

## FIRST DIVISION

[ G.R. No. 228886, August 08, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CHARLIE FLORES, DANIEL FLORES AND SAMMY FLORES,  
ACCUSED-APPELLANTS.**

### D E C I S I O N

**DEL CASTILLO, J.:**

This is an appeal<sup>[1]</sup> from the June 16, 2016 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07219 which affirmed with modification the Decision<sup>[3]</sup> of the Regional Trial Court (RTC) of Infanta, Quezon, Branch 65, in Criminal Case No. 1738-I.

#### ***The Facts***

Accused-appellants Charlie Flores alias "Alit<sup>[4]</sup> Flores" (Charlie), Daniel Flores alias "Jover Violata" (Daniel), and Sammy Flores alias "Ricky Violata" (Sammy),<sup>[5]</sup> along with their co-accused, Gary Badeviso (Gary) and Rodel Torestre (Rodel), who remain at large, were charged with murder in an Information<sup>[6]</sup> which reads:

That on or about the 25<sup>th</sup> 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.<sup>[7]</sup>

Upon arraignment, accused-appellants pleaded not guilty.<sup>[8]</sup> After the conduct and termination of the pre-trial,<sup>[9]</sup> 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.<sup>[10]</sup> After telling Eduardo to buy fuel and giving him money, Larry went inside the videoke bar.<sup>[11]</sup> 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.<sup>[12]</sup> He decided to go inside and climb the stairs, located in front of the bar,<sup>[13]</sup> to check.<sup>[14]</sup> There he saw Larry pacifying Sammy and Daniel who were fighting and Larry telling them, "*bakit kayo nag aaway, paskong pasko.*"<sup>[15]</sup> Then suddenly, Rodel ran towards Lany and stabbed him.<sup>[16]</sup> Eduardo shouted, "Why did you hit my boss?"<sup>[17]</sup> Sammy, Daniel, and Rodel then turned to Eduardo and took turns punching him.<sup>[18]</sup> Sammy tried to stab Eduardo but the latter failed because Eduardo had fallen down the stairs.<sup>[19]</sup> 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.<sup>[20]</sup> Gary also stabbed Larry on the head while another one, identified as Belgar, likewise stabbed him on his right side.<sup>[21]</sup> When the assailants had fled through the back door, Eduardo sought help at the *barangay* hall.<sup>[22]</sup> Larry was boarded on one of the *barangay tanod's* vehicle and rushed to the hospital.<sup>[23]</sup> Unfortunately, he was pronounced dead on arrival after suffering five fatal stab wounds.<sup>[24]</sup> Beverly, the wife of Larry, testified regarding the burial expenses as well as to the moral damages caused by the death of her husband.<sup>[25]</sup> She likewise stated that Larry was a Philippine Army corporal earning P8,000.00 a month.<sup>[26]</sup>

### ***The Version of the Defense***

Accused-appellants denied the allegations.<sup>[27]</sup> Sammy and Daniel - who are cousins<sup>[28]</sup> - 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.<sup>[29]</sup> Sheryl testified to corroborate their claim that, on that night, Sammy and Daniel were at her house.<sup>[30]</sup> Meanwhile, Charlie, brother of Sammy,<sup>[31]</sup> claimed being with his wife, Lonelyn Bantigue (Lonelyn), and brother-in-law, Jesus Bantigue (Jesus), in Sitio Pagitna, Rizal, Burdeos, Quezon.<sup>[32]</sup> Lonelyn corroborated the testimony of her husband that, at the time of the incident, Charlie was with her and her brother, Jesus.<sup>[33]</sup>

### ***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.<sup>[34]</sup> 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-lit<sup>[35]</sup> and who was not shown to have any ill motive in testifying against accused-appellants.<sup>[36]</sup> Finding that only P15,000.00 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 P25,000.00.<sup>[37]</sup> 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) P75,000.00 as civil indemnity by reason of victim's death;
- b) P50,000.00 as moral damages;
- c) P25,000.00 as temperate damages;
- d) P30,000.00 as exemplary damages[;] and[,]

to pay the costs of suit.

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

SO ORDERED.<sup>[38]</sup>

Accused-appellants filed their appeal<sup>[39]</sup> assailing their conviction. They specifically assailed their identification by the lone witness for the prosecution.<sup>[40]</sup> 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.<sup>[41]</sup>

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.<sup>[42]</sup> 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.<sup>[43]</sup>

### ***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.<sup>[44]</sup>

Hence, the present appeal.<sup>[45]</sup> After being asked to file supplemental briefs if they so desired,<sup>[46]</sup> the parties instead submitted Manifestations<sup>[47]</sup> in which they stated

that they were adopting their Briefs<sup>[48]</sup> submitted earlier before the appellate court and were dispensing with the filing of Supplemental Briefs.<sup>[49]</sup>

### **Our Ruling**

There is no merit in the appeal.

To successfully prosecute the crime of murder under Article 248<sup>[50]</sup> 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."<sup>[51]</sup>

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 nya 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.

Q: Who was this person?

A: Rodel Flores, ma'am.<sup>[52]</sup>

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.

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.