



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 233839

Present:

- versus -

GESMUNDO, C.J., Chairperson,
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, M., and
LOPEZ, J., JJ.

ZULKIFLI/JULKIFLI @
DONIS/DONI OFRACIO/AHMAD
FAISAL, TAUFIQ RIFQI, ET AL.,
Accused;

ZULKIFLI/JULKIFLI @
DONIS/DONI OFRACIO/AHMAD
FAISAL, TAUFIQ RIFQI,
FELICIANO DELOS REYES @
BOX, and DINNO AMOR R.
PAREJA @ KHALEEL,
Accused-Appellants.

Promulgated:

DEC 02 2021

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DECISION

CAGUIOA, J.:

Before the Court are two separate appeals filed under Section 13(c), Rule 124 of the Revised Rules of Criminal Procedure from the Decisions dated April 28, 2016¹ (First Decision) and March 30, 2017² (Second Decision) of the Court of Appeals (CA) in CA-G.R. CR HC No. 07141,

¹ CA rollo, pp. 248-271. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with the concurrence of Associate Justices Ricardo R. Rosario (now a Member of this Court) and Associate Justice Ramon Paul L. Hernando (now a Member of this Court).

² Id. at 302-324.

which affirmed the Decision³ dated July 14, 2014 of the Regional Trial Court (RTC) of Pasig City, Branch 154, in Criminal Case No. 135738-H-PSG for Murder with Multiple Frustrated Murder. The First Decision deals only with the conviction of accused-appellants Feliciano Delos Reyes @ Box (Delos Reyes) and Dinno Amor R. Pareja @ Khaleel (Pareja); while the Second Decision deals with the conviction of accused-appellants Zulkifli/Julkifli @ Donis/Doni Ofracio/Ahmad Faisal (Zulkifli) and Taufiq Rifqi (Rifqi).

FACTS

The case stemmed from the bombing of the Awang Airport in Barangay Awang, Datu Odin Sinsuat in the Province of Maguindanao. The RTC's extensive summary of antecedents states:

On February 20, 2003 at around 2:30 o'clock in the afternoon[,] a loud explosion rocked the Awang Airport (Airport) located at Brgy. Awang, Datu Odin Sinsuat town in the Province of Maguindanao. There was one reported fatality and many others were injured. Several houses were burned and the Airport's terminal building was damaged. The investigation that followed revealed that the explosion was caused by an Improvised Explosive Device (IED) that was placed in a white Suzuki Multicab (multicab), which was parked in a restaurant that was located across the entrance gate of the Airport.

The investigation resulted in the filing of an Information for Murder with multiple Frustrated Murder against **Hadji Hamid Zulhamid @ Hadji Hamid Zulhamid Nasser, Joseph Madaran**, and several John Does before the [RTC], Branch 13, Cotabato City.

A Warrant of Arrest was issued against the named accused but to this date, they have not been apprehended.

The original Information was amended several times to include other accused, hence:

INFORMATION -and- DATE	NAME OF ACCUSED ADDED TO THE INFORMATION
Amended Information dated May 13, 2004	(1) [Zulkifli] (2) Sammy Abdulgani @ Johnny Gabriel/Harrison [(Abdulgani)] (3) Hudaifahm @ Abraham (4) Jordan Abdullah @ Yousef (5) Datu Puti Ungka @ Phots (6) Badrudin Punga Dalungan @ Badz [(Dalungan)] (7) Montasser Esmael y Ali (8) [Rifqi]
Second Amended Information dated	(1) Romeo Hashim (2) Sheik Reuben Omar Lavilla

³ Id. at 164-204. Rendered by Judge Achilles A. A. C. Bulaitan.

November 16, 2004	(3) Ibrahim Kessel (4) Ismael De Vera [(De Vera)]
Amended Information dated February 15, 2006	Abdul Nasser Kitogi @ Arman Mano/Morshed Mano/Arman Manong
Amended Information dated October 19, 2010	(1) @ Usman (2) Ricardo Ayeras @ Abdulkarim (3) [Delos Reyes] (4) [Pareja]

The Amended Information dated October 19, 2010 alleged that:

“AMENDED INFORMATION

The undersigned Prosecution Attorney of the Department of Justice hereby accuses HADJI HAMID ZULHAMID alias HADJI JAMID ZULHAMID NASSER, JOSEPH MADARAN, [ZULKIFLI], [ABDULGANI], HUDAIFAH alias ABRAHAM, DATU PUTI UNGKA alias PHOT, [DALUNGAN], MONTASSER ESMAEL y ALI, [RIFQI], ROMEO HASIM, SHEIK RUEBEN OMAR LAVILLA, [DE VERA], ARMAN MANO alias MORSHER MANO/ARMAN MANONG/ABDUL NASSER KITUGI, A CERTAIN PERSON A.K.A.[.] USMAN, RICARDO AYERAS A.K.A.[.] ABDULKARIN, [DELOS REYES], [PAREJA], PETER AND JOHN DOES, for MURDER in violation of Article 248 of the Revised Penal Code with Multiple Frustrated Murder, committed as follows:

That on or about February 20, 2003, in Barangay Awang, Municipality of Datu Odin Sinsuat, Maguindanao and within the jurisdiction of this Honorable Court, the above-named accused persons in conspiracy with one another, confederation and mutually aiding one another, with intent to kill, evident premeditation and treachery, and by use of Suzuki Multi-cab vehicle, did then and there knowingly, willfully, unlawfully, and feloniously, killed Sgt. Nelson Corpuz [(Sgt. Corpuz)], PA by way of an explosion of an improvised explosive device loaded inside the said vehicle; and wounded Haydee Bello⁴ [(Bello)] and Luna Umpal [(Umpal)], thus performing all the acts of execution which would have produced the crime of Murder as a consequence but, nevertheless, did not produce it by reason of causes independent of the will of the perpetrators, that is, by the timely medical assistance extended to the said victims which prevented their death.

