

## THIRD DIVISION

[ G.R. No. 226475, March 13, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CYRUS VILLANUEVA Y ISORENA ALIAS "TUTOY" AND ALVIN SAYSON Y ESPONCILLA ALIAS "ALVIN TALANGKA" ACCUSED-APPELLANTS.**

### D E C I S I O N

**REYES, J.:**

On appeal<sup>[1]</sup> is the Decision<sup>[2]</sup> dated April 21, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07069. The CA affirmed the conviction of Cyrus Villanueva y Isorena (Villanueva) and Alvin Sayson y Esponcilla (Sayson) (collectively, the accused-appellants) for Murder as defined and penalized under Article 248 of the Revised Penal Code (RPC) rendered by the Regional Trial Court (RTC) of Muntinlupa City, Branch 276, in its Decision<sup>[3]</sup> dated September 16, 2014 in Criminal Case No. 12-001.

#### Facts

The accused-appellants were charged in an Information dated January 2, 2012, the accusatory portion of which reads:

That on or about the 1<sup>st</sup> day of January, 2012, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, and with the presence of the qualifying circumstance of abuse of superior strength, conspiring and confederating with one another did then and there willfully, unlawfully and feloniously attack, assault and stab one, **ENRICO ENRIQUEZ y VINLUAN** on the left side of his chest, thus causing fatal injury which directly caused his death.<sup>[4]</sup>

On January 19, 2012, the prosecution moved to admit an amended information to include Christian Jay Valencia (Valencia) as an accused, which was granted by the RTC in its Order dated February 8, 2012. A warrant of arrest was, thus, issued against Valencia, but he could not be located and still remains at large. Upon arraignment, the accused-appellants entered a plea of not guilty to the charge against them. After pre-trial conference, trial on the merits of the case ensued.<sup>[5]</sup>

The prosecution alleged the following:

At around past 5:00 a.m. of January 1, 2012, Arnie Bañaga (Bañaga) was selling *tapsilog* to a group of persons playing *cara y cruz* at the corner of an alley in Summitville, Barangay Putatan, Muntinlupa City. Thereupon, Bañaga saw the accused-appellants and Valencia arrive and ask the group if they know Enrico Enriquez (Enrico), to which they answered in the negative. Thereupon, the accused-

appellants and Valencia went to the tricycle terminal, which was about 10 to 15 meters away, where they saw Enrico. They then simultaneously attacked Enrico. Villanueva punched Enrico on the face twice while Sayson hit the latter at the back of the head with a stone wrapped in a t-shirt. Valencia then stabbed Enrico on the left side of his armpit twice. Enrico tried to fight back to no avail. The assailants thereafter fled. However, Villanueva was caught by men aboard a pursuing tricycle.<sup>[6]</sup>

At that time, Barangay Police Djohann Gonzales (Gonzales) was on duty in their office at the Barangay Hall of Putatan, Muntinlupa City. Gonzales then received a call requesting their assistance on a stabbing incident at the tricycle terminal in Summitville. Gonzales then went to the said terminal with Romeo Arciaga. Thereat, Gonzales saw a bloodied man, who was later identified as Villanueva, being held by the tricycle drivers. Gonzales brought Villanueva to the Barangay Hall where the stabbing incident was recorded in the barangay police blotter. Thereafter, Villanueva was brought to the Criminal Investigation Division (CID) office of the Muntinlupa City Police Station where Villanueva's sister arrived and informed the authorities that Sayson was still in their house in Purok 1, Bayanan, Muntinlupa City. Antonio Enriquez, Enrico's brother, was also at the police station when Villanueva was brought there.<sup>[7]</sup>

Enrico was brought to the Muntinlupa Medical Center, but he was declared dead on arrival.<sup>[8]</sup> Dr. Roberto Rey C. San Diego, medico-legal officer of the National Bureau of Investigation, conducted an autopsy on Enrico's body. He noted two stab wounds on the left side of Enrico's chest, one of which penetrated the left atrium of the heart.<sup>[9]</sup>

On the other hand, the accused-appellants denied the allegations against them. Villanueva claimed that on January 1, 2012, at around 2:00 a.m., the accused-appellants and Valencia went to the house of their friend in Summitville to eat. Thereafter, Valencia invited them to have a drinking spree with Alvin Abad and Charlotte. At around 4:30 a.m., Valencia left the group and, 30 minutes thereafter, the accused-appellants also went home. On their way home, the accused-appellants saw Valencia arguing with Enrico which led to a fistfight. They tried to pacify Valencia and Enrico, but the latter suddenly fell on the ground. Valencia immediately ran away, leaving the accused-appellants standing near the body of Enrico. Villanueva then ran away as he was scared that the bystanders in the tricycle terminal would gang up on them. On his way home, Villanueva noticed a tricycle boarded by Bañaga and his companions. Bañaga then forced him to board the tricycle and, once inside, he was beaten up by Bañaga and his companions. Villanueva was then brought to the Philippine General Hospital to be treated.<sup>[10]</sup>

