

**THE PEOPLE OF THE PHILIPPINES, (PLAINTIFF-APPELLEE),
ALEJANDRO PARAS ALIAS “ANNIE” EULOGIO PARAS
ALIAS “LUCIO” GREGORIO PARAS ALIAS
“GORIO” ALBERTO PARAS ALIAS “KIBIT”
JUAN PARA...**

G.R. No. 61773. January 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

Accused Eulogio Paras, Gregorio Paras, Alberto Paras, Juan Paras, Alejandro Paras and Francisco Viray were charged with the crime of Murder before the then Court of First Instance of Pampanga.[1] After trial, with the exception of Francisco Viray who was at large up to the time of the trial, all the accused were found guilty as charged and each of them sentenced to suffer the penalty of reclusion perpetua with the accessory penalties provided for by law and to indemnify the heirs of the deceased jointly and severally a) the sum of P12,000.00 for the death of Roseller Cayanan, b) P12,000.00 as actual damages, c) P5,000.00 as moral damages and d) costs of suit.

The evidence for the prosecution is summarized in the appellee's brief as follows:

"Between 4:00 and 5:00 o'clock in the afternoon of October 12, 1980, Roseller Cayanan, Consolacion Manansala and Charlie Manansala were walking in that order along Ilang-Ilang Street, Barangay Sta. Lucia, Masantol, Pampanga, having come from the poblacion (pp. 6-8, t.s.n. Jan. 7, 1981). Suddenly, several persons, namely: Alejandro Paras, Eulogio Paras, Gregorio Paras, Juan Paras, Alberto Paras and Francisco Viray approached them from behind (pp. 20-21, t.s.n., Jan. 7, 1981; pp. 7-9, t.s.n. Jan. 30, 1981). Alejandro Paras and Eulogio Paras then twisted both arms of Roseller Cayanan around the latter's neck (p. 8, t.s.n. Jan. 7, 1981). As the latter was thus rendered helpless and unable to defend himself, he was hit on the head by Eulogio Paras with a hollow block (Exh. "B") knocking him down (pp. 9-10, id.). As Roseller Cayanan was lying prostrate on the ground, Alejandro Paras stabbed him several times on the stomach and breast with a fan knife. Thereafter, Gregorio Paras who was armed with a stainless weapon similar to a knife, likewise stabbed Cayanan in the stomach (pp. 11, 15-16, id.). While Alejandro Paras, Gregorio Paras, and Eulogio Paras were stabbing Roseller Cayanan, Juan Paras hit Roseller Cayanan with a hollow block on the head and afterwards kicked him (p. 22, id.). Alberto Paras and Francisco Viray likewise hit Roseller Cayanan on the head also with a hollow block (pp. 19-20, id.).

"Consolacion Manansala shouted for help as she tried to parry the stab blows of Alejandro Paras upon Roseller Cayanan but Alejandro Paras pushed her aside (pp. 27-29, t.s.n. Jan. 17, 1981). As a result, Consolacion Manansala sustained wounds on her hands which were treated by Dr. Ladislao Yuchengco at the Macabebe Emergency Hospital (pp. 5-6, t.s.n. Jan. 9, 1981).

"Appellants fled after Eulogio Paras told them "come on, let us go, anyway he is already dead" (pp. 10-12, t.s.n. Jan. 9, 1981). Forthwith, Consolacion Manansala called on her neighbors and requested assistance in

placing Roseller Cayanán on board a tricycle and in bringing him to the hospital for treatment (pp. 12-13, t.s.n. id.). In the meantime, Charlie Manansala, who also witnessed the incident, ran towards the Masantol police station (pp. 15-16, t.s.n. Jan. 30, 1981). On the way, he met two policemen and reported to them the incident (pp. 15-16, t.s.n. Jan. 30, 1981).

"Police investigator Daniel Suñga who was assigned to investigate the incident proceeded to the Macabebe Emergency Hospital at Macabebe, Pampanga (p. 10, t.s.n. Dec. 29, 1981). A few minutes later, the body of Roseller Cayanán arrived at said hospital and was pronounced dead on arrival by the Director thereof, Dr. Yuchengco. At the said hospital, Police Investigator Daniel Suñga saw Eulogio and Gregorio Paras (pp. 10-11, t.s.n. id.). Upon being informed by Charlie Manansala that the Paras brothers were two of the assailants, said police investigator invited and brought them to the police station for investigation (pp. 11-12, t.s.n. id.).

