

SECOND DIVISION

[G.R. No. 177356, November 20, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOHBERT AMODIA Y BABA, MARIO MARINO Y PATNON, AND ROY
LO-OC Y PENDANG, ACCUSED-APPELLANTS.**

D E C I S I O N

VELASCO JR., J.:

The Case

This is an appeal from the January 23, 2007 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01628 entitled *People of the Philippines v. Johbert Amodia y Baba, et al* . The CA Decision affirmed the August 24, 2005 Decision^[2] of the Quezon City Regional Trial Court (RTC), Branch 89 in Criminal Case No. Q-03-118165, which found accused-appellants Johbert Amodia, Mario Marino, and Roy Lo-oc guilty of the crime of murder.

The Facts

On June 10, 2003 at about 3:00 a.m., Richard Avila Roda, an Assistant Manager of Nognog Videoke Restaurant in Quezon City, went out of the restaurant to invite customers. Once out of the restaurant, he saw seven persons mauling someone. He noticed that three of the attackers, whom he later identified as accused-appellants Amodia, Marino, and Lo-oc, were regular customers of their restaurant. The other four were unknown to him; so was the victim. He saw Lo-oc hold the shoulders of the victim while Marino and Amodia took turns in beating the victim. One of their companions had a knife, who, upon seeing Roda, threatened to kill him. As a result of the beating, the victim fell on the ground. Roda immediately approached the victim and saw blood oozing out of the back of his head. One of the maulers was about to deliver another blow on the victim but Roda was able to stop him by saying, "*Hindi na kayo naawa.*" Accused-appellants then went inside the restaurant and drank one bottle of beer each. Roda did not immediately report the incident because he was threatened by accused-appellants who were still hanging around the area. He later went home with the owner of the restaurant.^[3]

Later, in the early morning of the same day, he saw the body of the victim still in the place where he fell. There were already some *barangay tanods* and police officers investigating the incident. The victim, later identified as Jaime Bartina, was then brought to the Quezon City General Hospital.^[4] Someone then informed Cornelia Bartina, the live-in partner of the victim, that the latter was brought to the hospital. She immediately went to the hospital where she found Jaime still alive, but noticed that blood was dripping from his mouth which stained his clothes. Jaime died at around 5 o'clock in the afternoon of June 10, 2003.

On June 12, 2003, upon the advice of a person from the La Loma Police Station, Roda went to Camp Karingal in Quezon City to report what he had witnessed. The police then filed an investigation report which became the basis for the filing of an Information against accused-appellants. The Information that charged them with murder reads:

That on or about the 10th day of June, 2003, in Quezon City, Philippines, the said accused, JOHBERT AMODIA y BABA, a minor, 17 years old, conspiring and confederating with MARIO MARINO y PATNON and ROY LO-OC y PENDANG and four (4) other persons whose true names, identities and whereabouts have not as yet been ascertained and mutually helping one another, with intent to kill, qualified by evident premeditation, and treachery, taking undue advantage of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of JAIME BARTINA y PLATITAS, by then and there mauling him, causing the said victim to [fall] on the ground, hitting his head on a concrete fence, thereby inflicting upon him serious and mortal injuries, which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said JAIME BARTINA y PLATITAS.

CONTRARY TO LAW.^[5]

Accused-appellants pleaded not guilty to the charge against them. They denied involvement in the death of the victim and averred alibi as their defense. Lo-oc declared that he had been drinking alcohol at Abdul Videoke Bar in the early morning of June 10, 2003, having been dismissed from work and abandoned by his wife. According to Lo-oc, at around one to three o'clock in the morning, he went out of the bar and saw a man slumped on the ground asking for help. He lifted the man and saw that he was soaked in his own blood. At this time, Amodia and Marino, who were pedicab drivers, passed by the area. Lo-oc called on the two to help him bring the wounded man to the hospital. The two, however, refused because pedicabs were not allowed to travel along the national highway. Consequently, Lo-oc just placed Bartina on a sitting position beside the wall and left him. He then went back to the bar and continued drinking. He did not report the incident to the authorities.^[6]

Marino and Amodia corroborated the testimony of Lo-oc and insisted too their non-participation in the crime.

On August 24, 2005, the RTC rendered a Decision, the dispositive part of which reads:

WHEREFORE, premises considered, judgment is rendered finding accused JOHBERT AMODIA y BABA, MARIO MARINO y PATNON, and ROY LO-OC y PENDANG guilty [beyond reasonable doubt] of the crime of Murder.

The penalty for murder is *reclusion perpetua* to death (Art. 248 RPC). Considering that Johbert Amodia was still a minor at the time of the commission of the crime, he is entitled to a privilege mitigating circumstance of one degree lower. Hence, the penalty for the crime committed by Johbert Amodia is *reclusion temporal*. Applying the Indeterminate Sentence Law, he is sentenced to Eight (8) years and One

(1) day of *prision mayor* as minimum to Fourteen (14) years, Eight (8) months and One (1) day of *reclusion temporal* as maximum.

With respect to accused Mario Marino and Roy Lo-oc, they are each sentenced to *reclusion perpetua* there being no aggravating nor mitigating circumstance. All accused are ordered to jointly and severally pay the heirs of the victim the sum of [PhP] 27,909.00 as actual damages and [PhP] 50,000.00 as indemnity.

Further, the period of their preventive imprisonment is credited in full in their favor if they abide by Art. 29 of the Revised Penal Code.

Without costs.

SO ORDERED.^[7]

The case was appealed to the CA.

The Ruling of the CA

In a Decision dated January 23, 2007, the appellate court affirmed the trial court's decision. It gave credence to the positive testimony of the prosecution eyewitness who, according to the CA, was not actuated by improper motive to testify against accused-appellants. It also dismissed accused-appellants' denial and alibi, as by their own account, all of them were together in the crime scene with the bloodied victim at the time the crime happened, thus, reinforcing the testimony of the prosecution eyewitness.

The CA, moreover, held that the killing was qualified by the circumstance of abuse of superior strength. It found that accused-appellants took advantage of their superior strength when they conspired with four other assailants in mauling the unarmed and defenseless victim.

Hence, we have this appeal.

The Issues

In a Resolution dated August 15, 2007, this Court required the parties to submit supplemental briefs if they so desired. On October 10, 2007, accused-appellants, through counsel, signified that they were no longer filing a supplemental brief. Thus, the issues raised in accused-appellants' Brief dated April 17, 2006 are now deemed adopted in this present appeal:

I.

The court a quo gravely erred in giving full weight and credence to the incredible testimony of the prosecution witness.

II.

The trial court gravely erred in convicting the accused-appellants despite