



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 210615

Present:

CARPIO, J., Chairperson,
PERALTA,
MENDOZA,
LEONEN, and
MARTIRES, JJ.

-versus-

ABENIR BRUSOLA y BARAGWA,
Accused-Appellant.

Promulgated:

~~26 JUL 2017~~
[Signature]

X-----X

DECISION

LEONEN, J.:

There is never any justification for a husband to hit his wife with a maso (mallet).

This resolves the appeal¹ of the Court of Appeals' July 17, 2013 Decision,² affirming the February 4, 2010 Decision³ of Branch 206, Regional Trial Court, Muntinlupa City, which found Abenir Brusola (Abenir) guilty beyond reasonable doubt of parricide under Article 246 of the Revised Penal Code. The trial court imposed the penalty of *reclusion*

¹ The appeal was filed under RULES OF COURT, Rule 124, sec. 13(c).
² *Rollo*, pp. 2-11. The Decision, docketed as CA-G.R. CR-HC No. 04419, was penned by Associate Justice Melchor Q.C. Sadang and concurred in by Associate Justices Celia C. Librea-Leagogo and Franchito N. Diamante of the Fifteenth Division, Court of Appeals, Manila.
³ CA *rollo*, pp. 15-27. The Decision, docketed as Criminal Case No. 06-650, was penned by Judge Patria A. Manalastas-De Leon of Branch 206, Regional Trial Court, Muntinlupa City.

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perpetua and ordered him to pay the children of the deceased the amount of ₱50,000.00 as indemnity and ₱50,000.00 as moral damages.⁴

In the Information dated July 14, 2006, accused-appellant Abenir was charged with the killing of his wife, Delia Brusola (Delia), as follows:

That on or about the 12th day of July 2006, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the husband of complainant DELIA BRUSOLA y RAMILO, now deceased, with intent to kill and with the use of ball hammer (maso), did then and there willfully, unlawfully and feloniously hit his said wife, DELIA BRUSOLA y RAMILO with the said ball hammer on her head, thereby causing fatal injury to the latter which directly caused her death.

Contrary to Law.⁵

On August 1, 2006, accused-appellant Abenir was arraigned and pleaded not guilty. After pre-trial, trial on the merits ensued.⁶

The prosecution's version of the events was as follows:

Abenir and Delia's children, Joanne, Abegail, and Kristofer,⁷ testified that they, together with their parents and other sister Jessica, were at home on July 12, 2006, at around 6:45 p.m. Their house was a one (1)-storey building and had an open sala, a kitchen, and one (1) bedroom. Kristofer was asleep in the bedroom. Joanne was eating with her back turned to her father, who was preparing for work. Jessica, Abegail, and Delia were watching the television, with Delia seated on the floor near the toilet. Joanne would occasionally glance at her father and noticed that he seemed restless. Suddenly, Joanne saw Abenir hit Delia on the head with a maso. A second blow hit the cement wall. Joanne yelled, "Tay!" and tried to pacify Abenir, asking why he did it. Abenir said he saw a man in the bathroom with Delia. Joanne looked in the bathroom but saw no one. Kristofer was awoken. When he emerged from the bedroom, he saw his father still holding the maso while his sisters Joanne and Abigail were attending to Delia, who was on the floor and had blood on her head. Kristofer held Abenir. Delia was rushed to the hospital by their neighbors. Joanne lost consciousness but arose when their neighbors massaged her head. Abenir was brought to the police station. The next day, their neighbor Joy Tabarno informed the Brusola siblings that Delia had passed away.⁸ Dr. Joseph

⁴ Id. at 26–27.

⁵ Id. at 15.

⁶ Id.

⁷ Id. at 16–20.

⁸ *Rollo*, p. 4.

Palmero, a medico-legal officer of the Philippine National Police Crime Laboratory in Camp Crame, testified on the cause of Delia's death.⁹

The defense's version of the events, as testified by Abenir, is as follows:

Abenir worked in Saudi Arabia as a mason, a steel man, and a pipe fitter from 1986 until he returned in 1992, when his sister informed him that Delia had a paramour. He and his family lived in Muntinlupa City while he worked for the Makati Development Corporation until 2001, when he moved them to Batangas where Delia's family could take care of them, considering that he was often at work. Sometime in September 2002, at around 2:00 a.m., he was on his way to their house in Batangas when he saw his brother-in-law on the road. When his brother-in-law saw him, he ran inside Abenir's house and re-emerged with a shirtless man. When Abenir went inside, he asked Delia why she was still awake and who the shirtless man was. Delia just nagged him so he slept as he was very tired. The following day, he went to the store, and some men mocked him. Abenir later asked Delia about the shirtless man again. Delia responded by throwing a glass at him. Thus, Abenir went back to Alabang in 2006 to avoid mockery and a fight with his brother-in-law.¹⁰

