



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-appellee,

G.R. No. 196735

Present:

SERENO, C.J.,\*  
PERALTA, J., *Acting Chairperson*,\*\*  
DEL CASTILLO,\*\*\*  
ABAD, and  
LEONEN, JJ.

-versus-

DANILO FELICIANO, JR.,  
JULIUS VICTOR MEDALLA,  
CHRISTOPHER SOLIVA,  
WARREN L. ZINGAPAN, and  
ROBERT MICHAEL BELTRAN  
ALVIR,

Promulgated:  
May 5, 2014

Accused-appellants.

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DECISION

LEONEN, J.:

It is in the hallowed grounds of a university where students, faculty, and research personnel should feel safest. After all, this is where ideas that could probably solve the sordid realities in this world are peacefully nurtured

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- \* Chief Justice Maria Lourdes P. A. Sereno was designated as Acting Member of the Third Division, vice Associate Justice Presbítero J. Velasco, Jr., per Raffle dated February 1, 2012.
  - \*\* Associate Justice Diosdado M. Peralta was designated as Acting Chairperson of the Third Division, vice Associate Justice Presbítero J. Velasco, Jr. recused himself due to close relation to one of the parties.
  - \*\*\* Associate Justice Mariano C. Del Castillo was designated as Acting Member of the Third Division, vice Associate Justice Jose Catral Mendoza who penned the lower court decision, per Raffle dated April 29, 2014.

and debated. Universities produce hope. They incubate all our youthful dreams.

Yet, there are elements within this academic milieu that trade misplaced concepts of perverse brotherhood for these hopes. Fraternity rumbles exist because of past impunity. This has resulted in a senseless death whose justice is now the subject matter of this case. It is rare that these cases are prosecuted. It is even more extraordinary that there are credible witnesses who present themselves courageously before an able and experienced trial court judge.

This culture of impunity must stop. There is no space in this society for hooliganism disguised as fraternity rumbles. The perpetrators must stand and suffer the legal consequences of their actions. They must do so for there is an individual who now lies dead, robbed of his dreams and the dreams of his family. Excruciating grief for them will never be enough.

It is undisputed that on December 8, 1994, at around 12:30 to 1:00 in the afternoon, seven (7) members of the Sigma Rho fraternity were eating lunch at the Beach House Canteen, near the Main Library of the University of the Philippines, Diliman, when they were attacked by several masked men carrying baseball bats and lead pipes. Some of them sustained injuries that required hospitalization. One of them, Dennis Venturina, died from his injuries.

An information<sup>1</sup> for murder, docketed as Criminal Case No. Q95-61133, was filed against several members of the Scintilla Juris fraternity, namely, Danilo Feliciano, Jr., Julius Victor L. Medalla, Warren L. Zingapan, Robert Michael Beltran Alvir, Christopher L. Soliva, Reynaldo G. Ablanida, Carlo Jolette Fajardo, George Morano, Raymund E. Narag, Gilbert Merle Magpantay, Benedict Guerrero, and Rodolfo Peñalosa, Jr. with the Regional Trial Court of Quezon City, Branch 219. The information reads:

That on or about the 8<sup>th</sup> day of December 1994, in Quezon City, Philippines, the above-named accused, wearing masks and/or other forms of disguise, *conspiring, confederating with other persons* whose true names, identities and whereabouts have not as yet been ascertained, and mutually helping one another, with intent to kill, qualified with treachery, and with evident premeditation, taking advantage of superior strength, armed with baseball bats, lead pipes, and cutters, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of DENNIS F. VENTURINA, by then and there hitting him on the head and clubbing him on different parts of his body thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said DENNIS F. VENTURINA. (Emphasis supplied)

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<sup>1</sup> Original records, vol. I, p. 3.

Separate informations were also filed against them for the attempted murder of Sigma Rho fraternity members Cesar Mangrobang, Jr.,<sup>2</sup> Cristobal Gaston, Jr.,<sup>3</sup> and Leandro Lachica,<sup>4</sup> and the frustrated murder of Sigma Rho fraternity members Mervin Natalicio<sup>5</sup> and Arnel Fortes.<sup>6</sup> Only 11 of the accused stood trial since one of the accused, Benedict Guerrero, remained at large.

A trial on the merits ensued.

The facts, according to the prosecution, are as follows:

Leandro Lachica, Arnel Fortes, Dennis Venturina, Mervin Natalicio, Cristobal Gaston, Jr., Felix Tumaneng,<sup>7</sup> and Cesar Magrobang, Jr. are all members of the Sigma Rho Fraternity. On December 8, 1994, at around 12:30 to 1:00 p.m., they were having lunch at Beach House Canteen, located at the back of the Main Library of the University of the Philippines, Diliman, Quezon City.<sup>8</sup> Suddenly, Dennis Venturina shouted, "*Brods, brods!*"<sup>9</sup>

According to Leandro Lachica, Grand Archon of Sigma Rho Fraternity, he looked around when Venturina shouted, and he saw about ten (10) men charging toward them.<sup>10</sup> The men were armed with baseball bats and lead pipes, and their heads were covered with either handkerchiefs or shirts.<sup>11</sup> Within a few seconds, five (5) of the men started attacking him, hitting him with their lead pipes.<sup>12</sup> During the attack, he recognized one of the attackers as Robert Michael Beltran Alvir because his mask fell off.<sup>13</sup>

Lachica tried to parry the blows of his attackers, suffering scratches and contusions.<sup>14</sup> He was, however, able to run to the nearby College of Education.<sup>15</sup> Just before reaching it, he looked back and saw Warren Zingapan and Julius Victor L. Medalla holding lead pipes and standing where the commotion was.<sup>16</sup> Both of them did not have their masks on.<sup>17</sup> He was familiar with Alvir, Zingapan, and Medalla because he often saw them

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<sup>2</sup> Docketed as Q95-61134.

<sup>3</sup> Docketed as Q95-61135.

<sup>4</sup> Docketed as Q95-61136.

<sup>5</sup> Docketed as Q95-61137.

<sup>6</sup> Docketed as Q95-61138.

<sup>7</sup> Felix Tumaneng was not presented as a witness by the prosecution.

<sup>8</sup> TSN, June 5, 1995, pp. 9-11.

<sup>9</sup> TSN, July 3, 1995, p. 7.

<sup>10</sup> TSN, June 5, 1995, p. 25.

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

<sup>12</sup> Id. at 12.

<sup>13</sup> Id.

<sup>14</sup> Id. at 13.

<sup>15</sup> Id. at 13-14.

<sup>16</sup> Id. at 45-46.

<sup>17</sup> Id. at 13-14.

in the College of Social Sciences and Philosophy (CSSP) and Zingapan used to be his friend.<sup>18</sup> The attack lasted about thirty (30) to forty-five (45) seconds.<sup>19</sup>

According to Mervin Natalicio, the Vice Grand Archon of Sigma Rho, he looked to his left when Venturina shouted.<sup>20</sup> He saw about fifteen (15) to twenty (20) men, most of who were wearing masks, running toward them.<sup>21</sup> He was stunned, and he started running.<sup>22</sup> He stumbled over the protruding roots of a tree.<sup>23</sup> He got up, but the attackers came after him and beat him up with lead pipes and baseball bats until he fell down.<sup>24</sup> While he was parrying the blows, he recognized two (2) of the attackers as Warren Zingapan and Christopher L. Soliva since they were not wearing any masks.<sup>25</sup> After about thirty (30) seconds, they stopped hitting him.<sup>26</sup> He was lying on his back and when he looked up, he saw another group of four (4) to five (5) men coming toward him, led by Benedict Guerrero.<sup>27</sup> This group also beat him up.<sup>28</sup> He did not move until another group of masked men beat him up for about five (5) to eight (8) seconds.<sup>29</sup> When the attacks ceased, he was found lying on the ground.<sup>30</sup> Several bystanders brought him to the U.P. Infirmary where he stayed for more than a week for the treatment of his wounds and fractures.<sup>31</sup>

According to Cesar Mangrobang, Jr., member of Sigma Rho, he also looked back when Venturina shouted and saw a group of men with baseball bats and lead pipes. Some of them wore pieces of cloth around their heads.<sup>32</sup> He ran when they attacked, but two (2) men, whose faces were covered with pieces of cloth, blocked his way and hit him with lead pipes.<sup>33</sup> While running and parrying the blows, he recognized them as Gilbert Merle Magpantay and Carlo Jolette Fajardo because their masks fell off.<sup>34</sup> He successfully evaded his attackers and ran to the Main Library.<sup>35</sup> He then decided that he needed to help his fraternity brothers and turned back toward Beach House.<sup>36</sup> There, he saw Venturina lying on the ground.<sup>37</sup> Danilo Feliciano, Jr. was beating Venturina up with a lead pipe while Raymund E.

