

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIANO AGLIGAR ALIAS “ANOG” AND MELVIN MAGNO ALIAS “KOKOK”, ACCUSED-APPELLANTS, AND JONEY LOREDO ALIAS “DONAY”, ACCUSED.

Ponente: AZCARRAGA-JACOB, J.

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AZCARRAGA-JACOB, J.:

Before Us is an appeal from the Decision dated 04 June 2008 of the Regional Trial Court (RTC) of P.D. Monforth North, Dumangas, Iloilo, Branch 68, in Criminal Case No. 00-1233 convicting accused-appellants Mariano Agligar alias “Anog” and Melvin Magno alias “Kokok” of the crime of Homicide.

THE ANTECEDENTS

On 18 July 2000, appellants Mariano Agligar alias “Anog” and Melvin Magno alias “Kokok” together with co-accused Joney Loreda alias “Doney” were charged with the crime of murder with the use of unlicensed firearm in the following Information[1]:

That on or about the 16[th] day of January 2000, in the Municipality of Janiuay, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, armed with an unlicensed firearms of unknown caliber, conspiring, confederating and helping one another, with intent to kill, by means of treachery, with the use of superior strength and number and with evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and shoot ANICETO SILUBRICO, with the said firearms they were then provided at that time, hitting him and causing upon him gunshot wounds on his body which caused his death thereafter.

CONTRARY TO LAW.

Appellants, together with accused Loreda pleaded not guilty when they were arraigned on 21 April July 2001. A pre-trial was conducted on 25 September 2001, and the trial followed thereafter.

Quoted hereunder is the trial court's recital of facts based on the evidence presented:

EVIDENCE FOR THE PROSECUTION

The prosecution presented four (4) witnesses, namely: Nicasio Botin, NBI, Region VI. Iloilo City, Rolando Casipe, Chief of Police of Janiuay, Sr. Inspector Eugenio Espejo and Alberto Soriaso. As synthesized from the testimonies of prosecution witnesses, the following are established facts:

At about 6:00 o'clock in the evening of 16 January 2000, Alberto Soriaso arrived at barangay proper of Barangay Abangay, Janiuay, Iloilo. He inquired at the storeowner if they had seen Aniceto Silubrico alias “Nesing”. Somebody at the store pointed the house of Rolando Casipe where his relative “Nesing” was at the time. He then proceeded to said house and upon arrival thereat, he saw three (3) persons in the yard having a drinking spree. He inquired from the three if Anecito Silubrico was there. Then, Anecito appeared at door. Upon seeing him, he invited Alberto Soriaso to come inside and thereafter, offered him a seat. Alberto brought

the matter of his intention of meeting Aniceto. Aniceto later introduced Alberto to Rolando Casipe and to the three who were drinking then outside the house. Thus, the three informed Alberto that they were Mariano Agligar, Joner Loreda and Melvin Magno. Alberto saw each of them having a gun tacked in their waistline.

When Aniceto saw that the liquor is not enough for the (sic) them (sic). He pulled out his wallet with bundles of money from his pocket and instructed Mariano to buy another liquor. The three invited Alberto to join them but the latter refused instead he told the three that he would just join Aniceto because he had an important matter to talk to him.

At about 7:00 o'clock in the evening, more or less, Alberto saw Mariano, Joney and Melvin stood up and hurriedly went out of the yard heading (sic) west. The three were also seen by Rolando Casipe who was then inside the house keeping an eye on them. Rolando told Aniceto [of] the departure of the three. He [was] also told by Alberto to go home and together they went home also. Aniceto hurried up to catch up with the three so that he may have companions in going home.

When they were able to catch up with the three, Aniceto asked the three why they were still here and Mariano answered him that they were waiting for him so that he would have companions in going home. This conversation was heard by Alberto Soriaso who was listening at (sic) them while the four (4) were heading towards Aniceto's residence. Alberto while following them, had later changed his direction towards the highway as he would be going home to Cabatuan, Iloilo.

