



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 247824

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,

HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

**ORLANDO PADILLA and DANILO
PADILLA,**
Accused-Appellants.

Promulgated:

FEB 23 2022

[Signature]

X-----X

DECISION

HERNANDO, J.:

On appeal¹ is the November 13, 2018 Decision² of the Court of Appeals (CA) in CA G.R. CR-HC No. 09380, affirming the Decision³ of the Regional Trial Court (RTC), Branch 67, Bauang, La Union, in Criminal Case No. 3988-BG which found accused-appellants Orlando Padilla (Orlando) and Danilo Padilla (Danilo) (collectively, accused-appellants) guilty beyond reasonable doubt of the crime of Murder.

¹ Rollo, pp. 11-13.

² Id. at 3-10. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Ramon M. Bato, Jr. and Ramon A. Cruz.

³ CA rollo, pp. 46-58. Penned by Presiding Judge Ferdinand A. Fe.

An Information⁴ dated June 18, 2010 was filed against Danilo⁵ and Orlando for the murder of Rhandy Padin (Rhandy).⁶ The accusatory portion reads:

That on or about the 29th day of March, 2010 in the Municipality of Naguilian, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one-another, with intent to kill and with abuse of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault and stab one [RHANDY] PADIN with the use of a knife and a big stone, hitting and inflicting upon the latter fatal injuries, which caused his instantaneous death, to the damage and prejudice of the heirs of [RHANDY] PADIN.

CONTRARY TO LAW.⁷

Danilo was apprehended and committed to the Bauang, La Union district jail on August 16, 2010. He pleaded “not guilty” to the crime charged and trial ensued.⁸ On November 4, 2013, Orlando was subsequently apprehended. He also pleaded “not guilty” to the charge.⁹ By then, the case against Danilo had already been submitted for resolution and the RTC opted to finish the hearing of Orlando’s case before issuing a Joint Decision.¹⁰

The testimonies of supposed eye-witness Antonio Villanueva (Antonio),¹¹ Parole and Probation Officer Nicanor Taron,¹² Medico Legal Dr. Nerino Daciego (Dr. Daciego),¹³ Rhandy’s mother, Victoria Padin (Victoria),¹⁴ Investigating Officer, Senior Police Officer (SPO) 3 Benjamin Costales, Jr., and¹⁵ Rhandy’s Father, Jaime Padin¹⁶ were presented.

On the other hand, the testimonies of Danilo,¹⁷ Orlando¹⁸ and Romeo Bakate were presented by the defense.¹⁹

Version of the Prosecution:

The prosecution’s eyewitness, tricycle driver Antonio, testified that at 11:00 a.m. of March 29, 2010, he chanced upon the brothers Danilo and

⁴ Records, p. 1.

⁵ Also referred to as Padan.

⁶ Also referred to as “Randy” a.k.a. Padin in the records.

⁷ Records, p. 1.

⁸ *Rollo*, p. 4.

⁹ *Id.*

¹⁰ *CA rollo*, p. 32.

¹¹ TSN, November 15, 2010, October 21, 2014 and November 25, 2014.

¹² TSN, May 7, 2011.

¹³ TSN, February 10, 2011.

¹⁴ TSN, June 2, 2011.

¹⁵ TSN, July 11, 2011.

¹⁶ TSN, August 24, 2011.

¹⁷ TSN, May 29, 2012, June 6, 2012, July 23, 2012, October 24, 2012, November 19, 2012

¹⁸ TSN September 3, 2015.

¹⁹ TSN May 31, 2016.

Orlando in Naguilian, La Union, who then hired him to take them to the Municipal Hall of Agoo, La Union. The trip was in order for Danilo to meet with his probation officer.²⁰

At around 5:00 p.m. of that day, they were able to drive back to Naguilian where they proceeded to a *videoke* bar in Ermita called Bagulin road *videoke* bar or *inuman*.²¹ Accused-appellants started their drinking spree while Antonio proceeded inside to take a bath. He was able to take a bath in the establishment since he was friends with the owner. On his way to the bathroom, Antonio noticed Rhandy occupying another table and drinking with a companion. After his bath, Rhandy approached him and asked to bring his companion home. Antonio, Danilo, Rhandy and his companion all went to Barangay Pantar. After their trip, Antonio, Danilo and Rhandy returned to the *inuman*. Danilo and Rhandy proceeded inside while Antonio went elsewhere and waited for the brothers to finish their drinking spree. When he returned inside the *inuman*, he saw the brothers and Rhandy drinking together. After a while, Danilo told him to bring them all to Bagulin. Antonio agreed to do so for an additional fee.²²

