

JOSELITO BERNAL, DENNIS BERNAL, JONATHAN BALDOMAR, AND EMMANUEL BATARA, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND RICARDO F. CALARA, RESPONDENTS.

Ponente: ZALAMEDA, R.V., J.

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ZALAMEDA, R.V., J.:

Assailed in the consolidated Petition for Review[2] docketed as CA-G.R. CR No. 35205 and Petition for Review[3] docketed as CA-G.R. SP No. 126799 is the Decision[4] dated 03 January 2012 of the Honorable Honorio E. Guanlao, Jr., Presiding Judge of Branch 57, Regional Trial Court of Makati City, in Crim. Case No. 11-935 entitled, "People of the Philippines, vs. Joselito Bernal, Dennis Bernal, Jonathan Baldomar, Mark Allen Estramadura, and Emmanuel Batara, Accused-Appellants," affirming the decision rendered by Branch 65, Metropolitan Trial Court of Makati City.[5]

As gathered from the records, the facts are as follows:

On 21 June 2005, petitioners Joselito Bernal,[6] Dennis Bernal,[7] Jonathan Baldomar,[8] and Emmanuel Batara[9] (in CA-G.R. CR No. 35205) as well as petitioner Mark Allen Estramadura[10] (in CA-G.R. SP No. 126799) were charged for committing the crime of Less Serious Physical Injuries, thus:

"X x x

That on or about the 11[th] day of February 2005, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and all of them mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously attack, assault, and employ physical violence upon the person of one RICARDO F. CALARA, thereby inflicting physical injuries upon the latter which required medical attendance for a period of not less than twenty-four (24) days but not more than twenty-six (26) days and incapacitated him from performing his customary labor for the same period of time.

CONTRARY TO LAW.

X x x"[11]

On arraignment, all petitioners pleaded not guilty to the charge. After the termination of the pre-trial, trial on the merits ensued.

The prosecution presented the following witnesses during the trial of the case: private complainant Ricardo F. Calara,[12] Dr. Teresita Sanchez,[13] and Jeffrey Alialy,[14] and adduced evidence as follows:

At about 11:30 o'clock in the evening of 11 February 2005, the victim was conversing with Rolando Calara[15] and Monico Dela Torre[16] when Joselito approached them and while pointing, uttered: "Putang ina nyo! Idadamay ko kayo sa kaso!" When the victim answered back, he was challenged by Joselito to a fight. The victim followed Joselito who upon reaching the corner of Kalayaan Avenue and Pitogo Street called his companions Baldomar, Dennis, Batara, and Estramadura. They were apparently waiting for the victim. It was Baldomar who

first punched him followed by Dennis, Batara, and Estramadura, while Joselito kicked his side. The victim tried to fight back and was able to bite Baldomar who released his hold on the former. Joselito ran towards his lugawan stall to get a knife. As he was about to attack the victim, the latter called for help. Rolando and Dela Torre came to his assistance and tried to pacify the parties. When members of the Bantay Bayan arrived, Joselito threw the knife he was holding and kicked the victim who was slumped on the street in the face saying: "Putang ina mo! May araw ka rin. Ipapapatay kita!" The protagonists were later brought to the Bantay Bayan outpost. Thereafter the victim was brought to the Ospital ng Makati for treatment.

Dr. Sanchez, the Medico-Legal Officer, testified that the victim had a bluish black discoloration on the upper left portion of his head, a discoloration on his left mandible, and abrasion on his left arm. According to the witness, the injuries could have been inflicted by one or more persons and were estimated to heal and disappear in three (3) weeks.[17]

Alialy, on his part, corroborated the victim's testimony, as he was on the balcony of his house at the time Joselito shouted invectives and challenged the victim to a fistfight. When he went out he saw Joselito, Batara, Estramadura, and Baldomar ganging up on the victim. Baldomar attacked the victim while the others kicked him. When the victim fell down, he saw him being kicked by Baldomar, Joselito, Dennis, and Batara.