CONTRARY TO LAW.”

⁴ Referred to as Hiedy Bello or Haidy Bello in other parts of the records.

Among the accused charged, only [Zulkifli], **Abdulgani, Ungka, Dalungan, Esmael, Rifqi, Lavilla, De Vera, Ayeras, Delos Reyes, Pareja, Kessel, and Abdullah** were apprehended by virtue of a warrant of arrest issued against them and except for Abdullah who filed a Motion for Determination of Probable Cause[,] all the other accused upon their arraignment on separate dates each entered a plea of NOT GUILTY to the charge against them. The date of arraignment and pretrial of the accused are indicated below:

NAME OF ACCUSED	DATE OF ARRAIGNMENT	DATE OF PRETRIAL
(1) [Abdulgani] (2) [Dalungan]	15 December 2004	2 February 2005 25 May 2012 [for Dalungan only]
(3) Montasser Ismael		
(4) Datu Puti Ungka	2 February 2005	Escaped from detention
(5) Ibrahim Mutuc Kessel	3 March 2005	Case against him was dismissed
(6) [De Vera] (7) Ricardo Ayeras (8) [Pareja]	24 January 2006 20 March 2012 20 March 2012	20 April 2012
(9) [Delos Reyes] (10) [Zulkifli] (11) [Rifqi]	4 May 2012 11 May 2012 11 May 2012	22 May 2012
(12) Sheik Ruben Omar Lavilla	20 July 2012	20 July 2012

Abdullah's motion for determination of probable cause was granted in the Order dated May 6, 2005 and the case against him was dismissed. Kessel filed a Motion to Dismiss which was also granted.

Pursuant to SC A.M. No. 05-6-371-RTC dated April 23, 2007 the venue of this case was transferred from Cotabato City to this Court.⁵ (Citations omitted, and emphasis, italics and underscoring in the original.)

Version of the Prosecution

In both the First and Second Decisions, the CA summarized the prosecution's version of events as follows:

In the trial before the court *a quo*, the prosecution presented five (5) material witnesses, namely: [Bello], Doralyn Andes [(Andes)], Cesar Ragandan [(Ragandan)], retired Police Chief Inspector Amado Bargasa, Jr.⁶ [(Ret. PCI Bargasa, Jr.)], and one of the accused who turned state witness, [Abdulgani].

The prosecution witnesses' collective testimonies established that in the early part of February 2003, appellant [Zulkifli], an Indonesian national and member of the Jemaah Islamiyah, first convened Abdulgani and other members of the Moro Islamic Liberation Front [(MILF)] at a

⁵ CA rollo, pp. 164-168.

⁶ Referred to as Amado Barbasa, Jr. in other parts of the records.

safehouse in [(sic)] Apitong St., San Pablo Village, Cotabato City. The safehouse was purposely rented to serve as a rendezvous in the preparation of the plan to detonate a bomb near Awang airport at Datu Odin Sinsuat, Cotabato City. The bombing was aimed at terminating the ceasefire agreement between the government and the MILF, which at the time was beginning to debilitate (sic). The initial target included military checkpoints, government offices, military personnel, embassies, areas frequented by foreigners in order to gain international attention. In the course of the meeting, the kind of bomb to be used, the type of vehicle to be used for carrying the bomb, and the respective tasks and roles of each participator were determined and assigned.

During the second meeting, appellant [Rifqi] and appellants Delos Reyes and Pareja, among others, who were members of the *balik* Islam group, joined the confabulation whereby it was agreed that they will be the ones to transport the bomb by the use of a multicab to the designated area and that together with the rest of the *balik* Islam members, they will board the same and act as passengers.

On 19 February 2003, the date when the plan was originally undertaken, the mission was thwarted when the bomb failed to explode after it was detonated. They later discovered that the blasting cap was wet. Upon their return to their hideout, appellants Zulkifli and Rifqi fixed the glitch while the *balik* Islams were watching.

The following day, or on 20 February 2003, the mission was executed for the second time. After conducting surveillance, Abdulgani gave them the go signal to proceed with the plan. Abdul Nasser Kitogi parked the white Suzuki multicab carrying the bomb and the *balik* Islam at the parking lot of the Awang Airport. But as of 2:30 P.M., he positioned the multicab near the Pampangueña [r]estaurant. Abdulgani and one Ibrahim Kessel entered the restaurant to order some drinks while the others remained in the multicab. Not long after, when the *balik* Islam members were starting to alight from the vehicle and leave the place, Abdul Nasser Kitogi switched on the bomb and together with Abdulgani, sped off on board a motorcycle. On their way to Cotabato City, they heard the explosion near the Pampangueña restaurant.

One [Sgt. Corpuz] died as a result of the tragic incident while [Umpal] and [Bello] sustained multiple injuries on different parts of their bodies.

