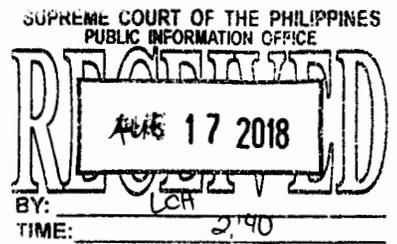




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 228886

Present:

- versus -

LEONARDO-DE CASTRO,
*Acting Chairperson,**
DEL CASTILLO,
JARDELEZA,
TIJAM, and
GESMUNDO, JJ.**

CHARLIE FLORES,
DANIEL FLORES and
SAMMY FLORES,
Accused-Appellants.

Promulgated:
AUG 08 2018

X-----

DECISION

DEL CASTILLO, J.:

This is an appeal¹ from the June 16, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07219 which affirmed with modification the Decision³ of the Regional Trial Court (RTC) of Infanta, Quezon, Branch 65, in Criminal Case No. 1738-I.

The Facts

Accused-appellants Charlie Flores alias “Alit⁴ Flores” (Charlie), Daniel Flores alias “Jover Violata” (Daniel), and Sammy Flores alias “Ricky Violata”

* Per Special Order No. 2559 dated May 11, 2018.

** Per Special Order No. 2560 dated May 11, 2018.

¹ *Rollo*, pp. 11-12.

² *Id.* at 2-10; penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Remedios A. Salazar-Fernando and Priscilla J. Baltazar-Padilla.

³ Records, pp. 413-431; penned by Presiding Judge Arnelo C. Mesa.

⁴ Also referred to as Alid and Bong in some parts of the records.

(Sammy),⁵ along with their co-accused, Gary Badeviso (Gary) and Rodel Torestre (Rodel), who remain at large, were charged with murder in an Information⁶ which reads:

That on or about the 25th day of December, 2002, at Barangay Tignoan, in the Municipality of Real, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with bladed weapons, with intent to kill and qualified by abuse of superior strength, conspiring, confederating together and mutually helping one another, did then and there, willfully, unlawfully and feloniously attack, assault and simultaneously gang up upon a certain Larry Parcon and stab him several times with the use of said bladed weapons, thereby inflicting upon him multiple fatal stabbed wounds on the different vital parts of his body which directly caused his death.

Contrary to law.⁷

Upon arraignment, accused-appellants pleaded not guilty.⁸ After the conduct and termination of the pre-trial,⁹ trial ensued.

The Version of the Prosecution

The evidence for the prosecution revealed that, at around 8:45 p.m. on December 25, 2002, the victim, Larry Parcon (Larry) and Eduardo Mabini (Eduardo) were on their way home aboard a motorcycle when it ran out of fuel right in front of a videoke bar in *Barangay Tignoan, Real, Quezon*.¹⁰ After telling Eduardo to buy fuel and giving him money, Larry went inside the videoke bar.¹¹ When he was about to go in, Eduardo, who was an arm's length away from the door of the videoke bar, heard a commotion coming from inside the bar.¹² He decided to go inside and climb the stairs, located in front of the bar,¹³ to check.¹⁴ There he saw Larry pacifying Sammy and Daniel who were fighting and Larry telling them, "*bakit kayo nag aaway, paskong pasko.*"¹⁵ Then suddenly, Rodel ran towards Larry and stabbed him.¹⁶ Eduardo shouted, "Why did you hit my

⁵ The formal amendment to the Information was granted in the Order dated March 24, 2009. (Records, p. 30)

⁶ Id. at 2.

⁷ Id.

⁸ Id. at 32.

⁹ Id. at 38-40.

¹⁰ TSN, October 1, 2009, pp. 3-4.

¹¹ Id. at 4.

¹² Id.

¹³ TSN, December 3, 2009, p. 4.

¹⁴ TSN, October 1, 2009, p. 4.

¹⁵ Id. at 5.