When they reached Upper Bimotbot, Antonio noticed that his three passengers were fighting inside the tricycle. He immediately stopped, at which point, the brothers pulled Rhandy out. Danilo boxed Rhandy while Orlando aided by choking the former. Danilo then returned to the tricycle and took out the knife kept at the backseat which was usually used by Antonio in cutting rubber. Danilo warned Antonio not to speak of the attack against Rhandy or else he will kill him next.²³

Thus, Antonio remained in the tricycle while the brothers gang up on Rhandy. He saw Orlando choking and restraining Rhandy by putting his right arm around the latter's neck, while his left hand twisted Rhandy's left hand upwards. Meanwhile, Danilo was in front of Rhandy with a knife. Rhandy struggled against Orlando's choking, and at the same time he tried to repel Danilo's attacks by embracing the latter with his free hand. Both Rhandy and Danilo fell on the ground with Danilo on top of Rhandy. Danilo cut and stabbed Rhandy on the waist and the two of them struggled to gain possession of the knife. All throughout the brawl, Orlando was watching on standby and when Rhandy was able to get a hold of the knife, he stepped on Rhandy's hand, retrieved it and returned the same to Danilo. Attempting to fully wound

²⁰ TSN November 8, 2010, pp. 9-59.

²¹ Id.

²² CA rollo, p. 47

²³ Id. at 48.

Rhandy, Danilo repeatedly stabbed the latter but was not able to mortally wound him as the knife was already bent. Danilo thus got a hold of a stone and hit it against Rhandy's head.²⁴

At this point, Rhandy was no longer moving. Danilo and Orlando, with the help of Antonio, pitched Rhandy into the ravine. Danilo got a bigger stone and dropped it into the ravine and hit Rhandy. Danilo also tossed the knife next. Thereafter, Antonio, Danilo and Orlando all left together.²⁵

Five days later, the police officers visited Antonio. He executed his written statement about the incident.²⁶

Dr. Daciego of the Philippine National Police examined the cadaver and declared that the cause of death of Rhandy was by a blunt traumatic head injury. He sustained seven injuries including a crack at the back of the head possibly caused by a big stone and an open wound in the abdominal cavity possibly caused by a knife.²⁷

At the trial, the parents of Rhandy testified how the death of their son caused a deep onslaught on their feelings.²⁸ Victoria also testified on the actual expenses they incurred for Rhandy's funeral and burial.²⁹

Version of the Defense:

The defense vehemently denied the version of the prosecution.

Danilo testified that on March 29, 2010, he and his brother Orlando hired Antonio to take them to Agoo in order for him to meet with his probation officer. After their business in Agoo, they all went back to Naguilian and went to an establishment called "*inuman*" to drink. There, Danilo noticed Rhandy, whom he encountered for the first time, singing in the *videoke* and drinking with a companion. Antonio then transferred from their table to Rhandy's.³⁰ After a while, Rhandy approached Antonio and hired him to bring Rhandy's companion to Pantar and as payment, he promised to buy drinks for later. Antonio agreed and invited Danilo to come along with them. After bringing the companion to Pantar, they went back to continue their drinking session. Antonio then asked Rhandy to buy the drinks as promised but the latter

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ TSN, February 10, 2011.

²⁸ TSN, June 2, 2011 and August 24, 2011.

²⁹ Exhibits G to G-2, Records, pp. 118-119.

