



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 242474
Plaintiff-Appellee,

Present:

LEONEN, J.,
Chairperson,
GESMUNDO,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

- versus -

Promulgated:

XXX and YYY,
Accused-Appellants. September 16, 2020

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DECISION

CARANDANG, J.:

Accused-appellants XXX¹ and YYY² appealed the Decision³ dated November 29, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08398 affirming with modification the Decision⁴ dated November 16, 2015 of the Regional Trial Court (RTC) of Santa Cruz, Laguna, Branch 26 in Criminal Case No. SC-8180 finding accused-appellants guilty of Murder.

¹ Pursuant to Amended Administrative Circular No. 83-15 on the use of fictitious initials and A.M. No. 02-1-18-SC, Rule on Juveniles in Conflict with the Law. The court shall employ measures to protect the confidentiality of proceedings against the minor accused and requiring the adoption of a system of coding to conceal material information leading to the child's identity

² Id.

³ Id. at 2-23.

⁴ CA rollo, pp. 12-22.

Facts of the Case

Accused-appellants were charged with Murder under paragraph 1 of Article 248 of the Revised Penal Code (RPC) in the following Information, to wit:

That on or about December 24 1999, in the municipality of Sta. Cruz, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused while conveniently armed and provided with deadly weapon, conspiring, confederating, and mutually helping each other, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault, and stab one ROLANDO ABETRIA, thereby inflicting upon the latter stab wounds on the different parts of his body which directly caused his death, to the damage and prejudice of his surviving heirs.

CONTRARY TO LAW.⁵

Version of the Prosecution

The prosecution presented four witnesses, namely: (1) Ambrocio Del Mundo (Del Mundo); (2) Bayani Austria (Austria); (3) Wilson Amonelo (Amonelo); and (4) Roberto Abetria (Abetria).⁶

Del Mundo narrated that on December 24, 1999 at around 9:00 p.m., while he was driving his tricycle, he saw XXX, YYY, Leonard Ferrer (Leonard), and Jason Ferrer (Jason) angrily going towards the direction of Rolando Abetria (Rolando). He heard one of the accused say "*Papatayin kita*"⁷ and saw XXX stab Rolando in the chest and right eye, while YYY held Rolando's arms at the back.⁸ He was one (1) arm's length away from the incident; he stopped his tricycle but did not turn off the engine when he witnessed the stabbing.⁹ After the incident, he proceeded to the Aglipay Church to drop off his passengers. He knew both accused-appellants because he was a resident of Barangay Pagsawitan for 13 years. He did not help Rolando because he feared for his life. He recounted that he saw barangay officials arrived and helped Rolando. On his way to Aglipay Church, he met Rolando's father and told him that his son was stabbed. In open court, he identified XXX and YYY and executed a sworn statement regarding the incident.¹⁰

Austria also positively identified XXX and YYY. He was inside his house watching TV when he heard the commotion at around 10:30 p.m. of December 24, 1999.¹¹ When he went outside his house to check, he saw XXX

⁵ Records, p. 2.

⁶ *Rollo*, p. 4.

⁷ TSN dated May 25, 2001, p. 26.

⁸ *Rollo*, p. 4

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

stab Rolando while YYY was holding Rolando's arms at the back. He was at a distance of six meters from the stabbing incident.¹² When Austria shouted "*Hoy, tigilan nyo na yan,*"¹³ accused-appellants ran away. He heard someone shout "*Bumagsak si Olan.*"¹⁴ While rushing to Rolando, he saw other people were helping him and loaded him to the tricycle. He recounted that the place was lighted by an incandescent bulb and the light coming from Del Mundo's tricycle. After the incident, Austria went home and told the incident to Domeng who relayed the same to Rolando's father. He positively identified accused-appellants in open court.¹⁵

