

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IGNACIO CUPINO, VINCENT DEJORAS AND RAMON GALOS A.K.A. JUN, ACCUSED. IGNACIO CUPINO AND VINCENT DEJORAS, ACCUSED-APPELLANTS.

G.R. No. 125688. April 03, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Conspiracy must be established by proof beyond reasonable doubt. In the present appeal, the prosecution eyewitness testified that one of the appellants had joined the other accused in approaching the victim, but subsequently tried to prevent them from stabbing this same victim. Such dubious participation is insufficient to prove beyond reasonable doubt that the said appellant conspired with the others in committing the offense. Accordingly, the constitutional presumption of innocence must be upheld. He must be acquitted.

The Case

Vincent Dejas and Ignacio Cupino[2] appeal the March 6, 1995 Decision[3] of the Regional Trial Court (RTC) of Cagayan de Oro City (Branch 25). Dejas and Cupino, together with one Ramon Galos,[4] were convicted of robbery with murder and sentenced to reclusion perpetua.

On October 19, 1989, an Information[5] was filed by Fourth Assistant City Fiscal Petronio P. Pilien, charging the three as follows:

"That on or about August 16, 1989, at more or less 9:45 in the evening xxx, at Patag Crossing, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with intent to kill[;] armed with a knife [with] which one of them was then conveniently provided[;] with treachery, evident premeditation, superior strength, did then and ther[e] wilfully, unlawfully and feloniously [through] accused (Ramon Galos alias Jun), x x x [stab] one Gromyco[6] Valliente[7] [hitting him] at the left/right portion of his arm and abdomen, thus inflicting mortal wounds upon [the] offended party's person which directly caused his instantaneous death.

"Contrary to Article 248 in relation to Article 14 of the Revised Penal Code."

Arraigned on January 22, 1990,[8] both appellants entered a plea of not guilty. Trial ensued. Thereafter, the lower court rendered its assailed Decision,[9] the dispositive part of which we quote thus:

"WHEREFORE, premises considered, this Court finds all the three accused in conspiracy with each other, GUILTY beyon[d] reasonable doubt of the crime of MURDER, qualified by treachery as principal by direct participation as punished under the Revised Penal Code. This Court hereby sentences the two accused, Vincent Dejas and Ignacio Copino, the third accused being at large, to individually suffer the penalty of RECLUSION PERPETUA without the attendance of any mitigating circumstance and to jointly and severally pay indemnity to the heirs of the victim the sum of P50,000.00 for the death of Gromyko Valliente, P40,000.00

as actual damages and burial expenses, P20,000.00 as moral damages, and to pay the costs." [10]

In view of the penalty imposed, the appeal was filed directly with this Court. [11]

The Facts

Version of the Prosecution

In its Brief, [12] the Office of the Solicitor General presents the facts in this wise:

"At around 9:45 in the evening of August 16, 1989, during the celebration of the town fiesta of Patag, Cagayan de Oro City, accused Ramon Galos and Gromyko Valiente (herein victim) were having a heated argument in front of Dod's Store, which was owned by a certain Piloton, located at the crossing of Patag (Testimony of Silverio Bahian, TSN, September 6, 1990, pp. 4-5; Testimony of Ferdinand Bangayan, TSN, July 2, 1990, pp. 5-6).

"Then, appellants Ignacio Cupino and Vincent Dejas arrived, and a fistfight erupted. Cupino, Dejas and Galos ganged up on Valiente who also fought back (Testimony of Silverio Bahian at pp. 6-7, supra; Testimony of Ferdinand Bangayan at p. 7, supra.). Beaten and outnumbered, Valiente ran away towards the direction of a small pathway leading to the store of a certain Major Grio, which was beside Dod's Store. The trio chased x x x him (Testimony of Ferdinand Bangayan at p. 10, id.). Galos caught up with Valiente and then stabbed him twice in the stomach with a small bolo (Testimony of Silverio Bahian at pp. 9-10, supra.).

"With the bolo still embedded on his stomach, Valiente crawled along the pathway. Cupino also caught up with Valiente (pp. 11-12, id.). Then Cupino pulled the bolo from the victim's body and was about to stab the victim again when Dejas tried to grab Cupino's hands, but instead Dejas got hold of the blade of the bolo and was injured in the process. Dejas left, coming out of the pathway with his wounded right hand (pp. 12-13, id.).

