

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEMUEL COMPO @ DODONG AND MAURICIO GONZAGA @ LONGLONG, ACCUSED. LEMUEL COMPO @ DODONG, ACCUSED-APPELLANT.

G.R. No. 112990. May 28, 2001

Ponente: PARDO, J.

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PARDO, J.:

Accused Lemuel Compo appeals from the decision of the Regional Trial Court, Bohol, Branch 1, Tagbilaran City, finding him guilty beyond reasonable doubt of murder and sentencing him to reclusion perpetua and to indemnify the heirs of Procopio Dales in the amount of fifty thousand pesos (P50,00.00) and twenty thousand pesos (P20,000.00) as moral and exemplary damages.[1]

On March 17, 1992, Second Assistant Provincial Prosecutor of Bohol Rodolfo R. Ligason filed with the Regional Trial Court, an information charging Mauricio Gonzaga and Lemuel Compo with murder, committed as follows:

"That on or about the 1st day of March, 1992, in the municipality of Loboc, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and mutually helping with one another, with intent to kill and without justifiable cause, with evident premeditation, treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and shoot with the use of a small arrow locally known as "Indian Pana" and stab with the use of a small sharp-pointed bolo one Procopio Dales who was unarmed and unaware of the attack, thereby inflicting mortal injuries on the victim's body which resulted in the death of the said Procopio Dales; to the damage and prejudice of the heirs of the deceased in the amount to be proved during the trial.

"Acts committed contrary to the provisions of Article 248 of the Revised Penal Code, as amended."[2]

Upon arraignment on July 9, 1992, the two accused pleaded not guilty.[3] Trial on the merits ensued.

In the evening of February 29, 1992, Gilberto Libardo[4], a conductor of a passenger bus, went to a disco place located at sitio Tambis, barangay Oy, Loboc, Bohol. On March 1, 1992, around 1:00 in the morning, Libardo with three companions left the disco house and while they were walking toward his house, Mauricio Gonzaga alias "Lolong" and Lemuel Compo alias "Dodong" suddenly accosted him and asked whether he had seen Procopio Dales alias "Opiong". He answered that Opiong was still in the disco house. Mauricio was carrying a small bolo in his right hand and a scabbard in his left hand. Accused Compo was holding an "Indian Pana" and a flashlight. On their way home to Calunasan, Norte, Loboc, Bohol, they saw Procopio Dales standing in the middle of the road holding a piece of wood. Lemuel lighted his flashlight toward the direction where Procopio was standing. When Procopio Dales tried to attack Mauricio with a piece of wood, he picked up a piece of stone and hit Dales in the right shoulder causing the latter to stagger and rush toward him with small bolo in his hand. He took another piece of stone and hit Dales again causing the small bolo to drop to the ground. Mauricio picked up the small bolo and stabbed Procopio Dales several times until he fell to the ground. Finding several "Indian Pana" in the possession of Procopio Dales, he took one of them and hit Dales with the "Indian Pana," which imbedded in his

neck. At the time of the stabbing incident, Lemuel Compo was not lighting his flashlight toward the body of Procopio Dales. Lemuel Compo only used the flashlight when Mauricio Gonzaga threw a stone at Procopio Dales.[5]

PO3 Pedro Wate of Lila Police Station testified that at around 2:30 in the morning of March 1, 1992, Antonina Gonzaga, the mother of Mauricio Gonzaga, went to the house of PO3 Wate at Barangay Calunasan, Loboc, Bohol, asking his help in surrendering her son who had stabbed someone. While on their way to the Gonzaga's residence, they met Mauricio and Lemuel. Mauricio immediately confessed that he killed Procopio Dales. After Mauricio handed the bolo to PO3 Wate, the latter brought Mauricio and Lemuel to Loboc Police Station and turned them over to station guard PO3 Aliceto Torreon.[6]

Dr. Evangeline B. Delfin who examined the victim testified that he sustained 13 wounds five (5) were classified as fatal wounds while seven (7) were non-fatal wounds.[7] The autopsy report[8] states:

"xxx xxx xxx

"II. Post-Mortem Findings:

"A male, fairly nourished, fairly developed, about 5 ft. or less in height, lying in supine position with multiple stab wounds on his face, neck, chest, abdomen and back.

