

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. PATRICK JOHN MERCADO Y ANTICLA, ACCUSED-APPELLANT.

G.R. No. 218702. October 17, 2018

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CAGUIOA, J:

Before this Court is an ordinary appeal[1] filed by the accused-appellant Patrick John Mercado y Anticla (Mercado) assailing the Decision[2] dated June 20, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05604, which affirmed the Decision[3] dated February 24, 2012 of Regional Trial Court of Malolos City, Third Judicial Region, Branch 78 (RTC) in Criminal Case No. 3222-M-2007, finding Mercado guilty beyond reasonable doubt of the crime of Double Murder.

The Facts

An Information was filed against Mercado for the murders of his aunt Alicia Mercado-Lusuriaga (Alicia) and her live-in partner, Evelyn Santos (Evelyn), the accusatory portion of which reads:

"That on or about the 15[th] day of October, 2007, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a baseball bat and with intent to kill Alicia Mercado-Lusuriaga and Evelyn Santos, live-in partners, with evident premeditation, treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault, hit them with the said baseball bat and pour gasoline into their bodies and light them thereby causing upon them third degree burns which directly caused their instantaneous death and the burning of [the] victim's house.

Contrary to law."[4]

The version of the prosecution, as summarized in its Appellee's Brief,[5] is as follows:

The victims, Evelyn Santos ("Evelyn") and Alicia Mercado ("Alicia"), are partners who lived together in a house located at Block 6 Lot 2, Belmont Pare Subdivision, Purok 4, Caypombo, Sta. Maria, Bulacan. Appellant was the nephew of Alicia. He was enrolled at the nearby STI College in Sta. Maria, Bulacan, and used to live in the same house.

It appears that around 11:00 PM of October 14, 2007, appellant was already inside the house, having come home from school. Records show that around 2:00 AM of October 15, 2007, the house of Evelyn and Alicia was reported to be on fire. While the house was burning, Evelyn and appellant were observed on the terrace supposedly trying to find a way to escape the blaze.

Eventually, through the help of neighbors, Evelyn and appellant were brought out of the burning house. Evelyn looked weak and unable to walk as she was badly burnt. She also had blood oozing out of the right side of her head.

Witnesses declared that as soon as Evelyn was carried out to safety, she promptly accused and pointed to appellant as the person responsible for attacking her and Alicia as well as for setting the house on fire. Specifically, Evelyn claimed that appellant hit her and [Alicia] with a baseball [bat] then set them on fire. One

witness heard Evelyn say: "ilayo ninyo sa akin yang si Patrick [Mercado] dahil siya ang pumalo sa aking ulo at nagsunog ng bahay." Another witness stated hearing the following utterances from Evelyn: "Kuya, wag mo akong iwan papatayin ako ng pamangkin ko," referring to appellant, and "ilayo nyo sa akin si Patrick [Mercado] dahil yan ang papatay sa amin." Still, another witness claimed to have heard Evelyn say: "Ilayo nyo sa akin yan batang yan. Yan ang papatay sa akin. Yan ang sumunog sa amin. Yan ang pumalo sa ulo namin."

While on board the ambulance on the way to the hospital, Evelyn repeated the name of appellant as the culprit who caused their injuries and burned the house. Thus, she uttered: "Te, si Patrick [Mercado] ang may gawa," "Si Patrick [Mercado] sinunog kami," and "Si Patrick ang pumalo sa akin. Si Patrick [Mercado] ang sumunog sa amin, pati sa bahay."

Despite medical attention, Evelyn succumbed to her injuries and died on November 2, 2007 at the UST Hospital. Based on the declarations of Evelyn, appellant was charged for the killing of Evelyn and Alicia.[6]

On the other hand, the version of the defense, as summarized in the Appellant's Brief,[7] is as follows:

Patrick John Mercado, vehemently denied the charge against him.

