

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO ALMOSARA, ACCUSED-APPELLANT.

G.R. No. 223512. July 24, 2019

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Case

This appeal seeks to reverse the Decision dated January 28, 2016[1] of the Court of Appeals in CA-G.R. CR-HC No. 07177 affirming the trial court's verdict of conviction[2] for murder against appellant with modification of the monetary awards.

The Information

Appellant Antonio Almosara, together with his father, Adolfo Almosara was charged with murder under the following Information:

That on or about the 6[th] day of December, 2000 in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed weapons (sic), conspiring and confederating together with Anthony Almosara y Buenaflor and Ronnie Almosara who are still at large and all of them mutually helping and aiding one another with intent to kill, with treachery, and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously stab one Arnulfo Cabintoy y Oliar with said bladed weapon on the different parts of his body, thereby inflicting upon the latter mortal wounds which caused his instantaneous death

Contrary to law.[3]

Meantime, Adolfo Almosara died, hence, the case as to him was dismissed.[4]

But as to appellant Antonio Almosara, the case proceeded. On arraignment, appellant pleaded not guilty.[5] Thereafter, trial ensued.

Maria Cabintoy, Gregorio Cabintoy, Marife Cabintoy, Wilfredo Almazen, SPO1 Felipe Matias, and Dr. Felimon Porciuncula, Jr. testified for the prosecution. On the other hand, appellant alone testified for the defense.

Version of the Prosecution

On December 6, 2000, siblings Gregorio and Marife Cabintoy were inside their residence at Sitio Quarry in Antipolo City.[6] Right outside, their father Arnulfo Cabintoy was drinking with appellant Antonio, Anthony, Rodolfo (Adolfo), and Ronnie, all surnamed Almosara.[7]

After the drinking spree, Arnulfo advised appellant to go to sleep. Appellant irritably engaged in a heated exchange with Arnulfo.[8] Shortly after, appellant and his relatives left.[9]

Suspecting that the Almosaras might return and retaliate, Arnulfo thought of his son who was then in the

basketball court. He asked his wife Maria to fetch their son.[10]

Not long after, the Almosaras, now armed with bolos, had returned. At that point, Arnulfo was gathering stones he thought of using to defend himself and his family should the Almosaras be back.[11]

After a while, the Almosaras came back. For his part, appellant went straight to and pinned down Arnulfo and right then and there repeatedly stabbed Arnulfo. While Arnulfo was already lying prostrate on the ground, Anthony joined in and stabbed Arnulfo once in the stomach. Ronnie and Adolfo also joined in and stabbed Arnulfo a total of six (6) times in the back.[12] Thereafter, the Almosaras ran away.[13]

Meanwhile, Maria had returned from the basketball court and saw many people gathering around their house. Some restrained her from getting inside. Then she saw her husband lying face down on the ground. He was full of blood. She heard people talking that the persons responsible were her husband's drinking buddies.[14]

Wilfredo Almazen who lived nearby saw appellant, Adolfo, and another person passing by the road fronting his house. The three (3) were wearing bloodied clothes and holding bolos. Shortly after, Maria came to him asking for his help as barangay chairman for the arrest of the Almosaras. He readily obliged. He first went to Arnulfo's house where he saw Arnulfo's lifeless body. Then he went to chase appellant who was already fleeing at that time. He was able to catch appellant whom he immediately brought to the police headquarters.[15]

SPO1 Felipe Matias, on the other hand, pursued and also succeeded in getting hold of Adolfo.

Dr. Filemon Porciuncula, Jr. conducted an autopsy on Arnulfo's body.[16] He found incise wounds in Arnulfo's left nape and right arm, and abrasions on the left forehead, right knee, and left hand. They were all non-fatal wounds. He also found stab wounds in the left chest and four (4) stab wounds in the left side of the back. Three (3) of these stab wounds were fatal.[17] He concluded that Arnulfo died of hemorrhagic shock or loss of blood due to multiple stab wounds. His findings were reflected in his Medico Legal Report No. M-878-00.[18]

Version of the Defense

Appellant testified that on December 6, 2000, Arnulfo invited him to drink in his house at Sitio Quarry Tagbak, Barangay San Jose, Antipolo City. He met Ronnie for the first time there.[19]