After five (5) minutes or less, Alberto heard two (2) gun fires coming from the direction where Aniceto and three (3) companions were heading. He did not mind the gun fires, but instead proceeded to the highway to catch up with the vehicle in going to Cabatuan.

On the following morning of 17 January 2000, Alberto while at his house at Barangay Talanghawan, Cabatuan, Iloilo was informed by Anecito's daughter that the latter was found dead at the rice paddles in their place with gunshot wounds.

On 26 July 2000, upon the request to conduct an autopsy on the cadaver [of] Aniceto Silubrico, by Chief Inspector Eugenio Espejo, PNP, Janiauy, Iloilo, Dr. Nicasio Botin, Medico-Legal Officer, NBI WEVRO, Iloilo City conducted an autopsy on the cadaver of Aniceto Silubrico at Dionil's Funeral Parlor at Janiauy, Iloilo. [The following is the result of the autopsy]

AUTOPSY REPORT NO. 2000-NO-02

Decedent: Anecito Silubrico y Pallada, 62 years old, Male, Malay, Filipino, Married, Businessman, a resident of Brgy. Abangay, Janiuay, Iloilo.

Identified by : RUBY SILUBRICO Y PAJARILLA, Daughter, Brgy. Abangay, Janiuay, Iloilo.

Found dead at Brgy. Abangay, Janiuay, Iloilo, January 17, 2000, 7:00 A.M.

Allegedly resulting from shooting, Brgy. Abangay, Janiuay, Iloilo, January 16, 2000, 7:15 P.M.

Autopsied at Dionil's Funeral Parlor, Janiuay, Iloilo, January 20, 2000, 1:35 P.M., 148.0cms.

Requesting Party: CINSP EUGENIO A ESPEJO, Chief of Police, Janiuay, Iloilo.

POSTMORTEM FINDING

Body embalmed.

Contused abrasion, abdomen, (sic) hypochondriac region, right, 1.8 x 2.2 cms.

Shotgun wounds:

1. Entrance, 1.5 x 4.8 cms., sutured, edges contused and inverted, located at the neck, right side, upper portion, 4.0 cms. Behind and 3.0 cms. Below the right external auditory meatus directed slightly upward and forward, and from right to left, involving the skin and underlying soft tissues fracturing comminutely the middle and posterior cranial bases, with radiating linear fracture on the frontal and parietal bones, lacerating the cerebellar hemispheres and the brainstem, wherein one (1) plastic wad and four (4) pellets were lodged and recovered, the making two(2) points of Exits, edges irregular and everted 2.0 x 2.8 cms. At the cavum conchae of the left ear, and .5 x 3.5 cms., sutured, located at the postauricular region, 1.5 cms. below and 1.5 cms. behind the left external auditory meatus.

2. Entrances, nine (9) in number with sizes ranging from 0.8 x 0.9 cm. to 1.0 x 1.2 cms., within an area of 11.8 x 19.5 cms., located at the chest and abdominal area; highest is 113.0 cms. and lowest is 101.0 cms. from the left heel; farthest to the right is 12.0 cms. from the anterior median line and to the left is 8.0 cms. from the anterior median line, generally directed backward, slightly downward and laterally; involving among others the ribs, costal cartilages, heart, right lobe of the liver, lower and middle lobes of the right lung, the intestines and the right kidney; then making nine (9) points of Exits, edges everted with sizes ranging from 0.5 x 1.2 cms. to 0.8 x 2.2 cms. right infrascapular region and lumbar region, highest is 103.5 cms. and lowest is 91.5 cms. from the left heel; farthest to the right is 14.0 cms. and to the left of the posterior median line is 5.0 cms.

CAUSE OF DEATH: Shotgun Wounds.

Scalp hematoma: frontal region, right sides; temporo-occipital region, right, temporal region, left.

Other visceral organs, pale.

Stomach, almost full with noodles and other food particles.

Remarks: Five (5) pellets allegedly recovered by the embalmers from shotgun wound # 2

One (1) plastic wad and four (4) pellets were recovered by the undersigned Medico-Legal Officer from shotgun wound #1.