He averred that on October 15, 2007, he was inside his room at the first floor reviewing for his quarterly final examination and preparing his school project when a fire broke out between 2:00 to [2:30] o' clock early morning of the said date. He heard that the door on the terrace (second floor) was opened by someone and he thought that it was [either] his deceased Aunt Alice Mercado or Evelyn Santos who usually collects the laundry hanging on the terrace very early in the morning. Afterwards, he heard some noises and a commotion ensued that prompted him to rush upstairs where a fire had suddenly ignited and he saw a man coming out from the terrace. He went down and summoned for help from two (2) women. When he rushed back to render assistance, he saw Evelyn about to jump from the terrace. Thus, he pulled her back while he continued shouting for help. A ladder was [then] provided by the neighbors. He then positioned himself at the ladder while he was assisting Evelyn in going down. Evelyn was boarded into a van en route to a hospital. He did not leave the place and stayed in a nearby house while watching their house being engulfed by fire. While watching, a person approached and handcuffed him.

On October 15, 2007, Dan Dacallos, a neighbor of Patrick John testified that, he was sleeping when he heard someone shouting "sunog". He checked and saw a smoke coming out from the house of Patrick John and also saw an unidentified bloodied man coming out. He then saw Patrick John throwing water on the burning house while at the terrace. He did not report having seen the bloodied man to the authorities because of his minority and since his parents did not want him to get involved.[8]

Mercado was arraigned on November 22, 2007, in which he pleaded "not guilty" to the crime charged.[9] Pre-trial and trial thereafter ensued.

Ruling of the RTC

After trial on the merits, in its Decision dated February 24, 2012 the RTC convicted Mercado of the crime of Double Murder. The dispositive portion of the said Decision reads:

WHEREFORE, the foregoing considered, this Court hereby finds accused Patrick John Mercado GUILTY of the crime of Double Murder penalized under the provisions of Art. 248 of the Revised Penal Code. Accordingly, he is sentenced to suffer the penalty of RECLUSION PERPETUA and to indemnify the heirs of each of the two victims: a. P 75,000.00 as civil indemnity for their death and b. P 50,000.00 as moral damages and c. P 30,000.00 as exemplary damages.

In the service of his sentence accused who is a detention prisoner shall be credited with the entire period he has undergone preventive imprisonment.

SO ORDERED.[10]

The RTC held that although the evidence of the prosecution relied heavily on what appears to be hearsay evidence, the testimonies of the prosecution witnesses were still admissible because they were the dying declarations of Evelyn, and these were admissible under Section 37, Rule 130 of the Rules of Court. The RTC added that assuming that the testimonies were inadmissible under the rule on dying declaration, the same would nevertheless be admissible as it was part of the *res gestae*, allowed in evidence by virtue of Rule 130, Section 42 of the Rules of Court.

The RTC further held that the crime committed was Double Murder, as the killing was attended by the qualifying circumstance of the use of fire. The RTC ruled that the crime committed was the complex crime of Double Murder – instead of two counts of Murder – and sentenced him with the penalty of reclusion perpetua.

Aggrieved, Mercado appealed to the CA.

Ruling of the CA

In the assailed Decision dated June 20, 2014, the CA affirmed the RTC's finding that Mercado was the perpetrator of the crime.

The CA affirmed the RTC's ruling that the evidence of the prosecution were admissible under the rule on dying declaration or, in any case, under the rule on *res gestae*.^[11] Further, the CA ruled that Mercado's defense of denial – anchored on the testimony of Dan Dacallos (Dacallos) that there was a bloodied man who came out of the house while it was on fire – could not overcome the probative value of the dying declaration of Evelyn.^[12]

As Mercado put in issue the fact that the RTC did not consider in his favor the mitigating circumstance of voluntary surrender, the CA ruled that the RTC was correct in doing so. The CA ratiocinated that Mercado failed to show that there was a voluntary and conscious effort on his end to surrender.^[13]

