

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO AMODIA, ACCUSED-APPELLANT.

G.R. No. 173791. April 07, 2009

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-173791/>

BRION, J.:

We review in this appeal the decision of the Court of Appeals[1] (CA) affirming with modification the decision of the Regional Trial Court (RTC), Branch 38, Makati City in Criminal Case No. 97-289. The RTC found the accused-appellant Pablo Amodia (Pablo) guilty beyond reasonable doubt of the crime of murder and sentenced him to suffer the penalty of reclusion perpetua and to pay the corresponding civil liabilities to the heirs of the victim.

Pablo was indicted, together with three other accused, under the following Information:[2]

That on or about the 26[th] day of November 1996, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, while armed with a piece of wood and bladed weapon, taking advantage of their superior strength [sic] and employing means to weaken the defense, did then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon one FELIX OLANDRIA y BERGAÑO, by beating him on the head with a piece of wood and stabbing him repeatedly on the different parts of his body, thereby inflicting upon him mortal/fatal stab wounds which directly caused his death.

CONTRARY TO LAW.[3]

The Information, dated February 21, 1997, was filed with the court on February 28, 1997.

Pablo was arrested on June 5, 1998 and was thereafter prosecuted. The other accused remained at large.[4] Pablo moved to quash the Information on the ground of mistaken identity and the staleness of the warrant of arrest issued on March 4, 1997. The RTC denied his motion.[5]

Pablo entered a plea of "not guilty" to the charge when arraigned on August 3, 1998.[6]

The Prosecution's Version

The prosecution presented evidence, both documentary[7] and testimonial,[8] to establish that Pablo was one of the four assailants who, by their concerted efforts, killed Felix Olandria y Bergaño (victim).[9] Acting together, they hit him on the head and stabbed him.

The records show that Romildo Ceno (Romildo) was a resident of Zone 17, Pembo, Makati City and lived in the house of Freda Elnar (Freda).[10] At around 12:05 a.m. of November 26, 1996, he, Mario Bitco (Mario),[11] and Freda were talking and watching television at their house[12] when he heard a noise coming somewhere below

the C-5 bridge, located some forty (40) to fifty (50) meters away from their house; he also heard somebody shout "may away doon." [13] Curious, he and Mario went to the bridge [14] and saw five persons whom he identified as the victim, Pablo, Arnold Partosa (Arnold), George Palacio (George), [15] and Damaso Amodia (Damaso). He knew these men; the victim was his neighbor, while Pablo, Arnold, George and Damaso were residents of Scorpion Street, Zone 17 Pembo, Makati City. [16]

When Romildo was about three arms-length away from the place of the commotion, then illuminated by light coming from a Meralco post located some five (5) to six (6) meters from the scene, he saw the victim being held on his right hand by Pablo, while the other hand was held by Arnold. [17] George was positioned at the victim's back and clubbed the victim on the head; Damaso was in front of the victim and stabbed him three times. [18]

Luther Caberte (Luther), who happened to be passing by the C-5 Bridge at the time, also saw what happened. He testified that he saw men fighting under the C-5 Bridge which was illuminated by a light coming from a lamppost located some ten (10) meters away. [19] From his vantage point (about 15 meters away from the fight), he saw Pablo, Damaso, George and Arnold ganging up (pinagtulung-tulungan) on the victim. [20] He saw Pablo holding the victim's hand while Damaso was stabbing him. He also confirmed that George was positioned behind the victim. [21] He personally knew both Pablo and the victim; they have been neighbors since 1986. [22]

Both eyewitnesses left the scene after the stabbing; Romildo was chased away by George and Damaso, while Luther went home immediately. Both were shaken and shocked with what they had seen. [23]

At 3:00 a.m. of the same day, the CID Homicide received a report of an unidentified body found in a road along Comembo Bridge, Barangay Pembo. [24] SPO2 Romeo Ubana (SPO2 Ubana), a police investigator assigned to the CID Homicide, and a police photographer went to the place and saw the body of a dead male person with three stab wounds whom they subsequently identified as the victim. [25] He prepared a Final Investigation Report of the incident. [26]

After the spot investigation, the victim's body was taken to the Veronica Memorial Chapel where Dr. Antonio Bertido (Dr. Bertido), a National Bureau of Investigation (NBI) Medico Legal Officer, subjected it to a post-mortem examination. [27] The autopsy yielded the following findings:

Pallor, intergument and nailbeds.

Stab wounds.