Amonelo testified that around 8:30 p.m., he was with his friends across the store of *Aling Choleng* in Barangay Pagsawitan, Sta. Cruz Laguna. XXX, YYY, Jason, and Leonard, who were all intoxicated, approached Amonelo's group and challenged them to a fight.¹⁶ Thereafter, Wilson and XXX were then engaged in a fistfight while YYY rushed to aid his cousin, XXX. Leonard also fought Amonelo's group.¹⁷ Rolando, the son of *Aling Choleng*, went out of their house to pacify them. After appeasing both parties, Rolando told them to leave.¹⁸ However, XXX threw a stone at Amonelo and Rolando which hit the latter. XXX warned Rolando "*You will see Olan, we will return and we will kill you*"¹⁹ and then XXX's group ran away.²⁰

Amonelo recounted that an angry Rolando ran after XXX's group. Amonelo followed Rolando and saw him engaged in a fist fight with XXX, forcing him to help Rolando. However, Amonelo saw Leonardo running towards him and shouted "*he is my cousin,*"²¹ hence, Amonelo ran away. Leonardo caught up with Amonelo eventually. Meanwhile, Rolando could not run any further as his slippers were broken. When Leonardo caught up with Amonelo, Leonardo tried to strangle Amonelo but Amonelo's uncle and aunt pacified them. Amonelo was brought by his aunt to his grandmother's store where he relayed the incident to his parents. Thereafter, he went home with his parents to their house in Biñan, Laguna. It was at that time when he learned that Rolando was killed by accused-appellants. He positively identified XXX, YYY, and Leonardo in open court.²²

Abetria, Rolando's father, narrated that his son was 19 years old and was a second-year college student. On the day of the incident, he was sleeping at their house when his friend arrived and informed him that his son was stabbed. He went to Laguna Doctor's Hospital where he saw his son being revived.²³ He then reported the incident to the police station and accused-

¹² Id.
¹³ TSN dated August 8, 2002, p. 7.
¹⁴ Id. at 8.
¹⁵ *Rollo*, p. 4.
¹⁶ Id.
¹⁷ Id. at 4-5.
¹⁸ Id.
¹⁹ TSN dated July 13, 2001, p. 16.
²⁰ *Rollo*, pp. 4-5.
²¹ TSN dated February 7, 2002, p. 6.
²² *Rollo*, p. 5.
²³ Id. at 6.

appellants were apprehended. He executed a sworn statement in relation to the incident.²⁴

Version of the Defense

The defense only presented two witnesses – XXX and YYY.²⁵

YYY denied that he killed Rolando. He testified that around 9:00 p.m. he was with his parents and siblings at their house when XXX invited him out to eat dinner at Kapalaran Bus Line.²⁶ However, they were not able to eat because Amonelo boxed XXX after he urinated. He was 30 meters away from XXX during the incident. Thereafter, he rushed to XXX, who then fell to the ground. He tried to pacify Amonelo as he continued punching XXX, who did not fight back. When he was able to appease them, Amonelo's companions started punching him, so he ran away and hid between the plants near Biñan Rural Bank. He then saw his cousin Leonard with his friends and told him XXX was being mauled. Leonard rushed to the place of incident and chased Amonelo's companions away. He lifted XXX, who was bloodied and missing two front teeth. As he could not find a ride to a nearby hospital, he brought him to the house of XXX's uncle. Afterwards, the barangay *tanod* arrived and apprehended the two of them.²⁷

XXX testified that he went to YYY's house to invite him for dinner. Along the way, he stopped to urinate while YYY kept walking. Afterwards, he followed YYY only to be called by Amonelo to ask why he was walking arrogantly, to which he replied that was the way he walked. Amonelo asked what he wanted to happen, and he said he did not want any trouble. Thereafter, Amonelo punched his face, but he could not retaliate as Amonelo's companions mauled him. YYY tried to pacify them, but Amonelo also hit him.²⁸ XXX and YYY ran towards the bus terminal but XXX could not run farther as he was hit by a stone in the back which made him fall to the ground. As he was on the ground, he felt someone hold his belt, raised him up and punched him. XXX heard Amonelo said "*get a stone and we will throne a stone on his head.*"²⁹ He remembered he had a knife because he was slicing vegetables earlier at home. He took out the knife and stabbed the person holding him by making a downward thrust while lying on the ground facing downwards.³⁰ Consequently, the person released him from his hold. Leonard arrived and his assailants ran away. YYY assisted him in getting up and they went to his uncle's house to spend the night. However, the barangay officials arrived and apprehended them.³¹

²⁴ TSN dated July 19, 2002; *rollo*, pp. 5-6.