Mercado also questioned the RTC's appreciation of the qualifying circumstance of use of fire in raising the offense to Murder. He argued that the same was not alleged in the Information, and that only the circumstances of treachery, abuse of superior strength, and evident premeditation were raised therein. To this, however, the CA held that the RTC correctly appreciated the qualifying circumstance of the use of fire as it was sufficiently alleged in the Information.^[14]

Finally, Mercado questioned his conviction as the prosecution supposedly failed to prove his guilt beyond reasonable doubt. He averred that the prosecution's failure to present the baseball bat he supposedly used, or prove the presence of gasoline used to set the fire, amounted to reasonable doubt that necessitated his acquittal. As regards this issue, the CA held that the aforementioned pieces of evidence were unnecessary or immaterial to his conviction, as the dying declarations of Evelyn, as proved by the testimonies of the numerous prosecution witnesses, were more than sufficient to establish his guilt beyond reasonable doubt.^[15]

The CA, however, modified the penalty imposed on Mercado from a single count of reclusion perpetua imposed by the RTC to two counts of reclusion perpetua for each of the murders he committed.

Hence, the instant appeal.

Issue

For resolution of this Court are the following issues submitted by Mercado:

(1)

Whether the CA erred in convicting Mercado despite the prosecution's failure to prove his guilt beyond reasonable doubt;

(2)

Whether the CA erred in upholding the RTC's appreciation of the qualifying circumstance of use of fire;

(3)

Whether the CA erred in not appreciating the mitigating circumstance of voluntary surrender.[16]

The Court's Ruling

The appeal is unmeritorious. The Court, however, modifies the penalty imposed on Mercado to a single penalty of reclusion perpetua only.

First Issue: On whether the prosecution proved Mercado's guilt beyond reasonable doubt

In questioning his conviction, Mercado harps on his defense of denial, and the supposed weakness of the evidence of the prosecution. He argues that the testimony of Dacallos that there was a bloodied man who came out of the house as it was on fire should be believed over the testimonies of the prosecution witnesses as to Evelyn's dying declarations. He likewise reiterates his plea that the prosecution's failure to present the baseball bat and to prove the presence of gasoline amounts to reasonable doubt that requires his acquittal.

The arguments fail to convince.

With regard to this issue, the Court quotes with approval the following disquisitions by the CA:

Accused-appellant desperately tried to anchor his defense on denial but failed to prove the same despite the presentation of an alleged eyewitness, Dan Emmanuel Dacallos. His testimony failed to overcome the credibility and probative value of the dying declarations and/or part of the *res gestae* of Evelyn Santos which were recounted by several witnesses.

Time and again, this Court has ruled that denial is the weakest of all defenses. It easily crumbles in the face of positive identification of the accused as the perpetrator of the crime. A denial, like other defenses, remains subject to the strength of the prosecution evidence which is independently assessed. When the evidence for the prosecution convincingly connects the crime and the culprit, the probative value of the denial is negligible.

x x x x

The failure of the prosecution to present the baseball bat allegedly used and to prove the presence of the gasoline is of no moment. The evidence presented and the testimonies of the prosecution's witnesses were more than sufficient to establish accused-appellant's guilt for the crime charged. These testimonies specifically recounted the dying declarations/part of the *res gestae* of Evelyn Santos which prove that accused-appellant hit the victims with a baseball bat before placing them and the house on fire. Furthermore, the failure to present the baseball bat actually did not, in any way affect[,] the strength of the prosecution's evidence.[17] (Emphasis and underscoring supplied)

In this connection, both the RTC and CA correctly held that the evidence of the prosecution – as independently assessed – sufficiently established the guilt of Mercado.

As an exception to the hearsay rule, a dying declaration is admissible as evidence because it is "evidence of the highest order and is entitled to utmost credence since no person aware of his impending death would make a careless and false accusation." [18] Accordingly, Section 37, Rule 130 of the Rules of Court provides:

SEC. 37. Dying declaration.—The declaration of a dying person, made under the consciousness of an

impending death, may be received in any case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death.

