



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 197360

Present:

CARPIO, *J.*,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, *JJ.*

-versus-

RONALD CREDO aka "ONTOG,"
RANDY CREDO and ROLANDO
CREDO y SAN BUENAVENTURA,
Accused-Appellants.

Promulgated:

JUL 03 2013

X-----X

DECISION

PEREZ, *J.*:

This is an appeal from the Decision¹ of the Court of Appeals in CA-G.R. CR-HC No. 04113 promulgated on 28 February 2011. The decision of the Court of Appeals affirmed, with modifications, the Decision² dated 14 July 2009 of the Regional Trial Court, Branch 31, Pili, Camarines Sur, in Criminal Case No. P-3819 finding accused-appellants Ronald Credo a.k.a.

¹ Rollo, pp. 2-18; Penned by Associate Justice Ricardo R. Rosario with Associate Justices Hakim S. Abdulwahid and Samuel H. Gaerlan concurring.

² CA rollo, pp. 81-95.

“Ontog,” Randy Credo and Rolando Credo y San Buenaventura guilty beyond reasonable doubt of murder for the death of Joseph Nicolas.

Factual Antecedents

The amended Information³ filed against appellants reads:

That on June 22, 2005 at around 10:30 in the evening at Zone 4 Barangay San JOSE, Municipality of Pili, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there, with intent to take the life of JOSEPH NICOLAS Y arroyo (sic), willfully, unlawfully and feloniously attack and hack the latter with a bolo, wounding him in the different parts of the body, per autopsy report marked as Annex “A” hereof, thereby causing the direct and immediate death of said JOSEPH NICOLAS y ARROYO.

Abuse of superior strength being attendant in the commission of the crime, the same will qualify the offense committed to murder.

ACTS CONTRARY TO LAW.

Based on the respective testimonies of the witnesses for the prosecution, the following sequence of events was gathered:

On 22 June 2005, at around 10:30 in the evening, the victim, Joseph Nicolas (Joseph), was at a “*bingohan*” in Zone 3 of Brgy. San Nicolas, Pili, Camarines Sur, together with his wife Maria and friends Manuel Chica (Manuel) and Ramon Tirao. Randy Credo (Randy) arrived at the “*bingohan*,” approached Joseph and suddenly punched the latter on the chest, causing him to fall down. Randy then immediately ran away towards the direction of their house located at Zone 4. Joseph, on the other hand, stood up, gathered his things consisting of a lemon and an egg, and gave Randy a chase. The people at the “*bingohan*” all scampered away as a result of the commotion.⁴ Joseph’s friend Manuel proceeded towards Zone 3. There, he met Randy, who was already accompanied by his co-appellants: his brother Ronald Credo (Ronald) and their father Rolando Credo (Rolando). The three were each armed with a bolo.⁵

³ Dated 1 March 2006. Records, p. 138. Appellants were originally charged with homicide (see Information dated 7 July 2005. Records, p. 1). Although the original Information stated that the commission of the crime was attended by abuse of superior strength, this circumstance was alleged as an aggravating circumstance only. Hence, the filing of an amended information alleging abuse of superior strength as a circumstance qualifying the crime to murder.

⁴ *Rollo*, p. 4.

⁵ *Id.*

Meanwhile, when Joseph's children, Russel, Ramon, Roldan and Rea, heard that their father was in trouble, they decided to look for him in Zone 3. On their way, they met appellants, who suddenly started throwing stones at them, causing them to run away. Russel got separated from his siblings but he continued to look for his father. He came across appellants again in Zone 2 where he saw them hacking somebody with their bolos. That person later turned out to be their father. Russel saw that when all three appellants were done hacking their victim, Randy and Rolando went back to where the victim was lying and gave him another blow, saying in the Bicolano dialect, "*pang-dulce*" (for dessert).⁶