"Meanwhile, Cupino proceeded to stab the victim twice in the stomach. Afterward, Cupino and Galos fled from the scene of the crime (p. 14, id.). Valiente, who was seriously wounded and soaked in his own blood, cried for help. He was brought to a hospital but later died (p. 19, id.; Testimony of Ferdinand Bangayan at pp. 12-13, supra.).

"The autopsy conducted on the victim's body revealed that he sustained four (4) stab wounds: one on the left subpostal margin, another wound on the right subpostal margin, and two (2) sutured wounds on the left cocital area. The wound that was inflicted on the pancreas of the victim was considered fatal since it caused the massive hemorrhage. The cause of death was attributed to massive intra-abdominal hemorrhage due to multiple stab wounds (Testimony of Dr. Apolinar Vacalares, TSN, February 13, 1991, pp. 6-7)."[13]

Version of the Defense

For their part, appellants submit the following as the facts of the case:

"On August 16, 1999, Ignacio Copino celebrated the town fiesta of Patag, Cagayan de Oro City at home with his family and friends, one of whom was Vincent Dejas. After eating dinner at around 7:00 p.m., Dejas, together with his co-workers, headed for home. Copino decided to accompany the group and at the Patag crossing, he was able to convince Dejas to go to the 'perya' and gamble, as he had P30 with him.

"The pair lost all of the P30 in the 'pula-puti' game and decided to call it quits. On their way home, they saw Ramon Galos 'alias Panit' and Grom[yk]o Valiente 'alyas Bobong', two of their acquaintances, apparently having an altercation.

"They were about two meters from Galos and Valiente when Galos suddenly said: 'Nasi is here (referring to Copino), you hit him.' (Transcript of Stenographic Notes, VINCENT DEJAS, Hearing April 4, 1991, page

7). Galos then kicked Valiente and the latter fell down. Valiente was able to get up and run towards an alley at the back of Dod's store with Galos in close pursuit. Copino and Dejas ran after the two with the intention to pacify the fighters. Galos was able to corner Valiente and once again, the two traded blows. When Copino and Dejas were finally able to catch up with the two, they noticed that Valiente was already bleeding. Eyewitness Silverio Bahian later recounted that he saw Panit pull out a bolo and stab Bobong.

"Dejas, on his part, tried to stop Galos from inflicting more wounds and he too was wounded in the process. What happened was that instead of holding Galos' hand, he was able to hold the blade of the knife, thereby injuring himself. Galos then ran away. Upon the realization that his right hand was bloodied, and fearing that more harm would fall upon them, Copino and Dejas too ran away.

"Dejas went to City Hospital to have his wound treated and then they went home. At midnight of the same day, a policeman went to his house and brought him to the OKK Police Station where he was booked into the police blotter. The following day, Copino and Dejas learned that Gromyko Valiente had died. Together with their parents the[y] went to the Tourism Hall to have their statements taken by the police." [14]

Ruling of the Trial Court

The trial court ruled that (1) appellants were guilty of murder, as the killing was qualified by treachery; (2) conspiracy was proven by the chain of circumstantial evidence submitted; and (3) the aggravating circumstance of superior strength was absorbed by treachery and may no longer be used to increase the penalty to its maximum period.

The Issues

Appellants aver that the court a quo committed the following errors:

I. In failing to appreciate the testimony of accused-appellants and in giving full weight and credit to the version of prosecution witnesses.

II. In holding that there was conspiracy between accused-appellants.

III. In holding that accused-appellants herein [were] guilty as charged." [15]

We shall discuss the foregoing issues in the following sequence: (1) credibility of the prosecution evidence, (2) conspiracy and (3) proper penalty.

The Court's Ruling

This appeal is partly meritorious. We affirm the challenged Decision in regard to Ignacio Cupino, but reverse it in regard to Vincent Dejas.

First Issue

Credibility of Prosecution Witnesses

Appellants challenge the trial court's assessment of the credibility of the prosecution witnesses. They argue that there are contradictions patent in their testimonies. We disagree. As we have repeatedly said, the trial court's assessment of the credibility of witnesses is generally binding upon us. [16] After a thorough review of the records before us, we find no reason to disagree with the trial court in finding no material inconsistency in the prosecution witnesses' testimonies.

