



REPUBLIC OF THE PHILIPPINES  
 SUPREME COURT  
 Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES  
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**NOTICE**

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **02 October 2019** which reads as follows:

**G.R. No. 238744 (People of the Philippines v. Ricky P. Flores and Gerry P. Flores)**

X-----X

**The Case**

Appellants assail the Court of Appeals' Decision<sup>1</sup> dated November 24, 2017 in CA-G.R. CR-HC No. 08583 entitled "*People of the Philippines v. Ricky P. Flores and Gerry P. Flores*" affirming appellants' conviction for the murder of Joel Crespo.

**Proceedings Before the Trial Court**

Appellants Ricky P. Flores and Gerry P. Flores were charged with murder under the following Information, viz:

That on or about the 22<sup>nd</sup> day of October, 2005, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused RICKY P. FLORES @ Kik-Kik and GERRY P. FLORES @ Apupung, being then armed with a shovel and bladed weapon, respectively, by means of treachery, evident premeditation, abuse of superior strength and with intent to kill on JOEL CRESPO, confederating together, acting jointly and helping each other, did then and there, willfully, unlawfully and criminally, attack, assault and use personal violence upon the latter by striking his head with the use of a shovel and stabbing him several times with the said bladed weapon, thereby causing his death shortly thereafter due to "Hypovolemic shock, hemorrhage massive due to multiple stab wounds" as per Certificate of Death issued by Dr. Benjamin Bautista, of the City Health Office, this City, to the damage and prejudice of the legal heirs of said deceased JOEL CRESPO, in the amount of not less than FIFTY THOUSAND PESOS (P50,000.00) Philippine currency, and other consequential damages.

Contrary to law.<sup>2</sup>

On arraignment, appellants pleaded not guilty.<sup>3</sup>

Joel's common law wife Marissa Rafael testified for the prosecution while appellants testified for the defense.

<sup>1</sup> Rollo, pp. 2-16.

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.*

### Version of the Prosecution

In the afternoon of October 22, 2005, an enraged Gerry, along with his uncle Pamboy, went to Joel's house at Bacayao Norte, Dagupan City to discuss the latter's supposed debt. Gerry and Pamboy were standing right outside the house's wired fencing when Marissa, who was then playing with her children, approached them.<sup>4</sup>

In a loud voice, Gerry ordered Marissa to wake Joel up. Shortly after, Joel came out of the house and talked to Gerry. Joel tried to pacify Gerry, telling him that the debt was already settled. While the two were talking, Gerry's brother, Ricky Flores, suddenly appeared from behind with a shovel in hand and bashed Joel in his head. Joel fell to the ground face down. But Ricky just continued whacking him. Gerry then jumped over the barbed wire fence, pulled out a knife and stabbed Joel several times, killing the latter right then and there.<sup>5</sup> Per Autopsy Report dated October 23, 2005,<sup>6</sup> Joel's cause of death was *hypovolemic shock, hemorrhage, massive due to multiple stab wounds*.

### Version of the Defense

Appellants testified that on October 22, 2005, about 3:30 in the afternoon, Gerry went to Joel's house in Bacayao Norte, Dagupan City to collect the latter's debt. There, he saw Marissa so he asked for Joel. Marissa went back to the house to wake up her husband. Moments later, Joel appeared and indignantly asked Gerry why he was at his house. When Gerry informed Joel of his purpose, the latter merely sneered and told him to wait. Joel briskly disappeared and went back to his house. When Joel reappeared, he was fuming mad and clutching a kitchen knife. Joel tried to attack Gerry and chased him with the knife.<sup>7</sup>

Eric Flores, Ricky's eldest son witnessed the chase. He hurriedly went to his father and told him what he saw. Ricky ran toward their direction and picked up a shovel near an embankment in case he needed to defend his brother Gerry. Meantime, Joel stopped after Gerry successfully hurdled a tall barbwire and disappeared. When Joel turned around, he saw Ricky. Joel, this time, suddenly brandished his knife at Ricky. The latter got startled and instinctively raised the shovel to protect himself. As a result, the shovel hit Joel's body, causing the latter to fall to the ground. In a quick turn of events, they ended up grappling for the possession of Joel's knife until Joel was accidentally got stabbed.<sup>8</sup>

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<sup>4</sup> *Id.*

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

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

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

<sup>8</sup> *Id.* at 4-5.