The scene was witnessed by another person, Francis Nicolas Credo (Francis), a resident of Zone 2.⁷ According to Francis, at the time of the incident, he was in his bedroom preparing to go to sleep when he heard a commotion outside his house. He heard Roger Credo, the brother of Randy and Ronald, shout: "*Tama na Manoy, gadan na!*" (Enough brother, he is already dead!) Upon hearing these words, Francis went out of the bedroom, proceeded to their sala and peeped through the jalousies of the sala window. He saw appellants, all armed with a bolo, repeatedly hacking Joseph to death.⁸ He saw the hacking incident very clearly because the place was lighted by a lamppost and the moon was shining brightly. Moreover, the distance between the crime scene and the window from where he was watching is only about 3 to 4 meters.⁹ Francis was able to note that Joseph was unarmed and was, in fact, holding a lemon in his right hand and an egg in his left hand.¹⁰

Joseph died on the same day of the incident. He obtained six (6) hack wounds: one on the right ear, two on the left scapular area, one on the lumbar area, one on the right forearm and another one on the left lateral neck area which, according to the doctor who conducted the autopsy on the body of Joseph, was the most fatal wound.¹¹

Rolando and Randy denied any participation in the hacking incident, claiming that it was Ronald alone who killed Joseph. They also claimed that the killing was done in defense of Ronald and Randy's mother whom Joseph was, at the time of the incident, about to hack.¹² Based on appellants' testimony, when Ronald heard of what happened between Randy and

⁶ Id. at 5; TSN, 26 May 2009, p. 5.

⁷ Id.

⁸ Id. at 5-6.

⁹ CA *rollo*, pp. 83 and 91. See also TSN, 12 November 2007, p. 4.

¹⁰ *Rollo*, p. 6

¹¹ Id.

¹² Id.

Joseph, Ronald left the house with a bolo in search of Joseph. When their parents learned that Ronald left to confront Joseph, they followed Ronald to the “bingohan.”¹³ Rina Credo Hernandez, sister of Ronald and Randy, testified that while their parents and Ronald were walking back towards their house from the “bingohan,” Joseph suddenly emerged from the back of their house with a bolo. She saw that Joseph was brandishing the bolo and was about to attack their mother so she shouted a warning to their mother. Ronald came to her rescue and attacked Joseph,¹⁴ resulting in the latter’s death.

Ruling of the Regional Trial Court

The trial court found that appellants conspired in the commission of the crime and that the killing of Joseph was attended by abuse of superior strength. Hence, on 14 July 2009, the trial court rendered its decision finding appellants guilty beyond reasonable doubt of the crime of murder, sentencing them to suffer the penalty of *reclusion perpetua*, and ordering them to pay the widow of Joseph the amounts of ₱14,000.00 as actual damages, ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages.¹⁵

Ruling of the Court of Appeals

On appeal, the Court of Appeals affirmed the judgment of conviction but modified the award of damages in the following manner: (1) civil indemnity was increased from ₱50,000.00 to ₱75,000.00; (2) the award of moral damages was likewise increased from ₱50,000.00 to ₱75,000.00; (3) the amount of exemplary damages was reduced from ₱50,000.00 to ₱30,000.00; and (4) temperate damages in the amount of ₱25,000.00 was imposed in place of actual damages.¹⁶

The Issues

In their Brief¹⁷ filed before the Court of Appeals, appellants prayed for their acquittal, pleading the following grounds:

¹³ CA rollo, pp. 85-86.

¹⁴ Rollo, p. 7.

¹⁵ CA rollo, p. 95.

¹⁶ Rollo, p. 17.

¹⁷ CA rollo, pp. 57-79.

I

THE TRIAL COURT GRAVELY ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE DEFENSE OF RELATIVES INTERPOSED BY ACCUSED-APPELLANT RONALD CREDO.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANTS ROLANDO CREDO AND RANDY CREDO [ARE] GUILTY OF THE CRIME CHARGED.

III

THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT THE TESTIMONIES OF THE PROSECUTION WITNESSES ARE FLAWED AND INCONSISTENT.

IV

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING ABUSE OF SUPERIOR STRENGTH AS QUALIFYING CIRCUMSTANCE DESPITE THE PROSECUTION'S FAILURE TO PROVE ITS ATTENDANCE.

Appellants subsequently filed a Supplemental Brief¹⁸ before this Court, alleging the following as additional assignment of errors:

[V]

THE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE ACCUSED-APPELLANTS CONSPIRED WITH EACH OTHER IN THE COMMISSION OF THE CRIME CHARGED.