¹⁶ Id. at 5-6.

boss?"¹⁷ Sammy, Daniel, and Rodel then turned to Eduardo and took turns punching him.¹⁸ Sammy tried to stab Eduardo but the latter failed because Eduardo had fallen down the stairs.¹⁹ Sammy and Daniel went back to Larry and, using seven-inch double-blade knives, alternately stabbed him on the lower right and left sides of his body while Charlie held him by the armpits.²⁰ Gary also stabbed Larry on the head while another one, identified as Belgar, likewise stabbed him on his right side.²¹ When the assailants had fled through the back door, Eduardo sought help at the *barangay* hall.²² Larry was boarded on one of the *barangay tanod's* vehicle and rushed to the hospital.²³ Unfortunately, he was pronounced dead on arrival after suffering five fatal stab wounds.²⁴ Beverly, the wife of Larry, testified regarding the burial expenses as well as to the moral damages caused by the death of her husband.²⁵ She likewise stated that Larry was a Philippine Army corporal earning ₱8,000.00 a month.²⁶

The Version of the Defense

Accused-appellants denied the allegations.²⁷ Sammy and Daniel – who are cousins²⁸ – claimed that they were at the house of the manager of their logging business, Sheryl Orozco (Sheryl), in *Barangay* Pagsanghan, General Nakar, Quezon at 9:00 p.m. and Sammy went home around midnight to sleep.²⁹ Sheryl testified to corroborate their claim that, on that night, Sammy and Daniel were at her house.³⁰ Meanwhile, Charlie, brother of Sammy,³¹ claimed being with his wife, Lonelyn Bantigue (Lonelyn), and brother-in-law, Jesus Bantigue (Jesus), in *Sitio* Pagitna, Rizal, Burdeos, Quezon.³² Lonelyn corroborated the testimony of her husband that, at the time of the incident, Charlie was with her and her brother, Jesus.³³



¹⁷ Id. at 6.

¹⁸ Id.

¹⁹ Id. at 7.

²⁰ Id. at 8-10.

²¹ Id. at 10-11.

²² TSN, October 13, 2009, pp. 3-4.

²³ Id. at 7.

²⁴ TSN, June 9, 2011, p. 3; Medical Certificate dated January 3, 2003 and signed by Dr. Jolly Grace Sta. Lucia (Records, p. 215).

²⁵ TSN, July 1, 2010, pp. 3-7.

²⁶ Id. at 8.

²⁷ TSN, September 1, 2011, p.3; TSN, April 19, 2012, p. 3; TSN, December 4, 2012, p. 3.

²⁸ TSN, September 12, 2012, p. 2.

²⁹ TSN, April 19, 2012, p. 4; TSN, July 10, 2012, p. 3; TSN, December 4, 2012, p. 3.

³⁰ TSN, July 25, 2013, p. 4.

³¹ TSN, November 22, 2011, p. 5.

³² TSN, September 1, 2011, p. 4.

³³ TSN, January 17, 2012, p. 4.

The Ruling of the Regional Trial Court

The RTC of Infanta, Quezon, Branch 65, rendered a Decision finding accused-appellants guilty of the charge. It found that there was abuse of superior strength which qualified the crime to murder.³⁴ The trial court also gave credence to the testimony of the lone prosecution witness who was able to see the incident since the bar was well-lit³⁵ and who was not shown to have any ill motive in testifying against accused-appellants.³⁶ Finding that only ₱15,000.00 of the actual expenses was duly proven by receipts and with no evidence presented on the earning capacity of the victim other than the testimony of the widow, the RTC instead awarded temperate damages in the amount of ₱25,000.00.³⁷ The dispositive portion of the Decision reads:

IN LIGHT OF THE FOREGOING, judgment is hereby rendered against accused SAMMY FLORES alias “Ricky Violata,” CHARLIE FLORES alias “Alit Flores,” and DANIEL FLORES alias “Jover Violata” finding them guilty beyond reasonable doubt of the crime of murder, and the provisions of Indeterminate Sentence Law being not applicable, the fact that the penalty [imposable] upon them is x x x indivisible, and accordingly, the penalty of reclusion perpetua pursuant [to] Article 248 of the Revised Penal Code, is hereby imposed upon all said accused, for them to suffer all the accessory penalties, and to pay jointly and solidarily the heirs of victim Larry Parcon the following, to wit:

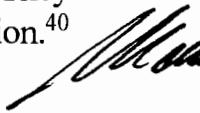
- a) ₱75,000.00 as civil indemnity by reason of victim’s death;
- b) ₱50,000.00 as moral damages;
- c) ₱25,000.00 as temperate damages;
- d) ₱30,000.00 as exemplary damages[;] and[,]

to pay the costs of suit.

