



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated June 17, 2020 which reads as follows:*

**“G.R. No. 228823 – (PEOPLE OF THE PHILIPPINES vs. DANNY GARCIA Y ROGA, CHRISTOPHER GARCIA Y VARGAS, RICKERHENDERSON VEJERANO Y BALTAZAR, CILETTE GARCIA, JOHN DOE, PETER DOE, RICHARD DOE, AND RAMON DOE, Accused, DANNY GARCIA Y ROGA AND CHRISTOPHER GARCIA Y VARGAS, Accused-Appellants)**

**The Case**

This appeal assails the Decision<sup>1</sup> dated June 21, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06632 affirming with modification the trial court’s verdict of conviction for murder against appellants Danny Garcia y Roga and Christopher Garcia y Vargas.

**The Proceedings before the Trial Court**

***The Charge***

By Information dated August 23, 2004,<sup>2</sup> appellants, together with Rickerhenderson Vejerano, Cillette Garcia,<sup>3</sup> certain John Doe, Peter Doe, Richard Doe, and Ramon Doe were charged with murder for the death of Welmer Villegas y Fernandez,<sup>4</sup> thus:

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<sup>1</sup> Penned by Associate Justice Sesinando E. Villon with the concurrence of Associate Justices Rodil V. Zalameda (now a member of this Court) and Pedro B. Corales, all members of Eleventh Division, *rollo*, pp. 2-32.

<sup>2</sup> Record, p. 5.

<sup>3</sup> Also known as “Oliver;” see Warrant of Arrest dated February 24, 2005, *id.* at 72.

<sup>4</sup> Referred to as “Wilmer Villegas y Fernandez” in the Information and case records but should be “Welmer Villegas y Fernandez” based on the victim’s Certificate of Live Birth; *See* record, p. 259.

The undersigned Asst. City Prosecutor accuses DANNY GARCIA, CHRISTOPHER GARCIA, CILLETE GARCIA, RICKERHENDERSON VEJERANO Y BALTAZAR, JOHN DOE, PETER DOE, RICHARD DOE, AND RAMON DOE, true names, real identity and present whereabouts of the last-four mentioned accused, still unknown of the crime of "MURDER" committed as follows:

That on or about the 18<sup>th</sup> day of April 2004, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused with treachery and the use of their superior strength, conspiring together and mutually helping with one another, without any justifiable cause, with deliberate intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack and stab the person of (WELMER) VILLEGAS Y FERNANDEZ hitting the (latter) (in) the trunk and different parts of the body, thereby inflicting upon him serious physical injuries which caused his death at East Avenue Medical Center, Quezon City.

CONTRARY TO LAW.<sup>5</sup>

The case was raffled to the Regional Trial Court (RTC) – Branch 125, Caloocan City. Only appellants and Rickerhenderson were arrested, while Cillette and the four (4) other unnamed accused remained at large.

On arraignment, appellants and Rickerhenderson separately pleaded not guilty.<sup>6</sup> Trial ensued.

On February 1, 2007, the trial court dismissed the case against Rickerhenderson after Welmer's parents executed an Affidavit of Desistance dated December 14, 2004.<sup>7</sup>

The case proceeded as against appellants.

Elaine Fernandez, Elmer Ignacio, Merlinda Villegas, and Medico Legal Officer Dr. Jose Arnel M. Marquez testified for the prosecution. On the other hand, appellants themselves testified for the defense.

### ***The Prosecution's Version***

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<sup>5</sup> Information dated August 23, 2004, record, p. 2.

<sup>6</sup> See Minutes of the Hearing dated December 8, 2004, *id.* at 39; see also RTC Order dated April 28, 2005, *id.* at 80.

<sup>7</sup> RTC Order dated February 1, 2007, *id.* at 193-194; see also *Pinagsamang Sinumpaang Salaysay* dated December 14, 2004, *id.* at 60.

On April 18, 2004, one of the accused Cillete Garcia<sup>8</sup> hosted a get-together party at the residence of his father appellant Danny Garcia at Evelyn Compound, Pitong Bahay Street, Fairview, Novaliches, Caloocan City.<sup>9</sup> Approximately fifty (50) persons attended the party.<sup>10</sup>