[VI]

THE COURT OF APPEALS GRAVELY ERRED IN INCREASING THE AWARD OF CIVIL INDEMNITY FROM FIFTY THOUSAND PESOS (PHP50,000.00) TO SEVENTY-FIVE THOUSAND PESOS (PHP75,000.00).

Pending resolution of this appeal, the Court received a letter,¹⁹ dated 13 September 2011, from P/Supt. Richard W. Schwarzkopf, Jr., Officer-in-Charge, Office of the Superintendent, New Bilibid Prison, informing the Court that Rolando had died at the New Bilibid Prison Hospital on 23 June 2011. Attached to his letter was a certified true copy of the certificate of

¹⁸ *Rollo*, pp. 33-40.

¹⁹ *Id.* at 41.

death²⁰ of Rolando listing “Cardio respiratory Arrest” as the immediate cause of death.

As a consequence of Rolando’s death while this case is pending appeal, both his criminal and civil liability *ex delicto* were extinguished pursuant to Article 89 of the Revised Penal Code. The said provision of law states that criminal liability is totally extinguished by “the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment.”

This appeal shall, as a result, be decided as against Randy and Ronald only.

Our Ruling

The appeal has no merit.

At the outset, it bears repeating that factual findings of the trial court, when affirmed by the Court of Appeals, are generally binding and conclusive upon the Supreme Court.²¹ Except for compelling or exceptional reasons, such as when they were sufficiently shown to be contrary to the evidence on record, the findings of fact of the Regional Trial Court will not be disturbed by this Court.²² Thus, once a guilty verdict has been rendered, the appellant has the burden of clearly proving on appeal that the lower court committed errors in the appreciation of the evidence presented.²³ Here, there is no showing that the trial court or the Court of Appeals overlooked some material facts or committed any reversible error in their factual findings.

Trial court’s assessment of the credibility of a witness accorded great weight

Appellants claim that the respective testimonies of Russel and Francis were marked with several inconsistencies that cast doubt on their veracity, especially considering that they are the son and the nephew, respectively, of the victim. They noted that Francis narrated that after Ronald hacked Joseph, Rolando left with his wife followed by Ronald and Randy. Russel, on the

²⁰ Id. at 42.

²¹ *People v. Nazareno*, G.R. No. 196434, 24 October 2012, 684 SCRA 604, 608.

²² Id.; *People v. Mediado*, G.R. No. 169871, 2 February 2011, 641 SCRA 366, 368.

²³ *People v. Angelio*, G.R. No. 197540, 27 February 2012, 667 SCRA 102, 108.

other hand, testified that after the three appellants hacked the victim, Randy and Rolando went back to where the victim was lying down and gave him another blow, saying, “*pang-dulce*.” Moreover, Francis initially stated that after the hacking incident, the victim was left lying on the ground on his side. However, when again questioned by the court as to what he saw, Francis gave a different answer, saying that the victim was lying flat on the ground.²⁴

This Court is not persuaded.

Corollary to the principle that appellate courts generally will not interfere with the factual findings of the trial court is the rule that when the credibility of an eyewitness is at issue, due deference and respect is given by the appellate courts to the assessment made by the trial courts, absent any showing that the trial courts overlooked facts and circumstances of substance that would have affected the final outcome of the case.²⁵ “As consistently adhered to by this Court, the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various *indicia* available but not reflected on the record.”²⁶

We agree with the findings of both the trial court and the Court of Appeals which gave weight to the accounts of the two eyewitnesses, Russel and Francis. Their respective testimonies positively and categorically identified appellants as the perpetrators of the crime. Their statements on the witness stand also corroborate each other on material aspects. Both Russel and Francis testified that they saw the appellants hacking a man. Although Francis was able to immediately recognize the victim as Joseph, Russel was to learn only later on that the appellants’ victim was his own father. It is also worth noting that the statement of Russel and Francis claiming that all three of the appellants were holding a bolo at the time of the incident is corroborated by another witness: Manuel Chica. Manuel testified that after Randy and Joseph left the “*bingohan*,” he also left to follow the two. On his way, he met the three appellants all armed with a bolo.²⁷

²⁴ CA rollo, p. 76.