This case insofar as accused Gary Badeviso and Rodol Torestre are concerned, who are still at large, is ordered archived to be revived as soon as the said accused are apprehended.

SO ORDERED.³⁸

Accused-appellants filed their appeal³⁹ assailing their conviction. They specifically assailed their identification by the lone witness for the prosecution.⁴⁰



³⁴ Records, p. 424.

³⁵ Id. at 427; TSN, December 3, 2009, p. 3.

³⁶ Id.

³⁷ Id. at 430.

³⁸ Id. at 430-431.

³⁹ Id. at 435.

⁴⁰ CA rollo, pp. 37-38.

They also imputed error on the trial court for having qualified the crime as murder after it had ruled that they abused their superior strength.⁴¹

The People of the Philippines, through the Office of the Solicitor General, on the other hand, posited that accused-appellants were guilty beyond reasonable doubt of the crime of murder.⁴² Specifically, plaintiff-appellee argued that the defense of denial could not outweigh the positive identification of accused-appellants as the perpetrators of the crime and the trial court committed no error in giving full faith and credence to the testimony of the lone prosecution eyewitness.⁴³

The Ruling of the Court of Appeals

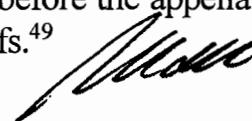
The appellate court affirmed the conviction of accused-appellants subject only to minor modifications in the penalty as follows:

WHEREFORE, the Decision dated 16 October 2014 of the Regional Trial Court (RTC) of Infanta, Quezon, Branch 65, in Criminal Case No. 1738-I is AFFIRMED with the following MODIFICATION:

- (1) Accused-appellants are not eligible for parole;
- (2) That an interest, at the rate of six percent (6%) per annum shall be imposed on all the damages awarded in this case from the date of finality of this judgment until they are fully paid.

SO ORDERED.⁴⁴

Hence, the present appeal.⁴⁵ After being asked to file supplemental briefs if they so desired,⁴⁶ the parties instead submitted Manifestations⁴⁷ in which they stated that they were adopting their Briefs⁴⁸ submitted earlier before the appellate court and were dispensing with the filing of Supplemental Briefs.⁴⁹



⁴¹ Id. at 43.

⁴² Id. at 79.

⁴³ Id. at 79-80.

⁴⁴ *Rollo*, pp. 9-10.

⁴⁵ Id. at 11.

⁴⁶ Id. at 16-17.

⁴⁷ Id. at 23-25 and 28-29.

⁴⁸ *CA rollo*, pp. 35-46 and 74-96.

⁴⁹ *Rollo*, pp. 23 and 28.

Our Ruling

There is no merit in the appeal.

To successfully prosecute the crime of murder under Article 248⁵⁰ of the Revised Penal Code (RPC), the following elements must be established: “(1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the [RPC]; and (4) that the killing is not parricide or infanticide.”⁵¹

In this case, the prosecution was able to clearly establish all the elements. The lone witness for the prosecution, Eduardo, was able to categorically identify accused-appellants. His testimony was clear, as follows:

Q: After your boss said “*bakit kayo nag-aaway, paskong-pasko,*” what transpired next if there was any?

A: After he said that, [a man suddenly came] running from outside, ma’am.

Q: From your location, was it right side or left side?

A: Right side, ma’am.

Q: Where did this person go coming from the right side?

A: Going to my boss, ma’am.

Q: Was he able to reach your boss?

A: Yes, ma’am.

Q: What [did] this person do to your boss if there was any?

A: “*Parang sinuntok po n’ya ang boss ko sa kaliwang dibdib.*” (Witness is pointing to his left chest).

Q: Was he hit?

A: Yes, ma’am.

Q: Were you able to [identify] this person who hit your boss on his left chest?

A: Yes, ma’am.

