



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 242696

Plaintiff-Appellee, Present:

- versus -

PERLAS-BERNABE, S.A.J.,  
Chairperson,  
GESMUNDO,  
LAZARO-JAVIER,  
LOPEZ, and  
ROSARIO,\* JJ.

ZALDY BERNARDO y  
ESPIRITU, MONROY  
FLORES y CORPUZ, JESUS  
TIME y CABESA, GILBERT  
PACPACO y DIRECTO,  
GILBERT RAMIREZ y  
DUNEGO, DANNY CORTEZ  
y DONIETO, ROGELIO  
ANTONIO y ABUJUELA,  
TOMMY CABESA y  
VILLEGAS, and MILA  
ANDRES GALAMAY,  
Accused,

Promulgated:

11 NOV 2020

ZALDY BERNARDO y  
ESPIRITU, MONROY  
FLORES y CORPUZ, DANNY  
CORTEZ y DONIETO, and  
MILA ANDRES GALAMAY,  
Accused-Appellants.

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DECISION

PERLAS-BERNABE, J.:

\* Designated Additional Member per Special Order No. 2797 dated November 5, 2020.

Assailed in this ordinary appeal<sup>1</sup> is the Decision<sup>2</sup> dated July 31, 2017 rendered by the Court of Appeals (CA) in CA-G.R. CR-HC No. 05124, which **affirmed with modification** the Joint Judgment<sup>3</sup> dated April 7, 2011 of the Regional Trial Court of Pasig City, Branch 166 (RTC) finding accused Zaldy Bernardo y Espiritu (**Bernardo**), Monroy Flores y Corpuz (**Flores**), Jesus Time y Cabeza (Time), Gilbert Pacpaco y Directo (Pacpaco), Gilbert Ramirez y Dunego (Ramirez), Danny Cortez<sup>4</sup> y Donieto (**Cortez**), Rogelio Antonio y Abjuela<sup>5</sup> (Antonio), Tommy Cabeza<sup>6</sup> y Villegas (Cabeza), and Mila Andres Galamay (**Galamay**; collectively, accused) guilty beyond reasonable doubt of the crimes of **Kidnapping for Ransom with Homicide**, as defined and penalized under Article 267 of the Revised Penal Code (RPC), and **Murder**, as defined and penalized under Article 248 of the RPC.

### The Facts

The instant case stemmed from two (2) separate Informations filed before the RTC charging accused-appellants **Bernardo, Flores, Cortez, and Galamay** (accused-appellants) and their co-accused with the crimes of Kidnapping for Ransom with Homicide and Murder, the accusatory portions of which read:

#### Criminal Case No. 115554-H<sup>7</sup>

That on or about July 2, 1998 at around 8:00 o'clock in the morning, in the Municipality of Cainta, Province of Rizal, above-named accused being private individuals, while conspiring, conniving, confederating and mutually helping one another, did then and there, with criminal and malicious intent willfully, unlawfully and feloniously, for the purpose of extorting ransom from one Dr. Eliezer Andres, Sr. and his family, in the amount of Ten Million Pesos (₱10,000,000.00) Philippine Currency, kidnap, take and carry away Dr. Eliezer Andres, Sr. and brought him to Jalajala, Rizal, which is within the jurisdiction of this Honorable Court, deprived him of his liberty, against his will and consent, accused pursuant to their plans take and carry away the Nissan Sentra of the victim and burned it in Norzagaray, Bulacan; that during his (Dr. Eliezer Andres, Sr.) detention, accused with intent to kill, willfully, unlawfully and feloniously assault and inflict physical harm on the victim and later shoot the victim with a firearm which caused his instantaneous death and afterwards dumped his body in Mabitac, Laguna, to the damage and prejudice of his heirs in such amount as maybe (sic) awarded to them by the provision of the Civil Code.

CONTRARY TO LAW.

<sup>1</sup> See Notice of Appeal dated August 22, 2017; *rollo*, pp. 25-26.

<sup>2</sup> *Id.* at 2-24. Penned by Associate Justice Josep Y. Lopez with Associate Justices Ramon M. Bato, Jr. and Samuel H. Gaerlan (now a member of this Court), concurring.

<sup>3</sup> *CA rollo*, pp. 165-198. Penned by Presiding Judge Rowena De Juan-Quinagoran.