Neither are we impressed with appellants' assertion that the evidence for the prosecution is weak. The claims of the defense are belied by the clear, credible and straightforward testimony of Prosecution Eyewitness Silverio Bahian, which we quote:

"Q

At this time, August 16, 1989, at more or less 9:45 p.m., what particular place in the store of Piloton?

A

[In front] of the store.

x x x x x x x x

Q

What where you doing there?

A

I was reading komiks.

x x x x x x x x

Q

While you were there at Piloton store, reading komiks, what happened if any?

A

There was an argument between Bobong Valiente[17] and Panit.[18]

x x x x x x x x

Q

Now, you said that there was an argument, where did this altercation [take] place?

A

[In front] of me.

Q

How far away from you? From where you are sitting, point to any object within the court room to indicate what you [meant by "in front"] of you?

A

Less than a meter.

Q

From where you are sitting, point to any object[.]

A

This chair. This table or this chair I am sitting on. [In front] of me. Just very near me.

Q

From what direction was this Bobong coming x x x?

A

Going to the checkpoint.

Q

What about the other person [with] whom he had an altercation?

A

Going to the crossing

Q

What happened after they had an altercation?

A

After their altercation, this Nasi[19] and Beni[20] were walking from the road.

Q

Who is this Nasi?

A

Nasi Copino.

Q

Who is this Beni?

A

Dejoras.

Q

When these two came, Beni and Nasi, where were the two who were having an argument?

A

Mr. Bahian approached the two who were having an altercation.

Q

What about the person [with] whom he had an altercation? Where was he at that time?

A

He followed him.

Q

So, what happened after Bobong went to Nasi and Beni and the other person Panit?

A

They ganged up [on] Bobong.

Q

When you said they ganged up on Bobong, to whom are you referring x x x?

A

Panit, Nasi and Beni.

Q

From your place in relation to the place where they ganged up on Bobong, how far away was that?

A

About three meters.

x x x x x x x x

Q

Where [was] this place in relation to you whe[n] they ganged up on Bobong?

A

In the middle of the road.

Q

And what was the condition of the road on that night of August 16, 1989 at 9:45 p.m.?

A

It was bright.

Q

Why do you say that it [was] 'hayag'?

A

Because there was a lamppost.

Q

Where [was] this lamppost located in relation to you?

A

[In front] of me.

Q

So, what happened after they ganged up x x x this Nasi, Beni and Panit, as you said, they ganged up on Bobong? What happened?

A

Since Bobong [could] not keep up a fight with the three, Bobong ran towards me.

Q

What happened after Bobong ran towards you as you said?

A

He was being held by Panit.

Q

Will you demonstrate how he was h[e]ld by Panit?

A

(Witness demonstrating by stretching his left arm and closing hi[s] fist and twisting it to his left side)

Q

So, what happened after that? After he was held up and as you said twisted?

A

Panit stabbed Bobong.

Q

Will you please demonstrate again how Panit stabbed Bobong after he held him and[,] pulling him[,] he thrust the knife forward?

A

(Witness demonstrating his right arm forward)

Q

How many times was he stabbed by Panit? This Bobong?

A

I think twice.

Q

And where was this Bobong hit if he was hit?

A

In the stomach. Chief

Q

What was used in the stabbing of Bobong by Panit?

A

A small bolo.

Q

Will you please describe the small bolo or what appears to be a bolo to you? How long was this?

A

About 12 inches including the handle.

Q

What about the blade? Was this double bladed or not?

A

Single bladed.

x x x x x x x x

ACP CABALLERO, JR.: (resuming)

Q

Now, what happened after Bobong was held up by this Panit and stabbed twice as you said? What happened to Bobong?

A

Bobong crawled going to a small alley.

Q

You mentioned this alley. Now, from where you are situated then while reading komiks [on] this alley, how far was this from you?

A

Just here.

(Witness stretching his left arm going to his left side)

Q

What happened to the small bolo which was used in the stabbing? Do you know where was it at the time Bobong crawled?

A

The small bolo was still embedded on the left portion just below the breast, solar plexus.

Q

So, what happened after Bobong crawled[;] who was going to the area which you testified was just near you?

A

Nasi caught up with him.

Q

You mentioned, of course, x x x Nasi. Nasi who?

A

Copino.

Q

What happened after he was overtaken by Nasi Copino?