²⁵ *People v. Angelio*, supra note 23 citing *People v. del Rosario*, G.R. No. 189580, 9 February 2011, 642 SCRA 625.

²⁶ *People v. Dante Dejillo and Gervacio “Dongkoy” Hoyle, Jr.*, G.R. No. 185005, 10 December 2012.

²⁷ TSN, 6 December 2006, pp. 12-14.

The pertinent portions of the respective testimonies of Francis and Russel on the matter are as follows:

PROS. FAJARDO:

x x x x

Q Now, let's clarify, Mr. witness. If you could demonstrate actually the distance from where you are seated to anywhere of this courtroom, the place as you said the distance of that hacking incident happened [sic], can you do that?

x x x x

PROS. FAJARDO:

Three (3) meters.

ATTY. PREVOSA [counsel for the defense]:

Three (3) to four (4) meters, your Honor.

PROS. FAJARDO:

x x x x

Q You mentioned the person being hacked by three (3) persons, right?

[FRANCIS N. CREDO]

A Yes, your Honor.

Q **Who were these three (3) persons hacking this other person as you said?**

A **Rolando Credo, Ronald Credo, Randy Credo.**

Q Why were you able to identify Rolando, Ronald, Randy Credo?

A I was able to identify the accused because other than the light there is a moonlight so I clearly identified the three (3) persons.²⁸ (Emphases supplied)

x x x x

PROS. FAJARDO:

²⁸ TSN, 12 November 2007, p. 4.

Q Now, after you were stoned, what did you and your group do?

x x x x

[RUSSEL NICOLAS]

A We went on our separate way [sic] one of my brother Ramon went directly to our grandmother's house x x x and then I saw something.

Q What was that you saw?

A Then **I saw the three (3) Randy, Ontog, and Roland[o]** [sic].

Q Now, what did you observe when you saw this Randy, Rolando and Ontog?

A **I saw them hacking someone** but I was not able to eye that someone because I was not yet near them x x x. ²⁹
(Emphases supplied)

x x x x

It is worth mentioning as well that the following testimony of Russel confirms the statement of Francis that the hacking incident occurred just in front of their house,³⁰ giving him (Francis) a clear view of what transpired:

PROS. FAJARDO:

Q Now, in what particular place did you see Randy and Rolando and Ontog hacked [sic] this person?

[RUSSEL NICOLAS]

A In front of the house of Lolita Credo.

Q How is this Lolita Credo related to Francisco Credo?

A Lolita is the mother of Francisco.³¹

²⁹ TSN, 26 May 2009, p. 4-5.

³⁰ TSN, 12 November 2007, p. 3.

³¹ TSN, 26 May 2009, p. 5.

Both Francis and Russel likewise support each other's statement on the act of at least one of the appellants of going back to where Joseph was lying on the ground to give him another blow with a bolo. Thus:

PROS. FAJARDO:

x x x x

Q When you peeped to [sic] your window, jalousie window, what was Rolando Credo doing?

[FRANCIS N. CREDO]

A The three (3) of them hacked the man and the man fell on the ground, while on the ground **he was again hacked** on the head by Ronald Credo.³² (Emphasis supplied)

x x x x

PROS. FAJARDO:

x x x x

Q Now, what did you observe when you saw this Randy, Rolando and Ontog?

[RUSSEL NICOLAS]

A I saw them hacking someone but I was not able to eye that someone because I was not yet near them however, these Randy and Rolando **returned back and said "pang dulce" then hacked again.**³³ (Emphasis supplied)

x x x x

The inconsistency in the respective statements of Francis and Russel with respect to who among the three appellants actually dealt the final blow on the victim is understandable considering that they witnessed the scene from different vantage points. Francis definitely had a clearer view as he was nearer the scene of the crime (3-4 meters) whereas Russel was much farther as evidenced by the fact that from where he was watching, he was unable to recognize the victim as his father. All the same, both were one in saying that at least one of the appellants returned to where the victim was prostrate to give him another blow.

³² TSN, 12 November 2007, p. 4.

³³ TSN, 26 May 2009, p. 5.

