

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIPE MUSA, JR., SILVERIO MANJARES, JR. (DECEASED), ALLAN REOLO, RANDY LLENO AND ANGELO MABINI, ACCUSED.

G.R. No. 137042. June 17, 2003

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-137042/>

YNARES-SANTIAGO, J.:

Felipe Musa Jr., Allan Reolo, Randy Lleno and Angelo (Gil) Mabini, together with Silverio Manjares Jr. (now deceased) were charged with Murder before the Regional Trial Court of Sorsogon, Sorsogon, Branch 52, which was docketed as Criminal Case No. 2540. The Information filed against them reads as follows:

That on or about the 17[th] day of July 1988, at Barangay Putiao, municipality of Pilar, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, armed with stones, and with treachery and evident premeditation, and taking advantage of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault and throw stones at one Zaldy Marifosque, thereby hitting the latter on the different parts of his body which directly caused his death, to the damage and prejudice of the legal heirs of said Zaldy Marifosque.

CONTRARY TO LAW.[1]

All the accused pleaded "not guilty" upon arraignment.[2] Thereafter, the case was tried on the merits.

At 9:00 p.m. of July 17, 1998, brothers Javier "Bebot" Marifosque and Zaldy Marifosque were inside their house at Putiao, Pilar, Sorsogon. They were getting ready for bed when suddenly stones fell on their roof. They looked out the window and saw Felipe Musa Jr., Allan Reolo, Angelo Mabini, Randy Lleno and Silverio Manjares, Jr. standing in the middle of the road and pelting stones at their house.[3] Bebot and Zaldy ran towards the house of Musa's father, Felipe Sr., seventeen meters away, to report the stoning incident to him. The five accused followed them and stood in front of the Musa house. Felipe Jr. attacked Bebot and hit him with a piece of wood above the left ear.[4] Felipe Sr. grabbed his son and beat him up. He ordered his other son, Ricardo, to get a rope because they will tie up Felipe Jr. Upon hearing this, the latter scampered away. Felipe Sr. re-assured Bebot and Zaldy that he will take full responsibility for his son's acts.[5]

On their way home, Bebot walked five meters ahead of Zaldy because of fear that they might be waylaid. After they passed a jeepney parked on the other side of the road, the five accused suddenly appeared. Musa, Lleno and Manjares hurled stones at Zaldy, who was hit on the face and fell to the ground. Mabini and Reolo stood behind the other three accused holding stones.[6] Bebot ran to their house to get a weapon to use against the assailants.[7]

In the meantime, Barangay Tanod Ireneo Mendez was asleep in his house nearby when he was awakened by the sound of stones hitting the road and shouts for help saying, "Don't kill me." [8] He went out of his house and saw Zaldy sprawled on the road and five individuals standing around him. When he shouted, "Hey, what is that," [9] the five men ran away.[10] He was able to get a good look at their faces since the area was lit with a fluorescent

lamp. He approached Zaldy and recognized him to be the brother of Bebot. Bebot arrived carrying a lead pipe, but the five assailants were gone. Together, Mendez and Bebot brought Zaldy to the Albay Provincial Hospital.

Dr. Cesar Ong Chua, the resident physician of Department of Surgery at the Albay Provincial Hospital, performed a "craniectomy or burr holing" on the skull of Zaldy to evacuate "hematoma" or the "blood clot surrounding the brain." [11] Dr. Chua found that Zaldy suffered massive internal bleeding caused by strong force applied directly to his head. [12] However, Zaldy died the next day after the operation.

The defense claims that in the evening of July 17, 1998, the five accused were drinking in front of Alcazar's Store in Putiao, Pilar, Sorsogon. Later, they transferred to Realubit's Store. Musa left the group to relieve himself. Zaldy and Bebot suddenly attacked him with lead pipe for allegedly throwing stones at their house. [13] Musa tried to parry the blows and hit Zaldy with a stone. He then ran toward his house. [14] The other accused allegedly were unable to help Musa because of shock. [15]

While the case was pending trial, accused Silverio Manjares, Jr. died.

On April 17, 1998, the trial court rendered a judgment of conviction as follows:

WHEREFORE, in view of the foregoing consideration, the prosecution having proved the guilt of the accused by evidence beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code, qualified by the circumstance of treachery, the court hereby sentences Felipe Musa Jr., Allan Reolo, and Randy Lleno to suffer an imprisonment of Reclusion Perpetua and to pay jointly and severally the heirs of the deceased the amount of P50,000.00 as civil indemnity; P100,000.00 as indemnity for the loss of earning capacity of the victim; P20,000.00 for moral damages without subsidiary imprisonment in case of insolvency and to pay the costs. Accordingly, the bond posted by accused Felipe Musa Jr., Allan Reolo and Randy Lleno are hereby cancelled.

Accused Angelo Mabini at the time of the commission of the crime is only 17 years and 3 months old, applying the law on youthful offender, he shall be credited a privileged mitigating circumstance of minority and by applying the Indeterminate Sentence Law, the accused is hereby sentenced to suffer an indeterminate penalty of 4 years, 2 months and 1 day as minimum, to 8 years, and 1 day of Prison Mayor as maximum.

