

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REY CRUZA Y BAUIO, JOEMARIE PALMAREZ Y PAGDATU, JIMMY PALMAREZ Y PAGDATU AND GARRY PADRE-E Y PALLORE, ACCUSED-APPELLANTS.

G.R. No. 104527. October 07, 1994

Ponente: CRUZ, J.

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CRUZ, J.:

The basic question before the Court is whether the appellants actively participated in the killing of Canuto Natividad by Arnold Fuentes on July 10, 1991. The trial court convicted them as conspirators in the commission of the crime, but they continue to contend that they were mere spectators.

The incident occurred at about 11:00 o'clock in the evening of the said date at Barangay Mapulang Lupa, Valenzuela, Metro Manila.[1] The evidence of the prosecution showed that Fuentes drove his truck into, and damaged, the gate of the lot owned by Canuto, resulting in an exchange of words between the two.[2] Fuentes left in a rage but returned minutes later with Rey Cruza, Roy Cruza, Joemarie Palmarez, Jimmy Palmarez and Garry Padre-e. These five persons approached Canuto from behind and started mauling him. Fuentes struck at him twice with a bladed weapon but missed. Afterwards, his four companions held Canuto's arms to render him defenseless, and Fuentes then succeeded in stabbing him in the abdomen.[3] Rey Cruza was heard to say: "Pare, saksakin mo na!"[4] and later Roy Cruza exclaimed: "Pare, takbo na, napuruhan mo na!"[5] The five ran away, but Fuentes was overtaken by the townspeople who had witnessed the incident. They hacked him to death. Canuto also expired that same night.[6] The other four assailants were subsequently found hiding under a bulldozer in the JPL trucking compound where they were employed.[7] Roy Cruza disappeared completely and remains at large to date.

After investigation, an information was filed against the afore-named companions of Fuentes but, before arraignment, the prosecution moved for a reinvestigation of the case. The trial court granted the motion. Subsequently, State Prosecutor Rafael Señora recommended the dropping of the charges against Joemarie and Jimmy Palmarez for lack of evidence. Second Assistant City Prosecutor Bayani M. Jamias moved for the dismissal of the charge against all the accused on the ground that there was no showing of a conspiracy among them. However, Judge Teresita Capulong of the Regional Trial Court of Valenzuela denied the motion and proceeded with the trial.[8]

The prosecution presented three witnesses, namely: Teodulo Natividad, Canuto's son, Rosauro Arsala and Tony Go, both neighbors. All three of them described the incident as above narrated.[9] They identified the four accused as the persons who, together with Rey Cruza, assisted Fuentes in attacking and killing Canuto.[10] There was no difficulty in recognizing the accused because the place where the offense was committed was well lighted at the time.[11]

For the defense, three of the accused testified, to wit: Joemarie Palmarez, Garry Padre-e and Rey Cruza. All of

them declared that they had been requested that night by Fuentes to help him push his truck, which had stalled at the gate of the victim's lot. They said that they then proceeded to the place as requested but as they were about 10 meters away, they saw Fuentes arguing with a fat man, whom they later identified as Canuto Natividad. The argument deteriorated into a scuffle, resulting in the stabbing of Canuto by Arnold, who thereafter fled. He was chased by the townspeople and beaten to death by them. Frightened that they might be implicated, they all ran to the JPL trucking compound, where they were arrested later by the police.[12]

After assessing the evidence of the parties, the trial court convicted the accused as charged and imposed on each of them the penalty of reclusion perpetua and all the accessory penalties, besides holding them solidarily liable in civil indemnity to the victim's heirs in the amount of P50,000.00, plus the payment of the costs.[13]

Joemarie Palmarez, Jimmy Palmarez and Garry Padre-e all appealed the decision in due time. Rey Cruza did not. But in a motion filed later, he submitted a brief and moved that it be admitted, claiming that he could not file the appeal on time "because he was so terribly shocked by the penalty of reclusion perpetua and almost lost faith in the administration of justice because he believed in his innocence of the crime charged as his only intention on that night of the incident in question to help Fuentes remove the truck." [14]

The motion should, of course, be denied. We deal here only with the appeal filed on time by the other accused.

It is settled that factual questions as resolved by the trial court on the basis of the evidence before it are not subject to review by this Court.[15] There are several accepted exceptions to this rule but none of them has been established in this case. The resolution of such questions will therefore not be disturbed in this appeal.

We acknowledge the superior competence of the trial court to assess the testimonies of the witnesses because of its opportunity to observe their deportment on the stand and determine therefrom whether they are telling the truth or falsifying it.

We are convinced with the trial court that the four accused went with Arnold Fuentes that night to help him attack Canuto Natividad. The three prosecution witnesses testified to seeing them gang up on the victim and restrain his arms to enable Fuentes to strike the blow that resulted in the former's death.

There is no plausible reason why these three witnesses should lie under oath and implicate the accused, whom they hardly knew. If they testified as they did, the explanation could only be that they really saw and heard the accused as they attacked and killed Canuto and then fled together even as the townspeople pursued them.

The Court finds it hard to believe that the accused were 10 meters away from the scene of the crime when it was committed, in light of the testimony of the prosecution witnesses that actually placed them at the scene of the crime and showed that they actively aided Fuentes in killing Canuto. Significantly, the defense has not explained why, if they were really that far away from the locus criminis, they should feel threatened and frightened into running away and hiding themselves under a bulldozer in the compound. That is curious conduct indeed. We have stressed often enough that unexplained flight, as in this case, is evidence of guilt.