One of them was the victim Welmer Villegas. Around 3:30 in the morning, Welmer and his girlfriend Elaine left the party and boarded a Hi-Lander vehicle owned by their friend Vergel to bring them home. Inside the van, they waited for their other friend Leah Young who was supposed to ride with them. A few minutes later, Leah appeared, albeit she looked heavily drunk and unruly. Welmer asked her to get into the vehicle but she refused. Welmer then angrily alighted from the vehicle, tapped Leah on the face while asking her: “*anong problema mo?*” Thinking that Welmer was “*pumapatol sa babae,*”<sup>11</sup> a certain Vincent, also one of the attendees, confronted Welmer about his action. Welmer snapped back at Vincent: “*ano ang pakialam mo?*” In turn, Vincent punched Welmer in the jaw.<sup>12</sup> Thereupon, Vincent’s friends got enraged and headed towards Welmer. Seeing the group approaching him, Welmer, too, got enraged. His girlfriend Elaine stepped in and tried to calm him down. Meantime, Danny came out from the house and asked Vergel to move Welmer away. As Welmer and Elaine, together with Vergel were leaving, Christopher and Cillete,<sup>13</sup> both sons of Danny, appeared and went after Welmer. This forced Welmer and Elaine to run back into the house of Danny and hide in the bathroom. But Cillete and Christopher had followed them inside the house. Cillete kicked the door of the bathroom and forced Welmer and Elaine to come out. Elaine’s “*Kumare*” Aileen<sup>14</sup> came and pleaded with Welmer and Elaine to come out, but they refused.<sup>15</sup>

A few minutes later, sensing that the people outside the bathroom had already left, Elaine and Welmer finally came out.<sup>16</sup>

Meanwhile, Elmer Ignacio stood by the gate and saw Christopher walking towards the house. The latter held a bottle of

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<sup>8</sup> Also known as “Oliver;” see Warrant of Arrest dated February 24, 2005, *id.* at 72.

<sup>9</sup> TSN, June 9, 2005, p. 17.

<sup>10</sup> TSN, May 19, 2005; pp. 3-11.

<sup>11</sup> TSN, December 8, 2004, p. 12.

<sup>12</sup> TSN, May 19, 2005, pp. 3-11.

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

<sup>14</sup> Sometimes “Elaine” in the TSN.

<sup>15</sup> TSN, June 9, 2005, pp. 3-17.

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

“*Emperador long neck.*” When Christopher saw Elaine and Welmer emerging from the house, Christopher swiftly hit Welmer with the Emperador bottle. Welmer got hit in the head, causing the bottle to shatter. Welmer got dizzy. Thereafter, around eight (8) other men<sup>17</sup> inside the compound picked up empty bottles strewn on the ground, and together, they rushed towards Welmer to attack him. But Welmer managed to get up and quickly sprayed tear gas on them, after which, he quickly ran back again inside the house of Danny.<sup>18</sup>

Danny angrily uttered “*putang ina!*”. Then, Danny, Christopher, Cillete, Vincent, a certain Angelico, and several others followed Welmer into the house. There, they were able to corner Welmer whom they repeatedly hit with empty bottles in different parts of his body until he fell down.<sup>19</sup>

Elaine rushed back inside the house and saw Welmer being ganged up by the group. She tried to grab him away but Welmer’s attackers were way much stronger than her. When Welmer passed out, she begged for the men to stop but her plea fell on deaf ears. They continued to brutally attack him. Then, the lights inside the house suddenly went out.<sup>20</sup>

By the gate, Elmer saw Rickerhenderson or “Arvie”<sup>21</sup> and his companion coming out of the house. Rickerhenderson’s shirt was covered with blood and his companion’s forearm was wounded. Elmer asked Rickerhenderson where the blood came from. Rickerhenderson replied “*nadali (ko) si Welmer dito,*” pointing to his abdomen.<sup>22</sup>

Back inside the house, someone pulled Elaine away and brought her outside the compound. It was Aileen. After a while, Elaine saw Danny dragging Welmer from the compound into the road. Welmer was motionless. Danny dumped Welmer on the road like garbage. Elaine ran towards Welmer and saw his eyes “*nakatirik.*” Together with Vergel, she took Welmer to the East Avenue Medical Center where Welmer was pronounced dead-on-arrival.<sup>23</sup>

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<sup>17</sup> *Id.* at 8.

<sup>18</sup> TSN, December 8, 2004, pp. 3-26.

<sup>19</sup> *Id.*

<sup>20</sup> TSN, June 9, 2005, pp. 3-17.

<sup>21</sup> Sometimes “Harvey” in the records.

<sup>22</sup> TSN, December 8, 2004, pp. 3-26.

<sup>23</sup> TSN, June 9, 2005, pp. 3-17.

Elaine informed Welmer's mother Merlinda Villegas that her son had died. Merlinda immediately went to the morgue to see Welmer while her husband William Villegas<sup>24</sup> proceeded to Danny's house to confront him. Merlinda testified that her family incurred ₱48,000.00 for Welmer's medical and funeral services. She presented supporting receipts.<sup>25</sup>

Dr. Jose Arnel Marquez of the Eastern Police District Crime Laboratory conducted an autopsy on Welmer. He confirmed that Welmer died of "*hemorrhagic shock as a result of a stab wound on the trunk.*"<sup>26</sup> He sustained eleven (11) external injuries, two (2) contusions in the head, one (1) stab wound in the trunk (near the chest and upper portion of the abdomen), one (1) stab wound in the left arm and several abrasions on the upper and lower extremities.<sup>27</sup> The most fatal was the stab wound in the chest and upper abdomen which penetrated Welmer's liver and lungs.<sup>28</sup> The stab wound could have been caused by a sharp and pointed object like a broken bottle.<sup>29</sup> Altogether, the wounds appeared to have been inflicted by more than five (5) persons.<sup>30</sup>