For its rebuttal evidence, the prosecution presented the testimony of P/Supt. (ret.) Guillermo Danipog, Jr. [(Ret. P/Supt. Danipog, Jr.)] to attest to the voluntariness of the testimonies given by Abdulgani. It also presented the testimony of Mariano Melendres of the Bureau of Immigration and Deportation to rebut Zulkifli's claim that "he arrived in the Philippines in the year 2000 under the name Ahmad Faisal."⁷ (Citations omitted)

⁷ CA rollo, pp. 251-253 and 306-307.

Version of the Defense

In the First Decision, the CA adopted the RTC's summary of the testimonies for the defense as follows:

The accused interposed the defense of denial and alibi. They denied being part of a conspiracy to bomb the Airport and they all claimed to be in other places at the time of the bombing.

A summary [of] each of their respective testimonies is recounted below:

x x x x

(C) [DELOS REYES]

On February 20[,] he was teaching Arabic language at Al Koran Wasun-na in Lamitan, Basilan. He started teaching at the *madrasah* in the first week of January 2003 until December 2006 when he was arrested in connection with another case. He learned of this case in 2010. His immediate supervisor was the owner of the school Ustadz Usman Mangkabung. He could not remember the names of the other teachers and the number of students he was teaching but they were in grade school.

x x x x

(E) [PAREJA]

On February 20[,] he was with his sister Amornila Mangulabnan in Barangay Sauyo, Novaliches, Quezon City, because his father told him to accompany his sister who suffered a miscarriage and he was still looking for a job at that time. He managed to get a job at Fiorgelato Cafe on June 2003 but his employment ended in September of the same year. He learned about this case on January 2012 when he saw on television that he was charged with Murder and Frustrated Murder. He was arrested on March 1, 2012 in Oriental Mindoro.

x x x x

(G) [RIFQI]

He was from Surakarta, Central Java, Indonesia where he was engaged in the business of selling clothes and also taught children how to read the Koran. He left Indonesia by boat for the Philippines in the year 2000 together with his friend Ustadz Bashir who taught Islam. He went to the Philippines without travel documents. They landed in General Santos City although at the time he did not know the place. There was no one to meet them there and they did not know the language or dialect in the area so they just walked and asked for directions through sign language until they reached a house in a Muslim community where they slept overnight. The following morning[,] they went to the municipality of Barera in Cotobato City where they were met by Bapa Abdulah, an Imam. The Imam and *Ustadz* Bashir agreed that the latter will teach in a *madrasah* in Barera. He never left Barera until the time of his arrest on October 2003 at



a pension house in Cotabato City where he was supposed to meet the person who was going to fetch him in going back to Indonesia because he missed his parents. He learned of the *Jemaah Islamiyah* when he was already incarcerated and he denied P/Chief Inspector Barbasa's claim that he was a member of the *Ji*. He was not acquainted with Abdulgani and he denied any involvement in the bombing. He learned of the bombing only after he was arrested when he was brought from Manila to Cotabato City for a hearing. Abdulgani pointed to him as a conspirator since he wanted to be free because he has been in jail since 2005 to 2008 or 2009. He denied that he and Zulkifli planned the bombing and that he fixed the device after it failed to explode the first time. He only met Zulkifli at Camp Crame.

x x x x

On February 20, he was in Barera, Maguindanao which was a three (3) to four (4) hour *jeepney* ride to Cotabato City, and he did not even know where the Airport was. He denied Abdulgani's claim that he helped finance and educate rebels in the preparation of improvised explosives and that he had a hand in the preparation of the detonator of the device that was used in the bombing of the Airport. Aside from wanting to be free, Abdulgani also wanted money so he testified against the accused. He was praying inside a mosque in Barera at 2:30 o'clock in the afternoon of February 20, which was near the *madrasah* but he could not remember the names of the other persons in the mosque. *Ustadz* Bashir went back to Indonesia about a year before he was arrested. He stayed behind because *Ustadz* Bashir told him to stay behind and to wait for somebody to fetch him. He denied that he and Zulkifli released Php 40,000.00 to Php 50,000.00 for the purchase of the multicab and Php 10,000.00 for the explosives.

(H) [ZULKIFLI]

He was a former teacher from East Java, Indonesia. While he was under detention in Malaysia, the authorities in that country forced him to sign forged documents stating his name as Ofrecio and that he was a Filipino citizen. Meanwhile, Philippine authorities tagged him merely as *Zulkifli*.

He arrived in Zamboanga, Philippines in the year 2000 by ferry that came from Malaysia. He used his Indonesian passport which he surrendered to the office of Salamat Hashim, the late Chairman of the MILF, when he went to Lingganan. He went to the Philippines for a study program called *Mulazamah* which was managed and arranged by the office of Hashim as well as his activities and schedules. *Jemaah Islamiyah* means "*Muslim community*" and as Muslim he is a member of that community. He denied that he and Rifqi, who is also an Indonesian, had anything to do with the bombing of the Airport. He only met Rifqi in 2008 when the latter was transferred from the South Cotabato Jail to the [Philippine National Police (PNP)] Custodial Center in Camp Crame. Abdulgani was with Rifqi and although he knew Abdulgani as a co-accused they only greeted each other just like any other detainees. x x x If he was not mistaken[,] he was at Camp Derapanan of the MILF on February 20 under the custody of Hashim who assigned him personnel to handle his study program, which was to learn directly from a scholar like Hashim who was a great scholar in Southeast Asia and well-known in the



