

SUPREME COURT OF THE PHILIPPINES
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Third Division

OCT 12 2020

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

G.R. No. 217972

Present:

LEONEN, J.,
Chairperson,
GISMUNDO,
CARANDANG,
ZALAMEDA and
GAERLAN, JJ.

-versus-

P/INSP. CLARENCE DONGAIL, SPO4
JIMMY FORTALEZA, and SPO2
FREDDIE NATIVIDAD,
Respondents.

Promulgated:

February 17, 2020

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DECISION

CARANDANG, J.:

This appeal assails the Decision¹ dated July 31, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05411, which affirmed the conviction of P/Insp. Clarence Dongail (Dongail), SPO4 Jimmy Fortaleza (Fortaleza), and SPO2 Freddie Natividad (Natividad; collectively accused-appellants), who were found guilty beyond reasonable doubt of three counts of Arbitrary Detention and three counts of Murder.

¹ Penned by Associate Justice Nina G. Antonio-Valenzuela, with Associate Justices Vicente S.E. Veloso and Jane Aurora C. Lantion, concurring; *rollo*, pp. 2-54.

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Facts of the Case

On November 3, 2004, an Information for kidnapping with murder was filed with the Regional Trial Court (RTC), of Guihulngan, Negros Occidental, Branch 64, against Ramonito Estanislao (Estanislao) and 15 John Does for the killing of Eleuterio Salabas (Salabas).²

On October 18, 2006, an amended Information for kidnapping with murder was filed this time against accused-appellants, Estanislao, Manolo Escalante, Ronnie Herrera (Herrera), July Flores (Flores), Carlo Delos Santos, PO1 Bernardo Cimatu (Cimatu), PO2 Allen Hulleza (Hulleza), Insp. Jonathan Laurella, Lorraine Abay, Mamerto Canete, Elma Canete, Jude Montilla (Montilla), and 15 John Does. Two more amendments were filed but only to change the names of the accused. Finally, on June 20, 2008, the prosecution filed a fourth amended Information for arbitrary detention with murder against those mentioned above and in addition, P/Insp. Dennis Belandres (Belandres), Ruel Villacanas, P/Insp. Bonifer Gotas (Gotas), SPO1 Nelson Grijaldo, Richard Salazar, P/Supt. Vicente Ponteras, P/Supt. George Bajelot, Jr. (Bajelot) state witnesses Cecil Brillantes (Brillantes) and Flores and seven John Does.³

The fourth amended Information reads:

Criminal Case No. 08-260524

That on or about the 31st day of August, 2003, the above-named accused who are policemen, a public officer, conspiring and confederating and mutually helping one another, some of which are private individuals, did then and there willfully, unlawfully and feloniously, and without legal grounds kidnap, and thereafter transport and detain or in any manner deprived of liberty, in various places, including but not limited to the Municipality of Guihulngan, a place which is within the jurisdiction of this Honorable Court, for more than fifteen (15) days, one Eleuterio Salabas and on occasion of said detention, on or about the 15th day of September 2003 in Ajuy, Iloilo, all said accused, conspiring, confederating and mutually helping one another, with intent to kill, qualified by treachery, use of a motor vehicle, taking advantage of superior strength, with the aid of armed men, with evident premeditation and with cruelty, by deliberately and inhumanly augmenting the suffering, one Eleuterio Salabas, did then and there willfully attack, assault and employ violence on the person of said Eleuterio Salabas by then and there beating, kicking and mauling him on different parts of his body and thereafter, shooting him with a gun on the head and different parts of his body, thereby inflicting upon him serious physical injuries, which was the direct

² CA *rollo* at p. 530.

³ Id. at 531; *rollo*, p. 4.

and immediate cause of his untimely death, to the damage and prejudice of the heirs of said Eleuterio Salabas.

The commission of said complex crimes was likewise attended by the aggravating circumstances of nighttime, committed by a band and that accused police officers took advantage of their public positions.