### *The Defense's Version*

Danny testified that on April 18, 2004, around 4 o'clock in the morning, he was inside their residence together with his son Cillete. The latter was hosting a party for his friends when a commotion broke out. He learned that one (1) of the guests named Leah got so drunk she laid her head on Vincent's shoulder. But the sight of it enraged Welmer. He grabbed Leah by the hair and slapped her. He also punched and kicked Vincent. A fight then ensued between the two (2). This prompted Danny to step in and pacify them. After calming them down, Danny walked back inside the house.<sup>31</sup>

But soon after, a commotion broke out again. This time, Danny saw Welmer, Vincent, and more than ten (10) other men fighting. They exchanged fist blows with empty bottles in hand.<sup>32</sup> By their

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<sup>24</sup> Based on the *Pinagsamang Sinumpaang Salaysay* of William R. Villegas and Merlinda Villegas dated December 14, 2004; *See* record, p. 60.

<sup>25</sup> TSN, May 27, 2008, pp. 2-12.

<sup>26</sup> TSN, April 6, 2006, p. 12; *See also* Autopsy Report dated April 19, 2004 (Exhibit "A"), record, p. 174 and Medico-Legal Report No. M-224-04 dated April 25, 2004 (Exhibits "D", "E", and "F"), record, pp. 177-179.

<sup>27</sup> TSN, April 6, 2006, p. 8.

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

<sup>29</sup> *Id.* at 13.

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

<sup>31</sup> TSN, September 28, 2010, pp. 4-23.

<sup>32</sup> *Id.* at 20.

sheer number, Danny this time, was unable to pacify them so he walked back inside the house and called up the barangay officials. The barangay mobile, however, was on patrol and could not immediately go to their place. As he was about to step out again, Welmer suddenly barged into the house and fell on the floor. His shirt was covered with blood. He asked for help and some of the guests came. They boarded Welmer into Elaine's vehicle and brought him to the hospital.<sup>33</sup>

Christopher, on the other hand, denied that he was in his father's house when the incident happened on April 18, 2004. He also denied knowing Welmer.<sup>34</sup> On that day, he was allegedly in his wife's home at Block 28, Lot 2, Pitong Bahay Street, Maligaya Park Subdivision, Caloocan City. It was about three hundred (300) meters away from his father's house where the incident took place. He arrived home on April 17, 2004 around 11 o'clock in the evening and slept around 12 midnight. He woke up at 7 o'clock the next morning.<sup>35</sup>

### **The Trial Court's Ruling**

By Decision<sup>36</sup> dated October 4, 2013, the trial court found appellants guilty as charged, *viz.*:

WHEREFORE, the prosecution having established the guilt of accused Danny Garcia and Christopher Garcia beyond reasonable doubt of the crime of MURDER, this court in the absence of any modifying circumstances, hereby sentences both accused to suffer the penalty of RECLUSION PERPETUA and to pay the mother of the victim actual damages which are covered by receipts for memorial services and burial lot in the total amount of Php48,000.00 and moral damages in the amount of Php500,000.00 plus costs of suit.

SO ORDERED.<sup>37</sup>

The trial court rendered a verdict of conviction based on its findings that: (1) the testimonies of the prosecution witnesses pertaining to appellants' participation in Welmer's killing were categorical, straightforward, and spontaneous; (2) there was conspiracy to kill Welmer; (3) treachery and abuse of superior strength qualified Welmer's killing to murder; and (4) appellants' uncorroborated defenses of denial and alibi failed.<sup>38</sup>

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<sup>33</sup> *Id.* at 4-23.

<sup>34</sup> TSN, August 1, 2011, pp. 3-8.

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

<sup>36</sup> Penned by Judge Dionisio C. Sison, record, pp. 295-299.

<sup>37</sup> *Id.* at 299.

<sup>38</sup> *Id.*

### The Proceedings before the Court of Appeals

On appeal, both appellants faulted the trial court for rendering the verdict of conviction. They essentially argued: (1) they did not conspire to kill Welmer; (2) it was “Arvie” not they who inflicted the fatal injury on Welmer; and (3) Christopher was at home when the alleged incident happened.<sup>39</sup>

The People, through the Office of the Solicitor General (OSG), countered: (1) the prosecution had established all the elements of murder; (2) the defense of alibi cannot overcome the direct and positive testimonies of the prosecution witnesses; and (3) the trial court’s findings should be respected and given great weight.<sup>40</sup>

### The Court of Appeals’ Ruling

By Decision<sup>41</sup> dated June 21, 2016, the Court of Appeals affirmed with modification. It reduced the award of moral damages to P75,000.00; granted civil indemnity of P75,000.00 and exemplary damages of P30,000.00; and awarded interest of six (6%) *per annum* on these amounts from finality of the decision until full payment, *viz.*:

**WHEREFORE**, in view of the foregoing, the appeal is DENIED. The Decision dated October 4, 2013 of the Regional Trial Court (RTC) Caloocan City, Branch 125, is hereby **AFFIRMED** with **MODIFICATION** in that appellants are hereby ordered to pay the heirs of Welmer Villegas y Fernandez the amount of Forty-Eight Thousand Pesos (P48,000.00) as actual damages, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, and Thirty Thousand Pesos (P30,000.00) as exemplary damages. Interest at the legal rate of six percent (6%) *per annum*, shall be imposed on the total monetary awards in this decision until the same are fully paid.