For a "dying declaration" to be admissible in court, the following requisites must concur:

(a)

That the declaration must concern the cause and surrounding circumstances of the declarant's death;

(b)

That at the time the declaration was made, the declarant was under a consciousness of an impending death;

(c)

That the declarant is competent as a witness; and

(d)

That the declaration is offered in a criminal case for homicide, murder, or parricide, in which the declarant is the victim.[19]

The Court, in *People v. Umapas*,^[20] explained and expounded on how each of the four requisites is to be understood. Thus:

Four requisites must concur in order that a dying declaration may be admissible, thus: First, the declaration must concern the cause and surrounding circumstances of the declarant's death. This refers not only to the facts of the assault itself, but also to matters both before and after the assault having a direct causal connection with it. Statements involving the nature of the declarant's injury or the cause of death; those imparting deliberation and willfulness in the attack, indicating the reason or motive for the killing; justifying or accusing the accused; or indicating the absence of cause for the act are admissible. Second, at the time the declaration was made, the declarant must be under the consciousness of an impending death. The rule is that, in order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered by the declarant. It is the belief in impending death and not the rapid succession of death in point of fact that renders the dying declaration admissible. It is not necessary that the approaching death be presaged by the personal feelings of the deceased. The test is whether the declarant has abandoned all hopes of survival and looked on death as certainly impending. Third, the declarant is competent as a witness. The rule is that where the declarant would not have been a competent witness had he survived, the proffered declarations will not be admissible. Thus, in the absence of evidence showing that the declarant could not have been competent to be a witness had he survived, the presumption must be sustained that he would have been competent. Fourth, the declaration must be offered in a criminal case for homicide; murder, or parricide, in which the declarant is the victim.[21]

The first and fourth requisites are undoubtedly present in this case. With regard to the third requisite, since there was no evidence presented to show that Evelyn could not have been competent to be a witness had she survived, the presumption that she would have been competent would be sustained in accordance with the foregoing rule discussed in *Umapas*. The Court holds, therefore, that the third requisite is sufficiently met.

With regard to the second requisite, the Court in *Umapas* considered the severity of the declarant's wounds to reasonably presume that she uttered her words under the belief that her own death was already imminent. The

Court therein held that "[t]here is ample authority for the view that the declarant's belief in the imminence of her death can be shown by the declarant's own statements or from circumstantial evidence, such as the nature of her wounds, statements made in her presence, or by the opinion of her physician." [22] Dealing with a declarant that was similarly severely burnt in a fire, the Court reasoned:

x x x. While more than 12 hours has lapsed from the time of the incident until her declaration, it must be noted that Gemma was in severe pain during the early hours of her admission. Dr. Tamayo even testified that when she saw Gemma in the hospital, she was restless, in pain and incoherent considering that not only was she mauled, but 57% of her body was also burned. She also underwent operation and treatment, and was under medication during the said period. Given the circumstances Gemma was in, even if there was sufficient lapse of time, we could only conclude that at the time of her declaration, she feared that her death was already imminent. While suffering in pain due to thermal burns, she could not have used said time to contrive her identification of Umapas as her assailant. There was, thus, no opportunity for Gemma to deliberate and to fabricate a false statement. [23] (Emphasis and underscoring supplied)

In the present case, Evelyn made the declarations just as she was pulled out of the fire, with blood coming out of her forehead, when she was having difficulty breathing, and with second and third degree burns affecting 74% of the total surface area of her body. [24] Considering the foregoing facts – along with the principle enunciated in Umapas that the declarant's belief in the imminence of her death can be shown by the nature and severity of the declarant's wounds – then the Court is convinced that the second requisite for a dying declaration is sufficiently met.