⁵⁰ 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:

1. 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[.] (emphasis supplied)

⁵¹ *People v. Gaborne*, 791 Phil. 581, 592 (2016), citing *People v. Dela Cruz*, 626 Phil. 631, 639 (2010).

Q: Who was this person?

A: Rodel Flores, ma'am.⁵²

x x x x

Q: After you fell [down] the stairs, what transpired next if there was any?

A: They went back to my boss, ma'am.

Q: Who [were] you x x x referring to?

A: Sammy Flores and Daniel Flores, ma'am.

Q: Were they able to get back to your boss?

A: Yes, ma'am.

Q: What did they do to your boss if there was any?

A: They stabbed him, both of them stabbed him, ma'am.

COURT

Q: Who stabbed first your boss?

A: Sammy Flores, ma'am.

Q: How many times [did] Sammy [stab] your boss?

A: Only [once], Your Honor.

COURT: Proceed, Fiscal.

FISCAL AVELLANO

Q: Was [your] boss hit by Sammy Flores?

A: Yes, ma'am.

Q: [W]hich part of his body x x x was hit?

A: Right side of his body, ma'am.

Q: Was it the upper part of his body or lower part of his body?

A: Lower right side, ma'am.

COURT:

Q: How about Daniel Flores, how many times [did] he [stab] your boss Larry Parcon?

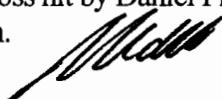
A: Only [once], Your Honor.

COURT: Proceed, Fiscal.

FISCAL AVELLANO:

Q: Was your boss hit by Daniel Flores?

A: Yes, ma'am.



⁵² TSN, October 1, 2009, pp. 5-6.

Q: Which part of the body of Larry Parcon was hit by Daniel Flores?

A: Left side, ma'am.

Q: Was it upper or lower part of his body?

A: Lower left side, ma'am. (Witness is pointing to his left side of his body.)

x x x x

Q: After Larry Parcon was stabbed by Sammy Flores and Daniel Flores, what happened to him if there was any?

A: He was just lying, ma'am.

x x x x

Q: While Sammy Flores and Daniel Flores were stabbing Larry Parcon, where was Charlie Flores then?

A: Charlie Flores [was holding] my boss Larry Parcon, ma'am.

Q: Where did this Charlie Flores hold your boss?

A: "*Sa dalawang kili-kili po,*" ma'am. (In [sic] his two armpits.)

Q: When did Charlie Flores hold the armpit of your boss, was it before x x x or after Sammy Flores and Danny Flores stabbed him.

A: Before they stabbed him, ma'am.

Q: While Charlie Flores was holding your boss, what did Sammy Flores and Daniel Flores do to your boss?

A: They stabbed him, ma'am.

Q: [Were] Sammy Flores and Daniel Flores the only [persons who] stabbed your boss during that time?

A: No, ma'am.

Q: Who else stabbed your boss?

A: Gary Badeviso and one Belgar, ma'am.⁵³

Q: Now, Mr. Witness, when these Sammy Flores and Daniel Flores ran away to the direction of the back of the x x x bar, what transpired next, if there was any?

A: Gary ran towards my boss, ma'am.

Q: And when Gary Badeviso ran towards your boss, what transpired next?

A: He stabbed my boss on his head, ma'am.

COURT:

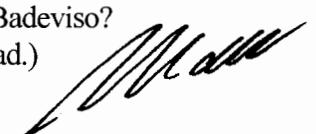
Q: Was his head hit by the stabbing of Gary Badeviso?

A: Yes, Your Honor.

Q: And what part of his head was hit by the stabbing of Gary Badeviso?

A: Here, Your Honor. (Witness is pointing to the top of his head.)

⁵³ Id. at 7-11.



FISCAL AVELLANO:

x x x x

Q: After Gary stabbed your boss on his head, what transpired next, if there was any?

A: His head bled, ma'am.

x x x x

Q: And after this Gary Badeviso ran away, what transpired next, if there was any?

A: It was Belgar who approached my boss, ma'am.

x x x x

Q: After Belgar went to your boss, what transpired next?

A: Belgar also stabbed him on his side, ma'am.