SO ORDERED.<sup>42</sup>

The Court of Appeals accorded respect to the trial court’s factual findings on the credibility of the prosecution’s witnesses. It joined the trial court in finding that the positive and forthright declarations of Elaine and Elmer that appellants did participate in slaying Welmer were sufficient to support appellants’ conviction as against their unsubstantiated denial and alibi. Too, it agreed with the

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<sup>39</sup> Appellants’ Brief dated August 7, 2015; CA *rollo*, pp. 51-62.

<sup>40</sup> Appellee’s Brief dated November 10, 2015; *id.* at 85-102.

<sup>41</sup> *Rollo*, pp. 2-32.

<sup>42</sup> *Id.* at 31-32.

trial court that treachery attended the killing since appellants' unexpected attack on Welmer left him with no chance to defend himself. It also sustained the trial court's finding that abuse of superior strength attended Welmer's killing. The eight (8) persons including appellants who ganged up Welmer purposely took advantage of and used excessive force to facilitate the commission of the crime.<sup>43</sup>

More, conspiracy was proven when Christopher hit Welmer with an Emperor bottle in the head, after which, appellants and their companions immediately surrounded Welmer, and repeatedly beat him up and stabbed him until he was no longer moving. Thereafter, Danny dragged Welmer's motionless body into the road and dumped and left him there for dead. Their concerted actions showed they were impelled by a common intent to finish off the victim. Since conspiracy had been established, all conspirators should be held liable as co-principals regardless of the extent of their individual participation.<sup>44</sup>

### **The Present Appeal**

Appellants now seek affirmative relief from the Court and pray anew for their acquittal.

In compliance with Resolution dated February 15, 2017<sup>45</sup> both the OSG and appellants manifested<sup>46</sup> that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

### **Issue**

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

### **Ruling**

Murder requires the following elements: (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

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<sup>43</sup> *Id.* at 2-32.

<sup>44</sup> *Id.*

<sup>45</sup> *Rollo*, pp. 39-40.

<sup>46</sup> Appellants' Manifestation (In Lieu of Supplemental Brief) dated May 29, 2017, *id.* at 41-44; Appellee's Manifestation (In Lieu of Supplemental Brief) dated June 23, 2017, *id.* at 54-57.



the Revised Penal Code; and (4) the killing is not parricide or infanticide.<sup>47</sup>

***The first and fourth elements — A person was killed and the killing is not parricide or infanticide***

The presence of the first and fourth elements is undisputed. Welmer Villegas was killed and the killing is not parricide or infanticide.

***The second element — the accused killed the victim***

Appellants assert they did not kill Welmer. They challenge the credibility of the prosecution's witnesses alleging it was not they but "Arvie" who fatally stabbed Welmer to death.

It is settled that when the issue of credibility of witnesses is involved, the trial court's factual findings thereon are binding and conclusive upon this Court, especially when affirmed by the Court of Appeals.<sup>48</sup> These factual findings will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended, or misinterpreted so as to materially affect the disposition of the case.<sup>49</sup>

Here, there is no showing that the trial court overlooked or misunderstood any facts of substance which would have materially affected the outcome of the case. The collective testimonies of the prosecution witnesses were straightforward, positive, and credible, in contrast to appellants' bare denial and alibi.

Welmer's girlfriend Elaine testified in detail how appellants and their co-accused acted together in ganging up and stabbing Welmer to death, thus:

Q: After coming out of the comfort room, where did you proceed?

A: We were about to go out of the house, sir.<sup>50</sup>

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<sup>47</sup> *People v. Angeles y Guarin*, G.R. No. 224289, August 14, 2019.

<sup>48</sup> *People v. Regaspi*, 768 Phil. 593, 598 (2015).

<sup>49</sup> *People v. Aquino*, 385 Phil. 887, 903 (2000); *People v. Ratunil*, 390 Phil. 218, 228 (2000).

<sup>50</sup> TSN, June 9, 2005, p. 5

Q: And then, what happened after that?

A: **Suddenly, (Welmer) was hit with a bottle in the head, sir.**

Q: Did you see who hit him?

A: Yes, sir.

Q: And who hit him?

A: **Christopher, sir.**

Q: Was (Welmer) hit?

A: Yes, sir.

Q: So after (Welmer) was hit with a bottle on the head, what happened next?

A: After he was hit with a bottle on the head, the bottle was broken, sir.

