



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**SECOND DIVISION**

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

**G.R. No. 224289**

- versus -

Members:

**DANG ANGELES y GUARIN,**  
**JAMES SANTOS @ "CHITA,"**  
**DENNIS RAMOS, and**  
**SONNY BAYNOSA @ "JONG,"**  
 Accused,

**CARPIO,\* J., Chairperson,**  
**CAGUIOA,**  
**J. REYES, JR.,**  
**LAZARO-JAVIER, and**  
**ZALAMEDA, JJ.**

**DANG ANGELES y GUARIN,**  
 Accused-Appellant.

Promulgated:

14 AUG 2019

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**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This appeal seeks to reverse the Decision dated March 13, 2015<sup>1</sup> of the Court of Appeals in CA-G.R. CR-HC No. 05193 which affirmed with modification the trial court's verdict of conviction against appellant Dang Angeles y Guarin for murder, frustrated murder, and attempted murder.<sup>2</sup>

\* On official leave.

<sup>1</sup> Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justice Mario V. Lopez and now retired SC Associate Justice Noel G. Tijam, CA rollo, pp. 130-147.

<sup>2</sup> Penned by Presiding Judge Teodoro C. Fernandez; Decision dated August 12, 2011 of the Regional Trial Court (RTC), Branch 38, Lingayen, Pangasinan, in Criminal Case Nos. L-8886, L-8887, and L-8888, entitled *People of the Philippines v. Dang Angeles y Guarin, James Santos @ "Chita," Dennis Ramos, and Sonny Baynosa @ "Jong;"* CA rollo, pp. 19-29; Record (Criminal Case No. L-8886), pp. 206-216.

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### The Information

Appellant Dang Angeles y Guarin, James Santos alias “Chita,” Dennis Ramos, and Sonny Baynosa alias “Jong,”<sup>3</sup> were charged with murder and two (2) counts of frustrated murder in the following Amended Information, viz:

#### Criminal Case No. L-8886

The undersigned hereby accuses **DANG ANGELES y GUARIN, JAMES SANTOS @ “Chita”, DENNIS RAMOS and JOHN DOE @ “JHONG”** of the crime of **MURDER** committed as follows:

*“That on or about 11:45 o’clock in the evening of April 27, 2010 in Brgy. Gayaman, Binmaley, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with treachery, abuse of superior strength and evident premeditation, with intent to kill, did, then and there, willfully, unlawfully and feloniously attack, assault and stab ABELARDO Q. EVANGELISTA, with the use of a (sic) bladed weapons inflicting upon him injuries as shown in the autopsy report which caused his instantaneous death, to the damage and prejudice of his heirs.”*

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

X X X                      X X X                      X X X

#### Criminal Case No. L-8887

The undersigned hereby accuses **DANG ANGELES y GUARIN, JAMES SANTOS @ “Chita”, DENNIS RAMOS, and SONNY BAYNOSA @ “Jong”** of the crime of **FRUSTRATED MURDER** committed as follows:

*“That on or about 11:45 o’clock in the evening of April 27, 2010 at Brgy. Gayaman, Binmaley, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, armed with knives, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and taking advantage of their superior strength, did then and there, (willfully), unlawfully and feloniously attack, stab and hit ERIC Q. EVANGELISTA, inflicting upon him “lacerated wound 1 cm back scapula area”, secondary to stabbing, the accused having thus performed all the acts of execution which would have produced the crime of Murder but which did not produce it by reason of cause/s independent of the will*

<sup>3</sup> “John Doe” was later identified to be Sonny Baynosa alias “Jong” or “Jhong,” Record (Criminal Case No. L-8886), p. 92.

<sup>4</sup> Record (Criminal Case No. L-8886), pp. 29-30.

of the accused, that is due to the timely medical assistance rendered to **ERIC Q. EVANGELISTA** to his damage and prejudice.”

CONTRARY to Article 248 in relation to Art. 6 of the Revised Penal Code.<sup>5</sup>

X X X

X X X

X X X

### **Criminal Case No. L-8888**

The undersigned hereby accuses **DANG ANGELES y GUARIN, JAMES SANTOS @ “Chita”, DENNIS RAMOS, and SONNY BAYNOSA @ “Jong”** of the crime of **FRUSTRATED MURDER** committed as follows:

“That on or about 11:45 o’clock in the evening of April 27, 2010 in Brgy. Gayaman, Binmaley, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, armed with knives, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and taking advantage of their superior strength, did then and there, (willfully), unlawfully and feloniously attack, stab and hit **MARK RYAN Q. EVANGELISTA**, inflicting upon him “Grade II Liver injury R. lobe Hmoritorcum secondary to stab wound R lumbar posterior aspect, the accused having thus performed all the acts of execution which would have produced the crime of Murder but which did not produce it by reason of cause/s independent of the will of the accused, that is due to the timely medical assistance rendered to **MARK RYAN Q. EVANGELISTA**, to his damage and prejudice.”

CONTRARY to Article 248 in relation to Art. 6 of the Revised Penal Code.<sup>6</sup>

### **The Proceedings Before the Trial Court**

Criminal Case No. L-8886 was raffled to the Regional Trial Court (RTC)-Branch 38, Lingayen, Pangasinan, while Criminal Case Nos. L-8887 and L-8888, to Branch 37. All three (3) cases were subsequently consolidated in Branch 38.<sup>7</sup>

Only Appellant got apprehended and detained. James Santos alias “Chita,” Dennis Ramos, and Sonny Baynosa alias “Jong” remained at large.

<sup>5</sup> Record (Criminal Case No. L-8887), p. 64.

<sup>6</sup> Record (Criminal Case No. L-8888), p. 58.

<sup>7</sup> Record (Criminal Case No. L-8887), p. 93; A fourth case for Murder was also filed against appellant Dang Angeles for the death of Elmer Q. Evangelista. This case was docketed as Criminal Case No. L-8885, and was raffled to RTC, Branch 68. Considering, however, that the victim in said case involved a minor, Judge Georgina D. Hidalgo denied the consolidation of said case to the other three cases; See Record (Criminal Case No. L-8886), p. 68.

On arraignment, appellant pleaded not guilty to all three (3) charges.<sup>8</sup>

Eric Q. Evangelista, Mark Ryan Q. Evangelista, Domingo Evangelista, SPO1 Ricardo De Vera, PO1 Tristan Fernandez, Rolando Quinto, Dra. Gladiola Manaois, and Dr. Cipriano Fernandez, testified for the prosecution. On the other hand, appellant alone testified for the defense.

#### *Version of the Prosecution*

On April 27, 2010, around 11:30 in the evening, Eric and Mark Ryan Evangelista were inside their residence in Barangay Gayaman, Binmaley, Pangasinan, celebrating the eve of their sister's wedding.<sup>9</sup> While the celebration was ongoing, they suddenly heard a loud noise coming from the engine and muffler of a tricycle. Eric and their youngest brother Elmer stepped out of the house to check what the loud noise was all about. Mark Ryan followed them shortly.<sup>10</sup>

Sonny "Jong" Baynosa occupied the driver's seat of the nearby parked tricycle where the noise was coming from. He was in the company of appellant, James "Chita" Santos, and Dennis Ramos. As brothers Eric and Elmer approached, appellant alighted from the tricycle, walked straight to and forcefully stabbed Elmer in the right abdomen. The knife snapped.<sup>11</sup>

When Eric rushed to help Elmer, Baynosa stabbed him (Eric) in the back, just below his right shoulder. Mark Ryan who followed his brothers was not spared. Santos stabbed him, too, in his right waist.<sup>12</sup>

Abelardo rushed to his brothers' aid. But Ramos also stabbed him in the left stomach. Santos himself turned to Abelardo and stabbed the latter in the right abdomen. Not to be outdone, appellant grabbed an icepick and joined in. He stabbed Abelardo in the left chest. Baynosa also pulled an icepick and stabbed Abelardo in the right chest. In view of the multiple stab wounds he sustained, Abelardo fell to the ground. But still not satisfied, Santos stabbed him again in the back. Thereafter, appellant walked away while Baynosa, Ramos, and Santos fled on board the tricycle.<sup>13</sup>

A cousin of the Evangelista brothers, Rolando Quinto, saw the incident but he was too scared to help.<sup>14</sup>

<sup>8</sup> Record (Criminal Case No. L-8886), p. 72; Record (Criminal Case No. L-8887), pp. 46 and 48.

<sup>9</sup> TSN, August 16, 2010, pp. 9-10; TSN, August 31, 2010, p. 3.

<sup>10</sup> TSN, August 16, 2010, pp. 10 and 12-13; TSN, August 31, 2010, p. 4; TSN, September 15, 2010, p. 6.

