



Republic of the Philippines  
**Supreme Court**  
Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division

SEP 08 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 213601**

Present:

VELASCO, JR., J.,  
*Chairperson,*  
PERALTA,  
PEREZ,  
REYES, and  
CAGUIOA,\* JJ

*-versus-*

**FRANKIE GERERO, ROLITO GERERO y**  
**ARMIROL, CHRISTOPHER GERERO,**  
**ALFIE ESPINOSA y MENDEZ and**  
**RENATO BARTOLOME y JAIME,**  
Accused,

Promulgated:

July 27, 2016  
*Wilfredo V. Lapitan*

**ROLITO GERERO y ARMIROL, ALFIE**  
**ESPINOSA y MENDEZ and RENATO**  
**BARTOLOME y JAIME**  
Accused-Appellants.

X-----X

**RESOLUTION**

**PEREZ, J.:**

Before us on appeal is the Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CR-HC No. 05834 dated 24 March 2014 which dismissed the appeal of appellants Rolito Gerero y Armirol (Rolito), Alfie Espinosa y Mendez (Alfie) and Renato Bartolome y Jaime (Renato) and affirmed with modification the Judgment<sup>2</sup> dated 16 November 2010 of the Regional Trial

\* Additional Member per Raffle dated 13 June 2016.

<sup>1</sup> Rollo, pp. 2-11; Penned by Associate Justice Florito S. Macalino with Associate Justices Sesinando E. Villon and Eduardo B. Peralta, Jr. concurring.

<sup>2</sup> Records, pp. 291-303; Presided by Judge Josephine Zarate Fernandez.

Court (RTC) of San Mateo, Rizal, Branch 76, in Criminal Case No. 6666 finding appellants guilty beyond reasonable doubt of the crime of Murder.

Appellants, together with the other accused murder were charged in an Information, to wit:

That on or about the 8<sup>th</sup> day of October 2002, in the Municipality of Rodriguez, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one alias Rene Demonyo, whose true name, identity and present whereabouts is still unknown, while armed with and using bolos and a firearm, with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault, hack and stab one Robert Glee y Gubat, hitting the latter in different parts of his body and neck, thereby inflicting upon him fatal injuries which caused his death soon thereafter, the said killing attended by the **qualifying circumstances of treachery, evident premeditation, outraging or scoffing at the person or corpse by decapitating the victims (sic) head, with the aid of armed men and abuse of superior strength which changes (sic) the nature of the felony qualifying such killing to the more serious Capital Crime of Murder aggravated by the circumstances of having committed the crime in an uninhabited place, cruelty and ignominy.**<sup>3</sup>

All of the accused, except for Frankie Gerero (Frankie) were arrested in 2005. Upon arraignment, they all entered a “not guilty” plea. Accused-appellants pleaded not guilty to all the charges. At the pre-trial conference, the parties stipulated that on the 8<sup>th</sup> day of October 2002, all of the accused were in Sitio Calumpit, Barangay Macabud, Rodriguez, Rizal.<sup>4</sup>

The prosecution’s version goes: The victim, Robert Glee (Robert) and his wife, Marilyn were having lunch in their house at the Watershed Compound of La Mesa Dam when they heard the five accused challenge Robert to a fight. Before Robert could act, the five accused barged into the house and simultaneously hacked Robert with their bolos. Robert managed to run out of the house but the accused caught up with him inside a *carinderia*. Thereat, they resumed in hacking him until his head was decapitated. Frankie then threw Robert’s head into the mud.<sup>5</sup> Marilyn claimed that Frankie and Alfie were her husband’s co-workers and Robert was killed out of envy.<sup>6</sup>

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<sup>3</sup> Id. at 1.

<sup>4</sup> Id. at 95-97.

<sup>5</sup> TSN, 12 October 2006, pp. 3-7 and 12.

<sup>6</sup> Records, p. 292.

Renato, Frankie and Christopher Gerero (Christopher) are related to each other. Frankie is Renato's nephew while Christopher is his grandson. The defense version is that on the date of the incident, Renato ordered his fourteen year-old grandchild Christopher to cook rice while he went to the nearby store to buy food. Upon reaching the store, Renato recounted that he saw Frankie, Alfie, Rolito, and Robert in a drinking spree. He then witnessed Frankie attack Robert. Renato immediately fled.<sup>7</sup> Rolito claimed that Frankie and Robert were arguing over their work when Frankie suddenly stabbed Robert. Rolito immediately left the place of incident for fear of being implicated in the crime.<sup>8</sup> Alfie corroborated Rolito's testimony.

