

SUPREME COURT OF THE PHILIPPINES
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TIME:

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 216936

-versus-

Present:

ALVIN PAGAPULAAN* a.k.a.
ALVIE PAGAPULAAN y
DAGANG, JOSE BATULAN y
MACAJILOS, RENATO
FUENTES y BANATE and
JUNJUN FUENTES y BANATE,
Accused,

CARPIO, *Chairperson*,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, *JJ*

JOSE BATULAN y MACAJILOS,
Accused-Appellant.

Promulgated:

29 JUL 2019

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DECISION

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision¹ dated November 11, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 01047-MIN affirming the trial court's verdict of conviction for murder² against appellant Jose Batulan y Macajilos.

* "Pagapulan" in some parts of the records.

¹ Penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Edgardo A. Camello and Henri Jean Paul B. Inting (now a member of this Court), *CA rollo*, pp. 94-107.

² Penned by Presiding Judge Jose L. Escobido, *CA rollo*, pp. 61-73.

The Proceedings Before the Trial Court

By Information³ dated June 24, 2003, appellant Jose Batulan and his co-accused Alvin Pagapulaan, Renato Fuentes, and Junjun Fuentes were charged with murder for the death of Ruben Pacho, viz:

That on or about June 21, 2003, at about 7:30 in the evening more or less, at Manuel Vega corner Abellanosa, Consolacion, Cagayan De Oro City, Philippines, and within the jurisdiction of this Honorable Court the above-named accused conspiring, confederating together and mutually helping one another, with intent to kill, with treachery, taking advantage of superior strength and with the aid of armed men, armed with a batangas knife, stone, and Samurai 24 inches long including the handle, which they were then conveniently provided for did then and there willfully, unlawfully and feloniously attack, assault, stab, hacked and struck one RUBEN PACHO Y BARTE, with the said weapon several times, inflicting serious injuries in his different parts of his body, which caused his death.

Contrary to and in violation of Article 248 of the Revised Penal Code, as amended by R.A. 7659.

City of Cagayan De Oro, June 24, 2003.⁴

On arraignment, all four (4) accused pleaded not guilty.⁵

Pagapulaan, being a minor when the felony was committed, was released on recognizance.⁶ He subsequently entered into a plea bargaining agreement and pleaded guilty to the lesser offense of homicide.⁷

The trial of Jose Batulan, Renato Fuentes, and Junjun Fuentes thereafter ensued.

The prosecution presented the following witnesses: (1) Letecia Pacho, widow of the deceased Ruben Pacho; (2) SPO4 Elmo Ausejo and PO2 Joel Salo (the apprehending officers of Batulan and Pagapulaan); and (4) Everly Waban Batalla (employee of Doctor Sabal Hospital). On the other hand, the defense presented appellant Jose Batulan and his co-accused Renato Fuentes and Junjun Fuentes as witnesses.

Prosecution's Version

Letecia testified that on June 21, 2003, around 7:30 in the evening, she accompanied her husband Ruben ply his usual jeepney route. They stopped along Abellanosa Street, Cagayan De Oro City to pick up passengers in the

³ Record, pp. 3-4.

⁴ *Id.* at 3.

⁵ Pagapulaan and Batulan were arraigned on August 4, 2003 while Renato and Junjun Fuentes were arraigned on February 13, 2004 and December 18, 2003, respectively. Record, pp. 22, 59, and 68.

⁶ CA *rollo*, p. 62.

⁷ Record, pp. 124-125.

area.⁸ Pagapulaan was one of the barkers who called for passengers to board Ruben's jeepney.⁹

When the jeepney was almost full, Pagapulaan demanded ₱10.00 from Ruben's conductor as payment for his services. The latter's refusal to pay led to an altercation between them.¹⁰ To stop the squabble, Ruben gave Pagapulaan ₱5.00. Displeased with the meager payment, Pagapulaan cursed Ruben and boxed the body of the jeepney, prompting the passengers to alight.¹¹ Ruben grabbed a samurai stowed under his seat to keep Pagapulaan at bay.¹² But as soon as he alighted his jeepney, he was surrounded and attacked by Batulan, Pagapulaan, Renato, and Junjun.¹³