Q: And was your boss hit by the stabbing of Belgar?

A: Yes, ma'am.

x x x x

Q: To which side of his body?

A: On his ride side, ma'am. (Witness pointed to his right side just below the armpit.)⁵⁴

At the time of the incident, the videoke bar was well lighted by three fluorescent lamps while a fourth lamp illuminated the counter.⁵⁵ No ill motive was also shown for the lone prosecution eyewitness to testify against accused-appellants. This Court thus finds no error in the affirmance by the appellate court of the trial court's finding of guilt of the accused-appellants based on the sole testimony of the prosecution witness who positively identified the perpetrators.

Meanwhile, the qualifying circumstance of abuse of superior strength was proven by the prosecution. *People v. Beduya*⁵⁶ is instructive on the notion of abuse of superior strength.

Abuse of superior strength is present whenever there is a notorious inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor selected or taken advantage of by him in the commission of the crime. The fact that there were two persons who attacked the victim does not per se establish that the crime

⁵⁴ TSN, October 13, 2009, pp. 4-7.

⁵⁵ TSN, December 3, 2009, p. 4.

⁵⁶ 641 Phil. 399 (2010).



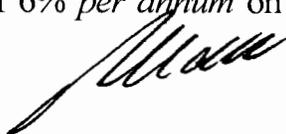
was committed with abuse of superior strength, there being no proof of the relative strength of the aggressors and the victim. The evidence must establish that the assailants purposely sought the advantage, or that they had the deliberate intent to use this advantage. To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked. The appreciation of this aggravating circumstance depends on the age, size, and strength of the parties.⁵⁷ (Citations omitted)

In the instant case, the prosecution clearly established that the accused-appellants, taking advantage of their number, purposely resorted to holding Larry by the armpit so that all the knife-wielders would be free to stab him, albeit successively. In *People v. Garchitorena*,⁵⁸ the Court *en banc* appreciated the qualifying circumstance of abuse of superior strength after finding that therein “accused-appellants, armed with a deadly weapon, immobilized the victim and stabbed him successively using the same deadly weapon.” Moreover, in terms of numbers, Larry was with his lone companion, Eduardo, while the assailants, totaling five, participated in the attack. A disparity in strength and size was thus apparent.

Anent the penalty, there being no other circumstance other than the qualifying circumstance of abuse of superior strength, the trial court had imposed the penalty of *reclusion perpetua* which the CA properly affirmed.

As to the award of damages to Larry’s heirs, prevailing jurisprudence⁵⁹ directs the payment to the heirs of the victim the amounts of ₱75,000.00 as moral damages; ₱75,000.00 as civil indemnity; ₱75,000.00 as exemplary damages; and ₱50,000.00 as temperate damages as well as the payment of 6% interest *per annum* on all amounts from finality of this Decision until full payment.

WHEREFORE, the appeal is **DISMISSED**. The June 16, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07219 is hereby **AFFIRMED with MODIFICATIONS**. Accused-appellants Charlie Flores alias “Alit Flores”, Daniel Flores alias “Jover Violata”, and Sammy Flores alias “Ricky Violata” are hereby found guilty of murder. They are hereby sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay, jointly and severally, the heirs of Larry Parcon the following: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; (c) ₱75,000.00 as exemplary damages; (d) ₱50,000.00 as temperate damages; and (e) interest at the rate of 6% *per annum* on all amounts from the finality of this Decision until fully paid.



⁵⁷ Id. at 410-411.

⁵⁸ 614 Phil. 66, 91 (2009).

⁵⁹ *People v. Jugueta*, 783 Phil. 806 (2016); *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

SO ORDERED.

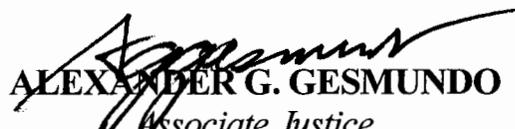

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

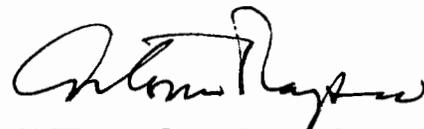
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Acting Chief Justice