On the night of July 12, 2006, Abenir came home at around 7:00 p.m. or 8:00 p.m. Two (2) of his children were asleep and one (1) was watching the television. While Abenir was preparing things, Delia went outside. She appeared to be waiting for somebody. After taking a bath, she fixed her face. When Abenir asked if Delia was going somewhere, she said it was none of his business. Abenir went to the bathroom for his personal effects. While inside, he heard people talking outside and looked out through a crack in the plywood wall. He saw a man and a woman kiss and identified the woman as Delia, who told the man, "Huwag muna ngayon, nandiyan pa siya." The man embraced her, and groped her breast and private parts. Abenir picked up the maso, went outside, and approached them, who were surprised to see him. Abenir attacked the man who used Delia as a shield and pushed her toward Abenir, causing them to stumble on the ground. Delia went inside while Abenir chased the man. After a failed pursuit, he returned to the house where Joanne hugged him and inquired what happened. Abenir answered that Delia was having an affair. He noticed that Kristofer was carrying Delia whose head was bleeding. He instructed his children to take her to the hospital. He informed Joanne that he would surrender and asked his children to call the barangay officials and the police. He voluntarily went with the officers to the police station where he learned

⁹ Id. at 4-5.

¹⁰ Id. at 5-6.

that Delia was hit on the head. He asserted that he planned to attack the man whom he saw was with his wife but accidentally hit Delia instead.¹¹

In the Decision¹² dated February 4, 2010, the trial court found Abenir guilty beyond reasonable doubt of the crime charged. The dispositive portion read:

WHEREFORE, the Court finds accused Abenir Brusola y Baragwa GUILTY beyond reasonable doubt of the crime of parricide defined and penalized under Article 246 of the Revised Penal Code, and he is hereby sentenced to suffer the penalty of *reclusion perpetua*. The accused is likewise ordered to pay the children of the deceased, Delia Brusola y Ramilo, the amount of P50,000.00 as indemnity and P50,000.00 as moral damages.

In the service of his sentence, the accused shall be credited with the period of his preventive imprisonment.

SO ORDERED.¹³

Abenir appealed the trial court Decision to the Court of Appeals.¹⁴ He argued that there was inconsistency between the testimonies of Joanne and Abegail.¹⁵ Moreover, Joanne, the prosecution's lone eyewitness to the attack, purportedly had ill motive against him since he had opposed her plans of early marriage.¹⁶ Further, in imposing the penalty of *reclusion perpetua*, the trial court did not consider the mitigating circumstances of passion, obfuscation, and voluntary surrender.¹⁷

The Court of Appeals found no merit in Abenir's arguments. Thus, in the Decision¹⁸ dated July 17, 2013, the Court of Appeals affirmed the trial court's findings:

WHEREFORE, the appeal is DISMISSED. The Decision, dated February 4, 2010, of the Regional Trial Court of Muntinlupa City, Branch 206, in Criminal Case No. 06-650, is AFFIRMED in toto.

SO ORDERED.¹⁹

Abenir filed a Notice of Appeal. In compliance with its Resolution²⁰ dated August 23, 2013 which gave due course to accused-appellant Abenir's

¹¹ Id. at 6.

¹² CA *rollo*, pp. 15-27.

¹³ Id. at 26-27.

¹⁴ Id. at 34-45.

¹⁵ Id. at 41.

¹⁶ Id.

¹⁷ Id. at 43.

¹⁸ *Rollo*, pp. 2-11.

¹⁹ Id. at 11.

notice of appeal, the Court of Appeals elevated the records of this case to this Court. In the Resolution²¹ dated March 10, 2014, this Court directed both the Office of the Solicitor General and the Public Attorney's Office to file their respective supplemental briefs. Both parties filed their respective manifestations that they would not be filing supplemental briefs.²²

After considering the parties' arguments and the records of this case, this Court resolves to dismiss accused-appellant Abenir's appeal for failing to show reversible error in the assailed decision.

Article 246 of the Revised Penal Code provides:

Article 246. Parricide. – Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of *reclusion perpetua* to death.

