

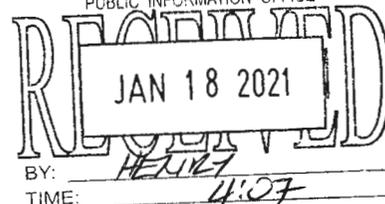


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated July 1, 2020, which reads as follows:

“G.R. No. 243025 (People of the Philippines, Plaintiff-Appellee, v. Dante Qunito y San Juan, Allan Qunito y Verganio, Minda Qunito y Barrameda, Accused, Dante Qunito y San Juan, Accused-Appellant). – In this appeal, accused-appellant assails the 18 June 2018 Decision¹ promulgated by the Court of Appeals (CA) in CA-G.R. CR-HC No. 09294, which affirmed his conviction for the crime of murder of Elizardo Cuela (Elizardo) under Article 248 of the Revised Penal Code (RPC).

Antecedents

Accused-appellant, together with Allan Qunito y Verganio (Allan) and Minda Qunito y Barrameda (Minda), was charged with the crime of Murder under Article 248 of the Revised Penal Code (RPC), as amended, in an Information, which reads:

That on or about 5:30 o'clock in the afternoon of May 8, 2008 at Purok 4, Brgy. Dalas, municipality of Labo, province of Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill, with treachery, taking advantage of superior strength, with evident premeditation, cruelty and ignominy and with deliberate intent to take the life of ELIZARDO CUELA y BERMAS, did, then and there willfully, unlawfully and feloniously attack, assault, hurl stone, shoot and hack the latter using a stone, unknown handgun and bolo, inflicting on him gunshot wounds, multiple hack wounds and other kinds of injury at the different parts of his body, causing his instantaneous death, to the damage and prejudice of the heirs of the victim.

¹ *Rollo*, pp. 2-26; penned by Associate Justice Stephen C. Cruz and concurred in by Presiding Justice Romeo F. Barza and Associate Justice Carmelita Salandanan Manahan of the First Division, Court of Appeals, Manila.

CONTRARY TO LAW.²

During arraignment, accused-appellant pleaded "not guilty" to the charge against him, while Allan and Minda remain at-large. Pre-trial and trial on the merits ensued thereafter.³

Version of the Prosecution

Jennifer Cuela (Jennifer), daughter of the victim, was presented as prosecution witness. According to Jennifer, she was with her father, Elizardo, at their house at around 5:30 pm on 08 May 2008. Her father smelled of liquor so she asked him to go to sleep. While they were about to enter their house, accused-appellant arrived with a bolo in his hand and loudly challenged Elizardo to a fight. Elizardo then took a bamboo stick used to get coconuts, went out to confront accused-appellant, and a tussle for the bamboo stick ensued.

Allan, accused-appellant's son, arrived at the scene together with his wife, Minda. The husband and wife started throwing stones at Elizardo but the latter evaded the attack. Minda then handed a short gun to Allan, who missed his shot when he fired at Elizardo. Meanwhile, having lost his grasp of the bamboo stick, accused-appellant threw a stone at Elizardo, close range. When the stone hit Elizardo on his left forehead, he turned around and fell on the ground. Accused-appellant saw this opportunity to hack Elizardo with the bolo on different parts of the body such as arms, hands, body, legs and thigh. Thereafter, Allan approached Elizardo and shot him on the left part of the chest, while accused-appellant continuously hacked Elizardo. Afterwards, accused-appellant, Allan and Minda ran away. Accused-appellant also turned around, brandished the bolo to Jennifer and then left. Injured and bloodied, Elizardo was brought to the hospital, which refused admittance because Elizardo was already dead upon arrival.⁴

The prosecution also offered the testimony of Fernando Barnido (Barnido) who corroborated Jennifer's account of the events. In addition, Barnido claimed that he heard two (2) shots but only one (1) hit Elizardo. The first shot was fired after accused-appellant threw a stone upon Elizardo when the latter came out of his house. The second shot was made when the victim was already lying down from the stoning and hacking. Other than himself, he confirmed the presence of the three (3) accused, the child of the victim and other bystanders, who were hiding, during the incident. Both Jennifer and Barnido identified accused-appellant in open court.⁵

² Records, p. 1.

³ Rollo, p. 4.

⁴ Id. at 4-5.

⁵ Id. at 6-8.

