SECOND DIVISION

[G.R. No. 246197, July 29, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIMON SERAFIN Y VINEGAS, ACCUSED-APPELLANT.

D E C I S I O N

DELOS SANTOS, J.:

This is an ordinary Appeal[1] filed by accused-appellant Felimon Serafin (Felimon) assailing the Decision[2] dated November 12, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09674 which affirmed the Decision[3] dated May 29, 2017 of the Regional Trial Court (RTC) of Lucena City, Branch 60 in Crim. Case No. 2000-612, finding him guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article No. 248 of the Revised Penal Code (RPC).

Facts

An Information[4] for the crime of Murder against Felimon was filed in the RTC docketed as Crim. Case No. 2000-612, that reads:

> That on or about 29th day of April 2000, at Barangay Mapagong, Municipality of Pagbilao, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo. with intent to kill and with treachery and taking advantage of his superior strength, did then and there willfully, unlawfully and feloniously attack, assault, hack and stab with said bolo one Sionita Regalario-Porta, thereby inflicting upon the latter, fatal wounds on vital parts of her body which directly caused her death.
>
> Contrary to Law.[5]

Upon arraignment on April 28, 2004, Felimon pleaded not guilty. And then, trial ensued.

Version of the Prosecution

The prosecution presented two witnesses: Jonathan Porta (Jonathan) and Cherry Nesola (Cherry). From their testimonies, the prosecution's viewpoint was synthesized as follows:

On April 29, 2000, around 4:00 in the afternoon, victim Sionita Regalario-Porta (Sionita) and her son, witness Jonathan, went to the house of a certain "Lakay" to ask for vegetables for their dinner, which the latter obliged. After which, they proceeded to relax at Lakay's balcony. After sometime, witness Cherry arrived and chatted with Sionita. When nighttime came, Felimon arrived at the house and

demanded from Sionita the amount of P20.00. Sionita did not give in to Felimon's demand which led to a verbal altercation between them. Their fight was compounded by a previous squabble between Felimon's wife and Sionita. Felimon left in the middle of the heated exchange. After sometime, Felimon returned with his wife in tow and carrying a bolo. Felimon continued with his invectives and angrily said "*Isusunod kita sa nanay mo*." Felimon then hacked Sionita on her left shoulder and chest. Sionita's body dropped on the ground and profusely bled. Felimon thereafter fled the scene of the crime.

Version of the Defense

Felimon testified that on April 29, 2000, at around 6:30 in the evening, he was resting at his house after an exhausting day doing agricultural work. Enjoying the evening's peace, Felimon was alarmed upon hearing a disruptive commotion within his vicinity. The loud dispute led Felimon to Rodolfo Sta. Ana's (Rudy)[6] house where he saw his live-in partner, Felicidad Anino (Felicidad), arguing with Sionita, apparently due to an unpaid delivery service in their *labong* venture. Felimon immediately mediated but was unsuccessful in pacifying the angry women. Sionita suddenly grabbed a *gulukan* and attempted to hack Felicidad to which Felimon was able to parry, although his right forefinger was hit. Felimon and Sionita then grappled for the *gulukan* until the former successfully got a hold of it. Sionita retaliated by shouting invectives against Felimon but the latter ignored the same and just accompanied his partner away from the scene. Thereafter, Felimon was surprised to hear somebody calling for help to bring Sionita to the hospital.

Ruling of the RTC

After trial, the RTC found Felimon guilty beyond reasonable doubt of the crime of Murder and sentenced him to suffer the penalty of *reclusion perpetua*. The *fallo* of which reads:

> **WHEREFORE**, in view of the foregoing, this Court finding the accused **FELIMON SERAFIN y VINEGAS guilty** beyond reasonable doubt of the crime of Murder described and penalized under Article 248 of the Revised Penal [Code] for the killing of Sionita Regalario-Porta, he is hereby sentenced to suffer the penalty of imprisonment of ***reclusion perpetua***.
>
> He is likewise hereby ordered to pay the heirs of the victim by way of damages:
>
> (a) Php75,000.00 as indemnity;
> (b) Php40,000.00 as actual damages; and
> (c) Php50.000.00 as moral damages.
>
> The accused shall be entitled to the full credit of the preventive imprisonment he has rendered pursuant to Article 29 of the Revised Penal Code.
>
> SO ORDERED.[7]

In concluding that the crime was attended by abuse of superior strength, the trial court appreciated the fact that when Felimon used a bolo in repeatedly hacking and stabbing Sionita, notwithstanding his strength being a man, he ensured that the

latter will be severely injured and that the same will cause her death.[8]

Decision of the CA

On November 12, 2018, the CA rendered the assailed Decision[9] affirming the conviction of Felimon for the crime of Murder. Thus:

> **WHEREFORE**, premises considered, the appeal is **DENIED**. The Decision dated 29 May 2017 of the Regional Trial Court, Branch 60, Lucena City finding accused-appellant Felimon Serafm y Vinegas guilty beyond reasonable doubt of Murder is **AFFIRMED** with **MODIFICATION** in that accused-appellant is liable to pay the heirs of Sionita Regalario-Porta the following: P75,000.00 as civil indemnity, P75,000.00 as moral damages, P75,000.00 as exemplary damages, and the further sum of P50,000.00 as temperate damages. In addition, interest at the rate of six percent (6%) per annum shall be imposed on all the monetary awards from the date of finality of this decision until fully paid.
>
> **SO ORDERED.**[10]

Hence, this appeal. Both the Office of the Solicitor General[11] and the Public Attorney's Office,[12] representing the People and Felimon, respectively, have filed their manifestations that in lieu of supplemental briefs, they submit the case for resolution on the strength of their respective briefs filed before the CA.

Issue

Is Felimon guilty of the crime of murder?

The Court's Ruling

The appeal lacks merit.

To warrant a conviction for the crime of murder, the following essential elements must be present: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide. One of the circumstances mentioned in Article 248, which qualifies the killing of the victim to murder, is abuse of superior strength.[13]

Both the trial court and the CA appreciated the aggravating circumstance of abuse of superior strength to qualify the killing of Sionita to murder. In concurring with the trial court, the CA found that Felimon clearly took advantage of his physical superiority; and was armed with a bolo that he used to repeatedly hack Sionita, who in turn, was sitting on a bench and was not able to defend herself.

The circumstance of abuse of superior strength is present whenever there is inequality of force between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor, and the latter takes advantage of it in the commission of the crime. Evidence must show that the assailants consciously sought the advantage or that they had the deliberate intent to