- Elongated 4.5. cms. Edges are clean cut, medial border is sharp, lateral border is blunt. Located at the chest, anterior, left side, 6.0 cms. From the anterior median line. Directed backwards, upwards and medially involving the skin and underlying soft tissues, into the thoracic cavity, perforating the pericardial sac, into the pericardial cavity, penetrating the heart with an approximate depth of 10.0 cms.
- Elongated, 3.5 cms edges are clean cut, medial border is blunt, lateral border is sharp. Located at the anterior abdominal wall, left side, 6.5 cms. From the anterior median line. Directed backwards, upwards and medially involving the skin and underlying soft tissues, perforating the stomach with an approximate depth of 14.0 cms.
- Elongated, 3.0 cms, edges are clean-cut, medial border is blunt, lateral border is sharp. Located at the anterior abdominal wall, right side. 2.0 cms. From the anterior median line. Directed backwards, upwards and laterally involving the skin and underlying soft tissues, penetrating the head of the pancreas with an approximate depth of 12.0 cms. [28]

Dr. Bertido stated that the victim was stabbed three times on the body by a single-bladed sharp-pointed instrument. [29] Through the use of an anatomic diagram, Dr. Bertido showed that the victim was stabbed on his left chest and over his right and left abdominals. [30] He also stated that of the three stab wounds, the wound on

the victim's chest was the most fatal because it was near his heart, while the other wounds involved the victim's stomach and pancreas.[31] Dr. Bertido declared that no other wound, aside from the three stab wounds, was found on the victim's body.[32] He later on executed a Certificate of Post-Mortem Examination showing the cause of death as hemorrhage, secondary to stab wounds.[33]

Dr. Bertido admitted that while he could not specifically determine the position of the victim at the time he was stabbed, he was certain that the stab wounds were inflicted when the victim and his assailant were facing each other.[34] He also disclosed that the sizes of the wounds were different from each other.[35]

The prosecution also presented Claudio Olandria,[36] the victim's father, who took the witness stand and testified on the expenses that he and his family incurred by reason of his son's death.

The Defense's Version

The defense relied on the defense of alibi, submitting testimonial and documentary evidence[37] to support Pablo's claim that he was in another place at the time of the stabbing.

Pablo averred that his name is Pablito Amodia and stated that at the time of the incident, he lived in the house of Elma Amodia Romero (Elma), his sister, located at Zone 13, Ilocos Street, Barangay Rizal, Makati City.[38] He has lived there since 1994. He claimed that he was at home in the evening of November 25, 1996, until the early morning of the next day.[39] At around 10:00 of that evening, his brother - Elias Amodia (Elias) - who lived next door, awakened him[40] and told him that his (Elias') wife, then pregnant, had started having labor pains.[41] He went back to sleep only to be awakened by Elias at past 12:00 midnight. Elias then requested him to take care of his house.[42]

Pablo related that it was at this time that Damaso (another brother), George, Arnold, and another person he did not know, came to Elma's house.[43] He noticed that Damaso was in a hurry and was packing his clothes; the latter told him that they (Damaso and his companions) encountered trouble.[44] Damaso and his companions left past midnight; on the other hand, he went to Elias' house to take care of the latter's children, while Elias and his wife went to a lying-in clinic.[45] While at Elias' house, Elma visited him to check on him and the children.[46] He stayed there until 9:00 a.m. of November 26, 1996 when he went back to Elma's house; he went to school later in the day.[47]

Pablo also alleged that it was only after returning from school that he came to know of the victim's death; he only knew the victim by name and even went to the victim's wake the first night.[48]

He further alleged that he stopped schooling for lack of funds and went to Zamboanga del Norte in January 1997.[49] He went back to Manila on May 22, 1998 to continue his education, but was arrested on June 5, 1998.[50]

Elma and Elias corroborated Pablo's story.[51] Elma stated that Pablo lived with her in their brother's house together with her husband, their children, and Damaso.[52] She added that Damaso told her that they were in trouble (atraso) because of a fight, and that he and his companions were on their way to Cebu.[53] Elma declared that Pablo was with her when Damaso came to the house to pack his clothes.[54] Pablo and Damaso left at 12:30, but for different destinations.[55] She knew that Pablo went to Elias' house because she went to check on him and the children around 1 a.m. and then again at 2 a.m.[56] Elias' wife gave birth to a baby girl at 2:50 p.m. of November 26, 1996.[57]

After some prodding, Elma admitted that she knew that cases have been filed against Pablo and Damaso as early as December 1996.[58] The defense thereafter rested its case.

Prosecution's Rebuttal Evidence

The prosecution presented Amelita Sagarino, a resident of Scorpion Street, Zone 17 since 1989, as a rebuttal witness.[59] She testified that she knew the victim and the accused who were all her neighbors.[60] She stated that she served food at the victim's wake from seven in the evening up to six in the morning and that she never saw Pablo there.[61] She also heard from her neighbors that the people responsible for the victim's death were George, Arnold, Damaso, Pabling and Pablito Amodia.[62] She clarified that Pabling and Pablito Amodia are one and the same person.[63]

Subsequently, she stated that Pablito Amodia also attended the wake of the victim.[64]

Ruling of the RTC

The RTC convicted Pablo of murder after finding sufficient evidence of his identity, role in the crime as principal by direct participation, and conspiracy between him and the other accused who used their superior strength to weaken the victim. The RTC relied on the testimonies of eyewitnesses Romildo and Luther, the autopsy results conducted on the body of the victim, and the lack of physical impossibility on the part of Pablo to be at the crime scene. The dispositive portion of the RTC decision reads:

WHEREFORE, the Court finds accused Pablo guilty of having committed the crime of murder as principal by conspiracy. Considering that there are no aggravating or mitigating circumstances attendant to the commission of the crime, pursuant to Article 64 (1) of the Revised Penal Code, accused is sentenced to suffer imprisonment of reclusion perpetua. He is further sentence to pay the heirs of the deceased Felix Olandria the amount of P50,000.00 as moral damages and to reimburse said heirs of the amount of P23,568.00 for expenses incurred for the funeral service, burial and incidental expenses.