Nenita Cuela (Nenita), wife of Elizardo, testified to spending the following amounts due to Elizardo’s death: Php15,000.00 as burial expenses, Php500.00 for the burial lot, Php12,000.00 for the wake, Php7,500.00 for the cadaver, and Php1,800.00 for mourning expenses.⁶ Nenita further clarified on cross-examination that there was no altercation between accused-appellant and Elizardo right before the incident. In 2006, accused-appellant and Elizardo figured in a squabble where accused-appellant allegedly stabbed Elizardo in a *videoke* house. She, however, maintained they have no grudge against accused-appellant before Elizardo’s death.⁷

Version of the Defense

Accused-appellant denied the charges against him. He recalls being on his way home from a coconut farm on 08 May 2008 at around 5:30 p.m. when Elizardo suddenly blocked his way and pointed a spear at him. He stepped back but Elizardo moved forward thereby giving him the impression that the latter will kill him. While the spear was pointing to the ground, Elizardo retrieved a gun from his waist. Hence, accused-appellant approached Elizardo and hacked him using a bolo he had with him at that time. He cannot remember how many times he hacked Elizardo since it happened so fast. After the attack, he managed to grab Elizardo’s gun and shoot the victim when the latter was about to stand up and approach him. Feeling afraid, he ran away and went into hiding.⁸

On 23 March 2017, the Regional Trial Court (RTC) rendered judgment finding accused-appellant guilty of the crime of murder, *viz*:

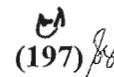
WHEREFORE, premises considered, the prosecution having been established (sic) the guilt of the accused beyond reasonable doubt, this Court finds accused, **DANTE QUINTO y SAN JUAN, GUILTY of the crime of MURDER**, and he is hereby sentenced to suffer the penalty of **reclusion perpetua**.

Likewise, the accused is ordered to pay the heirs of the victim the following, to wit:

- | | | |
|----|--------------------|--------------|
| 1. | Moral damages - | ₱ 100,000.00 |
| 2. | Civil Indemnity - | 100,000.00 |
| 3. | Exemplary damages- | 100,000.00 |

Considering that accused ALLAN QUINTO y VERGANIO and MINDA QUINTO y BARRAMEDA are still at-large, let a WARRANT be issued for their arrest.

⁶ Id. at 8.
⁷ Id.
⁸ Id. at 10-11.


(197)

SO ORDERED.⁹

The RTC found all the elements of murder present in this case. The testimonies of the prosecution witnesses, which recounted how accused-appellant killed Elizardo, were credible and worthy of belief. Accused-appellant even admitted he hacked the victim several times. Moreover, treachery and evident premeditation attended the killing of Elizardo.¹⁰

The CA affirmed accused-appellant's conviction for murder in a Decision dated 18 June 2018, to wit:

WHEREFORE, the instant appeal is hereby **DENIED**. The Judgment promulgated on March 23, 2017 by the Regional Trial Court of Labo, Camarines Norte, Branch 64, in Criminal Case No. 08-1640, finding Dante Quinito y San Juan guilty beyond reasonable doubt, as principal, in the crime of *Murder*, is hereby **AFFIRMED with MODIFICATION**. Accordingly, all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.

SO ORDERED.¹¹

Issues

Accused-appellant argues that his plea for self-defense should have been appreciated by the courts. Moreover, the elements of treachery, evident premeditation and abuse of superior strength were not proven in this case. The courts also erred when they gave full credence to the factual narration of the prosecution witnesses whose testimonies were marred by inconsistencies.¹²

Ruling of the Court

The appeal lacks merit.

Accused-appellant failed to establish the requisites for a valid self-defense

Self-defense, as a justifying circumstance that exonerates criminal liability, requires the following essential elements: (1) unlawful aggression on

⁹ CA rollo, p. 51.

¹⁰ Id. at 46-51.

¹¹ Rollo, p. 25.

¹² CA rollo, pp. 27-38.

the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense. Otherwise stated, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack. If invoked by the accused, the burden of proof is shifted unto him to prove by credible, clear and convincing evidence that the killing was justified and did not result to criminal liability on his part. He must, therefore, rely on the strength of his own evidence and not on the weakness of the prosecution for, even if the prosecution evidence is weak, it cannot be disbelieved after the accused himself has admitted the killing.¹³

In the case at bar, petitioner failed to establish the element of unlawful aggression on the part of the victim. The prosecution witnesses were one in their testimony that accused-appellant and his co-accused went to Elizardo's house, challenged him to a fight, and waited outside his house to attack him. By these accounts, there was provocation on the part of accused-appellant thereby negating the presence of self-defense.