<sup>11</sup> TSN, August 16, 2010, pp. 11-17; TSN, August 31, 2010, pp. 5-10 and 12-13; TSN, September 15, 2010, pp. 8-14.

<sup>12</sup> TSN, August 16, 2010, pp. 11-17; TSN, August 31, 2010, pp. 5-10 and 12-13; TSN, September 15, 2010, pp. 8-14.

<sup>13</sup> TSN, August 16, 2010, pp. 11-17; TSN, August 31, 2010, pp. 5-10 and 12-13; TSN, September 15, 2010, pp. 8-14.

<sup>14</sup> TSN, September 15, 2010, p. 9.

Only after the assailants had left did Rolando and others approach and rush Elmer, Eric, Mark Ryan, and Abelardo to the hospital.<sup>15</sup> Abelardo was pronounced dead on arrival.<sup>16</sup> Elmer died in the hospital.<sup>17</sup>

Dr. Cipriano C. Fernandez treated Eric and Mark Ryan. As for Eric, Dr. Fernandez found a stab wound in his back though it was not fatal. Dr. Fernandez opined that even without adequate medical attendance, the wound would heal in seven (7) to ten (10) days. Eric got discharged from the hospital on the following day.<sup>18</sup>

As for Mark Ryan, he sustained a stab wound in the waist (back). He had to be admitted into the Intensive Care Unit. After twelve (12) hours, however, his condition worsened. Wasting no time, Dr. Fernandez immediately did an operation on Mark Ryan. When Dr. Fernandez opened up Mark Ryan, the latter's abdomen was filled with blood flowing from his punctured liver. It was a fatal injury which could have caused Mark Ryan's death were it not for the timely and adequate medical attendance given him. It would take him up to three (3) months to recover from this injury.<sup>19</sup>

SPO1 Ricardo de Vera and PO1 Tristan B. Fernandez were among the police officers who responded to the reported stabbing incident. When SPO1 de Vera arrived at the *locus criminis*, the victims had already been brought to the hospital. The victims' father, Domingo Evangelista, identified appellant as one of the assailants. SPO1 De Vera and the other police officers were able to apprehend appellant. After apprising him of his constitutional rights, they took appellant to the Lingayen Community Hospital for medical examination. The police officers though were not able to apprehend Santos, Ramos, and Baynosa.<sup>20</sup>

The prosecution offered the following evidence:

- "A" to "A-2" : Joint Affidavit of Arrest executed by PO1 de Vera and PO1 Fernandez
- "B" to "B-1" : Domingo Evangelista's Sworn Statement and Supplemental Affidavit
- "C" to "C-1" : Rolando Quinto's Affidavit
- "D" to "D-1" : Eric Evangelista's Sworn Statement
- "E" to "E-1" : Mark Ryan Evangelista's Sworn Statement
- "F" to "F-3" : Certification of Police Blotter (Entry Nos. 01936, 01941-42)
- "G" to "G-1" : Certification of Police Blotter (Entry No. 01943)
- "H" : Two knives
- "I" to "I-2" : Abelardo Evangelista's Death Certificate
- "J" to "J-1" : Post Mortem Examination
- "K" to "K-3" : Photos showing Abelardo's body and the wounds he sustained
- "L" to "L-3" : Medical Certificate issued to Eric Evangelista

<sup>15</sup> TSN, August 31, 2010, p. 13; TSN, September 15, 2010, pp. 13-15.

<sup>16</sup> TSN, September 15, 2010, p. 14.

<sup>17</sup> TSN, August 31, 2010, pp. 13-14.

<sup>18</sup> TSN, February 9, 2011, pp. 5-7.

<sup>19</sup> *Id.* at 9-12.

<sup>20</sup> See Joint Affidavit of Arrest, Record (Criminal Case No. L-8886), p. 10; TSN, August 25, 2010, pp. 4-7; TSN, September 8, 2010, pp. 6-8.

- “M” to “M-7” : Receipts showing the expenses for treatment of Eric’s injury  
“N” to “N-5” : Medical Certificate issued to Mark Ryan Evangelista  
“O” to “O-19” : Receipts showing the expenses for treatment of Mark Ryan

### *Version of the Defense*

Appellant testified that on April 27, 2010, his brother-in-law Marlon invited him to a party at Domingo Evangelista’s residence. Marlon was Domingo’s nephew. Around 11:45 in the evening, he was outside Domingo’s house when Baynosa arrived on board his tricycle. Baynosa was in the company of Santos and Ramos.<sup>21</sup>

Eric and Mark Ryan stepped out from the house and called out Baynosa for the loud noise coming from the tricycle. Santos and Ramos alighted from the tricycle and asked the Evangelista brothers to stop shouting to avoid further trouble. But Eric yelled even louder at Baynosa while Mark Ryan cursed Baynosa and his companions.<sup>22</sup>

Then together, Eric and Mark Ryan walked up to the group and repeatedly punched Ramos. At this point, Abelardo and Elmer arrived and hit Ramos in the head with a bottle. Not satisfied, Abelardo hit Ramos a second time. In retaliation, Ramos drew a knife from his waist and stabbed Abelardo and Elmer.<sup>23</sup> When they saw what Ramos did to their brothers, Eric and Mark Ryan motioned to punch Ramos but were repelled by Baynosa and Santos. Using their respective weapons, Baynosa and Santos struck at Eric and Mark Ryan.<sup>24</sup>

Appellant claimed to be a silent witness to the unfolding of these tragic events. He got so scared, left, and went home.<sup>25</sup>

While buying cigarettes from a nearby store, he saw Domingo and the police coming up to him. Domingo pointed him out as among those who stabbed the Evangelista brothers.<sup>26</sup>

### **The Trial Court’s Ruling**

By Decision dated August 12, 2011,<sup>27</sup> the trial court found appellant guilty of murder, frustrated murder, and attempted murder, *viz*:

<sup>21</sup> TSN, November 3, 2010, pp. 3-4.

<sup>22</sup> *Id.* at 4-5.

<sup>23</sup> *Id.* at 5-6.

<sup>24</sup> *Id.* at 7.

<sup>25</sup> *Id.* at 7 and 11.

<sup>26</sup> *Id.* at 8.

<sup>27</sup> CA Rollo, pp. 19-29; Record (Criminal Case No. L-8886), pp. 206-216.

**WHEREFORE**, in **Criminal Case No. 8886**, the Court finds accused Dang Angeles y Guarin **GUILTY** beyond reasonable doubt for the crime of MURDER as defined and penalized under Article 248 of the Revised Penal Code, and is sentenced to suffer the penalty of *reclusion perpetua*. He is further ordered to pay the heirs of Abelardo Evangelista P50,000.00 as civil indemnity *ex delicto*, P80,650.00 as actual damages, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

In **Criminal Case No. 8887**, the Court finds accused Dang Angeles y Guarin **GUILTY** beyond reasonable doubt for the crime of ATTEMPTED MURDER, and is hereby sentenced to suffer the penalty of **two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum**, with all the accessory penalties imposed by law. He is further ordered to pay Eric Evangelista the amounts of P7,032.00. (sic) as actual damages, P40,000.00 as moral damages, and P20,000.00 as exemplary damages.

In **Criminal Case No. 8888**, the Court finds accused Dang Angeles y Guarin **GUILTY** beyond reasonable doubt for the crime of FRUSTRATED MURDER, and is sentenced to suffer an **indeterminate penalty from 6 years and 1 day of *prision mayor* as minimum, to 14 years, 8 months and 1 day of *reclusion temporal* as maximum**. In addition, he is ordered to pay the victim Mark Ryan Evangelista the amount of P40,000.00 as moral damages, P68,712.00 as actual damages, and P25,000.00 as exemplary damages.

Let the records of these cases be sent to (the) archives insofar as accused James Santos, Dennis Ramos and Sonny Baynosa are concerned, to be revived upon their arrest.

SO ORDERED.<sup>28</sup>

The trial court found that the prosecution witnesses testified in a categorical, straightforward, and spontaneous manner. Their testimonies were consistent on material points, more particularly, on how each of the victims was stabbed by appellant and his co-accused. The trial court held that the credible and positive testimonies of the prosecution witnesses necessarily prevail over appellant's denial.

The trial court further held that the qualifying circumstance of treachery attended the commission of the crime because the perpetrators, including appellant, suddenly stabbed the unarmed victims without any warning, thus, totally depriving the victims of the opportunity to defend themselves.

Finally, the trial court found appellant to have acted in conspiracy with his co-accused Santos, Ramos, and Baynosa. As established by the evidence on record, these persons acted in such synchronized and coordinated manner indicating unity of purpose and design.