³⁰ TSN, June 26, 2012.

refused. Antonio thus became angry and initiated to leave. Rhandy nonetheless joined them saying that he will visit Antonio's place to which the latter agreed.³¹ Thus, they all boarded the tricycle with Danilo sitting behind Antonio, with Rhandy and Orlando inside the sidecar.³²

They did not head to Mamat-ing Norte but instead proceeded to go to Bagulin.³³ Suddenly, Antonio stopped the tricycle, alighted and pulled out Rhandy by the collar. Danilo tried to pacify the two but in the process, he and Rhandy fell down on the ground with Rhandy on top of him. They ended boxing each other. Antonio then returned to his tricycle and took out a knife hidden in the backrest. Antonio went behind Rhandy and stabbed him. Danilo thus pushed Rhandy's body away as the latter was already weak from the stab wound. Antonio then asked Danilo to help him push Rhandy's body into the ravine but Danilo refused. Thus, Antonio demanded Orlando to help him and the two finished the deed with Antonio lifting Rhandy's feet while Orlando held on to Rhandy's hands. After doing so, Antonio noticed that Rhandy was still alive. Hence, Antonio searched for a big stone and dropped the same into the ravine where Rhandy lay. Antonio also tossed the knife he used into the ravine. Thereafter, they all boarded the tricycle and drove to Mamat-ing to bring Orlando home. Afterwards, Antonio and Danilo hid the tricycle.³⁴

Orlando, on the other hand, denied any participation in the assault and killing of Rhandy. He insisted that he was the one who initiated to leave the *inuman* when Antonio and Danilo returned. He boarded the tricycle thinking that they will return to Mamat-ing Norte and noticed that Antonio was driving towards Bagulin. Along the way, Antonio stopped the tricycle and when Orlando asked why, Antonio said he will just get something. When they alighted, Antonio declared that he will kill Rhandy because he always fails to pay whenever he hires him. When Orlando heard of Antonio's intention, he ran away because he did not want to be implicated in Antonio's actions.³⁵

Ruling of the Regional Trial Court:

After trial on the merits, the RTC rendered a Decision³⁶ finding Danilo and Orlando guilty of Murder, with abuse of superior strength and conspiracy having attended the crime. The RTC disposed the case in this wise:

WHEREFORE, judgment is hereby rendered finding the accused **Orlando Padilla and Danilo Padilla alias "PANDAN" GUILTY** beyond reasonable doubt of the crime of MURDER and are hereby sentenced to suffer the penalty of RECLUSION PERPETUA without eligibility of Parole.

³¹ TSN May 29, 2012, pp. 3-6.

³² *CA rollo*, p. 34.

³³ *Id.* at 101.

³⁴ *Id.* at 34-35.

³⁵ *Id.* at 35;101.

³⁶ *Id.* at 46-58.

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The accused are further ordered to pay jointly and severally the heirs of Rhandy Padin: **death indemnity of Seventy-Five Thousand Pesos (Php 75,000.00), Philippine Currency; moral damages of One Hundred Thousand Pesos (Php 100,000.00), Philippine Currency; exemplary damages of Fifty Thousand Pesos (Php50,000.00), Philippine Currency plus the cost of suit.**

The accused are also ordered to pay legal rate of interest at six (6) percent per annum until the above monetary awards are fully paid.

The Office of the Provincial Prosecutor is hereby ordered to reinvestigate the extent of the participation of Antonio Villanueva to the death of RHANDY PADIN, taking into consideration the findings of the Court.

SO ORDERED.³⁷

The RTC convicted accused-appellants for the murder of Rhandy but also implicated Antonio as part of the conspiracy to kill the victim. It was the RTC's conclusion that Danilo's narration was more in tune with the medico-legal's findings that, indeed, Antonio was the one who caused the stab-wound on Rhandy. Although such can be considered a mortal wound, the same was not the cause of death. It was established that the cause of death was the head wound caused likely by being hit with a big stone. The RTC however, did not ascertain anymore who delivered the death blow and deemed such fact immaterial considering the existence of conspiracy among Antonio, Danilo and Orlando in executing the murder. The RTC likewise noted that since the death penalty was already abolished, the imposable penalty against Danilo and Orlando was *reclusion perpetua* without eligibility of parole.³⁸

Aggrieved, Danilo and Orlando appealed³⁹ the judgment of conviction to the CA.

Ruling of the Court of Appeals:

The CA, finding no reversible error in the assailed Decision, upheld the RTC's judgment of conviction. However, it modified the grant of damages, by awarding the following to the victim's heirs: ₱100,000.00 as death indemnity and ₱100,000.00 exemplary damages with the prevailing interest rate.⁴⁰

WHEREFORE, premises considered, the appeal is **DENIED**. The Decision of the Regional Trial Court of Bauang, La Union, Branch 67 in CR Case No. 3988-BG is **AFFIRMED** with **MODIFICATION** in that the amount of death indemnity and exemplary damages is increased to ₱100,000.00 each.

