

## THIRD DIVISION

[ G.R. No. 242474, September 16, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XXX  
AND YYY, ACCUSED-APPELLANTS.**

### DECISION

**CARANDANG, J.:**

Accused-appellants XXX<sup>[1]</sup> and YYY<sup>[2]</sup> appealed the Decision<sup>[3]</sup> dated November 29, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08398 affirming with modification the Decision<sup>[4]</sup> dated November 16, 2015 of the Regional Trial Court (RTC) of Santa Cruz, Laguna, Branch 26 in Criminal Case No. SC-8180 finding accused-appellants guilty of Murder.

#### Facts of the Case

Accused-appellants were charged with Murder under paragraph 1 of Article 248 of the Revised Penal Code (RPC) in the following Information, to wit:

That on or about December 24 1999, in the municipality of Sta. Cruz, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused while conveniently armed and provided with deadly weapon, conspiring, confederating, and mutually helping each other, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault, and stab one ROLANDO ABETRIA, thereby inflicting upon the latter stab wounds on the different parts of his body which directly caused his death, to the damage and prejudice of his surviving heirs.

CONTRARY TO LAW.<sup>[5]</sup>

#### Version of the Prosecution

The prosecution presented four witnesses, namely: (1) Ambrocio Del Mundo (Del Mundo); (2) Bayani Austria (Austria); (3) Wilson Amonelo (Amonelo); and (4) Roberto Abetria (Abetria).<sup>[6]</sup>

Del Mundo narrated that on December 24, 1999 at around 9:00 p.m., while he was driving his tricycle, he saw XXX, YYY, Leonard Ferrer (Leonard), and Jason Ferrer (Jason) angrily going towards the direction of Rolando Abetria (Rolando). He heard one of the accused say "*Papatayin kita*"<sup>[7]</sup> and saw XXX stab Rolando in the chest and right eye, while YYY held Rolando's arms at the back.<sup>[8]</sup> He was one (1) arm's length away from the incident; he stopped his tricycle but did not turn off the engine when he witnessed the stabbing.<sup>[9]</sup> After the incident, he proceeded to the Aglipay

Church to drop off his passengers. He knew both accused-appellants because he was a resident of Barangay Pagsawitan for 13 years. He did not help Rolando because he feared for his life. He recounted that he saw barangay officials arrived and helped Rolando. On his way to Aglipay Church, he met Rolando's father and told him that his son was stabbed. In open court, he identified XXX and YYY and executed a sworn statement regarding the incident.<sup>[10]</sup>

Austria also positively identified XXX and YYY. He was inside his house watching TV when he heard the commotion at around 10:30 p.m. of December 24, 1999.<sup>[11]</sup> When he went outside his house to check, he saw XXX stab Rolando while YYY was holding Rolando's arms at the back. He was at a distance of six meters from the stabbing incident.<sup>[12]</sup> When Austria shouted "*Hoy, tigilan nyo na yan*,"<sup>[13]</sup> accused-appellants ran away. He heard someone shout "*Bumagsak si Olan*."<sup>[14]</sup> While rushing to Rolando, he saw other people were helping him and loaded him to the tricycle. He recounted that the place was lighted by an incandescent bulb and the light coming from Del Mundo's tricycle. After the incident, Austria went home and told the incident to Domeng who relayed the same to Rolando's father. He positively identified accused-appellants in open court.<sup>[15]</sup>

Amonelo testified that around 8:30 p.m., he was with his friends across the store of *Aling* Choleng in Barangay Pagsawitan, Sta. Cruz Laguna. XXX, YYY, Jason, and Leonard, who were all intoxicated, approached Amonelo's group and challenged them to a fight.<sup>[16]</sup> Thereafter, Wilson and XXX were then engaged in a fistfight while YYY rushed to aid his cousin, XXX. Leonard also fought Amonelo's group.<sup>[17]</sup> Rolando, the son of *Aling* Choleng, went out of their house to pacify them. After appeasing both parties, Rolando told them to leave.<sup>[18]</sup> However, XXX threw a stone at Amonelo and Rolando which hit the latter. XXX warned Rolando "*You will see Olan, we will return and we will kill you*"<sup>[19]</sup> and then XXX's group ran away.<sup>[20]</sup>

Amonelo recounted that an angry Rolando ran after XXX's group. Amonelo followed Rolando and saw him engaged in a fist fight with XXX, forcing him to help Rolando. However, Amonelo saw Leonardo running towards him and shouted "*he is my cousin*,"<sup>[21]</sup> hence, Amonelo ran away. Leonardo caught up with Amonelo eventually. Meanwhile, Rolando could not run any further as his slippers were broken. When Leonardo caught up with Amonelo, Leonardo tried to strangle Amonelo but Amonelo's uncle and aunt pacified them. Amonelo was brought by his aunt to his grandmother's store where he relayed the incident to his parents. Thereafter, he went home with his parents to their house in Biñan, Laguna. It was at that time when he learned that Rolando was killed by accused-appellants. He positively identified XXX, YYY, and Leonardo in open court.<sup>[22]</sup>