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<sup>28</sup> CA rollo, pp. 28-29; Record (Criminal Case No. L-8886), pp. 215-216

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### The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty as charged in all three (3) cases. We sum up below appellant's assigned errors, viz:<sup>29</sup>

(1) The testimonies of the prosecution witnesses were incredible, illogical, and grossly inconsistent with human experience. At the time of the incident, there was an ongoing party attended by relatives and friends of the Evangelista family. It was, therefore, unthinkable, if not preposterous for the Evangelista brothers not to have asked help from the people around who supposedly witnessed the crimes. Even if some of these people may have been, out of fear, hesitant to help them, it was utterly against human experience that even their relatives, other than their immediate family, remained apathetic at such crucial time when their loved ones were being butchered. It even took their relatives an hour to report the incident to the police.<sup>30</sup>

(2) Eric admittedly had a grudge against him (and vice versa), yet, during the alleged incident, he purportedly attacked Elmer first, not Eric against whom he supposedly had a grudge.<sup>31</sup>

(3) The trial court should not have readily accepted the testimonies of the prosecution witnesses who, being the relatives of the victims, were not deemed disinterested witnesses.<sup>32</sup>

(4) The testimonies of witnesses who themselves were aggrieved by the death of their relatives should have been handled with the realistic thought that these witnesses had material and emotional ties with the cases.<sup>33</sup>

(5) Although generally weak, denial gains commensurate strength when the credibility of the prosecution witnesses is wanting and questionable.<sup>34</sup>

(6) It was Domingo, the victims' father, who implicated him as the assailant, albeit, Domingo himself did not actually witness the incident.<sup>35</sup>

(7) Even assuming he was liable for Abelardo's death, he should not be made similarly liable for the injuries sustained by Eric and Mark Ryan. The prosecution miserably failed to prove that he, Baynosa, Ramos, and Santos conspired to commit the crimes charged. His mere presence at

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<sup>29</sup> See Appellant's Brief dated July 20, 2012; CA *rollo*, pp. 52-75.

<sup>30</sup> *Id.* at 66-67.

<sup>31</sup> *Id.* at 67.

<sup>32</sup> *Id.* at 67-68.

<sup>33</sup> *Id.* at 69.

<sup>34</sup> *Id.* at 69.

<sup>35</sup> *Id.* at 70.





the *locus criminis* did not mean he agreed to assault the Evangelista brothers.<sup>36</sup>

(8) Granting, without conceding that he was liable for the death of Abelardo and the injuries of Eric and Mark Ryan, still, he cannot be held liable for murder, frustrated murder, and attempted murder. At most, he may only be held liable for homicide, frustrated homicide, and attempted homicide because the qualifying circumstance of treachery was absent in these cases. Both Eric and Mark Ryan knew he (appellant) had a bad reputation in the community. Thus, when Eric and Mark Ryan approached him and his group, these two (2) were already deemed forewarned of the impending danger to their lives. Hence, the attack on the Evangelista brothers cannot be considered to be sudden, unexpected, or unforeseen. There can be no treachery when the victim was aware of the impending or actual danger to his life.<sup>37</sup>

The Office of the Solicitor General, through Assistant Solicitor General Herman R. Cimafranca and State Solicitor Cheryl Angeline M. Roque, essentially countered:<sup>38</sup>

(a) The trial court's factual findings are entitled to great weight and should not be disturbed on appeal unless certain facts of substance and value were overlooked or misappreciated, which, if correctly considered, may have altered the outcome of the case.<sup>39</sup>

(b) Relationship *per se* does not affect the credibility of these witnesses.<sup>40</sup>

(c) As between the positive testimonies of the prosecution witnesses and the negative statements of appellant, the former deserve more credence.<sup>41</sup>

(d) The trial court correctly appreciated the attendance of treachery as qualifying circumstance. Assuming the Evangelista brothers were forewarned of the impending danger to their lives that could have possibly come from appellant, they were not aware that at the time of the incident Angeles and his group had actually intended to kill them. The sudden and unexpected attack launched by appellant and his group on the Evangelista brothers completely rendered these men unable to defend themselves.<sup>42</sup>

(e) Conspiracy may be inferred from the acts of the accused before, during, and after the crime, indicating a common design, concerted acts, and

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<sup>36</sup> *Id.* at 70-72.

<sup>37</sup> *Id.* at 72-73.

<sup>38</sup> See the People's Brief dated November 19, 2012, *CA rollo*, pp. 93-118.

<sup>39</sup> *Id.* at 108-109.

<sup>40</sup> *Id.* at 109-111.

<sup>41</sup> *Id.* at 109-111.

<sup>42</sup> *Id.* at 113-115.

concurrence of sentiments. In conspiracy, the act of one is the act of all. Consequently, the precise extent or modality of participation of each co-conspirator becomes secondary.<sup>43</sup>

### The Court of Appeals' Ruling

By its assailed Decision dated March 13, 2015,<sup>44</sup> the Court of Appeals affirmed with modification, *viz*:

**WHEREFORE**, the appeal is DENIED. The decision of the Regional Trial Court of Lingayen, Pangasinan, Branch 38 (RTC) is **AFFIRMED with MODIFICATION** as follows:

In Criminal Case No. L-8886, accused-appellant Dang Angeles y Guarin is found guilty beyond reasonable doubt of murder and is sentenced to suffer the penalty of reclusion perpetua. Accused-appellant is ordered to pay the heirs of Abelardo Q. Evangelista the amounts of Seventy-Five Thousand Pesos (P75,000.00) for civil indemnity, Fifty Thousand Pesos (P50,000.00) for moral damages, Thirty Thousand Pesos (P30,000.00) for exemplary damages and Eighty Thousand Six Hundred Fifty Pesos (P80,650.00) for actual damages as well as interest on all these damages assessed at the legal rate of 6% from date of finality of this decision until fully paid.

In Criminal Case No. L-8887, accused-appellant Dang Angeles y Guarin is found guilty beyond reasonable doubt of attempted murder and is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum to eight (8) years and one (1) day of prision mayor, as maximum. Accused-appellant is ordered to pay Eric Q. Evangelista the amounts of Forty Thousand Pesos (P40,000.00) for moral damages, Twenty Thousand Pesos (P20,000.00) for exemplary damages and Twenty-Five Thousand Pesos (P25,000.00) for temperate damages as well as interest on all these damages assessed at the legal rate of 6% from date of finality of this decision until fully paid.

In Criminal Case No. L-8888, accused-appellant Dang Angeles y Guarin is found guilty beyond reasonable doubt of frustrated murder and is sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum. Accused-appellant is ordered to pay Mark Ryan Q. Evangelista the amounts of Forty Thousand Pesos (P40,000.00) for moral damages, Twenty Thousand Pesos (P20,000.00) for exemplary damages and Sixty-Eight Thousand Seven Hundred Twelve Pesos (P68,712.00) for actual damages as well as interest on all these damages assessed at the legal rate of 6% from date of finality of this decision until fully paid.

**SO ORDERED.**<sup>45</sup>

<sup>43</sup> *Id.* at 116-117.

<sup>44</sup> *CA rollo*, pp. 130-147.

<sup>45</sup> *Id.* at 145-147.

## The Present Appeal

Appellant now seeks affirmative relief and prays anew for his acquittal. In compliance with Resolution dated June 29, 2016, both appellant<sup>46</sup> and the OSG<sup>47</sup> manifested that, in lieu of supplemental briefs, they were adopting their respective Briefs before the Court of Appeals.

### Issue

Did the Court of Appeals err in affirming the verdict of conviction against appellant for murder, frustrated murder, and attempted murder?

### Ruling

The appeal utterly lacks merit.

The Court of Appeals sustained the trial court's finding that appellant and his co-accused conspired to slay Abelardo, Eric, and Mark Ryan all surnamed Evangelista.

Conspiracy exists when two (2) or more persons come to an agreement concerning the commission of a felony, and decide to commit it.<sup>48</sup> Proof of express agreement, however, is not always required to be shown.<sup>49</sup>

In *People of the Philippines v. Jimmy Evasco, et al.*,<sup>50</sup> the Court emphasized the two (2) forms of conspiracy. The first refers to *express conspiracy*. It requires proof of an actual agreement among the co-conspirators to commit the crime. The second pertains to *implied conspiracy*. It exists when two (2) or more persons are shown by their acts to have aimed toward the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, are in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiments. This is proved by the mode and manner the offense was committed, or from the acts of the accused *before, during, and after* the commission of the crime, indubitably pointing to a joint purpose, a concert of action, and a community of interest.

In fine, even without proof of express agreement among the co-accused, conspiracy may still be held to exist among them. We applied this rule in *Evasco*, viz:

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<sup>46</sup> *Id.* at 35-37.

<sup>47</sup> *Id.* at 28-30.

<sup>48</sup> *People of the Philippines v. Jimmy Evasco, et al.*, G.R. No. 213415, September 26, 2018.