Without doubt, therefore, the dying declarations of Evelyn to numerous witnesses that it was Mercado who had attacked her and her partner and eventually set their house on fire are admissible in evidence.

In any event, even if the statements of Evelyn would not qualify as dying declarations, they are nevertheless admissible in evidence because they are part of the *res gestae*. Section 42, Rule 130 of the Rules of Court provides:

SEC. 42. Part of the *res gestae*.— Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the *res gestae*. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the *res gestae*.

A declaration made spontaneously after a startling occurrence is deemed as part of the *res gestae* when (1) the principal act, the *res gestae*, is a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) the statements concern the occurrence in question and its immediately attending circumstances. [25] The Court, in the early case of *People v. Nartea*, [26] clarified when a statement may be deemed part of the *res gestae*:

The term "*res gestae*" comprehends a situation which presents a startling or unusual occurrence sufficient to produce a spontaneous and instinctive reaction, during which interval certain statements are made under such circumstances as to show lack of forethought or deliberate design in the formulation of their content. Whether a declaration is a part of the *res gestae* depends upon whether the declaration was the facts talking through the party or the party talking about the facts. (20 Am. Jur., Evidence, sec. 662, pp. 553, 556.) While as a general rule the declaration sought to be proved as part of the *res gestae* must be contemporaneous with the event established as the principal act, no fixed time from the main occurrence can be arbitrarily set in order to determine what shall be part of the *res gestae*. The factual situation in each instance will set its own pattern of time in this respect. (Id., sec. 669; see also Moran, Law of Evidence, revised and enlarged edition, pp. 295-296.) "The marked trend of decisions is to extend, rather than narrow, the scope of the doctrine admitting declarations as part of the *res gestae*. Whether specific statements are admissible as part of the *res gestae* is a

matter within the sound discretion of the trial court, the determination of which is ordinarily conclusive upon appeal, in the absence of a clear abuse of discretion." (20 Am. Jur., sec. 663, p. 557.)[27]

The rule on *res gestae* encompasses the exclamations and statements made by either the participants, victims, or spectators to a crime immediately before, during, or immediately after the commission of the crime when the circumstances are such that the statements were made as a spontaneous reaction or utterance inspired by the excitement of the occasion and there was no opportunity for the declarant to deliberate and to fabricate a false statement.[28] The test of admissibility of evidence as a part of the *res gestae* is, therefore, whether the act, declaration, or exclamation is so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negatives any premeditation or purpose to manufacture testimony.[29]

Applying the foregoing to the present case, the statements of Evelyn were clearly part of the *res gestae*. The fire – which caused severe injuries on her body, destroyed her house, and killed her live-in partner – was undeniably a startling occurrence. Evelyn's statements were made immediately after she was rescued, and when she was clearly suffering from the pain caused by her injuries, thereby negating any possibility of her contriving or manufacturing a lie. The statements were also undoubtedly about the startling occurrence as Evelyn repeatedly claimed that Mercado was the one who attacked her and Alicia, and thereafter set the house on fire. The statements were thus certainly part of the *res gestae*.

Bearing in mind that a dying declaration is considered as "evidence of the highest order," and that, in any event, the statements were part of the *res gestae*, as well as the principle that denial is an inherently weak defense,[30] the Court thus holds that the CA did not err in affirming Mercado's conviction, as his guilt was proved beyond reasonable doubt. It is well to stress that the positive identification of the eyewitnesses carries more weight than an accused's defense of denial.[31] Mercado must thus be held liable for the killing of Evelyn and Alicia.

Second Issue: Appreciation of the Qualifying Circumstance of Use of Fire

Mercado faults both the RTC and the CA for raising the crime to Murder by appreciating the qualifying circumstance of use of fire. He asserts that only the qualifying circumstances of treachery, abuse of superior strength, and evident premeditation were alleged in the Information. Thus, the courts erred in appreciating the qualifying circumstance of use of fire.

The argument deserves scant consideration.