The appellant's brief also focuses on the statement of the trial court that the appellant mauled Canuto and suggests that this proves lack of conspiracy to kill. It is argued that the object apparently of the parties - if indeed they were involved in the attack against Canuto - was merely to maul and not to murder him.

In so arguing, the defense disregards the basic rule in criminal law that a person is responsible for all the consequences of his unlawful act although such consequences were not the ones originally intended.[16] Even if it be assumed that the real intention of the accused was only to maul and not to kill the victim, the appellants would still be responsible for Canuto's death as the graver consequence of their unlawful acts.

It is also asserted by the appellants that the solitary wound sustained by the victim should prove that there was indeed no conspiracy among them. This is a non sequitur. The mere fact that there was only one wound does not necessarily establish the lack of conspiracy, particularly in the face of the testimony of prosecution witnesses to the contrary. Neither does the fact that the accused were not armed negate conspiracy, for their purpose was obviously to assist Fuentes, who was armed, in killing Canuto.

The prosecution witnesses testified that the accused cooperated with each other in the commission of the crime. They restrained Canuto's arms as Fuentes dealt the fatal blow after one of them urged him to do so thus: "Pare, saksakin mo na!" Afterwards, they all fled together because, as one of them said: "Pare, takbo na, napuruhan mo na!" It is clear that they were acting in concert, from the time they commenced the attack until, still together, they fled and hid.

The appellant's brief points to certain discrepancies in the testimonies of the prosecution witnesses, but these are only minor inconsistencies that do not militate against the correctness of the decision. As repeatedly ruled by this Court, the witnesses testifying on the same event do not have to be consistent in every detail as differences in recollection or viewpoints or impressions are inevitable. Total recall or perfect symmetry is not required. As long as the witnesses concur on material points, slight differences in their remembrance of the details do not reflect on the essential veracity of their testimony.[17]

Discrepancies between statements in the affidavit and testimonies in court can also be sufficiently explained. An affidavit, being ex parte, is almost always incomplete and often inaccurate, sometimes from want of suggestion and inquiries, but they do not really detract from the credibility of witnesses.[18]

Treachery exists when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make. In this case, Canuto was attacked from behind by the five men while he was assessing the damage to his gate. Due to the suddenness of the attack, he never had the opportunity to defend himself. Alevosia thus qualified the crime to murder under Article 248 of the Revised Penal Code.

It should be stressed that once the complaint or information is filed, the trial court thereby acquires jurisdiction over the case and all subsequent acts that may be taken by the public prosecutors in relation to its disposition must be subject to the approval of that court.[19] Before a reinvestigation of the case may be conducted by the public prosecutor, the permission or consent of the court must be secured.[20] If after such reinvestigation, the prosecution finds a cogent basis to withdraw the information or otherwise cause the dismissal of the case, such proposed course of action must be addressed to the sound discretion of the court, which has the sole authority to decide.[21]

It appears in the case at bar that the trial court did not err in denying the motions for the dismissal of the charges against the accused. Contrary to the initial findings of the prosecution, there really was a conspiracy among all of them that justified the judgment holding them equally liable with Arnold Fuentes in the murder of Canuto Natividad.

The accused declared that Arnold Fuentes, their co-conspirator and the actual knife-wielder, was intoxicated when he drove his truck into Canuto Natividad's gate and thereafter quarreled with and killed him. This tragic incident would not have happened at all if Fuentes had been sober at the time and liquor had not muddled his mind into the frenzy of a senseless murder.

WHEREFORE, the decision of the trial court is AFFIRMED in toto and the appeal is DISMISSED, with costs

against the appellants.

SO ORDERED.

Davide, Jr., Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Decision penned by Judge Teresita Dizon-Capulong, Regional Trial Court, Branch 172, Valenzuela, Metro Manila, January 16, 1992, p. 2; rollo, p. 20.

[2] TSN, October 11, 1991, pp. 9-10; October 28, 1991, pp. 4-6; December 2, 1991, pp. 8-9.

[3] Ibid., October 11, 1991, pp. 10-17; October 28, 1991, pp. 6-10; December 2, 1991, pp. 9-14.

[4] Id., October 11, 1991, pp. 17-18.

[5] id., supra, pp. 19-20.

[6] id., October 11, 1991, p. 21; October 28, 1991, p. 11; December 2, 1991, pp. 14-15.

[7] id., December 18, 1991, pp. 9-10, 12.

[8] Decision, supra, pp. 1-2; rollo, pp. 19-20.

[9] TSN, October 28, 1991, pp. 2-13; October 11, 1991, pp. 7-24; December 2, 1991, pp. 7-17.

[10] Ibid., October 11, 1991, pp. 12-17; October 28, 1991, pp. 8-10; December 2, 1991, pp. 10-15.

[11] Id., October 16, 1991, p. 10.

[12] id., December 18, 1991, pp. 3-12; January 10, 1992, pp. 5-12; 16-31.

[13] Decision, supra, p. 15; rollo, p. 33.

[14] Rollo, pp. 149-150.

[15] People v. Yadao, 216 SCRA 1; People v. Cabactulan, 216 SCRA 178; People v. Celis, 214 SCRA 755.

[16] Article 4, Revised Penal Code.

[17] People v. de Guzman, 188 SCRA 407; People v. Cabanban, 196 SCRA 353; People v. Fabros, 214 SCRA 694.

[18] People v. Molina, 213 SCRA 52; People v. Padilla, 213 SCRA 631.

[19] Balgos, Jr. v. Sandiganbayan, 176 SCRA 287.

[20] Crespo v. Mogul, 151 SCRA 462.

[21] Balgos, Jr. v. Sandiganbayan, supra.

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