Contrary to law.⁴

Meanwhile, the said case was transferred to the RTC of Manila, Branch 27 upon a request for change of venue by the widow of Salabas which was favorably acted upon by this Court.⁵

On May 4, 2004, the prosecution also filed two Informations for murder against Dongail and eight John Does for the killing of Ricardo Sukanob (Sukanob) and Maximo Lomoljo, Jr. (Lomoljo). The two cases were also transferred to the RTC of Manila and were consolidated with the first Information for arbitrary detention with murder for the killing of Salabas for having the same parties, facts and incidents.⁶

The two other Informations are as follows:

Criminal Case No. 09-269362

That on or about the 31st day of August 2003, in Bacolod City, a place within the jurisdiction of this Honorable Court, the above-named accused who are policemen, a public officer, conspiring and confederating and mutually helping one another, some of which are private individuals, did then and there willfully, unlawfully and feloniously, and without legal grounds, kidnap and thereafter, transport and detain or in any manner deprived of liberty, in various places, in Bacolod City, one Ricardo Sukanob and on the occasion of said detention, on or about the 1st day of September 2003 in Bacolod City, all said accused, conspiring, confederating and mutually helping one another, with intent to kill, qualified by treachery, use of a motor vehicle, taking advantage of superior strength, with the aid of armed men, with evident premeditation, and with cruelty, by deliberately and inhumanly augmenting the suffering, one Ricardo Sukanob did then and there willfully attack, assault, and employ violence on the person of said Ricardo Sukanob by then and there beating, kicking and mauling him on different parts of his body and thereafter, shooting him with a gun on the head and different parts of his body, thereby inflicting upon him serious physical injuries, which was the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said Ricardo Sukanob.

⁴ Id. at 285-286.

⁵ Id. at 284.

⁶ Id. at 532-533.

The commission of said complex crimes was likewise attended by the aggravating circumstances of nighttime, committed by a band and that the accused police officers took advantage of their public positions.

Contrary to law.⁷

Criminal Case No. 09-269363

That on or about the 31st day of August 2003, in Bacolod City, a place within the jurisdiction of this Honorable Court, the above-named accused who are policemen, a public officer, conspiring and confederating and mutually helping one another, some of which are private individuals, did then and there willfully, unlawfully and feloniously, and without legal grounds, kidnap and thereafter, transport and detain or in any manner deprived of liberty, in various places, in Bacolod City, one Maximo Lomoljo, Jr. and on occasion of said detention, on or about the 1st day of September 2003 in Bacolod City, all said accused, conspiring, confederating and mutually helping one another, with intent to kill, qualified by treachery, use of a motor vehicle, taking advantage of superior strength, with the aid of armed men, with evident premeditation, and with cruelty, by deliberately and inhumanly augmenting the suffering, one Maximo Lomoljo, Jr., did then and there willfully attack, assault and employ violence on the person of said Maximo Lomoljo, Jr. by then and there beating, kicking and mauling him on different parts of his body and thereafter, shooting him with a gun on the head and different parts of his body, thereby immediate cause of his untimely death, to the damage and prejudice of the heirs of said Maximo Lomoljo, Jr.

The commission of said complex crimes was likewise attended by the aggravating circumstances of nighttime, committed by a band and that the accused police officers took advantage of their public positions.

Contrary to law.⁸

During the arraignment of the consolidated cases, only Dongail, Fortaleza, Natividad, Brillantes, Abay, and Flores pleaded not guilty while the others remained at large.⁹ Later, Brillantes and Flores were discharged as state witnesses.¹⁰ The prosecution presented 18 witnesses while the defense only presented two.¹¹

The prosecution's version of the incident, as culled from the records, are as follows:

⁷ Id. at 287.
⁸ Id. at 287-288.
⁹ Id. at 535.
¹⁰ Id. at 536.
¹¹ Id.