Pagapulaan got hold of the samurai and sliced Ruben's face and nose.¹⁴ Junjun stabbed Ruben using a knife.¹⁵ Renato struck Ruben's nape with a stone causing the latter's head to crack.¹⁶ Batulan also hacked Ruben with a samurai.¹⁷ She saw all four (4) accused take turns in stabbing Ruben with a knife and hacking him with a samurai.¹⁸ When Ruben fell to the ground, she alighted the jeepney and embraced her husband. Ruben died at the hospital.¹⁹

When asked to identify her husband's assailants in court, she instantly recognized and pointed at Pagapulaan, Renato, and Junjun. But she failed to immediately identify Batulan because of his new haircut.²⁰

SPO4 Ausejo testified that on June 21, 2003, around 7 o'clock in the evening, his team received a report that a stabbing incident was taking place along Abellanosa Street. They immediately responded since the location was a mere two-minute drive.²¹ When they reached the location, a bystander told them that one of the assailants ran towards Brgy. Consolacion. He and his team quickly boarded their patrol car and chased the assailant.²² They caught the assailant in an abandoned warehouse.²³ When they frisked him, they recovered a bloodied Batangas knife. The assailant was then brought to Police Precinct No. 5 for investigation. There, he was identified as Batulan.²⁴ Letecia confirmed with the police that Batulan was indeed one (1) of her husband's assailants.²⁵

⁸ TSN, September 15, 2004, p. 13.

⁹ *Id.* at 23.

¹⁰ *Id.* at 24.

¹¹ *Id.* at 14.

¹² *Id.* at 25.

¹³ *Id.*

¹⁴ *Id.* at 15.

¹⁵ *Id.* at 17.

¹⁶ *Id.* at 18.

¹⁷ *Id.*

¹⁸ *Id.* at 14-18.

¹⁹ *Id.* at 19-21.

²⁰ *Id.* at 11-12 and 18.

²¹ CA *rollo*, p. 71.

²² TSN, February 8, 2005, pp. 7-8.

²³ *Id.* at 14.

²⁴ *Id.* at 8-9.

²⁵ *Id.* at 9.

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When asked in open court to identify the person he arrested, he pointed at Batulan.²⁶

PO2 Salo testified that while on duty on June 21, 2003 at around 7 o'clock in the evening, his team received a radio message about a hacking incident in Abellanosa Street. When they arrived at the crime scene, he saw the victim lying on the ground while the latter's wife was crying. He also saw a person holding a samurai running away from the crime scene. He and his group gave chase and arrested the person at a carwash. The person was brought to Police Precinct No. 5. Letecia pointed to the person as one of her husband's attackers. He was later identified as Pagapulaan.²⁷

Batalla testified that the victim sustained multiple stab and hack wounds as per his death certificate.²⁸

Defense's Version

Appellant and his co-accused denied the charge.

Batulan testified that on the night of June 21, 2003, he was waiting for a ride along the highway of Licoan Street, Cagayan De Oro on his way to Brgy. Kauswagan. There, he noticed a commotion more or less ten arm's length away. Afterwards, police officers invited him to Police Precinct No. 5 where he got detained. He did not know his co-accused. He met them for the first time in Lumbia City Jail.²⁹

Junjun testified that he, his brother Renato and Pagapulaan were dispatchers who called for jeepney passengers at Licoan, Cagayan de Oro City.³⁰ He knew the victim Ruben, a jeepney driver.³¹ On June 21, 2003, around 7:30 in the evening, he saw Pagapulaan and Ruben fighting when Batulan suddenly appeared and stabbed Ruben in the neck.³² He told Renato they should bring Ruben to the hospital or they might get implicated. They reached the hospital around 8 o'clock in the evening.³³ He was apprehended five (5) months after the incident or on November 13, 2003.³⁴

Renato testified that he was with his brother Junjun when they saw Pagapulaan and Ruben fighting.³⁵ He saw Batulan suddenly appear, run

²⁶ *Id.* at 10.