NICASIO M. BOTIN, M.D.
Medico-Legal Officer
NBI, WEVRO, Iloilo City

Dr. Botin testified that when [he] examined the nature of the wound in the body of Aniceto Silubrico he recovered pellets therein. He declared that the firearm used was a shotgun although he has no scientific basis whether or not it was a short or long homemade shotgun. When asked by Prosecutor Frank Divinagracia if how many persons could have inflicted the wounds on the victim Aniceto Silubrico, he said that it is possible that they can be more or less two persons. As regards the first gunshot wound he testified that [the] relative position of the assailant could have been slightly right behind the victim at a distance of four (4) feet. While the no. 2 gunshot wounds (sic), the assailant could have been in front slightly to the left of the victim at a distance of six (6) to seven (7) meters. Both gunshot wounds are fatal and could cause the immediate or instantaneous death of the victim. Gunshot wound no. 1 involves brainstems as it controls the vital function of the body. If it is destroyed, it would produce instantaneous death.

EVIDENCE FOR THE DEFENSE

Defense presented the following witnesses, namely: Accused Mariano Agligar, Rogelio Lasanas Acollador, Alex Solinap, Wilfredo Caputli, Accused Melvin Magno and Joney Loredo.

FOR MARIANO AGLIGAR:

On January 16, 2000, in the morning, Mariano Agligar claimed that he was at the time in Barangay Abangay, Janiuary, Iloilo. Even at 4:00 o'clock in the afternoon of that day, he went to the house of Barangay Kagawad Rogelio Acollador to drink liquor and watching (sic) basketball game over the television set. After the basketball game was completed, he went home at 10:30 o'clock in the evening, together with his wife and son. In that evening, his wife and son had fetched him from the house of Barangay Kagawad Acollador.

On the following day (January 17, 2000), while he was grazing his carabao, somebody passed by and [he] heard about the news that Aniceto Silubrico was already dead.

When confronted by the testimony of Rolando Casipe by counsel Atty. Mandelvin Dadivas, that he and companions Joney Loredo and Melvin Magno were having a drinking spree at his (Rolando Casipe) house on January 16, 2000, he denied the same, insisting [that] there was no drinking spree and he was not together with aforesaid persons. He even denied that he was seen with the two for whole month of January, 2000.

He also denied that he heard the news that he is one of the suspect in the killing of Anecito Silubrico. While he denied having [been] arrested by the police, he admitted that he was invited by the police officers to the police station. When they arrived at the police station, he was placed inside the lock-up cell. He asked the policemen why they locked him up in the cell but the policemen told him to stay inside the cell. While he was detained one and a half months in jail, he never asked them why they placed him inside the jail. Ultimately, he asked the policemen but was told to face the charge because he was one of the suspects in the killing of Anecito Silubrico.

While his co-accused Joney Loredo and Melvin Magno considered them as his friends, he did not meet them as oftentimes. However, he admitted that the two lived at the adjoining Barangay Magbato, Lumbunao, Iloilo. If there were no occasions to meet, each of them stayed at their respective place.

He had known Joney Loredo a long time as he is a farm worker in a farm at his barangay. He also knew Melvin Magno for quite a time for the latter's barangay is adjacent to his barangay. Melvin's parents have (sic) also a farm which is being tilled by Melvin.

Barangay Kagawad Rogelio Acollador was presented to corroborate accused Mariano Agligar's testimony that he was in his house at Barangay Abangay, Janiuary, Iloilo at 4:00 o'clock in the afternoon of January 16, 2000, until 10:00 o'clock in the evening when Mariano was fetched by his wife and son. He and Mariano Agligar had a drinking spree and Mariano never left his house until 10:00 o'clock in the evening.

FOR MELVIN MAGNO:

Accused Melvin Magno testified that on January 16, 2000, he was at the house of his uncle Alex Solinap at Barangay Kuto, Lambunao, Iloilo for almost a year now since the incident [happened] wherein he was a suspect (sic) happened. He was asked by their (sic) uncle to help him cultivate his farm. Prior to the incident, he was living at Barangay Magbato, Janiauy, Iloilo which adjoins his barangay in Lambunao, Iloilo. Last January, 2000, he was not able to return to the house of his mother.

