?

A No, because I tried to take hold and there it was the time I stabbed him.

Q The victim's right hand was being twisted to his heart with the knife, is that correct?

A Yes, sir.

Q And your left hand you said was holding the forearm of the victim?

A Yes, Your Honor.

(COURT continuing)

Q And all this time the left hand of the victim was free doing nothing when he was being threatened?

A The left hand of the victim was the one holding me.

Q The victim did not hold your hands twisting the hand with a knife, is that correct?

A He did not.

Q The victim simply held you on your right shoulder, is that correct?

A Yes, Your Honor.

Q The victim's hand with the knife was already being twisted nearer his heart?

A It was twisted but it did not touch his body.

Q That left hand of the victim holding your right shoulder did not help while his right hand was being twisted to his heart?

A No sir, because he was only holding my shoulder.

Q In the struggle of twisting the right hand of the victim you were able to recover that knife?

A When I forcedly twisted his right hand it loosen the knife and I was able to take possession of the knife.

Q That left hand of the victim did not help in twisting his right hand in order that that knife should not be recovered?

A He was just holding my shoulder.

Q So the victim's left hand remained in your shoulder?

A Yes, sir.

Q Finally you were able to recover the knife?

A When I twisted his hand and he loosen the hold of the knife I was able to recover the knife.

Q That left hand of the victim still on your shoulder until you recovered the knife?

A The left hand was still holding my shoulder and when I took hold the knife there I was able to stab the victim.

Q When you first stabbed the victim, the left hand of the victim was still on your right shoulder?

A Yes, sir.

Q So when the victim was hit by your first stab, that left hand was still on your right shoulder, is that correct?

A Yes, sir.

Q When you withdraw [sic] the knife hitting the victim, was the left hand of the victim still on your right shoulder?

A On my second stab two hands of the victim was [sic] already holding my shoulder.

Q You mean both hands of the victim were holding your right shoulder?

A When I stabbed him already.

Q For the second time or after the second time?

A When I stabbed him he immediately held me with his two hands on my shoulder.

Q That was after you stabbed him the second time?

A Yes, sir.[24]

It is incredible that while the appellant used both his hands to wrest possession of the knife, the victim merely placed his left hand on the appellant's shoulder instead of using it to pull away the hands of the appellant holding his right hand. Even after the appellant had wrested possession of the knife and had stabbed the victim once on the chest, the latter merely placed his right hand on the other shoulder of the appellant, thus allowing the appellant to stab him six more times without let up on the chest and at the back. The human instinct for survival and self-preservation would impel one who is about to be stabbed with a lethal weapon to try his utmost to wrest possession of the weapon from the attacker. However, the appellant would have us believe that the victim merely placed his hand on the appellant's shoulder, thus enabling him to stab the victim several times. The appellant's testimony is altogether unconvincing, contrary to human nature and the natural course of things.

Third. Appellant Dellona admitted on cross-examination that Alfredo's claim of self-defense was an afterthought in a last ditch attempt to cover up for the other appellants, hoping that the trial court would find merit in Alfredo's plea. As testified to by appellant Dellona on cross-examination:

Q: Gallego admitted the killing in order that the rest of you will not be implicated in the crime?

A: Yes, sir.[25]

The prosecution proved the
guilt of Appellants Gajeto and
Villaros for Murder beyond
reasonable doubt.

The appellants assert that the trial court erred in giving credence and full probative weight to Elpidio's testimony. They contend that: (a) Elpidio was a professional witness; (b) his testimony before the trial court that the victim was stabbed by eight members of the crew of the F/B Ever IV and was assaulted by another member of the crew armed with a piece of wood, is inconsistent with the affidavit he executed during the preliminary investigation that he saw only the four appellants stab the victim. This is also inconsistent with his supplemental affidavit to the NBI, that he saw the four appellants and the five other accused or nine members of the crew assaulting the victim; (c) he never informed Rosita, the victim's widow, and the barangay officials in Barangay Panguiranan and Barangay Calumpang, Balud, Masbate, or the police authorities for that matter, that he witnessed the crime; and (d) his testimony is incredible as it is belied by the physical evidence on record as to the number of stab wounds the victim sustained. They also assert that Rosita herself testified that only Alfredo stabbed Alexander. The other appellants were implicated only because they happened to be at the police station to deliver Alfredo's clothes and some money. When Elpidio arrived, he pointed to them as the victim's assailants. Consequently, they were detained without any warrants of arrest. The fact that the appellants returned to the police station barely three days from the killing is evidence that their conscience was clear and that they were innocent of the crime charged. The prosecution failed to prove beyond cavil that the appellants conspired with Alfredo in killing the victim.