The trial court appreciated the evidence presented by the parties, considered the credibility of their respective witnesses, and found that all the elements of the crime of parricide were sufficiently proved by the prosecution. There was no dispute as to the relationship between the accused-appellant and the victim.²³ As for the act of killing, the trial court held:

With respect to the killing by the accused of his wife, their daughter Joanne clearly testified that she suddenly saw her father hit the head of her mother with a small mallet. Joanne's straightforward and candid narration of the incident is regarded as positive and credible evidence, sufficient to convict the accused. Well settled is the rule that it is unnatural for a relative, in this case the accused's own child, who is interested in vindicating the crime, to accuse somebody else other than the real culprit. For her to do so is to let the guilty go free. Where there is nothing to indicate that witnesses were actuated by improper motives on the witness stand, their positive declarations made under solemn oath deserve full faith and credence.²⁴ (Citations omitted)

Thus, this Court quotes with approval the Court of Appeals' Decision:

It is hornbook doctrine that the findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect. Having seen and heard the witnesses and observed their behavior and manner of testifying, the trial court is deemed to have been in a better

²⁰ Id. at 1.

²¹ Id. at 17.

²² Id. at 20–22, OSG Manifestation submitted on May 22, 2014; *rollo*, pp. 23–25, PAO Manifestation submitted on May 30, 2014.

²³ CA *rollo*, p. 24.

²⁴ Id. at 24–25.

position to weigh the evidence. The reason for this is that trial courts have the unique opportunity to observe the witnesses first hand and note their demeanor, conduct, and attitude under grilling examination. Thus, the trial court's evaluation shall be binding on the appellate court unless it is shown that certain facts of substance and value have been plainly overlooked, misunderstood, or misapplied. There is no reason to deviate from the rule.

The alleged inconsistency in the testimonies of Joanne and Abigail does not affect the credibility of either witness. What Abigail [and] Joanne were actually doing at the precise moment that appellant struck his wife with a maso is absolutely insignificant and unsubstantial to merit consideration . . . Inconsistencies that refer only to minor details do not weaken the credibility of witnesses but are rather signs that the witnesses were not rehearsed.

What is important is that the prosecution witnesses were consistent on the principal occurrence and the identity of the accused. Thus, Joanne narrated in a direct and forthright manner how she saw appellant hit her mother with a maso on the head and her testimony is supported by the physical evidence of the injury sustained by the victim. While Abigail and Kristofer did not actually see appellant in the act of hitting their mother, nevertheless, they saw appellant holding the murder weapon and their mother fallen on the floor with a bloodied head immediately after the criminal act was committed . . .

The alleged ill motive of Joanne is hardly worthy of consideration and belief. Joanne and her siblings had lost their mother and they also stood to lose their father to prison, leaving them virtual orphans. Assuming that appellant had previously disapproved of Joanne's early marriage, such would not have been a sufficient motive for her to wrongly accuse her own father of a heinous crime . . .²⁵ (Citations omitted)

Moreover, the trial court properly sentenced accused-appellant Abenir to the penalty of *reclusion perpetua*. As appreciated by the Court of Appeals, where there are mitigating circumstances in a parricide case, the proper penalty to be imposed is *reclusion perpetua*.²⁶ In *People v. Sales*,²⁷ this Court explained:

As regards the penalty, parricide is punishable by *reclusion perpetua* to death . . . the presence of only one mitigating circumstance, which is, voluntary surrender, with no aggravating circumstance, is sufficient for the imposition of *reclusion perpetua* as the proper prison term. Article 63 of the Revised Penal Code provides in part as follows:

Art. 63. *Rules for the application of indivisible penalties.*

— . . .

²⁵ *Rollo*, pp. 8–9.

²⁶ See *People v. Arnante*, 439 Phil. 754 (2002) [Per J. Vitug, First Division], *People v. Joyno*, 364 Phil. 305 (1999) [Per J. Gonzaga-Reyes, En Banc].

²⁷ 674 Phil. 150 (2011) [Per J. Del Castillo, First Division].

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

....

3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

....