After the prosecution rested its case, the defense presented Joselito and Baldomar who gave their version of the incident.

Joselito averred that he was walking towards their lugawan stall located at Kalayaan Avenue when he saw three (3) men – the victim, Rolando, and an unknown person – drinking. Suddenly, the victim and Rolando pointed to him and said: "Putang ina kasi ang nanay nito." They then stood up and acted as if to attack him. He walked fast and when he reached Kalayaan Avenue he heard Baldomar ask the victim and Rolando, "Kuya, ano ang problema?" Instead of being pacified, the two (2) shouted invectives at Baldomar. The shouting created a commotion with people trying to pacify them. The victim punched Baldomar hitting him on the cheek. An exchange of blows consequently occurred. The victim drew an icepick which Baldomar was able to grapple. In retaliation, the victim bit the left part of Baldomar's chest. When the Bantay Bayan members arrived Baldomar had the incident recorded in the blotter. Joselito denied mauling the victim, alleging that it was Baldomar who inflicted the injuries on the latter.

On 16 March 2011, Presiding Judge Henry E. Laron of the MeTC rendered a Decision,[18] the dispositive portion of which reads:

"X x x

WHEREFORE, premises considered, judgment is hereby rendered finding accused JOSELITO BERNAL y DIVINA, DENNIS BERNAL y DIVINA, JONATHAN 'Jhon-Jhon' BALDOMAR y MARCHADES, MARK ALLEN 'Mac-Mac' ESTRAMADURA y REGADA, and EMMANUEL 'Nonong' BATARA y MASLOG GUILTY beyond reasonable doubt for the offense of Slight Physical Injuries punishable under paragraph 1, Article 266 of the Revised Penal Code. Joselito D. Bernal, Dennis D. Bernal, Jonathan M. Baldomar, Mark Allen R. Estramadura, and Emmanuel M. Batara are hereby sentenced to suffer ten (10) days of imprisonment.

SO ORDERED.

X x x"[19]

Aggrieved, petitioners appealed the said Decision to the court a quo. After the parties filed their respective memoranda,[20] on 03 January 2012, the court a quo rendered a Decision,[21] the dispositive portion of which follows:

"X x x

WHEREFORE, premises duly considered, the Court affirms the decision of the Metropolitan Trial Court (MeTC)-Branch 65, Makati City, dated March 16, 2011.

SO ORDERED.

X x x"[22]

Petitioners Joselito, Dennis, Baldomar, and Batara jointly filed a Motion for Reconsideration[23] with petitioner Estremadura filing a separate Motion for Reconsideration[24] but these were both denied by the court a quo in its Order[25] dated 16 July 2012. Hence, the filing of the Petition for Review docketed as CA-G.R. CR No. 35205 by petitioners Joselito, Dennis, Baldomar, and Batara and a separate Petition for Review docketed as CA-G.R. SP No. 126799 by petitioner Estramadura. As the two (2) petitions arose from the same set of circumstances, a Resolution[26] was issued by this Court on 16 July 2013 ordering the consolidation of CA-G.R. CR No. 35205 and CA-G.R. SP No. 126799.

In their Petition, the petitioners raise the following issue:

THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN AFFIRMING THE DECISION OF THE HONORABLE METROPOLITAN TRIAL COURT CONVICTING THE ACCUSED-PETITIONERS OF THE CRIME OF SLIGHT PHYSICAL INJURIES INSPITE OF THE MANIFEST FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.[27]

while petitioner Estremadura raises the following Statement of Error/s in his Petition for Review:

THE REGIONAL TRIAL COURT GRAVELY ERRED IN AFFIRMING THE 16 MARCH 2011 DECISION OF THE METROPOLITAN TRIAL COURT, FINDING THE PETITIONER GUILTY OF SLIGHT PHYSICAL INJURIES UNDER ARTICLE 266 (1) OF THE REVISED PENAL CODE:

A. THE RTC, LIKE THE MeTC, FAILED TO NOTE THAT PETITIONER WAS UNABLE TO TESTIFY DURING THE TRIAL, IN VIOLATION OF HIS RIGHT TO BE HEARD IN HIS DEFENSE.