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On August 31, 2003, at about 6:00 p.m., Remedios Salabas (Remedios) was with her father when the latter told her that he was going out to treat Suganob who had just arrived from Cagayan de Oro City. Salabas, Suganob, and Lomoljo left onboard a Nissan Frontier. Later at about 10:00 p.m., Salabas went back home and told Remedios that the Nissan Frontier they rode in had been sideswiped and asked for ₱2,000.00 for grease money which he planned to bring to Police Station 9 so that they will entertain his complaint. The next day, she found out that his father did not come home.¹²

Between 9:30 p.m. and 10:00 p.m. of the same night, PO3 Rogelio Estevanez (Estevanez) testified that while he and a fellow policeman were patrolling, a Nissan Frontier driven by Salabas stopped and told them that his car had been sideswiped. Estevanez told him that they should report the concern to the Traffic Division. Salabas replied that he reported it to Police Station 8 but they did not entertain his concern. Another policeman advised that Salabas file a police blotter but he did not heed the same and proceeded to the kiosk in front of Chicken Alley. At about 11:00 p.m., Fortaleza boarded Estevanez's car and asked about the person he was talking to. He also instructed Estevanez to tell Salabas to report the matter to the police, otherwise it would appear as though they did not do anything about it. The latter refused. Fortaleza then went back to his pick-up truck. On September 3, 2003, Estevanez saw on television the two salvaged victims who he realized were the two companions of Salabas. On January 24, 2009, Fortaleza called him to say that he will be called to testify on these cases and instructed him to deny that there was an operation on the evening of August 31, 2003.¹³

Brillantes testified that he was a police asset and that in the first or second week of August, a meeting was held at the Bacolod City Police Headquarters regarding the conduct of surveillance operations against Salabas because he was suspected to have been engaged in the illegal drugs trade. In the evening of August 31, 2003, Brillantes was at the Police Station 2 when Natividad, Fortaleza, and Gotas arrived on board a red Revo van. Dongail and Lorilla also arrived. When Brillantes opened the Revo intending to board it, he was surprised to see Salabas, Suganob, and Lomoljo inside. They were blindfolded, gagged, and handcuffed.¹⁴

Later, the group left the precinct to go to Moonlight Lodge. On board the Revo van were Cimatu, Fortaleza, Lorilla, Gotas, Natividad, Brillantes and the three victims. On board the Feroza were Hulleza, Dongail, and Jackson Manalastas. Inside the VIP room of Moonlight Lodge, accused-appellants and the others began interrogating the three victims about their alleged involvement in the illegal drugs trade and drug money. However, the three denied the same. They were then kicked, boxed, and pistol-whipped.¹⁵

¹² *Rollo*, p. 9.

¹³ *Id.* at 9-10.

¹⁴ *Id.* at 11.

¹⁵ *Id.* at 11-12.

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Fortaleza decided to move the three to the Taculing Court apartelle. By then, the three were complaining of pain, and had difficulty boarding the vehicle. At the Taculing Court, Brillantes overheard Dongail speak on the phone with someone whose voice he identified as that of Bajelot's. He heard Bajelot say "Congratulations." Dongail answered with, "Nandito na, sir," "Thank you, sir," and "Okay, sir."¹⁶

Dongail and Fortaleza again decided to move to Hacienda Motel. As they entered the motel, Suganob fainted. Brillantes tried to revive him but to no avail. Brillantes heard Fortaleza and Dongail's conversation and decided to finish off the victims. Dongail ordered Cimatú and Natividad to put a transparent plastic bag on the head of Suganob and Lomoljo. The two stopped moving.¹⁷ Dongail ordered Lorilla to finish off Suganob and Lomoljo and gave him a gun. Lorilla took the gun, placed it inside the plastic bag on the head of Suganob and fired. Gotas was ordered by Fortaleza and Dongail to shoot Lomoljo and he did.¹⁸

Dongail also ordered Montilla to shoot Suganob again as baptism of fire.¹⁹ Salabas was still alive at that time. Dongail ordered Salabas to be transferred to another place. The group left the Hacienda Motel but along the way, Brillantes asked to be dropped off at Police Station 2. Thus, they dropped him off, rested and stayed until sunrise then he went home.²⁰