The test of sufficiency of an Information is whether it enables a person of common understanding to know the charge against him, and the court to render judgment properly.[32] The rule is that qualifying circumstances must be properly pleaded in the Information in order not to violate the accused's constitutional right to be properly informed of the nature and cause of the accusation against him.[33] The Information is sufficient as long as the qualifying circumstance is recited in the Information, regardless of whether designated as aggravating or qualifying, or whether written separately in another paragraph or lumped together with the general averments in a single paragraph.[34] The purpose is to allow the accused to fully prepare for his defense, precluding surprises during the trial.[35]

With the foregoing legal principles in mind, it is necessary then to determine whether the Information in this case sufficiently informed the accused of the accusation against him. To recall, the accusatory portion of the Information states:

"That on or about the 15[th] day of October, 2007, in the municipality of Sta. Maria, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a

baseball bat and with intent to kill Alicia Mercado-Lusuriaga and Evelyn Santos, live-in partners, with evident premeditation, treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault, hit them with the said baseball bat and pour gasoline into their bodies and light them thereby causing upon them third degree burns which directly caused their instantaneous death and the burning of [the] victim's house.

Contrary to law."[36] (Emphasis and underscoring supplied)

A reading of the afore-quoted portion of the Information readily reveals that while the "use of fire" was not explicitly mentioned as a qualifying circumstance, the Information nevertheless narrate with sufficiency that Mercado was being accused of "causing x x x third degree burns [against the victims] which directly caused their instantaneous death." It escapes the mind of the Court how one could be accused of "causing x x x third degree burns" without necessarily saying that he or she used fire in the process.

The RTC and the CA thus correctly held that the crime committed was Murder instead of merely Homicide. Article 248 of the Revised Penal Code provides:

ART. 248. Murder.— Any person who, not falling within the provisions of article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
- In consideration of a price, reward or promise.
- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
- On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or other public calamity.
- With evident premeditation.
- With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. (Emphasis and underscoring supplied)

The crime was therefore correctly qualified to Murder.

Third Issue: Appreciation of the Mitigating Circumstance of Voluntary Surrender

Mercado asserts that the RTC and the CA erred in not appreciating in his favor the mitigating circumstance of voluntary surrender. He argues that because he did not resist when he was arrested by the barangay tanod shortly after Evelyn was brought to the hospital, then the mitigating circumstance should have been appreciated in his favor.

Mercado's argument is misplaced. Relevant is the ruling of the Court in *People v. Saul*:^[37]

x x x For voluntary surrender to mitigate the offense, the following elements must be present: (a) the offender has not actually been arrested; (b) the offender surrendered himself to a person in authority; and (c) the surrender must be voluntary. A surrender, to be voluntary must be spontaneous, i.e., there must be an intent to submit oneself to authorities, either because he acknowledges his guilt or because he wishes to save them the trouble and expenses in capturing him. x x x^[38]

In the present case, Mercado did not actually surrender. Instead, he simply did not offer any resistance when so arrested. The records of the case reveal that when Evelyn was transported to the hospital, Mercado stayed in a nearby house where he watched as their house was engulfed in flames.[39] While he was observing the fire, someone approached him and handcuffed him – to which act he did not resist.[40] In this connection, the Court quotes with approval the following ratiocination by the CA:

Indeed, there was no spontaneity in the alleged surrender. It will be observed that accused-appellant had no conscious effort to surrender. In fact, had accused-appellant not been arrested, he would not have surrendered himself to the authorities. The mere fact that accused-appellant did not resist his arrest cannot be equated with voluntary surrender. For, as the Supreme Court has ruled, to be voluntary, a surrender must be spontaneous and deliberate; that is, there must be an intent to submit oneself unconditionally to the authorities.[41]

Imposable Penalty on Mercado

Although the Court affirms the conviction of Mercado, it nevertheless deems it proper to modify the penalty to be imposed on him. The RTC convicted him of the complex crime of Double Murder and imposed on him the penalty of reclusion perpetua.[42] The CA, on the other hand, modified the penalty and reasoned as follows:

