

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EPIE ARLALEJO Y CAPUCANAN, ACCUSED-APPELLANT.

G.R. No. 127841. June 16, 2000

Ponente: PUNO, J.

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PUNO, J.:

For Simplicio Manongas, death came in the hands of thieves in the night. Indicted for his killing on the occasion of the robbery committed in the house of spouses Emiliano and Bernardita Manongas were Epie Arlalejo y Capucanan, Jerry Albasin and one Junior Doe. Accused Albasin was acquitted, while accused Junior Doe remains at large. Only appellant Arlalejo was convicted and sentenced to suffer the extreme penalty of death.

The Information against them reads:

"That on the 12th day of February, 1995, at about 10:00 o'clock in the evening, more or less, in sitio Sihagan, barangay Uba, municipality of Cortes, province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to gain and without the consent of the owners Mr. and Mrs. Emiliano Manongas, did then and there willfully, unlawfully and feloniously take, steal, rob and carry the amount of Seven Hundred (P700.00) Pesos from the victims, to the damage and prejudice of the said owners in the aforesated amount; that on the same occasion, said accused, conspiring with one another, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Simplicio Manongas, who was inside the house during the robbery, with the use of a small bolo, thereby hitting and inflicting upon the latter multiple stab wounds on his body, which wounds or injuries caused the instantaneous death of said Simplicio Manongas, to the damage and prejudice of his heirs in the following amounts:

P50,000.00 -- as life indemnity of the victim;

10,000.00 -- as moral damages;

10,000.00 -- as exemplary damages.

"CONTRARY TO LAW. (In violation of Article 294 of the Revised Penal Code)."[1]

Trial ensued after accused Arlalejo and Albasin pled not guilty on arraignment.

The heist occurred in the house of the spouses EMILIANO and BERNARDITA MANONGAS in Sihagan, Uba, Cortes, Surigao del Sur. On February 12, 1995, at about 10:00 p.m., SIMPLICIO MANONGAS, the younger brother of Emiliano, was sleeping in the porch, outside the house, as he came home totally inebriated. The Manongas spouses were in their bedroom, preparing to go to sleep, when they heard the voice of accused JERRY ALBASIN calling from outside their house. He came from the seashore and was asking for a light for his lamp.[2] When Emiliano opened the door, accused EPIE ARLALEJO and JUNIOR DOE barged into the house. Accused Doe held Emiliano by the collar, forced him to lie on the floor, face down, pointed a bolo at him and blew out the light of the lamp on the table. Accused Arlalejo pointed a bolo at Bernardita and announced a robbery. Accused

Albasin stood guard at the door. Bernardita fainted for a few seconds and when she regained consciousness, accused Arlalejo demanded money from her. Bernardita handed him the amount of P700.00. The three accused proceeded to leave but, on their way out, they saw Simplicio on the porch and decided to take him with them. Peeping through the window, the spouses saw accused Arlalejo and Doe stab Simplicio and left him lying in the yard for dead. Thereafter, accused Arlalejo and Albasin walked towards the direction of Madrileno, while accused Doe headed towards Uba.[3]

Emiliano and Bernardita escaped through a hole in their kitchen floor. They scampered to the house of their neighbors, Juan and Josefina Sanchez, recounted their horrendous experience and sought their assistance.[4] Emiliano then went to the municipality of Cortes to report the incident. As it was already dark, the police officers deferred their investigation until the next morning. The following day, the police authorities proceeded to the Manongas house. They found the dead body of Simplicio in the yard with stab wounds at the chest and back.[5]

The next day, February 13, 1995, the spouses prepared Simplicio for burial. Several people came over to offer assistance. One was accused Albasin who helped in dressing up the cadaver of Simplicio for burial. At that time, Emiliano recognized accused Albasin as one of the malefactors but he kept silent to avoid further trouble.[6]

For their part, the two accused hoisted the defense of denial and alibi. Accused ALBASIN declared that on said date and time, he was with Elmer Pontevedra watching films on betamax. He and Pontevedra then spent the night in the house of accused's brother, Leon Albasin. The next day, one Deonico Tayabas went to their house and told his brother Leon about the unfortunate incident at bar. Leon and the Manongas spouses were members of the Minagsionay, a community organization established to help any member in distress. After learning about the death of Simplicio, Leon requested him to go to the house of the Manongas spouses in his stead and assist in preparing the cadaver for burial. He did as he was told.[7]