Less than two weeks after the said night, Brillantes was at the residence of Dongail where a big party was held. During the party, Dongail and Fortaleza called him, Montilla, Salazar and Herrera and warned them not to tell anybody about the apprehension of Salabas, Suganob and Lomoljo.²¹ Dongail and Fortaleza helped Brillantes in hiding when the warrant of arrest was issued against him.²²

A witness from Palao Beach Resort testified that on September 7, 2003, he saw a man (later identified as Salabas) buying coffee at the canteen of Palao Beach Resort. Two men (later identified as Dongail and Natividad) stood behind Salabas. Later, he saw Salabas proceed to one of the cottages near the beach. Dongail and Natividad followed suit. On September 10, 2003, he saw the group leave the resort.²³

A boatman testified that on September 15, 2003, he received instructions from the owner of the pump boat to fetch passengers in Cadiz Viejo, Negros Occidental. They arrived at about 3:30 p.m. where two vehicles were waiting. Later, Dongail, Fortaleza, Elma, Belandres, and

¹⁶ Id. at 12.
¹⁷ Id. at 12-13.
¹⁸ Id. at 13.
¹⁹ Id. at 14.
²⁰ Id.
²¹ Id.
²² Id. at 15.
²³ Id. at 16-17.

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Salabas boarded the pump boat. At that time, Salabas was wearing cargo shorts with six pockets. They arrived at Pili, Ajuy, Iloilo City at 4:30 p.m. When the witness was at the house of his father, he saw Salabas on board a trisikad while Dongail, Fortaleza, Belandres and Elma were walking behind him.²⁴

At about 9:00 a.m. of September 19, 2003, a cadaver was recovered from the waters of Punta Buri, Ajuy, Iloilo City. The cadaver was wearing cargo shorts with six pockets and one of the thumbs of the cadaver had a deformed fingernail. The Barangay Chairman of such place reported the recovery of the cadaver but the police did not come. Hence, they covered it with a *trapal* and dug a grave. On the next day, members of the police, media, and a funeral parlor exhumed the cadaver and brought it to Ajuy, Iloilo City.²⁵

Dr. Nicasio Botin (Dr. Botin), a medico-legal officer of the National Bureau of Investigation testified that he received a request for autopsy for the cadaver found floating on the waters of Barangay Punta Buri. He found that the cadaver had a gunshot wound on the right cheek, that part of his left ribs were fractured, and that the cause of death was the gunshot wound on the head.²⁶ Lastly, the wife, nephew, son and brother-in-law of Salabas identified the cadaver as his because of the body built, the fingers and the deformed thumb.²⁷

As to the cadaver of Suganob, Dr. Botin found two gunshot wounds which were fatal, and fractures in the ribs caused by hard blunt object. As to Lomoljo, he found injuries in the eyes caused by a blunt object and four gunshot wounds.²⁸

The wife of Salabas testified that he was 52 years old at the time of his death with a basic salary of ₱30,000.00 and ₱10,000.00 honorarium monthly. They also spent ₱4,007,666.02 for the funeral and other miscellaneous expenses. Other expenses were also computed at ₱135,895.00.²⁹

Lomoljo's sister testified that his brother worked in the Salabas household earning ₱2,000.00 per month and that they spent ₱45,000.00 for funeral expenses.³⁰ Sughanob's sister testified that they spent a total of ₱607,080.00 and that Sughanob was a professor and the Dean of Discipline of Capitol University and Commander of the Coast Guard earning ₱22,423.13 a month.³¹

²⁴ Id. at 17.
²⁵ Id. at 18.
²⁶ Id.
²⁷ Id. at 20-21.
²⁸ CA *rollo*, pp. 53-55.
²⁹ Id. at 57-58.
³⁰ Id. at 62.
³¹ Id. at 63-64.