²⁷ TSN, November 13, 2004, pp. 7-10.

²⁸ TSN, November 5, 2005, p.7.

²⁹ TSN November 11, 2008, p. 4-5.

³⁰ TSN, May 18, 2010, pp. 4-5.

³¹ TSN, September 21, 2010, p. 9.

³² TSN, January 25, 2010, pp. 4-5.

³³ *Id.* at pp. 5-6.

³⁴ *Id.* at 6.

³⁵ TSN, February 8, 2011, p. 4.

towards Ruben, and stab him in the neck.³⁶ Batulan approached Ruben's right side so the latter did not see him actually coming in.³⁷

Renato tapped appellant's shoulder when he was asked to identify Batulan inside the courtroom.³⁸

The Trial Court's Ruling

The trial court rendered a verdict of conviction.³⁹ It gave full credence to the testimonies of the prosecution witnesses. It found that the four (4) accused acted in concert and took advantage of their superior strength. More, treachery attended the killing for the attack on Ruben was surreptitious and left him in no position to defend himself.⁴⁰ The trial court thus ruled:

WHEREFORE, premises considered, this court finds Renato Fuentes y Banate, Plutarco "Junjun" Fuentes y Banate, and Jose Batulan y Macahilos (sic) guilty beyond reasonable doubt of the crime of murder defined and penalized under Art. 248 of the Revised Penal Code, as amended, and each of the accused is hereby sentenced to suffer a penalty of reclusion perpetua. Moreover, all three accused are ordered to pay jointly and severally the surviving spouse of the victim Ruben Pacho the sum of Seventy Thousand Pesos (P70,000.00) as civil indemnity, and Seventy Thousand Pesos (P70,000.00) as moral damages, and Twenty-One Thousand Pesos (P21,000.00) as actual damages.

SO ORDERED.⁴¹

The Proceedings Before the Court of Appeals

Among the four (4) accused, only Batulan appealed.⁴² He faulted the trial court for finding him guilty of murder despite Letecia's failure to identify him in open court.⁴³ Batulan also averred that the testimonies of his co-accused implicating him fall within the ambit of *res inter alios acta*.⁴⁴

On the other hand, the Office of the Solicitor General (OSG) through Assistant Solicitor General Derek R. Puertollano and Attorney II Joseph Benjamin P. Tagsa defended the verdict of conviction and argued that (1) notwithstanding Letecia's failure to recognize appellant in court, the testimonies of SPO4 Ausejo and his co-accused Renato and Junjun positively identified him as one (1) of the authors of the crime, and (2) the concerted acts of appellant and his co-accused resulted to Ruben's murder.⁴⁵

³⁶ *Id.* at 4-6.

³⁷ *Id.* at 6.

³⁸ *Id.*

³⁹ CA *rollo*, pp. 94-97.

⁴⁰ *Id.* at 70-72.

⁴¹ *Id.* at 73.

⁴² Record, pp. 295-296.

⁴³ CA *rollo*, pp 47-58.

⁴⁴ *Id.* at 56.

⁴⁵ CA *rollo*, pp. 81-90.

The Court of Appeals' Ruling

By Decision⁴⁶ dated November 11, 2014, the Court of Appeals affirmed in the main. It did not appreciate treachery as an attendant circumstance. It, nonetheless, ruled that appellant and his co-accused still committed murder by taking advantage of their superior strength when they surrounded and attacked the victim.⁴⁷

Further, the Court of Appeals found that although Letecia failed to positively identify Batulan in open court, the prosecution still sufficiently proved his guilt. The testimonies of SPO4 Ausejo, Renato Fuentes and Junjun Fuentes weaved appellant's guilt with certainty. More, the bloodied Batangas knife⁴⁸ was positively identified in court by Letecia and SPO4 Ausejo as the same weapon used to stab the victim and recovered from appellant.⁴⁹

Lastly, the principle of *res inter alios acta* was inapplicable since the testimonies of Renato Fuentes and Junjun Fuentes were given in open court where they were subjected to cross-examination.⁵⁰

The Present Appeal

Appellant now seeks affirmative relief and prays anew for his acquittal.⁵¹ In compliance with the Resolution⁵² dated June 15, 2015, the OSG and appellant manifested⁵³ that in lieu of supplemental briefs, they were adopting their respective briefs submitted before the Court of Appeals.