Muslim community in Indonesia. x x x He learned English by himself and Filipino during his detention. He denied that he gave the directive for the Airport bombing because during his stay in Cotabato[,] his activities were controlled and his schedules were supervised by the office of Hashim and he was not allowed to go anywhere without any company. He did not know if the MILF had a hand in procuring the multicab that was used in the bombing and the motorcycle that Abdulgani used for surveillance. He did not know the exact location of the Airport but he knew Cotabato City. He denied being present in a meeting 15 days before the bombing because he only met some of the accused at the custodial center and some of them[,] he met only in court. He denied that he gave the "go" signal to conduct the bombing; that he directed Abdulgani to retrieve the bomb after the first attempt failed; that Rifqi fixed the detonator while the *balik Islam* watched as bystanders like they were on-the-job training; that after the bomb exploded[,] he called Abdulgani and told him to proceed to Apitong Street, which he did not know; that he told Abdulgani to leave the safe house and wait for his call. He believed that Abdulgani called him Zulkifli as part of the briefing by the authorities after he became a state witness. x x x.⁸ (Italics in the original)

RTC Ruling

On July 14, 2014, the RTC rendered its Decision, the dispositive portion of which stated:

WHEREFORE, the Court finds accused [Zulkifli], [Rifqi], [De Vera], [Delos Reyes], and [Pareja], **GUILTY** beyond reasonable doubt of the crime of Murder with Double Attempted Murder and they are hereby each sentenced to the penalty of *reclusion perpetua*.

The accused are also ordered to pay, jointly and severally:

- (1) **To the heirs of [Sgt. Corpuz]:**
 - (a) Civil indemnity for his death in the amount of Php75,000.00;
 - (b) Moral damages in the amount of Php50,000.00
 - (c) Exemplary damages in the amount of Php30,000.00; and,
 - (d) Temperate damages in the amount of Php25,000.00.
- (2) **To [Bello]:**
 - (a) Moral damages in the amount of Php50,000.00;
 - (b) Exemplary damages in the amount of Php30,000.00; and,
 - (c) Temperate damages in the amount of Php25,000.00.
- (3) **To [Umpal]:**
 - (a) Moral damages in the amount of Php50,000.00;
 - (b) Exemplary damages in the amount of Php30,000.00; and,
 - (c) Temperate damages in the amount of Php25,000.00.

Let a Commitment Order (*Mittimus*) be issued for the said accused for their transfer to the National Bilibid Prison for the service of their sentence.

⁸ Id. at 253-256.



The accused **Ruben P. Lavilla, Jr. @ Shiek Omar, [Dalungan]**, and **Ricardo Ayeras @ Abdulkarim**, are hereby **ACQUITTED** of the charge against them for the failure of the prosecution to prove their guilt beyond reasonable doubt. The said accused being detention prisoners, they are hereby ordered released from detention in connection with this case only *unless* their continued confinement is justified for some other lawful cause.

Let this case be archived pending the arrest of the other accused.

SO ORDERED.⁹ (Emphasis and italics in the original)

The RTC found that the guilt of De Vera, Delos Reyes, and Pareja was proven beyond reasonable doubt. They were identified by Abdulgani as among the *balik* Islam he met during a meeting called by Zulkifli. They were tasked with pretending to be passengers of the multicab to camouflage their bombing. Bello, Andes, and Ragandan (hereafter collectively referred to as the Pampangueña restaurant employees) also identified them as the persons who parked a multicab in front of the Pampangueña restaurant, some of whom entered the restaurant and ordered softdrinks and brownies. The RTC also found that De Vera, Delos Reyes, and Pareja acted in conspiracy with Zulkifli and Rifqi, as testified to by Abdulgani. Zulkifli presided over the planning of the bombing, financed the operation, and designated tasks to each participant. Rifqi was also present during the planning stages and even repaired the timer of the device used to detonate the bomb.

Since the killing of Sgt. Corpuz and the non-fatal wounding of Bello and Umpal were achieved through the use of explosives, the RTC found that the crime committed was the complex crime of Murder with Double Attempted Murder, further aggravated by treachery and evident premeditation.

CA Ruling

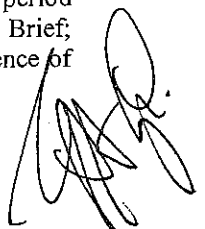
Delos Reyes and Pareja, together, and Zulkifli and Rifqi, jointly, filed separate appeals before the CA. In its First Decision¹⁰ dated April 28, 2016, the CA affirmed the conviction of Delos Reyes and Pareja,¹¹ the dispositive portion thereof stating:

WHEREFORE, in view of all the foregoing, the instant appeals are hereby **DENIED**.

⁹ Id. at 203-204.

¹⁰ Id. at 248-271.

¹¹ See the CA's Resolution dated June 1, 2016, which clarified that the Decision dated April 28, 2016 pertained only to Delos Reyes and Pareja, and clarified that Zulkifli and Rifqi would be given a period of fifteen (15) days to secure the services of new counsel to assist them in filing an Appellant's Brief; id. at 289-292. Penned by Associate Justice Maria Christine Azcarraga-Jacob, with the concurrence of Associate Justices Ricardo R. Rosario (now a Member of this Court) and Edwin D. Sorongon.



The *Decision dated 14 July 2014* of the [RTC], Branch 154, Pasig City, in Criminal Case No. 135738-H-PSG is **AFFIRMED** subject to the sole **MODIFICATION** that the award of Moral Damages be increased to Php 75,000.00 for the heirs of [Sgt. Corpuz]; [Bello]; and [Umpal].