He knew the person of Aniceto Silubrico because the latter's barangay (Magbato) adjoins his Barangay Kuto in Lambunao, Iloilo. He knew that Aniceto is a farmer by occupation. While he does not know when Aniceto died, he never attended his burial. On May 31, 2000, he was arrested by the police who presented to him the warrant of arrest with the named "Koko" referring to him as the person mentioned therein. He was surprised that the police grabbed and handcuffed and brought him to the police station. He was suspected as one of the persons who killed Aniceto Silubrico.

To corroborate the testimony of accused Melvin Magno, Alex Solinap testified that accused Melvin Magno was staying with him prior to July 16, 2000 and during July 16, 2000 at his house situated at Barangay Kuto, Lambunao, Iloilo; that the accused was helping him in cultivating his farm and never left his house on July 17, 2000. He heard that on July 17, 2000, Aniceto Silubrico died; and that Melvin Magno never participated in the killing of Aniceto Silubrico.

FOR ACCUSED JONEY LOREDO

Accused Joney Loredó claimed that he was at their house in the day of January 16, 2000. His house was located at Barangay Magbato, Lambunao, Iloilo. He was with his family and certain Bebot whose name is Wilfredo Caputli whom he helped to do a carpentry work. He was not related by blood to Bebot but his wife is his first cousin. Wilfredo worked at his house the whole day of July 16, 2000 repairing his kitchen and left his house at 9:00 o'clock in the evening as they had a drinking spree after work. After Wilfredo Caputli left, he went to sleep and never left his house. He know (sic) Mariano Agligar but never meet (sic) him. Mariano Agligar's house is situated at Barangay Abangay, Janiuay, Iloilo which adjoins his (sic) Barangay Cuto in Lambunau, Iloilo. He denied also having met the victim Aniceto Silubrico on July 16, 2000. He knew Rolando Casipe as his neighbor, a resident of Barangay Abangay, Janiuay, Iloilo.

Accused Joney Loredó's testimony was corroborated by Wilfredo Caputli. He testified that he was doing carpentry work at the house of accused Joney Loredó repairing the latter's kitchen in Barangay Cuto, Lambunao, Iloilo which adjoins Barangay Abangay, Janiuay, Iloilo. He stayed at Loredó's house until 10:30 o'clock in the evening of July 16, 2000 after he had a drinking spree with accused Loredó who never left his house until he left home at 10:30 o'clock in the evening.

THE TRIAL COURT'S RULING

After trial, the court a quo rendered the assailed decision finding the appellants Agligar and Magno, and their co-accused Loredó guilty of homicide. They were convicted on the basis of the following circumstantial evidence, which We quote from the decision:

1. Prosecution witness Rolando Casipe testified that a week before the incident of the killing of Aniceto Silubrico accused Mariano Agligar had visited him at his farm at Barangay Abangay, Janiuay, Iloilo and proposed to him the plan to kill Aniceto Silubrico which he thought to be a joke at the time when the proposal was made to him. (Exhibit "E"-Affidavit of Rolando Casipe). The accused had proposed his plan to him because he knew that Aniceto Silubrico had a big capital and every time Aniceto went home he always dropped at Rolando's house and drank "tuba" and thereafter, went home;
2. Rolando Casipe testified [that] in the afternoon of January 16, 2000, that (sic) three (3) accused Mariano Agligar, Joney Loredó and Melvin Magno were drinking liquor together with Aniceto Silubrico at his yard at Barangay Abangay, Janiuay, Iloilo; he had seen the three with firearms of unknown caliber tacked at their respective waist. This was corroborated by another prosecution witness Alberto Soriaso who happened, to have met and was introduced to the three accused at Rolando Casipe's house;
3. Later, Alberto Soriaso, the relative of the victim, arrived at the house of Rolando Casipe looking for Aniceto Silubrico with whom he has to bring up an important matter. He was introduced to the three accused whose individual waist[s] was (sic) bulging with firearms;
4. When the three accused left the yard of Rolando Casipe, after drinking, Alberto Soriaso told his cousin Aniceto Silubrico that [the] three had left, and saw Aniceto Silubrico followed them. While the three left, Alberto saw the firearms were tacked at their respective waist;