B. THE RTC, LIKE THE MeTC, GRAVELY ERRED IN NOT GIVING DUE CONSIDERATION TO THE STATEMENT OF THE COMPLAINANT HIMSELF, THAT PETITIONER WAS "A MERE SPECTATOR" AND WAS "INADVERTENTLY INCLUDED IN THE COMPLAINT;"

C. NEITHER THE RTC DECISION NOR THE MeTC DECISION SPECIFIED THE PARTICULAR ACTS OF PETITIONER LEADING TO THE CONCLUSION OF GUILT, CONTRARY TO RULE 120, SECTION 2 OF THE RULES OF COURT;

D. CONTRARY TO THE RTC AND MeTC DECISIONS, THERE IS NO PROOF BEYOND REASONABLE DOUBT PERTAINING TO THE INCAPACITY FOR LABOR OR REQUIREMENT OF MEDICAL ATTENDANCE, WHICH IS REQUIRED BY ARTICLE 266 (1) OF THE REVISED PENAL CODE; and

E. CONSPIRACY, AS ALLEGED IN THE INFORMATION, WAS ALSO NOT PROVEN BEYOND REASONABLE DOUBT.[28]

The petitions should be denied.

In CA-G.R. CR No. 35205, petitioners contend that the testimony of the victim is not credible because the number of injuries he sustained is inconsistent with his testimony. According to petitioners, if his testimony is to be believed, the victim should have sustained more than three (3) injuries, as testified to by Dr. Sanchez,[29] thus,

their theory that only Baldomar hit the victim in self-defense is more in keeping with the evidence. In addition, neither Joselito was mentioned by the victim nor Dennis was named by Alialy as the persons who mauled the victim, consequently creating doubt on the theory of the prosecution.

The Court gives great weight and respect to the findings and conclusions of the court a quo which were chiefly based on its evaluation of the credibility of the witnesses, and the veracity and probative value of said witnesses' testimonies. As consistently adhered to by this Court, the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various indicia available but not reflected on the record. The demeanor of the person on the stand can draw the line between fact and fancy. The forthright answer or the hesitant pause, the quivering voice or the angry tone, the flustered look or the sincere gaze, the modest blush or the guilty blanch – these can reveal if the witness is telling the truth or lying through his teeth.[30]

Given the natural frailties of the human mind and its capacity to assimilate all material details of a given incident, slight inconsistencies and variances in the declarations of a witness hardly weaken their probative value. It is well-settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of petitioners. As long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness.[31]

Notwithstanding the inconsistencies pointed out by the petitioners, the victim and Alialy positively identified them as the ones who committed the crime of slight physical injuries on the victim. We find that Alialy is a disinterested witness who described the incident without any false motive or purpose to favor either of the parties in the case. Considering that the testimony of Alialy is reasonable and insistent, not contradicted by evidence from any reliable source, the court a quo did not err in accepting his testimony.[32] Finally, the alleged inconsistencies pointed to by petitioners regarding the number of injuries sustained are only minor, trivial, immaterial, and do not in any way affect the credibility of the witnesses' testimonies, since their testimonies clearly and categorically established the crime.

In CA-G.R. SP No. 126799, petitioner Estremadura further avers that in the certification[33] issued by the Tanggapan ng Pangkat Tagapagkasundo of Barangay Pitogo at Makati City on 01 March 2005, he was inadvertently included by the victim in his complaint because of the latter's confused state. During the initial hearing of the dispute or on 15 February 2005, the victim described Estremadura to be a mere spectator and had no direct participation in the melee. As this defense is peculiar to him petitioner claims that he should have been put on the witness stand by his counsel. Since he was not presented as a witness, he was not given the chance to narrate his version of the incident.