### Ruling of the Trial Court

By Decision dated June 22, 2016,<sup>9</sup> appellants were found guilty as charged, viz:

WHEREFORE, in view of the foregoing, the accused Ricky Flores and Gerry Flores are both held guilty and liable of Murder as charged in the Information in Criminal case No. 2006-0010-D, penalized under Article 248 of the Revised Penal Code by *reclusion perpetua* in killing the victim Joel Crespo. An award is as follows:

- 1) ₱50,000.00 for civil indemnity ex delicto;
- 2) ₱50,000.00 for moral damages;
- 3) ₱30,000.00 award for exemplary damages;
- 4) Rate of interest of six percent (6%) per annum shall be applied to the award of civil indemnity, moral damages and exemplary damages from the finality of judgment until fully paid;
- 5) Cost against the accused.

SO ORDERED.<sup>10</sup>

The trial court found that appellants conspired to kill the victim and that the crime was premeditated and attended by treachery. It noted that while Gerry was talking to Joel, Ricky strategically placed himself behind Joel's back and, without any warning, hit Joel in the head with a shovel.<sup>11</sup>

Under the circumstances, Joel was unable to defend himself.<sup>12</sup>

It ruled further that there was abuse of superior strength. At the time the crime was committed, Joel was thirty nine (39) years old while appellants Ricky and Gerry were thirty two (32) and twenty eight (28) years old, respectively. There was disparity in age and strength between the victim and the assailants since the latter were capable of exerting more effort.<sup>13</sup>

Lastly, the trial court did not give merit to appellants' claim of self-defense. The kind and number of injuries sustained by Joel showed that appellants intended to kill him. Had appellants only intended to pacify or restrain Joel, who was unarmed at that time, they could have done so even without repeatedly hitting him.

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<sup>9</sup> Penned by Judge Mervin Jovito S. Samadan.

<sup>10</sup> *CA rollo*, pp. 54-68.

<sup>11</sup> *Id.* at 62.

<sup>12</sup> *Id.* at 64-65.

<sup>13</sup> *Id.* at 66.

## The Proceedings Before the Court of Appeals

### Appellants' Arguments

On appeal, appellants faulted the trial court for finding them guilty of murder. They mainly averred:<sup>14</sup>

(1) Marissa's testimony was inconsistent. She initially testified that she talked to Gerry until Joel was awakened and went downstairs. On cross, however, she testified that Pamboy was the one who talked to Gerry until Joel woke up.<sup>15</sup>

(2) It is against logic that Marissa ran to seek help from Joel's mother even though Pamboy was already there at the *situs criminis* when appellants were taking turns in stabbing and hitting Joel. It is also against human nature that Uncle Pamboy would not stop his nephews from inflicting injuries on Joel.<sup>16</sup>

(3) The trial court erred in discrediting Ricky's claim of self-defense. Joel was aggressive and armed with a knife at that time. His impending attack posed an imminent danger on Ricky's life and safety. Ricky whacked Joel with a shovel to protect himself.<sup>17</sup>

(4) The prosecution failed to present evidence to show that appellants conspired to kill Joel.<sup>18</sup>

(5) Appellants also negated the presence of treachery. The attack was not sudden and Joel was not defenseless because he was already alerted by the fact that before the attack, a prior altercation had already ensued between him and Gerry. From that moment, Joel was already aware that the quarrel may become physical and thus, was already on the defense mode.<sup>19</sup>

(6) Anent the qualifying circumstance of evident premeditation, the prosecution failed to prove there was sufficient lapse of time between appellants' determination to kill Joel and the execution of the alleged pre-planned slaying.<sup>20</sup>

(7) As for abuse of superior strength, the fact alone that Joel was few years older than appellants is not equivalent to abuse of superior strength. The prosecution failed to establish that appellants purposely used excessive force out of proportion to the means available to Joel at the time of the attack.<sup>21</sup>

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<sup>14</sup> See Appellant's Brief dated July 13, 2015; CA *rollo*, pp. 35-52.

<sup>15</sup> *Id.* at 42.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 44-45.

<sup>18</sup> *Id.* at 45.

<sup>19</sup> *Id.* at 45-46.

<sup>20</sup> *Id.* at 48.

<sup>21</sup> *Id.* at 48-49.