SO ORDERED.[65]

Ruling of the CA

On appeal, the CA agreed with the RTC's findings and affirmed Pablo's conviction.[66] The CA, however, corrected the RTC's ruling on the applicable provision of the Revised Penal Code, as amended (Code), and modified the award of actual damages, as follows:

WHEREFORE, premises considered, the appeal is hereby DENIED. The assailed Decision dated July 19, 1999 is hereby AFFIRMED with MODIFICATION. Appellant is hereby sentenced to suffer the penalty of reclusion perpetua in accordance with Rule 63(2) of the Revised Penal Code. He is likewise ordered to pay the heirs of the victim, P23,268.00, as actual damages, P50,000 as civil indemnity and P25,000.00, as exemplary damages, in addition to the award of P50,000.00 as moral damages.

SO ORDERED.

The Issues

In his Brief before this Court,[67] Pablo assigns the following errors committed by both the RTC and CA:

- (1) In finding that his guilt for the crime charged has been proven beyond reasonable doubt.
- (2) In finding the existence of conspiracy.

Pablo argues that the lower courts erred in failing to give evidentiary weight to his alibi, thus disregarding the constitutional presumption of innocence in his favor.[68] He emphasizes that his alibi was corroborated by defense witness Elma who confirmed that he was at Elias's house at the time of the stabbing.[69]

He alternatively argues that granting that he was a part of Damaso's group and that this group killed the victim, the prosecution failed to prove the conspiracy among them; there was no evidence adduced to establish how the incident that led to the stabbing began. Any doubt that he acted as a principal should have been resolved in his favor.[70]

In their Brief,[71] the Office of the Solicitor General (OSG) representing the People, maintain that no reversible error was committed by the lower courts. The OSG avers that the prosecution's evidence has satisfactorily proven all the elements of the crime. Similarly, the conspiracy between Pablo and the three accused was proven by the autopsy report which corroborated the categorical testimonies of Romildo and Luther on how the accused and the others acted, clearly showing a unity of purpose in the accomplishment of their criminal objective.[72] The testimonies of these two eyewitnesses also reveal that the killing was attended by the aggravating circumstance of abuse of superior strength, and the employment of means to weaken the defense of the victim. These circumstances qualify the killing to murder.

The Court's Ruling

We affirm Pablo's conviction.

The appeal essentially attacks the soundness of the factual findings of the RTC and CA that, according to Pablo, are not in accord with the totality of the evidence in the case. He emphasizes that the RTC and CA disregarded his alibi and the lack of evidence establishing a conspiracy to kill the victim.

A review of the records fails to persuade us to overturn Pablo's judgment of conviction. We have emphasized often enough that the factual findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of their probative weight are given high respect, if not conclusive effect, unless cogent facts and circumstances of substance were ignored, misconstrued or misinterpreted, which, if considered, would alter the outcome of the case.[73] Under the circumstances, we find no exceptional reason to warrant a deviation from this rule.

The records show that both the RTC and CA convicted Pablo of murder based on the positive identification by Romildo and Luther and their eyewitness accounts of the actual killing, showing the existence of a conspiracy among Pablo's group to kill the victim. The CA decision clearly reflects these findings and reasoning:

The evidence on record gives the picture of the incident at the time when Felix Olandria was already being held on both hands by accused Pablo Amodia and Arnold Pantosa. It was while in this position that accused Damaso Amodia delivered three (3) stab blows which proved to be fatal . . . [74]

Both courts gathered, too, from these testimonies that the killing was qualified by the aggravating circumstance of abuse of superior strength, demonstrated by the concerted efforts of Pablo's group to overpower the victim's strength with their own in carrying out their criminal plan:

... the nature of the evidence presented, there are sufficient reasons to conclude and consider as having been established beyond reasonable doubt, the existence of conspiracy and the qualifying aggravating circumstances of abuse of superior strength and employment of means to weaken the defense. These are: first, the convergence of four (4) accused; x x x second, the time when the four (4) accused were seen together which is about 12:05 in the early morning of November 26, 1997; x x x third, the place where they were seen together which is below the bridge of C-5; fourth, possession by accused Damaso Amodia of a knife his occupation being that of a painter; fifth, absence of any other injuries in other parts of the body of the victim Felix Olandria x x x; sixth, the location of the three stab wounds all of which were directed against delicate parts of the body indicating intent to kill... The foregoing circumstances clearly proven by the prosecution evidence, when taken together with the fact that death ensued indicate that there was conspiracy on the part of the

accused that they abused their superior strength and employed means to weaken the defense. The act of one is to be considered therefore the act of the other.[75]

The Eyewitness Testimonies.