"Upon their arrival at the police station of Masantol, Pampanga, police investigator Daniel Suñga saw the other suspects who had already been arrested (p. 17, t.s.n. Dec. 29, 1981).

"A confrontation was had between eyewitness Charlie Manansala and the suspects who were present at the police station namely: Alejandro Paras, Alberto Paras, Gregorio Paras and Juan Paras (pp. 18, 19, t.s.n. id.). Then, accompanied by Charlie Manansala, Police Investigator Daniel Suñga proceeded to the scene of the incident at Ilang-Ilang Street, Sta. Lucia, Masantol, Pampanga where he picked up a piece of hollow block pointed to by Charlie Manansala as one of the hollow blocks used by the suspects in hitting Roseller Cayanán (p. 24, t.s.n. id.). He also caused pictures to be taken at the scene of the incident (Exh. "F") showing the alley (Exh. "F"-1), the spot (Exh. "F-2") where the hollow block and bloodstains were found (Exh. "F-3").

"After taking the sworn statements of Consolacion Manansala and Charlie Manansala, police investigator Suñga filed a criminal complaint (Exh. "G") against Alejandro Paras, Eulogio Paras, Alberto Paras, Juan Paras, and Francisco Viray with the Municipal Court of Masantol, Pampanga (p. 23, t.s.n. id.).[2]

"Dr. Eriberto Suñga, Municipal Health Officer of Masantol, Pampanga who performed the autopsy on the body of the deceased Roseller Cayanán testified that he found six (6) stab wounds on the abdominal portion of the body and lacerated wounds on the head, forehead and nasal bone fracture (pp. 25-27, t.s.n. Dec. 17, 1980); that after opening the head of the deceased, he found hemorrhage of the cerebral vessel of the posterior pole (p. 26, id.); that the cause of bleeding was due to the blow or smash on the head, right eye-brow and nose (pp. 25-26, t.s.n. id.); that with respect to the abdominal wounds, he also opened the abdominal cavity and traced the direction of the wounds; that one of the wounds ended at mesentery or the fold of the peritrium which covered the abdominal organ; that one of the stab wounds penetrated the heart (pp. 27-30, t.s.n. id.); that the six (6) stab wounds on the stomach, and which were of the same depth were all fatal (p. 28, t.s.n. id.); that the wounds on the chest and stomach were caused by different instruments as shown by the nature of the wounds (pp. 31-32, t.s.n. id.); that, thereafter, he issued a Certificate of Death attributing the victim's death to shock (cardiac tempore) due to hemorrhage caused by multiple stab and lacerated wounds (Exh. "A")."

On the other hand, evidence for the defense shows that all the accused Eulogio, Gregorio, Alberto, Juan, Alejandro all surnamed Paras and Francisco Viray attended on October 12, 1980 the funeral rites at Masantol, Pampanga of their relative, Flaviano Suñga. After the interment, accused Juan Paras went home to Macabebe, Pampanga, about 3 kilometers away or 2 hours ride in a motor banca from Sta. Lucia, Masantol, Pampanga. The rest of the accused returned to the house of their deceased relative at about noon of the same day. Accused Alberto and Gregorio Paras helped in the chores at the house of their late uncle while the other two accused Alejandro and Eulogio Paras left to attend to their respective personal necessities. Eulogio Paras, upon his return at about 4:00 o'clock in the afternoon, met on his way the deceased Roseller Cayanán in the company of his aunt, Consolacion Manansala, and Charlie Manansala at Ilang-Ilang Street, Sta. Lucia, Masantol, Pampanga. Upon seeing him, deceased Roseller Cayanán confronted him thus — "What is it that you're looking at", to which query, accused Eulogio Paras answered in a loud voice, "Vulva of your Mother, What is it that you like?" Then Roseller