It appearing that accused Silverio Manjares Jr. is already dead, as evidenced by a death certificate filed before this court, the case against him is hereby dismissed.

SO ORDERED. [16]

Hence this appeal, based on the following assignment of errors:

I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED ON THE BASIS OF CONSPIRACY.

II

THE COURT ERRED IN FINDING THAT THERE WAS TREACHERY IN THE KILLING OF THE VICTIM.

III

THE COURT ERRED IN CONVICTING THE ACCUSED BEYOND REASONABLE DOUBT.

The appeal lacks merit.

Appellants contend that the killing was not attended by the qualifying circumstance of treachery because the victim was forewarned of an attack against him as the assault was preceded by the stoning of his house and the challenge made by Musa to the Marifosque brothers. We disagree.

Treachery may still be appreciated even when the victim was warned of the danger to his person as long as the execution of the attack made it impossible for the victim to defend himself or to retaliate.[17] The essence of treachery is the swift and unexpected attack by an aggressor or an unarmed and unsuspecting victim who does not give any slightest provocation, depriving the latter of any real chance to defend himself.[18]

The records show that appellants hid themselves and lay in wait for Bebot to pass by before pelting Zaldy with stones. Thus, there was a deliberate and unexpected attack on the unarmed victim who was in a helpless position to defend himself or retaliate from the five assailants, who continuously hurled stones at him. To reiterate, what is decisive is that the execution of the attack made it impossible for the victim to defend himself.

We likewise disagree with the appellants' argument that there was no conspiracy because there was no prior agreement to commit the crime, that the prosecution's evidence only proved their presence at the scene which is insufficient, and that only three of the assailants stoned the victim while the two others ran away.

It is well-settled that conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it.[19] Proof of the agreement need not rest on direct evidence, as the same may be inferred from the conduct of the parties indicating a common understanding among them with respect to the commission of the offense.[20] It is not necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or the details by which an illegal objective is to be carried out. The rule is that conviction is proper upon proof that the accused acted in concert, each of them doing his part to fulfill the common design to kill the victim. In such case, the act of one becomes the act of all, and each of the accused will thereby be deemed equally guilty of the crime committed.[21]

In the case at bar, Bebot and the Tanod, Mendez, both saw the five appellants at the scene of the crime. Although Bebot testified that he only saw Musa, Manjares and Lleno actually hurl stones at the victim, he declared that Mabini and Reolo were standing behind them and they were holding stones. On the other hand, Mendez averred that when he shouted, all of them immediately fled. Their physical presence at the scene of the crime, their being armed with stones and their simultaneous flight all manifest a common design and a unity of purpose and action leading to the indubitable conclusion that they acted in conspiracy.

Likewise, the trial court correctly rejected appellant Musa's theory of self-defense. The medical certificate shows that Musa suffered only abrasions which could not have been caused by the lead pipes allegedly used by the Marifosque brothers in assaulting him. Where an accused invokes self-defense to escape criminal liability, it becomes incumbent upon him to prove by clear and convincing evidence the attendance of such justifying circumstance; otherwise, having admitted the killing, conviction is inescapable.[22]

It must be noted that appellants' conviction was based on the positive identification made by the prosecution witnesses. Bebot clearly and categorically identified appellants, whom he recognized as residents of the same locality. His testimony was corroborated by Mendez, who saw the faces of the five appellants near the victim after the assault. As there was no indication that the prosecution witnesses were moved by any improper motive, the presumption is that they were not so moved and their testimonies must be given full faith and credence.[23] Moreover, it is basic that this Court will not interfere with the trial court's assessment of the credibility of witnesses, absent any indication that some material fact was overlooked or neglected.[24]

Clearly, we find no compelling reason to depart from the factual findings of the trial court that appellants, in conspiracy with one another, committed the crime of Murder qualified by treachery.

At the time of the commission of the crime in 1988, the penalty prescribed for Murder under Article 248 of the Revised Penal Code was reclusion temporal in its maximum period to death.[25] There being no aggravating or

mitigating circumstance attending the commission of the crime, the penalty shall be imposed in its medium period — reclusion perpetua.

In view of the privileged mitigating circumstance of minority of appellant Angelo Mabini, the penalty next lower in degree shall be imposed in its proper period, pursuant to Article 68, paragraph (2) of the Revised Penal Code, which is prision mayor maximum to reclusion temporal medium. Since no modifying circumstance was appreciated, the medium period shall be imposed, i.e., reclusion temporal minimum, or twelve (12) years and one (1) day to fourteen (14) years and eight (8) months.

Applying the Indeterminate Sentence Law, appellant Mabini shall be entitled to a minimum term to be taken from the penalty next lower in degree, which is prision correccional maximum to prision mayor medium, ranging from four (4) years, two (2) months and one (1) day to ten (10) years. Hence, the trial court erred in imposing the maximum term of the indeterminate penalty. Consistent with our ruling in *People v. Paredes*,^[26] appellant Angelo Mabini is hereby sentenced to suffer the indeterminate prison term of four (4) years, ten (10) months and twenty (20) days of prision correccional, as minimum, to twelve (12) years, four (4) months and ten (10) days of reclusion temporal, as maximum.