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<sup>18</sup> Id.

<sup>19</sup> Id. at 33.

<sup>20</sup> TSN, July 3, 1995, p. 7.

<sup>21</sup> Id.

<sup>22</sup> Id. at 10.

<sup>23</sup> Id.

<sup>24</sup> Id. at 12-13.

<sup>25</sup> Id. at 14-16.

<sup>26</sup> Id. at 16.

<sup>27</sup> Id. at 16-17.

<sup>28</sup> Id. at 17.

<sup>29</sup> Id. at 19.

<sup>30</sup> Id. at 19-20.

<sup>31</sup> Id.

<sup>32</sup> TSN, September 28, 1995, pp. 14-15.

<sup>33</sup> Id. at 16.

<sup>34</sup> Id. at 17-18.

<sup>35</sup> Id. at 20-21.

<sup>36</sup> Id. at 21-22.

<sup>37</sup> Id. at 23.

Narag was aiming to hit Venturina.<sup>38</sup> When they saw him, they went toward his direction.<sup>39</sup> They were about to hit him when somebody shouted that policemen were coming. Feliciano and Narag then ran away.<sup>40</sup>

Cesar Mangrobang, Jr. then saw Arnel Fortes. Fortes accompanied him to his car so they could bring Venturina to the U.P. Infirmary.<sup>41</sup> When they brought the car over, other people, presumably bystanders, were already loading Venturina into another vehicle.<sup>42</sup> They followed that vehicle to the U.P. Infirmary where they saw Natalicio.<sup>43</sup> He stayed at the infirmary until the following morning.<sup>44</sup>

According to Cristobal Gaston, Jr., member of Sigma Rho, he immediately stood up when he heard someone shout, “*Brods!*”<sup>45</sup> He saw a group of men charging toward them carrying lead pipes and baseball bats.<sup>46</sup> Most of them had pieces of cloth covering their faces.<sup>47</sup> He was about to run when two (2) of the attackers approached him.<sup>48</sup> One struck him with a heavy pipe while the other stabbed him with a bladed instrument.<sup>49</sup> He was able to parry most of the blows from the lead pipe, but he sustained stab wounds on the chest and on his left forearm.<sup>50</sup> He was able to run away.<sup>51</sup> When he sensed that no one was chasing him, he looked back to Beach House Canteen and saw Danilo Feliciano, Jr., Warren Zingapan, and George Morano.<sup>52</sup> He decided to go back to the canteen to help his fraternity brothers.<sup>53</sup> When he arrived, he did not see any of his fraternity brothers but only saw the ones who attacked them.<sup>54</sup> He ended up going to their hang-out instead to meet with his other fraternity brothers.<sup>55</sup> They then proceeded to the College of Law where the rest of the fraternity was already discussing the incident.<sup>56</sup>

According to Arnel Fortes, member of Sigma Rho, he also ran when he saw the group of attackers coming toward them.<sup>57</sup> When he looked back,

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<sup>38</sup> Id. at 23-26.

<sup>39</sup> Id. at 28.

<sup>40</sup> Id. at 28-29.

<sup>41</sup> Id. at 33.

<sup>42</sup> Id. at 34.

<sup>43</sup> Id. at 35.

<sup>44</sup> Id. at 36.

<sup>45</sup> TSN, October 11, 1995, p. 15.

<sup>46</sup> Id.

<sup>47</sup> Id. at 16-17.

<sup>48</sup> Id. at 17-18.

<sup>49</sup> Id. at 19-20.

<sup>50</sup> Id. at 24.

<sup>51</sup> Id. at 31.

<sup>52</sup> Id. at 31-32.

<sup>53</sup> Id. at 33.

<sup>54</sup> Id. at 34-35.

<sup>55</sup> Id. at 40.

<sup>56</sup> Id. at 44-45.

<sup>57</sup> TSN, October 30, 1995, p. 74.

he saw Danilo Feliciano, Jr. hitting Venturina.<sup>58</sup> He was also able to see Warren Zingapan and George Morano at the scene.<sup>59</sup>

Leandro Lachica, in the meantime, upon reaching the College of Education, boarded a *jeepney* to the College of Law to wait for their other fraternity brothers.<sup>60</sup> One of his fraternity brothers, Peter Corvera, told him that he received information that members of Scintilla Juris were seen in the west wing of the Main Library and were regrouping in SM North.<sup>61</sup> Lachica and his group then set off for SM North to confront Scintilla Juris and identify their attackers.<sup>62</sup>

When they arrived in SM North, pillboxes and stones were thrown at them.<sup>63</sup> Lachica saw Robert Michael Beltran Alvir and Warren Zingapan and a certain Carlo Tapanan.<sup>64</sup> They had no choice but to get away from the mall and proceed instead to U.P. where the Sigma Rho Fraternity members held a meeting.<sup>65</sup>

On the night of December 8, 1994, the officers of Sigma Rho advised the victims to lodge their complaints with the National Bureau of Investigation.<sup>66</sup> Their counsel, Atty. Frank Chavez, told the U.P. Police that the victims would be giving their statements before the National Bureau of Investigation, promising to give the U.P. Police copies of their statements. In the meantime, Venturina was transferred from the U.P. Infirmary to St. Luke's Hospital on December 8, 1994. He died on December 10, 1994.<sup>67</sup>

On December 11, 1994, an autopsy was conducted on the cadaver of Dennis Venturina.<sup>68</sup> Dr. Rolando Victoria, a medico-legal officer of the National Bureau of Investigation, found that Venturina had "several contusions located at the back of the upper left arm and hematoma on the back of both hands,"<sup>69</sup> "two (2) lacerated wounds at the back of the head,"<sup>70</sup> "generalized hematoma on the skull,"<sup>71</sup> "several fractures on the head,"<sup>72</sup> and "inter-cranial hemorrhage."<sup>73</sup> The injuries, according to Dr. Victoria, could

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<sup>58</sup> Id. at 30-31.

<sup>59</sup> Id. at 77-78.

<sup>60</sup> TSN, June 21, 1995, pp. 5-6.

<sup>61</sup> TSN, June 5, 1995, p. 14.

<sup>62</sup> Id.

<sup>63</sup> Id. at 14-15.

<sup>64</sup> Id. at 17.

<sup>65</sup> Id. at 15.

<sup>66</sup> Id. at 20.

<sup>67</sup> TSN, September 16, 1996, pp. 10-14.

<sup>68</sup> TSN, July 24, 1995, pp. 6-7.

<sup>69</sup> Id. at 14-16.

<sup>70</sup> Id. at 16-17.

<sup>71</sup> Id. at 18.

<sup>72</sup> Id. at 19-20.