Abetria, Rolando's father, narrated that his son was 19 years old and was a second-year college student. On the day of the incident, he was sleeping at their house when his friend arrived and informed him that his son was stabbed. He went to Laguna Doctor's Hospital where he saw his son being revived.<sup>[23]</sup> He then reported the incident to the police station and accused-appellants were apprehended. He executed a sworn statement in relation to the incident.<sup>[24]</sup>

### **Version of the Defense**

The defense only presented two witnesses - XXX and YYY.<sup>[25]</sup>

YYY denied that he killed Rolando. He testified that around 9:00 p.m. he was with his parents and siblings at their house when XXX invited him out to eat dinner at Kapalaran Bus Line.<sup>[26]</sup> However, they were not able to eat because Amonelo boxed XXX after he urinated. He was 30 meters away from XXX during the incident. Thereafter, he rushed to XXX, who then fell to the ground. He tried to pacify Amonelo as he continued punching XXX, who did not fight back. When he was able to appease them, Amonelo's companions started punching him, so he ran away and hid between the plants near Biñan Rural Bank. He then saw his cousin Leonard with his friends and told him XXX was being mauled. Leonard rushed to the place of incident and chased Amonelo's companions away. He lifted XXX, who was bloodied and missing two front teeth. As he could not find a ride to a nearby hospital, he brought him to the house of XXX's uncle. Afterwards, the barangay *tanod* arrived and apprehended the two of them.<sup>[27]</sup>

XXX testified that he went to YYY's house to invite him for dinner. Along the way, he stopped to urinate while YYY kept walking. Afterwards, he followed YYY only to be called by Amonelo to ask why he was walking arrogantly, to which he replied that was the way he walked. Amonelo asked what he wanted to happen, and he said he did not want any trouble. Thereafter, Amonelo punched his face, but he could not retaliate as Amonelo's companions mauled him. YYY tried to pacify them, but Amonelo also hit him.<sup>[28]</sup> XXX and YYY ran towards the bus terminal but XXX could not run farther as he was hit by a stone in the back which made him fall to the ground. As he was on the ground, he felt someone hold his belt, raised him up and punched him. XXX heard Amonelo said "*get a stone and we will throne a stone on his head.*"<sup>[29]</sup> He remembered he had a knife because he was slicing vegetables earlier at home. He took out the knife and stabbed the person holding him by making a downward thrust while lying on the ground facing downwards.<sup>[30]</sup> Consequently, the person released him from his hold. Leonard arrived and his assailants ran away. YYY assisted him in getting up and they went to his uncle's house to spend the night. However, the barangay officials arrived and apprehended them.<sup>[31]</sup>

On November 16, 2015,<sup>[32]</sup> the RTC convicted XXX and YYY of murder and dismissed the case against Leonard and Jason for failure of the prosecution to present evidence, thus:

**WHEREFORE**, after a careful scrutiny of the records of this case, accused [XXX] and [YYY] are hereby found guilty beyond reasonable doubt of the crime of murder.

Accused [XXX] and [YYY] are hereby sentenced to suffer the penalty of imprisonment of Reclusion Perpetua. However, Sec. 38 of RA No. 9344 provides for the automatic suspension of sentence of a child in conflict with the law, even if he/she is already 18 years of age or more at the time of he/she is found guilty of the offense charged. Both accused are to undergo rehabilitation programs/proceedings prepared by the Department of Social Welfare and Development (DSWD), Santa Cruz,

Laguna, for a period of two years, who shall submit quarterly progress report on their conduct and activities. Thus, they should immediately report to the Department of Social Welfare and Development (DSWD), Santa Cruz, Laguna, after promulgation of judgment in the instant case, for the proper preparation of their rehabilitation programs/proceedings. Both accused must prove to the court that they have become fruitful citizens of mainstream society.

The civil liability of the accused shall proceed accordingly and both of them are ordered to pay the heirs of Rolando Abetria jointly and severally, the amount of P80,000 for funeral expenses; Php 75,000 as moral damages; and, exemplary damages in the amount of P30,000. Costs against both accused.

Let a copy of this decision be furnished for immediate implementation to the Provincial Social Worker of Santa Cruz, Laguna, who shall submit to this court, within fifteen (15) days from receipt of a copy of the decision, the action they have taken thereon.