The aforementioned inconsistency is, moreover, a minor detail that does not affect the credibility of Russel and Francis as eyewitnesses. Likewise, the other inconsistencies pointed out by appellants pertain “only to collateral or trivial matters and has no substantial effect on the nature of the offense.”³⁴ The primordial consideration is that both Russel and Francis were present at the scene of the crime and that they positively identified appellants as the perpetrators of the crime charged.³⁵ This Court has been consistent in ruling that “although there may be inconsistencies in the testimonies of witnesses on minor details, they do not impair their credibility where there is consistency in relating the principal occurrence and positive identification of the assailant.”³⁶

Finally, the attack of appellants on the credibility of Francis as a witness for the prosecution on the ground that the victim is the brother of Francis’ mother – making Francis the nephew of the victim – loses significance when the relationship of Francis with the appellants is considered: appellant Rolando is his uncle, being the brother of his father, thereby making appellants Randy and Ronald his first cousins. As held by the Court of Appeals:

Considering that appellants are also his close relatives, it is difficult to believe that Francis would point to appellants as the killers, if such were not true. Moreover, the lack of proof of ill-motive on the part of Francis, indicate that he testified, not to favor any of the parties in this case, but solely for the purpose of telling the truth and narrating what he actually witnessed. His testimony deserves full faith and credit.³⁷

***Requisites for valid defense
of a relative not present***

Randy contends that the trial court misconstrued the facts of this case when it held that the defense he interposed was self-defense. According to him, in view of the consistent and corroborating testimonies of the defense witnesses that he merely stepped-in to protect his mother from being hacked by the victim, the proper defense that should have been appreciated by the lower court is defense of relatives.

³⁴ *People v. Mamaruncas*, G.R. No. 179497, 25 January 2012, 664 SCRA 182, 194.

³⁵ *People v. Osias*, G.R. No. 88872, 25 July 1991, 199 SCRA 574, 585 citing *People v. Cacho*, No. 60990, 23 September 1983, 124 SCRA 671.

³⁶ *People v. Mamaruncas*, supra note 34 at 194-195 citing *People v. Bernabe*, G.R. No. 185726, 16 October 2009, 604 SCRA 216, 231.

³⁷ *Rollo*, p. 11.

This argument is untenable.

The following excerpts from the Transcripts of Stenographic Notes (TSNs) of this case categorically show that appellant Ronald interposed not just defense of relatives but self-defense as well:

1. TSN of 12 August 2008:

ATTY. PREVOSA [counsel for the defense]:

x x x. This witness [Flora O. Credo, mother of Randy and Ronald] will testify on the theory of self-defense of the accused, x x x.³⁸

2. TSN of 27 August 2008:

ATTY. PREVOSA:

The Witness [accused Rolando Credo] is being presented to testify [that] in order to safe [sic] himself and her [sic] mother, Ronald Nicolas [sic] was able to cause injury to Joseph Nicolas x x x.³⁹

3. TSN of 14 January 2009:

ATTY. PREVOSA:

We are offering the testimony of this witness [accused Ronald Credo] to prove the following;

That he was able to harm to death the private complainant [sic] Joseph Nicolasin [sic] order to defend himself, relatives and his own family, x x x.⁴⁰

Further, the following portions of the testimony of Flora Credo likewise clearly demonstrate that Ronald pleaded self-defense before the trial court:

THE COURT:

By the way, your son hacked for self-defense did you report that to the Police when you surrendered your son?

A No, your Honor, please.

³⁸ TSN, 12 August 2008, p. 2.

³⁹ TSN, 27 August 2008, p. 2.

⁴⁰ TSN, 14 January 2009, p. 3.

x x x x

Q You even surrendered your son to the Police so why did you not immediately tell the Police that your son killed Joseph Nicolas for self-defense?

A I said that, your Honor I directed that statement, your Honor.

x x x x

Q When did you right then and there that you surrendered you [sic] son to tell the Police he hacked for self-defense?

A Yes, your Honor.

x x x x

Q Do you have proof to show that indeed you informed the Police that your son the (sic) hacking is self-defense?

A Yes, your Honor.⁴¹

x x x x

Thus, appellant Ronald cannot now claim that the defense he pleaded is defense of relatives only and does not include self-defense and that the trial court misappreciated the facts of this case when it considered self-defense instead of defense of relatives.