<sup>73</sup> Id. at 22.

have been caused by a hard blunt object.<sup>74</sup> Dr. Victoria concluded that Venturina died of traumatic head injuries.<sup>75</sup>

On December 12, 1994, Lachica, Natalicio, Mangrobang, Fortes, and Gaston executed their respective affidavits<sup>76</sup> before the National Bureau of Investigation and underwent medico-legal examinations<sup>77</sup> with their medico-legal officer, Dr. Aurelio Villena. According to Dr. Villena, he found that Mervin Natalicio had “lacerated wounds on the top of the head, above the left ear, and on the fingers; contused abrasions on both knees; contusion on the left leg and thigh,”<sup>78</sup> all of which could have been caused by any hard, blunt object. These injuries required medical attendance for a period of ten (10) days to thirty (30) days from the date of infliction.<sup>79</sup>

Dr. Villena found on Arnel Fortes “lacerated wounds on the head and on the right leg which could have been caused by a blunt instrument.”<sup>80</sup> These injuries required hospitalization for a period of ten (10) days to thirty (30) days from date of infliction.<sup>81</sup> He also found on Cesar Mangrobang, Jr. a “healed abrasion on the left forearm which could possibly be caused by contact with [a] rough hard surface and would require one (1) to nine (9) days of medical attention.”<sup>82</sup> He found on Leandro Lachica “contusions on the mid auxiliary left side, left forearm and lacerated wound on the infra scapular area, left side.”<sup>83</sup> On Christopher Gaston, Jr. he found “lacerated wounds on the anterior chest, left side, left forearm; swollen knuckles of both hands; contusions on the mid auxiliary left side, left forearm and lacerated wound on the infra scapular area, left side.”<sup>84</sup>

On September 18, 1997, after the prosecution presented its evidence-in-chief, the court granted the demurrer to evidence filed by Rodolfo Peñalosa, Jr. on the ground that he was not identified by the prosecution’s witnesses and that he was not mentioned in any of the documentary evidence of the prosecution.<sup>85</sup>

Upon the presentation of their evidence, the defense introduced their own statement of the facts, as follows:

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<sup>74</sup> Id. at 41.

<sup>75</sup> Id. at 23.

<sup>76</sup> TSN, June 5, 1995, p. 17; TSN, July 3, 1995, p. 20; TSN, September 28, 1995, pp. 116-117; TSN, October 20, 1995, p. 34; TSN, October 11, 1995, p. 48.

<sup>77</sup> TSN, June 5, 1995, p. 17.

<sup>78</sup> TSN, July 31, 1995, p. 14.

<sup>79</sup> Id. at 46.

<sup>80</sup> Id. at 26-28.

<sup>81</sup> Id. at 46.

<sup>82</sup> Id. at 40.

<sup>83</sup> Id. at 31-33.

<sup>84</sup> Id.

<sup>85</sup> RTC decision, p. 15.

According to Romeo Cabrera,<sup>86</sup> a member of the U.P. Police, he was on foot patrol with another member of the U.P. Police, Oscar Salvador, at the time of the incident. They were near the College of Arts and Sciences (Palma Hall) when he vaguely heard somebody shouting, “Rumble!” They went to the place where the alleged rumble was happening and saw injured men being helped by bystanders. They helped an injured person board the service vehicle of the Beach House Canteen. They asked what his name was, and he replied that he was Mervin Natalicio. When he asked Natalicio who hit him, the latter was not able to reply but instead told him that his attackers were wearing masks. Oscar Salvador<sup>87</sup> corroborated his testimony.

Benjamin Lato,<sup>88</sup> a utility worker of the Beach House Canteen, likewise testified that the identities of the attackers were unrecognizable because of their masks. He, however, admitted that he did not see the attack; he just saw a man sprawled on the ground at the time of the incident.

Frisco Capilo,<sup>89</sup> a utility worker of U.P. assigned to the Main Library, was buying a cigarette at a vendor located nearby. From there, he allegedly saw the whole incident. He testified that ten (10) men, wearing either masks of red and black bonnets or with shirts covering their faces, came from a red car parked nearby. He also saw three (3) men being hit with lead pipes by the masked men. Two (2) of the men fell after being hit. One of the victims was lifting the other to help him, but the attackers overtook him. Afterwards, the attackers ran away. He then saw students helping those who were injured. He likewise helped in carrying one of the injured victims, which he later found out to be Arnel Fortes.

A U.P. student and member of the Sigma Alpha Nu Sorority, Eda Panganiban,<sup>90</sup> testified that she and her friends were in line to order lunch at the Beach House Canteen when a commotion happened. She saw around fifteen (15) to eighteen (18) masked men attack a group of Sigma Rhoans. She did not see any mask fall off. Her sorority sister and another U.P. student, Luz Perez,<sup>91</sup> corroborated her story that the masked men were unrecognizable because of their masks. Perez, however, admitted that a member of Scintilla Juris approached her to make a statement.

Another sorority sister, Bathalani Tiamzon,<sup>92</sup> testified on substantially the same matters as Panganiban and Perez. She also stated that she saw a person lying on the ground who was being beaten up by about three (3) to five (5) masked men. She also stated that some of the men were wearing

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<sup>86</sup> TSN, November 11, 1995.

<sup>87</sup> TSN, November 20, 1995.

<sup>88</sup> TSN, November 27, 1995.

<sup>89</sup> TSN, December 4, 1995.

<sup>90</sup> TSN, December 11, 1995.

<sup>91</sup> Id.

<sup>92</sup> TSN, December 18, 1995.



black masks while some were wearing white t-shirts as masks. She did not see any mask fall off the faces of the attackers.

According to Feliciano Feliciano,<sup>93</sup> accused-appellant Danilo Feliciano, Jr.'s mother, her son was in Pampanga to visit his sick grandfather at the time of the incident. She alleged that her son went to Pampanga before lunch that day and visited the school where she teaches to get their house key from her.

According to Robert Michael Beltran Alvir,<sup>94</sup> he had not been feeling well since December 5, 1994. He said that he could not have possibly been in U.P. on December 8, 1994 since he was absent even from work. He also testified that he wore glasses and, thus, could not have possibly been the person identified by Leandro Lachica. He also stated that he was not enrolled in U.P. at the time since he was working to support himself.

According to Julius Victor Medalla,<sup>95</sup> he and another classmate, Michael Vibas, were working on a school project on December 8, 1994. He also claimed that he could not have participated in the rumble as he had an injury affecting his balance. The injury was caused by an incident in August 1994 when he was struck in the head by an unknown assailant. His testimony was corroborated by Jose Victor Santos<sup>96</sup> who stated that after lunch that day, Medalla played darts with him and, afterwards, they went to Jollibee.

Christopher Soliva,<sup>97</sup> on the other hand, testified that he was eating lunch with his girlfriend and another friend in Jollibee, Philcoa, on December 8, 1994. They went back to U.P. before 1:00 p.m. and went straight to their fraternity hang-out where he was told that there had been a rumble at the Main Library. He also met several Sigma Rhoans acting suspiciously as they passed by the hang-out. They were also told by their head, Carlo Tapanan, not to react to the Sigma Rhoans and just go home. Anna Cabahug,<sup>98</sup> his girlfriend, corroborated his story.

Warren Zingapan<sup>99</sup> also testified that he was not in U.P. at the time of the incident. He claimed to have gone to SM North to buy a gift for a friend's wedding but ran into a fraternity brother. He also alleged that some Sigma Rhoans attacked them in SM North that day.

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<sup>93</sup> TSN, November 27, 1995.

<sup>94</sup> TSN, February 2, 2000.

<sup>95</sup> TSN, September 22, 1999.

<sup>96</sup> TSN, August 11, 1999.

<sup>97</sup> TSN, June 16, 1999.

<sup>98</sup> TSN, November 23, 1998.

<sup>99</sup> TSN, May 12, 1999.