<sup>49</sup> *People of the Philippines v. Jimmy Evasco, et al.*, G.R. No. 213415, September 26, 2018.

<sup>50</sup> G.R. No. 213415, September 26, 2018.

Jimmy and Ernesto were shown to have acted in conspiracy when they assaulted Wilfredo. Although their agreement concerning the commission of the felony, and their decision to commit it were not established by direct evidence, the records contained clear and firm showing of their having acted in concert to achieve a common design – that of assaulting Wilfredo. **Direct proof of the agreement concerning the commission of a felony, and of the decision to commit it is not always accessible, but that should not be a hindrance to rendering a finding of implied conspiracy.** (Emphasis supplied)

Here, we are in full accord with the relevant findings of the Court of Appeals on the existence of conspiracy among all the victim's attackers, including appellant himself, *viz*:

x x x x The presence of conspiracy in this case may be inferred from the following circumstances where all the accused acted in concert at the time of the commission of the offense, to wit: (1) The accused-appellant together with the other accused arrived at the crime scene at the same time, (2) Accused-appellant alighted from the same tricycle where the other accused rode, (3) Accused-appellant and the other accused successively assaulted the victims – x x x x ; and (4) All accused fled from the crime scene immediately after the stabbing incident.<sup>51</sup> x x x x

Indeed, the testimonies of the prosecution witnesses unequivocally depict one clear picture: appellant, Baynosa, Ramos, and Santos all acted in a coordinated manner in order to consummate their common desire, i.e. slay the Evangelista brothers. While there was no express agreement between appellant and his co-accused, their concerted actions indicate that they did conspire with each other for the fulfillment of such common purpose.<sup>52</sup>

Having established conspiracy between appellant and his co-accused, the next question is this: what crime or crimes did appellant commit in connection with the death of Abelardo and the injuries inflicted on Eric and Mark Ryan?

***Criminal Case No. L-8886***  
***Murder***

Article 248 of the Revised Penal Code (RPC), as amended by Republic Act No. 7659 (RA 7659)<sup>53</sup> provides:

Article 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:

<sup>51</sup> CA *rollo*, pp. 138-139.

<sup>52</sup> See *People of the Philippines v. Ronelo Bermudo, et al.*, G.R. No. 225322, July 04, 2018.

<sup>53</sup> An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes.

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;

x x x

x x x

x x x

Murder requires the following elements: (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; and (4) that the killing is not parricide or infanticide.<sup>54</sup>

There is no question regarding the first and fourth elements. Abelardo died of cardiorespiratory arrest secondary to hypovolemic shock as a result of the multiple stab wounds inflicted on him. The prosecution offered in evidence Abelardo's Death Certificate with Registry No. 2010-135<sup>55</sup> and Post-Mortem Examination Report dated April 28, 2010<sup>56</sup> of Gladiola M. Manaois. There is no evidence showing that Abelardo was related by affinity or consanguinity with Angeles, hence, the killing is not parricide or infanticide.

Appellant, however, belies the presence of the second and third elements.

The second element pertains to the identity of the accused as the person who killed the victim. Here, prosecution witnesses Eric and Mark Ryan Evangelista, and Rolando Quinto consistently and positively identified appellant and his companions as the ones who alternately or simultaneously stabbed Abelardo to death, thus:

**Eric Evangelista**

Q: Thereafter, what transpired next, Mr. Witness?

A: Then, my older brother, Abelardo Evangelista, was also stabbed by Dennis Ramos, Madam.

Q: And what portion of his body was stabbed by accused Dennis Ramos was hit (sic)?

A: He was hit on (the) left side of his abdomen, Madam.

Q: What was the weapon used by Dennis Ramos in stabbing your brother, Abelardo Evangelista, on the left stomach of his body?

A: A knife, Madam.

Q: And after he was stabbed, what happened next, Mr. Witness?

A: Then, James Santos helped each other in stabbing my brother wherein Dennis Ramos again stabbed my older brother, Abelardo Evangelista, on the right side of his stomach, Madam.<sup>57</sup>

<sup>54</sup> *People of the Philippines v. Charlie Flores, et al.*, G.R. No. 228886, August 08, 2018.

<sup>55</sup> Record (Criminal Case No. L-8886), p. 22.

<sup>56</sup> Record (Criminal Case No. L-8886), p. 17.

<sup>57</sup> TSN, August 16, 2010, pp. 13-14.

x x x

x x x

x x x

COURT

Q: Who stabbed your brother, Abelardo Evangelista first?

WITNESS

A: Dennis Ramos, sir.

Q: And he (was) hit on what part?

A: Left side of his stomach, sir.

Q: And then you said the other accused helped each other in attacking your brother, Abelardo?

A: Yes, sir.

Q: Did you see if aside from Dennis Ramos the other accused also stabbed your brother?

A: Yes, sir.

Q: Who was the second person who stabbed your brother, Abelardo Evangelista, if you know?

A: James (Santos), alias "Chita", sir.

Q: What did he use in stabbing your brother?

A: A knife, sir.

Q: What part of the body of your brother Abelardo Evangelista, was hit by James Santos?

A: On his right abdomen, sir.<sup>58</sup>

x x x

x x x

x x x

Q: So, after James Santos, alias "Chita" stabbed your brother, Abelardo Evangelista, on the right abdomen, who was the next one who stabbed your brother, Mr. Witness?

WITNESS:

A: Dang Angeles, Madam.

Q: And what portion of the body of your brother was hit by accused Dang Angeles?

A: On his left chest, Madam.

Q: And what was the weapon used by accused Dang Angeles when he stabbed your brother on his left chest?

A: He used icepick, Madam.

Q: Can you tell us, if you know, how long that icepick which was used by Dang Angeles when he stabbed your brother?


A: One (1) foot long, Madam.

Q: And at that time after sustaining three (3) fatal wound(s), Mr. Witness, can you tell us the relative condition of your brother?

A: He turned weak, Madam.

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<sup>58</sup> *Id.* at 14-15.



Q: But he was still standing?

A: Yes, Madam.

Q: So, after Dang Angeles stabbed him, what transpired next, Mr. Witness?

A: Then, Sonny Baynosa followed in stabbing my brother, Madam.

Q: And what portion was hit by Sonny Baynosa, alias "Jong"?

A: On his right chest, Madam.

Q: And what weapon was used by accused Sonny Baynosa, alias "Jong" when he stabbed your brother on his right chest x x x x

A: Icepick about a foot long, Madam, of the same size.

Q: And after he was stabbed by accused Sonny Baynosa, alias "Jong", what happened to your brother, Abelardo Evangelista, Mr. Witness?

A: Then, he died, Madam.<sup>59</sup>

x x x

x x x

x x x

**Mark Ryan Evangelista**

Q: When you fell down, what transpired next, Mr. Witness?

A: Then my older brother Abelardo came to us.<sup>60</sup>

x x x

x x x

x x x

Q: What happened Mr. Witness, when your brother who is the victim in this case Abelardo Evangelista went out to see likewise what was happening to you and your other brothers?

A: He was stabbed by Dennis Ramos.<sup>61</sup>

x x x

x x x

x x x

Q: What happened to your brother Abelardo after he was stabbed by Dennis x x x x ?

A: He was also stabbed by James Santos.<sup>62</sup>

x x x

x x x

x x x

Q: So, after he was hit for the second time by accused James Santos, what happened to your brother, Mr. Witness?

A: Then Dang Angeles stabbed my brother again on the left chest x x x x<sup>63</sup>

x x x

x x x

x x x

Q: So after he was hit with an icepick by accused Dang Angeles which you said to the Court, he was hit on his left chest, what happened to your brother?

<sup>59</sup> *Id.* at 15-16.

<sup>60</sup> TSN, August 31, 2010, p. 7.

<sup>61</sup> *Id.*

<sup>62</sup> TSN, August 31, 2010, p. 9.

<sup>63</sup> *Id.*

A: Then Sonny Baynosa stabbed my brother Abelardo with an icepick on his right chest.<sup>64</sup>

X X X

X X X

X X X

**Rolando Quinto**

Q: Mr. witness, after victim Mark Ryan Evangelista had fallen likewise (in) the ground due to stab wound he sustained from accused James Santos, what happened next?

A: Then Abelardo also arrived, ma'am.

Q: This Abelardo that you are referring to is the victim in this case?

A: Yes, ma'am.

Q: What happened when Abelardo arrived?

A: Dennis suddenly stabbed him on his stomach, ma'am.

Q: What happened to Abelardo when he was stabbed by Dennis?

A: He was stabbed by James and then they helped each other in stabbing him, ma'am.

Q: You said that Abelardo was stabbed by Dennis and James, can you tell us the names of those persons who also stabbed Abelardo aside from Dennis and James?

