

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO MANLANGIT, DEMOSTHENES MANLANGIT, AND
DEMETRIO MANLANGIT, DEFENDANTS, DEMOSTHENES
MANLANGIT, AND DEMETRIO MANLANGI...**

G.R. No. L-32993. September 28, 1976

Ponente: FERNANDO, J.

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FERNANDO, J.:

Laureto Urot, in his lifetime endowed with physical strength and prone to make use of it at the least provocation, having been known to have inflicted violence on his father in a moment of anger, was stabbed to death. That resulted in the prosecution and subsequent conviction of three members of the Manlangit family, Demetrio, the father, and his two sons, Demosthenes and Domingo. They were convicted by the lower court for the crime of murder, the father, and one of the sons, Demosthenes, being sentenced to reclusion perpetua, and the last named, Domingo, to an indeterminate penalty ranging from ten years and one day of prision mayor, minimum, to seventeen years and four months of reclusion temporal, maximum, the mitigating circumstance of voluntary surrender having been appreciated on his behalf. Thereafter, an appeal was taken to this Court by the three, but there was a motion for the withdrawal thereof by Domingo Manlangit on March 20, 1974 which was granted in a resolution of this Court about a month later after receiving the comment of the counsel de oficio. The two remaining appellants would seek acquittal based on their claim raised by them in the lower court that the stabbing of the victim by Domingo was justifiable as having been in defense of a relative, his own father, who, while prone on the ground after having been boxed by Urot, could have been knifed to death by the latter. A careful study of the evidence of record justifies the finding of the lower court that such a plea is lacking in persuasiveness. At the same time, while culpability can be imputed to the two appellants, the same intensive scrutiny justifies the conclusion that the offense committed is merely one of homicide, there being insufficiency of proof as to the existence of the qualifying circumstance of alevosia and the extent of their participation merely that of accomplices, taking into consideration not only the admission of Domingo but the very testimony of the prosecution witnesses. The judgment, therefore, has to be modified.

Why the decision reached by the lower court cannot stand the test of rigorous scrutiny may be discerned from the version itself of the witnesses, who took the stand for the prosecution. It was testified to by the first witness, Buenaventura Omania, that between the hours of 6:00 and 6:30 in the evening of November 17, 1969, Laureto Urot, who had just bought cigarettes and vetsin from the store owned by the witness, located at Barrio Mitang-ag, Bonifacio, Misamis Occidental, was "attacked by the three persons" referring to the father Demetrio and the two sons, Domingo and Demosthenes Manlangit.[1] It happened, according to him, right in front of his store but at a distance of around seven meters more or less.[2] He then repeated the words of Laureto Urot to him: "Bay, I am wounded. I was attacked by three persons. Help me because I am attacked by three persons." [3] He had the Manlangits in mind.[4] Thereafter, Urot was brought by the witness and a certain Clecio Abaquita to the hospital of a certain Dr. Blancia, who did not want to treat the wounded person as the wound could prove fatal and