While they were drinking, Ronnie and Arnulfo got into a heated argument. When he tried to pacify them, Arnulfo got enraged and snapped at him to mind his own business. Arnulfo also punched him so he ran away. But Arnulfo chased and poked him with a two-feet tubo. Fortunately, he did not get hit. When Arnulfo hit him another time, he was able to wrest the tubo from the latter. He used it to hit Arnulfo back. While he and Arnulfo were grappling for the tubo, Ronnie rushed in and repeatedly stabbed Arnulfo with a bladed weapon. He then left and ran away.[20] But Chairman Almazen caught up and warned him he would be indicted for the killing of Arnulfo. He was brought to the police station where Arnulfo's wife Maria pointed him out as her husband's assailant. He readily denied the charge.[21]

The Trial Court's Ruling

By Decision dated September 2, 2014,[22] the trial court found appellant guilty as charged, viz:

WHEREFORE, premises considered, accused Antonio Almosara y Perez is found GUILTY of the crime of MURDER and is sentenced to suffer the maximum sentence under the law and is hereby sentenced to the penalty of RECLUSION PERPETUA. He is also ordered to pay the heirs of the deceased Cristito Manasan y Cervantes (sic) Php75,000.00 in Exemplary Damages, Php50,000.00 in Moral Damages and Php40,600.00 in Actual Cost with costs against suit. Damages representing unearned income of the deceased is not justified as no supporting document was ever presented in this case.

Accused Antonio Almosara y Perez is hereby ordered committed to the National Bilibid Prisons (sic) for immediate service of his sentence.

SO ORDERED.[23]

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of murder despite the alleged inconsistencies in the testimonies of the prosecution witnesses. His arguments may be summed up as follows:[24]

(1) Gregorio and Marife's testimonies failed to paint a coherent picture of the incident. Both said they shouted for the Almosaras to stop, yet, Gregorio did not notice his sister was also present at that time. Gregorio testified only he and their neighbor Kris witnessed the incident.[25]

(2) Marife and Gregorio gave inconsistent statements whether it was Ronnie or Anthony who stabbed their father right after appellant delivered the initial blow.[26]

(3) Gregorio's act of going inside their home and doing nothing even after his father already got stabbed was contrary to human experience.[27]

Appellant further negates the presence of treachery in the commission of the crime. According to him, there was no proof he consciously adopted said mode of attack to facilitate the killing. Too, the fact that per Gregorio's testimony, Arnulfo was also armed with a bolo, indicated that Arnulfo was not without any means to defend himself.[28] Also, the alleged quarrel between him and Arnulfo before the attack dispelled the presence of treachery.[29]

Abuse of superior strength was not present here either. Gregorio and Marife themselves testified that appellant and his family did not simultaneously attack their father. They took turns in stabbing Arnulfo. Notably, no evidence was adduced showing a disparity between the built of Arnulfo and the individual builds of the Almosaras.[30]

In the absence of treachery and abuse of superior strength, therefore, he should only be found liable for homicide.[31]

Although the defense of denial is weak, the prosecution must not profit from the weakness of his defense but must rely on the strength of its own evidence.[32]

The Office of the Solicitor General, through Assistant Solicitor General John Emmanuel F. Madamba and State Solicitor Ma. Jesusa Eleanor P. Siquijor-Magbanua, essentially countered:[33]

(a) The testimonies of Gregorio and Marife were not only replete with details on how their father was attacked, the same were also given in a straightforward manner.[34]

(b) The alleged inconsistencies in the testimonies of the children Gregorio and Marife as to who attacked their father first was an insignificant detail which cannot defeat their positive identification of appellant as one of the assailants. Besides, it is perfectly natural for witnesses to give varying details as one witness may notice a detail which the other did not. What matters is both Gregorio and Marife positively identified appellant as one of the slayers of their father.[35]

(c) Gregorio and Marife were only six (6) years old and five (5) years old, respectively, when they witnessed up close their father's murder. They cannot, therefore, be expected to give an error-free narration of the events.[36]