On February 28, 2002, the trial court rendered its decision<sup>100</sup> with the finding that Robert Michael Alvir, Danilo Feliciano, Jr., Christopher Soliva, Julius Victor Medalla, and Warren Zingapan were guilty beyond reasonable doubt of murder and attempted murder and were sentenced to, among other penalties, the penalty of reclusion perpetua.<sup>101</sup> The trial court, however, acquitted Reynaldo Ablanida, Carlo Jolette Fajardo, Gilbert Magpantay, George Morano, and Raymund Narag.<sup>102</sup> The case against Benedict Guerrero was ordered archived by the court until his apprehension.<sup>103</sup>

The trial court, in evaluating the voluminous evidence at hand, concluded that:

After a judicious evaluation of the matter, the Court is of the considered view that of the ten accused, some were sufficiently identified and some were not. The Court believes that out of the amorphous images during the pandemonium, the beleaguered victims were able to espy and identify some of the attackers etching an indelible impression in their memory. In this regard, the prosecution eyewitnesses were emphatic that they saw the attackers rush towards them wielding deadly weapons like baseball bats, lead pipes, pieces of wood and bladed ones, and pounce on their hapless victims, run after them, and being present with one another at the scene of the crime during the assault. Although each victim had a very strong motive to place his fraternity rivals permanently behind bars, not one of them testified against all of them. If the prosecution eyewitnesses, who were all Sigma Rhoans, were simply bent on convicting Scintilla Juris members for that matter, they could have easily tagged each and every single accused as a participant in the atrocious and barbaric assault to make sure that no one else would escape conviction. Instead, each eyewitness named only one or two and some were candid enough to say that they did not see who delivered the blows against them.<sup>104</sup>

Because one of the penalties meted out was reclusion perpetua, the case was brought to this court on automatic appeal. However, due to the amendment of the Rules on Appeal,<sup>105</sup> the case was remanded to the Court of Appeals.<sup>106</sup> In the Court of Appeals, the case had to be re-raffled several times<sup>107</sup> before it was eventually assigned to Presiding Justice Andres B. Reyes, Jr. for the writing of the decision.

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<sup>100</sup> Penned by the Hon. Jose Catral Mendoza, now an Associate Justice of this court (*CA rollo*, pp. 576-644).

<sup>101</sup> RTC decision, pp. 81-83.

<sup>102</sup> *Id.* at 82-83.

<sup>103</sup> *Id.* at 83.

<sup>104</sup> *Id.* at 48-49.

<sup>105</sup> Per *People v. Mateo*, G.R. No. 147678-87, July 7, 2004, 433 SCRA 640, which modified the rules on direct appeal to the Supreme Court.

<sup>106</sup> Per resolution of this court dated April 13, 2005, *CA rollo*, p. 297.

<sup>107</sup> Justice Romeo F. Barza voluntarily inhibited due to membership in Sigma Rho Fraternity. Justices Celia C. Librea-Leagogo and Isaias P. Dicdican also voluntarily inhibited, but the reason was not shown in the records.

On December 26, 2010, the Court of Appeals, in a Special First Division of Five, affirmed<sup>108</sup> the decision of the Regional Trial Court, with three (3) members concurring<sup>109</sup> and one (1) dissenting.<sup>110</sup>

The decision of the Court of Appeals was then brought to this court for review.

The issue before this court is whether the prosecution was able to prove beyond reasonable doubt that accused-appellants attacked private complainants and caused the death of Dennis Venturina.

On the basis, however, of the arguments presented to this court by both parties, the issue may be further refined, thus:

1. Whether accused-appellants' constitutional rights were violated when the information against them contained the aggravating circumstance of the use of masks despite the prosecution presenting witnesses to prove that the masks fell off; and
2. Whether the Regional Trial Court and the Court of Appeals correctly ruled, on the basis of the evidence, that accused-appellants were sufficiently identified.

## I

**An information is sufficient when the accused is fully apprised of the charge against him to enable him to prepare his defense**

It is the argument of appellants that the information filed against them violates their constitutional right to be informed of the nature and cause of the accusation against them. They argue that the prosecution should not have included the phrase "wearing masks and/or other forms of disguise" in the information since they were presenting testimonial evidence that not all the accused were wearing masks or that their masks fell off.

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<sup>108</sup> *Rollo*, pp. 4-72; *CA rollo*, pp. 1480-1551.

<sup>109</sup> Justices Amelita G. Tolentino, Jose C. Reyes, Jr., and Mariflor P. Punzalan-Castillo.

<sup>110</sup> Justice Stephen C. Cruz.

It is enshrined in our Bill of Rights that “[n]o person shall be held to answer for a criminal offense without due process of law.”<sup>111</sup> This includes the right of the accused to be presumed innocent until proven guilty and “to be informed of the nature and accusation against him.”<sup>112</sup>

Upon a finding of probable cause, an information is filed by the prosecutor against the accused, in compliance with the due process of the law. Rule 110, Section 1, paragraph 1 of the Rules of Criminal Procedure provides that:

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.

In *People v. Wilson Lab-ao*,<sup>113</sup> this court has stated that:

The test of sufficiency of Information is whether it enables a person of common understanding to know the charge against him, and the court to render judgment properly. x x x The purpose is to allow the accused to fully prepare for his defense, precluding surprises during the trial.<sup>114</sup>

Contrary to the arguments of the appellants, the inclusion of the phrase “wearing masks and/or other forms of disguise” in the information does not violate their constitutional rights.

It should be remembered that every aggravating circumstance being alleged must be stated in the information. Failure to state an aggravating circumstance, even if duly proven at trial, will not be appreciated as such.<sup>115</sup> It was, therefore, incumbent on the prosecution to state the aggravating circumstance of “wearing masks and/or other forms of disguise” in the information in order for all the evidence, introduced to that effect, to be admissible by the trial court.

In criminal cases, disguise is an aggravating circumstance because, like nighttime, it allows the accused to remain anonymous and unidentifiable as he carries out his crimes.

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<sup>111</sup> CONST., art. III, sec. 14 (1).

<sup>112</sup> CONST., art. III, sec. 14 (2).

<sup>113</sup> 424 Phil. 482 (2002) [Per J. Carpio, Third Division].

<sup>114</sup> *People v. Wilson Lab-ao*, 424 Phil. 482, 497 (2002) [Per J. Carpio, Third Division], citing *Jumawan v. Eviota*, G.R. Nos. 85512-13, July 28, 1994, 234 SCRA 524 [Per J. Mendoza, En Banc].

<sup>115</sup> RULES OF CRIMINAL PROCEDURE, Rule 110, Sec. 8.

The introduction of the prosecution of testimonial evidence that tends to prove that the accused were masked but the masks fell off does not prevent them from including disguise as an aggravating circumstance.<sup>116</sup> What is important in alleging disguise as an aggravating circumstance is that there was a *concealment of identity* by the accused. The inclusion of disguise in the information was, therefore, enough to sufficiently apprise the accused that in the commission of the offense they were being charged with, they tried to conceal their identity.

The introduction of evidence which shows that some of the accused were *not* wearing masks is also not violative of their right to be informed of their offenses.

The information charges conspiracy among the accused. Conspiracy presupposes that “the act of one is the act of all.”<sup>117</sup> This would mean all the accused had been one in their plan to conceal their identity even if there was evidence later on to prove that some of them might not have done so.

In any case, the accused were being charged with the crime of murder, frustrated murder, and attempted murder. All that is needed for the information to be sufficient is that the elements of the crime have been alleged and that there are sufficient details as to the time, place, and persons involved in the offense.

## II

### **Findings of the trial court, when affirmed by the appellate court, are entitled to great weight and credence**

As a general rule, the findings of fact by the trial court, when affirmed by the appellate court, are given great weight and credence on review. The rationale for this was explained in *People v. Daniel Quijada*,<sup>118</sup> as follows:

Settled is the rule that the factual findings of the trial court, especially on the credibility of witnesses, are accorded great weight and respect. For, the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insistent assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply;

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<sup>116</sup> See *People v. Sabangan Cabato*, 243 Phil. 262 (1988) [Per J. Cortes, Third Division] and *People v. Veloso*, 197 Phil. 846 (1982) [Per Curiam, En Banc].