Cayanan retorted back by saying, "Vulva of your Mother, are you going to fight?" (TSN, Sept. 2, 1981, pp. 10-11). To this challenge, accused Eulogio Paras answered "No", but all of a sudden Roseller Cayanan pulled out his fan knife, and rushing, stabbed accused Eulogio Paras twice, hitting him in his left hand, and on his left knee cap. (TSN, Sept. 2, 1981, p. 13). Thereafter, Consolacion Manansala tried to pacify Roseller Cayanan in further attacking accused Eulogio Paras by putting her arms around the body of Roseller Cayanan. In the meanwhile, accused Eulogio Paras spotted a hollow block nearby, picked it up and threw it towards Roseller Cayanan while he was being pacified hitting him on his face which caused the latter to fall to the ground. Seizing the opportunity, accused Eulogio Paras jumped at the fallen Roseller Cayanan so as to wrest from him his fan knife, and in the scuffle accused Eulogio Paras injured his hands. (TSN, September 2, 1981, pp. 16-17). Successful in taking away the knife of Roseller Cayanan, accused Eulogio Paras retreated, but Roseller Cayanan took hold of a stone and immediately hit accused Eulogio Paras on his head making him groggy, and while Roseller Cayanan was again about to hit him with the same stone, accused Eulogio Paras to repel the aggression, stabbed Roseller Cayanan at his navel, and above his nipple. When Roseller Cayanan fell to the ground because of the said wounds, accused Eulogio Paras left the scene of the incident and proceeded towards the direction of his late uncle's house. However, because of the injury he sustained in his knee, accused Eulogio Paras was immobilized and was forced to crawl on his feet after walking some distance away from the place of the incident. It was at this juncture that the other accused Alejandro Paras saw and lifted him. Before they could reach the house of their late uncle Flaviano Suñga, however, another brother, accused Gregorio Paras, after calling still another brother, accused Alberto Paras (who was at the river near the house with his two cousins cleaning and washing the tables, chairs and benches used in the wake), met and assisted accused Alejandro Paras in carrying their brother accused Eulogio Paras. Moments later, accused Alberto Eulogio Paras who was then summoned by accused Gregorio Paras arrived and he substituted accused Alejandro Paras in carrying accused Eulogio Paras to the banca to be brought to the hospital. Meanwhile, the other accused Alejandro Paras left and proceeded inside the house of their late uncle to change his clothes which were splattered with blood when he lifted his wounded brother Eulogio Paras. (TSN, September 21, 1981, pp. 37-38).

Arriving at the Poblacion of Masantol, Pampanga, accused Gregorio Paras placed his brother accused Eulogio Paras on a tricycle and brought him to Masantol Emergency Hospital, leaving behind at the wharf his other brother accused Alberto Paras to tend to the banca. It was here when Patrolman Viray arrested and brought to jail accused Alberto Paras. An hour later, accused Gregorio Paras was also arrested at the hospital and likewise, put to jail at Masantol, Pampanga. (TSN, September 2, 1981, pp. 23-26). Three (3) days later, accused Juan Paras was also arrested and detained in the same jail as that of the other accused Eulogio Paras, and Gregorio Paras. Meanwhile, accused Eulogio Paras was being guarded at the Masantol Emergency Hospital. When he was ready to be released after about a month's confinement, he too was arrested and jailed. Sometime in September, 1981, the other accused Alejandro Paras was arrested somewhere in Camarines Sur, and likewise, put to jail. Accused Francisco Viray however, remained at large.

Preliminary investigation having been conducted by the Honorable Judge of the Municipal Court of Masantol, Pampanga, and finding a prima facie case, all the aforesaid accused stood trial under the following information filed by the Provincial Fiscal of Pampanga, to wit:

"The undersigned Provincial Fiscal and Ist Assistant Provincial Fiscal accused Alejandro Paras alias "Annie", Eulogio Paras alias "Lucio", Gregorio Paras alias "Gorio", Alberto Paras alias "Kibit", Juan Paras alias "Ador" and John Doe alias "Borockio" of the crime of Murder, committed as follows:

"That on or about the 12[th] day of October, 1980, between the hours of 4:00 and 5:00 o'clock in the afternoon, in Brgy. Sta. Lucia, Municipality of Masantol, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring together and mutually helping one another, taking

advantage of their superior strength, with treachery and evident premeditation, with intent to kill, did then and there willfully, unlawfully and feloniously attack, stab with bladed weapons and struck with hollow blocks, the person of Roseller Cayanan, inflicting upon the victim fatal and mortal wounds, which caused his death shortly thereafter.