The RTC and CA found the identification made by Romildo and Luther to be clear, categorical, and consistent.[76] We observed that in accepting the truth of the identification and the account of how the stabbing took place, the RTC and CA considered the witnesses' proximity to the victim and his assailants at the time of the stabbing - they were about three arms length away and 15 meters away, respectively; the well-lighted condition of the crime scene; and the familiarity of these eyewitnesses with the victim and his assailants - they were all residents of the same area. Similarly, we also note that no evidence was presented to establish that these eyewitnesses harbored any ill-will against Pablo and had no reason to fabricate their testimonies. The weight of jurisprudence is to accept these kinds of testimonies as true for being consistent with the natural order of events, human nature and the presumption of good faith.[77]

Aside from these, we additionally note that Romildo and Luther never wavered, despite the contrary efforts of the defense, in their positive identification of Pablo as one of the assailants of the victim. The records glaringly show the defense counsel's vain efforts to prove that these eyewitnesses committed a mistake in identifying Pablo as one of the assailants since his name was allegedly Pablito Amadio, and not Pablo.

We state in this regard that positive identification pertains essentially to proof of identity and not necessarily to the name of the assailant. A mistake in the name of the accused is not equivalent, and does not necessarily amount to, a mistake in the identity of the accused especially when sufficient evidence is adduced to show that the accused is pointed to as one of the perpetrators of the crime. In this case, the defense's line of argument is negated by the undisputed fact that the accused's identity was known to both the eyewitnesses. On the one hand, we have Romildo's testimony stating that Pablo lived across Scorpion Street from where he lived.[78] He also stated that he had known Pablo for more than a year.[79] On the other hand, Luther testified that he had known Pablo since 1986 because they were neighbors and that he even played basketball with him.[80] We stress that Pablo never denied these allegations.

In *People v. Ducabo*, we took notice of the human trait that once a person knows another through association, identification becomes an easy task even from a considerable distance; most often, the face and body movements of the person identified has created a lasting impression on the identifier's mind that cannot easily be erased.[81]

The association the eyewitnesses cited - specifically, being neighbors and even basketball game mates - rendered them familiar with Pablo, making it highly unlikely that they could have committed a mistake in identifying him as one of the assailants. Their identification came at the first opportunity (i.e., when they revealed) what they knew of the killing, and culminated with their courtroom identification of Pablo as among those who assaulted the victim.[82]

Two reasons settle the argument about Pablo's name against his favor. It strikes us that this argument is a line of defense that came only as the defense's turn to present evidence neared. We have on record that prior to the defense's presentation of evidence, Pablo referred to himself as Pablo Amodia when the court asked him his name.[83] We likewise find no competent evidence, other than his assertion and those of his siblings, showing that his true name is really Pablito Amodia. We therefore conclude that any uncertainty on the name by which the accused is or should be known is an extraneous matter that in no way renders his identification as a participant in the stabbing uncertain.

We find nothing irregular, unusual, or inherently unbelievable, in the eyewitnesses' testimonies that would affect their credibility. Their narratives are remarkably compatible with the physical evidence on hand; likewise, their

accounts are also consistent with each other. More importantly, the narration of these eyewitnesses are in full accord with the human experience of individuals who are exposed to a startling event and their initial reluctance to involve themselves in the criminal matters especially those involving violent crimes committed by individuals known to them.

The Defense of Alibi

Pablo argues that his alibi should have been given greater evidentiary weight because it was corroborated by his sister, Elma. As reproduced by Pablo in his Brief, the substance of Elma's testimony is as follows:

Q:

Mrs. Witness while you were sleeping which you said you start sleeping at 10:00 o'clock in the evening of November 25, 1996, while you were sleeping, what transpired, if any, was there any unusual incident that transpired? [sic]

A:

Pumunta po ang isang kapatid ko, si Elias Amodia dahil naglalabor daw and hipag ko at manganganak at dadalhin niya sa lying-in, eh malayo po at siya ang pinagbabantay sa mga pamangking kong maliliit, sir.

Q:

Could you tell the Honorable Court what time did your brother Elias Amodia wake up Pablo Amodia?

A:

12:00 midnight, sir.

x x x

Q:

When Pablo woke up, what if any did Pablo Amodia do?

A:

Pumunta po siya sa bahay ng kapatid ko, sir?

Q:

And where was that house of your brother Elias located?

A:

Malapit lang po sa amin.

Q:

How far is your house to his house?

A:

Tatlong (3) dipa po ang layo, sir.[84]

Alibi is a defense that comes with various jurisprudentially-established limitations. A first limitation fully applicable to this case is that alibi cannot overcome positive identification.[85] For the defense of alibi to prosper, evidence other than the testimony of the accused must be adduced. Evidence referred to in this respect does not

merely relate to any piece of evidence that would support the alibi; rather, there must be sufficient evidence to show the physical impossibility (as to time and place) that the accused could have committed or participated in the commission of the crime. For alibi to be given evidentiary value, there must be clear and convincing evidence showing that at the time of the commission of the crime, it was physically impossible for the accused to have been at the situs criminis.[86]

As we have discussed at length, Pablo was positively identified by Romildo and Luther as one of the victim's assailants. We find no reason to doubt the accuracy of the identification made.

