



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

G.R. No. 196434

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,
LEONARDO-DE CASTRO,^{*}
PERALTA,
ABAD, and
MENDOZA, *JJ.*

CHITO NAZARENO,
Respondent.

Promulgated:

24 October 2012

X

X

DECISION

ABAD, J.:

This case is about the evidence required for proving conspiracy and the qualifying circumstance of abuse of superior strength in a murder case.

The Facts and the Case

The Office of the City Prosecutor of Manila charged the accused Chito Nazareno and Fernando Saliendra, a *barangay tanod*, of murder before the Regional Trial Court (RTC) of that city in Criminal Case 94-133117.¹

^{*} Designated Acting Member in lieu of Associate Justice Jose P. Perez, per Special Order 1343 dated October 9, 2012.

¹ Records, p. 1.

Since Saliendra remained at-large, only Nazareno was tried. The prosecution presented Roy Magallanes, Roger Francisco, SPO1 Teodoro Sinag, SPO1 Julian Bustamante, Dr. Antonio E. Rebosa, and Jovelo Valdez.²

On November 10, 1993 David Valdez (David), Magallanes, and Francisco attended the wake of a friend. While there, they drank liquor with accused Nazareno and Saliendra.³ A heated argument ensued between Magallanes and Nazareno but their companions pacified them.⁴

On the following day, November 11, David, Magallanes, and Francisco returned to the wake. Accused Nazareno and Saliendra also arrived and told the three not to mind the previous night's altercation. At around 9:30 in the evening, while David, Francisco, and their friend, Aida Unos were walking on the street, Nazareno and Saliendra blocked their path.⁵ Nazareno boxed Francisco who fled but Saliendra went after him with a *balisong*.⁶ Francisco, who succeeded in hiding saw Nazareno hit David on the body with a stick while Saliendra struck David's head with a stone.⁷ David ran towards a gasoline station but Nazareno and Saliendra, aided by some *barangay tanods*, caught up with him.⁸ As David fell, the *barangay tanods* took over the assault.⁹ This took place as Magallanes stood about five meters across the highway unable to help his friend.¹⁰ Afterwards, Unos brought David to the hospital.¹¹ Dr. Rebosa performed surgery on David's head but he died on November 14, 1993 of massive intra-cranial hemorrhage secondary to depressed fracture on his right temporal bone¹² in a form of blunt trauma.¹³

² RTC Decision, id. at 399.

³ TSN, July 30, 1998, pp. 225-226.

⁴ Id. at 226-227.

⁵ Id. at 231.

⁶ TSN, August 13, 1998, p. 262.

⁷ Id. at 263.

⁸ Id. at 233.

⁹ TSN, August 13, 1998, p. 265.

¹⁰ TSN, July 30, 1998, pp. 234-235.

¹¹ TSN, August 13, 1998, p. 263.

¹² Notes of the Post-Mortem Examination, records, p. 62.

¹³ Certificate of Death, id. at 61.

On November 12, 1993 after David's relatives reported the killing to the police, SPO1 Sinag investigated the case and took Unos's statement.¹⁴ On November 15, accompanied by SPO1 Bustamante and two other police officers, SPO1 Sinag went to the UST Hospital and took a look at David's body, noting the wounds on his forehead.¹⁵ Subsequently, the officers went to the crime scene but found no witness there.

In his defense, accused Nazareno claimed that he left his house at around 9:30 in the evening on November 11, 1993 to buy milk. While on a street near his house, he noted a commotion taking place nearby. He then bumped into Saliendra. Nazareno proceeded home and went to bed.¹⁶ His wife Isabel supported his testimony, claiming that she asked her husband on that night to buy milk for their children. When Nazareno returned home, he informed her of the commotion outside and how someone bumped into him.¹⁷

Unos testified that she saw Saliendra chasing David as the latter hang on the rear of a running jeepney. She claimed that she did not see Nazareno around the place.¹⁸

On March 9, 2004, the RTC found Nazareno guilty beyond reasonable doubt of murder, qualified by abuse of superior strength and aggravated by treachery. The RTC sentenced Nazareno to suffer the penalty of *reclusion perpetua* and ordered him to pay ₱141,670.25 as actual damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages, without any subsidiary imprisonment.¹⁹

¹⁴ TSN, September 24, 1998, pp. 186-187.

¹⁵ TSN, December 14, 1998, pp. 200-201.

¹⁶ TSN, April 11, 2000, pp. 286-288.

¹⁷ TSN, March 2, 2000, p. 315.

¹⁸ TSN, February 14, 2000, pp. 366-368.

¹⁹ Supra note 2, at 404-405.

On appeal, the Court of Appeals (CA) affirmed with modification the decision of the RTC.²⁰ Finding no treachery, it convicted Nazareno of murder qualified by abuse of superior strength, hence, this appeal.

Issues Presented

The issues in this case are:

1. Whether or not Nazareno took part in a conspiracy to kill David;
2. Whether or not a qualifying circumstance of abuse of superior strength attended the killing of David.

The Court's Ruling

One. As a rule, the factual findings of the trial court are, except for compelling or exceptional reasons, conclusive to the Court especially when fully supported by evidence and affirmed by the CA.²¹ Here, no sound reason exists to alter the findings of the RTC and the CA with respect to the facts they deemed to have been proved and the credibility of the witnesses.²²

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.²³ Actions indicating close personal association and shared sentiment among the accused can prove its presence.²⁴ Proof that the perpetrators met beforehand and decided to commit the crime is not necessary as long as their acts manifest a common design and oneness of purpose.