ALL CONTRARY TO LAW.

San Fernando, Pampanga, December 1, 1980.

(SGD) JOSE R. PARAS

(SGD) ELIODORO B. GUINTO

Provincial Fiscal

1[st] Assistant Provincial Fiscal."

Accused Eulogio Paras interposed self-defense in admitting the wounding of the victim Roseller Cayanan. The rest of the accused, namely: Alejandro, Gregorio, Alberto and Juan all surnamed Paras, all put up alibi as defense. On these points the trial court ruled —

"Under the facts and circumstances of the case as related by the accused and guided by the well rooted principles on the subject of self-defense, as adverted to above, and considering that, prior to the incident at bar, there had been bad blood between the Paras family on one hand, and Roseller Cayanan, and the Manansala family, upon the other, it is apparent that there was a tacit concert of design between Eulogio Paras and the deceased Roseller Cayanan to settle their differences by force as may be gathered from the fact that when the deceased asked Eulogio Paras what the latter was looking at him for, the former, or Eulogio Paras answered whatever Roseller Cayanan liked to happen even to the extent of make something out of it which, in effect, was a defiance and a challenge to fight in which case it is immaterial who began the aggression, it being a mere incident of the struggle which cannot be the basis of self-defense as claimed by the accused. In other words, when the accused agreed to fight Roseller Cayanan, aggression is a mere incident because the accused voluntarily exposed himself to the consequences of a fight with his opponent and because the intention of the contending parties can not be other than to mutually injure each other. The first attack which may come from either is but an incident of the same fight and it cannot in any manner be considered an unlawful aggression or unexpected aggression. It is already a well-settled rule, firmly established in many decisions interpretative of Article II of the Revised Penal Code that, after the accused accepts a challenge, thereby placing himself in an unlawful status and one of force, the prior aggression of his opponent, which as it was not unexpected, could not catch him off his guard, excludes the condition of lawful defense, for the challenge by itself excludes the classification of self-defense that, totally or partially exempts from liability (U.S. vs. Cortez, 36 Phil. 337). There being no unlawful aggression, there can be no self- defense, either complete or incomplete.

"The second element of self-defense — reasonable necessity of the means employed to prevent or repel the unlawful aggression — has not been proved. The intimation of the accused that after the deceased fell down when hit by a hollow block he threw at him, the deceased picked up a hollow block and tried to throw it at him, and it was at that instance that he (Eulogio) stabbed the deceased twice at the stomach and below the left nipple. It is unbelievable and strange that, after falling on the ground when hit with hollow block at the head thrown by the accused, that the deceased was still able to pick up a hollow block and tried to hit with it against the accused. But even conceding, without admitting, that the deceased was able to pick up a hollow block, it is still clear that when the deceased fell on the ground when hit with hollow block thrown at him by the accused, it was no longer necessary to stab twice the deceased as the accused's life was in no real and imminent danger from the deceased who was already so weak and had no more sufficient strength to confront and assault the accused, as the latter presented the court to believe. The theory of self-defense is based on the necessity on the

part of the accused to prevent or repel the unlawful aggression, and when the danger or risk on his part has disappeared the stabbing should have stopped. Considering that the deceased was stabbed after the latter was prostrate on the ground to the extent of killing him without the necessity of doing it for self-defense, the accused is responsible for the death of the deceased.

"And, if it is true that accused Eulogio Paras held the knife of the deceased in self-defense, it is strange that he lost the knife in his flight with the evident intention of hiding vital evidence involved in the incident."