A

Nasi pulled the small bolo.

Q

What happened next after Nasi pulled the small bolo?

A

When he was about to thrust the small bolo to the body of Bobong, his friend held his hand.

Q

Who [was] this companion of Nasi that you are referring to who held up his hand?

A

Beni.

Q

Do you know the real name of Beni?

A

It is only his nickname that I know.

Q

Beni what?

A

Dejoras.

Q

What happened after the hand of Nasi was held up by Beni?

A

It was the small bolo which was held by Beni.

Q

Which part of the knife was held by Beni Dejoras?

A

The blade.

Q

So, what happened after he held the blade?

A

Nasi pulled the small bolo, and that [was] why Beni was wounded.

Q

What happened after Beni was injured?

A

Beni went out.

Q

And where was Nasi then at this time when Beni, as you said, went out?

A

Nasi was still [in front] of Bobong.

Q

Was he motionless [in front] of Bobong or what?

A

He continued to stab Bobong.

Q

Where was Bobong hit when he was stabbed by Nasi?

A

At first, he was able to parry the thrust of Nasi.

Q

So, what happened to Bobong after he parried the stab of Nasi?

A

Bobong fell down.

Q

What happened after that?

A

Nasi again stabbed Bobong.

Q

And where was Bobong hit at this particular time?

A

In the stomach.

Q

So, what happened after that?

A

Nasi ran away."^[21]

The above testimony clearly demonstrates the conspiracy between Ramon Galos and Appellant Ignacio Cupino. Both of them showed their common intent to kill Valliente. On the part of Galos, conspiracy was shown by his act of grabbing the fleeing victim, simultaneously drawing his small bolo or pisaw, and stabbing the latter twice. By running after the wounded victim, Cupino showed unity of purpose with Galos. When he eventually caught up with the victim, Cupino pulled out the bolo that was embedded in the body of the latter and used it to stab him again. Clearly, by the consonance of their deeds, both assailants conspired to kill Valliente.^[22]

We agree with the court a quo that treachery qualified the slaying to murder. By diverting the attention of Valliente to the approaching Dejoras and Cupino, Galos was obviously making sure that the victim could not defend himself. When Valliente turned his back, Galos began his attack, which eventually led to the stabbing of the former. Treachery was not necessarily precluded by either the occurrence of a tussle before the victim was killed[23] or by the frontal nature of the attack.[24] We also agree with the lower court that the aggravating circumstance of abuse of superior strength was absorbed by alevosia.[25]

Second Issue

Conspiracy: Dejoras' Liability

Though we uphold the findings of the trial court with regard to Appellant Cupino, we differ with its conclusion that Appellant Dejoras was guilty.

It is axiomatic that the prosecution must establish conspiracy beyond reasonable doubt.[26] Conspiracy is not a harmless innuendo to be taken lightly or accepted at every turn. It is a legal concept that imputes culpability under specific circumstances.[27] As such, it must be established as clearly as any element of the crime. The quantum of evidence to be satisfied is, we repeat, beyond reasonable doubt.[28]

In *People v. Elijorde*,[29] a case with similar facts, we said:

"Indeed, with respect to accused Reynaldo Punzalan, the Court cannot assert with moral certainty that he is guilty of murder. Conspiracy must be proved as indubitably as the crime itself through clear and convincing evidence, not merely by conjecture. To hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity. Hence, conspiracy exists in a situation where at the time the malefactors were committing the crime, their actions impliedly showed unity of purpose among them, a concerted effort to bring about the death of the victim. In a great majority of cases, complicity was established by proof of acts done in concert, i.e., acts which yielded the reasonable inference that the doers thereof were acting with a common intent or design. Therefore, the task in every case is determining whether the particular acts established by the requisite quantum of proof do reasonably yield that inference." (Footnotes omitted)

Thus, in *Elijorde* we found one of the accused, a certain Punzalan, innocent under the circumstances.[30] Similarly, in the present case, we find Appellant Vincent Dejoras not guilty.