<sup>117</sup> *People v. Halil Gambao*, G.R. No.172707, October 1, 2013 [Per J. Perez, En Banc].

<sup>118</sup> 328 Phil. 505 (1996) [Per J. Davide, En Banc].

or the furtive glance, the blush of conscious shame, the hesitation, the sincere or the flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien.<sup>119</sup>

There are, of course, recognized exceptions to this rule. In *People v. Leticia Labarias*,<sup>120</sup> this court stated that:

It is the policy of this Court to sustain the factual findings of the trial court on the reasonable assumption that it is in a better position to assess the evidence before it, particularly the testimonies of the witnesses, who reveal much of themselves by their deportment on the stand. **The exception that makes the rule is where such findings are clearly arbitrary or erroneous as when they are tainted with bias or hostility or are so lacking in basis as to suggest that they were reached without the careful study and perceptiveness that should characterize a judicial decision.**<sup>121</sup> (Emphasis supplied)

In criminal cases, the exception gains even more importance since the presumption is always in favor of innocence. It is only upon proof of guilt beyond reasonable doubt that a conviction is sustained.

In this case, a total of eleven (11) witnesses for the prosecution and forty-two (42) witnesses for the defense were put on the stand from 1995 to 2001. In an eighty-three (83)-page decision, the trial court acquitted six (6) and convicted five (5) of the accused. On the basis of these numbers alone, it cannot be said that the trial court acted arbitrarily or that its decision was “so lacking in basis” that it was arrived at without a judicious and exhaustive study of all the evidence presented.

Inasmuch, however, as the trial court’s findings hold great persuasive value, there is also nothing that precludes this court from coming to its own conclusions based on an independent review of the facts and the evidence on record.

### **The accused were sufficiently identified by the witnesses for the prosecution**

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<sup>119</sup> *People v. Daniel Quijada*, 328 Phil. 505, 530-531 (1996) [Per J. Davide, En Banc], citing *People v. De Guzman*, G.R. No. 76742, August 7, 1990, 188 SCRA 407 [Per J. Cruz, First Division]; *People v. De Leon*, 315 Phil. 584 (1995) [Per J. Davide, Jr., First Division]; *People v. Delovino*, 317 Phil. 741 (1995) [Per J. Davide, Jr., First Division]; *Creamer v. Bivert*, 214 MO 473, 474 [1908]; M. Frances Mcnamara, 200 Famous Legal Quotations [1967], 548.

<sup>120</sup> G.R. No. 87165, January 25, 1993, 217 SCRA 483 [Per J. Cruz, First Division].

<sup>121</sup> *Id.* at 484.

The trial court, in weighing all the evidence on hand, found the testimonies of the witnesses for the prosecution to be credible. In its decision, the trial court stated that:

x x x. Although each victim had a very strong motive to place his fraternity rivals permanently behind bars, not one testified against all of them. **If the prosecution eyewitnesses, who were all Sigma Rhoans, were simply bent on convicting Scintilla Juris members for that matter, they could have easily tagged each and every accused as a participant in the atrocious and barbaric assault to make sure no one would escape conviction. Instead, each eyewitness named only one or two and some were candid enough to say that they did not see who delivered the blows against them.**

Thus, the prosecution witnesses, Ernest Paulo Tan, Dennis Gaio and Darwin Asuncion, testified to have seen it all but they could not, and did not, disclose any name. Lachica, on the other hand, said that he did not have the opportunity to see and identify the person who hit him in the back and inflicted a two-inch cut. His forearm was also hit by a lead pipe but he did not see who did it. Natalicio, one of the other three who were hospitalized, was severely beaten by three waves of attackers totalling more than 15 but he could only name 3 of them. He added, however, that he would be able to recognize those he saw if he would see them again. Of them, Mangrobang pointed to at least 5 but he stressed that he did not see Zingapan, Soliva, Guerrero, Del Rosario, Daraoay, Denoista, and Penalosa during the onslaught. Gaston could have named any of the accused as the one who repeatedly hit him with a heavy pipe and stabbed him but he frankly said their faces were covered. Like Natalicio, Fortes was repeatedly beaten by several groups but did not name any of the accused as one of those who attacked him. The persons he identified were those leading the pack with one of them as the assailant of Venturina, and the two others who he saw standing while he was running away. He added that he saw some of the accused during the attack but did not know then their names.<sup>122</sup> (Emphasis supplied)

We agree.

The trial court correctly held that “considering the swiftness of the incident,”<sup>123</sup> there would be slight inconsistencies in their statements. In *People v. Adriano Cabrillas*,<sup>124</sup> it was previously observed that:

**It is perfectly natural for different witnesses testifying on the occurrence of a crime to give varying details as there may be some details which one witness may notice while the other may not observe or remember.** In fact, jurisprudence even warns against a perfect dovetailing of narration by different

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<sup>122</sup> RTC decision, p. 49.

<sup>123</sup> Id. at 57.

<sup>124</sup> G.R. No. 175980, February 15, 2012, 666 SCRA 174 [Per J. Del Castillo, First Division].

witnesses as it could mean that their testimonies were prefabricated and rehearsed.<sup>125</sup> (Emphasis supplied)

According to their testimonies, Lachica was able to identify Alvir, Zingapan, and Medalla;<sup>126</sup> Natalicio was able to identify Medalla, Zingapan, and Soliva;<sup>127</sup> and Fortes was able to identify Feliciano, Medalla, and Zingapan.<sup>128</sup> Their positive identification was due to the fact that they either wore no masks or that their masks fell off.

It would be in line with human experience that a victim or an eyewitness of a crime would endeavor to find ways to identify the assailant so that in the event that he or she survives, the criminal could be apprehended. It has also been previously held that:

It is the most natural reaction for victims of criminal violence to strive to see the looks and faces of their assailants and observe the manner in which the crime was committed. Most often the face of the assailant and body movements thereof, creates a lasting impression which cannot be easily erased from their memory.<sup>129</sup>

In the commotion, it was more than likely that the masked assailants could have lost their masks. It had been testified by the victims that some of the assailants were wearing masks of either a piece of cloth or a handkerchief and that Alvir,<sup>130</sup> Zingapan,<sup>131</sup> Soliva,<sup>132</sup> and Feliciano<sup>133</sup> had masks on at first but their masks fell off and hung around their necks. Equally telling was the testimony of defense witness Frisco Capilo during cross-examination who observed that some of the attackers were wearing masks and some were not, thus:

Q Mr. Capilo, do you know this Scintilla Juris Fraternity?  
 A No, sir.  
 Q During the incident of December 8, 1994, there were a lot of people eating in the Beach House Canteen, and then running towards different directions, is it not?  
 A Yes, sir.  
 Q And some people were wearing masks and some were not?

<sup>125</sup> Id. at 191, citing *People v. Lachayan*, 393 Phil. 800, 807 (2000) [Per J. Ynares- Santiago, First Division].

<sup>126</sup> TSN, June 5, 1995, pp. 11-13.

<sup>127</sup> TSN, July 3, 1995, pp. 21-22.

<sup>128</sup> TSN, October 30, 1995, pp. 91, 112.

<sup>129</sup> *People v. Opiniado Dolar*, G.R. No. 100805, March 24, 1994, 231 SCRA 414, 423 [Per J. Puno, Second Division], citing *People v. Sartagoda*, G.R. No. 97525, April 7, 1993, 221 SCRA 251, 257 [Per J. Campos, Jr., Second Division].

<sup>130</sup> TSN, June 21, 1995, p. 33.

<sup>131</sup> TSN, July 5, 1995, p. 24.

<sup>132</sup> Id. at 48-52.

<sup>133</sup> TSN, September 28, 1995, p. 24.



A Yes, sir.<sup>134</sup>

While the attack was swift and sudden, the victims would have had the presence of mind to take a look at their assailants if they were identifiable. Their positive identification, in the absence of evidence to the contrary, must be upheld to be credible.