Pablo's alibi does not also meet the requirements of physical impossibility of time and place. A scrutiny of the entire testimony of Elma failed to show that it was physically impossible for Pablo to be at the crime scene when the stabbing took place. We note that although Elma testified that Pablo was at Elias' house at the time of the stabbing, she nonetheless admitted that her house (which was located beside Elias' house) and the bridge where the crime was committed is a 10-minute walking distance away from each other.[87] She further testified that after Pablo left for Elias' house, she only saw him again at around 1:00 a.m. and at 2:00 a.m. at their brother's house. [88] Hence, it was possible that Pablo could have gone out of Elias' house to join Damaso, George, and Arnold in assaulting the victim, and afterwards returned to his brother's house without Elma knowing that he was ever gone.

We scrutinize Elma's version of the events with utmost care considering that she is Pablo's sister. This is not the first time that this Court has encountered a case where alibi is provided by a close kin; we have recognized that in these situations, it may come naturally to some to give more weight to blood ties and close relationship than to the objective truth;[89] thus, our strict scrutiny.

We find that the time frame in Elma's version of events shows a pattern of inconsistency that renders its truthfulness suspect. The testimony is inconsistent on the time Pablo slept and was awakened by Elias - details that, to our mind, are material to show his whereabouts on that fateful night.[90]

Elma initially stated that Pablo slept at 9:00 p.m. and was awakened by Elias at 12:00 midnight.[91] Thereafter, she claimed that Pablo was also awakened by Elias at 9:00 p.m. (the same time that Pablo slept) that evening, and that Pablo went to Elias's house around 12:30 p.m.[92] Subsequently, she averred that Pablo was awakened at 10:00 p.m. but went back to sleep then awakened again at 12:00 p.m.[93]

These conflicting statements are not rendered any more believable by their conflict with the time frames claimed in Pablo's version of events.[94] Similarly, Elma's version of what occurred when is likewise inconsistent with Elias' version of events.[95]

Finally, even granting that a semblance of truth exists in the defense's narration of events, the inconsistencies and contradictions in its witnesses' testimonies render their evidence uncertain. In the final analysis, even their version does not preclude Pablo from being physically present at the crime scene when the killing took place. Thus, the defense and prosecution's evidence taken together, render Pablo guilty of the crime charged beyond reasonable doubt.

Conspiracy

As an alternative argument, Pablo puts into issue the failure of the prosecution's evidence to establish the conspiracy between him and his other co-accused to make him liable for murder. He emphasizes that the evidence, as testified to by the eyewitnesses, only relate to events during, and not prior to, the assault and the stabbing of the victim. He argues that no evidence was adduced to show that the accused all agreed to kill the victim.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[96] It arises on the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith decide to pursue it.[97] It may be proved by direct or circumstantial evidence.[98]

Direct proof of conspiracy is rarely found; circumstantial evidence is often resorted to in order to prove its existence.[99] Absent of any direct proof, as in the present case, conspiracy may be deduced from the mode, method, and manner the offense was perpetrated, or inferred from the acts of the accused themselves, when such acts point to a joint purpose and design, concerted action, and community of interest.[100] An accused participates as a conspirator if he or she has performed some overt act as a direct or indirect contribution in the execution of the crime planned to be committed.[101] The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime, or by exerting moral ascendancy over the other co-conspirators.[102] Stated otherwise, it is not essential that there be proof of the previous agreement and decision to commit the crime; it is sufficient that the malefactors acted in concert pursuant to the same objective.[103]

Although there was no evidence in the present case showing a prior agreement among Pablo, Arnold, George, and Damaso, the following chain of events however show their commonality of purpose in killing the victim: first, the accused surrounded the victim on all sides: Damaso at the front, George at the victim's rear, while Pablo and Arnold flanked the victim on each side; second, Pablo then wrested the right arm of the victim and restrained his movement, while Arnold did the same to the left arm of the victim; third, George then hit the victim's head with a piece of wood; and fourth, Damaso stabbed the victim three times.

In *People v. Elijorde*,^[104] we said:

The cooperation that the law punishes is the assistance knowingly or intentionally rendered which cannot exist without previous cognizance of the criminal act intended to be executed. It is therefore required in order to be liable either as a principal by indispensable cooperation or as an accomplice that the accused must unite with the criminal design of the principal by direct participation.

In *People v. Manalo*,^[105] we declared that the act of the appellant in holding the victim's right hand while the latter was being stabbed constituted sufficient proof of conspiracy:

Indeed, the act of the appellant of holding the victim's right hand while the victim was being stabbed by Dennis shows that he concurred in the criminal design of the actual killer. If such act were separate from the stabbing, appellant's natural reaction should have been to immediately let go of the victim and flee as soon as the first stab was inflicted. But appellant continued to restrain the deceased until Dennis completed his attack.