Even if Estremadura was not presented as one of the defense witnesses, his right to due process was not violated. He was represented by counsel to protect his interest. He was given the chance to submit his evidence, as when Joselito and Baldomar were called on the witness stand to testify for the defense. It is the defense's claim that the altercation was merely between the victim, Joselito and Baldomar; he and the other petitioners were not involved in the incident. Where a party was given the opportunity to defend his interests in due course, he cannot be said to have been denied due process of law. The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of due process. The question is not whether petitioner succeeded in defending her rights and interests, but simply, whether she had the opportunity to present her side of the controversy.[34]

Petitioner would have us believe that the victim exonerated him during the barangay conciliation proceedings when the latter stated that he was a mere spectator at the beating of the victim. We are not inclined to give any weight to the said averment considering that "such statements taken ex parte, xxx are held as inferior to testimonies given in open court." [35] Furthermore, in the Paghahablang Salaysay [36] executed by the victim he specifically stated that Estremadura was one of the people who punched him [37] which statement was reiterated in his testimony in open court. [38]

It was not only the victim who directly and positively identified Estremadura as one of his attackers. Prosecution eyewitness Alialy likewise identified petitioner as one of the perpetrators of the crime. [39] Categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over the defense of denial. Petitioners were positively and categorically identified by the witnesses and they were unable to prove that the prosecution witnesses were moved by any consideration other than to see that justice is done. Thus, the presumption that their testimonies were not moved by any ill will and bias stands, and, therefore, their testimonies are entitled to full faith and credit. [40]

To establish conspiracy, it is not essential that there be proof of the previous agreement and decision to commit the crime, it being sufficient that the malefactors acted in concert pursuant to the same objective. [41] The court a quo found that there was conspiracy among the petitioners. The record supports that finding. After challenging the victim to a fight, Joselito went towards their lugawan stall while being chased by the victim. When Baldomar saw what was happening he asked the victim what the problem was. The latter vented his ire on Baldomar and tried to attack him. His fellow petitioners came to his aid by mauling the victim. Not only was the victim punched by the malefactors, he was also kicked. Clearly, there was unity of design and purpose. Thus, petitioners are equally liable for the crime of slight physical injuries. In conspiracy, the act of one is the act of all. [42]

It is well-settled that an appeal in a criminal case opens the whole case for review. This Court is clothed with ample authority to review matters, even those not raised on appeal, if we find them necessary in arriving at a just disposition of the case. [43]

Article 266 of the Revised Penal Code [44] provides:

"ARTICLE 266. Slight physical injuries and maltreatment. — The crime of slight physical injuries shall be punished:

1. By arresto menor when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period;
2. By arresto menor or a fine not exceeding 200 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical attendance;
3. By arresto menor in its minimum period or a fine not exceeding 50 pesos when the offender shall ill-treat another by deed without causing any injury."

We find that petitioners were correctly convicted of slight physical injuries. However, considering that there is no showing that the victim was incapacitated from carrying out his habitual work after the injury, [45] they should have been sentenced to the penalty of arresto menor or a fine not exceeding two hundred pesos (P200.00) and censure for the crime of slight physical injury punishable under paragraph 2, Article 266 of the RPC. Notwithstanding the above, We are in accord with the penalty imposed by the court a quo, i.e., ten (10) days of imprisonment, as it is within the duration of arresto menor, [46] and see no reason to modify the same.

All told, We find that the prosecution has discharged its burden of proving the guilt of petitioners beyond

reasonable doubt.

WHEREFORE, the instant appeal is DENIED. Accordingly, the Decision of Branch 57, Regional Trial Court of Makati City dated 03 January 2012, is hereby AFFIRMED.

SO ORDERED.

Bato, Jr., (Chairperson) and [1]Peralta, Jr., JJ., concur.

[1] Vice J. Maria Elisa Sempio Diy, per Office Order No. 405-14-RSF dated 30 September 2014.