SO ORDERED.¹²

The CA found that Delos Reyes' and Pareja's participations in the conspiracy to execute the bombings were sufficiently proven by Abdulgani's testimony, placing them at the second meeting in Zulkifli's house, where Delos Reyes and Pareja were introduced as *balik* Islam and the manner of execution of the bombing was explained. Delos Reyes' and Pareja's defenses of denial and alibi were given scant consideration because neither established that they were in another place at the time of the perpetration of the crime and that it was physically impossible for them to be at the scene of the crime. The CA also noted that the positive identification by the Pampangueña restaurant employees could not be defeated by Delos Reyes' and Pareja's self-serving alibis.

Delos Reyes and Pareja filed a Notice of Appeal¹³ from this decision through counsel on May 19, 2016.

As regards Zulkifli and Rifqi, the CA noted that their counsel merely adopted their Memorandum before the RTC as their Appellant's Brief before promptly withdrawing his appearance as their counsel. The CA gave Zulkifli and Rifqi an opportunity to secure the services of new counsel to assist them in filing an Appellant's Brief.¹⁴ Despite this, no entry of appearance and Appellant's Brief for Zulkifli and Rifqi were filed.¹⁵ The CA deemed them to have dispensed with the filing of their Appellants' Brief and reiterated the issue raised in their Memorandum before the RTC.¹⁶ The CA, in its Second Decision,¹⁷ affirmed the RTC's conviction of Zulkifli and Rifqi. The dispositive portion of the Second Decision states:

WHEREFORE, in view of the foregoing, the instant appeal is hereby **DENIED**.

The *Decision dated 14 July 2014* of the [RTC], Branch 154, Pasig City, in Criminal Case No. 135738-H-PSG is **AFFIRMED** subject to the sole **MODIFICATION** that the award of Moral Damages be increased to Php 75,000.00 for the heirs of [Sgt. Corpuz]; [Bello]; and [Umpal].

SO ORDERED.¹⁸ (Emphasis and italics in the original)

¹² Id. at 270.

¹³ Id. at 272-274.

¹⁴ Id. at 290-291.

¹⁵ Per CA Resolution dated January 24, 2017, id. at 297-299.

¹⁶ Second Decision, id. at 312.

¹⁷ Id. at 302-324.

¹⁸ Id. at 323.



The CA found that Zulkifli and Rifqi's participation in the crime through conspiracy was sufficiently proven by Abdulgani's testimony. The RTC did not commit any errors in its appreciation of his testimony. The CA also noted that Rifqi's extrajudicial confession, which corroborated Abdulgani's testimony on material points, was admissible in evidence, since it was express, in writing, voluntarily given in the presence and with assistance of competent and independent counsel. On the other hand, Zulkifli and Rifqi's defenses of denial and alibi are weak as against the prosecution's positive evidence identifying them as conspirators.

Zulkifli and Rifqi filed a Notice of Appeal¹⁹ through counsel on April 18, 2017.

Issue

The issue before the Court is whether the CA erred in convicting accused-appellants of Murder with Double Attempted Murder.

Court's Ruling

In a Manifestation²⁰ dated January 22, 2018, counsel for accused-appellants waived the filing of a Supplemental Brief, noting that their arguments were already thoroughly discussed in the brief filed before the CA. The Court notes, however, that only accused-appellants Delos Reyes and Pareja filed a brief²¹ through their counsel before the CA; on the other hand, counsel for Zulkifli and Rifqi filed an Urgent Motion for Review and for Withdrawal as Counsel, manifesting that they would no longer file a brief before the CA, and would instead reiterate their arguments in the Memorandum²² filed before the RTC.

In its First Decision, the CA quoted Delos Reyes and Pareja's statements in their brief before the CA:

x x x [I]t was error for the court *a quo* to have at once looked at their defenses of denial and alibi with disfavor as it was not shown that the same were not plausible. According to them, like the two other *balik* Islam members Ruben P. Lavilla, Jr. and Ricardo Ayeras who were acquitted on reasonable doubt, the court *a quo* should have likewise ordered their acquittal. To bolster this contention, they argue that in his direct examination, "Abdulgani never mentioned Delos Reyes and Pareja as among those who agreed, conceptualized, or designed the bombing

¹⁹ Id. at 334-335.

²⁰ *Rollo*, pp. 32-34.

²¹ *CA rollo*, pp. 140-162.

²² *Records*, pp. 1915-1948.

incident.” They capitalize on the notion that their incarceration is highly suspect considering that they were implicated and identified by the prosecution only in 2010, or seven (7) years after the prosecution witnesses Bello and Andes first took the witness stand.²³

In their Memorandum before the RTC, which was adopted as their brief before the CA, and reiterated before this Court, Zulkifli and Rifqi’s arguments are as follows, as summarized by the CA:

Appellants Zulkifli and Rifqi contend that the warrant of arrest issued did not strictly comply with [Department of Justice (DOJ)] Circular No. 50 (Oct. 29, 1990) which required that “warrants of arrest should particularly described [(sic)] the person or persons to be seized.” Invoking the totality of circumstances test, they posit that the testimonies of Pampangueña restaurant employees do not deserve credence as they are wanting of particular details with respect to their physical identity on the date the crime was committed. They likewise assail their testimonies for being fabricated. Citing *People v. Deniega*, appellants likewise assail the competence and independence of Atty. Confesor Sansano [(Atty. Sansano)] in extending assistance to appellant Rifqi. Hence, they assert that the extra-judicial confession executed is inadmissible. Lastly, they insist that their defense of denial and alibi must be upheld.²⁴ (Citations omitted)

At the outset, it must be noted that the testimonies of the Pampangueña restaurant employees are relevant only to Pareja, since he was identified by the employees as one of the persons in the multicab. The Pampangueña restaurant employees’ testimonies are not relevant to Delos Reyes, Zulkifli and Rifqi, since they were identified not by the employees but by Abdulgani.