The crime of parricide is punishable by the indivisible penalties of *reclusion perpetua* to death. With one mitigating circumstance, which is voluntary surrender, and no aggravating circumstance, the imposition of the lesser penalty of *reclusion perpetua* and not the penalty of death on appellant was thus proper.²⁸ (Citation omitted)

Accused-appellant Abenir cited *People v. Genosa*²⁹ to support the imposition of a lower penalty in light of the mitigating circumstance.³⁰ True, this Court in *Genosa* applied Article 64 of the Revised Penal Code, instead of Article 63, to determine the penalty for parricide:

The penalty for parricide imposed by Article 246 of the Revised Penal Code is *reclusion perpetua* to death. Since two mitigating circumstances and no aggravating circumstance have been found to have attended the commission of the offense, the penalty shall be lowered by one (1) degree, pursuant to Article 64 of paragraph 5 of the same Code. The penalty of *reclusion temporal* in its medium period is imposable, considering that two mitigating circumstances are to be taken into account in reducing the penalty by one degree, and no other modifying circumstances were shown to have attended the commission of the offense. Under the Indeterminate Sentence Law, the minimum of the penalty shall be within the range of that which is next lower in degree — *prision mayor* — and the maximum shall be within the range of the medium period of *reclusion temporal*.

Considering all the circumstances of the instant case, we deem it just and proper to impose the penalty of *prision mayor* in its minimum period, or six (6) years and one (1) day in prison as minimum; to *reclusion temporal* in its medium period, or 14 years 8 months and 1 day as maximum. Noting that appellant has already served the minimum period, she may now apply for and be released from detention on parole.³¹ (Citations omitted)

However, there is no basis to apply Article 64 to the crime of parricide. Articles 63 and 64 of the Revised Penal Code provide:

Article 63. *Rules for the Application of Indivisible Penalties.* — In all cases in which the law prescribes a single indivisible penalty, it shall be

²⁸ Id. at 166.

²⁹ 464 Phil. 680 (2004) [Per J. Panganiban, En Banc].

³⁰ CA rollo, pp. 76–77, Brief for the Accused-appellant.

³¹ *People v. Genosa*, 464 Phil. 680, 746–747 (2004)[Per J. Panganiban, En Banc].

applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.
3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.
4. When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.

Article 64. Rules for the Application of Penalties Which Contain Three Periods. — In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of articles 76 and 77, the courts shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.
 2. When only a mitigating circumstance is present in the commission of the act, they shall impose the penalty in its minimum period.
 3. When only an aggravating circumstance is present in the commission of the act, they shall impose the penalty in its maximum period.
 4. When both mitigating and aggravating circumstances are present, the court shall reasonably offset those of one class against the other according to their relative weight.
 5. When there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable, according to the number and nature of such circumstances.
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6. Whatever may be the number and nature of the aggravating circumstances, the courts shall not impose a greater penalty than that prescribed by law, in its maximum period.
7. Within the limits of each period, the courts shall determine the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater or lesser extent of the evil produced by the crime.

Considering that the penalty for parricide consists of two (2) indivisible penalties—*reclusion perpetua* to death—Rule 63, and not Rule 64, is applicable. Thus, the penalty of *reclusion perpetua* was properly imposed.

In line with current jurisprudence,³² the civil indemnity and the moral damages awarded to the victim's children are increased to ₱75,000.00 each and ₱75,000.00 as exemplary damages is added.

The promise of forever is not an authority for the other to own one's spouse. If anything, it is an obligation to love and cherish despite his or her imperfections. To be driven to anger, rage, or murder due to jealousy is not a manifestation of this sacred understanding. One who professes love should act better than this. The accused-appellant was never entitled to hurt, maim, or kill his spouse, no matter the reasons. He committed a crime. He must suffer its consequences.

WHEREFORE, this Court **ADOPTS** the findings of fact and conclusions of law of the Court of Appeals in its July 17, 2013 Decision in CA-G.R. CR-HC No. 04419. Accused-appellant Abenir Brusola y Baragwa is **GUILTY** beyond reasonable doubt of parricide under Article 246 of the Revised Penal Code, as amended, and is sentenced to *reclusion perpetua*. The assailed decision is **AFFIRMED with MODIFICATION** in that the heirs of the victim are entitled to ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. The award of damages shall earn interest at the rate of six percent (6%) per annum from the date of finality of the judgment until fully paid.

SO ORDERED.

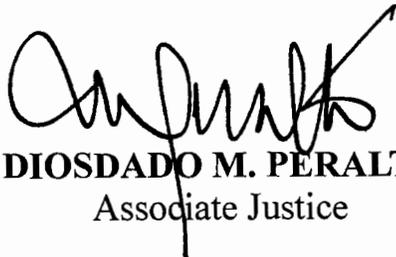

MARVIC M.V.F. LEONEN
Associate Justice

³² *People v. Jugueta*, G.R. No. 202124, April 5, 2016, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/202124.pdf>> [Per J. Peralta, En Banc].

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



JOSE CAYRAL MENDOZA
Associate Justice



SAMUEL R. MARTIRES
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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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