Issue

Did the Court of Appeals err in affirming appellant's conviction for murder?

Our Ruling

The appeal utterly lacks merit.

Appellant was positively identified as one of the victim's assailants

⁴⁶ *Id.* at 94-107.

⁴⁷ *Id.* at 103.

⁴⁸ Exhibit "D".

⁴⁹ CA *rollo*, pp. 103-106.

⁵⁰ *Id.* at 106.

⁵¹ *Id.* at 108-109.

⁵² *Rollo*, p. 23.

⁵³ *Id.* at 25-26 and 30-31.

Despite Letecia's failure to positively identify Batulan in open court, the Court of Appeal correctly found that that appellant's guilt was sufficiently established by other credible and competent evidence.⁵⁴ Appellant's co-accused Renato Fuentes and Junjun Fuentes testified that appellant stabbed the victim in the neck, using a Batangas knife, thus:

Renato:

Q: After that what happened?

A: Suddenly, this Batulan ran towards the driver and stabbed him on the neck.

xxx xxx xxx

Q: When that person Batulan stabbed that driver, what happened to the driver?

A: The driver fell to the ground.

Q: Earlier, you said that the driver had the sharp bladed weapon at the time when that Batulan stabbed him. Was the driver still holding the said bladed weapon?

A: Yes, Sir, but he was facing with Alvin Pagapulaan and Batulan came from his right side he did not see him.

Q: Now, you said that Batulan. Whose person are you referring to?

A: He is here in the courtroom.

Q: Who is that person?

INTERPRETER: Witness is pointing to a man inside the courtroom.

COURT: You go to the person?

INTERPRETER: Witness step from the witness stand and tap the shoulder of the person inside the courtroom. The person that the witness taps on his shoulder in the court identified himself as Jose Batulan.⁵⁵

xxx xxx xxx

Q: And how about Jose? How did he stab the driver?

A: He drew a Batangas knife from his pocket and then he ran towards the driver to whom did not notice.

xxx xxx xxx

Q: When you said that Jose Batulan stabbed the driver. Was the driver hit?

A: Yes, Ma'am.

Q: Where?

INTERPRETER: Witness pointed at the right side of his neck.

Q: Then what happened to the driver?

⁵⁴ *Id.* at 13-14.

⁵⁵ TSN, February 8, 2011, pp. 6-7.

A: He fell to the ground. When he fell to the ground, that was the time I took my brother and then we ran away and I told him that we might involve (sic) in this incident.⁵⁶

Junjun:

Q: Then what happened?

A: Alvin Pagapulaan and I were just staring each other and I looked at his hands whether he was hit by the samurai and I saw that he was wounded at his right thumb.

Q: After you saw that there was that wound at the right thumb, what happened next after that?

A: Then Jose Batulan suddenly appeared on the site.

Q: What did he do?

A: He stabbed the driver here.

COURT: Witness is pointing to his right neck.

COURT: Is the accused Batulan in Court?

ATTY. ALVYN LOPEZ: Yes, your Honor. My client, your Honor.

Q: After that what happened?

A: The driver fell down.⁵⁷ (Emphases supplied)

Renato and Junjun, too, positively identified appellant as one of Ruben's assailants. They vividly narrated how appellant attacked and stabbed Ruben in the neck using a Batangas knife. Appellant cannot discredit their testimonies by merely invoking the principle of *res inter alios acta*.

The principle of *res inter alios acta* provides that the rights of a party cannot be prejudiced by an act, declaration, or omission of another.⁵⁸ This rule, however, applies to extrajudicial declarations or admissions. It does not apply to testimonies given on the witness stand where the party adversely affected had the opportunity to cross-examine the declarant.⁵⁹

Here, the statements of Renato and Junjun identifying appellant as one of the victim's assailants were made in open court on direct examination. Further, when cross-examined, Renato and Junjun did not waver, *viz*:

Renato (on cross- examination):

xxx xxx xxx

Q: Now, in your testimony, you are making it appear that it was Batulan who stab Ruben Pacho with a batangas knife?