It has been argued that the trial court did not give Mangrobang's testimony credence while Gaston's testimony was found to be "hazy." This argument is unmeritorious.

It should be noted that it was the trial court itself that stated that the acquittal of the Scintilla Juris members identified by Mangrobang "should not be misinterpreted to mean that the testimony of Mangrobang was an absolute fabrication."<sup>135</sup> The court went on to state that they "were exonerated merely because they were accorded the benefit of the doubt as their identification by Mangrobang, under tumultuous and chaotic circumstances were [sic] not corroborated and their alibis, not refuted."<sup>136</sup> There was, therefore, no basis to say that Mangrobang was not credible; it was only that the evidence presented was not strong enough to overcome the presumption of innocence.

Gaston's testimony, on the other hand, was considered "hazy"<sup>137</sup> by the trial court only with regard to his identification of Zingapan's companion. Gaston testified that he saw Zingapan with Morano, with Zingapan moving and Morano staying in place. Fortes, however, testified that both Zingapan and Morano were running after him. Lachica also testified that it was Medalla, not Morano, who was with Zingapan. Because of this confusion, the trial court found that there was doubt as to who was really beside Zingapan. The uncertainty resulted into an acquittal for Morano. Despite this, the court still did not impute doubt in their testimonies that Zingapan was present at the scene.

Be that as it may, the acquittals made by the trial court further prove that its decision was brought about only upon a thorough examination of the evidence presented. It accepted that there were inconsistencies in the testimonies of the victims but that these were minor and did not affect their credibility. It ruled that "[s]uch inconsistencies, and even probabilities, are not unusual 'for there is no person with perfect faculties or senses.'"<sup>138</sup>

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<sup>134</sup> TSN, December 4, 1995, p. 47; *See also* RTC decision, p. 51.

<sup>135</sup> RTC decision, p. 64.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.* at 65.

<sup>138</sup> *Id.* at 58.

**Evidence as part of the *res gestae* may be admissible but have little persuasive value in this case**

According to the testimony of U.P. Police Officer Salvador,<sup>139</sup> when he arrived at the scene, he interviewed the bystanders who all told him that they could not recognize the attackers since they were all masked. This, it is argued, could be evidence that could be given as part of the *res gestae*.

As a general rule, “[a] witness can testify only to the facts he knows of his personal knowledge; that is, which are derived from his own perception, x x x.”<sup>140</sup> All other kinds of testimony are hearsay and are inadmissible as evidence. The Rules of Court, however, provide several exceptions to the general rule, and one of which is when the evidence is part of *res gestae*, thus:

Section 42. *Part of res gestae.* — Statements made by a person while a starting occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of *res gestae*. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the *res gestae*.<sup>141</sup>

In *People v. Rodrigo Salafranca*,<sup>142</sup> this court has previously discussed the admissibility of testimony taken as part of *res gestae*, stating that:

A declaration or an utterance is deemed as part of the *res gestae* and thus admissible in evidence as an exception to the hearsay rule when the following requisites concur, to wit: (a) the principal act, the *res gestae*, is a startling occurrence; (b) the statements are made before the declarant had time to contrive or devise; and (c) the statements must concern the occurrence in question and its immediately attending circumstances.

x x x x

The term *res gestae* has been defined as “those circumstances which are the undesigned incidents of a particular litigated act and which are admissible when illustrative of such act.” In a general way, *res gestae* refers to the circumstances, facts, and declarations that grow out of the main fact and serve to illustrate its character and are so spontaneous and contemporaneous with the main fact as to exclude the idea of deliberation and fabrication. The rule on *res gestae* encompasses the exclamations and statements made by either the participants, *victims*, or spectators to a crime

<sup>139</sup> TSN, November 20, 1995, p. 20.

<sup>140</sup> RULES OF CIVIL PROCEDURE, Rule 130, Sec. 36.

<sup>141</sup> RULES OF CIVIL PROCEDURE, Rule 130 (C) (6), Sec. 42.

<sup>142</sup> G.R. No. 173476, February 22, 2012, 666 SCRA 501 [Per J. Bersamin, First Division].

immediately before, during, or immediately after the commission of the crime when the circumstances are such that the statements were made as a *spontaneous* reaction or utterance inspired by the excitement of the occasion and there was no opportunity for the declarant to deliberate and to fabricate a false statement. The test of admissibility of evidence as a part of the *res gestae* is, therefore, whether the act, declaration, or exclamation is so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negatives any premeditation or purpose to manufacture testimony.<sup>143</sup>

There is no doubt that a sudden attack on a group peacefully eating lunch on a school campus is a startling occurrence. Considering that the statements of the bystanders were made immediately after the startling occurrence, they are, in fact, admissible as evidence given in *res gestae*.

In *People v. Albarido*,<sup>144</sup> however, this court has stated that “in accord to ordinary human experience:”

x x x persons who witness an event perceive the same from their respective points of reference. **Therefore, almost always, they have different accounts of how it happened.** Certainly, we cannot expect the testimony of witnesses to a crime to be consistent in all aspects because different persons have different impressions and recollections of the same incident. x x x<sup>145</sup>  
(Emphasis supplied)

The statements made by the bystanders, although admissible, have little persuasive value since the bystanders could have seen the events transpiring at different vantage points and at different points in time. Even Frisco Capilo, one of the bystanders at the time of the attack, testified that the attackers had their masks on at first, but later on, some remained masked and some were unmasked.

When the bystanders’ testimonies are weighed against those of the victims who witnessed the entirety of the incident from beginning to end at close range, the former become merely corroborative of the fact that an

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<sup>143</sup> *People v. Rodrigo Salafranca*, G.R. No. 173476, February 22, 2012, 666 SCRA 501, 512-514 [Per J. Bersamin, First Division], citing *People v. Peralta*, G.R. No. 94570, September 28, 1994, 237 SCRA 218, 224 [Per J. Cruz, First Division]; *People v. Maguikay*, G.R. Nos. 103226-28, October 14, 1994, 237 SCRA 587, 600 [Per J. Puno, Second Division]; *Alhambra Bldg. & Loan Ass’n v. DeCelle*, 118 P. 2d 19, 47 C.A. 2d 409; *Reilly Tar & Chemical Corp. v. Lewis*, 61 N.E. 2d 297, 326 Ill. App. 117; *Kaiko v. Dolinger*, 440 A. 2d 198, 184 Conn. 509; *Southern Surety Co. v. Weaver, Com. App.* 273 S.W. 838; *People v. Sanchez*, G.R. No. 74740, August 28, 1992, 213 SCRA 70, 79 [Per J. Davide, Jr., Third Division]; *Molloy v. Chicago Rapid Transit Co.*, 166 N.E. 530, 335 Ill. 164; *Campbell v. Gladden*, 118 A. 2d 133, 383 Pa. 144, 53 A.L.R. 2d 1222.

<sup>144</sup> 420 Phil. 235 (2001) [Per J. Sandoval-Gutierrez, Third Division].

<sup>145</sup> *Id.* at 245, citing *People v. Real*, 367 Phil. 524 (1999) [Per J. Pardo, First Division]. This statement was used in order to justify that minor inconsistencies do not affect the witnesses’ credibility so long as they concur on the material aspects of the incident.

attack occurred. Their account of the incident, therefore, must be given considerably less weight than that of the victims.

**The belated identification by the victims do not detract from their positive identification of the appellants**

It is argued that the fact that the victims stayed silent about the incident to the U.P. Police or the Quezon City Police but instead executed affidavits with the National Bureau of Investigation four (4) days after the incident gives doubt as to the credibility of their testimonies.

U.P. Police Officer Romeo Cabrera<sup>146</sup> testified that on their way to the U.P. Infirmary, he interviewed the victims who all told him they could not recognize the attackers because they were all wearing masks. Meanwhile, Dr. Mislang<sup>147</sup> testified to the effect that when she asked Natalicio who attacked them, Natalicio answered that he did not know because they were masked.