<sup>4</sup> "Cortes" in some parts of the records.

<sup>5</sup> "Abejuela" in some parts of the records.

<sup>6</sup> "Cabeza" in some parts of the records.

<sup>7</sup> Records, p. 2.

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**Criminal Case No. 115555-H**<sup>8</sup>

That on or about July 3, 1998, in the Municipality of Jalajala, Province of Rizal, and within the jurisdiction of this Honorable Court, above-named accused, while confederating, conniving conspiring and mutually helping one another, with evident premeditation, taking advantage of superior strength and employing means to weaken the defense of the victim, did then and there, with criminal and malicious intent to kill, willfully, unlawfully, feloniously assault and hit Igmedio U. Arcega with hard instruments, object, article causing the victim to suffer head injuries and with the use of firearm shoot the victim which caused his instantaneous death to the damage and prejudice of his heirs in such amount as maybe (sic) awarded to them by the provisions of the Civil Code.

CONTRARY TO LAW.

The prosecution alleged that on July 2, 1998, Dr. Eliezer Andres, Sr. (Dr. Andres, Sr.) and retired Major Igmedio Arcega (Major Arcega) went to Sta. Lucia Mall in Cainta, Rizal to separately meet with a group of people selling gold bars. However, Dr. Andres, Sr. did not return from the meeting. His son, Dr. Eliezer Andres, Jr. (Dr. Andres, Jr.), informed Major Arcega that his father was missing. Thus, the two of them returned to the mall to look for Dr. Andres, Sr. On the way, Major Arcega described to Dr. Andres, Jr. the appearance of the five (5) persons whom he and the elder Andres separately met that day.<sup>9</sup>

As Dr. Andres, Jr. went around the mall, he noticed that he was being followed by four (4) suspicious men whose descriptions matched those provided by Major Arcega; three (3) of whom were eventually identified as **Flores**, Cortez, and Pacpaco.<sup>10</sup> Wary of being followed, Dr. Andres, Jr. decided to discontinue his search and went home without finding his father. On the same day, Major Arcega himself also went missing.<sup>11</sup>

Later that evening, Dr. Andres, Jr. received a phone call from a woman who claimed to have custody of his father and demanded ransom money for his release. Dr. Andres, Jr. recognized the voice of the female caller as that of **Galamay**, who was a frequent visitor in the Andres residence and with whom Dr. Andres, Sr. had previous dealings. Dr. Andres, Jr. then reported the matter to the Philippine National Police (PNP) and requested for monitoring and assistance during the payment of the ransom money, which date and place were earlier agreed upon.<sup>12</sup>

Thus, on July 4, 1998, at the actual payment of the ransom money in front of Aladdin Bus Terminal at España, Manila with the furtive presence of

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<sup>8</sup> CA *rollo*, p. 30.

<sup>9</sup> See *rollo*, p. 4.

<sup>10</sup> See *id*.

<sup>11</sup> See *id*.

<sup>12</sup> See *id*.

P/C Inspector Arthur de Guzman, P/C Inspector Warren de Leon, and other members of the PNP-Criminal Investigation and Detection Group (PNP-CIDG),<sup>13</sup> Dr. Andres, Jr. saw and identified the group of **Bernardo**, Pacpaco, Time, Cabela, and Ramirez. Dr. Andres, Jr. personally handed the ransom money in a brown envelope to **Bernardo**, who gave it to Cabela, who then rode a motorcycle and sped away. The exchange having been completed right there and then, Bernardo, Pacpaco, Time, and Ramirez were arrested by the PNP-CIDG. Meanwhile, the police officers followed Cabela to a house in Camarin, Caloocan City where they found him together with **Flores**, Antonio, and Cortez in the living room, counting the previously-marked ransom money. They were all arrested and brought to the police station.<sup>14</sup>

Meanwhile, the cadaver of an unidentified male person was discovered at Brgy. Amuyong, Mabitac, Laguna the previous day or on July 3, 1998.<sup>15</sup> The autopsy<sup>16</sup> conducted on the body revealed various injuries<sup>17</sup> and the cause of death was a gunshot wound on the head and asphyxia by strangulation. Later on, Dr. Andres, Jr. positively identified<sup>18</sup> the body as that of his father, Dr. Andres, Sr.