### The People's Arguments

- a) The Office of the Solicitor General (OSG) essentially countered that the prosecution proved beyond reasonable doubt that appellants slayed Joel. The minor inconsistencies in Marissa's account on how appellants slew her husband did not affect her credibility considering her testimony was consistent with the evidence on record.
- b) Records show that the nature, location, and number of wounds Joel sustained (*i.e.* abrasions on Joel's face and shoulders, lacerated wounds around his head and right ear, eleven (11) stab wounds, and hematoma in his clavicle) belie Ricky's claim of self-defense.<sup>22</sup>
- c) Conspiracy was also established from the manner appellants executed their vicious act. Appellants foisted a two-pronged attack against Joel which resulted in the latter's demise.<sup>23</sup>
- d) The killing was treacherous. Ricky blindsided Joel with a blow in his head. He repeatedly whacked him while Joel's body laid flat on the ground face down. Gerry then finished the job by stabbing Joel multiple times, causing the latter to instantly die.<sup>24</sup>

### Ruling of the Court of Appeals

By its assailed Decision dated November 24, 2017,<sup>25</sup> the Court of Appeals affirmed with modification as to the amount of damages, thus:

**WHEREFORE**, the Decision dated June 22, 2016 of the RTC, Branch 40, Dagupan City, in CRIM. CASE NO. 2006-0010-Dis AFFIRMED with MODIFICATION.

Accused-appellants Ricky and Gerry Flores are hereby found GUILTY beyond reasonable doubt of the crime of Murder and are sentenced to suffer the penalty of *reclusion perpetua*. They are further ordered to pay the heirs of Joel Crespo the sum of One Hundred Thousand Pesos (₱100,000.00) as civil indemnity; One Hundred Thousand Pesos (₱100,000.00) as moral damages; One Hundred Thousand Pesos (₱100,000.00) as exemplary damages; and interest on all damages at the rate of six percent (6%) per annum from the finality of judgment until fully paid, and cost.

SO ORDERED.<sup>26</sup>

It ruled that Marissa's testimony was straightforward, hence, deserved full faith and credence. It found the alleged inconsistencies to be

<sup>22</sup> See Appellee's Brief dated November 16, 2015, CA *rollo*, pp. 79-94.

<sup>23</sup> *Id.* at 90-91.

<sup>24</sup> *Id.* at 91-92.

<sup>25</sup> Penned by Now Supreme Court Associate Justice Henri Jean Paul B. Inting and concurred in by Now Supreme Court Associate Justice Rodil V. Zalameda and Associate Justice Ruben Reynaldo G. Roxas; *Rollo*, p. 2-16.

<sup>26</sup> *Id.* at 15.

dealing with trivial matters which have nothing to do with the fact of killing.<sup>27</sup>

Also, conspiracy between appellants was shown from their concerted actions. Ricky's sudden appearance from behind, whacking Joel with a shovel, immediately followed by Gerry's infliction of multiple stab wounds on the hapless victim Joel Crespo indubitably established that appellants acted in concert to pursue one objective: to finish off Joel.<sup>28</sup>

Treachery attended the killing. Joel was caught off guard when Ricky stealthily attacked Joel from behind. Gerry participated in the assault by stabbing Joel several times while the latter was already lying haplessly on the ground.<sup>29</sup>

Evident premeditation, however, is absent. The circumstances pointed out by the trial court, the act of Ricky positioning himself behind Joel while Gerry and Joel were arguing indicated appellants' intent not only to render Joel defenseless but also to insure execution of their plan to kill him, were all indicative of conspiracy among appellants. Thus, at best, these combined actions merely constitute conspiracy and not evident premeditation.<sup>30</sup>

Too, abuse of superior strength is absent. There is no showing that appellants purposely sought the advantage to facilitate the execution of the crime. There was also no notorious inequality of forces between appellants and the victim.<sup>31</sup>

### The Present Appeal

Appellants now seek affirmative relief from the Court and prays anew for their acquittal.<sup>32</sup> In compliance with *Resolution*<sup>33</sup> dated July 9, 2018, both the OSG and appellants manifested<sup>34</sup> that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

### Ruling

Murder is defined and penalized under Article 248 of the Revised Penal Code, viz:

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

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<sup>27</sup> *Id.* at 7.

<sup>28</sup> *Id.* at 8.

<sup>29</sup> *Id.* at 8-11.

<sup>30</sup> *Id.* at 11-12.

<sup>31</sup> *Id.* at 13.

<sup>32</sup> *Id.* at 92-94.

<sup>33</sup> *Id.* at 28-29.