³⁷ Id. at 58.

³⁸ Id. at 55-58.

³⁹ Id. at 15.

⁴⁰ Id. 103-108

SO ORDERED.⁴¹

The CA held that all elements of the crime of Murder under Article 248 of the Revised Penal Code (RPC) were successfully proven by the prosecution. The CA affirmed the conclusion of the RTC that the collective acts of the accused-appellants manifested conspiracy between them.⁴²

Undeterred, accused-appellants brought the case before Us.⁴³ They manifested that they would no longer file any supplemental brief but shall adopt the appellant's brief they filed before the CA.⁴⁴ The Office of the Solicitor General (OSG), representing the People of the Philippines, followed suit and adopted its appellee's brief filed before the CA.⁴⁵

Issues**I.**

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANTS DESPITE ITS FINDINGS THAT IT WAS PROSECUTION WITNESS ANTONIO VILLANUEVA WHO STABBED RHANDY PADIN.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE ITS OWN FINDINGS THAT PROSECUTION WITNESS ANTONIO VILLANUEVA'S TESTIMONY WAS FALSE.

III.

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT CONSPIRACY ATTENDED THE COMMISSION OF THE CRIME.

IV.

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING ACCUSED-APPELLANTS' DEFENSE OF DENIAL.

V.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE PROSECUTION'S FAILURE TO PROVE ALL THE ELEMENTS OF THE CRIME OF MURDER.

⁴¹ *Rollo*, p. 10.

⁴² *CA rollo*, pp. 103-104.

⁴³ *Id.* at 117.

⁴⁴ *Rollo*, pp. 20-24.

⁴⁵ *Id.* 25-29.

VI

THE TRIAL COURT GRAVELY ERRED IN NOT UPHOLDING THE ACCUSED-APPELLANTS' PRESUMPTION OF INNOCENCE AND NOT RESOLVING DOUBTS IN FAVOR OF THEM.⁴⁶

Accused-Appellants' Arguments:

Accused-appellants assert that the prosecution failed to establish the crime considering the lack of credible testimony against them. It was proven that the prosecution's witness was the one who stabbed the victim, although the same was not the death blow. They contend that the allegation on conspiracy was not established by the prosecution beyond reasonable doubt as the inferences of the trial court did not establish the common design and purpose among the accused-appellants and the prosecution's witness. Moreover, ill motive on the part of the accused-appellants was not established, thus, there was no reason for them to kill the victim. Lastly, they contend that for them to be convicted, the court must not rely on the weakness of the evidence of the defense but must rely on the strength of evidence of the prosecution's. Here, considering that the testimonial evidence of the prosecution was proven to be false, the prosecution's case had no leg to stand on and the guilt of the accused-appellants was not proven beyond reasonable doubt.⁴⁷

Plaintiff-Appellee's Arguments:

The OSG interposes that the accused-appellants were duly convicted of Murder. The existence of conspiracy was correctly appreciated by the RTC considering the acts of the accused-appellants before, during and after the crime which indicated their joint purpose. The fact that the accused-appellants ganged up on, stabbed, and smashed the victim's head and threw the latter into a ravine fully established their common intent to kill the victim. As it is, the circumstantial evidence, taken together, was more than sufficient to prove the conspiracy. Moreover, the defense of denial propounded by the accused-appellants was intrinsically weak considering that they admitted to being in the scene of the crime although pointing at each other as to who dealt the deadly blow. Lastly, their subsequent act of hiding contradicts their claim of innocence.⁴⁸

Our Ruling

The appeal is dismissed.

⁴⁶ CA *rollo*, p. 31.

⁴⁷ Id. at 36-43.

⁴⁸ Id. at 85-88.

Murder; Quantum of proof required and court's discretion in weighing all evidence presented.