The defense merely presented two witnesses. Dr. Ernesto Gimenez, an expert in forensic medicine who testified that the only conclusive evidence that can prove the identity of a cadaver is a fingerprint which was not done in the case of Salabas. He also said that the autopsy conducted in the cadaver was not proper. The last witness was a police officer who merely testified on the true rank of Fortaleza.³²

RTC Ruling

On April 13, 2011, the RTC convicted accused-appellants for three counts of murder for the killing of Salabas, Suganob, and Lomoljo. They were also ordered to pay ₱50,000.00 for each victim as indemnity for death, ₱50,000.00 each as moral damages, ₱30,000.00 each as exemplary damages; ₱4,480,080.00 for the loss of earning capacity of Salabas, ₱2,780,512.96 for Suganob and ₱400,000.00 for Lomoljo; ₱3,599,031.82 for actual damages of Salabas, and ₱1,523,010.70 for Suganob. Moreover, accused-appellants were sentenced to suffer two indeterminate prison term of 6 months as minimum to 2 years and 4 months as maximum for the Arbitrary Detention of Suganob and Lomoljo and to an indeterminate prison term of 2 years and 4 months as minimum to 6 years as maximum for the Arbitrary Detention of Salabas.³³

The RTC held that as to the charge of three counts of complex crimes of arbitrary detention with murder, said charges do not fall under Article 48 of the Revised Penal Code (RPC). Hence, the RTC convicted them of the separate crimes of arbitrary detention and murder as the elements of the two crimes were established beyond reasonable doubt.³⁴

With respect to the charge of murder, the RTC held that the fact of death of Salabas, Suganob, and Lomoljo was established by the prosecution through the testimony of Dr. Botin. The killing of Suganob and Lomoljo and the perpetrators thereof were clearly identified by the state witness, Brillantes. On the other hand, the killing of Salabas was established by circumstantial evidence beginning from the testimony of Brillantes, to Salabas' presence in Palao Beach Resort to his transport to Pili, Ajuy, Iloilo. The requisites of circumstantial evidence are: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce conviction beyond reasonable doubt, were all present here. In this case, it was found that the fact that accused-appellants were the last persons seen with the victim, coupled by the combined testimonies of the witnesses as well as the motive to kill as proven by the fact of surveillance, all point to the inevitable conclusion that accused-appellants killed Salabas.³⁵

³² *Rollo*, p. 22.

³³ *CA rollo*, pp. 87-88.

³⁴ *Id.* at 70.

³⁵ *Id.* at 74-76.

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The RTC also found that treachery attended the killing of Suganob and Lomoljo because they were hogtied, gagged, and blindfolded when they were shot to death. The use of motor vehicle was also appreciated as an aggravating circumstance as the red Revo and pump boat facilitated the commission of the crime. Taking advantage of superior strength in the killing of Suganob and Lomoljo was likewise determined to be present but was absorbed in treachery. Lastly, the aggravating circumstance of cruelty was appreciated in the killing of the three victims as evidenced by the unnecessary force used upon them before ultimately killing them as shown by the fact that they had ruptured ribs, Suganob with a missing eyeball and Lomoljo having sustained four gunshot wounds.³⁶

The elements of arbitrary detention were also proven beyond reasonable doubt as the three were detained without legal ground by police officers.³⁷

CA Ruling

Aggrieved, accused-appellants filed an appeal to the CA, which affirmed their conviction. The CA reiterated that the RTC correctly convicted the three to two separate crimes of murder and arbitrary detention.³⁸

The elements of arbitrary detention are present in this case because at the time of the incident, the accused-appellants were all police officers, they detained the three victims, and that the detention was without legal grounds.³⁹

As to the charge of murder, the fact of death of Suganob and Lomoljo was straightforwardly established by the testimony of Brillantes. That of Salabas was established by the testimony of Dr. Botin and corroborated by his wife, son, nephew, and brother-in-law. The cadaver of Salabas, while already in a state of decomposition, can still be identified because of distinct identification marks and characteristics such as the deformed thumb.⁴⁰

The identification of the perpetrators of the crime was established by the testimony of Brillantes as to Suganob and Lomoljo while circumstantial evidence proved that accused-appellants killed Salabas. The narration of a handful of witnesses as to how they saw Salabas from the three motels to his transfer to the Palao Beach Resort and eventually the pump boat ride to Ajuy, Iloilo amounted to the chain of evidence essential for conviction.⁴¹

As to the aggravating circumstances, the CA agreed with the RTC that treachery attended the killing of Suganob and Lomoljo by the way they were

³⁶ Id. at 76-78.