Q: What about (Welmer), what did he do or what happened to him?

A: He brushed me aside, sir.

Q: And then, what happened?

A: He was surrounded, sir.

xxx

Q: More or less, how many person (surrounded) him?

A: **8 persons, sir.**

Q: Were you able to recognize these 8 persons?

A: (Some) of them, sir.

Q: Can you name or tell us these persons whom you were able to recognize?

A: **Christopher, Vincent and those people from that place, sir.**

xxx

Q: What happened after these people surrounded (Welmer)?

A: (Welmer) sprayed tear gas, sir.

xxx

Q: And then, what happened after that?

A: I returned for him. I was trying to pull his arm but I failed, sir.

xxx

COURT:

Q: What did the crowd do to (Welmer)?

A: **"Kanya-kanyang banat", your Honor.**

xxx

Q: When you said "*kanya-kanyang banat*" will you elaborate on this?

A: **He was "*sinasapak*". He was being beaten, sir.**

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xxx

Q: And you said after that, they ganged up on him by using the words "*kanya-kanyang banat*" who were these persons who you said they ganged up on (Welmer)?

A: **Christopher, Vincent, Cillete, and those people from the place who were their friends, sir.**

xxx

Q: And then, what happened?

A: I shouted, sir.

Q: What did you shout?

A: I shouted, "*tama na – tama na*", sir.

Q: Did they stop?

A: No, sir.

xxx

Q: What do you mean by your remarks that the lights in that place where the ganging up on (Welmer) was taking place, or the entire lights of the house were went off?

A: The lights inside the house went off, sir.

xxx

Q: What happened after that?

A: I was pulled by my Kumare, sir.

xxx

Q: Finally, what happened after that?

A: When I was pulled by my Kumare, I was struggling because I would like to go back, sir.

xxx

Q: After that, what happened next?

A: (Welmer) was brought out, sir.

xxx

COURT:

Q: From the compound?

A: Yes, your Honor, from the compound.

xxx

Q: Will you describe to us how (Welmer) was brought out?

A: **He was being pulled or being dragged, sir.**

Q: Where was (Welmer) brought, to what place?

A: To the road, sir.

Q: Did you see who pulled (Welmer) to the road?

A: Yes, sir.

Q: Who?

A: **Danny, sir.**

Q: **You are referring to Danny Garcia?**

A: **Yes, sir.**

xxx

Q: What was the condition of (Welmer) when he was being dragged out of the house?

A: **He was no longer moving and he was just moaning, your Honor.**

xxx

Q: So, upon seeing (Welmer) (slumped) on the road after he was left by Danny, what did you do?

A: I at once approached him, sir.

xxx

Q: Will you describe to us the appearance of (Welmer) when you saw him?

A: **Lying down and motionless. His eyes were “nakatirik”, sir.**

Q: And were you able to bring (Welmer) to the hospital?

A: Yes, sir.<sup>51</sup>

Elmer corroborated Elaine’s testimony in this wise:

Q: Will you please point to Danny if he is present inside the courtroom?

A: **That one, sir. (At this juncture the witness is pointing to the person who when asked gave his name as Danny Garcia).**

xxx

Q: So, this Danny that you mentioned earlier as the owner of the house, you are referring to Danny who you just pointed a while ago?

A: Yes, sir.

Q: And Christopher alias (Rabbit) is his son?

A: Yes, sir.

xxx

Q: What happened after that?

A: (Welmer) was chased by the people from the place and he went inside the house of Danny, sir.

Q: Who were these persons who chased (Welmer)?

A: They were from the place, sir.

Q: Christopher and Oliver (Cillete Garcia) were among those who chased (Welmer)?

A: Yes, sir.

xxx

Q: What happened after that?

A: **When Danny saw his son Christopher was about to attack, he suddenly evaded, sir.**

Q: **What do you mean by umiwas?**

A: **Because Christopher was about to hit (Welmer), sir.**

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<sup>51</sup> *Id.* at 8-16.

**Q: And what did Danny do when he (saw) that Christopher was about to (attack) (Welmer)?**

**A: Christopher hit Welmer on the head, sir (.)**

XXX

Q: What portion of the head?

A: Here, sir. (Witness pointing to the left back portion of the head).

XXX

Q: And what happened to (Welmer) when he was hit with a bottle on the head?

A: He got dizzy, sir.

XXX

Q: What happened next after that?

**A: After (Welmer) sprayed tear gas, Danny got angry, sir.**

Q: How did he get angry?

A: He uttered bad words, sir.

Q: What words?

**A: "Putang ina", sir.**

Q: And then (,) what happened after that?

A: Some people went inside, sir.

Q: You are referring to the place where (Welmer) went to?

A: Yes, sir.<sup>52</sup>

XXX

Q: What happened after that?

**A: He was chased by the people of that place, sir, and those people from that place were armed with bottle, sir.**

XXX

Q: What about Christopher who earlier hit him with a bottle, what did he do?