It must be remembered that the parties involved in this case belong to rival fraternities. While this court does not condone their archaic and oftentimes barbaric traditions, it is conceded that there are certain practices that are unique to fraternal organizations.

It is quite possible that at this point in time, they knew the identities of their attackers but chose not to disclose it without first conferring with their other fraternity brothers. This probability is bolstered by the actions of Sigma Rho *after* the incident, which showed that they confronted the members of Scintilla Juris in SM North. Because of the tenuous relationship of rival fraternities, it would not have been prudent for Sigma Rho to retaliate against the wrong fraternity.

Their act of not disclosing the correct information to the U.P. Police or to Dr. Mislang does not make the police officer or the doctor's testimonies more credible than that of the victims. It should not be forgotten that the victims actually witnessed the entire incident, while Officer Salvador, Officer Cabrera, and Dr. Mislang were merely relaying second-hand information.

The fact that they went to the National Bureau of Investigation four (4) days after the incident also does not affect their credibility since most of

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<sup>146</sup> TSN, November 13, 1995, pp. 37-38.

<sup>147</sup> TSN, September 16, 1998, p. 20.

them had been hospitalized from their injuries and needed to recover first. Since a fraternity moves as one unit, it would be understandable that they decided to wait until *all* of them were well enough to go to the National Bureau of Investigation headquarters in order to give their statements.

Seniority is also often the norm in fraternities. It was upon the advice of their senior “*brods*” and their legal counsel that they executed their sworn statements before the National Bureau of Investigation four (4) days after the incident.

The decision to report the incident to the National Bureau of Investigation instead of to the U.P. Police was the call of their legal counsel who might have deemed the National Bureau of Investigation more equipped to handle the investigation. This does not, however, affect the credibility of the witnesses since they were merely following the legal advice of their counsel.

Indeed, there is reason to believe that the National Bureau of Investigation is better equipped than the U.P. Police to handle the investigation of the case. As stated in the U.P. College of Economics website:

**The UP Diliman Police (UPDP) is tasked with maintaining campus security.** Their station is located in front of the College of Architecture.

The primary missions of the UPDP are to maintain peace and order, secure and protect lives and property, enforce basic laws, applicable Quezon City Ordinances, and University Rules and Regulations including policies and standards; and to perform such other functions relative to the general safety and security of the students, employees, and residents in the U.P. Diliman Campus. x x.<sup>148</sup> (Emphasis supplied)

It can be seen that the U.P. Police is employed by U.P. primarily for campus security. They are by no means an actual police force that is equipped to handle a full-blown murder investigation. Fraternity-related violence in U.P. has also increasingly become more frequent, which might possibly have desensitized the U.P. Police in such a way that would prevent their objectivity in the conduct of their investigations. The victims’ reliance on the National Bureau of Investigation, therefore, is understandable.

### III

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<sup>148</sup> UP Diliman Police, <<http://www.econ.upd.edu.ph/up-diliman-police/>> (visited March 4, 2014).

**Alibi cannot prevail over the positive identification of the victim**

It is settled that the defense of alibi cannot prevail over the positive identification of the victim.<sup>149</sup> In *People v. Benjamin Peteluna*,<sup>150</sup> this court stated that:

It is a time-honored principle that the positive identification of the appellant by a witness destroys the defense of alibi and denial. Thus:

x x x. It is well-entrenched that alibi and denial are inherently weak and have always been viewed with disfavor by the courts due to the facility with which they can be concocted. They warrant the least credibility or none at all and cannot prevail over the positive identification of the appellant by the prosecution witnesses. For alibi to prosper, it is not enough to prove that appellant was somewhere else when the crime was committed; he must also demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law. Denial, like alibi, as an exonerating justification[,] is inherently weak and if uncorroborated regresses to blatant impotence. Like alibi, it also constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.<sup>151</sup>

In this case, the victims were able to positively identify their attackers while the accused-appellants merely offered alibis and denials as their defense. The credibility of the victims was upheld by both the trial court and the appellate court while giving little credence to the accused-appellants' alibis. There is, thus, no reason to disturb their findings.

**Accused-appellants were correctly charged with murder, and there was treachery in the commission of the crime**

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<sup>149</sup> *People v. Benjamin Peteluna*, G.R. No. 187048, January 23, 2013, 689 SCRA 190, 197 [Per J. Perez, Second Division].

<sup>150</sup> G.R. No. 187048, January 23, 2013, 689 SCRA 190 [Per J. Perez, Second Division].

<sup>151</sup> *Id.* at 197, citing *People v. Barde*, G.R. No. 183094, September 22, 2010, 631 SCRA 187, 211 [Per J. Perez, First Division]; *People v. Estepano*, 367 Phil. 209, 217-218 (1999) [Per J. Bellosillo, Second Division]; *People v. Berdin*, 462 Phil. 290, 304 (2003) [Per J. Sandoval-Gutierrez, En Banc]; *People v. Francisco*, 397 Phil. 973, 985 (2000) [Per C.J. Davide, Jr., En Banc].

According to the provisions of Article 248 of the Revised Penal Code, the accused-appellants were correctly charged with murder. Article 248 states:

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 perpetua*, to death if committed with any of the following attendant circumstances:

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

X X X X

It is undisputed that on December 8, 1994, a group of men armed with lead pipes and baseball bats attacked Dennis Venturina and his companions, which resulted in Venturina's death.

As correctly found by the trial court and the appellate court, the offense committed against Dennis Venturina was committed by a group that took advantage of its superior strength and with the aid of armed men. The appellate court, however, incorrectly ruled out the presence of treachery in the commission of the offense.

It has been stated previously by this court that:

[T]reachery is present when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make.<sup>152</sup>

Similarly, in *People v. Leozar Dela Cruz*,<sup>153</sup> this court stated that:

There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make. **The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape.** For treachery

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<sup>152</sup> *People v. Gary Vergara*, G.R. No. 177763, July 3, 2013, 700 SCRA 412, 423 [Per J. De Castro, First Division], citing *People v. Laurio*, G.R. No. 182523, September 13, 2012, 680 SCRA 560, 571-572 [Per J. Leonardo-De Castro, First Division].

<sup>153</sup> G.R. No. 188353, February 16, 2010, 612 SCRA 738 [Per J. Velasco, Third Division].

to be considered, two elements must concur: (1) the employment of means of execution that gives the persons attacked no opportunity to defend themselves or retaliate; and (2) the means of execution were deliberately or consciously adopted.<sup>154</sup> (Emphasis supplied)

The appellate court, in affirming the conviction of the accused-appellants, ruled that contrary to the findings of the trial court, there was no treachery involved. In particular, they ruled that although the attack was sudden and unexpected, “[i]t was done in broad daylight with a lot of people who could see them”<sup>155</sup> and that “there was a possibility for the victims to have fought back or that the people in the canteen could have helped the victims.”<sup>156</sup>

This reasoning is clearly erroneous. The victims in this case were eating lunch on campus. They were not at a place where they would be reasonably expected to be on guard for any sudden attack by rival fraternity men.

The victims, who were unarmed, were also attacked with lead pipes and baseball bats. The only way they could parry the blows was with their arms. In a situation where they were unarmed and outnumbered, it would be impossible for them to fight back against the attackers. The attack also happened in less than a minute, which would preclude any possibility of the bystanders being able to help them until after the incident.

The swiftness and the suddenness of the attack gave no opportunity for the victims to retaliate or even to defend themselves. Treachery, therefore, was present in this case.