5. At a junction, Alberto had separated from the four and went to the highway, in going home to Cabatuan, Iloilo. After five (5) minutes while waiting for the vehicle he heard two (2) gunfires but he did not mind it and proceeded home later. The two successive gunshots were also confirmed by Rolando Casipe who heard the gunshots after ten (10) minutes when the five (5) left his yard;

6. While inside at his house, Rolando Casipe saw that Mariano Agligar, Joney Loredó and Melvin Magno left his yard after drinking at about 6:00 o'clock in the evening of January 16, 2000. he informed Aniceto Silubrico, who later followed the three (3) together with his relative Alberto Soriaso. Rolando Casipe and Alberto Soriaso heard Aniceto Silubrico asked the three why they will (sic) still at vicinity of the house, and they answered Aniceto that they were waiting for him to conduct home;

7. Rolando Casipe after ten (10) minutes when the five (5) left his yard heard gunshots. He heard in the morning of the following day that Aniceto Silubrico died of gunshot wounds;

8. Alberto Soriaso was informed in (sic) the next morning at his house at Cabatuan, Iloilo, that his relative Aniceto Silubrico had died of gunshot wounds.

The decretal portion of the appealed decision rendered by the court a quo, states:

WHEREFORE, in view of the foregoing, the Court finds the three (3) accused Mariano Agligar alias “Anong”, Joney Loredó alias “Donay” and Melvin Magno alias “Kokok” GUILTY beyond reasonable doubt of the crime of Homicide and imposes each of them to suffer an indeterminate penalty of imprisonment from ten (10) years to one (1) day as prison mayor maximum as minimum to seventeen (17) years and four (4) months of reclusion temporal maximum as maximum. The three (3) accused are likewise ordered to pay solidarily the heirs of the victim the sum of P50,000.00 representing the civil indemnity for the death of the victim and moral damages in the amount of P50,000.00. All accused are ordered to pay the costs.

SO ORDERED.[2]

Aggrieved by the verdict, appellants interposed this appeal.

THE ISSUES

In their Brief, appellants fault the trial court with the following assignment of errors:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS NOTWITHSTANDING THE INSUFICIENCY OF THE CIRCUMSTANTIAL EVIDENCE PRESENTED BY THE PROSECUTION.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANTS DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

THIS COURT'S RULING

We find the circumstantial evidence adduced not sufficient to support a finding that appellants were guilty beyond reasonable doubt of homicide.

True, that in the absence of direct proof, a conviction may be based on circumstantial evidence,[3] but to warrant such conviction, the following requisites must concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[4]

A judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proven constitute an unbroken chain leading to one fair and reasonable conclusion, to the exclusion of any other, that the accused are guilty. The circumstances proved must be concordant with each other, consistent with the hypothesis that the accused are guilty and, at the same time, inconsistent with any hypothesis other than that of guilt.[5] As a corollary to the constitutional precept that the accused is presumed innocent until the contrary is proved, a conviction based on circumstantial evidence must exclude each and every hypothesis consistent with his innocence.[6]

In the instant case, the nexus that connects appellants to the killing was the fact that they were the last persons seen together with the victim. It may be argued that their presence gives rise to the suspicion that the appellants were the author thereof but this circumstance alone is insufficient to establish their guilt.[7]

The Supreme Court, in a plethora of cases has been consistent that the fact that the accused was the last person seen with the victim does not necessarily prove that he killed the victim.

In *People v. Mijares*,[8] it ruled that:

"That the appellant was the last person seen with the victim on the night she disappeared does not necessarily prove that he killed her. It was not established that appellant and the victim were together until the crime was committed. It was not even shown that the appellant proceeded to the crime scene, either by himself or together with the victim.