x x x

x x x

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"As earlier stated, since alibi can be easily fabricated, the same must be established by clear and positive evidence, free from doubt and bias and that purely oral evidence presented to prove it cannot prevail over positive evidence showing the presence of the accused at the scene of the crime and his participation in the commission thereof. In the instant case the identification of accused Alberto Paras and Juan Paras who hit Roseller Cayanán at the head with hollow block in the afternoon of October 12, 1980 at Ilang-Ilang Street, Sta. Lucia, Masantol, Pampanga, had been established by worthy and credible witnesses. As announced by the Supreme Court in a long line of unbroken decisions (People vs. Mansueto Jamero, et al., G.R. L-19852, July 29, 1968, 24 SCRA 206 and related cases) for alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed, but must, likewise, demonstrate that it was physically impossible for him to have been at the scene of the commission of the crime complained of. Considering that there is no evidence of record that it was physically impossible for accused Alberto Paras and Juan Paras, - who was only about few meters, in the case of Alberto Paras, and more than three kilometers, in the case of Juan Paras, away from the scene of the crime to be at the scene of the commission of the crime at Ilang-Ilang Street, Sta. Lucia, Masantol, Pampanga, — the alibi of both accused did not meet this standard.

"The information alleges conspiracy and the qualifying circumstance of treachery, taking advantage of superior strength and with evident premeditation.

"Upon the evidence as a whole proven by the prosecution, the circumstance of treachery appears to be sufficiently proven. The suddenness of the attack as shown by the fact that the arms of Roseller Cayanán were twisted by accused Alejandro Paras and Eulogio Paras around the neck of the victim which left the victim no opportunity whatsoever to defend himself when accused Eulogio Paras hit the victim with a hollow block at the head, causing the latter to fall down slowly and, once the victim was on the ground, Eulogio Paras, Alejandro Paras and Gregorio Paras stabbed Roseller Cayanán several times at the stomach and breast with bladed weapons, and at the same time Juan Paras, Alberto Paras and Francisco Viray hit Roseller Cayanán with hollow block which landed at the head of the victim, all these show treachery.

"The qualifying circumstance of superior strength cannot be taken into account in this case for the reason that the circumstance of taking advantage of superior strength is inherent in, and comprehended by the circumstance of treachery. When treachery is taken into account as a qualifying circumstance in murder, it is improper again to consider, in addition to that circumstance, the generic aggravating circumstance of abuse of superior strength since the latter is necessarily included in the former.

"The qualifying circumstance of evident premeditation has not been proven and cannot be considered in this case. There is nothing in the record to suggest the idea that the accused had conceived of the thought to kill the deceased and had sufficient time thereafter to reflect upon the consequences of their act as to allow their conscience to overcome the resolution of their will if they desire to harken to their warnings.

"Conspiracy alleged in the Information has been proven. This means that the acts of the conspirators are the acts of all. For conspiracy to exist it is not necessary that two or more persons met together and entered into an

explicit or formal agreement for an unlawful scheme; or that they directly, verbally or in writing, stated what the unlawful scheme was to be, and of the plans or means by which the unlawful combination was to be made effective. It can be inferred and proven by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action, and united in its execution. Thus, when the accused by their acts aimed at the same object, one performing one part and another performing another part so as to complete it, with a view to the attainment of the same object, and their acts, though apparently independent were in fact concerted and cooperative indicating closeness of personal association, concerted action and concurrence of sentiments, as in the instant case, — the court is justified in concluding that all the accused were engaged in a conspiracy. It appearing that all the accused took part in inflicting injuries to the deceased which all prove to be fatal, all the accused are guilty of murder as principal by direct participation. Proceeding from the fact that the six (6) stab wounds and head injuries inflicted upon the victim, were all mortal and fatal, — according to Dr. Eriberto Suñga, Municipal Health Officer of Masantol, Pampanga, who performed the autopsy upon the body of Roseller Cayanán, — the question as to who among the accused inflicted which wounds and how many, is of no legal relevance since each is responsible for the acts of the other as his co-principals and co-conspirators.