Unlike the trial court, we are quite mindful of the testimony of Prosecution Eyewitness Bahian regarding Appellant Dejoras' participation in that bloody incident on the eve of the fiesta. His answers to the propounded questions merely established that Dejoras joined Galos and Cupino when they approached the victim. The prosecution failed, however, to show what Dejoras specifically did that proved his participation in the conspiracy. Rather, what the said eyewitness said was that Dejoras tried to prevent Cupino from stabbing the victim, clearly showing that he did not support the criminal intent and conspiracy of the other two accused.[31] These incontrovertible data lead to one conclusion: there is reasonable doubt on whether Dejoras conspired with Galos and Cupino in killing Valliente. We are therefore constrained to exonerate him. Indeed, guilt must be proven beyond reasonable doubt. In this case, there is reasonable doubt on the culpability of Appellant Dejoras as a principal.

Dejoras cannot be held liable as an accomplice, either.[32] In *Elijorde*,[33] we said:

"The cooperation that the law punishes is the assistance knowingly or intentionally rendered which cannot exist without previous cognizance of the criminal act intended to be executed. It is therefore required in order to be liable either as a principal by indispensable cooperation or as an accomplice that the accused must unite with the criminal design of the principal by direct participation."

The acts of Appellant Dejas showed that he was not aware of his companions' intent to kill Valliente; at the very least, there is reasonable doubt as to his knowledge thereof. In any event, community of design, the first of the requisite elements that must be present before a person may be held liable as an accomplice, is lacking.[34]

On the prosecution's theory that Dejas may have inflicted injury on the victim when he joined in the fray, we have combed the records and found no basis for this speculation. We note that the eyewitness could not recount the details of the brawl, but merely provided a general picture, saying that everything happened so fast.[35] Hence, we find no basis for Appellant Dejas' liability even for physical injuries.[36]

Additional Questions

Penalty and Damages

When the crime was committed, the penalty for murder was reclusion temporal (maximum) to death.[37] Since no generic modifying circumstance was proven, the trial court correctly sentenced Cupino to reclusion perpetua.[38]

We increase to P50,000 the award for moral damages, in consonance with current jurisprudence.[39] The facts showing moral damages were proven during the trial. However, the established actual damages amount to only P30,000, not P40,000 as found by the lower court.[40] The award of P50,000 civil indemnity for the death of Gromyko Valliente is affirmed.[41]

WHEREFORE, we AFFIRM the appealed Decision insofar as it found Appellant Ignacio Cupino GUILTY of MURDER and sentenced him to reclusion perpetua. Appellant Cupino is solely responsible for paying the heirs of the victim, Gromyko Valliente, the amounts of P50,000 as indemnity ex delicto, P30,000 as actual damages and P50,000 as moral damages. Appellant Vincent Dejas is ACQUITTED and ordered RELEASED from custody IMMEDIATELY, unless he is being legally held for another cause. In this regard, the Director of the Bureau of Corrections is directed to report his compliance, within five (5) days from receipt hereof. Costs against Appellant Cupino.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Also spelled "Copino" in the records.

[2] Spelled "Copino" in the Appellants' Brief and the TSN.

[3] Penned by Judge Noli T. Catli.

[4] At large.

[5] Records, p. 2.

[6] Spelled "Gromyko" in the assailed Decision.

[7] Spelled "Valiente" in the Appellee's Brief and in the TSN.

[8] Assisted by Attorney Adrian Barba.

[9] Records, pp. 425-440; rollo, pp. 15-30.

[10] Decision, p. 15; records, p. 439.

[11] The Notice of Appeal was filed on August 25, 1995 (records, p. 441). The case was deemed submitted for

resolution upon the Court's receipt of the Brief for the Appellee on December 7, 1999. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[12] Signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Roman G. Del Rosario and Associate Solicitor Hedeliza O. Hormachuelos.

[13] Appellee's Brief, pp. 3-5; rollo, pp. 107-109.

[14] Appellants' Brief, pp. 3-5; rollo, pp. 87-89. This was signed by Atty. Cesilo A. Adaza.

[15] Appellants' Brief, p. 2; rollo, p. 86.

[16] See *People v. Torejos*, GR No. 132217, February 18, 2000; *People v. Milliam*, GR No. 129071, January 31, 2000; *People v. Ricafranca*, GR No. 124384-86, January 28, 2000; *People v. Barona*, GR No. 119595, January 25, 2000; *People v. Enolva*, GR No. 131633-34, January 25, 2000; *People v. Reduca*, GR No. 126094-95, January 21, 1999; *People v. Lotoc*, GR No. 132166, May 19, 1999; *People v. Merino*, GR No. 132329, December 17, 1999.