Subsequently, Antonio executed two (2) *Sinumpaang Salaysay* dated July 6<sup>19</sup> and 8,<sup>20</sup> 1998, respectively, with the assistance of his counsel, Atty. Nicomedes R. Martelino, Jr. In the July 6, 1998 *Sinumpaang Salaysay* (July 6 *Salaysay*), Antonio expressly admitted his and his co-accused's participation in the kidnapping of Dr. Andres, Sr. and confessed that the latter was already dead and that his car was brought to Norzagaray, Bulacan where it was burned.<sup>21</sup> Meanwhile, in the July 8, 1998 *Sinumpaang Salaysay* (July 8 *Salaysay*), Antonio recounted the killing of Major Arcega in a farm in Brgy. Jala-jala, Rizal and likewise, implicated his co-accused in the crime. Upon recovery of Major Arcega's body therefrom – which his son, Joel Arcega, later identified<sup>22</sup> – the autopsy<sup>23</sup> revealed the cause of death to be a gunshot wound and traumatic injuries on the head.

For their part, all the accused, who were arrested on different occasions and in various locations, interposed their own defenses of denial and *alibi*,

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<sup>13</sup> See *id.* at 4-5.

<sup>14</sup> See *id.*

<sup>15</sup> See Letter Request signed by P/Chief Inspector Nilo Buerano Acaylar, Folder of Exhibits, Exhibit "P-4", p. 15.

<sup>16</sup> See Medico-Legal Report No. M-1332-98 dated July 3, 1998, conducted by Police Senior Inspector Tomas D. Suguitan, M.D., Folder of Exhibits, Exhibit "P" including dorsal portions, pp. 12-14.

<sup>17</sup> See Autopsy conducted by Police Senior Inspector Tomas D. Suguitan, M.D., Folder of Exhibits, p. 17.

<sup>18</sup> See TSN, November 27, 2001, p. 39.

<sup>19</sup> Notarized on July 7, 1998. Records, pp. 36-37

<sup>20</sup> Notarized on July 17, 1998. *Id.* at 24-26.

<sup>21</sup> See Exhibit "T-3", Folder of Exhibits, p. 34. See also Exhibits "R-5" to "R-13" inclusive, and Exhibit "S", pp. 28-32.

<sup>22</sup> See TSN, June 5, 2002, p. 45.

<sup>23</sup> See Medico-Legal Report No. M-1347-98 dated July 8, 1998 issued by Anthony Joselito R. Llamas, M.D., Folder of Exhibits, p. 19. See also Exhibits "Q-2" to "Q-7" inclusive, pp. 20-25.

each asseverating their own versions of torture, wrongful accusation, and frame-up.<sup>24</sup>

### The RTC Ruling

In a Joint Judgment<sup>25</sup> dated April 7, 2011, the RTC found all the accused **guilty** beyond reasonable doubt of Kidnapping for Ransom with Homicide in *Criminal Case No. 115554-H*, and accordingly, sentenced each of them to suffer the penalty of *reclusion perpetua* without eligibility for parole<sup>26</sup> and to jointly and severally indemnify the heirs of Dr. Andres, Sr. the amounts of ₱75,000.00 as civil indemnity, ₱100,000.00 as exemplary damages, ₱100,000.00 for each member of the family as moral damages, and ₱117,455.00 as actual damages. Similarly, the RTC found all the accused guilty beyond reasonable doubt of Murder in *Criminal Case No. 115555-H*, and accordingly, sentenced them to suffer the penalty of *reclusion perpetua* and to jointly and severally indemnify the heirs of Major Arcega the amounts of ₱75,000.00 as civil indemnity and ₱100,000.00 as exemplary damages.<sup>27</sup>

The RTC found the confluence of all the elements<sup>28</sup> of the crime of Kidnapping for Ransom with Homicide, noting that the prosecution had established the participation of all the accused in the crime. On the other hand, the defenses of bare denial and *alibi* were not given weight in light of Dr. Andres, Jr.'s positive identification of the perpetrators of the crime, which were bolstered by the documentary evidence, as well as Antonio's *voluntary* extrajudicial confession. Likewise, the RTC held that the prosecution had sufficiently proved the elements<sup>29</sup> of the crime of Murder in light of Antonio's narration that Major Arcega was hit at the back of his head with a shovel, which eventually caused his death.<sup>30</sup>

All the accused appealed<sup>31</sup> their conviction to the CA. However, Antonio and Ramirez subsequently withdrew<sup>32</sup> their appeal, leaving only

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<sup>24</sup> See CA *rollo*, pp. 175-183 and 191.