Murder is defined under Article 248 of the RPC as the unlawful killing of a person, which is not parricide or infanticide, attended by circumstances enumerated therein. The presence of any one of the circumstances enumerated in Article 248 of the Code is sufficient to qualify a killing as Murder, to wit:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
2. In consideration of a price, reward or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. (Emphasis Ours)

In the case at bar, the qualifying circumstance alleged to have attended the killing of the victim was abuse of superior strength. Concomitantly, conspiracy among the accused-appellants was likewise alleged to have attended in the manner of the killing of the victim, viz.:

To achieve conviction, the prosecution must prove an accused's guilt beyond reasonable doubt. Rule 133, Section 2 of the Rules of Court provides:

Section 2. *Proof beyond reasonable doubt.* — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. **Proof beyond reasonable doubt does not mean such a degree of proof, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.** (Emphasis Ours and underscoring Ours)

Necessarily so, this quantum of proof imposes upon the prosecution the burden to overcome the constitutional presumption of innocence of an accused and must abide by the doctrinal stance that it must do so by presenting its own evidence, without relying on the weakness of the arguments and proof of the defense. Failure to overcome this burden equates to liberty of the accused.⁴⁹

In the same vein, courts are likewise given wide latitude of discretion to analyze and weigh the evidence presented by both parties to determine and resolve the criminal charge against the accused. In other words, courts may utilize all evidence presented, including admissions⁵⁰ of the parties, to resolve the judicial controversy presented before it and not solely rely on the evidence laid by the prosecution. Axiomatic to this, jurisprudence has emphatically maintained that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses first hand and to note their demeanor, conduct, and attitude under grilling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies.⁵¹

Guided by the above doctrinal pronouncements, this Court delves upon the crux of the appeal as to whether accused-appellants are guilty of Murder and whether conspiracy attended the crime.

Conspiracy to determine culpability and abuse of superior strength as qualifying aggravating circumstance.

Concomitantly, although it is not an element of the crime charged, conspiracy, as a manner of incurring liability, whenever alleged, must be proved with the same quantum of evidence required to establish an element of the offense, that is, by proof beyond reasonable doubt. Failure to establish the existence of the conspiracy renders each accused only liable for his own specific acts.⁵²

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.⁵³ However, oftentimes, direct proof of conspiracy is elusive. Hence, while it is true that the elements of conspiracy must be proved by proof beyond reasonable doubt

⁴⁹ See *People v. Sumilip*, G.R. No. 223712, September 11, 2019.

⁵⁰ A judicial admission is an admission, verbal or written, made by a party in the course of the proceedings in the same case, which dispenses with the need for proof with respect to the matter or fact admitted. It may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

⁵¹ *People v. Sapigao*, 614 Phil. 589, 599 (2009), citing *Maandal v. People*, 412 Phil. 644 (2001).

⁵² *People v. Palada*, G.R. No. 225640, July 30, 2019.

⁵³ Article 8, Revised Penal Code.

— necessary to establish the physical acts constituting the crime itself, this is not to say that direct proof of such conspiracy is always required. The existence of conspiracy need not, at all times, be established by direct evidence; nor is it necessary to prove prior agreement between the accused to commit the crime charged. Thus, the rule is well-settled that conspiracy may be inferred from the conduct of the accused before, during and after the commission of the crime, where such conduct reasonably shows community of criminal purpose or design.⁵⁴

This Court's ruling in *People v. Evasco*⁵⁵ (*Evasco*), is instructive:

In terms of proving its existence, conspiracy takes two forms. The first is the express form, which requires proof of an actual agreement among all the co-conspirators to commit the crime. **However, conspiracies are not always shown to have been expressly agreed upon. Thus, we have the second form, the implied conspiracy. An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment.** Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably pointing to a joint purpose, a concert of action and a community of interest.⁵⁶

A careful review of the records of the case reveals that the conduct of the accused-appellants before, during and after the commission of the crime, together with that of Antonio's, showed conspiracy on their part, and that they all had an equal hand in the killing of Rhandy.⁵⁷

If at all, their versions of what happened at the time of the incident, though appearing to be conflicting, were actually consistent and enough to draw light on their joint culpability in the crime that was committed, thus:

1) Accused-appellants, Antonio and the victim, without any animosity, all left together from the *inuman*;⁵⁸ 2) All boarded Antonio's tricycle;⁵⁹ 3) No one protested when they were traversing the route going to Bagulin instead of heading home to Mamat-ing Norte;⁶⁰ 4) All were in the crime scene, *i.e.*, where the tricycle stopped; Antonio and Danilo admitting their continued presence and Orlando, although interposing that he left the crime scene even

⁵⁴ *People v. Pilpa*, G.R. No. 225336, September 5, 2018.