**The presence of conspiracy makes all of the accused-appellants liable for murder and attempted murder**

In the decision of the trial court, all of the accused-appellants were found guilty of the murder of Dennis Venturina and the attempted murder of Mervin Natalicio, Cesar Mangrobang, Jr. Leandro Lachica, Arnel Fortes, and Cristobal Gaston, Jr. The appellate court, however, modified their liabilities and found that the accused-appellants were guilty of attempted

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<sup>154</sup> *People v. Leozar Dela Cruz*, G.R. No. 188353, February 16, 2010, 612 SCRA 738, 747 [Per J. Velasco, Third Division], citing *People v. Amazan*, 402 Phil. 247, 270 (2001) [Per J. Mendoza, Second Division]; *People v. Bato*, 401 Phil. 415, 431 (2000) [Per J. Pardo, First Division]; *People v. Albarido*, 420 Phil. 235, 252 (2001) [Per J. Sandoval-Gutierrez, Third Division], citing *People v. Francisco*, 389 Phil. 243, 266 (2000) [Per J. Kapunan, First Division].

<sup>155</sup> CA decision, p. 59.

<sup>156</sup> *Id.*



murder only against Natalicio and Fortes, and not against Mangrobang, Lachica, and Gaston.

It is the appellate court's reasoning that because Lachica and Mangrobang "were no longer chased by the attackers,"<sup>157</sup> it concluded that accused-appellants "voluntary desisted from pursuing them and from inflicting harm to them, which shows that they did not have the intent to do more than to make them suffer pain by slightly injuring them."<sup>158</sup> It also pointed out that the wound inflicted on Gaston "was too shallow to have been done with an intent to kill."<sup>159</sup> Thus, it concluded that the accused-appellants would have been guilty only of slight physical injuries.

This is erroneous.

It should be remembered that the trial court found that there was conspiracy among the accused-appellants<sup>160</sup> and the appellate court sustained this finding.<sup>161</sup> Conspiracy, once proven, has the effect of attaching liability to all of the accused, regardless of their degree of participation, thus:

**Once an express or implied conspiracy is proved, all of the conspirators are liable as co-principals regardless of the extent and character of their respective active participation in the commission of the crime or crimes perpetrated in furtherance of the conspiracy because in contemplation of law the act of one is the act of all.** The foregoing rule is anchored on the sound principle that "when two or more persons unite to accomplish a criminal object, whether through the physical volition of one, or all, proceeding severally or collectively, each individual whose evil will actively contributes to the wrong-doing is in law responsible for the whole, the same as though performed by himself alone." Although it is axiomatic that no one is liable for acts other than his own, "when two or more persons agree or conspire to commit a crime, each is responsible for all the acts of the others, done in furtherance of the agreement or conspiracy." The imposition of collective liability upon the conspirators is clearly explained in one case where this Court held that

... it is impossible to graduate the separate liability of each (conspirator) without taking into consideration the close and inseparable relation of each of them with the criminal act, for the commission of which they all acted by common agreement ... The crime must therefore in view of the solidarity of the act and intent which existed between the ... accused, be regarded as the act of the

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<sup>157</sup> CA decision, p. 61.

<sup>158</sup> Id.

<sup>159</sup> Id.

<sup>160</sup> See RTC decision, pp. 78-79.

<sup>161</sup> See CA decision, pp. 22-23.

band or party created by them, and they are all equally responsible

**Verily, the moment it is established that the malefactors conspired and confederated in the commission of the felony proved, collective liability of the accused conspirators attaches by reason of the conspiracy, and the court shall not speculate nor even investigate as to the actual degree of participation of each of the perpetrators present at the scene of the crime. x x x.**<sup>162</sup> (Emphasis supplied)

The liabilities of the accused-appellants in this case arose from a single incident wherein the accused-appellants were armed with baseball bats and lead pipes, all in agreement to do the highest amount of damage possible to the victims. Some were able to run away and take cover, but the others would fall prey at the hands of their attackers. The intent to kill was already present at the moment of attack and that intent was shared by all of the accused-appellants alike when the presence of conspiracy was proven. It is, therefore, immaterial to distinguish between the seriousness of the injuries suffered by the victims to determine the respective liabilities of their attackers. What is relevant is only as to whether the death occurs as a result of that intent to kill and whether there are qualifying, aggravating or mitigating circumstances that can be appreciated.

The appellate court, therefore, erred in finding the accused-appellants guilty only of slight physical injuries. It would be illogical to presume that despite the swiftness and suddenness of the attack, the attackers intended to kill only Venturina, Natalicio, and Fortes, and only intended to injure Lachica, Mangrobang, and Gaston. Since the intent to kill was evident from the moment the accused-appellants took their first swing, all of them were liable for that intent to kill.

For this reason, the accused-appellants should be liable for the murder of Dennis Venturina and the attempted murder of Mervin Natalicio, Cesar Mangrobang, Jr., Leandro Lachica, Arnel Fortes, and Cristobal Gaston, Jr.

### A Final Note

It is not only the loss of one promising young life; rather, it is also the effect on the five other lives whose once bright futures are now put in

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<sup>162</sup> *People v. Peralta, et al.*, 134 Phil. 703 (1968) [Per Curiam, En Banc], citing *U.S. v. Ramos*, 2 Phil. 434 (1903) [Per J. Willard, En Banc]; *U.S. v. Maza*, 5 Phil. 346 (1905) [Per J. Johnson, En Banc]; *U.S. v. Grant and Kennedy*, 18 Phil. 122 (1910) [Per J. Trent, En Banc]; *U.S. v. Ipil*, 27 Phil. 530 (1914) [Per J. Johnson, En Banc]; *U.S. v. Synder*, 3 McCrary, 377; *People v. Bannaisan*, 49 Phil. 423 (1926) [Per J. Villa-Real, En Banc]; *U.S. v. Bundal, et al.*, 3 Phil. 89 (1903) [Per J. Torres, En Banc].

jeopardy because of one senseless act of bravado. There is now more honor for them to accept their responsibility and serve the consequences of their actions. There is, however, nothing that they can do to bring back Dennis Venturina or fully compensate for his senseless and painful loss.

This is not the first fraternity-related case to come to this court; neither will it be the last. Perhaps this case and many cases like it can empower those who have a better view of masculinity: one which valorizes courage, sacrifice and honor in more life-saving pursuits.

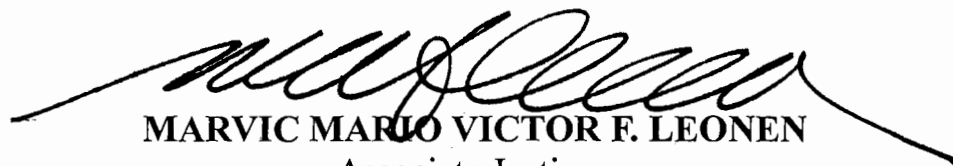
“*Giting at dangal*” are words of the anthem of the University of the Philippines. It colors the stories of many who choose to expend their energy in order that our people will have better lives. Fraternity rumbles are an anathema, an immature and useless expenditure of testosterone. It fosters a culture that retards manhood. It is devoid of “*giting at dangal*.”

This kind of shameful violence must stop.

**WHEREFORE**, the decision of the Court of Appeals in CA-G.R. CR No. 01158 dated November 26, 2010 is **AFFIRMED** insofar as the accused-appellants Danilo Feliciano, Jr., Julius Victor Medalla, Christopher Soliva, Warren L. Zingapan, and Robert Michael Beltran Alvir are found **GUILTY** beyond reasonable doubt of Murder in Criminal Case No. Q95-61133 with the **MODIFICATION** that they be found **GUILTY** beyond reasonable doubt of Attempted Murder in Criminal Case Nos. Q95-61136, Q95-61135, Q95-61134, Q95-61138, and Q95-61137.


**SO ORDERED.**

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MARVIC MARIO VICTOR F. LEONEN  
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO  
Chief Justice


*I join the dissent of J. Abad*  
  
**DIOSDADO M. PERALTA**  
 Associate Justice  
 Acting Chairperson

  
**MARIANO C. DEL CASTILLO**  
 Associate Justice

*See Dissenting Opinion*  
  
**ROBERTO A. ABAD**  
 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.

  
**DIOSDADO M. PERALTA**  
 Associate Justice  
 Acting Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
 Chief Justice