A: Yes, Your Honor.⁶⁰

⁵⁶ *Id.* at 14.

⁵⁷ TSN, January 25, 2010, p. 5

⁵⁸ *Tamargo v. Awingan*, 624 Phil. 312, 327 (2010).

⁵⁹ *People v. Comiling*, 468 Phil. 869, 891 (2004).

⁶⁰ TSN, February 8, 2011, p. 24.

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Junjun (on cross- examination):

Q: Now, are you trying to tell this Honorable Court that it was only Batulan who suddenly appear from nowhere and try to kill Ruben Pacho. Is that what you are trying to tell before this Honorable Court?

A: Batulan was already there when we arrived.

Q: I am calling your attention, Mr. Witness, to your direct testimony which was recorded TSN here. Turn to page 5 of the TSN with respect to the direct testimony on January 5, 2010, you were asked "After you saw that there was a wound at the right thumb, referring to the thumb of Alvie Pagapulaan, what happened next after that, then Jose Batulan suddenly appear on the side, will you confirm that statement which was recorded in the TSN?"

A: Appearing on the side.

Q: But before the appearance of Batulan, you only noticed that fight that Alvie Pagapulaan and Ruben Pacho?

A: Yes, ma'am.

COURT: Batulan already testified in Court.⁶¹

Too, SPO4 Ausejo positively identified appellant whom he saw running away from the crime scene and in possession of the Batangas knife used in stabbing the victim, thus:

Q: When you went to the area, what, if any, did you do during that time?

A: We immediately responded and we followed the suspect running towards Consolacion and we ran after him.

Q: What was the result of the running?

A: We accosted that person per information that there was hacking and we saw that person running so we accosted him, Ma'am.

Q: When you say accosted him, you were able to arrest him?

A: We arrested him.

xxx xxx xxx

Q: While he was still in the vicinity of the search, what, if any, did you do?

A: We confiscated from his possession a knife. I could remember a silver Batangas knife more or less seven inches.

Q: What part of his body did you search it?

A: He was holding it.

Q: And what was the condition of the knife when you got it from his possession?

A: It was already closed.

Q: Did you open it?

A: Yes, Ma'am. It was blooded during that time.

⁶¹ TSN, May 18, 2010, p. 14.



XXX XXX XXX

Q: Were you able to identify the name of the person which you arrested?

A: Jose Batulan.

Q: Could you be able to identify him if the said person is in court?

A: Yes.

Q: Is he in court right now?

A: Yes. (Witness pointed to accused Jose Batulan who is inside the court room.)

Q: You also said that you confiscated from him a knife?

A: Yes, Ma'am.

Q: I am showing to you a knife. Tell us what the relation of this knife to the one you confiscated from said person?

A: This is the one which we confiscated from his possession.⁶²
(Emphases supplied)

His testimony was potent proof of appellant's guilt.⁶³ Consider: (a) the report of a by-stander that one of the assailants ran towards Brgy. Consolacion,⁶⁴ (b) SPO4 Ausejo and his team chased appellant from the crime scene to Brgy. Consolacion; (c) they found appellant standing in an abandoned warehouse holding a blood-stained knife;⁶⁵ (d) the blood-stained knife⁶⁶ was later identified in court as the same blood-stained knife recovered from appellant and one of the weapons used to stab the victim. These circumstances constitute an unbroken chain which leads to a fair and reasonable conclusion that appellant is guilty as charged.⁶⁷ Verily, Batulan's conviction is supported by evidence on record other than Letecia's testimony.

Appellant acted in conspiracy with his co-accused

In another vein, both the trial court and the Court of Appeals correctly found that appellant acted in conspiracy with his co-accused.

Conspiracy exists when two (2) or more persons come to an agreement concerning the commission of a felony and decide to commit it. It arises on the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith decide to pursue it. What is important is that all participants performed specific acts with such closeness and coordination as to unmistakably indicate a common purpose to bring about the death of the

⁶² TSN, February 8, 2005, pp. 7-10.