The assertions of the appellants do not persuade. At the outset, we note that the trial court and the Court of Appeals gave credence and full probative weight to the testimony of Elpidio, the lone eyewitness. The trial court found his testimony clear and positive. The Court of Appeals concurred with the observations of the trial court and even declared that the credibility of Elpidio was even bolstered on cross-examination, during which Elpidio graphically and vividly described with specificity the manner in which each of the appellants stabbed the victim:

Indeed, we do not doubt the truthfulness of Elpidio Suarez's testimony. No proof of ulterior motive for him to implicate all the accused has been offered. Where there is no evidence, and nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit.

He in fact stood his ground and stuck to his story under intense cross examination. Worse, the cross examination instead bolstered his story as the cross examiner made the mistake of asking him to describe in detail the manner in which each of the accused inflicted the wounds on the victim.[26]

We agree with the Court of Appeals. We have carefully reviewed the records and indeed, Elpidio, on cross-examination, described in detail how the appellants killed the victim:

...

...

...

Q

Right after informing Tomas Codera, you immediately left the place?

A

Yes, sir.

Q

You never reported [sic] said incident to any police authority?

A

I did not anymore because I reported to Tomas Codera.

Q

And even in Panguiranan which you said you crossed right after informing Tomas Codera, you did not inform the barangay captain there, you did not inform the Sangguniang Bayan Member Lino Aninang and you never informed any other person or authorities for that matter because you have already informed Tomas Codera, am I correct?

A

Yes, sir.

Q

Mr. Witness, did you report this incident to the police authorities the following day, on December 3, 1992 or was it only on December 5, 1992 that you reported to the police of said incident?

A It was on December 5 that I reported the incident to the police authorities.

Q So it took you almost three (3) days before you reported the said incident to the police authorities?

A Yes, together with the filing of the complaint.[27]

All the appellants conspired to kill the victim; hence, all of them are criminally liable for the crime charged as principals by direct participation. Indeed, as shown by the evidence on record, the appellants and the other accused each armed with a bladed weapon, except accused Arollado who was armed with a piece of wood, assaulted the victim, hitting him with their weapons on different parts of the body. By their concerted act or acts, they embarked on a common objective — that of killing the victim.[28]

Elpidio had clear visibility of the stabbing because he was at the outrigger of the boat, about three arm's length from where the victim was. The deck of the boat where the stabbing occurred was lighted by four "trouble lights,"

thus:

Q

How were you able to see the incident when it was 9:00 o'clock in the evening?

A

I witnessed the incident because in their boat itself there is a bright light called trouble light.

Q

And where were those lights located?

A

These trouble lights are located at the center of the boat wherein there is a mast which has a cross wood with two (2) trouble lights placed at both ends which brightly lighted the surrounding area of the boat and the whole boat.

COURT

(to the witness)

Q Where are the two (2) because you said there were four (4)?

A Two (2) trouble lights at both ends, making therefore four (4) trouble lights in all that lighted the boat.

ATTY. CELERA

(continuing)

Q What was the position of Alexander Adrias when he was attacked by the accused, Gallego?

A Alexander Adrias was standing.

...

...

... [29]

Contrary to the assertion of the appellant that Elpidio soon left the scene before all the appellants and the other accused had assaulted the victim, Elpidio testified that:

ATTY. REVIL

(continuing)

Q

Mr. Witness, from the time you alleged to have witnessed the scene of the incident you left after Alexander Adrias was stabbed by Alfredo Gallego?

A

I paddled my boat to move backward but I did not leave yet.