Tested against these, the existence of conspiracy among the four accused is clear; their acts were aimed at the accomplishment of the same unlawful object, each doing their respective parts in the series of acts that, although appearing independent from one another, indicated a concurrence of sentiment and intent to kill the victim. Following the reasoning in *Manalo*, if there was in fact no unity of purpose among Pablo and the three other accused, Pablo's reaction would have been to let go of the victim and flee after the first stabbing by Damaso. The evidence reveals, however, that after the first stabbing, Pablo still continued to hold the right arm of the victim, rendering him immobile and exposed to further attack.

Where there is conspiracy, a person may be convicted for the criminal act of another.^[106] Where there is conspiracy, the act of one is deemed the act of all.^[107]

The Crime

Murder is committed by killing a person under any of the qualifying circumstances enumerated by Article 248 of

the Code not falling within the provisions of Article 246 (on parricide), Article 249 (on homicide), and Article 255 (on infanticide) of the said Code.

With Pablo's participation in the killing duly established beyond reasonable doubt, what is left to examine is whether or not the aggravating circumstance of abuse of superior strength, which qualifies the crime to murder, is present under the circumstances.

To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked.[108] Taking advantage of superior strength does not mean that the victim was completely defenseless.[109]

In *People v. Ventura*, we opined that there are no fixed and invariable rules in considering abuse of superior strength or employing means to weaken the defense of the victim.[110] Superiority does not always mean numerical superiority. Abuse of superiority depends upon the relative strength of the aggressor vis-à-vis the victim.[111] Abuse of superiority is determined by the excess of the aggressor's natural strength over that of the victim, considering the position of both, and the employment of the means to weaken the defense, although not annulling it.[112] The aggressor must have advantage of his natural strength to ensure the commission of the crime.[113]

In the present case, we find that there was abuse of superior strength employed by Pablo, Arnold, George and Damaso in committing the killing. The evidence shows that the victim was unarmed when he was attacked. In the attack, two assailants held his arms on either side, while the other two, on the victim's front and back, each armed with a knife and a piece of wood that they later used on the victim. Against this onslaught, the victim's reaction was graphically described by the prosecution eyewitness, Luther, when he testified:

Q:

Which came first, by the way, was the victim or what was the victim doing then when the fight took place?

A:

Wala siyang nagawa kase hinawakan siya, gusto niyang makawala pero wala siyang magawa hinawakan siya sa leeg, sir.[114] [Emphasis supplied]

Under these circumstances, no doubt exists that there was gross inequality of forces between the victim and the four accused and that the victim was overwhelmed by forces he could not match. The RTC and CA therefore correctly appreciated the aggravating circumstance of abuse of superior strength which qualified the killing to the crime of murder.

The Penalty

The penalty for murder under Article 248 of the Code is reclusion perpetua to death. Article 63 (2) of the same Code states that when the law prescribes a penalty consisting of two indivisible penalties and there are neither mitigating nor aggravating circumstances in the commission of the crime, the lesser penalty shall be imposed. Since the aggravating circumstance of abuse of superior strength already qualified the killing to murder, it can no longer be used to increase the imposable penalty. We note that while another aggravating circumstance, i.e., employing means to weaken the defense of the victim, was alleged in the Information, the prosecution failed to adduce evidence to support the presence of this circumstance. Hence, the RTC and CA correctly imposed the penalty of reclusion perpetua.

Likewise, the CA correctly awarded P50,000.00 as moral damages and P25,000 as exemplary to the heirs of the victim consistent with prevailing jurisprudence.[115] However, in line with recent jurisprudence, the award of

civil indemnity shall be increased from P50,000.00 to P75,000.00.[116]

Further, the CA erred in awarding actual damages in the amount of P23,268.00. In *People v. Villanueva*, we held that when actual damages proven by receipts during the trial amount to less than P25,000.00, the award of temperate damages for P25,000.00 is justified in lieu of actual damages of a lesser amount.[117] We reiterated this ruling in the recent cases of *People v. Casta*[118] and *People v. Ballesteros*[119] where we awarded temperate damages, in lieu of actual damages, in the amount of P25,000.00.

WHEREFORE, premises considered, this Court AFFIRMS the Court of Appeals decision dated May 4, 2006 in CA-G.R. CR.-H.C. No. 01764 finding accused-appellant Pablo Amodia GUILTY beyond reasonable doubt of the crime of murder, with the MODIFICATION that:

- (1) The award of civil indemnity shall be increased from P50,000.00 to P75,000.00;
- (2) The award of actual damages in the amount of P23,268.00 is hereby DELETED; and
- (3) In lieu thereof, accused-appellant is ORDERED to pay P25,000.00 as temperate damages.

The other portions of the appealed decision are hereby AFFIRMED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Dated May 4, 2006; penned by Associate Justice Juan Q. Enriquez, Jr. with Associate Justice Godardo A. Jacinto (retired) and Associate Justice Q. Roxas, concurring; r ollo, pp. 3-13.

[2] They are: Damaso Amodia, George Palacio and Arnold Partosa.