On January 3, 2012, Villanueva was brought to the CID office for investigation and thereafter to the Muntinlupa City Jail where he was detained. Villanueva alleged that Bañaga pinpointed him as one of the assailants since he was angry at him as he belonged to the same group as Valencia. Sayson corroborated Villanueva's testimony as regards the stabbing incident. He averred that after Enrico fell on the ground, he ran to his house. He was surprised when the two barangay officials arrived at his house later in the morning that same day to invite him for questioning.<sup>[11]</sup>

## **Ruling of the RTC**

On September 16, 2014, the RTC rendered a Decision,<sup>[12]</sup> the decretal portion of which reads:

WHEREFORE, in view of the foregoing, this Court finds [the accused-appellants] GUILTY beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the [RPC] and accordingly sentences them to suffer the penalty of *reclusion perpetua*.

[The accused-appellants] are likewise directed to pay, jointly and severally, the heirs of the victim [Enrico] the following:

1. P50,000.00 as civil indemnity;
2. P26,032.02 as actual damages;
3. P75,000.00 as moral damages; and
4. P30,000.00 as exemplary damages.

The Branch Clerk of Court is hereby ordered to prepare the mittimus for the immediate transfer of the [accused-appellants] to the New Bilibid Prison, Muntinlupa City.

Considering that [VALENCIA] remains at large, let an alias Warrant of Arrest be issued against him to be returned only upon his arrest and in the meantime send this case into the archives insofar as [Valencia] is concerned.

SO ORDERED.<sup>[13]</sup>

The RTC held that there was conspiracy among the accused-appellants and Valencia.<sup>[14]</sup> In convicting them of the crime of murder, the RTC appreciated the qualifying circumstance of abuse of superior strength considering that Enrico was all alone when he was attacked by the accused-appellants and Valencia.<sup>[15]</sup>

Unperturbed, the accused-appellants appealed the RTC decision to the CA,<sup>[16]</sup> claiming that the RTC erred in ruling that the prosecution was able to prove all the elements of the crime of murder. They maintained that the RTC improperly appreciated the qualifying circumstance of abuse of superior strength.<sup>[17]</sup> They also assailed the legality of the warrantless arrest effected by the barangay officials upon Villanueva.<sup>[18]</sup>

## **Ruling of the CA**

On April 21, 2016, the CA rendered the herein assailed Decision<sup>[19]</sup> affirming the conviction of the accused-appellants for the crime of murder rendered by the RTC in its Decision dated September 16, 2014. Thus:

**WHEREFORE**, premises considered, the instant appeal is **DISMISSED**. The judgment dated September 16, 2014 of the [RTC] Branch 276 of Muntinlupa City in Criminal Case No. 12-001 is hereby **AFFIRMED**.

**SO ORDERED.**<sup>[20]</sup>

Hence, this appeal. Both the accused-appellants and the Office of the Solicitor General manifested that they would no longer file with the Court supplemental briefs, and adopted instead their respective briefs with the CA.<sup>[21]</sup>

### **Issue**

Essentially, the issue for the Court's resolution is whether the CA erred in affirming the RTC Decision dated September 16, 2014, which found the accused-appellants guilty beyond reasonable doubt of the crime of murder.

### **Ruling of the Court**

The appeal is partly meritorious.

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.<sup>[22]</sup> One of the circumstances mentioned in Article 248, which qualifies the killing of the victim to murder, is abuse of superior strength.

After a thorough perusal of the records of this case, the Court is convinced that the evidence presented by the prosecution amply demonstrate that Enrico was killed and that it was the accused-appellants and Valencia who killed him. Prosecution eyewitness Bañaga was able to identify the accused-appellants and Valencia who killed Enrico. He actually witnessed what exactly happened on that fateful day and was able to narrate the individual participation of each of the accused-appellants and Valencia in killing Enrico. They simultaneously attacked Enrico while he was standing at the tricycle terminal. Villanueva punched Enrico twice on the face while Sayson hit the latter with a rock. Thereafter, Valencia stabbed Enrico in the chest, twice, which ultimately caused his death.

Nevertheless, the prosecution failed to establish the qualifying circumstance of abuse of superior strength. Both the lower courts concluded that the accused-appellants and Valencia, having the intent to kill Enrico, employed abuse of superior strength to ensure the execution and success of the crime. The RTC concluded that the facts that Enrico was all alone when he was attacked by the accused-appellants and Valencia, who were armed by a knife and a stone, are clear indicia of the abuse of superior strength employed by the accused-appellants and Valencia against Enrico.<sup>[23]</sup> The RTC's conclusion was entirely adopted by the CA.<sup>[24]</sup>

The foregoing conclusion is baseless. The fact that the accused-appellants and Valencia, armed with a knife and a stone, ganged up on Enrico does not automatically merit the conclusion that the latter's killing was attended by the qualifying circumstance of abuse of superior strength. In *People v. Beduya, et al.*,