**SO ORDERED.**<sup>[33]</sup>

The RTC ruled that the prosecution witnesses' positive identification that XXX, in conspiracy with YYY, stabbed Rolando with a knife is superior than accused's claim of self-defense and denial. Although XXX claimed he was mauled, his narration failed to convince the court that he did not kill the victim as he admitted that he stabbed Rolando. The RTC gave credence to the testimonies of Del Mundo and Austria that they saw XXX as the one who fatally stabbed Rolando, who was held in the arms by YYY. The RTC held that XXX's defense that he made a backward thrust of the knife has no merit considering the height of the victim, who was seven inches taller than XXX and YYY, whose heights are 5'4" to 5'5."<sup>[34]</sup>

However, the case against Jason was dismissed for failure of prosecution to present evidence. Meanwhile, the case against Leonard Ferrer was also dismissed for failure of the prosecution to prove the guilt of accused appellants beyond reasonable doubt.<sup>[35]</sup>

On November 29, 2017,<sup>[36]</sup> the CA affirmed the conviction for murder but with modification as to the penalty because of the minority of accused-appellants when they committed the crime, to wit:

**WHEREFORE**, the instant appeal is **DENIED**. The assailed Decision dated November 16, 2015 of the Regional Trial Court (RTC), Branch 26 of Sta. Cruz, Laguna in Criminal Case No. SC-8180 is **AFFIRMED with MODIFICATION**. Each of the accused-appellants, [XXX] and [YYY], are hereby sentenced to suffer the penalty of imprisonment of twelve (12) years of *prision mayor* as minimum, to seventeen (17) years of *reclusion temporal* as maximum.

On account of minority of accused-appellants when they came in conflict with the law, they shall serve their sentences in an agricultural camp or training facility, in accordance with Section 51 of Republic Act No. 9344. For this purpose, the case is remanded to the Regional Trial Court of Sta.

Cruz Laguna, Branch 26 for appropriate disposition.

Lastly, accused-appellants are directed to jointly and severally pay the heirs of Rolando Abetria, the amounts Php 75,000 as civil indemnity, Php 60,000 as funeral expenses or actual damages, Php 75,000 as moral damages, and Php 75,000 as exemplary damages. All monetary awards shall earn interest at the legal rate of 6% per *annum* from the finality of this decision until fully paid.

**SO ORDERED.**<sup>[37]</sup> (Emphasis in the original)

The CA affirmed the findings of the RTC that the eyewitnesses positively identified XXX and YYY as the assailants of Rolando. Although their testimonies did not perfectly fit each other as to the weapon used or the number of stabbing incident, it did not dilute their credibility, nor the verity of their testimonies. It held that what is important is that their testimonies corroborated each other on material points. It also found that conspiracy existed because of the concerted acts of accused-appellants in the killing of Rolando. The CA was not persuaded that XXX acted in self-defense because there was no unlawful aggression on the part of Rolando, and the alleged injuries he sustained was not corroborated. Notably, the nature and location of stab wound sustained by Rolando negates the claim of self-defense.<sup>[38]</sup>

However, the CA found that the RTC erred in automatically suspending the sentence of accused appellant because both accused-appellants were beyond 21 years of age at the time of promulgation of the Decision on November 16, 2015.<sup>[39]</sup> Pursuant to the case of *People v. Jugueta*,<sup>[40]</sup> the CA awarded civil indemnity of P75,000.00 and increased the award of exemplary damages to P75,000.00. In addition, it reduced the award of actual damages to P60,000.00 based on the receipts presented by prosecution. It also imposed an interest of six percent (6%) *per annum* from the date of finality of the decision until full payment.<sup>[41]</sup>

Accused-appellants moved for reconsideration<sup>[42]</sup> which the CA denied in its Resolution<sup>[43]</sup> dated March 20, 2018. Accused-appellants then filed a Notice of Appeal<sup>[44]</sup> dated May 3, 2018. Accused-appellants manifested that they are adopting their Appellants' Brief before the CA as their supplemental brief.<sup>[45]</sup> The People of the Philippines, through the Office of the Solicitor General (OSG), manifested that it shall no longer file a supplemental brief considering that it had exhaustively discussed the issues and legal principles involved in the case in the Appellee's Brief dated May 30, 2017.<sup>[46]</sup>

### **Arguments of Accused-Appellants**

Accused-appellant argued that the testimonies of Del Mundo and Austria were inconsistent with each other regarding the weapon used and the frequency of stabbing incident. Notably, both witnesses did not mention the presence of Amonelo nor the initial fight where Amonelo allegedly attacked XXX. Likewise, they claimed there were inconsistencies in the participation and presence of Leonard Ferrer and YYY during the incident. Del Mundo and Austria's credibility are also questionable for their failure to immediately report the incident to the police and inability to help Rolando during the incident. They insisted that Austria's behavior was highly