The Court sees no reason to depart from the findings of both the trial and appellate court, especially on their decision to give credence to the version of the prosecution. After all, the assessment of the credibility of a witness is best left to the trial court, most especially when affirmed by the CA, as the trial court had the unique opportunity to observe the witness' deportment and demeanor on the witness stand.¹⁴

Besides, the medico-legal report shows the victim to have sustained six (6) hacked wounds, three (3) stab wounds, one (1) gunshot wound and abrasions. Most of the hacked wounds and stab wounds were deep and of such force as to result to bone fractures thereby reflecting a determined effort to kill and not just to defend. Verily, the nature, number and location of wounds¹⁵ sustained by Elizardo support the prosecution's version of events and disprove the claim that accused-appellant merely acted in self-defense.

Even with accused-appellant's version of events, the element of unlawful aggression remains lacking. Actual or material unlawful aggression means "an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury." Meanwhile, to be considered imminent unlawful aggression, the attack must

¹³ *Dela Cruz v. People*, 747 Phil. 376-397 (2014); G.R. No. 189405, 19 November 2014, 741 SCRA 97, 106.

¹⁴ *People v. Ascarraga*, G.R. No. 222337, 23 July 2018.

¹⁵ *CA rollo*, pp. 44-45.

be impending or at the point of happening and must not be imagined. It must be offensive and positively strong such as aiming a revolving at another with intent to shoot or brandishing a knife and making a motion as if to attack, and not merely a threatening attitude.¹⁶

However, Elizardo's purported action, as narrated by accused-appellant, cannot be considered actual unlawful aggression since the former never made an actual attack against accused-appellant. Neither can Elizardo's act of pointing a spear at accused-appellant, moving towards him, and retrieving a gun in his waist be considered as imminent unlawful aggression since said actuations did not in any way put real peril in the life or personal safety of accused-appellant.

With accused-appellant's failure to prove the claim of self-defense, his conviction naturally follows from his admission as author of the crime.

*Abuse of superior strength qualified
the killing into murder*

The RTC and the CA both appreciated the presence of treachery in the case resulting to accused-appellant's conviction for murder. However, a review of the records fails to convince the Court that treachery attended the killing of Elizardo.

"Treachery is present when the attack was carried out in a swift, deliberate, and unexpected manner, the purpose of which is to deny the victim of any opportunity to defend himself or herself. To sustain a finding of treachery, it must be shown that the offender must have planned the mode of attack to ensure its execution without exposing himself to any danger which may come from the victim's act of retaliation or self-defense."¹⁷

It must be noted that when accused-appellant challenged Elizardo to a fight, the latter acceded and armed himself with a bamboo stick. Elizardo was very well aware of the bout he was about to face and even had the opportunity to bring a weapon himself. In this regard, accused-appellant did not plan and adopt a mode of attack, which ensured execution without exposing himself to any danger from a possible act of retaliation seeing as how Elizardo had, in fact, retaliated and struggled with accused-appellant.

Nonetheless, the Court rules that abuse of superior strength is present

¹⁶ *People v. Olarbe*, G.R. No. 227421, 23 July 2018, 873 SCRA 318.

¹⁷ *People v. Enojo*, G.R. No. 240231, 27 November 2019.

and could be appreciated as a qualifying circumstance against accused-appellant considering how it is no longer absorbed by the disproved presence of treachery.

Abuse of superior strength is present whenever there is a notorious inequality of forces between the victim and the aggressor, who purposely sought or took advantage of the superiority of strength. "To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked. The appreciation of this aggravating circumstance depends on the age, size, and strength of the parties."¹⁸ It does not always mean numeral superiority, but depends upon the relative strength of the aggressor *vis-à-vis* the victim. More importantly, the assailants should have taken advantage of their combined strength to consummate the offense.¹⁹

Here, Jennifer's testimony undoubtedly detailed how accused-appellant, together with his co-accused, took advantage of their combined strength in attacking Elizardo, *viz*:

Q What happened next?

A **I saw my father and Dante Quinito pulling each other (sic) the bamboo stick that my father took from our house, mam.**

Q **While they were doing that what did Allan Quinito do if any?**

A **Allan stoned my father.**

Q Was your father hit by the stoning made by Allan Quinito?

A He was not hit, mam.

Q And then what happened next?