*The prosecution proved Pareja’s guilt
beyond reasonable doubt*

The prosecution’s primary evidence against Pareja are the testimonies of the Pampangueña restaurant employees and Abdulgani.

Among the Pampangueña restaurant employees, it was Bello and Andes who identified Pareja in open court. Bello was stationed at a stall right outside the restaurant to sell mineral water. She was a mere seven (7) to nine (9) meters²⁵ away from the multicab, and she could see the passengers inside through the open entrance and unobstructed windows of the multicab.²⁶ At the time, she had no customers and was able to observe the multicab attentively.²⁷ She was able to see and narrate where exactly Pareja was seated inside the multicab.²⁸ On the other hand, Andes was working as a waitress and she was

²³ CA rollo, p. 259, citing Brief for Accused-Appellants Delos Reyes and Pareja, id. at 158.

²⁴ Id. at 312-313.

²⁵ TSN, May 31, 2005, p. 33.

²⁶ TSN, June 15, 2012, pp. 27-28.

²⁷ Id. at 27.

²⁸ Id. at 27-28.

inside the restaurant where she took the orders of Abdulgani and a man she identified as Dalungan.²⁹ From where she was, she could see the multicab outside since the restaurant had glass walls.³⁰ She testified that she saw Pareja talking to the other persons inside the multicab.³¹

As for Abdulgani, he testified that Pareja, who he also knew by the name Khalil, was one of the *balik* Islam he met during the second meeting called by Zulkifli at his rented house on Apitong Street.³² As one of the *balik* Islam, Pareja was tasked to pose as a passenger of the multicab,³³ and he was there on both the failed attempt on February 19,³⁴ and the successful bombing on February 20, 2003 as agreed upon.³⁵

The testimonies of Bello, Andes, and Abdulgani established Pareja's participation in the conspiracy and the actual execution of the bombing. In *Bahilidad v. People*,³⁶ the Court said:

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.³⁷ (Citations omitted)

Pareja's contention that his participation in the conspiracy was not proven because he was not present at the first meeting when the manner of executing the bombing had been decided cannot be given credence. During the second meeting, the details of the bombing were again discussed, and he

²⁹ TSN, March 28, 2006, pp. 5-8.

³⁰ Id. at 11.

³¹ TSN, June 8, 2012, pp. 15-17.

³² TSN, July 6, 2012, pp. 22-23.

³³ Id. at 24.

³⁴ Id. at 27.

³⁵ Id. at 34-35.

³⁶ G.R. No. 185195, March 17, 2010, 615 SCRA 597.

³⁷ Id. at 606.

was given the task to act as a passenger of the multicab to deflect any suspicion against them. His acquiescence to this plan made him liable as conspirator, and such acquiescence was evidenced by his presence at the scene of the crime, precisely as had been planned and agreed upon. Hence, the Court sees no reason to reverse the CA and RTC's findings as regards Pareja's guilt.

*Delos Reyes' guilt was not proven
beyond reasonable doubt*

On the other hand, Delos Reyes was not identified by the Pampangueña restaurant employees. The prosecution's main evidence against him was Abdulgani's testimony. Abdulgani testified that Delos Reyes was also present during the second meeting at Zulkifli's rented house. He was one of the *balik* Islam, and he was assigned the same task of posing as a passenger of the multicab.³⁸

Despite testifying that Delos Reyes was among the *balik* Islam, Abdulgani placed him only at the site of the failed bombing on February 19, where he posed as one of the passengers of the multicab.³⁹ As for the bombing on February 20, Abdulgani only mentioned that Delos Reyes was among those who boarded the multicab during the drive from the safehouse in Purok Pag-asa to the Awang Airport. When the multicab was later moved to the Pampangueña restaurant, Delos Reyes was no longer mentioned.⁴⁰ This, coupled by the fact that none of the Pampangueña restaurant employees identified him, support the conclusion that he was not part of the actual bombing that occurred.

Delos Reyes' seeming absence from the scene of the crime, as well as the fact that Abdulgani did not mention his whereabouts after the bomb exploded, resist a finding of conspiracy as regards Delos Reyes because he was not proven to have executed any overt acts in furtherance of the crime. His presence at the meeting and during the failed bombing attempt are not enough to conclude that he also participated in the successful detonating of the bomb placed in the multicab. As earlier quoted above, "the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction."⁴¹

³⁸ TSN, July 6, 2012, pp. 22-23.

³⁹ Id. at 27.

⁴⁰ Id. at 35.

⁴¹ *Bahilidad v. People*, supra note 36, 606.



*Zulkifli's and Rifqi's guilt were proven
beyond reasonable doubt*

The prosecution offered two primary pieces of evidence to prove that Zulkifli and Rifqi were among the perpetrators of the bombing near the Pampangueña restaurant: (a) the testimony of Abdulgani; and (b) the extrajudicial confession of Rifqi.