³⁷ Id. at 79.

³⁸ *Rollo*, at 34.

³⁹ Id. at 35-37.

⁴⁰ Id. at 39.

⁴¹ Id. at 40-42.

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killed. The CA also found that abuse of superior strength also accompanied the killing of the three victims as there was notorious inequality of forces between the victim and the aggressor considering that there were a handful of police officers who injured and shot the victims. The last aggravating circumstance appreciated by the CA was cruelty as Brillantes testified that they were boxed, kicked, and pistol-whipped prior to getting shot.⁴²

Still aggrieved, accused-appellants elevated the case to this Court. In his Supplemental Brief,⁴³ Dongail assailed his conviction for two separate crimes of murder and arbitrary detention when the charge was only the complex crime of arbitrary detention with murder. He also asserted that Brillantes was improperly discharged as state witness and that circumstantial evidence failed to prove the death of Salabas.⁴⁴ Fortaleza also submitted substantially the same allegation as that of Dongail.⁴⁵ A Manifestation⁴⁶ was filed by Dongail stating that Natividad has died in prison. The Office of the Solicitor General on the other hand, adopted their brief filed to the CA and no longer filed a supplemental brief.⁴⁷

The Court's Ruling

After a perusal of the records of the case, this Court resolves to deny the appeal.

As correctly concluded by the RTC and the CA, accused-appellants were properly convicted of separate crimes of arbitrary detention and murder. The final amendment to the Informations charged accused-appellants of the complex crime of arbitrary detention with murder. However, evidence failed to show that the incidents made out a case of complex crime under Article 48 of the RPC. First, the single act of accused-appellants did not constitute two or more grave or less grave felonies. Second, arbitrary detention was not used as a necessary means to commit murder.⁴⁸ In various cases such as *People of the Philippines v. Li Wai Cheung*⁴⁹ and *People of the Philippines v. Araneta*,⁵⁰ the Court convicted the accused for the separate crimes even if they were indicted of a complex crime in the Information because it was improper for the prosecutor to have charged them of a complex crime as the offenses were separate and distinct from each other and cannot be complexed.

In this case, Salabas, Suganob, and Lomoljo, were taken by accused-appellants because they were the subject of surveillance for Salabas' alleged involvement in the illegal drug trade. In examining the events that transpired

⁴² Id. at 45-48.

⁴³ Id. at 122-152.

⁴⁴ Id. at 128-129.

⁴⁵ Id. at 179-293.

⁴⁶ Id. at 702-703.

⁴⁷ Id. at 92-93.

⁴⁸ REVISED PENAL CODE, Art. 48.

⁴⁹ 289 Phil. 105 (1992).

⁵⁰ 48 Phil. 650 (1926).

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prior to the killing of the three, it was not proved that their arbitrary detention was used as a means of killing them because they could have been killed even without abducting them considering that accused-appellants were all police officers and have the means to instantly kill Salabas, Suganob, and Lomoljo. Rather, what accused-appellants did was to forcibly abduct the three, brought them to various motels and interrogated them before finishing off Suganob and Lomoljo. Salabas on the other hand, was even brought to a different province in a pump boat and stayed with accused-appellants for fifteen days before getting killed. Hence, when the three were abducted and placed in the custody of accused-appellants, the felony of arbitrary detention had already been consummated. Thereafter, when they were boxed, kicked, pistol-whipped and ultimately shot at a close range while being handcuffed and without means to defend themselves, another separate crime of murder was committed. Therefore, a conviction for the separate crimes of arbitrary detention and murder was in order.