"III. Regional Findings:

"Face: a) At the left side a stab wound, entrance 1.5 cm. in dia. at mandibular area.

"b) Stab wound 2.5 cm. in dia. at the left side of the face near auricle.

"Neck: a) Stab wound 2 cm. in dia. at anterior triangle of the neck left side hitting the common carotid artery, jugular vein, vagus nerve.

"b) Punctured wound .5 cm. in dia. at left supraclavicular fossa hitting the left subclavian artery, common carotid artery.

"Chest: a) Stab wound 2.5 cm. in dia. left, chest, anterior axillary hitting the lateral side of the heart.

"Abdomen: a) Stab wound 2.5 cm. in dia. Left hypochondrium.

"b) Stab wound 2 cm. in dia. at left lumbar hitting the descending colon.

"c) Stab wound 1 cm. in dia. at right subcostal area through and through to the back, exit, hitting the transverse colon, partly the right, lobe of the liver.

"Back: a) Stab wound 1 cm. in diameter at posterior axillary area.

b) Left Scapular Area

a) 2cm. in dia. - superior angle

b) 3cm. in dia. - body of the scapula

c) 2.5 cm. in dia. - inferior angle

"Conclusion:

Cause of death: Hypovolemic shock secondary to severe hemorrhage due to laceration of the blood vessels that supply the brain, heart, & destruction of the liver (partly), transverse colon, Descending colon."

Accused Lemuel Compo interposed the defense of alibi and denial. He claimed that on March 1, 1992, at around 7:00 p. m., he was in the store of Pedro Wate to watch a betamax show. Mauricio Gonzaga invited him to go to the disco house. They arrived at the disco house at around 12:00 midnight, shortly after which, they decided to go home. On their way home, they saw a person standing in the middle of the road whom Mauricio identified as Opong. Lemuel focused his flashlight on the person and he recognized Procopio Dales before the latter got lost on the road. When they reached the corner of the road, they met Gilberto Libardo together with three companions. Mauricio asked Libardo whether he saw Procopio Dales and the former answered no. Lemuel and Mauricio walked toward a lower portion of the road where Lemuel focussed his flashlight and they saw Procopio Dales carrying a piece of wood. They moved backward while Lemuel focused his flashlight toward Procopio Dales whom he saw. Suddenly Lemuel stumbled. He ran away and went home. He took his supper and went to sleep. In the meantime, Mauricio Gonzaga arrived at his house and woke him up telling him that he stabbed to death Procopio Dales. Mauricio Gonzaga asked him to accompany him to surrender to the authorities when Pedro Wate and Mauricio's mother arrived.[9]

On May 11, 1993, the trial court rendered a decision, the dispositive portion of which reads as follows:

"PREMISES CONSIDERED, the Court finds the accused Mauricio Gonzaga and Lemuel Compo guilty of the crime of murder punished under Article 248 of the Revised Penal Code and hereby sentences each one of them to suffer an imprisonment of Reclusion Perpetua, with the accessories of the law and to pay the cost.

"The accused Mauricio Gonzaga and Lemuel Compo are further ordered each to indemnify the heirs of the late Procopio Dales in the amount of Fifty Thousand Pesos (P50,000.00) each, and Twenty Thousand Pesos (P20,000.00) each representing moral and exemplary damages and in both instance without subsidiary imprisonment in case of insolvency, with the accessories of the law and to pay cost.

"The bolo used in the commission of the crime is hereby ordered forfeited in favor of the government.

"SO ORDERED.

"(Sgd.)