"From the evidence presented by the prosecution the Court finds all the accused guilty beyond reasonable doubt of the crime of murder qualified by treachery under the provisions of Article 248 of the Revised Penal Code. Under the provisions of 248 of the Revised Penal Code, murder is punished by reclusion temporal in its maximum period to death. There being no aggravating nor mitigating circumstances, the applicable penalty should be reclusion perpetua."WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding all the accused, namely: Alejandro Paras alias "Annie", Eulogio Paras alias "Lucio", Gregorio Paras alias "Gorio", Alberto Paras alias "Kibit", and Juan Paras alias "Ador", guilty beyond reasonable doubt as principals by direct participation of the felony of murder qualified by treachery and the court sentences all the said accused, namely: Alejandro Paras alias "Annie", Eulogio Paras alias "Lucio", Gregorio Paras alias "Gorio", Alberto Paras alias "Kibit", and Juan Paras alias "Ador", to suffer the penalty of "reclusion perpetua", with the accessory penalties provided for by law; and to pay, jointly and severally, to the heirs of Roseller Cayanán:

- (a) The sum of P12,000.00 by way of indemnity for the death of Roseller Cayanán;
- (b) The sum of P12,000.00 as actual damages representing cost of casket, funeral expenses, church services and food served and consumed by relatives and friends who joined the heirs of Roseller Cayanán in their hour of bereavement and other incidental expenses;
- (c) The sum of P5,000.00 as moral damages for mental anguish; and
- (d) To pay proportionately the costs.

SO ORDERED."

Accused-appellants now come before Us assigning the following errors of the trial court:

"I

THE LOWER COURT ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONIES OF THE PROSECUTION WITNESSES, CONSOLACION MANANSALA AND CHARLIE MANANSALA INSTEAD OF FINDING THEM BIASED AND WITH SPECIAL INTEREST, AND THEIR TESTIMONIES WERE CONCOCTED, REHEARSED, HIGHLY INCREDIBLE AND GRAVELY CONTRADICTORY, HENCE, DESERVE SCANT CONSIDERATION.

"II

THE LOWER COURT ERRED IN HOLDING THAT ACCUSED EULOGIO PARAS WAS NOT JUSTIFIED IN STABBING AND EVENTUALLY KILLING ROSELLER CAYANAN IN A LEGITIMATE EXERCISE OF HIS RIGHT TO SELF-DEFENSE.

"III

THE LOWER COURT ERRED IN HOLDING THAT THE ACCUSED JUAN PARAS, GREGORIO PARAS, ALBERTO PARAS, ALEJANDRO PARAS, AND FRANCISCO VIRAY WERE AT THE SCENE OF THE INCIDENT ON OCTOBER 12, 1980, BETWEEN 4:00 AND 5:00 O'CLOCK IN THE AFTERNOON, HELPING AND CONFEDERATING WITH THE OTHER ACCUSED EULOGIO PARAS WHILE THE LATTER WAS HAVING A FIGHT WITH THE DECEASED ROSELLER CAYANAN.

"IV

THE LOWER COURT ERRED IN OUTRIGHTLY REJECTING THE INDIVIDUAL CLAIM ALIBI PUT UP BY THE ACCUSED JUAN PARAS, ALBERTO PARAS, ALEJANDRO PARAS, AND GREGORIO PARAS DESPITE RELIABLE AND SUBSTANTIAL EVIDENCE ON RECORD. BY RELYING HEAVILY ON THE ALLEGED POSITIVE IDENTIFICATION OF ALL THE ACCUSED BY THE PROSECUTION WITNESSES, CONSOLACION MANANSALA AND CHARLIE MANANSALA.

"V

THE LOWER COURT ERRED IN HOLDING THAT THE DEATH OF ROSELLER CAYANAN WAS ATTENDED BY TREACHERY ON THE PART OF ALL THE ACCUSED, INSTEAD OF FINDING SUCH DEATH AS A VERY SAD RESULT FROM THE LEGITIMATE FIGHT BETWEEN ACCUSED EULOGIO PARAS AND THE DECEASED ROSELLER CAYANAN.

"IV

THE LOWER COURT ERRED IN HOLDING THAT THE ACCUSED JUAN PARAS, ALBERTO PARAS, ALEJANDRO PARAS, GREGORIO PARAS, AND FRANCISCO VIRAY CONSPIRED AND CONFEDERATED WITH THE OTHER ACCUSED EULOGIO PARAS IN ASSAULTING AND EVENTUALLY KILLING THE DECEASED ROSELLER CAYANAN.