In any case, even if the claim of defense of a relative is taken into consideration, the same would still not be valid.

Article 11 of the Revised Penal Code provides, in part, as follows:

ART. 11. *Justifying circumstances.* – The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

⁴¹ TSN, 12 August 2008, p. 20.

Third. Lack of sufficient provocation on the part of the person defending himself.

2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

X X X X

Based on the afore-quoted provision, both self-defense and defense of relatives require that unlawful aggression be present in order to be held valid. "For the accused to be entitled to exoneration based on self-defense or defense of relatives, complete or incomplete, it is essential that there be unlawful aggression on the part of the victim, for if there is no unlawful aggression, there would be nothing to prevent or repel. For unlawful aggression to be appreciated, there must be an actual, sudden and unexpected attack or imminent danger thereof, not merely a threatening or intimidating attitude."⁴²

As found by the trial court, there can be no unlawful aggression on the part of Joseph because at the time of the incident, he was only holding a lemon and an egg. According to the trial court, the fact that Joseph was unarmed effectively belied the allegation of Ronald that he was prompted to retaliate in self-defense when Joseph first hacked and hit him on his neck. The trial court further pointed out that if Joseph indeed hacked Ronald on the neck, "it is surprising that the latter did not suffer any injury when according to them (Ronald, Rolando and Flora Credo), Joseph was running fast and made a hard thrust on Ronald, hitting the latter's neck."⁴³

Since the criterion for determining whether there is a valid self-defense and a valid defense of relatives require that there be unlawful aggression perpetrated by the victim on the one making the defense or on his relative, it is safe to conclude that when the trial court held that there can be no valid self-defense because there was no unlawful aggression on the part of the victim, it was, in effect, likewise saying that there can be no valid defense of a relative for lack of an essential requisite. In other words, when the trial court made a ruling on the claim of self-defense, it, at the same time, also necessarily passed upon the issue of defense of a relative.

⁴² *People v. Caabay*, 456 Phil. 792, 820 (2003) citing *People v. Santos*, G.R. Nos. 99259-60, 255 SCRA 309 and *People v. Sarabia*, G.R. No. 106102, 29 October 1999, 317 SCRA 684.

⁴³ CA rollo, p. 92.

Appellants acted in conspiracy with one another in the execution of the crime

“Conspiracy is said to exist where two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Direct proof is not essential to prove conspiracy for it may be deduced from the acts of the accused before, during and after the commission of the crime charged, from which it may be indicated that there is a common purpose to commit the crime.”⁴⁴

In the present case, the prosecution witnesses were one in saying that prior to the hacking incident, they saw all three appellants walking together towards the direction of the “bingohan” and that all three were each carrying a bolo. Appellants, therefore, deliberately sought Joseph out to confront him about the altercation incident between him and Randy. Likewise, the two eyewitnesses confirm each other’s respective statements that all three appellants were armed with a bolo with which they repeatedly hacked the victim, who fell to the ground; after which, appellants left the scene of the crime.

While no evidence was presented to show that appellants met beforehand and came to an agreement to harm Joseph, their concerted acts before, during and after the incident all point to a unity of purpose and design. Indeed, “proof of a previous agreement and decision to commit the crime is not essential but the fact that the malefactors acted in unison pursuant to the same objective suffices.”⁴⁵ Such proof “may be shown through circumstantial evidence, deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused themselves when such lead to a joint purpose and design, concerted action and community of interest.”⁴⁶

Abuse of superior strength attended the commission of the crime

There is abuse of superior strength when the perpetrators of a crime deliberately used excessive force, thereby rendering the victim incapable of

⁴⁴ *People v. Campos*, G.R. No. 176061, 4 July 2011, 653 SCRA 99, 113 citing *People v. Pagalasan*, 452 Phil. 341, 363 and *People v. Martin*, G.R. No. 177571, 29 September 2008, 567 SCRA 42, 51.

⁴⁵ *People v. Agacer*, G.R. No. 177751, 14 December 2011, 662 SCRA 461, 470-471 citing *People v. Amodia*, G.R. No. 173791, 7 April 2009, 584 SCRA 518, 541.