(d) As a six (6) year old boy, Gregorio cannot be expected to behave in a "natural way" like an adult. Besides,

there is no showing that the prosecution witnesses were moved by any motive to falsely charge appellant with the slaying of Arnulfo.[37]

(e) When the credibility of the witnesses is in issue, the trial court's factual findings and calibration of their testimonies are accorded high respect, if not conclusive effect.[38]

(f) Treachery and abuse of superior strength qualified the killing of Arnulfo. Dr. Porciuncula, Jr. testified that Arnulfo was attacked from behind. Arnulfo was already lying prostrate on the ground when appellant and his family repeatedly stabbed him. Arnulfo was unaware of the imminent peril to his life and was rendered incapable of defending himself. While Arnulfo did have a bolo around his waist, he was rendered unable to draw it.[39]

(g) Considering that treachery attended the killing, abuse of superior strength was deemed absorbed therein and may no longer be appreciated as a separate aggravating circumstance.[40]

(h) The trial court properly rejected appellant's defense of denial. It was inexplicable for Arnulfo to continue hitting appellant when it was Ronnie who was supposedly stabbing Arnulfo. Most telling is this: when appellant got arrested, he did not point to Ronnie at all as the assailant.[41]

(i) Denial cannot be accorded more weight than the categorical testimonies of the witnesses who positively identified appellant as the assailant himself.[42]

The Court of Appeals' Ruling

By its assailed Decision dated January 28, 2016,[43] the Court of Appeals affirmed with modification, thus:

WHEREFORE, premises considered, the instant Appeal is DENIED for lack of merit and the assailed 2 September 2014 Decision of the Regional Trial Court of Antipio City, Branch 73 is AFFIRMED with MODIFICATIONS as to the civil liability:

Accused-Appellant Antonio Almosara y Sy is hereby ORDERED to pay the heirs of Arnulfo Cabintoy y Oliar the following:

1)

Temperate damages, in the amount of Php25,000.00;

2)

Civil Indemnity, in the amount of Php75,000.00;

3)

Moral Damages, in the amount of Php50,000.00:

4)

Exemplary Damages, in the amount of Php30,000.00; and

5)

6% interest per annum to all monetary awards from the finality of the decision until fully paid.

SO ORDERED.[44]

The Present Appeal

Appellant now seeks affirmative relief from the Court praying anew for his acquittal. In compliance with

Resolution dated June 20, 2016,[45] both appellant and the OSG manifested that in lieu of supplemental, briefs, they were adopting their respective briefs before the Court of Appeals.

Issue

Did the Court of Appeals err in affirming appellant's conviction for murder?

The Court's Ruling

Article 248 of the Revised Penal Code (RPC), as amended by Republic Act No. 7659 (RA 7659)[46] provides:

Article 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;

x x x x x x x x

Murder requires the following elements: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (4) the killing is not parricide or infanticide.[47]

There is no question here regarding the presence of the first and fourth elements. The victim died of hemorrhagic shock as a result of multiple stab wounds per Medico-Legal Report No. M-878-00[48] issued by examining doctor Filemon C. Porciuncula, Jr.. There is no evidence showing that Arnulfo and appellant, or any of the Almosaras for that matter, are related by affinity or consanguinity. Hence, the killing is not parricide.

As for the second and third elements, appellant assails the findings of both courts that these two (2) elements same are likewise present in this case.

Second Element

Appellant was one of the
four (4) persons who killed Arnulfo

Children Gregorio (six [6] years old) and Marife (five [5] years old) saw up close the slaying of their father. Both positively identified appellant and his relatives as the persons who repeatedly stabbed their father to death. They testified:

Gregorio's testimony

Q:

Do you know the person who killed your father?

A:

Yes, Sir.

Q:

Do you know his name?

A:

Yes, Sir.

Q:

What is his name?

A:

Antonio, Sir.

Q:

Are you referring to the accused in this case?

A:

Yes, Sir.[49]

x x x x x x x x

Q:

How many persons killed your father?

A:

Four (4) persons, Sir.

Q:

Do you know their names?

A:

Yes, Sir.

Q:

Will you please name them.

A:

Antonio, Rodolfo, Ronnie and Anthony.

Q:

And their family names are all Almosara?