Likewise, the fact that the slippers which appellant borrowed from Elizabeth Oglos were found near the victim's dead body does not necessarily prove that he was the perpetrator of the crime. Even if we were to conjecture that appellant went to the locus criminis and inadvertently left them there, such supposition does not necessarily imply that he had committed the crime. Indeed, it was not established whether appellant went to the place before, during or after the commission of the crime, if at all. Moreover, the prosecution has not ruled out the possibility that the slippers may have been brought by another person to the crime scene, precisely to implicate him and thus exonerate the real culprit. Clearly, several antithetical propositions may be inferred from the presence of the slippers at the crime scene, and appellant's guilt is only one of them."

In *People v. Ragon*,[9] the trial court convicted appellant of murder, based on these circumstances: he and his companions were the last persons seen with the victim, and the cap worn by Ragon's companion was found beside the victim's dead body. x x x However, Supreme Court found that the circumstantial evidence presented did not conclusively point to Ragon as the perpetrator of the murder. The presence of the cap of Ragon's companion beside the dead body only proved that said person, not necessarily Ragon himself, was at the locus criminis. That such cap was found in the vicinity of the crime scene did not necessarily imply that the accused killed the victim.

The case of *People v. Boneo*[10] recounts a fisherman who was last seen alive with the Boneo brothers. He accompanied the brothers out to sea late at night to get an animal he was supposed to buy from the other side of the shore. He was found dead and the P3,000.00 he was carrying gone. The Supreme Court waxed poetic when it declared - 'This rule must be observed with more rigor where the evidence of the prosecution is merely circumstantial, as in the case at bar. While this is not to say that this kind of evidence will never be sufficient to convict, it does mean that it must be especially persuasive if it is to still, as it must, every whisper of doubt that the accused is not innocent. Absent conclusive proof of his guilt, the prisoner must be released and purged of all the stigma of the charge upon his head.'

On the strength of the above-quoted jurisprudential pronouncements, the circumstances recited by the trial court, were insufficient to create in the mind of the Court a moral certainty that appellants were the one responsible for the commission of the crime. Consequently, the case of the prosecution has been reduced to nothing but mere suspicions and speculations. It is hornbook doctrine that suspicions and speculations can never be the basis of

conviction in a criminal case.[11] Courts must ensure that the conviction of the accused rests firmly on sufficient and competent evidence, and not the results of passion and prejudice.[12]

Furthermore, there is no testimony as to the death of the victim, but only a general medico-legal explanation that the victim suffered two gunshot wounds which were fatal and caused the immediate or instantaneous death of the victim. The prosecution was not able to conclusively establish the shotgun used other than the bare testimony of prosecution witnesses that they saw the appellants and co-accused Loredó had guns tucked in their waistline. There was no other proof linking that the gun used in killing the victim was that of the appellants.

The prosecution likewise tried to prove that appellant Mariano Agligar planned to rob the victim. However, no evidence was ever introduced that the victim's wallet was lost or that appellants had the wallet in their possession at any time after the victim's death.

The circumstances recited by the trial court might be enough to create some kind of suspicion on the part of the trial court of appellants' involvement, but suspicion is not enough to warrant conviction. A finding of guilt based on conjecture, even if likely, cannot satisfy the need for evidence required for a pronouncement of guilt, i.e., proof beyond reasonable doubt of the complicity in the crime.[13] No matter how weak the defense is, it is still imperative for the prosecution to prove the guilt of the accused beyond reasonable doubt. The evidence for the prosecution, must at all times stand or fall on its own weight and it cannot be allowed to draw strength from the weakness of the defense.[14] An accused has the right to be presumed innocent, and this presumption prevails until and unless it is overturned by competent and credible evidence proving his guilt beyond reasonable doubt.[15] In case of any reservation against the guilt of accused, the Court should entertain no other alternative but to acquit him.