⁵⁵ G.R. No. 213415, September 26, 2018, citing *Macapagal-Arroyo v. People*, 790 Phil. 367, 419-420 (2016).

⁵⁶ *Id.*

⁵⁷ *CA rollo*, p. 58.

⁵⁸ *Id.* at 47, 49.

⁵⁹ *Id.*

⁶⁰ *Id.*

before the attack began, was pointed out by his very own brother Danilo to be actually present; 5) All got involved in a fight with the victim with Danilo boxing the victim, and Antonio stabbing the deceased, and Orlando remaining on standby; 6) Antonio admitted to having participated with Orlando in disposing the body of the victim into the ravine; 7) Accused-appellants and Antonio all left together boarding Antonio's tricycle when the killing was finished with nobody protesting or reporting the incident to the authorities;⁶¹ and, finally, 8) the findings of the medico-legal indicate that the injuries sustained by the victim were done by several persons.⁶²

It is thus inescapable that what transpired was a fight between the victim and the joint forces of the accused-appellants and Antonio that led to the victim's demise. Analyzing the two versions of the parties, it is readily apparent that they all ganged up on him; they brought the victim at a detour, fought and mortally wounded him; participated in the disposing of the body; and went home together after the gruesome incident and not reporting the incident to the authorities. These circumstances were all geared towards the accomplishment of the same unlawful object, indicating closeness of personal association and a concurrence of sentiment.

We thus quote with approval the summation of the CA, viz.:

In arriving at its conclusion, the RTC, in light of the clashing testimonies of the participants, took what was common and undisputed in their respective versions, and from there, inferred accused-appellant's common design to kill Padin, to wit: (a) that the participants, i.e., Orlando, Danilo, Villanueva and Padin boarded Villanueva's tricycle; (b) while traversing the road towards Bagulin, Villanueva stopped the tricycle at the would-be murder site; (c) Padin was pulled out of the tricycle; (d) a fight ensued where Padin sustained a knife wound; and (e) Padin's head was hit by a stone. The foregoing are supported by the medico-legal findings, i.e., that Padin sustained injuries consistent with being dragged and attacked by several persons, was cut by a knife, and suffered a fatal crack on his skull.⁶³ (Emphasis Ours)

Therefore, regardless of which version this Court appreciates, it is conclusive from the admitted individual acts of the assailants that conspiracy among them existed. It thus becomes inconsequential to prove who delivered the death blow considering conspiracy was implied from their actions thereby making the act of one, the act of all.⁶⁴

⁶¹ Id.

⁶² TSN, February 10, 2011, p. 12.

⁶³ CA rollo, pp. 103-104.

⁶⁴ *People v. Lababo*, 332 Phil. 1056, 1075 (2018).

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Having established the presence of conspiracy, this Court now resolved the issue of whether or not the killing was attended by abuse of superior strength to qualify the act as Murder.

In *Evasco*, this Court held:

The determination of whether or not the aggravating circumstance of abuse of superior strength was attendant requires the arduous review of the acts of the accused in contrast with the diminished strength of the victim. There must be a showing of gross disproportionality between each of them. Mere numerical superiority on the part of the accused does not automatically equate to superior strength. **The determination must take into account all the tools, skills and capabilities available to the accused and to the victim to justify a finding of disproportionality;** otherwise, abuse of superior strength is not appreciated as an aggravating circumstance.⁶⁵

Here, this Court fully agrees with the findings of the CA that indeed abuse of superior strength was present in the commission of the crime. Indeed, to take advantage of superior strength means to use purposely excessive force that is out of proportion to the means of defense available to the person attacked. In the present case, the evidence gathered shows that the victim was unarmed when he was attacked by accused-appellants, who were not only superior in number but had access to, and in fact used, a weapon in form of a knife. Moreover, it was established that when the victim was already defenseless and weak from the stab wound and the mauling, he was unnecessarily hit with a big stone that ensured his death. Thus, the fact that the victim was outnumbered without means to put up a defense as he was taken to a place where rescue would be close to impossible and the fact that accused-appellants and Antonio used weapons out of proportion to the defense available to the victim, *i.e.* a knife and a big stone, fully establish the qualifying aggravating circumstance of abuse of superior strength.