We, however, find that the penalty imposed by the trial court is inaccurate with the offense committed by the accused-appellant. He was convicted of the crime of Double Murder but the sanction, particularly the imprisonment imposed by the trial court, is only for a single crime of murder. Hence, We modify the penalty and sentence accused-appellant Patrick John Mercado to suffer the penalty of Reclusion Perpetua for each Murder he committed.[43]

The ruling of the CA is erroneous. The correct penalty on Mercado was imposed by the RTC as the crime committed is a complex crime, there being only a single criminal act that resulted in the commission of multiple crimes. Article 48 of the Revised Penal Code provides:

ART. 48. Penalty for complex crimes.— When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

In *People v. Gaffud, Jr.*,[44] the accused therein burned the house of another person, thereby killing the latter and the latter's daughter. The Court therein held that the accused was guilty of the complex crime of Double Murder and ratiocinated as follows:

In a complex crime, although two or more crimes are actually committed, they constitute only one crime in the eyes of the law as well as in the conscience of the offender. Hence, there is only one penalty imposed for the commission of a complex crime.

There are two kinds of complex crime. The first is known as compound crime, or when a single act constitutes two or more grave or less grave felonies. The second is known as complex crime proper, or when an offense is a necessary means for committing the other.

The classic example of the first of kind is when a single bullet results in the death of two or more persons. A different rule governs where separate and distinct acts result in a number killed. Deeply rooted is the doctrine that when various victims expire from separate shots, such acts constitute separate and distinct crimes.

In the landmark case *People v. Guillen*, the Court held that the single act of throwing a grenade at President Roxas resulting in the death of another person and injuring four others produced the complex crime of murder and multiple attempted murders. Under Article 248 of the RPC, murder is committed when a person is killed by means of explosion. Applying Article 48 of the RPC, the penalty for the crime committed is death, the maximum penalty for murder, which is the graver offense.

More recently, in *People v. Carpo et al.*, we held that the single act of hurling a grenade into the bedroom of the victims causing the death of three persons and injuries to one person constituted the complex crime of multiple murder and attempted murder. Also, in *People v. Comadre*, we held:

The underlying philosophy of complex crimes in the Revised Penal Code, which follows the *pro reo* principle, is intended to favor the accused by imposing a single penalty irrespective of the crimes committed. The rationale being, that the accused who commits two crimes with single criminal impulse demonstrates lesser perversity than when the crimes are committed by different acts and several criminal resolutions.

The single act by appellant of detonating a hand grenade may quantitatively constitute a cluster of several separate and distinct offenses, yet these component criminal offenses should be considered only as a single crime in law on which a single penalty is imposed because the offender was impelled by a "single criminal impulse" which shows his lesser degree of perversity.

In light of these precedents, we hold that the single act of accused-appellant — burning the house of Manuel Salvador, with the main objective of killing the latter and his daughter, Analyn Salvador, resulting in their deaths — resulted in the complex crime of double murder. Under Article 248 of the RPC, murder is committed by means of fire. Since the maximum penalty imposed for murder was death, when the case was pending in the CA, the CA correctly imposed the penalty of death for the complex crime of double murder instead of the two death penalties imposed by the RTC for two counts of murder. In view, however, of the passage of Republic Act No. 9346 (otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines"), we reduce the penalty of death to reclusion perpetua with no eligibility for parole.^[45] (Emphasis and underscoring supplied)

Applying the foregoing to the case at bar, the CA thus incorrectly modified the penalty to impose on Mercado two counts of reclusion perpetua because there were two victims. The Court must perforce modify the penalty once again to conform with Article 48 of the Revised Penal Code. Mercado is thus liable only for a single count of reclusion perpetua for both of the deaths of Evelyn and Alicia.