Rifqi and Zulkifli argue that Rifqi's extrajudicial confession is inadmissible against them because Rifqi was not assisted by competent and independent counsel when he executed the same. They fault Atty. Sansano for not interrupting the taking of Rifqi's statement, not posing any questions whatsoever, and not moving that anything be put on the record.⁴² According to them, he should have been counseling Rifqi at every turn of the investigation, stopping the interrogation once in a while to give advice.⁴³

The Court agrees that Rifqi's confession was not validly taken. There are four requirements for a valid extrajudicial confession: (1) that it be voluntary; (2) that it was made with the assistance of competent and independent counsel, preferably of the confessant's choice; (3) that it be express; and (4) that it must be in writing.⁴⁴ The RTC and the CA were in agreement — and we affirm — that the third and fourth requisites were present. As to the first, the RTC considered the following circumstances in concluding that the confession was voluntary:⁴⁵

- (a) The questions asked by the interrogator allowed Rifqi to narrate what he knew about the subject of the investigation rather than limit his answers to a mere "yes" or "no". His answers contained disclosures that only he could have known.
- (b) His sworn statement was taken by the PNP-Intelligence Group (PNP-IG) Task Force Sanlahi, not by Rifqi's custodians from the Intelligence Service of the Armed Forces of the Philippines.
- (c) Rifqi made corrections to his statements in his own handwriting, each of which he countersigned.
- (d) He was presented before Prosecutor Edgardo Paragua before whom he subscribed to his statement.

The RTC considered Atty. Sansano's assistance as competent and independent because the sworn statement itself narrates that Rifqi was informed of his rights and that, not having counsel of his own, he accepted the

⁴² Records, p. 1934.

⁴³ Id. at 1933.

⁴⁴ *People v. Peñaflor*, G.R. No. 206296, August 12, 2015, 766 SCRA 427, 443.

⁴⁵ CA rollo, pp. 185-186.



counsel to be provided by the investigator. Also, on the basis of the testimonies of prosecution witnesses, Rifqi was allowed to confer with Atty. Sansano alone in a room for about an hour before the interrogation began.⁴⁶

The Court, however, finds that the foregoing is not enough to prove that Rifqi voluntarily and knowingly executed the confession. First, nothing in the records would reveal how Atty. Sansano assisted Rifqi, Atty. Sansano himself did not testify, and the records do not contain any details of any conversation he may have had with Rifqi. Second, the only supporting evidence to the confession presented by the prosecution are the testimonies of Ret. P/Supt. Danipog, Jr. and Ret. PCI Bargasa, Jr. of the PNP-IG. The testimonies of these two persons conflict with each other on material points:

- (a) While Ret. P/Supt. Danipog, Jr. said that taking Rifqi's statement took about four (4) hours, Ret. PCI Bargasa, Jr., who was typing up the statement, said it only took almost an hour;
- (b) Ret. P/Supt. Danipog, Jr. said that since Rifqi was Indonesian, they called up the Indonesian Embassy for an interpreter, and that Rifqi spoke with and assured the interpreter that his services would not be necessary since he could speak fluently in Tagalog. Ret. PCI Bargasa, Jr., however, noted that they never asked for an Indonesian interpreter precisely because Rifqi was fluent in Tagalog.

The Court has always recognized that a person under custodial investigation is under "uniquely stressful conditions"⁴⁷ and is "deprived of normal conditions guaranteeing individual autonomy."⁴⁸ In an environment where one's actions are significantly and perpetually curtailed and subject to the approval of one's custodians, it is more than possible for one to be coerced or influenced into providing or even falsely admitting to incriminating information. Hence, the requirements for a valid extrajudicial confession must always be strictly complied with, and the prosecution must undeniably prove such compliance. In this case, the prosecution failed to do so due to the lack of details on the assistance provided by the assisting attorney to Rifqi and the material inconsistencies in the testimonies of the officers who took Rifqi's statement. Consequently, Rifqi's confession is inadmissible in evidence.

Nevertheless, the prosecution was able to produce proof beyond reasonable doubt of Zulkifli and Rifqi's guilt through the testimony of Abdulgani.

⁴⁶ TSN, May 25, 2012, p. 7; and TSN, February 28, 2014, p. 8.

⁴⁷ *People v. Deniega*, G.R. No. 103499, December 29, 1995, 251 SCRA 626, 637.

⁴⁸ *Id.* at 637.



According to Abdulgani, it was Zulkifli's idea to execute a bombing in Cotabato City (in addition to several other areas such as Koronadal City and Davao City⁴⁹) in order to end a then-subsisting ceasefire between the MILF and the government.⁵⁰ Zulkifli called a meeting in the early part of February 2003 at his rented house on Apitong Street, San Pablo Subdivision, Cotabato City in order to discuss the intended bombing.⁵¹ He was also the one who decided to use a car bomb,⁵² called for a second meeting,⁵³ and facilitated the participation of and introduced the *balik* Islam.⁵⁴ Throughout the whole operation, Zulkifli was the one giving instructions and go signals⁵⁵ to the group. After both the failed attempt and the second successful detonation, Abdulgani and his group reported developments to Zulkifli, who instructed them on what to do next.⁵⁶

As for Rifqi, Abdulgani testified that he was the right hand man of Zulkifli,⁵⁷ also present during the second meeting when the *balik* Islam were introduced and the various tasks were assigned to the members of the group.⁵⁸ When the first attempt to detonate the bomb failed, it was Rifqi who made the replacement blasting cap or detonator.⁵⁹ On the evening of the failed attempt, Rifqi came with Zulkifli to the safehouse on Apitong Street where Abdulgani and the others were staying.⁶⁰ Rifqi, as an expert in electronics, fixed both the blasting cap and the electronic device of the bomb while the *balik* Islam were watching.⁶¹

Abdulgani further testified that he first met Zulkifli in 1998 in Camp Hudaibiya, a camp located at the boundary of Lanao and Maguindanao, where they underwent training in bomb making and basic military training.⁶²

The RTC did not err in giving weight to the foregoing statements of Abdulgani. Nothing in the transcripts of his testimony would indicate that he was unsure of his statements, and there were no glaring inconsistencies in his narration. As aptly noted by the RTC, his narration of the conspiracy to bomb the Awang Airport contained details which only someone with inside knowledge could possibly provide, such as the fact that the bombing on February 20 was actually a second attempt, after the first attempt on February 19 failed.⁶³ Abdulgani's participation in the bombing was also

⁴⁹ TSN, July 6, 2012, p. 19.