A:

Yes, Sir.[50]

x x x x x x x x

Q:

Would you please explain how your father was killed by these four (4) persons?

A:

Antonio placed himself on top of my father.

Q:

And he was stabbed?

A:

Yes, Sir.

Q:

How many times?

A:

He stabbed my father two (2) times, Sir.

Q:

And you are referring to Antonio Almosara?

A:

Yes, Sir.

Q:

How about the other Almosaras, how many times they stabbed your father?

A:

Anthony stabbed my father once (in) the stomach.

Q:

How about the other two (2)?

A:

Rodolfo and Ronnie. My father was stabbed 6 times by the other accused (in) his back, Sir.[51]

x x x x x x x x

Marife's testimony

Q:

Do you know the circumstances of the death of your father?

A:

Yes, sir, he was stabbed.

Q:

Do you know who stabbed your father?

A:

Yes, sir.

Q:

Who?

A:

Antonio, Anthony, Rodolfo and Ronnie.

Q:

Do you know the surnames of the persons you mentioned?

A:

Almosara.[52]

x x x x x x x x

Q:

If Antonio Almosara is in Court, can you identify him?

A:

Yes, sir, that one. (witness pointed to a person who gave his name as Antonio Almosara)

Q:

Why do you know this Antonio Almosara?

A:

Because he killed my father.[53]

Q:

You said these persons came back carrying bladed weapons, what happened next?

A:

They stabbed my father.

Q:

When you said they stabbed your father, to whom are you referring to?

A:

Antonio, Anthony, Ronnie.

Q:

Can you remember what Antonio Almosara did to your father?

A:

He repeatedly stabbed my father.[54]

x x x x x x x x

Indeed, when the credibility of the eyewitness is at issue, due deference and respect shall be given to the trial court's factual findings, its calibration of the testimonies, its assessment of their probative weight, and its conclusions based on such factual findings, absent any showing that it had overlooked circumstances that would have affected the final outcome of the case. This rule finds an even more stringent application where the trial

court's findings are sustained by the Court of Appeals,[55] as in this case. *People of the Philippines v. Jeffrey Collamat, et al.*[56] elucidates:

In cases where the issue rests on the credibility of witnesses, as in this case, it is important to emphasize the well-settled rule that "appellate courts accord the highest respect to the assessment made by the trial court because of the trial judge's unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grueling examination."

We explained in *Reyes, Jr. v. Court of Appeals* that the findings of the trial court will not be overturned absent any clear showing that it had overlooked, misunderstood or misapplied some facts or circumstances of weight or substance that could have altered the outcome of the case, viz.:

Also, the issue hinges on credibility of witnesses. We have consistently adhered to the rule that where the culpability or innocence of an accused would hinge on the issue of credibility of witnesses and the veracity of their testimonies, findings of the trial court are given the highest decree of respect. These findings will not be ordinarily disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could very well affect the outcome of the case. It is the trial court that had the opportunity to observe 'the witnesses' manner of testifying, their furtive glances, calmness, sighs or their scant or full realization of their oaths. It had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination. Inconsistencies or contradictions in the testimony of the victim do not affect the veracity of the testimony if the inconsistencies do not pertain to material points. (Emphasis supplied)

x x x x x x x x

More important, Marife (five [5] years old) and Gregorio (six [6] years old) are just children who were not shown to have had any motive to falsely implicate appellant in their father's slaying if truly appellant was innocent. *People of the Philippines v. Golem Sota*[57] is apropos:

Sota and Gadjadli failed to attribute any ill motive on the part of Jocelyn in testifying against them. Notably, nothing from the records can sustain a finding that Jocelyn, who was a child when called to the witness stand, was moved by ill will against Sota and Gadjadli sufficient to encourage her to fabricate a tale before the trial court. Both Sota and Gadjadli, according to her, were even the friends of Artemio. At her tender age, Jocelyn could not have been able to concoct particulars on how the group killed Artemio and burned their house. Settled is the rule that the absence of evidence as to an improper motive strongly tends to sustain the conclusion that none existed and that the testimony is worthy of full faith and credit. x x x x (Emphasis supplied)