[3] Records, p. 1.

[4] Id. , pp. 16-17.

[5] Id. , p. 39.

[6] Id. , p. 42.

[7] The prosecution offered the following documentary evidence: (1) Salaysay ni Romildo Cero y Bitco dated December 24, 1996 (Exhibit A); (2) NBI Medico Legal Division Anatomic Diagram (Exhibit B); (3) Autopsy Report No. N-96-2366(Exhibit C); (4) Certificate of Post-Mortem Examination in Case No. N-96-2366 (Exhibit D); (5) Certificate of Death (Exhibit E); (6) Embalming expenses(Exhibit F); (7) Funeral services (Exhibit G); (8) Job estimate (Exhibit H); (8) Job estimate (Exhibit I); (9) List of expenses (Exhibit J); (10) Salaysay ni Mario Bitco y Besagas dated December 24, 1996 (Exhibit K); (11) Salaysay ni Florita Olandria y Vergano dated December 24, 1996 (Exhibit L); and (12) Final Investigation Report dated January 6, 1997 by SPO2 Romeo O. Ubaña of the PNP, Makati Police Station 2 (Exhibit M).

[8] The prosecution's witnesses were: Romildo Cero (also referred to as Romido in the records), Dr. Antonio Vertido, Claudio Olandria, SPO2 Romeo Ubaña, Luther Caberte, and Amelita Sagarino who was presented as a rebuttal witness.

[9] Also referred to as Olandia in the records.

[10] TSN, August 25, 1998, p. 32, and TSN, August 31, 1998, p. 5.

[11] Also referred to as Mario Meto or Mario Vitco in the records.

[12] TSN, August 18, 1998, pp. 5-7 (Romildo).

[13] Id. , pp.7-8 (Romildo).

[14] Id., p. 9 (Romildo).

[15] Also referred to as Jorge in the records.

[16] TSN, August 18, 1998, pp. 11-14 and 24 (Romildo).

[17] Id. , pp. 15 and 18-19 (Romildo).

[18] Id. , pp. 16-17 (Romildo).

[19] TSN, November 16, 1998, p. 7-8.

[20] Id. , p. 8.

[21] Id. , p. 9.

[22] Id., pp. 5-6.

[23]TSN, August 31, 1998, p. 18; TSN, November 16, 1998, p. 28.

[24] TSN, November 9, 1998, pp. 4-5.

[25] Id. p. 6.

[26] Dated January 6, 1997; records, p. 100.

[27] TSN, August 25, 1998, p. 4.

[28] Records, p. 90.

[29] TSN, August 25, 1998, p. 12.

[30] Id. , p. 6.

[31] Id., pp. 9-10.

[32] Id. , p. 11.

[33] Records, p. 91.

[34] TSN, May 25, 1998, p. 14.

[35] Id., p. 15.

[36] TSN, October 12, 1998, pp. 2-7

[37] They are: the accused Amodia and Elma Amodia Romero. Meanwhile, the testimony of defense witness Elias Amodia, the brother of Amodia, was dispensed with upon stipulation by the prosecution and the defense as stated in the RTC Order dated May 17, 1999. The defense also offered in evidence: (1) the Certificate of Live Birth of Mercedes Balmera Amodia (Exhibit 1); (2) the Certificate from Trace Computer College (Exhibit 2); (3) Photocopy of official receipt issued by Trace College (Exhibit 3).

[38] TSN, February 16, 1999, pp. 2-3.

[39] Id. , p. 6.

[40] Id., pp. 7-8.

[41] Id., p. 8.

[42] Ibid.

[43] TSN, February 16, 1999, p. 11.

[44] Id., p. 13.

[45] Id. , pp. 15-17.

[46] Id., p. 20.

[47] Id., pp. 19 and 25-26.

[48] Id., p. 44, and TSN, March 22, 1999, p. 15

[49] TSN, February 16, 1999, pp.30- 32.

[50] Id. , pp. 31 and 33; records, p. 18.

[51] His testimony was dispensed with in view of the following stipulations made at the hearing dated May 17, 1999, as reproduced: "(1) He woke up Pablo Amodia at 10 o'clock of November 25, 1999. He requested Pablo Amodia to stay with his wife; (2) The witness Elias went back at around 12 o'clock to the house of his sister Elma Amodia to go to the house of the witness; (3) At 1:00 in the morning, when the witness and his wife went to the lying[-in] hospital at the maternity hospital at Fort Bonifacio; the accused Pablo was already there in the house of the witness; (4) When the witness went back to his house at past 4:00 early morning, the accused was there in his house at the house of the witness; (5) When the witness went back at almost 9:00 in the morning of November 26, 1996, when he went back to his house, meaning the witness, the accused was in his house [sic]; (6) At 9:00 in the morning of November 26, the accused leave (sic) the residence of the witness to go to school at Trace Computer; (7) The witness will identify the certificate of live birth; (8) That the witness is the full blood of the accused."[sic]

[52] TSN, February 15, 1999, p. 5.

[53] TSN, February 15, 1999, pp. 13 and 23.