⁵⁰ Id. at 15.

⁵¹ Id. at 13, and 15-19.

⁵² Id. at 16.

⁵³ Id. at 22.

⁵⁴ Id. at 18 and 23.

⁵⁵ Id. at 25.

⁵⁶ Id. at 30 and 37.

⁵⁷ Id. at 31.

⁵⁸ Id. at 22.

⁵⁹ Id. at 31.

⁶⁰ Id.

⁶¹ Id.

⁶² Id. at 13-14.

⁶³ CA *rollo*, pp. 188-192.

corroborated by the testimonies of the Pampangueña restaurant employees, who all testified that he was one of the two men who alighted from the multicab and entered the restaurant — a detail which Abdulgani himself confirmed.⁶⁴

Finally, Zulkifli and Rifqi's arguments that the warrant of arrest issued against them did not comply with DOJ Circular No. 50 has no basis — the said circular contains requirements for the issuance of valid John Doe warrants and is inapplicable here since Zulkifli and Rifqi were both named in the warrant served upon them.

The crime committed and the proper penalties

The Court agrees with the RTC and the CA that Zulkifli, Rifqi, and Pareja committed, in conspiracy with each other, the complex crime of Murder with Double Attempted Murder, aggravated by treachery and evident premeditation. Pursuant to the provisions of Articles 48, 63, and 248 of the Revised Penal Code, and of Republic Act No. 9346 prohibiting the imposition of the death penalty, the appropriate penalty in this case is *reclusion perpetua*.

There is a need to modify the award of civil indemnity and damages pursuant to *People v. Jugueta*.⁶⁵ For the heirs of Sgt. Corpuz, it is proper to award Php 100,000.00 each as civil indemnity, moral damages and exemplary damages. For Bello and Umpal, they each should be paid Php 50,000.00 each in civil indemnity, moral damages and exemplary damages.

An award of temperate damages in the amount of Php 50,000.00 to the heirs of Sgt. Corpuz is likewise proper, since the exact amount of burial/funeral expenses were not proved with certainty.⁶⁶

WHEREFORE, premises considered, the appeals are **PARTLY GRANTED**.

- (a) The Court of Appeals' Decision dated April 28, 2016 is **AFFIRMED with MODIFICATION** insofar as the conviction of **DINNO AMOR R. PAREJA @ KHALEEL** for Murder with Double Attempted Murder.
- (b) The Court of Appeals' Decision dated April 28, 2016 is **REVERSED** as regards **FELICIANO DELOS REYES @ BOX**, who is **ACQUITTED** on the ground that his guilt has

⁶⁴ TSN, July 6, 2012, pp. 35-36.

⁶⁵ G.R. No. 202124, April 5, 2016, 788 SCRA 331.

⁶⁶ CA rollo, p. 56.



not been proven beyond reasonable doubt. He is hereby **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause.

- (c) The Court of Appeals' Decision dated March 30, 2017 finding **ZULKIFLI/JULKIFLI @ DONIS/DONI OFRACIO/AHMAD FAISAL** and **TAUFIQ RIFQI** guilty beyond reasonable doubt of Murder with Double Attempted Murder, is hereby **AFFIRMED with MODIFICATION**.

ZULKIFLI/JULKIFLI @ DONIS/DONI OFRACIO/AHMAD FAISAL, TAUFIQ RIFQI, and DINNO AMOR R. PAREJA @ KHALEEL are solidarily **ORDERED** to pay the following amounts:

- (a) To the heirs of Sgt. Nelson Corpuz: Php 100,000.00 each for civil indemnity, moral damages, and exemplary damages; as well as Php 50,000.00 for temperate damages;
- (b) To Haydee Bello: Php 50,000.00 each in civil indemnity, moral damages and exemplary damages; and
- (c) To Luna Umpal: Php 50,000.00 each in civil indemnity, moral damages and exemplary damages.

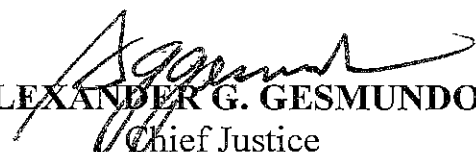
All the foregoing amounts shall incur six percent (6%) legal interest *per annum* from finality of this Decision until fully paid.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. Said Director General is directed to report to this Court the action he has taken within five (5) days from receipt of this Decision.

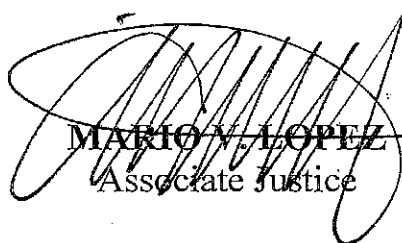
SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

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.


ALEXANDER G. GESMUNDO
Chief Justice