²⁵ *Rollo*, pp. 6-7.

²⁶ *Id.* at 6.

²⁷ TSN dated October 17, 2002; *rollo*, pp. 6-7.

²⁸ *Rollo*, p. 6.

²⁹ TSN dated June 20, 2003, p. 10.

³⁰ *Rollo*, p. 6

³¹ *Id.*

On November 16, 2015,³² the RTC convicted XXX and YYY of murder and dismissed the case against Leonard and Jason for failure of the prosecution to present evidence, thus:

WHEREFORE, after a careful scrutiny of the records of this case, accused [XXX] and [YYY] are hereby found guilty beyond reasonable doubt of the crime of murder.

Accused [XXX] and [YYY] are hereby sentenced to suffer the penalty of imprisonment of Reclusion Perpetua. However, Sec. 38 of RA No. 9344 provides for the automatic suspension of sentence of a child in conflict with the law, even if he/she is already 18 years of age or more at the time of he/she is found guilty of the offense charged. Both accused are to undergo rehabilitation programs/proceedings prepared by the Department of Social Welfare and Development (DSWD), Santa Cruz, Laguna, for a period of two years, who shall submit quarterly progress report on their conduct and activities. Thus, they should immediately report to the Department of Social Welfare and Development (DSWD), Santa Cruz, Laguna, after promulgation of judgment in the instant case, for the proper preparation of their rehabilitation programs/proceedings. Both accused must prove to the court that they have become fruitful citizens of mainstream society.

The civil liability of the accused shall proceed accordingly and both of them are ordered to pay the heirs of Rolando Abetria jointly and severally, the amount of P80,000 for funeral expenses; Php 75,000 as moral damages; and, exemplary damages in the amount of P30,000. Costs against both accused.

Let a copy of this decision be furnished for immediate implementation to the Provincial Social Worker of Santa, Cruz, Laguna, who shall submit to this court, within fifteen (15) days from receipt of a copy of the decision, the action they have taken thereon.

SO ORDERED.³³

The RTC ruled that the prosecution witnesses' positive identification that XXX, in conspiracy with YYY, stabbed Rolando with a knife is superior than accused's claim of self-defense and denial. Although XXX claimed he was mauled, his narration failed to convince the court that he did not kill the victim as he admitted that he stabbed Rolando. The RTC gave credence to the testimonies of Del Mundo and Austria that they saw XXX as the one who fatally stabbed Rolando, who was held in the arms by YYY. The RTC held that XXX's defense that he made a backward thrust of the knife has no merit

³² Supra note 4.

³³ CA rollo, pp. 21-22.

considering the height of the victim, who was seven inches taller than XXX and YYY, whose heights are 5'4" to 5'5." ³⁴

However, the case against Jason was dismissed for failure of prosecution to present evidence. Meanwhile, the case against Leonard Ferrer was also dismissed for failure of the prosecution to prove the guilt of accused-appellants beyond reasonable doubt. ³⁵

On November 29, 2017, ³⁶ the CA affirmed the conviction for murder but with modification as to the penalty because of the minority of accused-appellants when they committed the crime, to wit:

WHEREFORE, the instant appeal is **DENIED**. The assailed Decision dated November 16, 2015 of the Regional Trial Court (RTC), Branch 26 of Sta. Cruz, Laguna in Criminal Case No. SC-8180 is **AFFIRMED with MODIFICATION**. Each of the accused-appellants, [XXX] and [YYY], are hereby sentenced to suffer the penalty of imprisonment of twelve (12) years of *prision mayor* as minimum, to seventeen (17) years of *reclusion temporal* as maximum.

On account of minority of accused-appellants when they came in conflict with the law, they shall serve their sentences in an agricultural camp or training facility, in accordance with Section 51 of Republic Act No. 9344. For this purpose, the case is remanded to the Regional Trial Court of Sta. Cruz Laguna, Branch 26 for appropriate disposition.