<sup>34</sup> *Id.* at 24-25; pp. 29-33.

punished by *reclusion perpetua* to death if committed with any of the following attendant circumstances:

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

x x x

5. With evident premeditation

x x x

To successfully prosecute murder, the following elements must be shown: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) the killing is not parricide or infanticide.<sup>35</sup>

Here, the presence of the first and the fourth elements are beyond cavil. Joel died due to hypovolemic shock, hemorrhage massive due to multiple stab wounds as per Certificate of Death issued by Dr. Benjamin Bautista of the Dagupan City Health Office.<sup>36</sup> The killing was not parricide because appellants were not related to Joel.

The issue, therefore, is focused on the second and third elements.

### **Second Element**

Ricky admits that he killed Joel but claims to have acted in self-defense.

For self-defense to be appreciated, appellant has to prove by clear and convincing evidence the following elements: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself. Unlawful aggression is the indispensable element of self-defense. If no unlawful aggression attributed to the victim is established, self-defense is unavailing, for there is nothing to repel.<sup>37</sup>

As found by the courts below, Ricky's plea of self-defense must fail. There was no unlawful aggression on the part of Joel to justify Ricky's sudden and unexpected act of whacking the former with the use of a shovel. Joel was sleeping in his house when Gerry came to discuss with him his supposed debt. When Joel came out, it was Gerry who was hostile to him. Joel even tried to pacify Gerry, reassuring the latter that he had already settled his debt. Too, it was not shown that Joel was armed and actually

<sup>35</sup> *People vs. Gaborne*, 791 Phil 581, 592 (2016); citing *People vs. Dela Cruz*, 626 Phil 631, 639 (2010).

<sup>36</sup> *CA rollô*, p. 64.

<sup>37</sup> *People v. Fontanilla*, 680 Phil. 155, 165 (2012).

brandishing a knife at him at Ricky before or during the latter attacked him. Nor was it shown that Joel provoked him or Gerry to aggressively act toward him.

Both the trial court and the Court of Appeals found the testimonies of the prosecution witness to be clear and straightforward. They gave full credence to Marissa's eyewitness account of the killing incident. The alleged inconsistencies, if at all, would only indicate that the witness was not rehearsed.<sup>38</sup> In any event, there was no evidence that the prosecution witness was impelled by ill-motive to falsely testify against appellants. Hence, her testimony was correctly accorded full weight and credit by both the trial and appellate courts.<sup>39</sup>

Indeed, the evaluation of the credibility of witnesses and their testimonies is a matter 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.<sup>40</sup> Further, the Court defers and accords finality to the factual findings of trial courts especially when such findings carry the full concurrence of the appellate court, as in the case.<sup>41</sup>

In any event, the number of stab and whack wounds (11) sustained by Joel, most of them fatal, clearly prove not self-defense but a clear resolve to kill.

In *People v. Panerio*,<sup>42</sup> the Court sustained appellant's conviction for murder despite his claim of self-defense. Of the eleven (11) stab and puncture wounds sustained by the victim, at least seven (7) are deemed fatal having been inflicted over vital organs such as the heart, the lungs, the liver, and the intestines. Rather than imply an effort for self-defense, the presence of multiple stab wounds on the victim strongly indicates a determined effort to kill the victim.

### **Third Element: Treachery**

There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend to directly and specially insure the execution of the crime, without risk to himself arising from the defense which the offended party might make. The elements of treachery are: (i) the means of execution employed gives the victim no opportunity to defend himself or retaliate; and (ii) the methods of execution were deliberately or consciously adopted.<sup>43</sup>

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<sup>38</sup> See *People of the Philippines v. Alberto Petalino*, G.R. No. 213222, September 24, 2018.

<sup>39</sup> CA Decision, p. 12.

<sup>40</sup> *Heirs of Villanueva v. Heirs of Mendoza*, G.R. No. 209132, June 5, 2017, 825 SCRA 513, 527.

<sup>41</sup> *Heirs of Spouses Liwagon, et al. v. Heirs of Spouses Liwagon*, 748 Phil. 675, 689 (2014).

<sup>42</sup> G.R. No. 205440, January 15, 2018.

<sup>43</sup> *People v. Kalipayan*, G.R. No. 229829, January 22, 2018.



Here, Ricky whacked the unsuspecting and unarmed victim from behind with a shovel. The attack was sudden, swift, and unexpected, leaving Joel no real chance to defend himself. Gerry, on the other hand, stabbed Joel while he was already lying prostrate on the ground. As a result, the unnamed and unsuspecting victim sustained eleven (11) wounds in different parts of his body. Undoubtedly, treachery attended the killing of Joel Crespo.