"Antonio H. Bautista

"Judge."[10]

On May 26, 1993, accused Lemuel Compo filed with the trial court a notice of appeal.[11]

In this appeal, accused-appellant imputes a single assignment of error to the trial court,[12] thus: "The trial court erred in finding the accused-appellant guilty beyond reasonable doubt of the crime of murder." [13]

Lemuel, as related by witness Mauricio Gonzaga, was merely present before the stabbing incident, holding a flashlight. No other overt act was established to prove that Lemuel shared and concurred with the criminal design of Mauricio. The mere presence of Lemuel, who was not shown to be armed, at the scene of the crime does not connote conspiracy. Singularity of purpose and unity in the execution of the unlawful objective are essential to establish conspiracy.[14]

Mere knowledge, acquiescence, or agreement to cooperate, is not enough to constitute one as a party to a conspiracy, absent any active participation in the commission of the crime, with a view to the furtherance of the common design and purpose.[15] Conspiracy transcends companionship.[16] The presence and company of Lemuel were not necessary or essential to the perpetration of the murder.

Neither can Lemuel be considered an accomplice. Article 18 of the Revised Penal Code provides that an accomplice is one who, not being a principal, cooperates in the execution of the offense by previous or simultaneous acts. To be convicted as such, it is necessary that he be aware of the criminal intent of the principal and then cooperate knowingly or intentionally by supplying material or moral aid for the efficacious execution of the crime.[17] The prosecution, however, failed to present convincing evidence establishing that accused-appellant Lemuel knew of the other accused's intent to kill Dales. Again, his mere presence at the scene of the crime and his flight therefrom with the other accused are not proof of his participation in the crime. The quantum of proof required in criminal prosecution to support a conviction has not been reached with regard to accused-appellant Lemuel. The oft-repeated truism that the conviction of an accused must rest not on the weakness of the defense but on the strength of the prosecution's evidence applies.[18] He must, therefore, be acquitted on reasonable doubt.

We are convinced that the prosecution failed to overcome the constitutional presumption of innocence. Basically, accused-appellant Lemuel was convicted based on the testimony of the conductor of passenger bus Gilberto Libardo who saw Lemuel carrying an "Indian Pana" and a flashlight. Without any testimony positively identifying accused-appellant as the assailant nor any evidence directly linking him as the author of the crime, Lemuel Compo can not be convicted of the murder of Dales. The accused-appellant deserves an acquittal and must forthwith be given back his liberty.

WHEREFORE, on reasonable doubt, the appealed decision is REVERSED and accused-appellant Lemuel Compo @ Dodong is hereby ACQUITTED and ordered RELEASED immediately, unless he is detained for some other legal cause.

The Director, Bureau of Corrections is ordered to show to this Court proof of compliance herewith within ten (10) days.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In Criminal Case No. 7730, Decision, dated April 6, 1993. Judge Antonio H. Bautista, presiding, Rollo, pp. 32-37.

[2] Rollo, Information, pp. 4-5.

[3] RTC Record, Order, pp. 29-30.

[4] Also spelled Lue Livardo in the transcript of records.

[5] TSN, March 5, 1993, pp. 2-8.

[6] TSN, October 14, 1992, pp. 2-6.

[7] TSN, October 2, 1992, p. 12.

[8] Documentary Evidence, Original Records, Vol. I, p. 1.

[9] TSN, March 22, 1993, pp. 2-11.

[10] Rollo, pp. 32-37.

[11] Rollo, p. 37a.

[12] Appellant's Brief, pp. 1-14, 9, Rollo, p. 47.

[13] In the case of Operators Inc., v. American Biscuit Co., Inc., 154 SCRA 738 [1987], the court ruled that appellants need not make specific assignment of errors provided they discuss at length and assail the correctness of the trial court's findings regarding the issue. Said discussion requires the appellate court to rule upon the point because it substantially complies with Section 7, Rule 51 of the Revised Rules of Court. An assignment of error is intended merely to compel the appellant to specify the questions which he wants to raise and be disposed of in his appeal. A clear discussion regarding an error allegedly committed by the trial court accomplishes the purpose of a particular assignment of error.

[14] People v. Quinao, 336 Phil. 475, 476 [1997].

[15] People v. Melchor Rafael, G. R. No. 123176, October 13, 2000; People v. Cedon, 233 SCRA 187, 195 [1994].

[16] People v. Listerio, G. R. No. 122099, July 5, 2000; People v. Manuel, 234 SCRA 532, 542 [1994].

[17] People v. Fronda, 222 SCRA 71, 79 [1993].

[18] People v. Rugay, 353 Phil. 873, 874 [1998].

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