Crime committed, penalties and award of damages.

It is jurisprudentially settled that when death occurs due to a crime such as Murder, the following may be recovered: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.⁶⁶

This Court has held that where the penalty imposed is *reclusion perpetua* in crimes such as that of Murder where the impossible penalty is comprised of

⁶⁵ *Supra* note 55.

⁶⁶ *People v. Dadao*, 725 Phil. 298, 315-316 (2014), citing *People v. Rarugal*, 701 Phil. 592 (2013).

two indivisible penalties of *reclusion perpetua* to death,⁶⁷ but no ordinary aggravating circumstance attended the crime thus meriting the imposition of the lesser penalty of *reclusion perpetua*, the nature and amount of damages that may be awarded are as follows: ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, among others.⁶⁸

Applying the foregoing to the case at bar, considering that no other aggravating circumstance was present in the killing apart from the qualifying circumstance of abuse of superior strength, the penalty of *reclusion perpetua* as the lesser penalty is warranted. The awards of civil indemnity, moral damages and exemplary damages should be reverted to ₱75,000.00 respectively.⁶⁹ Moreover, since the prosecution was able to present evidence of expenses incurred by the family of the victim, this Court likewise award the amount of ₱53,800.00 as actual damages since the same was the aggregate amount supported by receipts.⁷⁰

All damages awarded shall earn six percent (6%) interest per *annum* from the date of finality of this Resolution until full payment.

Finally, the phrase “without eligibility for parole” is deleted pursuant to A.M. No. 15-08-02-SC⁷¹

WHEREFORE, the appeal is **DISMISSED**. The November 13, 2018 Decision of the Court of Appeals in CA G.R. CR-HC No. 09380 finding accused-appellants Orlando Padilla and Danilo Padilla **GUILTY** beyond reasonable doubt of the crime of Murder is **AFFIRMED** with **MODIFICATIONS** in that the phrase “without eligibility of parole” is **DELETED** and accused-appellants are ordered to **PAY** the heirs of Rhandy Padin the following:

- 1) Civil indemnity in the amount of ₱75,000.00;
- 2) Actual damages in the amount of ₱ 53,800.00;
- 3) Moral Damages in the amount of ₱75,000.00; and
- 4) Exemplary damages in the amount of ₱75,000.00

All damages awarded shall earn interest at the rate of six percent (6%) interest per *annum* from the date of finality of this Decision until full payment.

⁶⁷ Imposition of Death Penalty prohibited by virtue of R.A. No. 9346; that in lieu of death penalty, the penalty of *reclusion perpetua* shall be imposed.

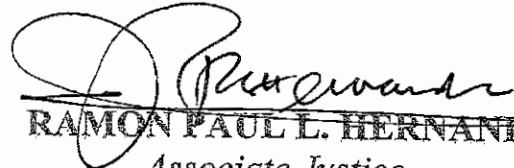
⁶⁸ Id.

⁶⁹ Supra note 68.

⁷⁰ Exhibit G – ₱8,800.00; Exhibit G-1- ₱10,000.00; Exhibit G-2- ₱35,000.00; Records, pp. 118-119; 133.

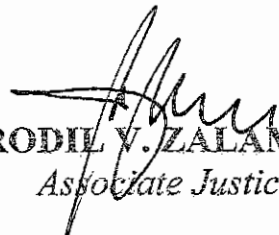
⁷¹ Guidelines for the Proper Use of the Phrase “Without Eligibility of Parole” in Indivisible Penalties. Issued on August 4, 2015.

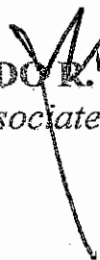
SO ORDERED.


~~RAMON PAUL L. HERNANDO~~
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

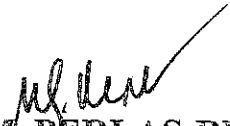

RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
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.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
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.


ALEXANDER G. GESMUNDO
Chief Justice