In *People v. Roman*,<sup>44</sup> the Court affirmed the verdict of conviction against the accused for murder. It ruled that treachery attended the killing since the accused hacked the victim with a bolo from behind while the latter was unarmed. This negated any opportunity for the victim to avoid the attack, or at least put up a defense to mitigate its impact.

As for evident premeditation and abuse of superior strength, the Court of Appeals correctly disregarded the same.

The elements of evident premeditation are: (1) a previous decision by the accused to commit the crime; (2) an overt act or acts manifestly indicating that the accused has clung to his determination; and (3) a lapse of time between the decision to commit the crime and its actual execution enough to allow the accused to reflect upon the consequences of his acts.<sup>45</sup>

Here, the circumstances pointed out by the trial court do not constitute clear and positive evidence of outward acts showing premeditation to kill. At most, these circumstances showed appellants' conspiracy. There was no proof at all here how and when the plan to kill was hatched or how much time had elapsed before it was carried out.

On the abuse of superior strength, there was no notorious disparity in forces between the appellants and the victim. Also, there was no showing that appellants' consciously took advantage of their youth in the execution of the crime. In any case, this circumstance was already absorbed in treachery.<sup>46</sup>

Lastly, the Court of Appeals correctly appreciated the presence of conspiracy between appellants. There is unity of action as evidenced by appellants' simultaneous acts of whacking and stabbing Joel. There is likewise unity of purpose, that is, to end Joel's life.<sup>47</sup> As co-conspirators, they are equally guilty and collectively liable. For in conspiracy, the act of one is the act of all.<sup>48</sup>

All told, the Court of Appeals did not err in affirming the trial court's verdict of conviction against appellants for murder.

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<sup>44</sup> 715 Phil. 817, 835 (2013).

<sup>45</sup> *Supra* note 43.

<sup>46</sup> *People v. Bañez, et al.*, 770 Phil. 40, 49 (2015).

<sup>47</sup> *Id.* at 8.

<sup>48</sup> *See People v. Go*, 730 Phil. 362, 371 (2014).

**Penalty**

Article 248 of the Revised Penal Code provides:

Art. 248. Murder. — Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion temporal in its maximum period to death x x x

Since there are no mitigating or aggravating circumstances proved during trial,<sup>49</sup> the imposable penalty is *reclusion perpetua*. Conspiracy having been proved, the Court of Appeals correctly sentenced appellants to *reclusion perpetua*.<sup>50</sup>

As for the monetary awards, the Court of Appeals correctly awarded civil indemnity, moral damages, and exemplary damages in accordance with prevailing jurisprudence. These amounts shall earn six (6) percent interest *per annum* from finality of judgment until fully paid.

Finally, in the absence of the victim's family's testimony on the amount of actual damages or any documentary evidence of burial or funeral expenses presented during the trial, the Court further awards temperate damages of ₱50,000.00 in lieu of actual damages.<sup>51</sup>

**WHEREFORE**, the appeal is **DENIED**. The Decision dated November 24, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08583, is **AFFIRMED with MODIFICATION**.

Appellants **Ricky P. Flores and Gerry Flores** are found **guilty of murder** and sentenced to *reclusion perpetua*. They are ordered to pay the following:

- a) ₱100,000.00 as civil indemnity;
- b) ₱100,000.00 as moral damages;
- c) ₱100,000.00 as exemplary damages; and
- d) ₱50,000.00 as temperate damages.

These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

**SO ORDERED.** (*Zalameda, J., no part due to prior action in the Court of Appeals; Reyes, A., Jr., J., designated as additional member per Raffle dated September 02, 2019*)

<sup>49</sup> *Rollo*, p. 3.

<sup>50</sup> *People v. Tabayan*, G.R. No. 207666, November 22, 2017, 846 SCRA 209, 226.

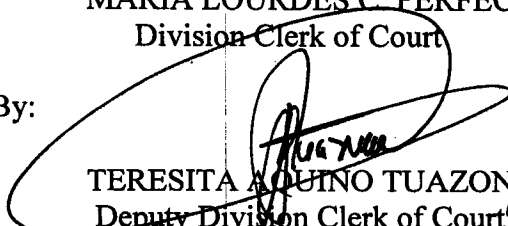
<sup>51</sup> *People v. Jugueta*, 783 Phil. 806, 846 (2016).

R10/23

Very truly yours,

MARIA LOURDES C. PERFECTO  
Division Clerk of Court

By:

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court

23 OCT 2019

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(Crim. Case No. 2006-0010-D)

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