On 16 November 2010, all the accused, except for Christopher were found guilty beyond reasonable doubt of Murder. The dispositive portion of the RTC Decision reads:

**WHEREFORE**, judgment is hereby rendered finding accused(s) Rolito Gerero y Armirol, Alfie Espinosa y Mendez and Renato Bartolome y Jaime **GUILTY** beyond reasonable doubt of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code, as amended and sentencing each to suffer the penalty of *Reclusion Perpetua* and to indemnify the heirs of the victim in the amount of Php 50,000.00 as death indemnity and Moral damages in the amount of Php 50,000.00. No pronouncement as to cost.

Accused (s) Rolito Gerero y Armirol, Alfie Espinosa y Mendez and Renato Bartolome y Jaime are to be credited for the time spent for their preventive detention in accordance with Art. 29 of the Revised Penal Code as amended by R.A. 6127 and E.O. 214.

Accused(s) Rolito Gerero y Armirol, Alfie Espinosa y Mendez and Renato Bartolome y Jaime are hereby committed to the National Bilibid Prisons in Muntinlupa City for service of sentence.

Considering that accused Frankie Gerero remains at large, let an Alias Warrant of Arrest be issued against him. In the meantime, send the instant case to the archives pending his apprehension.<sup>9</sup>

On appeal, the Court of Appeals rendered the assailed decision dated 24 March 2014 affirming with modification the trial court's judgment. The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the instant Appeal is hereby **DENIED**. Accordingly, the 16 November 2010 Decision of the Regional

<sup>7</sup> TSN, 24 September 2009, pp. 3-11.

<sup>8</sup> TSN, 4 February 2009, pp. 4-6.

<sup>9</sup> Records, pp. 302-303.

Trial Court of San Mateo, Rizal, Branch 76 in Criminal Case No. 6666 is **AFFIRMED WITH MODIFICATION**. Accused-Appellants are hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. Further, in addition to moral damages awarded by the trial court in the amount of Php 50,000.00, Accused-Appellants are ordered to pay the heirs of the victim death indemnity in the increased amount of Php75,000.00 and exemplary damages in the amount of Php30,000.00. All damages awarded shall earn interest at the rate of 6% per *annum* from the date of finality of this judgment until fully paid.<sup>10</sup>

Appellants filed the instant appeal. In a Resolution<sup>11</sup> dated 19 November 2014, appellants and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Appellants and the OSG manifested that they would no longer file a Supplemental Brief.<sup>12</sup>

Appellants contend that conspiracy in the commission of the crime was not established. Appellants also aver that abuse of superior strength and evident premeditation were not proven by the prosecution to qualify the crime to murder.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The essence of conspiracy is the unity of action and purpose. Its elements, like the physical acts constituting the crime itself, must be proved beyond reasonable doubt. When there is conspiracy, the act of one is the act of all. Conspiracy can be inferred from and established by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interests. However, in determining whether conspiracy exists, it is not sufficient that the attack be joint and simultaneous for simultaneousness does not of itself demonstrate the concurrence of will or unity of action and purpose which are the bases of the responsibility of the assailants. What is determinative is proof establishing that the accused were animated by one and the same purpose.<sup>13</sup>

The lower courts found conspiracy among the accused. The accused had acted in concert in barging into the house of the victim. Two men entered through the front door while three of them used the back door. They jointly attacked Robert using their bolos. When Robert managed to run out

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<sup>10</sup> Rollo, p. 10.

<sup>11</sup> Id. at 18-19.

<sup>12</sup> Id. at 20-21 and 24-26.

<sup>13</sup> *Quidet v. People*, 632 Phil. 1, 12 (2010).

of the house, he was chased by these men until they caught him and started decapitating his head. The Court of Appeals correctly found conspiracy in these acts, thus:

x x x Where conspiracy is established, the act of one is the act of all. Here, by the concurrent acts of Accused-Appellants and Accused Frankie and Christopher of entering into the house of the victim, simultaneously hacking and stabbing him and eventually decapitating his head, all are deemed to have agreed to commit the crime of murder. Each of their contributory acts without semblance of desistance reflected their resolution to commit the crime.<sup>14</sup>

The twin qualifying circumstances of abuse of superior strength and evident premeditation were not considered by the Court of Appeals in imposing the penalty to be imposed on appellants because the prosecution was not able to prove them.