Under Article 248 of the Revised Penal Code, the essential elements of murder are: (1) a person was killed; (2) the accused killed him; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (4) the killing is neither parricide nor infanticide.⁵¹

As to the killing of Suganob and Lomoljo, the above-mentioned elements were clearly proven through the direct testimony of state witness Brillantes. The testimony was found to be credible as Brillantes was with accused-appellants the whole time – from the detention of the three victims to the order to shoot Suganob and Lomoljo which caused their deaths. As to the killing of Salabas, the RTC and CA resorted to circumstantial evidence to prove his murder beyond reasonable doubt:

Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstances;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.⁵²

Circumstantial evidence may support a conviction if they afford as basis for a reasonable inference of the existence of the fact thereby sought to be proved.⁵³ To sustain a conviction based on circumstantial evidence, it is essential that the circumstantial evidence presented must constitute an unbroken chain, which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of the others, as the guilty person. The circumstantial evidence must exclude the possibility that some other person has committed the crime.⁵⁴

⁵¹ *People v. Sapigao, Jr.*, 614 Phil. 589 (2009).

⁵² RULES ON EVIDENCE, Rule 133, Sec. 4.

⁵³ *Zabala v. People*, 752 Phil. 59.

⁵⁴ *Lozano v. People*, 638 Phil. 582 (2010).

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In this case, the following circumstances were proved: (1) in August 2003, Salabas was a subject of surveillance operations being conducted by accused-appellants who were members of the Bacolod City Police; (2) On August 31, 2003, Salabas, Suganob, and Lomoljo were all blindfolded, hogtied, and gagged inside a red Revo van with accused-appellants; (3) accused-appellants moved the three victims from Moonlight Lodge, to Taculing Court and finally to Hacienda Motel where they decided to order the killing of Suganob and Lomoljo; (4) accused-appellants left Hacienda Motel with Salabas; (5) On September 1, 2003 at the party in the house of Dongail, Salabas was seen in the red Revo van gagged and hogtied; (5) accused-appellants warned Brillantes and other witnesses not to disclose to anyone about the operation against Salabas; (6) eye witnesses saw accused-appellants with Salabas at the Palao Beach Resort; (7) eye witnesses saw accused-appellants with Salabas, who was then very weak, boarding the pump boat to Pili, Ajuy, Iloilo; and (8) a cadaver was found floating in the waters of Ajuy, Iloilo.

These circumstances constitute a chain, which leads one to a fair and reasonable conclusion that accused-appellants were guilty for the murder of Salabas. The qualifying aggravating circumstance of treachery was correctly appreciated in the killings of Suganob and Lomoljo because when they were shot while being hogtied and with plastic bags covering their heads, they had no opportunity to defend themselves and such means was deliberately adopted. Abuse of superior strength was also present in the case for the killing of the three victims as there was a notorious inequality of forces between the accused-appellants as police officers and the three who were already weak from the beatings they had endured. Finally, cruelty was correctly appreciated for the three killings as it was established that they were kicked, boxed, and pistol-whipped before having been killed. Such acts constitute deliberate augmentation of a wrong by causing another wrong not necessary for its commission.

All three aggravating circumstances were designated as qualifying aggravating circumstances in the Informations which categorized the killing as murder.

Arbitrary Detention is committed by any public officer or employee who, without legal grounds, detains a person. The elements of the crime are: (1) the offender is a public officer or employee; (2) he detains a person; and (3) the detention is without legal grounds.⁵⁵

In this case, the elements of arbitrary detention were present because accused-appellants were police officers who deprived the three victims of liberty on a mere surveillance and without legal grounds.

As to the discharge of an accused as state witness, the Rules of Criminal Procedure provides that: (1) there is absolute necessity for the

⁵⁵ *Astorga v. People*, 459 Phil. 140 (2003).

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testimony of the accused whose discharge is requested; (2) there is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused; (3) the testimony of said accused can be substantially corroborated in its material points; (4) said accused does not appear to be the most guilty; and (5) said accused has not at any time been convicted of any offense involving moral turpitude.⁵⁶ In this case, the abovementioned requisites were complied with as evidenced by the order of the RTC to discharge Brillantes as a state witness. There was no impropriety on the part of the RTC in discharging Brillantes as state witness as it was convinced that the latter's testimony complied with the requirements of the Rules.