In any event, whether six (6) year old Gregorio and five (5) year old sister Marife were able to consistently account on who exactly launched the second attack on Arnulfo and whether Gregorio and Marife should not have gone inside their house after they saw their father wounded and bloodied are trivial matters which do not affect their credibility as witnesses. On the contrary, these inconsistencies, if at all, indicate that these witnesses were not rehearsed.[58]

In any case, Gregorio and Marife, young as they were,[59] cannot be expected to give error-free and consistent testimonies. *People of the Philippines v. Edwin Ibañez, et al.*[60] enunciated:

x x x x x x x x

Rachel was only ten (10) years old when she witnessed the murder of the victim. She testified in open court two (2) years later. Thus, she cannot be expected to give an error-free narration of the events that happened two years earlier. The alleged inconsistencies between her sworn statement and testimony referred to by appellants do not affect her credibility. What is important is that in all her narrations she consistently and

clearly identified appellants as the perpetrators of the crime. Inconsistencies between the sworn statement and the testimony in court do not militate against witness' credibility since sworn statements are generally considered inferior to the testimony in open court.

x x x x x x x x

Too, Gregorio saw his father being stabbed to death. Young as he was, six (6) years old, Gregorio cannot not be expected to react like an adult in the face of this tragic moment. Besides, there could be no hard and fast gauge for measuring a person's reaction or behavior when confronted with a startling, not to mention horrifying, occurrence, as in this case.[61] *People of the Philippines v. Alvin Esugon*[62] teaches:

x x x every child is now presumed qualified to be a witness. x x x

x x x x x x x x

The appellant did not object to Carl's competency as a witness. x x x All that the Defense did was to attempt to discredit the testimony of Carl, but not for once did the Defense challenge his capacity to distinguish right from wrong, or to perceive, or to communicate his perception to the trial court. Consequently, the trial judge favorably determined the competency of Carl to testify against the appellant.

The appellant points to inconsistencies supposedly incurred by Carl. That is apparently not disputed. However, it seems clear that whatever inconsistencies the child incurred in his testimony did not concern the principal occurrence or the elements of the composite crime charged but related only to minor and peripheral matters. As such, their effect on his testimony was negligible, if not nil, because the inconsistencies did not negate the positive identification of the appellant as the perpetrator. x x x

x x x x Moreover, according credence to Carl's testimony despite his tender age would not be unprecedented. In *People v. Mendiola*, the Court considered a 6-year-old victim competent, and regarded her testimony against the accused credible. In *Dulla v. Court of Appeals*, the testimony of the three-year-old victim was deemed acceptable. As such, Carl's testimony was entitled to full probative weight. (Emphasis supplied)

In light of the positive testimonies of eyewitnesses Gregorio and Marife pertaining to the material details affecting their father's murder unfolding before their very eyes and appellant's role in perpetrating it, appellant's defense of denial and alibi must fail.[63]

In another vein, appellant's use of "Ronnie" as fall guy is unconvincing. Appellant never implicated "Ronnie" during his arrest and even during the preliminary investigation. Obviously, his introduction of "Ronnie" as protagonist in Arnulfo's slaying utterly lacks merit.

Third Element

Treachery attended the killing

People of the Philippines v. Roger Raca[64] has explained the concept of treachery, viz:

Paragraph 16, Article 14 of the RPC defines treachery as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make. The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape. In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.

The essence of treachery hinges on the aggressor's attack sans any warning, done in a swift, deliberate, and

unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape.[65]

Here, appellant, without any warning, barged into the victim's premises, went straight to pin him down to the ground, and repeatedly stabbed him. Appellant continued pinning Arnulfo down to allow his other relatives who had joined in to freely take turns in stabbing the helpless victim. Gregorio and Marife testified:

Gregorio

Q:

Would you please explain how your father was killed by these four (4) persons?

A:

Antonio placed himself on top of my father.

Q:

And he was stabbed?

A:

Yes, Sir.[66]

x x x x x x x x

Marife

Q:

Can you describe the position of your father while he was being stabbed by these persons?

A:

My father was already lying down, the four persons were still stabbing my father.[67]

x x x x x x x x

Appellant and his relatives attacked the victim while the latter was gathering stones right outside his home. The victim may have had a bolo around his waist, but the sudden attack launched on him by appellant and his relatives effectively prevented the victim from drawing the bolo around his waist, to defend himself. Gregorio testified:

x x x x x x x x

Q:

When your father was stabbed, was he also carrying a bolo?