Lastly, accused-appellants are directed to jointly and severally pay the heirs of Rolando Abetria, the amounts Php 75,000 as civil indemnity, Php 60,000 as funeral expenses or actual damages, Php 75,000 as moral damages, and Php 75,000 as exemplary damages. All monetary awards shall earn interest at the legal rate of 6% per *annum* from the finality of this decision until fully paid.

SO ORDERED. ³⁷ (Emphasis in the original)

The CA affirmed the findings of the RTC that the eyewitnesses positively identified XXX and YYY as the assailants of Rolando. Although their testimonies did not perfectly fit each other as to the weapon used or the number of stabbing incident, it did not dilute their credibility, nor the verity of their testimonies. It held that what is important is that their testimonies corroborated each other on material points. It also found that conspiracy existed because of the concerted acts of accused-appellants in the killing of Rolando. The CA was not persuaded that XXX acted in self-defense because there was no unlawful aggression on the part of Rolando, and the alleged

³⁴ Id. at 20-21.

³⁵ *Rollo*, p. 7.

³⁶ *Supra* note 3.

³⁷ *Rollo*, pp. 22-23.

injuries he sustained was not corroborated. Notably, the nature and location of stab wound sustained by Rolando negates the claim of self-defense.³⁸

However, the CA found that the RTC erred in automatically suspending the sentence of accused appellant because both accused-appellants were beyond 21 years of age at the time of promulgation of the Decision on November 16, 2015.³⁹ Pursuant to the case of *People v. Jugueta*,⁴⁰ the CA awarded civil indemnity of ₱75,000.00 and increased the award of exemplary damages to ₱75,000.00. In addition, it reduced the award of actual damages to ₱60,000.00 based on the receipts presented by prosecution. It also imposed an interest of six percent (6%) *per annum* from the date of finality of the decision until full payment.⁴¹

Accused-appellants moved for reconsideration⁴² which the CA denied in its Resolution⁴³ dated March 20, 2018. Accused-appellants then filed a Notice of Appeal⁴⁴ dated May 3, 2018. Accused-appellants manifested that they are adopting their Appellants' Brief before the CA as their supplemental brief.⁴⁵ The People of the Philippines, through the Office of the Solicitor General (OSG), manifested that it shall no longer file a supplemental brief considering that it had exhaustively discussed the issues and legal principles involved in the case in the Appellee's Brief dated May 30, 2017.⁴⁶

Arguments of Accused-Appellants

Accused-appellant argued that the testimonies of Del Mundo and Austria were inconsistent with each other regarding the weapon used and the frequency of stabbing incident. Notably, both witnesses did not mention the presence of Amonelo nor the initial fight where Amonelo allegedly attacked XXX. Likewise, they claimed there were inconsistencies in the participation and presence of Leonard Ferrer and YYY during the incident. Del Mundo and Austria's credibility are also questionable for their failure to immediately report the incident to the police and inability to help Rolando during the incident. They insisted that Austria's behavior was highly unusual considering he knew Rolando since childhood.⁴⁷

In addition, accused-appellants claimed that Amonelo did not see the actual stabbing incident and his testimony that XXX and YYY supposedly threatened and returned to kill Rolando was uncorroborated.⁴⁸ On the contrary, they argue that Amonelo started the fight with XXX while YYY

³⁸ Id. at 16-20.

³⁹ Id. at 21.

⁴⁰ 783 Phil. 806 (2016).

⁴¹ *Rollo*, p. 22.

⁴² *CA rollo*, pp. 126-133.

⁴³ Id. at 145-146.

⁴⁴ Id. at 147-149.

⁴⁵ *Rollo*, p. 38.

⁴⁶ Id. at 33.

⁴⁷ *CA rollo*, p. 57.