A: Dang Angeles and Sonny Baynosa alias Jhong also stabbed him, ma'am.<sup>65</sup>

X X X

X X X

X X X

Q: So who followed James, was it Dang Angeles or Sonny Baynosa?

A: Dang Angeles followed James in stabbing Abelardo, ma'am.<sup>66</sup>

X X X

X X X

X X X

Q: After Dang Angeles hit Abelardo on his left chest, he was followed by Sonny Baynosa?

A: Yes, ma'am.<sup>67</sup>

X X X

X X X

X X X

Q: So that, (sic) after the victim in this case sustained at least four (4) stab wounds inflicted by the accused one after the other using their respective weapons, can you tell this Honorable Court what transpired next?

A: He fell on the ground when Dennis stabbed him again on his back, ma'am.<sup>68</sup>

X X X

X X X

X X X

<sup>64</sup> *Id.* at 10.

<sup>65</sup> TSN, September 15, 2010, pp. 10-11.

<sup>66</sup> *Id.* at 12.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 13.



The trial court found that the prosecution witnesses' testimonies were categorical, straightforward, and spontaneous. They were also consistent on material points, particularly on the manner and the locus criminis where appellant and his co-accused stabbed the Evangelista brothers.<sup>69</sup>

Indeed, when the credibility of the eyewitness is at issue, due deference and respect shall be given to the findings of the trial court, its calibration of the testimonies, its assessment of the probative weight thereof, and its conclusions anchored on said findings, absent any showing that it had overlooked circumstances that would have affected the final outcome of the case. The foregoing rule finds an even more stringent application where the findings of the trial court are sustained by the Court of Appeals,<sup>70</sup> as in this case. In *People of the Philippines v. Jeffrey Collamat, et al.*<sup>71</sup> this Court ordained:

In cases where the issue rests on the credibility of witnesses, as in this case, it is important to emphasize the well-settled rule that "appellate courts accord the highest respect to the assessment made by the trial court because of the trial judge's unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grueling examination."

We explained in *Reyes, Jr. v. Court of Appeals* that the findings of the trial court will not be overturned absent any clear showing that it had *overlooked, misunderstood or misapplied* some facts or circumstances of weight or substance that could have altered the outcome of the case, *viz.*:

Also, the issue hinges on credibility of witnesses. We have consistently adhered to the rule that **where the culpability or innocence of an accused would hinge on the issue of credibility of witnesses and the veracity of their testimonies, findings of the trial court are given the highest degree of respect.** These findings will not be ordinarily disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could very well affect the outcome of the case. It is the trial court that had the opportunity to observe 'the witnesses' manner of testifying, their furtive glances, calmness, sighs or their scant or full realization of their oaths. It had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination. Inconsistencies or contradictions in the testimony of the victim do not affect the veracity of the testimony if the inconsistencies do not pertain to material points. (Emphasis supplied)

x x x

x x x

x x x

So must it be.

<sup>69</sup> CA rollo, p. 84.

<sup>70</sup> *People of the Philippines v. Marcial D. Pulgo*, 813 Phil. 205, 211-212 (2017).

<sup>71</sup> G.R. No. 218200, August 15, 2018.

Appellant, nonetheless, asserts that the testimonies of the prosecution witnesses were *incredible, illogical, and grossly inconsistent with human experience*. He harps on the failure of the Evangelista brothers to seek help from relatives and guests who were also in their house that night.

The argument fails to persuade.

In a long line of cases, this Court has recognized that different persons react differently to the same situations for there is no hard and fast standard by which to measure a person's behavior or reaction when confronted with a startling or horrifying occurrence, as in this case. Some may shout for help, some may be hysterical, some fight back, and others may simply freeze and take the blows mutely. *People of the Philippines v. Golem Sota*<sup>72</sup> is apropos:

X X X

X X X

X X X

Noteworthy, in *People v. Banez*, the Court ruled that it is not at all uncommon or unnatural for a witness who, as in this case, having seen the killing of a person, did not even move, help, or run away from the crime scene, but simply chose to stay and continue plowing. It explained its ruling as follows:

**It is settled that there could be no hard and fast gauge for measuring a person's reaction or behavior when confronted with a startling, not to mention horrifying, occurrence, as in this case. Witnesses of startling occurrences react differently depending upon their situation and state of mind, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.** The workings of the human mind placed under emotional stress are unpredictable, and people react differently to shocking stimulus - some may shout, some may faint, and others may be plunged into insensibility. (Emphasis supplied)

X X X

X X X

X X X

Appellant further attacks the credibility of the prosecution witnesses, alleging they are relatives of the victims.

To begin with, relationship *per se* does not equate to bias or ulterior motive nor automatically tarnish the testimony of a witness.<sup>73</sup> On the contrary, a witness who is related to the victim is naturally interested in securing the conviction of the guilty and definitely not the innocent or just any or some "fall guy." Otherwise, the real culprits would gain immunity.<sup>74</sup>

In any case, against the prosecution witnesses' positive and categorical testimonies, appellant only invokes denial. It bears stress that denial, if not substantiated by clear and convincing evidence, as in this case,

<sup>72</sup> G.R. No. 203121, November 29, 2017, 847 SCRA 113, 132.

<sup>73</sup> *Romeo Ilisan v. People of the Philippines*, 649 Phil. 151, 160 (2010).

<sup>74</sup> *Supra* note 72, at 133.

is a negative and self-serving defense. It carries scant, if not nil, evidentiary value. It cannot prevail over the consistent and categorical declarations of credible witnesses on affirmative matters.<sup>75</sup>

Appellant next points to Ramos, Baynosa, and Santos as the persons who actually stabbed the Evangelista brothers.

We are not convinced.

Appellant never before the investigating prosecutor imputed exclusive criminal liability on Ramos, Baynosa, and Santos. Appellant did not even file his counter-affidavit during the preliminary investigation.<sup>76</sup> It could have been his chance to implicate the real culprits and consequently be freed of any liability for the crime he later claimed not to have committed. But he did not.

In any event, We refer back to appellant's liability as co-conspirator in the murder of Abelardo. Although he and his co-accused each had their respective designated roles to perform, no one is excused from the consequent liability arising from the acts of his co-conspirator. In conspiracy, the act of one is the act of all.

In the alternative, appellant prays that his conviction for murder be reduced to homicide. He insists that treachery did not attend the killing since the Evangelista brothers were already "obviously forewarned" of the impending danger to their lives when they confronted him and his alleged companions,<sup>77</sup> aside from the fact that the Evangelista brothers knew full well of his notorious reputation in the community.

Treachery means the offender directly employs means, methods, or forms for the purpose of ensuring the execution of the crime without risk to the offender arising from the defense which the offended party might make. The essence of treachery lies on the deliberate, swift, and unexpected attack on the hapless, unarmed, and unsuspecting victim, leaving the latter no chance to resist or escape.<sup>78</sup>

Here, when Abelardo came out of their house and approached his brothers, he already knew that appellant and his companions had violently attacked his brothers. Thus, Abelardo was already aware of the danger appellant posed in his person. It cannot be said, therefore, that the attack made against him was "unexpected." In sum, Abelardo was not an "*unsuspecting victim*." Consequently, treachery cannot be appreciated as a qualifying circumstance in Abelardo's killing.

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<sup>75</sup> *People of the Philippines v. Alberto Petalino*, G.R. No. 213222, September 24, 2018.

<sup>76</sup> TSN, November 3, 2010, p. 22.

<sup>77</sup> CA rollo, p. 73.

<sup>78</sup> *People of the Philippines v. Roger Racal*, G.R. No. 224886, September 4, 2017, 838 SCRA 476, 489.

The Court, nonetheless, holds that Abelardo's killing was attended by abuse of superior strength.

This qualifying circumstance is present whenever there is a notorious inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor selected or taken advantage of by him in the commission of the crime.<sup>79</sup>

In *People v. Casillar*,<sup>80</sup> the Court appreciated the qualifying circumstance of abuse of superior strength when four (4) armed assailants attacked the unarmed victim, as in this case. Too, in *People v. Garcia*,<sup>81</sup> the Court held that where four (4) persons attacked the unarmed victim but treachery was not proven, the fact that there were four (4) assailants constitutes abuse of superiority. So must it be.

***Criminal Case No. L-8887  
for Attempted Murder and  
Criminal Case No. L-8888  
for Frustrated Murder***

In these cases, appellant similarly argue that none of the qualifying circumstances of treachery or abuse of superior strength is present because the Evangelista brothers knew of his notorious reputation in their community.

We do not agree.

