

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANGEL MANALO, ET AL., DEFENDANTS, PERLITO MAGNO, MANUEL RONDUEN, VICENTE CALINGAO, ANTONIO CALINGAO, RAUL QUIMOYOG AND BON...*G.R. No. L-42505. December 26, 1984*

Ponente: MELENCIO-HERRERA, J.

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Indicted before the Court of First Instance of Occidental Mindoro, Branch II, for Robbery with Homicide, were Angel Manalo, Perlito Magno, Manuel Ronduen, Vicente Calingao, Antonio Calingao, Raul Quimoyog, Bonifacio Gongora, Jr., Paulino Asuncion, and Romualdo Sagun. Except for Angel Manalo, who had remained at large, trial proceeded against the eight other accused. Perlito Magno, Manuel Ronduen, Vicente Calingao, and Antonio Calingao were sentenced to reclusion perpetua. Raul Quimoyog and Bonifacio Gongora, Jr. were sentenced to eight (8) years and one (1) day of prision mayor, as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum. Paulino Asuncion and Romualdo Sagun were acquitted. The case is now before us for review.

The evidence shows that in the afternoon of August 30, 1974, the ASUNCION brothers, namely, ANDRES, DOMINADOR and QUIRINO, on their way home from San Jose, Occidental Mindoro, to Barrio Poypoy, Municipality of Calintaan, Occidental Mindoro, stopped by the house of Bert Melgar in the Barrio of Iriron where DOMINADOR Asuncion received from Mr. Ruben Escanilla the sum of P2,000.00 (Exhibit "A") with which to buy corn for ex-delegate Quintos. From there, they proceeded to their aunt's house, also in Iriron, where DOMINADOR wrapped the P2,000.00 in cellophane and placed it inside a Nescafe carton together with seven bags of sugar and two bottles of coffee.

In the evening of the same date, at about 8:00 o'clock, they went to the house of Boy Lineses at Sitio Nilapso, Barrio Poypoy, to make some inquiries. Having obtained the information desired, they were about to leave for home when Boy Lineses asked them to remain for a benefit dance he was sponsoring that evening in his house[1] for his sister-in-law who was a candidate for beauty queen. The ASUNCION brothers accepted the invitation and DOMINADOR Asuncion entrusted the box containing the P2,000.00 and other contents to Boy Lineses who placed it on the table inside the house.[2]

During the dance, the group of the accused, headed by Angel MANALO, arrived in the hall. As dance features, aside from colored ribbons the possession of which would entitle the holders thereof to dance, an added entertainment was the auction sale of three "social boxes". All three boxes were sold to the brothers as they offered the highest bid. The bidding for the third box became a heated one as accused Angel MANALO actively participated and lost. A fight was averted when Angel MANALO left the dance floor and joined his companions who were drinking liquor outside the hall.

Rolando Tolentino, who was among those attending the benefit dance joined the MANALO group composed of

his friends. After they had finished their drinks, they decided to go home together.

For their part, the ASUNCION brothers lingered behind for a while at the dance hall and thereafter proceeded home after DOMINADOR took back the box entrusted to Boy Lineses.[3]

Upon reaching the Balisong Creek, which is at a distance of about 300 meters from Boy Lineses' house, the MANALO group surrounded the ASUNCION brothers and a commotion ensued. The Nescafe box containing the cash money, coffee and sugar was snatched from DOMINADOR Asuncion by accused Bonifacio GONGORA, Jr.. ANDRES Asuncion was, according to accused Raul Quimoyog, stabbed to death by accused Angel MANALO, his (Raul Quimoyog's) "bayaw" (brother-in-law).[4] The Municipal Health Officer testified that ANDRES died due to hemorrhage secondary to stab wound in the abdomen caused by a sharp pointed instrument while the abrasions suffered by the victim were caused by rough objects like a stone or piece of wood.[5] QUIRINO Asuncion put up some resistance as he was stoned, clubbed and boxed by accused Quimoyog, Vicente Calingao and Antonio Calingao but realizing the futility of fighting further he ran to Lineses' house. He was wounded on the face and sustained contusions as shown by the medical certificate (Exhibit "C"). DOMINADOR Asuncion was also stoned but he was able to run back to the house of Boy Lineses to seek help. Before that he saw his brother ANDRES sitting along the road with a stab wound on his stomach. Approaching, ANDRES told him that MANALO was responsible for his stab wound and to leave him as he was certain to die. On the part of the MANALO group, accused Perlito Magno suffered injuries (Exhibit "4").