Q

And are you sure of that, Mr. Witness, that you did not leave immediately after seeing Adrias to have been [sic] stabbed by Alfredo Gallego?

A

Yes, sir. I was sure I did not leave.

Q

And you mentioned likewise, Mr. [W]itness, that the other three (3) accused were present when Alexander Adrias was stabbed?

A

I was sure.[30]

Case law has it that findings of facts of the trial court, especially if affirmed by the appellate court, are given great respect if not conclusive effect by this Court unless the trial court ignored, misunderstood or misinterpreted facts and circumstances of substance which, if considered, would alter the outcome of the case. Having had the unique advantage of observing and monitoring at close range the demeanor and conduct of witnesses as they testify, the trial court is in a better position to pass judgment on the credibility of witnesses and the probative weight of their testimony.[31] We have no reason to deviate from the findings of the trial court and the appellate court.

In construing the testimony of a witness, such testimony must be considered as a whole, and not in its truncated parts, and the meaning of any answer to isolated questions is to be ascertained by due consideration of all the questions propounded on the witness and his answers thereon throughout his testimony. Facts imperfectly stated in answer to a question may be supplied or clarified by his answer to another or other questions.[32]

In this case, Elpidio stated in his sworn statement to SPO3 Vicente Aragona on December 5, 1992 that the four appellants stabbed the victim and identified all of them as the culprits. However, when he testified, Elpidio declared that each of the five accused stabbed the victim, while accused Ernesto Arollado hit the victim at the back of the head. Elpidio made a similar claim in his supplemental statement[33] in which he stated that nine of

the crew members helped in killing the victim. But Elpidio clarified the matter when he testified on cross examination:

ATTY. REVIL

(continuing)

Q

And you never mentioned the five (5) other accused which you included in your supplemental affidavit and your statement likewise before the NBI, am I correct?

A

I was not able to mention the five (5) other accused because only four (4) were present in the police line-up and Aragona told me that I have only to include the four (4) who were present.

Q

So Mr. Witness, the four (4) accused who were [sic] present here today were only included in this case because they were the ones present during the police line-up which was undertaken in the presence of Policeman Aragona, is that correct?

A

It is [sic] only these four (4) accused whom I mentioned to Aragona but I mentioned also the other five (5), only these four (4) were present. [34]

The records show that when apprised on December 5, 1992 that the three appellants, aside from Alfredo who had earlier surrendered, were already in the custody of the police authorities and detained thereat, Elpidio arrived in the municipal police station and gave his sworn statement, identifying the four appellants as the assailants of the victim. The other members of the crew were still at large and could not thus be pinpointed by Elpidio.

There is no substantial incongruency between the physical evidence on record and Elpidio's testimony. We agree with the ruminations of the Office of the Solicitor General in its Brief for the appellee, thus:

The argument that the testimony of Suarez that nine (9) crew members of the F/B Ever IV took turns in stabbing and hitting the victim is unbelievable because it is contrary to the autopsy report showing that the victim suffered only six (6) wounds, does not inspire concurrence.

Contrary to appellants' contention, the autopsy report of the NBI (Exh. "6") showed that the victim did not only suffer stab wounds but likewise different physical injuries in the form of "contused abrasions" located over the "right side of the face, left side of the chest, right forearm and left arm." The report also states the presence of "hematoma" over the scalp of the victim and the presence of hemorrhage in the coverings of the brain. (pp. 7-B, TSN, July 26, 1993).

Accordingly, from the above findings of the NBI, it is evident that nine (9) persons collaborated in killing the

victim, some of whom stabbed him while the others used their fist or blunt instruments thereby inflicting those physical injuries mentioned above.

In short, the fact that the victim suffered six (6) stab wounds plus several physical injuries all over his body is consistent with the testimony of Suarez that the nine (9) crew members of F/B Ever IV collaborated in killing the victim. [35]

Although Dr. Maximo Reyes of the NBI Medico-Legal Office mentioned only six (6) wounds sustained by the victim, Dr. Oscar Acuesta testified that the victim sustained eight stab wounds, thus:

Q Will you tell us your findings one by one doctor?