therefore advised them that they "may as well go to Aurora Hospital." [5] That they did; after Urot was admitted to the hospital, the witness was told that he could go home. [6] He learned later that around 10:00 o'clock that evening, Urot died. [7] That is according to the direct testimony. On cross-examination, however, he was reminded of the attack having taken place about seven meters away from his store and that there was then near it a pile of firewood. [8] Moreover, he did admit likewise that at the time of the said assault on the deceased, he could not see very well what really transpired because the time being between 6:00 to 6:30, "it was already twilight." [9] He admitted, moreover, that he was not able to see as to who of the three accused "actually inflicted the stab wounds" on the victim. [10] These are his exact words: "I don't know who of them stabbed the deceased but what I know is that the three of them were there on the scene." [11] When asked by the court whether he found any "bladed weapon," he answered: "None." [12] There was none either "in the premises around [his] store." [13] The next witness, one Clecio Abaquita, could only testify to the following insofar as the alleged assault was concerned: "At around 6:30 more or less on that evening, I heard a shout of help on the road. Because of that shout of help, I went down with a light and I saw Laureto Urot wounded and [he] requested me to assist and help him brought to the hospital but at that moment also there was also a truck which passed by and we placed him in the truck and I helped Laureto in putting him on that truck." [14] As a matter of fact, he admitted that when he saw Urot already wounded, he did not know who was responsible, such knowledge coming only to him at the Aurora Hospital. [15] On this point, this is his exact testimony: "At around 9:30 more or less, that evening, Laureto Urot was treated at the Aurora Provincial Hospital and in that hospital, he said that 'I am still conscious' and that he named Demetrio Manlangit, Demosthenes Manlangit and Domingo Manlangit as the culprits and he no longer mentioned any other person and at ten o'clock, he expired." [16] The third witness called was Romeo Onido. There is this revealing observation by the lower court who, prior to his direct examination by the fiscal, asked: "Is he an eyewitness?" [17] When the answer was in the affirmative, the court remarked: "You have no eyewitness, so far yet." [18] Again, there was reference to the attack by the three accused on the deceased. [19] He stated that at that time, he was "sitting in the store of Buenaventura Omania." [20] He made clear it was on a bench outside the store. [21] The distance was about "three and a half meters." [22] When asked how the attack was made, there was this meaningful observation by the interpreter in the transcript: "Witness demonstrated what he saw: that the three accused surrounded Laureto Urot and [boxed] him." [23] Both the court and the fiscal followed up the question almost simul-taneously as to what happened after that. This is the revealing answer: "After that they went away." [24] Then the Court asked whether the witness saw "anyone of them actually stab Urot." [25] Again, the answer is even more significant as far as the criminal liability of the defendants are concerned: "I did not see, sir, who stabbed." [26] The lower court did not stop there. It sought further clarification by asking what happened next after the three accused did simultaneously box Urot. This was the reply: "What I saw is the move-ment of the arms of these three. I did not know what were in their arms." [27] Evidently, the court was not satisfied with the interpretation for according to the transcript, this is what it said next: "'When Urot fell down, I saw them surround[ing] the victim. After they left, Urot shouted for help and said that he was wounded and he went near us and I saw that he has three wounds in his body.' Homicide. Proceed." [28] It is understandable then why, in the light of the above, there was hardly any need for cross-examination.

To repeat, the judgment has to be modified. Certainly, the two remaining appellants are not entitled to acquittal. The evidence of record fails to warrant acceptance of the stabbing being justified on the plea of defense of a relative. What was testified to by those in the scene of the tragic occurrence, against whom no motive for falsifying facts could seriously be imputed, would reveal that Urot was indeed attacked by the three Manlangits. The very fact that these witnesses were guarded and cautious in their testimony is a factor conducive to their being considered quite reliable. So the lower court concluded but misinterpreted the significance of what was narrated. To that extent, as indicated at the outset, the decision reached is subject to correction.

1. The first assigned error by counsel de oficio, Anianas C. Ona, who did a creditable job, is that no conspiracy could be imputed to the Manlangits. That is an assertion that finds no support from what, as had been set forth above, is the credible and competent evidence of record. According to *People v. Pudpud*:^[29] "A conspiracy in the statutory language 'exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.' The objective then on the part of the conspirators is to perform an act or omission punishable by law. What is required is assent to the perpetration of such a misdeed. That must be their intent. There is need, in the language of Justice Mapa in the early leading case of *United States v. Magcomot*, a 1909 decision, for 'concurrence of wills' or 'unity of action and purpose.' The usual phraseology employed in many of the later cases is 'common and joint purpose and design.' At times, reference is made to 'previous concert of criminal design.' Its manifestation could be shown by 'united and concerted action.' Thus, a conspiracy need not be proved by direct evidence; it may be deduced from the mode and manner in which the offense was perpetrated. The conditions attending its commission and the acts executed may be indicative of a common design to accomplish a criminal purpose and objective. If, to use the apt words of Chief Justice Bengzon [in *People v. Villanueva*], there is 'a chain of circumstances' to that effect, then conspiracy has been established. If such be the case then, the act of one is the act of all the others involved and each is to be held to the same degree of liability as the others. So it has been our constant ruling from the 1905 decision of *United States v. Maza*."^[30] To paraphrase the opinion of Justice Concepcion, as set forth in the latest case in point, *People v. Pajenado*,^[31] conspiracy may be inferred from conduct that makes evident a community of design.