Here, both the RTC and the CA found conspiracy in attendance. Magallanes and Francisco testified that accused Nazareno and Saliendra

²⁰ *Rollo*, pp. 3-14.

²¹ *Serra v. Mumar*, G.R. No. 193861, March 14, 2012.

²² *Miranda v. People of the Philippines*, G.R. No. 176298, January 25, 2012.

²³ Revised Penal Code, Art. 8.

²⁴ *People v. Bustamante*, G.R. No. 172357, March 19, 2010, 616 SCRA 203, 216.

purposely waited for David and his companions out on the street as they came out of the wake. The witnesses testified that each of Nazareno and Saliendra took concerted steps aimed at killing or causing serious harm to David. Nazareno repeatedly struck David on the area of his neck with a stick; Saliendra hurled a fist-sized stone on his head. Even when David tried to flee, they still chased him and together with other *barangay tanods*, beat him to unconsciousness. Although Magallanes testified that Saliendra and Nazareno acted “quite differently” from each other before the attack,²⁵ their actions before and during the incident reveal a common purpose.²⁶ Saliendra appears to have delivered the fatal blow but Nazareno cannot escape liability because, in conspiracy, the act of one is the act of all.²⁷

Magallanes and Francisco saw the commission of the offense from different angles but the core of their stories remains cohesive. The result of the autopsy of David’s body corroborates such stories. True their accounts have certain inconsistencies but these do not weaken their credibility since they concurred on material points.²⁸ Rather, those small inconsistencies strengthened their credibility as they evince spontaneity and candor.²⁹ Completely uniform and identical statements manifest rehearsed testimonies.³⁰

Taken against these considerations, the Court cannot give credence to Nazareno’s defense of alibi. To be admissible, not only must he be at a different place during the commission of the crime, his presence at the crime scene must also be physically impossible.³¹ Here, Nazareno even admits that he encountered Saliendra, the accused who went into hiding, on the street and noticed the commotion.³²

²⁵ TSN, July 30, 1998, p. 231.

²⁶ *People v. Esoy*, G.R. No. 185849, April 7, 2010, 617 SCRA 552, 564.

²⁷ *People v. Rollan*, G.R. No. 175835, July 13, 2010, 625 SCRA 57, 63.

²⁸ *People v. Pajes*, G.R. No. 184179, April 12, 2010, 618 SCRA 147, 161.

²⁹ *People v. Miguel*, G.R. No. 180505, June 29, 2010, 622 SCRA 210, 227.

³⁰ *People v. Leonardo*, G.R. No. 181036, July 6, 2010, 624 SCRA 166, 197.

³¹ *People v. Estrada*, G.R. No. 178318, January 15, 2010, 610 SCRA 222, 233.

³² TSN, April 11, 2000, p. 295.

Two. The CA held that the killing of David should be characterized as one of murder qualified by abuse of superior strength. The Court finds no fault in this ruling. There is abuse of superior strength when the aggressors purposely use excessive force rendering the victim unable to defend himself.³³ The notorious inequality of forces creates an unfair advantage for the aggressor.

Here, Nazareno and Saliendra evidently armed themselves beforehand, Nazareno with a stick and Saliendra with a heavy stone. David was unarmed. The two chased him even as he fled from them. And when they caught up with him, aided by some unnamed *barangay tanods*, Nazareno and Saliendra exploited their superior advantage and knocked the defenseless David unconscious. He evidently died from head fracture caused by one of the blows on his head.

On the matter of penalty, the Court affirms the imposition of *reclusion perpetua*.³⁴ The Court retains the amount of ₱141,670.25 as actual damages.³⁵ But, consistent with current jurisprudence,³⁶ the Court is awarding ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages.

WHEREFORE, the Court **AFFIRMS** the assailed Decision of the Court of Appeals in CA-G.R. CR-H.C. 01308 dated December 17, 2010, that found Chito Nazareno guilty beyond reasonable doubt of the crime of murder qualified by abuse of superior strength in Criminal Case 94-133117.

The Court also **AFFIRMS** the penalty of *reclusion perpetua* imposed on accused Nazareno but **MODIFIES** the award of damages to ₱141,670.25

³³ *People v. Beduya*, G.R. No. 175315, August 9, 2010, 627 SCRA 275, 284.

³⁴ Republic Act 9346: “An Act Prohibiting the Imposition of Death Penalty in the Philippines,” approved on June 24, 2006.

³⁵ *Supra* note 2.

³⁶ *People v. Arbalate*, G.R. No. 183457, September 17, 2009, 600 SCRA 239, 255.

as actual damages, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages, and to pay the costs.

SO ORDERED.

ROBERTO A. ABAD
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

JOSE CATRAL MENDOZA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third 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.

MARIA LOURDES P. A. SERENO

Chief Justice

as actual damages, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages, and to pay the costs.

SO ORDERED.



ROBERTO A. ABAD

Associate Justice

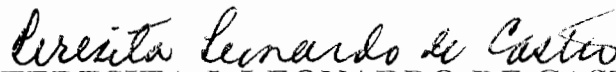
WE CONCUR:



PRESBITERO J. VELASCO, JR.

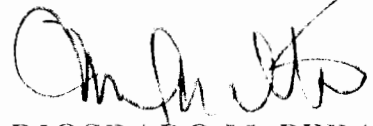
Associate Justice

Chairperson



TERESITA J. LEONARDO-DE CASTRO

Associate Justice



DIOSDADO M. PERALTA

Associate Justice



JOSE CATRAL MENDOZA

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.




PRESBITERO J. VELASCO, JR.

Associate Justice

Chairperson, Third 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.



MARIA LOURDES P. A. SERENO
Chief Justice