Rolando Tolentino testified that, as a friend, he was with the MANALO group in going home to Poypoy after they had indulged in drinking wine; that the group stopped before reaching the Balisong Creek. Angel MANALO and Bonifacio GONGORA, Jr. conferred with each other and decided that they would divide into two groups, one to be led by MANALO, and the other group by GONGORA, Jr., to await the ASUNCION brothers and to rob them of their money.[6] It was agreed that upon the latter's arrival, the MANALO group would clap three times to be answered with three claps by the GONGORA group. The MANALO group was to position itself before the creek, and the GONGORA group after it. MANALO's instructions were "bugbugin at patayin ang sino mang manglaban sa kanila". Witness Rolando Tolentino was assigned to the GONGORA group. Soon thereafter, he heard three claps; it was answered by the GONGORA group also with three claps, meaning "handa na". Both groups then stood up and commenced the attack. At that point, Rolando Tolentino, overcome with fear, left and ran to the house of his grandfather with whom he was living.

QUIRINO Asuncion corroborated a part of Rolando Tolentino's testimony when the former testified that upon reaching the vicinity of the Balisong Creek, they heard three claps at their back, answered with three claps in front of them, and then the assault on him and his two brothers commenced. Sensing the helplessness of fighting further since he had already suffered injuries, he ran back to the house of Boy Lineses where he met his brother DOMINADOR who had preceded him there also to seek help.

The defense would have us believe that after the dance was over, the ASUNCION brothers and the MANALO group went home together; that when the group reached the vicinity of the Balisong Creek there was a rumble during which ANDRES Asuncion was fatally stabbed, accused Perlito Magno was seriously injured, and QUIRINO Asuncion suffered minor injuries. According to the defense:

"x x x The rumble started, when, according to Manuel Ronduen, Andres Asuncion grabbed Antonio Calingao by the neck. At that particular moment, Romualdo Sagun, Antonio Calingao, Andres Asuncion and he were then walking ahead of the group. After they crossed the Balisong creek, Andres Asuncion, for unknown reasons, suddenly grabbed Antonio Calingao by the neck. To release Antonio Calingao, he boxed Andres Asuncion on the face and when Andres faced him, he picked up a piece of wood and chased Andres when the latter run away. He failed to catch up with Andres. He then returned to the place where he left Antonio

Calingao. On the way he was stoned by Quirino Asuncion but was not hit. He thereupon chased Quirino Asuncion, boxed the latter on the breast when he caught up with him. When Quirino again ran away, he did not follow anymore and went home. (pp. 5-10, tsn., April 18, 1975)."[7]

Upon the evidence, we find no reason to fault the Court a quo for discrediting the defense version and meting out a judgment of conviction, thus:

"WHEREFORE, the accused, Perlito Magno, Manuel Ronduen, Vicente Calingao and Antonio Calingao are hereby sentenced each to the penalty of Reclusion Perpetua.

"With respect to accused Raul Quimoyog and Boni-facio Gongora, Jr., it appearing from the evidence that they are only 18 years old, the Court is inclined to give each of them the penalty of Reclusion Temporal in its medium period, which is one degree lower to that of the penalty provided for the offense.

"Applying the indeterminate sentence law, Raul Quimoyog and Bonifacio Gongora, Jr. are hereby each sentenced to the indeterminate penalty of Eight (8) years and One (1) day of Prision Mayor as minimum to Fourteen (14) years, Eight (8) months and One (1) day of Reclusion Temporal as maximum and to pay the proportionate share of the costs.

Considering, further, that Raul Quimoyog and Bonifacio Gongora, Jr. are minors and that when this case was still under trial, Presidential Decree No. 603 (Youth and Welfare Code) was issued by the President of the Philippines and which took effect on June 16, 1975, Art. 189 of said decree having modified Art. 80 of the Revised Penal Code, the judgment of conviction meted out against the said two accused, Raul Quimoyog and Bonifacio Gongora, Jr., should be suspended pursuant to the provisions of Art. 192 of said Presidential Decree No. 603. The Court believes that Presidential Decree No. 603, being more favorable to the accused, the provisions of said decree which favor the herein two accused, Raul Quimoyog and Bonifacio Gongora, Jr., may be given retroactive effect, notwithstanding the general rule that criminal laws should always be accorded prospective effect.

In view hereof, the sentence of conviction meted out against the two accused, Raul Quimoyog and Bonifacio Gongora, Jr., is hereby suspended and the said accused are hereby ordered committed to the custody of the Department of Social Welfare until they should have reached the age of 21 years, or for a shorter period as the Court may deem proper pursuant to the provisions of Art. 192 of Presidential Decree No. 603.

"Raul Quimoyog and Bonifacio Gongora, Jr. shall be entitled to the full term of their preventive imprisonment, if they have any to their credit, pursuant to the provisions of Art. 29 of the Revised Penal Code, as amended by Rep. Act 6127, provided that they have agreed to abide with the disciplinary rules imposed upon convicted prisoners.

"All the accused are hereby ordered to indemnify jointly and severally the heirs of the deceased, Andres Asuncion, in the sum of P12,000.00, in addition to the amount of P2,000.00, the cash money taken from Dominador Asuncion and to pay 1/9 of the costs.