<sup>25</sup> Id. at 165-198.

<sup>26</sup> Pursuant to Sections 2 and 3 of Republic Act No. 9346 entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES," approved on June 24, 2006. See also A.M. No. 15-08-02-SC entitled "GUIDELINES FOR THE PROPER USE OF THE PHRASE 'WITHOUT ELIGIBILITY FOR PAROLE' IN INDIVISIBLE PENALTIES" dated August 4, 2015.

<sup>27</sup> CA *rollo*, pp. 197-198.

<sup>28</sup> *First*, all the accused in this case are private individuals; *second*, they kidnapped Dr. Andres, Sr. in Sta. Lucia Mall and they detained the victim in a discreet location; *third*, Dr. Andres, Sr. was taken against his will; *fourth*, death was inflicted upon the victim; and *fifth*, money was extorted from the family of the victim for his release (id. at 184-185).

<sup>29</sup> *First*, Major Arcega was killed; *second*, the victim was killed by one alias Totoy and Antonio upon instructions by the rest of the accused; *third*, the killing of the victim was well planned and done with treachery; and *fourth*, the killing is not parricide or infanticide (id. at 194).

<sup>30</sup> See id. at 193-196.

<sup>31</sup> See Notices of Appeal dated April 13, 2011 (id. at 205-206) and July 28, 2011 (id. at 209-210).

<sup>32</sup> See Motions to Withdraw Appeal with Prayer for Immediate Issuance of Partial Entry of Judgment dated January 16, 2017 (id. at 431-433) and March 13, 2017 (id. at 438-440).

**Bernardo, Flores, Time, Pacpaco, Cortez, Cabesa, and Galamay** to pursue theirs.<sup>33</sup>

### The CA Ruling

In a Decision<sup>34</sup> dated July 31, 2017, the CA **affirmed** the conviction of Bernardo, Flores, Time, Pacpaco, Cortez, Cabesa, and Galamay but **modified** the amounts of damages awarded, as follows: (a) in *Criminal Case No. 115554-H* for Kidnapping for Ransom with Homicide, to jointly and severally pay the heirs of Dr. Andres, Sr. the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱117,455.00 as actual damages, and; (b) in *Criminal Case No. 115555-H* for Murder, to pay the heirs of Major Arcega the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱50,000.00 as temperate damages.<sup>35</sup>

Echoing the RTC's findings, the CA found the presence of all the elements of the crimes charged, further noting the lack of ill motive on the part of the prosecution witnesses to falsely implicate the accused. Moreover, it ruled that Antonio's extrajudicial confession was voluntarily made with the assistance of an independent counsel, which was supported by the withdrawal of his appeal. The CA added that the identification of Galamay by Dr. Andres, Jr. had been duly established, having known her personally through several real estate dealings. On the other hand, the bare denials of the accused cannot prevail over the positive and straightforward testimonies of the prosecution witnesses pointing to them as the perpetrators of the crimes.<sup>36</sup>

Only accused-appellants **Bernardo, Flores, Cortez, and Galamay** filed a notice of appeal<sup>37</sup> before the Court.

### The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in affirming accused-appellants' conviction for the crimes charged.

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<sup>33</sup> *Rollo*, p. 7.

<sup>34</sup> *Id.* at 2-24.

<sup>35</sup> *Id.* at 23.

<sup>36</sup> See *id.* at 8-22.

<sup>37</sup> See *id.* at 25-27.