A **I saw Minda Quinito handed (sic) a gun to her husband Allan Quinito, mam.**

X X X

Q **What did Allan Quinito do with the short fire arm handed to him by his wife Minda Quinito?**

A **He shot my father but my father was not hit in the first shot aimed by Allan Quinito to him.**

Q **What happened next?**

¹⁸*People v. Beduya*, 641 Phil. 399-416 (2010); G.R. No. 175315, 09 August 2010, 627 SCRA 275, 284-285.

¹⁹*People v. Loreto*, 446 Phil. 592-615 (2003); G.R. No. 137411-13, 28 February 2003, 398 SCRA 448, 462.

A **Dante Quinito lost grasp on the bamboo and stoned my father who was hit in the very close range and my father hit (sic) on the left forehead.**

X X X

Q **And then when your father was hit on the forehead by the stoning done by Dante Quinito, what happened to your father?**

A **After he was hit by the stoning on the left forehead he turned around and fell on the floor, mam.**

Q **And when your father was already prostrate on the ground, what happened next?**

A **He hacked my father, mam.**

Q **Who hacked your father when he was already prostrate on the ground?**

A **Dante Quinito, mam.**

Q **[With] The bolo he was holding?**

A **Yes, mam.**

X X X

Q **And when your father was repeatedly hacked and hit on the different parts of the body by the bolo of Dante Quinito, what happened next?**

A **Allan Quinito go (sic) near my father and shoot him, mam.**

X X X

Q **And then after your father was shot on the left chest by Allan Quinito, what happened next?**

A **He continuously hacked my father, mam.**

Q **Who continuously hacked your father?**

A **Dante Quinito, mam.²⁰ (Emphasis supplied)**

As can be gleaned from the above testimony, the simultaneous attacks of accused-appellant and his co-accused, coupled with their exact timing for the efficient use of their weapons, greatly overpowered Elizardo. While accused-appellant was pulling the bamboo stick held by Elizardo, Allan and Minda were throwing stones at the victim. When Allan resorted to shooting Elizardo, accused-appellant was, in turn, the one throwing stones at the victim. When Elizardo fell down and was already helpless, he was

²⁰ TSN, 12 November 2009, pp. 10-13.

repeatedly hacked by accused-appellant while Allan shot him at close range. Accused-appellant and his co-accused clearly used excessive force against the already unarmed and defenseless Elizardo. Taking into account the number of assailants, their weapons, and their concerted and tuned attacks, the Court finds the killing of Elizardo to be qualified by abuse of superior strength.

All things considered, the CA correctly adjudged accused-appellant's criminal liability for murder. However, we deem it proper to modify the amount of damages awarded by reducing the amount of civil indemnity, moral damages and exemplary damages to Php75,000.00 to conform to recent jurisprudence.²¹ We also note that the decisions of the lower courts contained no treatment of actual damages, which the Court cannot now dwell upon. Nonetheless, temperate damages of Php25,000.00 should be allowed in accordance with Article 2224 of the Civil Code.²² Since the case records do not contain any receipt to substantiate burial and other related expenses, temperate damages are warranted, for it is unfair to deny to the surviving heirs of the victim the compensation for such expenses as actual damages.²³

WHEREFORE, the Court hereby **AFFIRMS** with **MODIFICATION** the Decision dated 18 June 2018 promulgated by the Court of Appeals in CA-G.R. CR-HC No. 09294, convicting Dante Qunito y San Juan for the crime of murder, and sentencing him to suffer the penalty of *reclusion perpetua*. He is **ORDERED** to pay the heirs of Elizardo Cuela y Bermas civil indemnity, moral damages, and exemplary damages in the amount of Php75,000.00 each, as well as temperate damages amounting to Php25,000.00. These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.²⁴

SO ORDERED.”

Very truly yours,

Mi SPDC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *10/13/21*

²¹ *People v. Jugueta*, G.R. No. 202124, 05 April 2016, 788 SCRA 331, 382.

²² Article 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be provided with certainty.

²³ *Barut v. People*, 744 Phil. 20-30 (2014); G.R. No. 167454, 24 September 2014, 736 SCRA 313, 323-324.

²⁴ *Nacar v. Gallery Frames*, G.R. No. 189871, 13 August 2013.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 64, Labo, Camarines Norte
(Crim. Case No. 08-1640)

Mr. Dante SJ. Quinito
Accused-Appellant
c/o The Superintendent
Labo, 4604 Camarines Norte

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

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