A (1) The cadaver was embalmed

(2) There was stabbed [sic] wound at the level of fourth intercostal space

Right chest penetrating the chest cavity hitting the right lung, wound was two (2) inches in length

(3) Stabbed wound three (3) inches in length at the level of fifth intercostal space right chest penetrating the right lung

(4) Stabbed wound multiple (4) points at the level of right scapular area penetrating the chest cavity hitting the right lung

(5) Stabbed wound about four (4) inches in length at the upper arm

(6) Stabbed wound about two (2) inches in length at the upper arm.

(7) Lacerated wound .5 inch in length at the left temporal area.

Q So how many stabbed [sic] wounds are there?

A There are only eight (8) and [the] last one lacerated.[36]

Dr. Reyes did not consider the wounds sustained by the victim on the upper arm and temporal area, claiming that the wounds could have been caused by a blunt instrument. Dr. Acuesta considered the same as stab wounds. But the credibility of Elpidio is not impaired by the testimony of either of the doctors. Elpidio testified that the victim was ganged up by eight crew members who were armed with knives. While Elpidio was certain that appellants Gajeto, Dellona, Gallego and Villaros did stab the victim on different parts of his body, he did not see what parts of the victim's body were hit when "Jun" and "Dimas" stabbed the victim. For his part, appellant Arollado hit the victim on the back of his head and his nape. Neither Dr. Acuesta nor Dr. Reyes discounted the possibility that two or more knives were used to stab the victim. Dr. Acuesta testified that it was possible that two bladed weapons were used:

Q

And what could have caused that stabbed [sic] wound?

A

It was caused by a sharp edge instrument.

Q

So the weapon that could have been used could be a knife or two (2) bladed weapons?

A

It could be possible.

Q

How about the lacerated wound, what could have been caused? [sic]

A

The lacerated wound is [sic] caused by a blunt instrument.[37]

Dr. Reyes, for his part, testified that considering the nature and size of the wounds sustained by the victim, the possibility that he was stabbed by only one person is a remote one:

Q

And the wound likewise could have been caused by only one person?

A

It could possibly caused [sic] by only one perpetrator, well, the possibility is remote the fact that there are several sizes of stab wounds during the course of my examination.

Q

But it is not [sic] Dr. that you mentioned a while ago that this could have caused by only one instrument being perpetrated but maybe more than one perpetrators, is it not?

A

Yes, sir.

ATTY. REVIL

That would be all, Your Honor.

ATTY. CELERA

Only one question, Your Honor.

COURT

Proceed, please.

ATTY. CELERA

(on additional direct examination)

Q

Dr. what is your basis for saying that the possibility is remote that this injury could have been caused by one perpetrator?

A

Well, the basis is that; first, the multiplicity of physical injuries which is not caused by only one (1) person. There were six (6) stab wounds which inflicted indiscriminately.[38]

We agree with the trial court's keen analysis of the physical evidence borne by the medical certificates issued by Dr. Acuesta and Dr. Reyes vis-a-vis the fatal weapon, that the victim could have been stabbed by two or more persons:

Moreover, the Court has carefully examined and measured the fatal knife. It was six (6) inches long with the blade of the knife about two and a half (2-1/2) inches long and the handle is three and one half (3-1/2) inches long. The blade of the knife was one (1) centimeter wide at its widest part. It was sharp on one side of the blade but not the back part. Yet, some of the stab wounds were six (6) or ten (10) inches deep.[39]

That Elpidio did not report the killing of the victim to the police authorities or identify the culprits to Tomas Codera, the barangay officials and police authorities immediately after the crime was committed by the appellants

does not impair the credibility of Elpidio. The evidence shows that after witnessing the heinous crime committed by the appellants, he proceeded posthaste to the house of Tomas Codera, the victim's stepfather and reported the crime. Elpidio expected Tomas to inform the victim's widow:

Q

Right after informing Tomas Codera, you immediately left the place?

A

Yes, sir.

Q

You never reported said incident to any police authority?

A

I did not anymore because I reported to Tomas Codera.

Q

And even in Panguiranan which you said you crossed right after informing Tomas Codera, you did not inform the barangay captain there, you did not inform the Sangguniang Bayan Member Lino Aninang and you never informed any other person or authorities for that matter because you have already informed Tomas Codera, am I correct?