⁶³ CA rollo, p. 105.

⁶⁴ *Id.* at 66.

⁶⁵ *Id.*

⁶⁶ Exhibit "D."

⁶⁷ *Lozano v. People*, 638 Phil. 582, 594 (2010).



victim. Once this is established, each of the conspirators is made criminally liable for the crime actually committed by any one of them.⁶⁸

Here, the following circumstances established conspiracy: (1) all four accused knew each other as they were dispatchers or jeepney barkers in the area where the crime was committed;⁶⁹ (2) they were all present at the time of the killing; (3) they surrounded Ruben when he alighted his jeepney;⁷⁰ (4) they took turns hitting, hacking and stabbing Ruben with a stone, samurai and a knife;⁷¹ (5) Ruben sustained multiple injuries and wounds from the attacks;⁷² and (6) all four accused immediately escaped.⁷³

The acts of appellant and his co-accused were coordinated. They were synchronized in their attacks and were motivated by a single criminal impulse - to kill Ruben. Their spontaneous agreement to commit the crime is sufficient to create joint criminal responsibility.⁷⁴

Conspiracy being present, appellant is thus equally liable as his co-accused regardless of who delivered the killing blow. For where there is conspiracy, all conspirators are liable as co-principals. The act of one is the act of all.⁷⁵

Abuse of superior strength, not treachery, qualified the killing to murder

As regards the appreciation of treachery as a qualifying circumstance, the facts establishing it must be sufficiently alleged in the Information.⁷⁶

⁶⁸ *People v. Orias*, 636 Phil. 427, 445 (2010).

⁶⁹ As admitted in the pre-trial conference dated June 4, 2004, Renato and Junjun are brothers and appellant and Pagapulaan are friends. Records, p. 87.

⁷⁰ TSN, September 15, 2004, p. 36.

⁷¹ *Id.* at p. 36-37.

⁷² Record, pp. 194-201.

⁷³ TSN, February 8, 2005, pp. 7-8 and 20, and TSN, November 12, 2004, pp. 7-8.

⁷⁴ *Supra* note 68 at 446.

⁷⁵ *People v. Panida*, 369 Phil. 311, 341 (1999).

⁷⁶ Sections 6 and 8, Rule 110 of the Rules of Court provide:

Section 6. Sufficiency of complaint or information. — A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

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Section 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

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Any objection against its sufficiency in the Information must be raised during trial proper. Otherwise, it is deemed waived. For the accused effectively allowed the prosecution to particularize the elements of treachery through the presentation of evidence.⁷⁷

The Court, nevertheless, agrees that treachery did not attend the killing. Here, there was no showing that appellant deliberately chose his method of attack to ensure the accomplishment of the crime without risk of retaliation coming from the victim.

On the other hand, abuse of superior strength qualified the killing to murder. This circumstance is appreciated whenever there is a notorious inequality of forces between the victim and his aggressors, and the latter took advantage of such inequality to facilitate the commission of the crime.⁷⁸

To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked. Unlike in treachery, where the victim was not given the opportunity to defend himself or repel the aggression, taking advantage of superior strength does not mean that the victim was completely defenseless. It is determined by the excess of the aggressor's natural strength over that of the victim, considering the momentary position of both and the employment of means weakening the defense, although not annulling it.⁷⁹

Here, it is evident that appellant and his co-accused took advantage of their number and weapons to put the victim at a notorious disadvantage.⁸⁰ The four (4) accused took turns in hacking Ruben with the samurai. They also stabbed him with a knife and hit his nape with a rock causing his head to crack. The balance of strength excessively tilted in their favor. Appellant and his co-accused overwhelmed the victim with their sudden synchronized assault.⁸¹ A disparity in strength and number was clear.⁸²

The fact that Ruben attempted to fend off Pagapulaan with a samurai did not automatically negate abuse of superior strength. For when the four (4) accused ganged up on him during the squabble, they managed to disarm Ruben. In contrast, they armed themselves with the samurai, a knife and a stone. Obviously, the force they used far exceeded the means of defense available to Ruben. All told, abuse of superior strength qualified his killing to murder.