Finally, in view of the Court's ruling in *People v. Jugueta*,^[46] the damages awarded in the questioned Decision are hereby modified to P100,000.00 each representing civil indemnity, moral damages, and exemplary damages, in addition to P50,000.00 representing temperate damages for each of the deaths of Evelyn and Alicia.

WHEREFORE, in view of the foregoing, the appeal is hereby DENIED. The Court DECLARES accused-appellant Patrick John Mercado y Anticla GUILTY of DOUBLE MURDER, for which he is sentenced to suffer the penalty of reclusion perpetua without the eligibility for parole.^[47] He is further ordered to pay each of the heirs of Evelyn Santos and Alicia Mercado-Lusuriaga the amounts of One Hundred Thousand Pesos (P100,000.00) as civil indemnity, One Hundred Thousand Pesos (P100,000.00) as moral damages, One Hundred Thousand Pesos (P100,000.00) as exemplary damages, and Fifty Thousand Pesos (P50,000.00) as temperate damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.

[*] Designated additional Member per Special Order No. 2587 dated August 28, 2018.

[1] See Notice of Appeal dated July 9, 2014; rollo, pp. 24-25.

[2] Rollo, pp. 2-23. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Magdangal M. De Leon

and Ramon A. Cruz, concurring.

[3] CA rollo, pp. 49-61. Penned by Judge Gregorio S. Sampaga.

[4] Rollo, p. 3.

[5] CA rollo, pp. 68-91.

[6] Id. at 74-75.

[7] Id. at 25-48.

[8] Id. at 30.

[9] Rollo, p. 3.

[10] CA rollo, p. 61.

[11] Rollo, pp. 8-13.

[12] Id. at 13-14.

[13] Id. at 14-16.

[14] Id. at 16-18.

[15] Id. at 20-21.

[16] Id. at 7-8.

[17] Id. at 13-20.

[18] *People v. Maglian*, 662 Phil. 338, 346 (2011).

[19] *People v. Elizaga*, 249 Phil. 470, 474-475 (1988).

[20] 807 Phil. 975 (2017).

[21] Id. at 985-986.

[22] Id. at 987, citing *People v. Salafranca*, 682 Phil. 470, 482 (2012), which, in turn, cited *M. Graham*, *Federal Practice and Procedure: Evidence* § 7074, Interim Edition, Vol. 30B, 2000, West Group, St. Paul, Minnesota, citing *Shepard v. United States*, 290 US 96, 100; *Mattox v. United States*, 146 US 140, 151 (sense of impending death may be made to appear "from the nature and extent of the wounds inflicted, being obviously such that he must have felt or known that he could not survive."); *Webb v. Lane*, 922 F.2d 390, 395-396 (7th Cir. 1991); *United States v. Mobley*, 491 F.2d 345 (5th Cir. 1970); emphasis supplied.

[23] Id.

[24] CA rollo, p. 58.

[25] *People v. Peña*, 427 Phil. 129, 137 (2002).

[26] 74 Phil. 8 (1942).

[27] Id. at 10.

[28] *People v. Salafranca*, *supra* note 22, at 483-484.

[29] Id. at 484.

[30] *People v. Gaborne*, 791 Phil. 581, 596 (2016).

[31] Id.

[32] *People of the Philippines v. Lab-eo*, 424 Phil. 482, 497 (2002).

[33] Id.

[34] Id. at 488.

[35] Id. at 497.

[36] Rollo, p. 3.

[37] 423 Phil. 924 (2001).

[38] Id. at 936.

[39] Rollo, p. 15.

[40] Id.

[41] Id. at 15-16.

[42] CA rollo, p. 61.

[43] Rollo, p. 21.

[44] 587 Phil. 521 (2008).

[45] Id. at 533-535.

[46] 783 Phil. 806 (2016).

[47] Section 3 of Republic Act No. 9346 provides that "[p]ersons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended."

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