[17] The victim, Gromyko Valliente.

[18] Ramon Galos.

[19] Appellant Ignacio Cupino

[20] Appellant Vicente Dejoras.

[21] TSN, September 6, 1990, pp. 4-14; records, pp. 293-303; italics supplied.

[22] See *People v. Datun*, 272 SCRA 380, May 7, 1997.

[23] *People v. Elijorde*, GR No. 126531, April 21, 1999.

[24] See *People v. Alib*, GR No. 130944, January 18, 2000; *People v. Belaro*, GR No. 99869, May 26, 1999.

[25] *Ibid.* See also *People v. Lumacang*, GR No. 120283, February 1, 2000; *People v. De Vera*, GR No. 128966, August 18, 1999; *People v. Datun*, *supra*.

[26] *People v. De Vera*, GR No. 128966, p. 16, August 18, 1999, citing several cases.

[27] The Revised Penal Code of the Philippines provides:

"Art. 8. Conspiracy and proposal to commit felony. -- Conspiracy and proposal to commit felony are punishable only in the cases in which the law specially provides a penalty therefor.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.

There is proposal when the person who has decided to commit a felony proposes its execution to some other person or persons."

[28] See *People v. Patalinhug*, GR No. 125814-15, November 16, 1999; *People v. Bolivar*, GR No. 108174, October 28, 1999; *People v. Tabuso*, GR No. 113708, October 26, 1999; *People v. De Vera*, *supra*.

[29] GR No. 126531, p. 4, April 21, 1999, per Bellosillo, J.

[30] There we said:

"xxx [T]he only involvement of Punzalan was kicking Hierro at the back before the latter was pursued and stabbed by accused Elijorde. After kicking the victim, Punzalan remained where he was and did not cooperate

with Elijorde in pursuing Hierro to ensure that the latter would be killed. There is no other evidence to show unity of purpose and design between Punzalan and Elijorde in the execution of the killing, which is essential to establish conspiracy. His act of kicking Hierro prior to the actual stabbing by Elijorde does not of itself demonstrate concurrence of wills or unity of purpose and action. For it is possible that the accused Punzalan had no knowledge of the common design, if there was any, nor of the intended assault which was committed in a place far from where he was. The mere kicking does not necessarily prove intention to kill. The evidence does not show that Punzalan knew that Elijorde had a knife and that he intended to use it to stab the victim." (Ibid., p. 7)

[31] This was affirmed during the cross-examination of Bahian:

"Q

So when Nasi [Cupino], according to you, remove[d] the bolo, he stabbed again?

A

Beni [Dejoras] held the hand of Nasi when he was about to stab for the first time.

Q

In short, you are saying that Beni was trying to stop Nasi from stabbing Bobong Valiente?

A

Yes, and he said 'Ayaw bay'.

Q

And in the process, according to you Beni suffered injuries because he was able to hold on [to] the blade of the bolo?

A

Yes, sir." (TSN, September 6, 1990, pp.56-57; records, pp. 345-346)

[32] "Art. 18. Accomplices. -- Accomplices are those persons who, not being included in Article 17, cooperate in the execution of the offense by previous or simultaneous acts." (The Revised Penal Code of the Philippines)

[33] GR No. 126531, p. 8, April 21, 1999, per Bellosillo, J.

[34] To be held liable as an accomplice, the following must concur: (a) community of design; i.e., knowing the criminal design of the principal by direct participation, he concurs with the latter in his purpose; (b) he cooperates in the execution of the offense by previous or simultaneous acts that are not indispensable to the commission of the crime; and (c) there is a relation between the acts done by the principal and those attributed to the person charged as an accomplice. See *People v. De Vera*, supra.

[35] TSN, September 6, 1990, pp. 45-47.

[36] *People v. Elijorde*, supra.

[37] Art. 248, Revised Penal Code, before the effectivity of RA 7659.

[38] *People v. Elijorde* supra.

[39] Ibid. See *People v. Mier*, GR No. 130598, February 3, 2000; *People v. Degamo*, GR No. 129535, July 20, 1999.

[40] TSN, January 24, 1991, pp. 5-15.

[41] Ibid. See *People v. Mier*, supra; *People v. Tomolin*, GR No. 126650, July 28, 1999; *People v. Degamo*, supra.

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