A:

Yes, Your Honor.

Q:

Was he able to draw the bolo from the holster (sic)?

A:

No, Your Honor.

Q:

(Was) your father able to hold that bolo?

A:

No, Your Honor.[68]

x x x x x x x x

Q:

When your father was stabbed by these four (4) accused, he was not able to defend himself?

A:

Yes, Sir.[69]

x x x x x x x x

In his Medico-Legal Report No. M-878-00,[70] Dr. Porciuncula, Jr. confirmed[71] that the victim was repeatedly stabbed in the back, viz:

x x x x x x x x

Q:

Considering the location of the incise wound, can we estimate the position- of the assailant when the incise wound was incurred by the victim?[72]

A:

It is possible that the assailant was on the left back portion of the victim.

x x x x x x x x

Q:

Do I get it right that all of the fatal wounds were located at the left back portion of the victim?

A:

Yes, sir and there is one on the front left side.[73]

x x x x x x x x

In *People of the Philippines v. Martial D. Pulgo*,[74] this Court held that treachery may still be appreciated even when the victim was forewarned of the danger on his person. The decisive factor leans on whether the execution of the attack made it impossible for the victim to defend himself or to retaliate.

When the circumstance of abuse of superior strength concurs with treachery, the former is absorbed in the latter and may no longer be separately appreciated.[75]

Penalty

Murder is punishable by reclusion perpetua to death if committed through any of the attendant circumstances mentioned in Article 248 of the Revised Penal Code, as amended by RA 7659.[76]

Applying Article 63(2) of the Revised Penal Code,[77] the lesser of the two (2) indivisible penalties, i.e.,

reclusion perpetua, shall be imposed provided there is no mitigating or aggravating circumstance which attended the killing, as in this case. Verily, both the trial court and the Court of Appeals correctly sentenced appellant to reclusion perpetua.

As for appellant's civil liabilities, *People of the Philippines v. Esmael Gervero, et al.*[78] ordained:

Following the jurisprudence laid down by the Court in *People v. Jugueta*, accused-appellants are ordered to pay the heirs of Hernando Villegas, Jose Villegas, and Benito Basug, Jr. P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. It was also ruled in *Jugueta* that when no documentary evidence of burial or funeral expenses is presented in court, the amount of P50,000.00 as temperate damages shall be awarded. In addition, interest at the rate of six percent per annum shall be imposed on all monetary awards from the date, of finality of this decision until fully paid.

Applying *Gervero* to the present case, the award of temperate damages should be increased to Php50,000.00 and moral and exemplary damages to Php75,000.00 each.

As for civil indemnity, the Court of Appeals correctly awarded Php75,000.00.[79]

ACCORDINGLY, the appeal is DENIED. The Decision dated January 28, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07177 is AFFIRMED with MODIFICATION. Appellant Antonio Almosara is found GUILTY of MURDER and sentenced with the imprisonment term of reclusion perpetua. He is further required to pay P75,000.00 each as civil indemnity, moral damages, and exemplary damages, and P50,000.00 as temperate damages.

All monetary awards shall earn interest at the, legal rate of six percent (6%) per annum from finality of this decision until fully paid.

SO ORDERED.

Carpio, (Chairperson), Perlas-Bernabe, J. Reyes, Jr., and Caguioa, JJ., concur.

[*] The trial court's records indicate "Perez" as appellant's middle name. In the Court of Appeals, however, the indicated middle name of appellant is "Sy." Notably, too, in the Information itself, appellant's middle name was "Buenaflor."

[1] Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justice Ramon A. Cruz and now Supreme Court Associate Justice Henri Jean Paul B. Inting; CA rollo, pp. 92-103.

[2] Penned by then Executive Judge, now CA Associate Justice Ronaldo B. Martin; Decision dated September 2, 2014 of the Regional Trial Court, Branch 73, Antipolo City, in Criminal Case No. 00-19993, entitled *People of the Philippines v. Adolfo Almosara y Perez and Antonio Almosara y Perez* ; CA rollo, pp. 39-44; Record, pp. 453-458.