Finally, all elements of the crime of Murder were present in this case. As aptly ruled by the Court of Appeals:

In the case at bench, all of the above mentioned elements of the crime of murder were proven beyond reasonable doubt by the prosecution. First, it was established that Robert, the victim, was killed. Second, Accused-Appellants and Accused Frankie and Christopher killed the victim as testified by the prosecution witnesses, who saw how the victim was simultaneously hacked and stabbed by them. Third, the killing was attended by **the qualifying circumstance of outraging or scoffing at the victim's person or corpse**. It was established that after the victim was hacked and stabbed, Accused Frankie decapitated his head and threw the same in the "lubluban ng kalabaw". It is well-settled that mere decapitation of the victim's head constitute outraging or scoffing at the corpse of the victim, thus qualifying the killing to murder. Lastly, the killing of the victim neither constituted parricide nor infanticide.<sup>15</sup> (Emphasis Supplied)

Based on the foregoing, we see no cogent reason to deviate from findings of the trial court and the Court of Appeals that appellants are guilty of murder. Article 248 of the Revised Penal Code (RPC) states that a person shall be guilty of murder if committed with the attending circumstance of "cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse."

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<sup>14</sup> *Rollo*, p. 9.

<sup>15</sup> *Id.* at 8.

The penalty for murder under Article 248 of the RPC is *reclusion perpetua* to death. With the aggravating circumstance of cruelty and no mitigating circumstance, the penalty imposed should be in its maximum, which is death. However, in view of Republic Act No. 9346, which was signed into law on 24 June 2006, the penalty imposed must be reduced from death to *reclusion perpetua* without eligibility for parole.<sup>16</sup>

The awards of civil indemnity, moral damages and exemplary damages must be increased to ₱100,000.00 each in line with prevailing jurisprudence.<sup>17</sup> Additionally, temperate damages must be awarded to the heirs of the victim in the amount of ₱50,000.00 in lieu of actual damages.<sup>18</sup> Finally, interest at the rate of six percent (6%) *per annum* shall be imposed on all monetary awards from date of finality of this Resolution until fully paid.

**WHEREFORE**, the assailed 24 March 2014 Decision of the Court of Appeals in CA-G.R. CR HC No. 05834 finding appellants ROLITO GERERO y ARMIROL, ALFIE ESPINOSA y MENDEZ, and RENATO BARTOLOME y JAIME guilty beyond reasonable doubt of the crime of murder is **AFFIRMED** with the following **MODIFICATIONS**:

1. The awards of civil indemnity, moral damages, and exemplary damages are increased to ₱100,000.00 each;
2. The heirs of the victim are entitled to temperate damages in the amount of ₱50,000.00;
3. That appellants are not eligible for parole; and
4. All monetary awards shall earn interest at the rate of six percent (6%) *per annum* from date of finality of this Resolution until fully paid.

**SO ORDERED.**




<sup>16</sup> *People v. Bernabe*, 619 Phil. 203, 224-225 (2009).


<sup>17</sup> *People v. Jugueta*, G.R. No. 202124, 5 April 2016.


<sup>18</sup> *Id.*

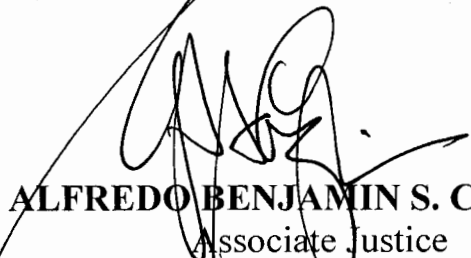
  
**JOSE PORTUGAL PEREZ**  
Associate Justice

**WE CONCUR:**

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

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Resolution 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

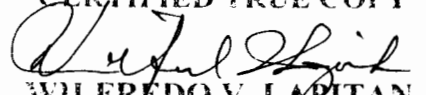
**CERTIFICATION**

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

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**WILFREDO V. LAPIDAN**  
Division Clerk of Court  
Third Division

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