

## THIRD DIVISION

[ G.R. No. 203435, April 11, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARDY AQUINO, MARIO AQUINO, RECTO AQUINO, INYONG NARVANTE, ROMY FERNANDEZ, FELIX SAPLAN, BONIFACIO CAGUIOA AND JUANITO AQUINO, ACCUSED,**

**MARDY MARIO AQUINO, ACCUSED-APPELLANTS.**

### DECISION

**MARTIRES, J.:**

This is an appeal from the 30 March 2012 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03659 which affirmed with modification the 23 July 2008 Joint Decision<sup>[2]</sup> of the Regional Trial Court, Branch 39, Lingayen, Pangasinan (RTC), in Criminal Case Nos. L-6575 and L-6576 finding Mardy Aquino, Mario Aquino, and Juanito Aquino guilty of murder and frustrated murder.<sup>[3]</sup>

### THE FACTS

In two Informations, both dated 15 August 2001, the accused were charged with murder and frustrated murder. The information for murder reads:

That on or about the 15th day of May 2001 at around 10:30 o'clock in the morning at Barangay Balogo-Pandel, in the municipality of Binmaley, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court,' the above-named accused, armed with a knife, conspiring, confederating and helping one another, with intent to kill, with evident premeditation and abuse of superior strength, did then and there, wilfully, unlawfully and feloniously attack, assault and stab Jackie N. Caguioa, inflicting upon the latter fatal wounds which caused his death as a consequence, to the damage and prejudice of his heirs.

Contrary to Article 248 of the Revised Penal Code.<sup>[4]</sup>

On the other hand, the information for frustrated murder states:

That on or about the 15th day of May 2001 at around 10:30 o'clock in the morning at Barangay Balogo-Pandel, in the municipality of Binmaley, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, conspiring, confederating and helping one another, with intent to kill and with evident premeditation did then and there, wilfully, unlawfully and feloniously attack, assault and stab Ernesto Caguioa, inflicting upon the latter the following injuries:

- Stab wound lumbar area (L)
- Zci stab wound lumbar area (L) penetration perforation jejunum prox tst.
- Laceration thinner upper pale (L)  
Operation: Expeoratory Laparatomy Procedure Interroraphy  
Neophorraphy

the accused having thus performed all the acts of execution which would have produced the crime of Murder as a consequence but which nevertheless did not produce the felony by reason of causes independent of the will of the accused and that is due to timely and adequate medical assistance rendered to said Ernesto Caguioa, which prevented his death, to his damage and prejudice.

Contrary to Article 248 in relation to Article 6 of the RPC.<sup>[5]</sup>

Upon arraignment, the accused pleaded not guilty to the charges.

### ***Version of the Prosecution***

At around 10:30 in the morning of 15 May 2001, Inyong Narvante (*Inyong*) approached Ernesto Caguioa (*Ernesto*) and asked the latter for some fish as he was in a drinking spree with his friends. Ernesto, however, refused and teased Inyong for voting for a certain Domalante. An infuriated Inyong shouted, "vulva of your mother," and threatened that something would happen to Ernesto. Afterwards, Inyong returned to his friends.<sup>[6]</sup>

Later in the morning, Ernesto was having a conversation with his son Jackie, Rick De Guzman, and Orlando Ferrer while they were waiting for a boat to transport their catch to Dagupan. A hundred meters away from them were Ernesto's twin sons, Edwin and Edward, together with Dicto de Guzman and Bonifacio Doria, who were washing their fishing nets. Suddenly, Mardy, Mario, Juanito, Inyong, Recto Aquino (*Recto*), Romy Fernandez (*Romy*), Felix Saplan (*Felix*), and Bonifacio Caguioa (*Bonifacio*) arrived and threw stones at Edwin's group. Aggrieved, Edwin reported the incident to his elder brother Jackie and to his father Ernesto.<sup>[7]</sup>

Thereafter, Jackie went to where the accused were having a drinking session to ask them why they attacked his brothers. Ernesto followed him. Instead of answering, the accused laughed at him. All of a sudden, Raul Bautista, Aquilino Melendez, and Juanito grabbed and restrained Jackie who was then stabbed by Mardy and Recto.<sup>[8]</sup>

Ernesto attempted to help his son, but Mario held him by the neck while Felix, Inyong, Romy, and Bonifacio grabbed his left leg. In that position, Ernesto was stabbed by Mardy and Recto, hitting him in the left arm, left stomach, and left thigh.<sup>[9]</sup>

After the incident, the accused ran away leaving behind injured Ernesto and Jackie. The victims were brought to the hospital, but Jackie died on the way.<sup>[10]</sup>

## ***Version of the Defense***

Julius Caguioa, son of Bonifacio, testified that on 15 May 2001, at around one o'clock in the afternoon, he was at the house of Romy where he saw Mario, Felix, and Bonifacio drinking. Ernesto and Jackie then arrived and approached the group. Ernesto then hit Bonifacio with a water pipe while Jackie stabbed Bonifacio in the upper right side of his body.<sup>[11]</sup>

Miriam Puroganan, daughter of Mario, narrated that on the same date and time, she was at the house of her mother-in-law, two meters away from Romy's house. While having lunch, she heard Romy's wife shout, "Don't make trouble." When Miriam went out of the house, she saw Ernesto hitting her father Mario with an iron pipe; Mardy then arrived and stabbed Ernesto in order to protect Mario.<sup>[12]</sup>