"For lack of sufficient evidence to show the criminal participation by overt acts of Paulino Asuncion and Romualdo (Romy) Sagun in the commission of the offense, they are hereby acquitted and the case against them is hereby ordered dismissed with the proportionate share of the costs de oficio. Let the accused, Paulino Asuncion and Romualdo (Romy) Sagun be released from custody immediately.

"It appearing that the accused, Angel Manalo, who is still at large and who appears to be the principal and leader of the group in the killing of Andres Asuncion and in the commission of the offense herein complained of, it is directed that extra efforts should be made by the police authorities to have him arrested so that he could stand trial before this court as early as possible.

"IT IS SO ORDERED."

The defense maintains that there was no proof of conspiracy; that the crime of Robbery was not committed, nor that the killing of ANDRES Asuncion was a result of the robbery or committed on the occasion thereof.

For conspiracy to exist, it is enough that at the time the offense was committed, the participants had the same purpose and were united in its execution, as may be inferred from the attendant circumstances.[8] Its manifestation could be shown by united and concerted action. The direct evidence of the prosecution consisted of the testimony of Rolando Tolentino, who was an original member of the MANALO group. His declarations are more than sufficient to prove the existence of conspiracy among the convicted accused. No motive has been attributed to said witness by the defense to falsely implicate the MANALO group composed of his friends in the commission of such a serious crime.

DOMINADOR Asuncion in his sworn statement, dated September 4, 1974 (Exhibit "D"), corroborated the testimony of Rolando Tolentino anent the waylaying and the clappings that, in fact, signalled the assault on the ASUNCION brothers. QUIRINO Asuncion testified to the same effect.

Conspiracy having been established, the act of one is the act of all.[9]

The crime of Robbery has also been sufficiently proven. Angel MANALO and Bonifacio GONGORA, JR. knew of the P2,000.00 in the Nescafe box as DOMINADOR Asuncion, earlier at the dance, had told MANALO that he was still buying corn and that his money was inside a box which he entrusted to Boy Lineses in the latter's house during the dance.[10] GONGORA was present when DOMINADOR confided to MANALO about the money for the purchase of corn.[11] MANALO had also asked DOMINADOR for an advance of P100.00 with which to buy corn, as they were both engaged in the buy and sell of corn, but because they could not agree on the terms, the latter refused.[12] The defense makes capital of DOMINADOR Asuncion's testimony during his cross-examination that "nobody knows (about the money) except the three of us, sir".[13] However, that was in answer to the question "nobody knew that you received P2,000.00 from Escanilla that afternoon of August 30, 1974?" In other words, it was the receipt from Escanilla that was referred to and not the disclosure thereafter to MANALO that he had money for the purchase of corn.

Neither can there be any doubt that the fatal stabbing of ANDRES Asuncion arose out of or on the occasion of the robbery. On the same occasion that the Nescafe box containing the cash, the sugar and the coffee was snatched from DOMINADOR Asuncion, the latter's brother was fatally stabbed by Angel MANALO in the abdomen with a hunting knife, as testified to by accused Raul Quimoyog himself. It matters not that the robbery victim was different from the homicide victim.[14]

The totality of the evidence, therefore, sustains beyond reasonable doubt the guilt of the convicted accused.

WHEREFORE, finding no reversible error in the judgment appealed from, the same is hereby affirmed except as to the indemnity awarded to the heirs of the deceased, which is hereby increased to P30,000.00. Proportionate costs against the accused.

SO ORDERED.

Teehankee (Chairman), Plana, Relova, and De La Fuente, JJ., concur.

Gutierrez, Jr., J., took no part.

[1] T.s.n., p. 3, June 27, 1975.

[2] T.s.n., p. 14, April 7, 1975.

[3] T.s.n., pp. 15, 18, *ibid*.

[4] T.s.n., p. 10, April 17, 1975.

[5] T.s.n., pp. 45-49, February 15, 1975.

[6] T.s.n., pp. 12-15, April 11, 1975.

[7] Appellants' Brief, pp. 82-83.

[8] *People vs. Binasing, et al.*, 53 O.G. 5208; *People vs. Pagaduan*, 29 SCRA 54[1969]; *People vs. Cercano*, 87 SCRA 1[1978].

[9] *U.S. vs. Ipil*, 27 Phil. 530[1914]; *People vs. Romualdez and Mabunay* 57 Phil. 148[1932]; *People vs. Cadag*, 2 SCRA 388[1961]; *People vs. Paredes*, 24 SCRA 635[1968]; *People vs. Alonzo*, 73 SCRA 484[1976].

[10] T.s.n., pp. 29-31, April 7, 1975.

[11] T.s.n., p. 9, *ibid*.

[12] T.s.n., pp. 26-27, *ibid*.

[13] T.s.n., p. 29, February 25, 1975.

[14] *People vs. Disimban*, 88 Phil. 129[1951].

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