⁴⁶ *People v. Mamaruncas*, supra note 34 at 199 citing *Mangangey v. Sandiganbayan*, G.R. Nos. 147773-74, 18 February 2008, 546 SCRA 51, 66.

defending himself.⁴⁷ “The notorious inequality of forces creates an unfair advantage for the aggressor.”⁴⁸

Here, there can be no denying that appellants took advantage of their superior strength to ensure the successful execution of their crime. This is evident from the fact that there were three of them against the victim who was alone. More importantly, their victim was unarmed while the three of them were each armed with a bolo.

Award of damages

In *People v. Anticamara*,⁴⁹ this Court laid down the standards in the proper award of damages in criminal cases, as follows:

x x x the award of civil indemnity is mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime. In *People v. Quiachon*, [the Court held that] even if the penalty of death is not to be imposed because of the prohibition in R.A. 9346, the civil indemnity of ₱75,000.00 is proper, because it is not dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense. As explained in *People v. Salome*, while R.A. No. 9346 prohibits the imposition of the death penalty, the fact remains that the penalty provided for by law for a heinous offense is still death, and the offense is still heinous. Accordingly, the award of civil indemnity in the amount of ₱75,000.00 is proper.

Anent moral damages, the same are mandatory in cases of murder, without need of allegation and proof other than the death of the victim. However, consistent with recent jurisprudence on heinous crimes where the imposable penalty is death but reduced to *reclusion perpetua* pursuant to R.A. No. 9346, the award of moral damages should be increased from ₱50,000.00 to ₱75,000.00.

Accordingly, the Court of Appeals was correct in increasing the lower court’s award of civil indemnity from ₱50,000.00 to ₱75,000.00. Regardless of the penalty imposed by the trial court, the correct amount of civil indemnity is ₱75,000.00, pursuant to the ratiocination of the Court in the above-cited case of *People v. Anticamara*.

⁴⁷ *People v. Nazareno*, supra note 21 citing *People v. Beduya*, G.R. No. 175315, 9 August 2010, 627 SCRA 275,284.

⁴⁸ *People v. Nazareno*, supra.

⁴⁹ G.R. No. 178771, 8 June 2011, 651 SCRA 489 519-520 citing *People v. Quiachon*, G.R. No. 170236, 31 August 2006, 500 SCRA 704, 719 and *People v. Salome*, G.R. No. 169077, 31 August 2006, 500 SCRA 659, 676.

The Court of Appeals, however, erred when it increased the amount of moral damages from ₱50,000.00 to ₱75,000.00. In accordance with the pronouncement of the Court in the *Anticamara Case*, the correct sum should be ₱50,000.00.

In connection with the award of exemplary damages, the Court of Appeals correctly reduced the amount from ₱50,000.00 to ₱30,000.00 in line with current jurisprudence.⁵⁰

Finally, pursuant to the ruling of the Court in *People v. Villanueva*,⁵¹ “when actual damages proven by receipts during the trial amount to less than ₱25,000, *as in this case*, the award of temperate damages for ₱25,000 is justified in lieu of actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds ₱25,000, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted.” As a result, the Court of Appeals likewise correctly held that, since the receipted expenses of Joseph’s family amounted to only ₱14,300.00, temperate damages in the amount of ₱25,000.00 in lieu of actual damages should be awarded.

WHEREFORE, the appeal is hereby **DENIED**. The Decision of the Court of Appeals dated 28 February 2011 in CA-G.R. CR-HC No. 04113, finding appellants Ronald, Randy and Rolando, all surnamed Credo, guilty beyond reasonable doubt of murder is **AFFIRMED** with the **MODIFICATION** that the award of moral damages is reduced from ₱75,000.00 to ₱50,000.00.

The appeal with respect to the deceased appellant Rolando Credo is **DISMISSED**.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

⁵⁰ *People v. Zapuiz*, G.R. No. 199713, 20 February 2013 and *People v. Pondivida*, G.R. No. 188969, 27 February 2013.

⁵¹ 456 Phil. 14, 29 (2003).

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

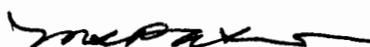
I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were 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