**A: He also went inside and took a bottle, sir.**

Q: And what happened inside?

**A: They ganged up on (Welmer), sir.**

XXX

Q: Did you see those people who ganged up on (Welmer)?

**A: Those who chased him like Christopher, (Cillete), Vincent, Angelico, and Danny, sir.<sup>53</sup>**

XXX

Q: What about Christopher who earlier hit him with a bottle, what did he do?

**A: He also went inside and took a bottle, sir.**

Q: And what happened inside?

**A: They ganged up on (Welmer), sir.**

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<sup>52</sup> TSN, December 8, 2004, pp. 11-26.

<sup>53</sup> *Id.*

xxx

Q: Did you see those people who ganged up on (Welmer)?

A: **Those who chased him like Christopher, (Cillete), Vincent, Angelico, and Danny, sir.**<sup>54</sup>

xxx

Q: After that, what happened next Mr. Witness?

A: When the people got out (,) it was Arvie who went out ahead sir. He was with a companion, sir.

Q: Why do you say that the people were already coming out, are you saying that the mauling was already over?

A: (Welmer) was still being mauled by the others, sir. Only Arvie and his companion went out ahead.

Q: And what happened when Arvie and his companion came out of the house?

A: I saw Arvie had blooded clothes and his companion had a wound on his left forearm, sir.

xxx

Q: Then, what happened after that?

A: Then we saw (Welmer) brought out of the house, sir.<sup>55</sup>

xxx

Q: Then, what happened?

A: Then, (Welmer) was boarded in a vehicle, sir.

Q: What vehicle was used?

A: A HI LANDER, sir.

Q: A vehicle driven by (Vergel)?

A: Yes, sir.<sup>56</sup>

The testimonies of eyewitnesses Elaine and Elmer interlock on all material points. The collective acts of appellants and their co-accused in chasing, ganging up, and stabbing Welmer and thereafter dragging his maimed body --- clearly showed a concurrence of sentiments and a concerted action which established the presence of conspiracy.<sup>57</sup>

Conspiracy is the unity of purpose and intention in the commission of a crime.<sup>58</sup> Conspiracy exists when “two or more persons come to an agreement concerning the commission of a felony and decide to commit it.”<sup>59</sup> Proof of express agreement, however, is not always required to be shown.<sup>60</sup> Conspiracy exists if at the time of

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<sup>54</sup> *Id.*

<sup>55</sup> *Rollo*, p. 15.

<sup>56</sup> *Id.* at 16.

<sup>57</sup> *People v. Galam*, G.R. No. 224222, October 9, 2019; citing *See People v. Manes*, 362 Phil. 569, 579 (1999).

<sup>58</sup> *People v. Solar*, G.R. No. 225595, August 6, 2019.

<sup>59</sup> Revised Penal Code, Article 8.

<sup>60</sup> *People v. Angeles y Guarin*, G.R. No. 224289, August 14, 2019; citing *People v. Evasco, et al.*, G.R. No. 213415, September 26, 2018.

the commission of the offense, the acts of two or more accused show that they were animated by the same criminal purpose and were united in their execution, or **where the acts of the malefactors indicate a concurrence of sentiments, a joint purpose and a concerted action.**<sup>61</sup>

In *People v. Evasco, et al.*<sup>62</sup> the Court emphasized the two (2) forms of conspiracy. The first refers to express conspiracy. It requires proof of an actual agreement among the co-conspirators to commit the crime. *The second pertains to implied conspiracy. It exists when two (2) or more persons are shown by their acts to have aimed toward the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, are in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiments. This is proved by the mode and manner the offense was committed, or from the acts of the accused before, during, and after the commission of the crime, indubitably pointing to a joint purpose, a concert of action, and a community of interest.*

Here, the implied conspiracy between appellants and their co-accused can be deduced from the mode and manner through which they, together, perpetrated the killing, viz.: (1) after Christopher hit Welmer with Emperador bottle in the head, eight (8) other men picked up empty bottles strewn on the ground; (2) they surrounded Welmer and rushed towards him to attack him; (3) but they were not able to launch their attack at that very moment because Welmer sprayed tear gas on them, after which, he quickly ran back inside the house of Danny; (4) appellants and their co-accused followed Welmer into the house; (5) inside, they were able to corner Welmer and lost no time in repeatedly hitting him with the empty bottles they were holding; (6) when Welmer passed out, Elaine pleaded for them to stop but they ignored her and continued to brutally attack Welmer; (7) then the lights suddenly went out; (8) standing by the gate, Elmer saw Rickerhenderson aka "Arvie" and a companion coming out of the house. Rickerhenderson aka "Arvie" wore a shirt covered with blood while his companion had a wounded forearm. When Elmer asked Rickerhenderson aka "Arvie" where the blood came from the latter replied: "*nadali (ko) si Welmer dito,*" (pointing to his abdomen); and (9) Danny dragged Welmer's maimed body into the road and dumped and left him there for dead.