## The Court's Ruling

### I.

At the outset, it is well to note that during the pendency of this appeal, the Court received a letter<sup>38</sup> dated May 8, 2019 from the Bureau of Corrections stating that one of the accused-appellants, Cortez, had already died on May 17, 2016, as evidenced by copies of his Death Report<sup>39</sup> and Certificate of Death.<sup>40</sup> In light of Cortez' supervening death, the Court is constrained to dismiss the instant criminal actions against him inasmuch as he can no longer stand as an accused herein. In the same vein, the civil action impliedly instituted for the recovery of the civil liability *ex delicto* is likewise *ipso facto* dismissed, grounded as it is on the criminal action. However, it is well to clarify that Cortez' civil liability, if any, in connection with his acts against the victims, may be based on sources other than delicts; in which case, the victims' heirs may file separate civil actions against Cortez' estate, as may be warranted by law and procedural rules.<sup>41</sup> As such, the instant criminal cases must be declared closed and terminated as to Cortez in view of his supervening death.

### II.

It is well-settled that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>42</sup>

Guided by the foregoing considerations, and as will be explained hereunder, the Court: (a) affirms accused-appellants' and their co-accused's conviction for Kidnapping for Ransom with Homicide of Dr. Andres, Sr.; and (b) acquits accused-appellants and their co-accused, except for Antonio, for the Murder of Major Arcega.

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<sup>38</sup> Signed by New Bilibid Prison Superintendent Gerardo F. Padilla; id. at 47.

<sup>39</sup> Signed by Medical Officer III Gerbert S. Madlang-Awa; id. at 48.

<sup>40</sup> Id. at 49.

<sup>41</sup> See *People v. Monroyo*, G.R. No. 223708, October 9, 2019, citing *People v. Culas*, 810 Phil. 205, 209 (2017).

<sup>42</sup> *Arambulo v. People*, G.R. No. 241834, July 24, 2019, citing *Munansala v. People*, 775 Phil. 514, 520 (2015).



***Accused-appellants are guilty of the special complex crime of Kidnapping for Ransom with Homicide***

The elements of Kidnapping for Ransom under Article 267 of the RPC, as amended, are as follows: (a) intent on the part of the accused to deprive the victim of his/her liberty; (b) actual deprivation of the victim of his/her liberty; and (c) motive of the accused, which is extorting ransom for the release of the victim. In the special complex crime of Kidnapping for Ransom with Homicide, the person kidnapped is killed in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought.<sup>43</sup>

As correctly ruled by the courts *a quo*, the prosecution had established the existence of the aforementioned elements. *Anent the first and second elements*, accused-appellants and their co-accused intended and later on, were able to actually deprive Dr. Andres, Sr. of his liberty when the latter went missing after meeting a group of people in Sta. Lucia Mall on July 2, 1998. Such actual deprivation of Dr. Andres, Sr.'s liberty was confirmed by no less than **Galamay** who informed Dr. Andres, Jr. of such fact via a phone call. *As to the third element*, their motive, which is to extort ransom in exchange for Dr. Andres, Sr.'s release was manifest in: (a) **Galamay's** phone call to Dr. Andres, Jr. in order to demand ransom; (b) **Bernardo**, Time, Pacpaco, Ramirez, and Cabeza's receipt of the ransom money from Dr. Andres, Jr. on July 4, 1998 at España, Manila as witnessed by the members<sup>44</sup> of the PNP-CIDG; and (c) Cabeza's delivery of the ransom money to **Flores**, **Cortez**, and Antonio, who were all caught while counting the same. Finally, *the last element* is also present as Dr. Andres, Sr. was killed while in detention and his body was found in Mabitac, Laguna.

In this relation, the extrajudicial confession executed by Antonio as embodied in his July 6 *Salaysay* relative to the commission of the kidnapping of Dr. Andres, Sr. is merely *corroborative* of the prosecution evidence on this particular charge. To be admissible, a confession must comply with the following requirements: it "must be (a) voluntary; (b) made with the assistance of a competent and independent counsel; (c) express; and (d) in writing."<sup>45</sup> In this case, not only was the prosecution able to establish that these requirements had been complied with, it was also able to show that the contents of Antonio's July 6 *Salaysay* merely *corroborated* independent evidence pointing to accused-appellants as the perpetrators of the crime. Indeed, there is sufficient evidence showing the complicity of accused-

<sup>43</sup> *People v. Cornista*, G.R. No. 218915, February 19, 2020, citing *People v. Ramos*, 358 Phil. 261, 286-287 (1998).

<sup>44</sup> P/C Inspector Arthur de Guzman and P/C Inspector Warren de Leon testified that they were part of the team that witnessed how the accused "cased" the vehicle of Dr. Andres, Jr. before taking the ransom money. (See *CA rollo*, pp. 169-172.)