In *People of the Philippines v. Marcial D. Pulgo*,<sup>82</sup> the Court pronounced that treachery may still be appreciated even when the victim was forewarned of the danger to his person. *What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.*

Here, even assuming the Evangelista brothers knew of appellant's reputation as a troublemaker, there was no showing that they were in fact aware of had otherwise the faintest idea that on the night in question, appellant and his companions would launch a deadly attack on them.

Records show that when the Evangelista brothers saw appellant and his companions, they were just seated inside the tricycle. Then the Evangelista brothers approached appellant and his companions to ask them to tone down the noise coming from their tricycle because they had a party

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<sup>79</sup> *People of the Philippines v. Cezar Cortez, et al.*, G.R. No. 239137, December 05, 2018.

<sup>80</sup> See 141 Phil. 43, 50 (1969).

<sup>81</sup> 182 Phil. 398, 411 (1979).

<sup>82</sup> *Supra* note 70, at 217.

going on. Under these circumstances, no one would have suspected that appellant and his companions would aggressively react the way they did. Appellant was the first to launch his deadly, swift, unexpected, and sudden attack on Elmer, then Baynosa and Santos joined in stabbing Eric and Mark Ryan, respectively. As in *Pulgo*, the victims in these cases were both unarmed, making them more vulnerable from the sudden attack of appellant and his group.

We agree with the relevant disquisitions of the Court of Appeals, *viz*:

X X X

X X X

X X X

In the instant case, it is evident that the attack in the victim made by accused-appellant and by the other accused was sudden and deliberate. The attack was unexpected on the part of the unarmed victims considering that they were in their house celebrating the forthcoming wedding of their sister. The attack was executed in a manner that the victims were rendered defenseless and unable to retaliate. The severity of the wounds forestalled any possibility of resisting attack. Without doubt, accused-appellant and his co-accused took advantage of the situation. The acts of accused-appellant and his co-accused were clear indications that they employed means and methods which tended directly and specifically to ensure the successful execution of the offense.<sup>83</sup>

X X X

X X X

X X X

In sum, the presence of treachery as a qualifying circumstance in these cases is indubitable.

In murder or homicide, the offender must have the intent to kill. If he or she did not have such intent, he or she is liable only for physical injuries.<sup>84</sup>

In *Gary Fantastico, et al. v. People of the Philippines, et al.*,<sup>85</sup> the Court considered the following determinants of intent to kill: (1) the means used by the malefactors; (2) the nature, location, and number of wounds sustained by the victim; (3) the conduct of the malefactors before, at the time, or immediately after the killing of the victim; and (4) the circumstances under which the crime was committed and the motives of the accused. The Court also considered the words uttered by the offender at the time he inflicted injuries on the victim as an additional determinative factor.

We now turn to the different stages of felony: consummated, frustrated, and attempted, as enumerated and defined under Article 6 of the Revised Penal Code, *viz*:

<sup>83</sup> CA rollo, pp. 137-138.

<sup>84</sup> See *Miguel Cirera y Ustelo v. People of the Philippines*, 739 Phil. 25, 39 (2014).

<sup>85</sup> 750 Phil. 120, 132-133 (2015), citing *Rivera v. People*, 515 Phil. 824, 833 (2006).

Art. 6. *Consummated, frustrated, and attempted felonies.* — Consummated felonies as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and **it is frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.**

There is an **attempt when the offender commences the commission of a felony directly or over acts, and does not perform all the acts of execution** which should produce the felony by reason of some cause or accident other than this own spontaneous desistance. (Emphasis supplied)

How does Article 6 insofar as the frustrated and attempted stages apply to Criminal Case Nos. L-8887 and L-8888?

*Criminal Case No. L-8887*  
*Eric Evangelista*

Eric sustained a single stab wound in the back portion of his right shoulder. Dr. Fernandez testified that the wound was not fatal and with proper medication, the same would heal in seven (7) to ten (10) days, thus:

X X X                      X X X                      X X X

Q: Doctor, in connection with Criminal Case No. L-8887 — Eric Evangelista, can you tell us if there was a time (that) you treated him?

A: Yes, I did attend (to) this patient. I admitted him on April 28, 2010 and discharged him the following day, April 29, 2010.

Q: Can you tell us the x x x physical condition of the patient, if you can recall?

A: x x x during the time I attended to this patient he sustained a stab wound at the right scapular area x x x (Witness pointing to the right back in this area scapular bone at the right).<sup>86</sup>

X X X                      X X X                      X X X

Q: Aside from this stab wound, did you find any injury from the body of the victim Eric Evangelista?

A: No more.

Q: Can you tell the Honorable Court what would be the possible effect the cause in connection (with) this injury if it bot be (sic) treated immediately x x x?

<sup>86</sup> TSN, February 9, 2011, p. 5.

A: I think you are referring to whether the wound is fatal? Before I answer that all wound(s) no matter (how) superficial is fatal if you will not seek medical attendance. You might develop tetanus or because the wound was attended properly and medical attendance that wound is none (sic) fatal. We remove that factor about possible infection.

COURT:

Q: What if factor not considered, will you consider?

WITNESS:

A: It is not fatal.

PROSECUTOR PORLUCAS:

Q: As a follow up doctor, you stated this is stab wound, the injury of victim Eric Evangelista is not fatal. Can you tell the Honorable Court likewise the complication that may set in if no medical attendance and can you tell this is not fatal will heal of (sic) its own?

WITNESS:

A: Yes.

Q: And can you tell this Honorable Court without any adequate medical attendance, how many days will it heal?

A: Ten (10) days because of the possible infection.<sup>87</sup>

x x x

x x x

x x x

If one inflicts physical injuries on another but the latter survives, the crime committed is either consummated physical injuries, if the offender had no intention to kill the victim, or frustrated or attempted homicide or frustrated murder or attempted murder if the offender intends to kill the victim. Intent to kill may be proved by evidence of: (a) motive; (b) the nature or number of weapons used in the commission of the crime; (c) the nature and number of wounds inflicted on the victim; (d) the manner the crime was committed; (e) the words uttered by the offender at the time the injuries are inflicted by him on the victim;<sup>88</sup> and (f) the circumstances under which the crime was committed.<sup>89</sup>

Here, the attendant circumstances showed that appellant and his companions intended to kill Eric and his brothers Elmer, Abelardo, and Mark Ryan. The three (3) victims sustained multiple fatal stab wounds. As a result, Elmer and Abelardo died. Mark Ryan was spared due to the timely and proper medical attendance given him; and Eric was also spared because he sustained a non-fatal wound. But this does not dissolve appellant's liability for attempted murder.

<sup>87</sup> TSN, February 9, 2011, pp. 6-7.

<sup>88</sup> *People of the Philippines v. Ireneo Jugueta*, 783 Phil. 806, 820 (2016).

<sup>89</sup> *Gary Fantastico, et al. v. People of the Philippines, et al.*, supra note 85, at 833.

In *Rivera, et al. v. People*,<sup>90</sup> the Court convicted appellants therein of frustrated murder although the wounds sustained by the victim were not fatal, viz:

That the head wounds sustained by the victim were merely superficial and could not have produced his death does not negate petitioners' criminal liability for attempted murder. Even if Edgardo did not hit the victim squarely on the head, petitioners are still criminally liable for attempted murder.

x x x

x x x

x x x

The first requisite of an attempted felony consists of two elements, namely:

- (1) That there be external acts;
- (2) Such external acts have direct connection with the crime intended to be committed.

The Court in *People v. Lizada* elaborated on the concept of an overt or external act, thus:

An overt or external act is defined as some physical activity or deed, indicating the intention to commit a particular crime, more than a mere planning or preparation, which if carried out to its complete termination following its natural course, without being frustrated by external obstacles nor by the spontaneous desistance of the perpetrator, will logically and necessarily ripen into a concrete offense. The *raison d'être* for the law requiring a direct overt act is that, in a majority of cases, the conduct of the accused consisting merely of acts of preparation has never ceased to be equivocal; and this is necessarily so, irrespective of his declared intent. It is that quality of being equivocal that must be lacking before the act becomes one which may be said to be a commencement of the commission of the crime, or an overt act or before any fragment of the crime itself has been committed, and this is so for the reason that so long as the equivocal quality remains, no one can say with certainty what the intent of the accused is. It is necessary that the overt act should have been the ultimate step towards the consummation of the design. It is sufficient if it was the "first or some subsequent step in a direct movement towards the commission of the offense after the preparations are made." The act done need not constitute the last proximate one for completion. It is necessary, however, that the attempt must have a causal relation to the intended crime. In the words of Viada, the overt acts must have an immediate and necessary relation to the offense.

In the case at bar, petitioners, who acted in concert, commenced the felony of murder by mauling the victim and hitting him three times with a hollow block; they narrowly missed hitting the middle portion of his head. If Edgardo had done so, Ruben would surely have died.