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<sup>61</sup> Supra note 58.

<sup>62</sup> G.R. No. 213415, September 26, 2018.

The conspirators are liable as co-principals regardless of the extent and character of their respective participation in the commission of the crime.<sup>63</sup> It does not matter who actually inflicted the fatal blow to the victim.<sup>64</sup> It is, therefore, inconsequential that it was Rickerhenderson aka “Arvie” alone who delivered the fatal blow as he was seen coming out of the house with blood in his shirt saying he hit Welmer in his abdomen. In conspiracy, the act of one is the act of all.<sup>65</sup>

More, appellants’ uncorroborated denial cannot prevail over the positive testimonies of the prosecution witnesses. Denial is inherently weak and constitutes an “unstable sanctuary for felons” because it can easily be fabricated.<sup>66</sup> There is no evidence on record that Elaine and Elmer had any ill motive to falsely testify against appellants as among those who killed Welmer in cold blood. It is even undisputed that Elaine and Elmer were in fact inside the Evelyn Compound when Welmer’s murder happened on April 18, 2004.

In the same vein, appellant Christopher’s alibi is unworthy of belief. Christopher himself admitted that Evelyn Compound was just 300 meters away from his house. As the Court of Appeals correctly observed, there was no physical improbability for Christopher to have been at the *locus criminis* on the date and time of the incident.<sup>67</sup>

***The third element — the presence of any of the qualifying circumstances under Article 248 of the Revised Penal Code***

Both the trial court and the Court of Appeals found that treachery and abuse of superior strength attended the killing of Welmer.

For treachery to be appreciated as a qualifying circumstance, two (2) elements must concur: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the means of execution was deliberately or consciously adopted.<sup>68</sup>

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<sup>63</sup> *People v. Abut*, 449 Phil. 522-546 (2003).

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

<sup>65</sup> *People v. Reyes y Hilario*, G.R. No. 227013, June 17, 2019.

<sup>66</sup> *People v. Magdaraog y Salona*, 472 Phil. 583-601 (2004).

<sup>67</sup> *Rollo*, p. 28.

<sup>68</sup> See *People v. Lagman*, 685 Phil. 733, 745 (2012); and *People v. Torres, Sr.*, 671 Phil. 482, 491 (2011).



Here, appellants did not launch a surprise or sudden attack on Welmer that could have otherwise rendered the latter defenseless. True, after Christopher hit Welmer with an Emperador bottle in the head, eight (8) other men picked up empty bottles strewn on the ground and rushed towards Welmer to gang him up. But it is also true that Welmer managed to get back on his feet and spray tear gas on his attackers. He was also able to run back into the house of Danny. Welmer, therefore, was not an unsuspecting victim. He was conscious of the impending fatal assault on his person and had had the opportunity to defend himself and run away.

Too, there was no showing that appellants deliberately chose their method of attack to ensure the commission of the crime without risk of retaliation coming from Welmer. Elmer testified that Welmer's attackers picked up the empty bottles within their grabbing range only after Christopher hit Welmer with the Emperador bottle in the head. The use of empty bottles here, therefore, was adopted spontaneously since the same were just strewn on the ground, hence, readily available to them.

In *People v. Cañaveras*<sup>69</sup> the Court ruled that treachery is not present when the killing is not premeditated, or where the attack is not preconceived and deliberately adopted, but is triggered by a sudden infuriation on the part of the accused as a result of a provocative act of the victim, or when the killing is done at the spur of the moment, as in this case. So must it be.

As for abuse of superior strength, however, we rule that the same attended the killing.

Abuse of superior strength is present 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.<sup>70</sup>

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

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<sup>69</sup> 722 Phil. 259, 270 (2013).

<sup>70</sup> *People v. Evasco*, G.R. No. 213415, September 26, 2018.

aggressors' natural strength over the victim, considering the momentary position of both and the employment of means weakening the defense, although not annulling it.<sup>71</sup>

Here, it is evident that appellants and their co-accused took advantage of their number and weapons to put Welmer at a notorious disadvantage. When Elaine and Welmer emerged from hiding in the bathroom of Danny's house, Christopher swiftly hit Welmer with an Emperador bottle in the head. The impact was so strong, the bottle shattered. Thereafter, around eight (8) other men<sup>72</sup> picked up empty bottles strewn on the ground and rushed towards Welmer to beat him up. In turn, Welmer sprayed them with tear gas and retreated inside Danny's house. But appellants and their co-accused persisted and ran after him. Inside the house, they were able to corner Welmer. They repeatedly hit him in the different parts of his body with the empty bottles they were holding.<sup>73</sup> As a result, Welmer passed out. Seeing her boyfriend pass out, Elaine begged appellants and the eight (8) other men to stop and spare the life of Welmer. But it was all in vain. Appellants and the eight (8) other men continued to brutally attack the unconscious victim. Then the lights suddenly went out. Welmer was fatally stabbed and died as a result. Danny dragged Welmer's body into the road and dumped and left him there for dead. Indeed, the synchronized attack on Welmer not just by two (2) but by more than eight (8) men armed with empty bottles was so overwhelming for anyone like Welmer who was all alone fighting for his life. Undeniably, the balance of strength excessively tilted in his attackers' favor. There was no way for Welmer to have survived such forceful attack coming from all eight (8) or more armed men.