[2] Rollo of CA-G.R. CR No. 35205, pages 03 to 19 and 78; also as corrected, Id. at 75 to 78; "Petition," for brevity.

[3] Rollo of CA-G.R. SP No. 126799, pages 09 to 32.

[4] Rollo of CA-G.R. CR No. 35205, pages 20 to 21 and Rollo of CA-G.R. SP No. 126799, pages 40 to 41.

[5] "MeTC," for brevity.

[6] "Joselito," for brevity.

[7] "Dennis," for brevity.

[8] "Baldomar," for brevity.

[9] "Batara," for brevity.

[10] "Estremadura," for brevity.

[11] Rollo of CA-G.R. SP No. 126799, page 59.

[12] "The victim," for brevity.

[13] "Dr. Sanchez," for brevity.

[14] "Alialy," for brevity.

[15] "Rolando," for brevity.

[16] "De la Torre," for brevity.

[17] Decision of the MeTC; Rollo of CA-G.R. CR No. 35205, page 34 and Rollo of CA-G.R. SP No. 126799, page 62.

[18] Rollo of CA-G.R. CR No. 35205, pages 33 to 38 and Rollo of CA-G.R. SP No. 126799, pages 61 to 66.

[19] Rollo of CA-G.R. CR No. 35205, page 38 and Rollo of CA-G.R. SP No. 126799, page 66.

[20] Memorandum of petitioner Estremadura and Appellant's Memorandum for petitioners Joselito, Dennis, Baldomar, and Batara; Rollo of CA-G.R. SP No. 126799, pages 70 to 84 and 85 to 99, respectively.

[21] Rollo of CA-G.R. CR No. 35205, pages 20 to 21 and Rollo of CA-G.R. SP No. 126799, pages 40 to 41.

[22] Rollo of CA-G.R. CR No. 35205, page 21 and Rollo of CA-G.R. SP No. 126799, page 41.

[23] Rollo of CA-G.R. CR No. 35205, pages 22 to 31.

- [24] Rollo of CA-G.R. SP No. 126799, pages 42 to 48.
- [25] Rollo of CA-G.R. CR No. 35205, page 32 and Rollo of CA-G.R. SP No. 126799, page 49.
- [26] Rollo of CA-G.R. SP No. 126799, pages 165 to 166.
- [27] Rollo of CA-G.R. CR No. 35205, page 08.
- [28] Rollo of CA-G.R. SP No. 126799, pages 16 to 17.
- [29] Rollo of CA-G.R. CR No. 35205, page 11.
- [30] People vs. Dejillo, G.R. No. 185005, 10 December 2012.
- [31] People vs. Dadao, G.R. No. 201860, 22 January 2014.
- [32] See People vs. Pacia, G.R. No. L-69543, 14 June 1990.
- [33] Rollo of CA-G.R. SP No. 126799, page 53.
- [34] Domingo vs. Colina, G.R. No. 173330, 17 June 2013.
- [35] People vs. Agliday, G.R. No. 140794, 16 October 2001.
- [36] Rollo of CA-G.R. SP No. 126799, pages 50 to 52.
- [37] Id. at 50.
- [38] Rollo of CA-G.R. CR No. 35205, pages 34 and Rollo of CA-G.R. SP No. 126799, page 62.
- [39] Rollo of CA-G.R. CR No. 35205, page 35 and Rollo of CA-G.R. SP No. 126799, page 63.
- [40] People vs. Combate, G.R. No. 189301, 15 December 2010.
- [41] People vs. Dacillo, G.R. No. 149368, 14 April 2004.
- [42] People vs. Nazareno, G.R. No. 196434, 24 October 2012.
- [43] People vs. Racho, G.R. No. 186529, 03 August 2010.
- [44] "RPC," for brevity.
- [45] People vs. Gemoya, G.R. No. 132633, 04 October 2000.
- [46] Art. 27 of the RPC provides:
- Art. 27. Arresto menor. — The duration of the penalty of arresto menor shall be from one day to thirty days.

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