A

Yes, sir.

Q

Mr. Witness, did you report this incident to the police authorities the following day, on December 3, 1992 or was it only on December 5, 1992 that you reported to the police of said incident?

A

It was on December 5 that I reported the incident to the police authorities.

Q

So it took you almost three (3) days before you reported the said incident to the police authorities?

A

Yes, together with the filing of the complaint.[40]

In *People vs. Galido*,[41] we ruled that fear of reprisal and the natural reluctance of witnesses to get involved in criminal cases are sufficient explanations for a witness' delay in reporting a crime to the authorities. Besides, Elpidio, in the company of Rosita and Tomas, went to the police authorities and identified the appellants on December 5, 1992, or barely three days after the commission of the crime.

The well-entrenched rule is that different people react differently when confronted with a startling and frightening occurrence. There is no standard form of human behavioral response to crimes and other strange occurrences. Experience dictates that precisely because of the startling acts of violence committed right before their eyes, eyewitnesses can recall with a high degree of reliability the identities of the criminals and how at any given time the crime has been committed by them.[42]

Admittedly, Rosita, the victim's wife, testified on cross-examination that in her affidavit on December 7, 1992, she stated that her husband was killed by appellant Alfredo. However, as gleaned from the said affidavit, she had no personal knowledge of who killed her husband. She was merely informed by Tomas Codera that her husband was killed by appellant Alfredo. Significantly, she also stated in the said affidavit that she would elaborate further when the case is called for trial.

Even if it were true that the appellants went to the police station ostensibly to give clothes and money to Alfredo who had earlier surrendered to the police authorities, this does not in any way bolster their claims of innocence. Their presence at the station is not sufficient to overcome the prosecution's overwhelming evidence against them. It bears stressing that the appellants were not aware that Elpidio had witnessed the crime; hence, they did not expect that someone would point to them as the culprits. The appellants' plaint on their arrest and detention does not hold water since they failed to raise the same before their arraignment.[43]

The Crime Committed by the Appellants

The trial court convicted the appellants with homicide with the attendance of abuse of superior strength in the commission of the crime. The Court of Appeals concurred with the trial court that indeed, the appellants abused their superior strength, but ruled that the appellants are guilty of murder under Article 248 of the Revised Penal Code. We agree with the Court of Appeals. Nine assailants, including the appellants, ganged up on the victim and inflicted no less than six mortal wounds on the unarmed victim. The appellants took advantage of superiority in number and superior power to overwhelm and kill the hapless victim.

Proper Penalty on the Appellants

The crime was committed before the effectivity of Republic Act No. 7659 on January 1, 1994. The penalty for the crime under Article 248 of the Revised Penal Code was reclusion temporal in its maximum period to death. In the absence of any aggravating or mitigating circumstances in the commission of the crime, the imposable penalty on the appellants is reclusion perpetua, medium period of the penalty, pursuant to Article 64 of the Revised Penal Code.

Civil Liabilities of the Appellants

The trial court condemned the appellants to pay to the heirs of the victim Alexander Adrias the amount of P50,000 and P8,000 for vigil and burial expenses but did not award any moral and temperate damages. The decision of the trial court shall thus accordingly be modified. Conformably to current jurisprudence, the heirs are entitled to civil indemnity *ex delicto* in the amount of P50,000 and moral damages in the amount of P50,000.[44]

Rosita Adrias testified that she spent the total amount of P81,000 for the vigil and burial expenses and for the cemetery lot where the victim was interred. However, she failed to adduce a single document to prove her claim. Hence, she is not entitled to actual damages for the said amount.[45] She is, however, entitled to temperate damages in the amount of P25,000 conformably to current jurisprudence.[46]

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Masbate, Branch 48 is AFFIRMED with MODIFICATION. Appellants Alfredo Gallego, Leoberto Gajeto and Erwin Villaros are found guilty beyond reasonable doubt of murder under Article 248 of the Revised Penal Code, qualified by abuse of superior strength and there being neither aggravating nor mitigating circumstances attendant in the commission of the crime, said appellants are hereby sentenced to suffer the penalty of reclusion perpetua. They are hereby directed to pay jointly and severally to the heirs of the victim Alexander Adrias, P50,000 as civil indemnity, P50,000 as moral damages and P25,000 as temperate damages.