<sup>45</sup> See *People v. Omilig*, 766 Phil. 484, 500 (2015), citing *People v. Tunicao*, 624 Phil. 345, 352 (2010).

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appellants beyond moral certainty, consisting in the positive identification of **Bernardo** and **Galamay** by Dr. Andres, Jr., as well as the *in flagrante* arrest of **Flores**. Furthermore, Antonio's July 6 *Salaysay* was executed *after* his co-conspirators had been duly identified and arrested. If at all, aside from the corroboration it lent to the prosecution evidence, it additionally provided details that only persons privy to the kidnapping can supply, *i.e.*, the place where Dr. Andres, Sr. was detained and the fact that his vehicle had been burned and abandoned in Norzagaray, Bulacan.<sup>46</sup>

Therefore, the Court finds no reason to overturn the courts *a quo*'s findings in relation to accused-appellants' (and their co-accused's) commission of the special complex crime of Kidnapping for Ransom with Homicide, as there was no showing that the courts *a quo* overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. It bears pointing out that the trial court – whose findings were affirmed by the CA – was in the best position to assess and determine the credibility of the witnesses by both parties.<sup>47</sup>

### ***Accused-appellants must be acquitted of Murder***

In contrast to the above, Antonio's extrajudicial confession as contained in his July 8 *Salaysay* detailing the abduction and killing of Major Arcega cannot be used to convict accused-appellants ***in the absence of independent evidence*** on this charge and on account of the principle of *res inter alios acta alteri nocere non debet* expressed in Section 28, Rule 130 of the Rules of Court, which states:

Section 28. *Admission by third-party.* -- The rights of a third party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

Expounding on this rule, the Court explained that “[o]n a principle of good faith and mutual convenience, a man's own acts are binding upon himself, and are evidence against him. So are his conduct and declarations. Yet it would not only be rightly inconvenient, but also manifestly unjust, that a man should be bound by the acts of mere unauthorized strangers; and if a party ought not to be bound by the acts of strangers, neither ought their acts or conduct be used as evidence against him.”<sup>48</sup> Thus, as a general rule, an extrajudicial confession is binding only on the confessant.<sup>49</sup> As an exception, Section 30, Rule 130 of the same Rules allows the *admission of a conspirator*, provided the conditions therefor are satisfied, *viz.*:

<sup>46</sup> See July 6, 1998 *Simumpaang Salaysay*; records, pp. 36-37.

<sup>47</sup> See *People v. Naciongayo*, G.R. No. 243897, June 8, 2020, citing *Cahulogan v. People*, 828 Phil. 742, 749 (2018).

<sup>48</sup> *Salapuddin v. CA*, 704 Phil. 577, 601 (2013), citing *Tamargo v. Awingan*, 624 Phil. 312, 327 (2010).

<sup>49</sup> See *id.* at 600.

Section 30. *Admission by conspirator.* - The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator **after the conspiracy is shown by evidence other than such act or declaration.** (Emphasis supplied)

In this regard, case law states that “in order that the admission of a conspirator may be received against his or her co-conspirators, it is necessary that: (a) the conspiracy be first proved by evidence other than the admission itself; (b) the admission relates to the common object; and (c) it has been made while the declarant was engaged in carrying out the conspiracy.”<sup>50</sup> Here, aside from Antonio’s extrajudicial statements in his July 8 *Salaysay*, there is a glaring dearth of evidence showing the participation of accused-appellants in a plan or conspiracy to abduct and kill Major Arcega. As such, Antonio’s statement in his July 8 *Salaysay* is binding on him alone; it cannot be admitted against his co-accused and is considered as hearsay against them.<sup>51</sup>

In this light, the Court is constrained to acquit not only herein accused-appellants, but also their co-accused -- except for Antonio who executed the July 8 *Salaysay* – for the Murder of Major Arcega. This is pursuant to Section 11 (a), Rule 122 of the Revised Rules of Criminal Procedure, which reads:

Section. 11. *Effect of appeal by any of several accused.* –

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

While it is true that it was only accused-appellants who successfully perfected their appeal before the Court, it is well to reiterate the rule that an appeal in a criminal proceeding throws the entire case out in the open, including those not raised by the parties.<sup>52</sup> Considering that, under Section 11 (a), Rule 122 of the Revised Rules of Criminal Procedure as above-quoted, a favorable judgment – as in this case – shall benefit the co-accused who did not appeal or those who appealed from their judgments of conviction but for one reason or another, the conviction became final and executory,<sup>53</sup> accused-appellants’ acquittal for the crime of Murder is likewise applicable to the rest of the accused, save for Antonio, against whom his confession in his July 8 *Salaysay* shall be solely binding, and Cortez, who had since died.