⁴⁸ Id. at 59.

tried to pacify them.⁴⁹ Because YYY was also mauled by Amonelo, YYY ran away and saw his cousin Leonard whom he told about the situation. Upon learning what happened, Leonard rushed to XXX's aid and upon his arrival, Amonelo's companions ran away.⁵⁰ Hence, they contended that due to what appears to be a free for all fight, there is a possibility that Del Mundo and Austria mistook Amonelo for Rolando being held by Leonard especially since the incident happened at nighttime. They also insisted that XXX acted in self-defense to escape. Lastly, they claim that the prosecution failed to prove conspiracy existed, hence, YYY's participation in the incident is doubtful.⁵¹

Arguments of Plaintiff-Appellee

The OSG alleged that the prosecution witnesses are credible and the alleged inconsistencies in the testimonies of Del Mundo and Austria pertain only to minor matters. The inconsistencies alleged, such as the number of stabbing thrust and the weapon used are insignificant details because their testimonies corroborate on material points that XXX stabbed the victim while YYY held him so he could not defend himself. It further argued that Austria's failure to report the incident do not diminish his credibility because there is no standard behavior when a person witnesses a crime. Thus, he cannot be expected to react in a certain manner. As testified by Austria, he was not able to report to the police because he was afraid and ashamed that he was not able to do something to prevent the victim's death.⁵²

The OSG argued that accused-appellants were not acting in self-defense because there was no unlawful aggression on the part of the victim. The OSG further averred that although Amonelo's group may have been the first to start the fight, unlawful aggression ceased the moment the victim, who had no part in the brawl, pacified the group. In addition, the prosecution proved that it was XXX who first attacked the victim when he threw a stone at him and threatened him.⁵³

Issue

The issue for the Court's resolution is whether accused-appellants are guilty of the crime of Murder.

Ruling of the Court

The appeal is partly meritorious.

At the outset, appeal in criminal cases throws the whole case open for review and it is the duty of the appellate court to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.⁵⁴

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id. at 56, 59-60.

⁵² Id. at 87-88.

⁵³ Id.

⁵⁴ *People v. Dahil*, 750 Phil. 212, 225 (2015).



After a careful review and scrutiny of the records, We hold that accused-appellants can only be convicted of Homicide, instead of Murder, as the qualifying circumstance of treachery was not proven in the killing of the victim.

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 *reclusión temporal* in its maximum period to death, if committed with any of the following attendant circumstances:

1. With **treachery**, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

x x x x (Emphasis supplied)

If these qualifying circumstances are not present or cannot be proven beyond reasonable doubt, the accused may only be convicted with Homicide, defined in Article 249 of the Revised Penal Code:

Art. 249. Homicide. – Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusión temporal*.

In determining whether the killing was committed with treachery, two conditions must be present, namely: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the said means or method of execution was deliberately or consciously adopted.⁵⁵

In the case at bar, the prosecution failed to prove that treachery was present in the killing of the victim.

As testified by Amonelo, there was an altercation prior to the stabbing incident, although it was only Austria and Del Mundo who saw the actual stabbing. Amonelo recounted that at around 9:00 p.m., it was accused-appellants' group who challenged them to a fight which led to a brawl.⁵⁶ Rolando pacified the group but XXX threw a stone which hit Rolando.⁵⁷ Thereafter, XXX threatened Rolando saying "*You will see Olan, we will return and we will kill you.*"⁵⁸ Rolando angrily pursued XXX and a fistfight ensued, forcing Amonelo to aid Rolando. However, Leonard and his companions arrived and Amonelo ran away.⁵⁹

⁵⁵ *People v. Tumaob, Jr.*, 353 Phil. 331, 337 (1998).

⁵⁶ TSN dated July 13, 2001, pp. 11-14.

⁵⁷ TSN dated February 7, 2002, p. 11.

⁵⁸ TSN dated July 13, 2001, p. 16.

⁵⁹ TSN dated February 7, 2002, pp. 13-15.

Case law teaches us that there is no treachery when the assault is preceded by a heated exchange of words between the accused and the victim; or when the victim is aware of the hostility of the assailant towards the former.⁶⁰ The existence of a struggle before the fatal blows were inflicted on the victim clearly shows that he was forewarned of the impending attack, and that he was afforded the opportunity to put up a defense.⁶¹