Appellant Dellosa is no longer liable for moral damages and temperate damages considering that he withdrew his appeal.[47]

With costs against appellants.

SO ORDERED.

Bellosillo, (Chairman), Austria-Martinez, and Tinga, JJ., concur.

Quisumbing, J., on leave.

[1] Penned by Judge Ricardo B. Butalid.

[2] Penned by Associate Justice Romeo A. Brawner, with Associate Justices Alfredo L. Benipayo, now the Solicitor General, and Buenaventura L. Guerrero, concurring.

[3] Docketed as Criminal Case No. 6955.

[4] Records, p. 1.

[5] Id., at 31 & 35.

[6] The prosecution presented six (6) witnesses, namely, Elpidio F. Suarez, Tomas Codera, Rosita C. Adrias, SPO3 Vicente Aragona, Dr. Oscar Acuesta and Dr. Maximo Reyes.

[7] Exhibits "E" and "E-1," Records, p. 13.

[8] Exhibit "G," Id., at 77.

[9] Exhibit "A," Id., at 6.

[10] Exhibit "C," Id., at 10.

[11] Only appellants Alfredo Gallego and Samuel Dellona testified. The testimony of appellants Leobert Gajeto and Erwin Villaros were dispensed with on their claim that the collective testimony of the said appellants were merely corroborative of the testimonies of appellants Gallego and Dellona.

[12] Exhibit "C," Records, p. 10-A.

[13] Records, p. 285.

- [14] Rollo, p. 35.
- [15] Id., at 26-27.
- [16] People v Noay, 296 SCRA 292 (1998)..
- [17] People v. Patalinghug, 318 SCRA 116 (1999).
- [18] People v. Geneblazo, 361 SCRA 572 (2001).
- [19] Ibid.
- [20] People v. Decena, 235 SCRA 67 (1994).
- [21] Id., at 9-11.
- [22] TSN, 22 July 1993, pp. 17-19 (Dr. Acuesta).
- [23] People v. Silvano, 350 SCRA 650 (2001).
- [24] TSN, 28 July 1993, pp. 28-32 (Gallego).
- [25] TSN, 27 July 1993, p. 18 (Dellona).
- [26] CA Decision, pp. 11-12.
- [27] TSN, 13 July 1993, pp. 118-119 (Suarez).
- [28] People vs. Gallo, 318 SCRA 157 (1999).
- [29] TSN, 13 July 1993, pp. 5-6 (Suarez).
- [30] TSN, 13 July 1993, pp. 17-18 (Elpidio).
- [31] People v. Galam, 325 SCRA 489 (2000).
- [32] FRANCISCO, THE REVISED RULES OF COURT OF THE PHILIPPINES, Vol. VII, Part II, 1997 ed. p. 542.
- [33] See note 10, supra.
- [34] TSN, 13 July 1993, p. 20 (Suarez).
- [35] CA Rollo, pp. 69-70.
- [36] TSN, 22 July 1993, p. 15 (Dr. Acuesta)
- [37] Id., at 16.
- [38] TSN, 26 July 1993, p. 14 (Dr. Reyes).
- [39] Records, p. 284.
- [40] TSN, 13 July 1993, pp. 24-25 (Suarez), Records, pp. 118-119.
- [41] 326 SCRA 187 (2000).**
- [42] People v. Sumallo, 307 SCRA 521 (1999).
- [43] Under Section 26, Rule 114 of the Revised Rules of Criminal Procedure, the accused must raise the matter of

the validity of his arrest before arraignment, otherwise he is barred from doing so during trial and on appeal.

[44] People v. Galladan, 318 SCRA 569 (1999).

[45] People v. Berzuela, 341 SCRA 47 (2000).

[46] People v. Del Valle, 372 SCRA 297 (2001); People v. Sumibcay, G.R. Nos. 132130-31, May 29, 2002.

[47] People v. Caballes, 274 SCRA 83 (1997).

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