2. The lower court found appellants guilty of murder, having considered the qualifying circumstance of alevosia as duly proved. That was error. From the evidence of record, the standard that has to be met to prove the existence of alevosia cannot be deemed satisfied. As far back as 1905, in the case of *United States v. Perdon*,^[32] the eminent Justice Mapa stated the doctrine thus: "The circumstances specifying an offense or aggravating the penalty thereof must be proved as conclusively as the act itself, mere suppositions or presumptions being insufficient to establish their presence according to law. No matter how truthful these suppositions or presumptions may seem, they must not and cannot produce the effect of aggravating the condition of the defendant."^[33] More specifically, this time in *United States v. Rana*,^[34] also promulgated the same year: "As the [qualifying] circumstance of treachery (alevosia) is an important one, in considering it, it should by all means be based on some positive conclusive proof and not merely upon hypothetical facts, drawn more or less logically, because it is necessary that the existence of this circumstance in the commission of the crime should be proven as fully as the crime itself, in order to aggravate the penalty incurred by the guilty party."^[35] Since then the doctrine has been adhered to consistently.^[36] Nothing is better settled, therefore, than that alevosia, to repeat the language of *People v. Abril*,^[37] "is not to be presumed, but must be proved as conclusively as the act which it qualifies."^[38] Such proof is sadly lacking in this case. The appealed decision did take note of the well-deserved reputation of the deceased as a town bully with ungovernable temper: "The evidence for the defense further shows that Laureto Urot during his lifetime, was a tough guy. At one time, Laureto's father reported to the Chief of Police that he was manhandled by Laureto and his brother Rodolfo Urot. The father had swelling eyes and one of his teeth was removed. He was manhandled by his two sons because he (father) reported to the owners that his sons, Laureto and Rodolfo, were the ones who stole their chickens. It was further shown that at one time, Laureto Urot had a boxing bout at [a] basketball game with a player. He was then drunk."^[39] Certainly, a man who could do such a thing to his own father is one who cannot easily be taken advantage of in a physical encounter. Moreover, Urot had reason to believe that there was bad blood between him and the Manlangits. Again, the appealed decision was quite explicit on this point: "Several days before the incident, Demetrio Manlangit had an altercation with Laureto Urot arising from Demetrio's suspicion that Laureto was the one who stole Demetrio's goat. Demetrio reported to the Chief of Police that Urot stole his goat. After this report, Urot had been entertaining a grudge against Demetrio."^[40] The language of Justice J.B.L. Reyes, in *People v. Monroy*,^[41] is

quite appropriate. Only if the victim were caught "completely unaware and deprived of any chance to ward off the assault"[42] should the element of alevosia be considered as having attended the offense. What cannot be denied in this case is that there was indeed a struggle between Urot and the three Manlangits, and were it not for the use of a knife, the outcome would have been in doubt. It cannot be truly said, therefore, that no risk was incurred by appellants. Without the qualifying circumstance of alevosia, the offense committed is that of homicide, not murder. After all, the trial judge himself was quoted in the transcript as having observed: "Homicide. Proceed." [43]

3. The next question is the criminal liability incurred by the two appellants. The lower court held that they were principals. If proper weight be accorded to the narrations set forth earlier, repeating the very words of the witnesses for the prosecution present at the scene of the occurrence, such a finding by the lower court cannot be justified. This is to accord deference to what has been the authoritative doctrine ever since the leading case of *People v. Tamayo*, [44] a 1922 decision. In the language of the ponente, Justice Street: "Now although, as thus demonstrated, participation on the part of an accomplice in the criminal design of the principal is essential to the same extent as such participation is necessary on the part of one charged as co--principal, nevertheless, it is evident, — and the cases above cited abundantly prove — that, as against an accomplice, a court will sometimes draw the inference of guilty participation in the criminal design from acts of concert in the consummation of the criminal act and from the form and manner in which assistance is rendered, where it would not draw the same inference for the purpose of holding the same accused in the character of principal. This is because, in case of doubt, the courts naturally lean to the milder form of responsibility." [45] The *Tamayo* doctrine has invariably been cited with approval. [46] With the explicit admission of the son, Domingo, that it was he who inflicted the fatal wound and with the participation of the father, Demetrio, and the other son, Demosthenes, being limited merely to using their fists, certainly, the responsibility, to quote anew from *Tamayo*, should be "of a milder form." They ought to be found guilty at the most of being accomplices.

4. In the light of the above, it cannot be said, therefore, that there was error on the part of the lower court in not acquitting the accused. Certainly, this is one case where the constitutional presumption of innocence [47] cannot apply. There is more than sufficient evidence to prove the guilt of the appellants beyond reasonable doubt. What has been established on behalf of the appellants Demetrio and Demosthenes Manlangit by counsel de oficio is to mitigate their liability, to have them found guilty as accomplices for the crime of homicide. Insofar as Domingo Manlangit is concerned, with the withdrawal of his appeal, the judgment as to him cannot be altered. In view thereof, there is no need to discuss the last error assigned as to such accused being liable only for homicide. As to him the sentence had become final.