⁷⁷ See *People v. Asilan*, 685 Phil. 633, 651 (2012).

⁷⁸ *People v. Evasco*, G.R. No. 213415, September 26, 2018.

⁷⁹ *People v. Ventura*, 477 Phil. 458, 485 (2004).

⁸⁰ *People v. Siccuan*, 337 Phil. 617, 623 (1997).

⁸¹ *People v. San Andres*, 383 Phil. 102, 113 (2000).

⁸² *People v. Flores*, G.R. No. 228886, August 8, 2018.

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Penalty

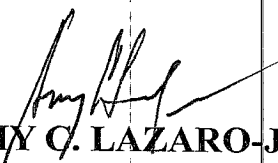
Under Article 248 of the Revised Penal Code, murder is punishable by *reclusion perpetua* to death. There being no aggravating circumstance, both the trial court and the Court of Appeals correctly sentenced appellant to *reclusion perpetua*.

Following recent jurisprudence however,⁸³ the awards of civil indemnity and moral damages are increased to ₱75,000.00 each. Exemplary damages of ₱75,000.00 should also be awarded. We delete the actual damages of ₱21,000.00 for the prosecution's failure to prove actual funeral expenses.⁸⁴ In the absence of competent proof of actual damages suffered, a party is nonetheless entitled to temperate damages.⁸⁵ Temperate damages of ₱50,000.00, therefore, should be awarded in lieu of actual damages.⁸⁶ Finally, these amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

ACCORDINGLY, the appeal is **DENIED**. The November 11, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01047-MIN is hereby **AFFIRMED with MODIFICATION**.

Appellant **JOSE BATULAN y MACAJILOS** is **GUILTY** of **MURDER** and sentenced to *reclusion perpetua*. He is required to pay the heirs of Ruben Pacho civil indemnity, moral damages, and exemplary damages of ₱75,000.00 each; and temperate damages of ₱50,000.00. These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

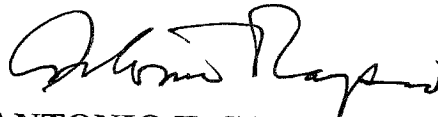
⁸³ *People v. Jugueta*, 783 Phil. 806, 848 (2016).

⁸⁴ TSN, September 15, 2004, p. 21.


⁸⁵ *Engr. Dueñas v. Guce-Africa*, 618 Phil. 10, 21 (2009).

⁸⁶ *People v. Gallanosa*, G.R. No. 219885, July 17, 2017, 831 SCRA 238, 251.

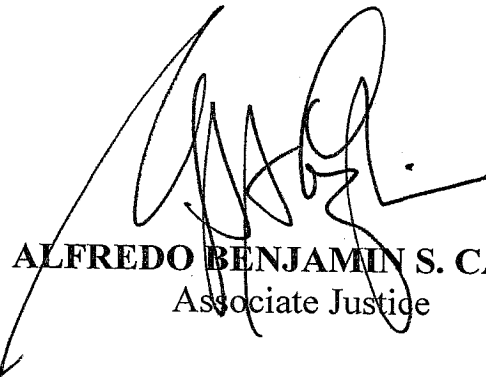
WE CONCUR:



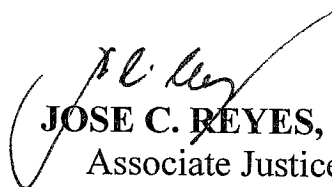
ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
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.

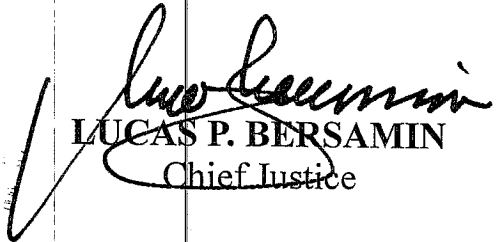


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

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CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above 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.


LUCAS P. BERSAMIN
Chief Justice

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