Going into the penalties and award of damages, as to the charge of murder for the killing of the three victims, the Court affirms the penalty of murder meted out by the CA. The award of civil damages, moral damages and exemplary damages shall be increased to ₱100,000.00 each to conform with latest jurisprudence.⁵⁷ The Court likewise affirms the award of the CA for ₱4,480,080.00 for the loss of earning capacity of Salabas; ₱2,780,512.96 for the loss of earning capacity of Suganob; and ₱400,000.00 for the loss of earning capacity of Lomoljo. The award of actual damages amounting to ₱3,599,031.82 for Salabas and ₱1,523,010.70 for Suganob were likewise affirmed. The award of temperate damages in the amount of ₱50,000.00 for the killing of Lomoljo is in order for failure to present documentary evidence of burial or funeral expenses.

As to the charges of arbitrary detention of Suganob and Lomoljo whose detention did not exceed three days, the CA correctly imposed two prison terms of 4 months as minimum to 1 year and 8 months as maximum. As to the detention of Salabas which did not exceed 15 days, the prison term of 2 years and 4 months as minimum to 4 years and 9 months as maximum, is, likewise, in order.

In view of the death of Natividad, the case as to him is dismissed.

WHEREFORE, the appeal is **DENIED**. We **ADOPT** the findings of the trial court as affirmed by the Court of Appeals. The assailed Decision dated July 31, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 05411 finding accused-appellants P/Insp. Clarence Dongail and SPO4 Jimmy Fortaleza **GUILTY** beyond reasonable doubt of three (3) counts of Murder penalized under Article 248 of the Revised Penal Code, as amended, and three (3) counts of Arbitrary Detention penalized under Article 124 of the Revised Penal Code is hereby **AFFIRMED with MODIFICATIONS** in that accused-appellants are sentenced to suffer the penalty of *reclusion perpetua* for each count and two (2) prison terms of four (4) months as minimum to one (1) year and eight (8) months as maximum and one (1) prison term of two (2) years and four (4) months as minimum to four (4)

⁵⁶ RULES OF CRIMINAL PROCEDURE, Rule 119, Sec. 17.

⁵⁷ *People v. Jugueta*, 783 Phil. 806 (2016).


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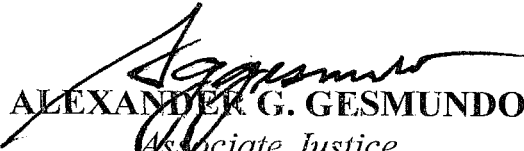
years and nine (9) months as maximum. They are also ordered to pay jointly and severally the amount of ₱100,000.00 as civil indemnity; the award of moral damages amounting to ₱100,000.00; and the award of exemplary damages amounting to ₱100,000.00 for each victim. Moreover, accused-appellants are **ORDERED** to pay ₱4,480,080.00 for the loss of earning capacity of Eleuterio Salabas; ₱2,780,512.96 for the loss of earning capacity of Ricardo Suganob; and ₱400,00.00 for the loss of earning capacity of Maximo Lomoljo. As well as actual damages amounting to ₱3,599,031.82 for Eleuterio Salabas and ₱1,523,010.70 for Ricardo Suganob. Temperate damages amounting to ₱50,000.00 for Maximo Lomoljo shall also be paid. Lastly, an interest of six percent (6%) *per annum* is imposed on all the damages awarded from the finality of this Decision until fully paid.

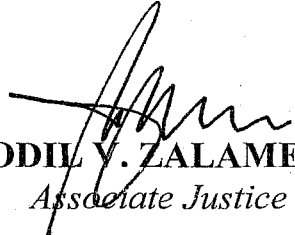
SO ORDERED.



ROSMARI D. CARANDANG
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



ALEXANDER G. GESMUNDO
Associate Justice


RODIL Y. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

ATTESTATION

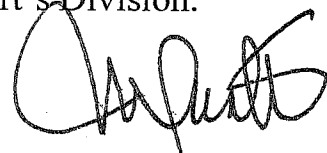
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Third Division, Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division 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.



DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

Mis-PDCB-H
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

OCT 12 2020