"VII

THE LOWER COURT FINALLY ERRED IN CONVICTING ALL THE ACCUSED OF THE CRIME OF MURDER QUALIFIED BY TREACHERY, AND IN SENTENCING THEM ALL WITH THE PENALTY OF RECLUSION PERPETUA PROVIDED IN ARTICLE 248 OF THE REVISED PENAL CODE AS AMENDED, AND IN ORDERING THEM, JOINTLY AND SEVERALLY, TO INDEMNIFY THE HEIRS OF THE DECEASED THE SUM OF P12,000.00 FOR THE DEATH OF ROSELLER CAYANAN, P12,000.00 AS ACTUAL OR CONSEQUENTIAL DAMAGES, AND THE FURTHER SUM OF P5,000.00 AS MORAL DAMAGES."

We find no reversible error committed by the trial court. Appellants assail the trial court in giving weight to the testimonies of witnesses Consolacion Manansala and her son Charlie on the ground that being the victim's relatives their testimonies are biased and devoid of merit. Such contentions hold no water.

The testimonies of said witnesses are clear and persuasive and corroborative of each other. The presence of these eyewitnesses was acknowledged by accused Eulogio Paras himself. The stabbing incident happened in broad

daylight making the identification of the appellants easy and certain. That they were relatives of the victim Roseller Cayanan does not perforce impair their credibility on their positive identification of the assailants and how the crime took place. These witnesses actually saw the appellants stab and also hit the victim on the head with a hollow block. The corroborative testimony of Dr. Eriberto Sunga who made an autopsy on the victim is to the effect that all the stab wounds were fatal. Failure on the part of the witnesses to point specifically the parts of the body which were hit was due to the series of sudden acts of stabbing and in no way affects their credibility. Appellants argue that the testimony of Consolacion Manansala that she tried to pacify appellant Alejandro Paras after the latter had stabbed Roseller Cayanan is allegedly contrary to her later testimony that she attempted to pacify appellant Alejandro Paras before the latter hit the victim on the chest. We fail to see the inconsistency in this. It is possible that this witness tried to pacify appellant Alejandro Paras after the latter had hit the victim on the stomach but before hitting again on the chest.

The testimony of witness Charlie Manansala, who was only 11 years old at the time he testified in court, that it was his mother who brought the victim to the hospital is not inconsistent with his mother's testimony that the neighbors who responded to Consolacion's shout for help were the ones who took him to the hospital since these neighbors not only helped in placing the victim on board a tricycle but also in bringing the victim to the hospital along with Consolacion Manansala herself.

The fact that the prosecution presented only one hollow block (Exh. "B") does not negate the fact that the appellants were each holding a hollow block to hit the victim. Exhibit "B" was presented to show that indeed there were such hollow blocks at the scene of the incident used in killing the victim.

Witness Charlie Manansala then only a young boy remained resolute on the material points of his testimony that after appellant Alejandro Paras had stabbed the victim, it was appellant Eulogio Paras who hit the victim on the head with a hollow block.

Appellants deny conspiracy as found by the trial court. Their denial of conspiracy is belied by the following: appellants are members of one family; the attack was done by them suddenly and simultaneously; all the appellants took part in inflicting injuries on the deceased which all proved to be fatal; after the attack and seeing the victim lying prostrate on the ground dying, they left the scene of the crime at the same time in response to the command of Eulogio Paras to leave the victim as he was already dead anyway.

In rejecting treachery, appellants maintain that the killing of the deceased was frontal and therefore he was not deprived of the opportunity to defend himself. Such contention is untenable. The records reveal that before the victim was stabbed and hit several times with hollow blocks on the head, his arms were twisted, rendering him helpless to defend himself or repel the initial assault. This mode of attack was deliberately and consciously resorted to by the appellants to insure the commission of the crime without risk to the latter arising from the defense that the victim might put up.

As to self-defense and alibi interposed by the appellants the ruling laid down by the trial court as aforementioned is well-taken as it is fully substantiated by the records of the case.

WHEREFORE, finding the appealed decision in accordance with law and evidence, We hereby AFFIRM the same with the modification that the indemnity for the death is increased to P30,000.00. Costs against appellants.

SO ORDERED.

Fernan, (Chairman), Alampay, Gutierrez, Jr., Padilla, and Bidin, JJ., concur.

[1] The Judge was Lorenzo Mosquita.

[2] Accused Gregorio Paras, name was omitted but he was also included in the criminal complaint.

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