To be sure, the attack made by accused-appellants was neither sudden nor unexpected. Even assuming that the version of the defense is to be considered, XXX and YYY narrated that there was a fistfight between them and Rolando's group on December 24, 1999 at around 10:00 p.m. As such, YYY's holding of Rolando's arms was just a part of the ongoing fight.⁶² Hence, this should have made Rolando aware that there was an impending attack on him. According to the prosecution witness Amonelo, after Rolando boxed XXX, Rolando ran away but was not able to run any further because his slippers were broken and XXX caught up with him. In another case, the Court held that the qualifying circumstance of treachery cannot be appreciated against accused-appellants because the victim was forewarned of the impending attack and he could have in fact escaped had he not stumbled.⁶³

It is settled that the assessment of the credibility of the witnesses and their testimonies is best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grueling examination. As such, the findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight were overlooked, misapprehended, or misinterpreted as to materially affect the disposition of the case.

After a thorough review of the records before Us, We disagree with the trial court finding that the testimony of prosecution witness Del Mundo was clear and consistent. We observed that Del Mundo's reaction during the incident was contrary to human nature. He narrated that he was one arms-length away when he saw the victim being stabbed in front of him. Although he stopped his tricycle, he was not able to help the victim out of fear. To Our mind, his reaction is not consistent with ordinary human behavior. Surely, he was afraid that they might kill him because XXX was still holding a knife, but if he were truly afraid, he would have sped away and not dare attempt to stop his tricycle even with the engine running to just watch the incident. He also testified that the victim was stabbed in the chest and right eye, however the death certificate reveals that the victim sustained only one stab wound in the chest. To Our mind, there is doubt as to whether Del Mundo was present during the stabbing incident or that he actually saw Rolando being stabbed.

⁶⁰ *People v. Reyes*, 420 Phil. 343, 353 (2001).

⁶¹ *People v. Pajotal*, 420 Phil. 763, 778 (2001).

⁶² *Rollo*, 6-7.

⁶³ *People v. Dela Cruz*, 461 Phil. 471, 478 (2003).

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In any event, another prosecution witness, Austria, identified XXX and YYY as the assailants in the instant case, in a simple, spontaneous, and straightforward manner, thus:

DIRECT-EXAMINATION BY ATTY. MACALALAG:

Q: Would you still recall where were you last December 24, 1999? About 9 in the evening?

A: I was inside my house, Sir.

Q: Where is your house located?

A: Brgy. Pagsawitan, Sta. Cruz, Laguna, Sir.

x x x x

Q: On that particular date, December 24, 1999, do you still recall any unusual occurrence that transpired?

A: I heard somebody pursuing each other and quarelling, sir.

Q: About what time is this?

A: About 10:30 in the evening, sir.

Q: What did you do upon hearing those commotion?

A: I went out of my house, sir.

Q: What did you say (*sic*) after you went out of your house?

A: I saw somebody quarelling and someone was holding the son of Abet Abetria, sir.

Q: If you will see those persons whom you saw that evening, would you be able to recall their faces?

A: Yes, sir.

Q: Look around in the court room, do you see their faces?

A: Yes sir, those 3 persons.

x x x x

INTERPRETER: Witness pointing to one wearing red and black t-shirt and khaki pants who identified himself as YYY (*sic*); another one wearing moss green polo shirt and maong pants who identified himself as Leonard Ferrer and the one in blue striped-tshirt and khaki pants who identified himself as XXX.

x x x x

Q: What were these 3 persons who were present before the Court doing when you saw them?

A: Those 2 persons (witness pointing to YYY (*sic*) and Leonard Ferrer) were the ones holding the

victim, sir.

Q: And who is the victim?

A: Olan Abetria, sir.

x x x x

Q: And what about the other person you have identified earlier as one of the accused. What was he doing at the time, this XXX?

A: He was the one who stabbed the victim, sir.

Q: How far were you from XXX and the 2 others when the stabbing took place?

A: The same distance, 6 meters, sir.

Q: After you saw XXX stab the victim, what did you do, if any?

A: I shouted, "hoy tigilan nyo yan".

Q: What did they do after you after hearing your shout?

A: Two of them ran in opposite direction while the other one running in the right direction was pursuing somebody but was not able to catch him, sir.

Q: And who was that person running?

A: The person who stab (*sic*) the victim, Jeffrey, sir.

x x x x

Q: Was there illumination or light during that date and time?