WHEREFORE, appellants Demetrio Manlangit and Demosthenes Manlangit are adjudged accomplices of the crime of homicide committed against Laureto Urot and each of them sentenced to an indeterminate penalty of six years of prision correccional as minimum to eight years of prision mayor as maximum, with the accessory penalties of the law. The decision of the lower court of October 15, 1970 requiring the three accused, including Domingo Manlangit, who in the meanwhile had been allowed to withdraw his appeal, to indemnify jointly and severally the heirs of the deceased Laureto Urot, in the sum of P12,000.00, is affirmed. No costs.

Barredo, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Antonio, J., did not take part.

[1] T.s.n., Session of July 23, 1970, 2-3.

[2] *Ibid*, 3.

[3] Ibid, 4.

[4] Ibid.

[5] Ibid, 5-6.

[6] Ibid, 6.

[7] Ibid, 6.

[8] Ibid, 8.

[9] Ibid, 9.

[10] Ibid, 10-11.

[11] Ibid, 11.

[12] Ibid.

[13] Ibid, 12.

[14] Ibid, 15.

[15] Ibid, 17.

[16] Ibid.

[17] Ibid, 20.

[18] Ibid.

[19] Ibid, 21.

[20] Ibid, 22.

[21] Ibid.

[22] Ibid.

[23] Ibid, 24.

[24] Ibid.

[25] Ibid.

[26] Ibid.

[27] Ibid.

[28] Ibid.

[29] L-26731, June 30, 1971, 39 SCRA 618.

[30] Ibid, 624-625. Magcomot is reported in 13 Phil. 386. *People v. Villanueva*, L-12687, was decided on July 31, 1962 and reported in 5 SCRA 672; *United States v. Maza* is found in 5 Phil. 346. Cf. *People v. Tapitan*, L-21492, April 25, 1969, 27 SCRA 959; *People v. Tolentino*, L-29419, Aug. 31, 1971, 40 SCRA 514; *People v. Tiongson*, L-29569, Oct. 30, 1972, 47 SCRA 279; *People v. Palacpac*, L-27282, Feb. 28, 1973, 49 SCRA 440; *People v. Malilay*, L-27938, April 22, 1975, 63 SCRA 420; *People v. Ogapay*, L-28566, Aug. 21, 1975, 66 SCRA 209.

[31] L-26458, January 30, 1976, 69 SCRA 172, 179.

[32] 4 Phil. 141.

[33] Ibid, 143.

[34] 4 Phil. 231.

[35] Ibid, 233-234.

[36] Cf. *People v. Torejas*, L-29935, January 31, 1972, 43 SCRA 158.

[37] 51 Phil. 670 (1928).

[38] Ibid, 675.

[39] Decision, Appendix A to Brief for the Appellants, 2.

[40] Ibid.

[41] 104 Phil. 759 (1958).

[42] Ibid, 764.

[43] T.s.n., Session of July 23, 1970, 24.

[44] 44 Phil. 38.

[45] Ibid, 54.

[46] Cf. *People v. Bantagan*, 54 Phil. 834 (1930); *People v. Tumayao*, 56 Phil. 587 (1932); *People v. Azcona*, 59 Phil. 580 (1934); *People v. Ubiña*, 97 Phil. 515 (1955); *People v. Arranchado*, 109 Phil. 410 (1960); *People v. Rival*, L-14077, March 31, 1964, 10 SCRA 462; *People v. Tividad*, L-21469, June 30, 1967, 20 SCRA 549; *People v. Clemente*, L-23463, Sept. 28, 1967, 21 SCRA 261; *People v. Tatlong-hari*, L-22094, March 28, 1969, 27 SCRA 726; *People v. Tolentino*, L-29419, Aug. 31, 1971, 40 SCRA 514; *People v. Torejas*, L-29935, Jan. 31, 1972, 43 SCRA 158; *People v. Tiongson*, L-29569, Oct. 30, 1972, 47 SCRA 279; *People v. Geronimo*, L-35700, Oct. 15, 1973, 53 SCRA 246; *People v. Tumulip*, L-28451, Oct. 28, 1974, 60 SCRA 303.

[47] According to Article IV, Section 19 of the Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *."

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