Finally, and in light of prevailing jurisprudence, Antonio should pay the heirs of Major Arcega the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages for the

<sup>50</sup> *People v. Cachuela*, 710 Phil. 728, 741 (2013), citing *People v. Bokingo*, 671 Phil. 71, 95 (2011).

<sup>51</sup> See *Salupuddin v. CA*, supra note 48, at 600

<sup>52</sup> See *People v. Libre*, G.R. No. 235980, August 20, 2018, citing *Benabaye v. People*, 755 Phil. 144, 157 (2015).

<sup>53</sup> See *Benabaye v. People*, id. at 157.

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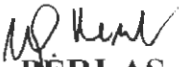
crime of Murder, all with legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.<sup>54</sup>

**WHEREFORE**, the appeal is **PARTLY GRANTED**. The Decision dated July 31, 2017 rendered by the Court of Appeals in CA-G.R. CR-HC No. 05124 is hereby **AFFIRMED** with **MODIFICATION** as follows:

(1) In *Criminal Case No. 115554-H*, accused-appellants Zaldy Bernardo y Espiritu, Monroy Flores y Corpuz, and Mila Andres Galamay are found **GUILTY** beyond reasonable doubt of Kidnapping for Ransom with Homicide, as defined and penalized under Article 267 of the Revised Penal Code, and accordingly, sentenced to each suffer the penalty of *reclusion perpetua* without eligibility for parole and to jointly and severally indemnify the heirs of Dr. Eliezer Andres, Sr. the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱117,455.00 as actual damages, all with legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until full payment. On the other hand, the case is **DISMISSED**, and hereby **DECLARED CLOSED** and **TERMINATED** insofar as accused-appellant Danny Cortez y Donieto is concerned by reason of his supervening death; and

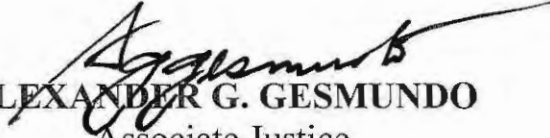
(2) In *Criminal Case No. 115555-H*, accused Rogelio Antonio y Abujuela is found **GUILTY** beyond reasonable doubt of Murder, as defined and penalized under Article 248 of the Revised Penal Code, and accordingly, sentenced to suffer the penalty of *reclusion perpetua* and to pay the heirs of Major Igmedio Arcega the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages, and ₱50,000.00 as temperate damages, all with legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until full payment. On the other hand, accused-appellants Zaldy Bernardo y Espiritu, Monroy Flores y Corpuz, and Mila Andres Galamay, as well as accused Jesus Time y Cabeza, Gilbert Pacpaco y Directo, Gilbert Ramirez y Dunego, and Tommy Cabeza y Villegas are **ACQUITTED** for insufficiency of evidence. Finally, the case is **DISMISSED**, and hereby **DECLARED CLOSED** and **TERMINATED** insofar as accused-appellant Danny Cortez y Donieto is concerned by reason of his supervening death.


**SO ORDERED.**


  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice

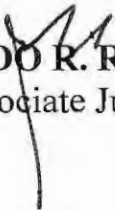
<sup>54</sup> See *People v. Jugueta*, 783 Phil. 806 (2016).

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

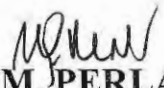
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**MARIO V. LOPEZ**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

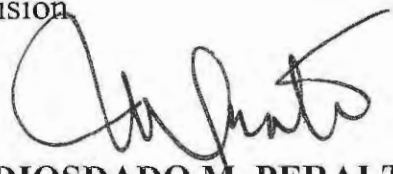
**ATTESTATION**

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

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson, Second Division

**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