A: There was an incandescent bulb and the tricycle of Boyong was in the middle, sir.

x x x x

Q: After you saw the incident, did you, in any way, help the victim?

A: No sir, because I saw that the victim was able to run.

x x x x

Q: What happened to him while he was running away from the incident?

A: I heard somebody shouted "bumagsak si Olan".

Q: What then did you do?

A: I was about to approach the victim but he was already loaded on a tricycle, sir.⁶⁴

⁶⁴ TSN dated August 8, 2002, pp. 4-7.

Jurisprudence also tells us that when a testimony is given in a candid and straightforward manner, there is no room for doubt that the witness is telling the truth.⁶⁵ Here, Austria's testimony was clear and categorical that XXX stabbed Rolando, while YYY held his hands at the back. He was six meters from the stabbing incident and the place was well-lighted. In addition, his testimony was corroborated by the Certificate of Death⁶⁶ attesting that Rolando died due to "Cardio-Respiratory Arrest due to Hypovolemic Shock due to Stab Wound, Chest."⁶⁷

Contrary to accused-appellants' claim, the failure of Austria to help and/or rescue Rolando from the hands of his assailants does not make his testimony incredible and unworthy of belief. Jurisprudence holds that the eyewitnesses' inability to help the victim due to their fear of reprisal is understandable and not at all contrary to common experience.⁶⁸ Different people react differently to a given stimulus or situation and there is no standard form of behavioral response when one is confronted with a startling or frightful experience.⁶⁹ Here, Austria explained that he shouted "*Hoy tigilan niyo na yan*"⁷⁰ after seeing the latter was stabbed. However, he was not able to help during the fight because he was afraid for his life and was not able to report the incident to the police because he was ashamed to tell Rolando's father that he was unable to prevent Rolando's death. No law obligates a person to risk his/her own life to save another, although it may be the moral thing to do.

Conspiracy was also established by the evidence on record because of the concerted efforts of both the accused. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.⁷¹ It may be deduced from the manner in which the offense is committed, as when the accused act in concert to achieve the same objective.⁷² In this case, Austria testified that YYY held Rolando from behind while XXX stabbed him. Thus, YYY's participation in the commission of the crime charged is clear. Certainly, XXX and YYY cooperated with one another to achieve their purpose of killing the victim. It is sufficient that the accused acted in concert at the time of the commission of the offense, that they had the same purpose or common design, and that they were united in its execution.⁷³

Accordingly, because conspiracy was established, there is no need to determine who among the accused delivered the fatal blow. All of the accused are liable as principals regardless of the extent and character of their participation, for in conspiracy the act of one is the act of all.⁷⁴

⁶⁵ *People v. Aquino*, 724 Phil. 739, 749 (2014).

⁶⁶ Records, p. 6.

⁶⁷ Id.

⁶⁸ *People v. Campit*, 822 Phil. 448, 458 (2017).

⁶⁹ Id.

⁷⁰ TSN dated August 8, 2002, p. 7.

⁷¹ *People v. Baccay*, 348 Phil. 322, 331-332 (1998).

⁷² *People v. Bautista*, 387 Phil. 183, 203 (2000).

⁷³ *People v. Adoc*, 386 Phil. 840, 857 (2000).

⁷⁴ *People v. Gungon*, 351 Phil. 116, 142 (1998).

Anent XXX's contention that he was merely acting in self-defense, We are not persuaded. Self-defense is an affirmative allegation and offers exculpation from liability for crimes only if satisfactorily proved.⁷⁵ Indeed, in invoking self-defense, the burden of evidence is shifted and the accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.⁷⁶ In this case, although XXX allegedly suffered injuries due to the fistfight between him and the victim, XXX failed to sufficiently establish that there was an imminent danger to his life as the aggression no longer existed the moment Leonard and his companions arrived prompting the victim to run away. In addition, XXX did not present any evidence to prove that he sustained injuries. Considering the nature and location of the stab wound sustained by the victim, the plea of self-defense is untenable.

Therefore, without appreciating the qualifying circumstance of treachery, the crime is Homicide and not Murder. Under Article 249 of the RPC, any person found guilty of Homicide shall be meted the penalty of *reclusion temporal*, a penalty which contains three (3) periods.