It is apropos to repeat the doctrine that an accusation is not, according to the fundamental law, synonymous with guilt; the prosecution must overthrow the presumption of innocence with proof of guilt beyond reasonable doubt.[16]

Trial courts, as trier of facts, are bound by the hard and fast rule in evidence that before there can be conviction based on circumstantial evidence, the circumstances proved must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the defendant, to the exclusion of all others, as the authors of the crime.[17]

On the whole then, the facts from which the inference that the appellants committed the crime were not proven. The totality of the prosecution evidence does not constitute an unbroken chain leading, beyond reasonable doubt, to the guilt of the appellants. Accordingly, the evidence of the prosecution casts serious doubts as to the guilt of the appellants. It does not pass the test of moral certainty and is insufficient to rebut the presumption of innocence which the Bill of Rights guarantees the accused.

Appellant's co-accused Joney Loredó alias "Donay" must also be acquitted. Pursuant to Section 11(a) of Rule 122 of the Rules of Court and in the light of the rulings in the cases of *People v. Rugay*[18] and *People v. Arterlerro*,[19] an appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellant court is favorable and applicable to the latter.

In this case, only appellants Mariano Agligar and Melvin Magno questioned the decision of the trial court. However, the evidence against and the conviction of both appellants and Joney Loredó are inextricably linked especially in the light of the trial court's finding that conspiracy existed and attended the killing of the victim. Hence, appellants' acquittal, which is favorable and applicable to their co-accused Joney Loredó, should benefit the latter.

WHEREFORE, the appeal is GRANTED. The assailed Decision dated 04 June 2008 of the Regional Trial Court (RTC) of P.D. Monforth North, Dumangas, Iloilo, Branch 68, in Criminal Case No. 00-1233 is REVERSED and SET ASIDE.

Appellants Mariano Agligar alias “Anog”, Melvin Magno alias “Kokok” and their co-accused Joney Loredó alias “Donay” are ACQUITTED based on insufficiency of evidence and reasonable doubt.

Consequently, their immediate release from confinement is ORDERED unless they are detained for any other lawful or valid cause.

No pronouncement as to costs.

SO ORDERED.

Ingles,[*] and Quijano-Padilla, JJ., concur.

[*] Acting Chairman per Office Order No. 14-14-GTI dated 26 June 2014 vice Justice Hernando.

[1] Record page 1.

[2] Rollo, page 73.

[3] *People v. Yip Wai Ming*, 264 SCRA 224, 243, 14 November 1996.

[4] *People v. Ragon et. al.*, G.R. No. 100593, *People v. De Guzman*, 250 SCRA 118, 16 November 1995.

[5] *People v. Adofina*, 239 SCRA 67, 76-77, 08 December 1994; *People v. Tiozon*, 198 SCRA 368, 19 June 1991.

[6] *Supra* note 3.

[7] *People v. Asis, et. al.*, G.R. No. 142531, 15 October 2002.

[8] 297 SCRA 520 [1998].

[9] G.R. No. 100593, 18 November 1997.

[10] 174 SCRA 612 (1989).

[11] *People v. Cuadro*, G.R. No. 124704, 22 February 2001, 352 SCRA 537.

[12] *People v. Francisco*, G.R. Nos. 135201-02, 15 March 2001, 354 SCRA 475.

[13] *Arce v. People*, G.R. No. 125857, 20 March 2002, 379 SCRA 583.

[14] *People v. Cañete*, G.R. No. 138400, 11 July 2002.

[15] *People v. Julian*, G.R. No. 142774, 03 July 2002.

[16] *People v. Baulite, et. al.*, G.R. No. 137599, 08 October 2001; citing *People v. Dismuke*, 234 SCRA 51, 61 [1994]; citing *People v. Dramayo*, 149 Phil. 107 [1971]; *People v. Garcia*, 215 SCRA 349 [1992].

[17] *People v. Conrado de la Cruz, et. al.*, G.R. Nos. 90907-12, 07 August 1991; citing *People v. Tolentino*, 166 SCRA 469 [1988]; *People v. Torre*, 184 SCRA 525 [1990]; citing *People v. Colinares*, 163 SCRA 313 [1988]

[18] G.R. Nos. 113026-27, 02 July 1998.

[19] G.R. No. 129211, 02 October 2000; cf. Crisostomo v. Sandiganbayan, G.R. No. 152398, 14 April 2005.

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