Notably, the medical findings of Dr. Marquez revealed that Welmer sustained eleven (11) external injuries, two (2) contusions in the head, one (1) stab wound in the trunk (near the chest and upper portion of the abdomen), one (1) stab wound in the left arm and several abrasions on the upper and lower extremities.<sup>74</sup> Dr. Marquez opined that such number and extent of injuries could have been inflicted by more than five (5) people. The physical evidence therefore is compatible with the positive testimonies of Elaine and Elmer that appellants and their co-accused used excessive force and took advantage of their strength and number when they repeatedly hit Welmer and eventually stabbed him to death. Abuse of superior strength, therefore, qualified the killing of Welmer to murder.

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<sup>71</sup> *People v. Ventura*, 477 Phil. 458, 485 (2004).

<sup>72</sup> TSN, June 9, 2005, p. 8.

<sup>73</sup> TSN, December 8, 2004, pp. 3-26.

<sup>74</sup> TSN, April 6, 2006, p. 8.

***Penalty***

Under Article 248 of the Revised Penal Code, murder is punishable by *reclusion perpetua* to death. There being no aggravating circumstance here, both the trial court and the Court of Appeals correctly sentenced appellants to *reclusion perpetua*.<sup>75</sup>

On the award of actual damages, the family of Welmer Villegas presented receipts in the amount of ₱48,000.00 as proof of memorial and burial lot expenses.<sup>76</sup> *People v. Angeles y Guarin*,<sup>77</sup> however, decreed that if the amount proven as actual damages is less than ₱50,000.00, the higher amount of ₱50,000.00 as temperate damages shall be awarded. Hence, the heirs of Welmer are granted ₱50,000.00 as temperate damages in lieu of actual damages of ₱48,000.00.

Based on prevailing jurisprudence,<sup>78</sup> the Court of Appeals correctly awarded civil indemnity of ₱75,000.00 and reduced the amount of moral damages from ₱500,000.00 to ₱75,000.00. As for exemplary damages, the same should be increased from ₱30,000.00 to ₱75,000.00.<sup>79</sup> Only appellants Danny Garcia y Roga and Christopher Garcia y Vargas though should pay temperate damages in lieu of actual damages and the additional award of civil indemnity and exemplary damages. Meanwhile, all the accused, even those who did not appeal, should benefit in the reduction of moral damages considering it is more favorable to them.<sup>80</sup>

Lastly, all monetary awards shall earn interest of six percent (6%) *per annum* from finality of this resolution until fully paid.<sup>81</sup>

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated June 21, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06632 is **AFFIRMED with MODIFICATION**.

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<sup>75</sup> *People v. Batulan y Macajilos*, G.R. No. 216936, July 29, 2019.

<sup>76</sup> *Rollo*, p. 31; *See also* Funeral and Burial Receipts (Exhibits “L”, “M”, “N”), record, pp. 255-259.

<sup>77</sup> G.R. No. 224289, August 14, 2019.

<sup>78</sup> *People v. Jugueta*, 783 Phil. 806, 839 (2016).

<sup>79</sup> *People v. Saltarin y Talosig*, G.R. No. 223715, June 3, 2019 *citing* *People v. Jugueta*, 783 Phil. 806, 839 (2016).

<sup>80</sup> **Section 11. Effect of appeal by any of several accused. —**

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter. (*Rule 122 of the Rules of Court*); *See also* *People v. Arondain*, G.R. Nos. 131864-65, September 27, 2001, 418 PHIL 354-374.

<sup>81</sup> *People v. Batulan y Macajilos*, G.R. No. 216936, July 29, 2019.

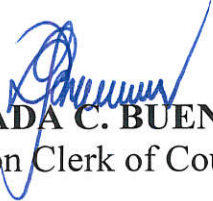
Appellants **DANNY GARCIA y ROGA** and **CHRISTOPHER GARCIA y VARGAS** are guilty of **MURDER** and sentenced to *reclusion perpetua*. They are required to pay the heirs of **Welmer Villegas y Fernandez** civil indemnity, moral damages, and exemplary damages of ₱75,000.00 each; and temperate damages of ₱50,000.00.

The accused who did not appeal the RTC Decision dated October 4, 2013, shall not be affected by the award of civil indemnity, temperate damages and exemplary damages; but shall be benefitted by the reduction of the award of moral damages.

All monetary awards shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

**SO ORDERED.”**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court <sup>slzn</sup>

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Manila  
(CA-G.R. CR HC No. 06632)

The Hon. Presiding Judge  
Regional Trial Court, Branch 125  
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(Crim. Case No. C-71534)

The Director General  
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Supreme Court

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