Considering that XXX committed the crime when he was just 17 years and 7 months old, and YYY when he was just 15 years and 8 months old, they are entitled to the privileged mitigating circumstance of minority under Article 68(2)⁷⁷ of the Revised Penal Code. Accordingly, the penalty to be imposed upon them shall be the penalty next lower in degree than that prescribed by law, but always in the proper period.⁷⁸ Thus, the impossible penalty must be reduced by one degree from *reclusion temporal*, which is *prision mayor*. Being a divisible penalty, the Indeterminate Sentence Law is applicable.⁷⁹ Given that there is no mitigating or aggravating circumstance, the penalty shall be imposed in its medium period.

Thus, applying the Indeterminate Sentence Law, the maximum penalty shall be *prision mayor* in its medium period, while the minimum penalty shall be *prision correccional* in any of its periods. Thus, accused-appellants are to suffer the indeterminate penalty of six (6) years of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum.

Nevertheless, We agree with the CA that the trial court erred when it ordered the automatic suspension of sentence of the accused because the said suspension of sentence lasts only until the child in conflict with the law reaches the maximum age of 21 years.⁸⁰ In this case, XXX and YYY were

⁷⁵ *People v. Gutierrez*, 625 Phil. 471, 480 (2010).

⁷⁶ *Id.* at 481-482.

⁷⁷ Article 68. *Penalty to Be Imposed Upon a Person Under Eighteen Years of Age.* — When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraph next to the last of article 80 of this Code, the following rules shall be observed:

x x x x

2. Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by law shall be imposed, but always in the proper period.

⁷⁸ *People v. Lababo*, G.R. No. 234651, June 6, 2018.

⁷⁹ *Id.*

⁸⁰ *People v. Jacinto*, 661 Phil. 224, 256 (2011).

more than 21 years old when the RTC promulgated its Decision⁸¹ on 2015. However, the accused are entitled to the benefit of Section 51 of Republic Act No. 9344,⁸² despite their ages at the time of conviction. Thus, they may serve their sentence in an agricultural camp or other training facilities that may be established, maintained, supervised and controlled by the Bureau of Corrections, in coordination with the Department of Social Welfare and Development.

Corollarily, the damages awarded by the CA need to be modified in keeping with the recent jurisprudence. As provided for in *People v. Jugueta*,⁸³ in the crime of Homicide where the penalty consists of divisible penalty, moral damages and civil indemnity is ₱50,000.00. Thus, the award of moral damages and civil indemnity in the amount of ₱75,000.00 are reduced to ₱50,000.00. Meanwhile, the award of ₱75,000.00 as exemplary damages should be deleted. The award of ₱60,000.00 as funeral expenses or actual damages is affirmed based on the receipts presented by prosecution.

WHEREFORE, premises considered, the instant appeal is **PARTIALLY GRANTED**. The Decision dated November 29, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08398 is hereby **AFFIRMED with MODIFICATION**.

The Court declares XXX and YYY **GUILTY** beyond reasonable doubt of the crime of Homicide, with the privileged mitigating circumstance of minority, for which they are sentenced to suffer the indeterminate penalty of six (6) years of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum.

On account of minority of accused-appellants when they came in conflict with the law, they may serve their sentences in an agricultural camp or training facility in accordance with Section 51 of Republic Act No. 9344. Thus, this case shall be **REMANDED** to the court of origin to effect the imposition of the full service of their sentence in an agricultural camp or other training facility.

Accused-appellants XXX and YYY are **ORDERED** to pay jointly and severally the heirs of Rolando Abetria the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱60,000.00 as funeral expenses or actual damages. They are likewise **ORDERED** to pay a legal interest of six percent (6%) on the total amount of damages computed from the finality of this judgment until full payment thereof.

SO ORDERED.


ROSMARID D. CARANDANG
Associate Justice

⁸¹ Supra note 4.

⁸² Juvenile Justice and Welfare Act of 2006, Republic Act No. 9344.

⁸³ Supra note 40.

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
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.


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.



DIOSDADO M. PERALTA
Chief Justice