On his part, Mario recounted that on 15 May 2001, he was having a drinking spree with Recto, Felix, and Romy at the latter's place. At about one o'clock in the afternoon, Bonifacio and Inyong arrived and asked Romy if they could borrow money from him. Romy went to the balcony of his house. While Bonifacio and Inyong were waiting for Romy, Ernesto and his sons Jackie, Edwin, and Edward arrived. Jackie then stabbed Bonifacio and also attempted to stab Mardy but failed because Recto stabbed him first. Ernesto struck Inyong with an iron pipe. Mario was also hit by Ernesto on the right lower leg and head, which caused him to lose consciousness.<sup>[13]</sup>

Juanito vehemently denied any participation in the incident. On 15 May 2001, at around 10:00 o'clock in the morning, he was asleep in his house. He was named in the complaint because the family of deceased Jackie had a grudge against him because he once testified against them.<sup>[14]</sup>

In his defense, Mardy averred that on the day of the incident, he was asleep in his house, about 50 meters away from Romy's house, when his cousin Recto woke him up and informed him that his father, Mario, was being attacked. He immediately proceeded to Romy's place and saw Jackie stab Bonifacio. He then saw Ernesto hitting his father with a water pipe; thus, to protect his father, he stabbed Ernesto. Thereafter, he and his father went home.<sup>[15]</sup>

## ***The Regional Trial Court's Ruling***

In its decision, the RTC found Mardy, Mario, and Juanito guilty of murder and frustrated murder.<sup>[16]</sup> It reasoned that the testimonies of the prosecution witnesses clearly showed that they took advantage of their superior strength and they conspired with one another when they assaulted Jackie and Ernesto. The *fallo* reads:

WHEREFORE, the prosecution having established beyond iota of doubt the guilt of the accused of the crimes of Murder in Criminal Case No. 6575 and Frustrated Murder in Criminal Case No. 6576, this Court in the absence of any modifying circumstance hereby sentences all the accused in the crime of Murder to suffer each the penalty of RECLUSION PERPETUA, to indemnify the legal heirs of the victim the amount of Php50,000.00 and to pay actual damages in the amount of Php70,000.00 for the wake and funeral expenses; Php40,000.00 as attorney's fees and

Php100,000.00 as moral damages for the wounded feelings and moral shock suffered by the mother of victim Jackie Caguioa plus costs of suit; and in the crime of Frustrated Murder all the accused to suffer each the indeterminate prison term of five (5) years and one (1) day of Prison Correccional as minimum to twelve (12) years of Prison Mayor as maximum and to pay the victim actual damages in the amount of Php15,000.00; and attorney's fees in the amount of Php15,000.00 plus costs of suit.

The period of preventive imprisonment suffered by the accused shall be credited in full in the service of their sentence in accordance with Article 29 of the Revised Penal Code.

As far as accused Recto Aquino, Inyong Narvante, Romy Fernandez, Felix Saplan and Bonifacio Caguioa who are still at large are concerned, let this case be ARCHIVED.<sup>[17]</sup>

Aggrieved, Mario and Mardy (*accused-appellants*) appealed before the CA.

### ***The Court of Appeals Ruling***

In its decision, the CA affirmed the conviction of accused-appellants but modified the penalty for frustrated murder and the amount of damages awarded. As regards the contention that the prosecution failed to prove intent to kill, the CA opined that the use of a deadly weapon and the number of wounds inflicted demonstrated a deliberate and determined assault with intent to kill. It farther held that a finding of abuse of superior strength was not negated by the fact that some of the accused suffered injuries. The appellate court declared that the prosecution sufficiently proved the presence of conspiracy considering that the victims were simultaneously restrained and stabbed by the accused. It, however, ruled that actual damages should be reduced to P20,000.00 because the receipts submitted by the prosecution showed that the heirs of Jackie incurred only P20,000.00 as funeral expenses and not P70,000.00 as awarded by the trial court. The CA disposed the case in this wise:

WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. But while the assailed July 23, 2008 Joint Decision is AFFIRMED, the same is however MODIFIED as follows:

- (1) In the case of Frustrated Murder, accused-appellants are hereby sentenced to suffer the indeterminate sentence of 6 years and 1 day of *prision mayor* as minimum to 14 years, 8 months and 1 day of *reclusion temporal* as maximum;
- (2) In the case of Murder:
  - a. The award of civil indemnity is increased to P75,000.00;
  - b. The award of actual damages is reduced to P20,000.00;
  - c. The award of moral damages is reduced to P50,000.00.<sup>[18]</sup>

Hence, this appeal.

### **ISSUE**

**WHETHER THE GUILT OF ACCUSED-APPELLANTS FOR MURDER AND FRUSTRATED MURDER HAS BEEN PROVEN BEYOND REASONABLE DOUBT.**

**THE COURT'S RULING**

***Accused-appellants may be held liable only for homicide.***

Murder is defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended, which provides:

ART. 248. *Murder.* Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;
2. In consideration of a price, reward, or promise;
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin;
4. On occasion of any calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity;
5. With evident premeditation;
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

Generally, the elements of murder are: 1) That a person was killed; 2) That the accused killed him; 3) That the killing was attended by any of the qualifying circumstances mentioned in Art. 248; and 4) That the killing is not parricide or infanticide.<sup>[19]</sup>

That Jackie Caguioa died, that accused-appellants killed him, and that the killing is neither parricide nor infanticide remain undisputed. These circumstances are already established by the trial and appellate courts. Accused-appellants did not offer any substantial reason to deviate from the well-known rule that findings of fact and assessment of credibility of witnesses are matters best left to the trial court.<sup>[20]</sup> No facts of substance and value were overlooked by the trial court which, if considered, might affect the result of the case.<sup>[21]</sup> The testimonies of the prosecution witnesses are clear and straightforward. Moreover, they are supported by the medical findings and they stand the test of reason. Thus, what remains to be resolved is the appreciation of abuse of superior strength as a qualifying circumstance.