The trial court's award of civil indemnity in the amount of P50,000.00 is affirmed. Considering the attendance of the qualifying circumstance of treachery, the amount of P25,000.00 is further awarded to the heirs of the victim as exemplary damages. In *People v. Catubig*,^[27] we ruled that insofar as the civil aspect of the crime is concerned, exemplary damages in the amount of P25,000.00 is recoverable if there is present an aggravating circumstance, whether qualifying or ordinary, in the commission of the crime.^[28] As regards the award of moral damages, the amount of P20,000.00 should be increased to P50,000.00, in line with prevailing jurisprudence.^[29]

Under Article 2206 of the Civil Code, appellants shall be liable for the loss of the earning capacity of the deceased. Indemnification for loss of earning capacity partakes of the nature of actual damages which must be duly proven.^[30] As shown by the victim's service record,^[31] he was holding the position of Supervising Civil Engineering Draftsman at the Department of Public Works and Highway (Region V, Legazpi City) when he died at the age of 30 on July 18, 1988.^[32] His salary then was P58.21 per day, hence, his gross annual income would be P20,955.60. Using the American Expectancy Table of Mortality, the award of damages representing loss of earning capacity should be P349,225.07, computed as follows:

Net Earning Capacity =

Life expectancy

x Gross Annual Income

— Living expenses

[2/3 (80 - age at death)]

(GAI)

(50% of GAI)

= 2/3 [(80-30)] x P20,955.60 — 50%

= 33.33 x P20,955.60 — 50%

$$= 33.33 \times [P20, 955.60 - 10,477.80]$$

$$= 33.33 \times P10,477.80$$

$$= P349,225.07$$

WHEREFORE, in view of all the foregoing, the decision of the Regional Trial Court of Sorsogon, Sorsogon, Branch 52, in Criminal Case No. 2540, convicting appellants Felipe Musa Jr., Allan Reolo, Randy Lleno and Angelo Mabini of the crime of Murder is AFFIRMED with MODIFICATIONS Appellants Felipe Musa Jr., Allan Reolo, Randy Lleno are sentenced to suffer the penalty of reclusion perpetua, while appellant Angelo Mabini is sentenced to suffer the indeterminate penalty of four (4) years, ten (10) months and twenty (20) days of prision correccional, as minimum, to twelve (12) years, four (4) months and ten (10) days of reclusion temporal, as maximum. All the appellants are ordered to pay, jointly and severally, the heirs of the deceased, Zaldy Marifosque, the sums of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages and P349,225.07 as actual damages for loss of earning capacity.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

[1] Records, p. 89.

[2] Records, p. 172.

[3] TSN, November 20, 1989, pp. 5-9.

[4] Id., pp. 9-13.

[5] Id., pp. 14-15.

[6] Id., pp. 15-19.

[7] Id., pp. 21-23.

[8] TSN, July 21, 1992, p. 15.

[9] TSN, February 18, 1992, p. 52.

[10] Id., p. 23.

[11] TSN, October 19, 1989, pp. 13, 25-26.

[12] TSN, October 19, 1989, pp. 13-14.

[13] TSN, November 11, 1996, pp. 9, 18-22, 36-37; TSN, September 17, 1997, pp. 5-11; TSN, September 18, 1997, pp. 11; 28-29; TSN, October 21, 1997, pp. 4-7.

[14] TSN, June 27, 1996, pp. 20-24; 29.

[15] TSN, December 12, 1996, p. 7; TSN, September 17, 1997, p. 13; TSN, September 18, 1997, p. 36; October 21, 1997, p. 14.

[16] Records, p. 1312.

[17] People v. Tanoy, G.R. No. 115692; 12 May 2000, 332 SCRA 12.

- [18] People v. Samson, G.R. No. 124666, 15 February 2002.
- [19] People v. Orbita, et al., G.R. No. 122104, 19 January 2000.
- [20] People v. Sanchez, G.R. No. 118423, 16 June 1999.
- [21] People v. Givera G.R. No. 132159, 18 January 2001, 349 SCRA 513.
- [22] People v. Aguilar, 354 Phil 360 (1998).
- [23] People v. De la Rosa Jr., G.R. No. 133443, September 29, 2000, 341 SCRA 425.
- [24] People v. Hinaut, G.R. No. 143764, 15 February 2002.
- [25] As amended by R.A. 7659, which took effect 31 December 1993, murder is now punishable with reclusion perpetua to death.
- [26] 332 Phil. 633 [1996].
- [27] G.R. No. 137842, 23 August 2001.
- [28] People v. Samson, G.R. No. 124666, 15 February 2002.
- [29] People v. Pardua, et al., G.R. No. 110813, 28 June 2001.
- [30] People v. Panabang, G.R. Nos. 137514-15, 16 January 2002.
- [31] Exhibit "C".
- [32] Exh. "B".

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.