<sup>90</sup> *Esmeraldo Rivera, et al. v. People of the Philippines*, 515 Phil. 824, 833-834 (2006), citing *People of the Philippines v. Freddie Lizada*, 444 Phil. 67, 98-99 (2003).



As stated, the attendant circumstances here clearly show that appellant and his companions did intend to kill the Evangelista brothers. They were able to deal multiple fatal blows on at least three (3) of the brothers; but as for Eric, they did not spare him. He was also stabbed by Baynosa. It just so happened they missed to hit him on a vital part like what they did to Eric's three (3) brothers.

*Criminal Case No. L-8888*  
*Mark Ryan*

As for Mark Ryan Evangelista, Dr. Fernandez testified that the victim's injury was fatal and could have led to Mark Ryan's death were it not for the timely medical attention given him, thus:

x x x

x x x

x x x

PROSECUTOR PORCULAS:

Q: Likewise, doctor, the private complainant is Mark Ryan Q. Evangelista. Can you tell the Court if you remember treat(ing) this victim on April 28, 2010?

WITNESS:

A: Yes. I admit(ted) the patient and was discharged (in) May 7, 2010.

Q: Can you tell us likewise the physical condition of the victim at the time of the admission (sic)?

A: At the time of the admission (sic) of the patient and after a few hours the condition of the patient worsen and I have to schedule the operation.

Q: Can you tell us what were the injury or injuries sustained as you noticed to the patient when you admit(ted) him?

A: There was (a) stab wound at the right lower back, in this area. "Witness pointing to his lower back.

Q: And aside from that, what else did you do?

A: I think the main injury of this patient.

Q: So, that is the main injury. You mean it is fatal injury, doctor?

A: Yes, (it) is fatal.

Q: What did you do when you immediately noticed his fatal injury, doctor?

A: This patient was admitted to the ICU at 1:30 in the morning and then, at about 1:10 in the (afternoon) about twelve (12) hours as admitted in the ICU I noticed that there is something wrong, so, I scheduled immediately operation.

Q: Few hours, thereafter, from admission this patient's operation was done upon his person?

A: Yes.

Q: What was the result of your operation?

A: When I open the entire abdomen was filled of clotted (sic) blood meaning none clotting component in the entire abdomen and the reason for that was, the liver was injured. There was stab wound.<sup>91</sup>

X X X

X X X

X X X

Q: Aside from qualification of the injury as fatal in nature, can you tell us if you can approximately or probable time that the victim will sustain his life any probable adequate medical attendance?

A: The patient may die on the same depending (on) the rate of the bleeding or fast bleeding the patient might live about 1 to 3 days depending on the rate of the blood lost inside.<sup>92</sup>

X X X

X X X

X X X

Killing becomes frustrated when the offender performs all the acts of execution which could have produced the crime but did not produce it for reasons independent of his or her will.<sup>93</sup> *People v. Lababo*<sup>94</sup> is apropros:

As for BBB's case, We agree with the RTC and CA's factual finding that the eight gunshot wounds sustained by BBB, as contained in the *Medico-Legal Certificate*, would have caused his death if he was not given timely medical attention. Furthermore, it does not appear that BBB was armed or was in a position to deflect the attack. As a matter of fact, based on CCC's narration of the events that transpired, the suddenness of the attack upon AAA and BBB cannot be denied. Only that, unlike AAA, BBB survived.

The act of killing becomes frustrated when an offender performs all the acts of execution which could produce the crime but did not produce it for reasons independent of his or her will.

Here, taking into consideration the fact that BBB was shot eight times with the use of a firearm and that AAA, who was with him at that time, was killed, convinces Us that the malefactor intended to take EBB's life as well. However, unlike in AAA's case, BBB survived. It was also established that he survived not because the wounds were not fatal, but because timely medical attention was rendered to him. Definitely, EBB's survival was independent of the perpetrator's will. As such, this Court is convinced that the attack upon BBB qualifies as frustrated murder.

All told, the trial court and Court of Appeals both did not err in finding appellant guilty of murder for the death of Abelardo; attempted murder for the injury sustained by Eric; and frustrated murder for the injury sustained by Mark Ryan.

<sup>91</sup> TSN, February 9, 2011, pp. 8-10.

<sup>92</sup> *Id.* at 10.

<sup>93</sup> *Miguel Cirera y Ustelo v. People of the Philippines*, supra note 84, at 40.

<sup>94</sup> *People of the Philippines v. Benito Lababo*, G.R. No. 234651, June 06, 2018.

## Penalties

*Criminal Case No. 8886*

*Murder*

Article 248 of the Revised Penal Code, as amended by RA 7659, states:

Article 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 x x x x

Applying Article 63(2) of the Revised Penal Code<sup>95</sup> here the lesser of the two (2) indivisible penalties, *i.e.*, *reclusion perpetua* shall be imposed provided there is no mitigating or aggravating circumstance that attended the killing, as in this case. Hence, the Court of Appeals correctly sentenced appellant to *reclusion perpetua*.

Going now to appellant's civil liabilities, *People of the Philippines v. Esmael Gervero, et al.*<sup>96</sup> ruled:

x x x

x x x

x x x

Following the jurisprudence laid down by the Court in *People v. Jugueta*, accused-appellants are ordered to pay the heirs of Hernando Villegas, Jose Villegas, and Benito Basug, Jr. P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. It was also ruled in *Jugueta* that when no documentary evidence of burial or funeral expenses is presented in court, the amount of P50,000.00 as temperate damages shall be awarded. In addition, interest at the rate of six percent per annum shall be imposed on all monetary awards from the date of finality of this decision until fully paid.

x x x

x x x

x x x

The Court of Appeals, therefore, correctly awarded Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity to the heirs of Abelardo Evangelista.

On the award of actual damages, the family of Abelardo Evangelista presented receipts in the amount of Forty Thousand Six Hundred and Fifty

<sup>95</sup> Art. 63. *Rules for the application of indivisible penalties*. — x x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

<sup>96</sup> G.R. No. 206725, July 11, 2018.

Pesos (P40,650.00) for coffin, funeral mass, and blessing.<sup>97</sup> Although they claimed to have also spent Forty Thousand Pesos (P40,000.00) for the wake, they failed to present receipts for the alleged expense. Hence, the actual damages proven is only Forty Thousand Six Hundred Fifty Pesos (P40,650.00).

But, as pronounced in *Gervero* and *People v. Jugueta*,<sup>98</sup> “when no documentary evidence of burial or funeral expenses is presented in court, the amount of P50,000.00 as temperate damages shall be awarded.” Considering that the receipts presented by Abelardo’s heirs did not exceed Fifty Thousand Pesos (P50,000.00), they shall, in lieu of actual damages, be granted Fifty Thousand Pesos (P50,000.00) temperate damages in order to avoid the situation where those who did not present any receipt at all would get more than those who claimed for more than Fifty Thousand Pesos (P50,000.00) but failed to present receipts for the excess of that amount. Verily, the heirs of Abelardo Evangelista are entitled to Fifty Thousand Pesos (P50,000.00) as temperate damages, in lieu of actual damages.

As for moral and exemplary damages, the same must be increased to Seventy-Five Thousand Pesos (P75,000.00) each in accordance with *Gervero* and *Jugueta*.

*Criminal Case No. L-8887*  
*Attempted Murder*

Article 51 of the Revised Penal Code states:

Art. 51. *Penalty to be imposed upon principals of attempted crimes.* — A penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony.

Under the indeterminate sentence law, the maximum of the sentence shall be that which could be properly imposed in view of the attending circumstances, and the minimum shall be within the range of the penalty next lower to that prescribed by the Revised Penal Code. Absent any mitigating or aggravating circumstance, the minimum term should be within the range of *prision correccional*, which has a duration of six (6) months and one (1) day to six (6) years, and the maximum term should be within the range of *prision mayor* in its medium term, which has a duration of eight (8) years and one (1) day to ten (10) years.<sup>99</sup>

The trial court and Court of Appeals, therefore, correctly sentenced appellant to two (2) years, four (4) months, and one (1) day of *prision*

<sup>97</sup> Record (Criminal Case No. L-8886), pp. 94-95.

<sup>98</sup> *Supra* note 88, at 846-847.

<sup>99</sup> *Gary Fantastico, et al. v. People of the Philippines, et al.*, 750 Phil. 120, 139-140 (2015).

*correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

As for civil liabilities, *Jugueta* decreed:

I. For those crimes like, Murder, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties:

x x x x

2.2 Where the crime committed was not consummated:

b. Attempted:

- i. Civil indemnity – ₱25,000.00
- ii. Moral damages – ₱25,000.00
- iii. Exemplary damages – ₱25,000.00

The award of moral damages here should be reduced from Forty Thousand Pesos (P40,000.00) to Twenty-Five Thousand Pesos (P25,000.00). The award of exemplary damages, however, is increased from Twenty Thousand Pesos (P20,000.00) to Twenty-Five Thousand Pesos (P25,000.00). Appellant is also liable to pay Twenty-Five Thousand Pesos (P25,000.00) as civil indemnity.