[3] Record, pp. 1-2.

[4] Id. at 21.

[5] Id. at 34.

[6] TSN, February 21, 2002, p. 4; TSN, March 29, 2007, p. 3.

[7] TSN, March 29, 2007, p. 4.

- [8] TSN, February 21, 2002, pp. 13-14.
- [9] TSN, March 29, 2007, pp. 6-7.
- [10] See Maria's Salaysay dated December 7, 2000, Record, p. 3.
- [11] TSN, March 29, 2007, pp. 6-7.
- [12] TSN, February 21, 2002, pp. 7-8; TSN, March 29, 2007, p. 8.
- [13] TSN, February 21, 2002, p. 12.
- [14] See Maria's Salaysay dated December 7, 2000, Record, pp. 3-4.
- [15] TSN, July 27, 2006, pp. 3-5.
- [16] TSN, June 4, 2009, p. 5.
- [17] Id. at 6-12.
- [18] Id. at 17.
- [19] TSN, June 8, 2011, p. 4.
- [20] Id at 4-7.
- [21] Id at 8-9.
- [22] CA rollo, pp. 39-44; Record, pp. 453-458.
- [23] CA rollo, p. 44; Record, p. 458.
- [24] See Appellant's Brief dated July 13, 2015; CA rollo , pp. 21-37.
- [25] CA rollo, p. 29.
- [26] Id. at 29-30.
- [27] Id. at 31.
- [28] Id. at 33-34.
- [29] Id. at 34.
- [30] Id. at 35.
- [31] Id. at 35.
- [32] Id. at 36.
- [33] See the People's Brief dated November 16, 2015, id. at 68-85.
- [34] Id. at 74.
- [35] Id.
- [36] Id. at 75.
- [37] Id. at 80.
- [38] Id. at 80-81.

[39] Id. at 81-82.

[40] Id. at 82.

[41] Id. at 82-83.

[42] Id. at 83.

[43] Id. at 92-103.

[44] Id. at 102.

[45] Rollo, p. 19

[46] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes.

[47] *People of the Philippines v. Charlie Flores, et al.*, G.R. No. 228886, August 08, 2018.

[48] Record, p. 471.

[49] TSN, February 21, 2002, pp. 5-6.

[50] TSN, February 21, 2002, pp. 6-7.

[51] Id. at 7-8.

[52] TSN, March 29, 2007, p. 4.

[53] Id.

[54] Id. at 7-8.

[55] See *People of the Philippines v. Marcial D. Pulgo*, 813 Phil. 205, 211 (2017).

[56] G.R. No. 218200, August 15, 2018.

[57] G.R. No. 203121, November 29, 2017, 847 SCRA 113, 133.

[58] See *People of the Philippines v. Alberto Petalino*, G.R. No. 213222, September 24, 2018.

[59] Gregorio and Marife were only eight years old (in 2002) and eleven years old (in 2007), respectively, when they testified in court.

[60] 718 Phil. 370, 378 (2013).

[61] See *People of the Philippines v. Golem Sota*, *supra* note 57, at 132.

[62] 761 Phil. 300, 311-312, 313 (2015).

[63] *People of the Philippines v. Alberto Petalino*, *supra* note 58.

[64] G.R. No. 224886, September 4, 2017, 838 SCRA 476, 489.

[65] *People of the Philippines v. Golem Sota*, *supra* note 57, at 138.

[66] TSN, February 21, 2002, p. 7.

[67] TSN, March 29, 2007, p. 8.

[68] TSN, February 21, 2002, pp. 14-15.

[69] Id. at 16.

[70] Record, p. 471.

[71] TSN, June 4, 2009, pp. 7-18.

[72] Id. at 7.

[73] Id. at 16.

[74] See *supra* note 55, at 217.

[75] See *People of the Philippines v. Golem Sota*, *supra* note 57, at 140.

[76] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended. Other Special Penal Laws, and for Other Purposes.

Article 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 x x x x

[77] Art. 63. Rules for the application of indivisible penalties. — x x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof

x x x x

2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

[78] G.R. No. 206725, July 11, 2018,

[79] Id.

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