[54] Id. , p. 39.

[55] Id. , pp. 33 and 37.

[56] Id. , p. 33.

[57] Id., p. 20; records, p. 140.

[58] TSN, February 15, 1999, p. 47.

[59] TSN, May 25, 1999, p. 4.

[60] Id. , pp. 5-6.

[61] Id. , pp. 7-8.

[62] Id., pp. 9-11, and TSN, June 15, 1999, p. 3.

[63] TSN, June 15, 1999, p. 18.

[64] Id., p. 13.

[65] Decision, pp. 5-6; CA rollo, pp. 29-30.

[66] Previously, we transferred the initial review of the case to the CA via Resolution dated August 17, 2005, in view of the ruling in *People v. Mateo*, G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[67] CA rollo, pp. 92-102.

[68] Id., p. 99.

[69] Ibid.

[70] Id., p. 101.

[71] Id., p. 114-129.

[72] CA rollo, p. 122.

[73] *Pelonia v. People*, G.R. No. 168997, April 13, 2007, 521 SCRA 207.

[74] Rollo, p.10; p. 8 of CA decision, citing p. 4 of RTC decision.

[75] Id., p. 11; p. 9 of CA decision citing, p. 5 of the RTC decision.

[76] CA decision, p. 7 and RTC decision, p. 4; CA rollo, pp.28 and 139.

[77] *Velasco v. People*, G.R. No. 166479, February 28, 2006, 483 SCRA 649, 668.

[78] TSN, September 21, 1998, p.10.

[79] TSN, August 18, 1998, p. 10.

[80] TSN, November 16, 1998, pp.5-6 and 33.

[81] G.R. No. 175594, September 28, 2007, 534 SCRA 458, 471.

[82] TSN, November 16, 1998, p. 6, and TSN, August 18, 1996, p. 11.

[83] TSN, August 18, 1996, p. 11.

[84] TSN, February 15, 1999, pp. 9-10; CA rollo, p. 100.

[85] G.R. No. 133733, August 29, 2003, 410 SCRA 132,180.

[86] G.R. No. 133733, August 29, 2003, 410 SCRA 132,180.

[87] TSN, February 15, 1999, p. 25-26.

[88] Id., p. 33.

[89] *People v. Larrañaga*, G.R. Nos. 138874-75, February 3, 2004, 421 SCRA 530, 576, citing *People v. Ching*, 240 SCRA 267 (1995).

[90] TSN, February 15, 1999, pp. 9, 26-27 and 31.

[91] Id., p. 9.

- [92] Id., pp. 28 and 30.
- [93] Id., pp. 27 and 31.
- [94] TSN, February 16, 1999, pp. 7 and 9.
- [95] TSN, May 17, 1999, pp. 3-4.
- [96] THE REVISED PENAL CODE, Article 8.
- [97] Dissenting Opinion of Associate Justice Ynares-Santiago in the case of *People v. Agsalog*, G.R. No. 141087, March 31, 2004, 426 SCRA 624, 644.
- [98] *People v. Pelopero*, G.R. No. 126119, October 15, 2003, 413 SCRA 397, 410.
- [99] Dissenting Opinion, supra note 97, p. 645.
- [100] *People v. Pelopero*, supra note 98, p. 410.
- [101] Id. , p. 410.
- [102] Ibid.
- [103] *People v. Dacillo*, G.R. No. 149368, April 14, 2004, 427 SCRA 528, 535.
- [104] GR No. 126531, April 21, 1999, 306 SCRA 188, 197.
- [105] G.R. No. 144734, March 7, 2002, 378 SCRA 629, 639.
- [106] *People v. Dacillo*, supra note 103, p. 537.
- [107] *People v. Caballero*, G. R. Nos. 149028-30, April 2, 2003, 400 SCRA 424, 437.
- [108] *People v. De Leon*, G.R. No. 128436, December 10, 1999, 320 SCRA 495, 505.
- [109] *People v. Ventura*, G.R. Nos. 148145-46, July 5, 2004, 433 SCRA 389, 411.
- [110] *People v. Ventura*, G.R. Nos. 148145-46, July 5, 2004, 433 SCRA 412.
- [111] Ibid.
- [112] Ibid.
- [113] Ibid.
- [114] TSN, November 16, 1998, p. 23.
- [115] *People v. Beltran, Jr.*, G.R. No. 168051, September 27, 2006, 503 SCRA 715, 740-741; *People v. Malinao*, G.R. No. 128148, February 16, 2004, 423 SCRA 34, 55; *People v. Caloza, Jr.*, G.R. Nos. 138404-06, January 28, 2003, 396 SCRA 329, 346-347; *People v. Rafael*, G.R. Nos. 146235-36, May 29, 2002, 382 SCRA 753, 770-771.
- [116] *People v. de Guzman*, G.R. No. 173477, February 4, 2009.
- [117] G.R. No. 139177, August 11, 2003, 408 SCRA 571, 581-582.
- [118] G.R. No.172871, September 16, 2008.
- [119] G.R. No. 172696, August 11, 2008.

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.