As for actual damages, the parties stipulated on the receipts<sup>100</sup> as proof of the expenses incurred by Eric Evangelista for the treatment of the wounds he sustained.<sup>101</sup>

In its Decision dated March 13, 2015, the Court of Appeals, nonetheless, awarded Twenty-Five Thousand Pesos (P25,000.00) and not just the full claim of Seven Thousand and Thirty-Two Pesos (P7,032.00) by Eric Evangelista. The Court of Appeals reasoned:

When actual damages proven by receipts during the trial amount to less than P25,000.00, the award of temperate damages for P25,000.00 is justified in lieu of actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds P25,000.00 then temperate damages may no longer be awarded; actual damages base on the receipts presented during trial should instead be granted.

x x x

x x x

x x x

In the case of Eric Evangelista, the actual damages proven during the trial amount to less than P25,000.00. Only medical expenses amounting to P7,032.00 were duly supported by receipts. Thus, the award

<sup>100</sup> Exhibits "M" to "M-7"; Record (Criminal Case No. L-8886), pp. 162-168.

<sup>101</sup> Record (Criminal Case No. L-8886), p. 155.

of temperate damages of P25,000.00 in lieu of P7,032.00 as actual damages is justified.<sup>102</sup>

We clarify.

In *People v. Villanueva*,<sup>103</sup> the victim's heirs claimed Six Hundred Thousand Pesos (P600,000.00) as actual and total expenses. But they were only able to present receipts up to Thirteen Thousand and One Hundred Pesos (P13,100.00). The Court then, adopted the pronouncement in *People v. Albrazado*<sup>104</sup> where the Court granted temperate damages, in lieu of actual damages, in the amount of Twenty Five Thousand Pesos (P25,000.00). The Court said in *Albrazado* that it "*would be unfair for the victim's heirs to get nothing, despite the death of their kin, for the reason alone that they cannot produce any receipts.*"

Thus, in *Villanueva*, the Court said that it would be "*unfair*" for Villanueva's heirs to be awarded with only Thirteen Thousand One Hundred Pesos (P13,100.00) "*because the victim's heirs who tried but succeeded in proving actual damages to the extent of P13,100 only, would be in a worse situation than, say, those who might have presented no receipts at all but would now be entitled to P25,000 temperate damages.*" The Court ruled that "*when actual damages proven by receipts during the trial amount to less than P25,000, as in this case, the award of temperate damages for P25,000 is justified in lieu of actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds P25,000, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted.*"

Here, Eric's full claim was only Seven Thousand and Thirty-Two Pesos (P7,032.00). No more, no less. For it was the only amount he spent for his treatment. Why then should he be given Twenty-Five Thousand Pesos (P25,000.00)? It would certainly be unjust for appellant to be compelled to pay more than what Eric actually claimed to have spent for his treatment, *i.e.* Seven Thousand and Thirty-Two Pesos (P7,032.00), exactly the amount covered by the receipts the People offered as Exhibits "M" to "M-7."

It is, therefore, incorrect for the Court to award more than the amount Eric Evangelista actually incurred for his treatment, let alone, beyond what Eric Evangelista himself claimed to have actually spent.

*Criminal Case No. L-8888*  
*Frustrated Murder*

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<sup>102</sup> CA rollo, pp. 143-144.

<sup>103</sup> 456 Phil. 14, 28 (2003).

<sup>104</sup> 445 Phil. 109, 126 (2003).

Article 50 of the Revised Penal Code provides:

Art. 50. *Penalty to be imposed upon principals of a frustrated crime.* — The penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony.

In the absence of any modifying circumstances, the imposable penalty for frustrated murder is *reclusion temporal* in its medium period. Applying the indeterminate sentence law, appellant was correctly sentenced to eight (8) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

As for civil liabilities, *Jugueta* decreed:

II. For those crimes like, Murder, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties:

x x x x

2.2 Where the crime committed was not consummated:

a. Frustrated:

- i. Civil indemnity – ₱50,000.00
- ii. Moral damages – ₱50,000.00
- iii. Exemplary damages – ₱50,000.00

In sum, the awards of moral and exemplary damages are increased to Fifty Thousand Pesos (P50,000.00) each. Appellant is also ordered to pay Fifty Thousand Pesos (P50,000.00) as civil indemnity.

As for actual damages, both the trial court and Court of Appeals correctly awarded Sixty Eight Thousand Seven Hundred and Twelve Pesos (P68,712.00) the same being duly supported by corresponding receipts.<sup>105</sup>

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated March 13, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 05193 is **AFFIRMED with MODIFICATION**.

In **Criminal Case No. L-8886**, Dang Angeles y Guarin is found **GUILTY** of **MURDER** and sentenced to *reclusion perpetua*. The qualifying circumstance of abuse of superior strength, in lieu of treachery is appreciated against him. He is further ordered to **PAY** the heirs of Abelardo Q. Evangelista the following amounts:

<sup>105</sup> Exhibits "O" to "O-19"; Record (Criminal Case No. L-8886), pp. 170-186.

- (1) Php50,000.00 as temperate damages;
- (2) Php75,000.00 as civil indemnity;
- (3) Php75,000.00 as moral damages; and
- (4) Php75,000.00 as exemplary damages

In **Criminal Case No. L-8887**, Dang Angeles y Guarin is found **GUILTY** of **ATTEMPTED MURDER** and sentenced to the indeterminate penalty of **two (2) years, four (4) months, and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.** He is ordered to **PAY** Eric Q. Evangelista the following amounts:

- (1) Php7,032.00 as actual damages;
- (2) Php25,000.00 as civil indemnity;
- (3) Php25,000.00 as moral damages; and
- (4) Php25,000.00 as exemplary damages

In **Criminal Case No. L-8888**, Dang Angeles y Guarin is found **GUILTY** of **FRUSTRATED MURDER** and sentenced to the indeterminate penalty of **eight (8) years of *prision mayor*, as the minimum, to fourteen (14) years, eight months (8) and one (1) day of *reclusion temporal*, as the maximum.** He is ordered to **PAY** Mark Ryan Q. Evangelista the following amounts:

- (1) Php68,712.00 as actual damages;
- (2) Php50,000.00 as civil indemnity;
- (3) Php50,000.00 as moral damages; and
- (4) Php50,000.00 as exemplary damages

All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the finality of this decision until fully paid.

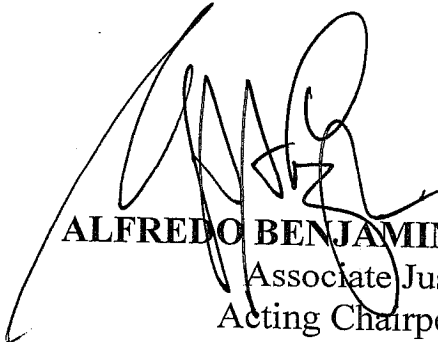
**SO ORDERED.**

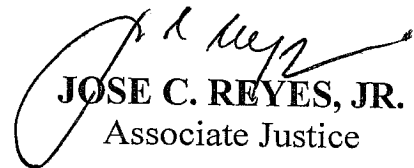
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

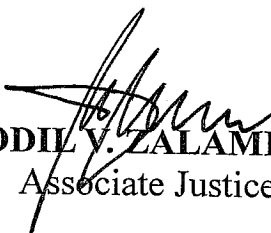


**WE CONCUR:**

(On official leave)  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

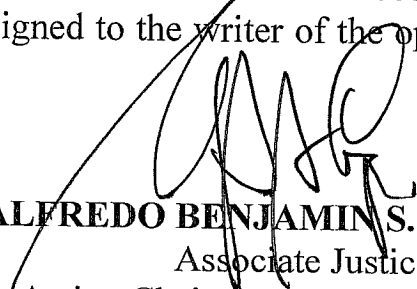
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Acting Chairperson

  
**JOSE C. REYES, JR.**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

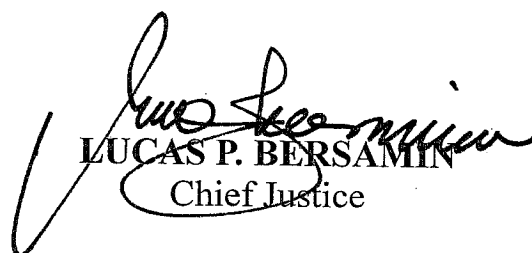
**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's division.

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Acting Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**LUCAS P. BERSAMIN**  
Chief Justice