ELMER PONTEVEDRA corroborated the defense of accused Albasin. He recounted that on said date and time, he and accused Albasin watched two (2) Tagalog films on betamax in the house of one Felipa De Dios.[8] They stayed there from 7:00 p.m. until 11:00 p.m. Then they walked back home, together with accused's brother, Leon Albasin. When they reached the house of Pontevedra's aunt, its occupants seemed to be sleeping as no one opened the door. Thus, Leon invited him to spend the night at their house where accused Albasin was also staying. He accepted the offer. They never left Leon's house that night.[9]

Accused ARLALEJO adopted a story substantially similar to that of his co-accused. He claimed that on said date, he was also at the house of Felipa De Dios, watching films on betamax with his neighbor MICHAEL BAYLA from 7:00 p.m. to 10:00 p.m. After the film-showing, Bayla passed by his house and asked for a glass of tuba from his father. After an hour, Bayla left and returned to his house. Accused Arlalejo then turned in for the night.[10]

The next morning, accused Arlalejo learned from Carlos Malicse, one of the members of the Minagsoon organization, that Simplicio Manongas was killed the night before and that the Manongas spouses were robbed. Timoteo Albasin, one of the brothers of accused Jerry Albasin, requested him to go to the house of the spouses and help.[11]

Accused Arlalejo assisted in changing the bloodied clothes of Simplicio to prepare him for burial. He heard one of the relatives of Simplicio say: "Just leave him (alone) because he is one of the robbers." He did not know then to whom they were referring.[12] Two days later, two police officers came to his house and invited him to the station for investigation. He was informed that a person has identified him as one of the malefactors. He denied complicity in the crime but he was detained at the station.[13] The next day, EFREN PAQUEZ, accompanied by the Manongas spouses, pointed to him as one of the robbers. He claimed that Paquez had an axe to grind against

him as they both courted one Elizabeth Plaza but it was he who won her heart.[14]

Accused Arlalejo presented his neighbor MICHAEL BAYLA to corroborate his alibi. Bayla testified that on February 12, 1995, from 7:00 p.m. to 11:00 p.m., he was with accused Arlalejo and they watched films on betamax. Thereafter, he dropped by accused Arlalejo's house and drank a glass of tuba before going home.[15]

The trial court gave credence to the defense of accused Albasin and acquitted him. Accused Arlalejo, however, was convicted of robbery with homicide and given the extreme penalty of death. The trial court disposed thus:

"WHEREFORE, in the light of the foregoing, this Court finds accused Epie Arlalejo y Capucanan guilty beyond reasonable doubt as principal for the crime of Robbery with Homicide charged in the Information, as defined and penalized in Art. 294 (1) of the Revised Penal Code, as amended by Section 9 of Republic Act 7659, an act to impose the death penalty on certain heinous crimes, and there being no aggravating or mitigating circumstances and in relation to Section 23m of Republic Act 7659, this Court hereby sentences him to suffer the maximum penalty of death, to indemnify the heirs of the deceased victim Simplicio Manongas in the amount of P50,000.00, P10,000.00 as moral damages, P10,000.00 as exemplary damages and P700.00 as actual damages and to pay the costs.

"On grounds of reasonable doubt, accused Jerry Albasin y de Dios is ACQUITTED. The bail bond put up by the accused is ordered returned and cancelled.

"It appearing that there remains at-large up to this time unidentified accused, Junior Doe, let the record of the case against such accused be sent to the files without prejudice to its reinstatement upon his subsequent identification and arrest.

"The Provincial Warden of Surigao del Sur is ordered to immediately commit the body of the accused Epie Arlalejo y Capucanan to the custody of the Director of Prisons, New Bilibid Prisons, Muntinlupa City.

"Let the records of this case be sent to the Supreme Court, Manila, for automatic review.

"SO ORDERED." [16]

Before us, the appellant assigns the following errors:

First. The prosecution has the same evidence against the appellant and accused Albasin, yet only the latter was acquitted although they were supposed to have conspired, confederated and mutually helped one another in the commission of the crime charged. As conspiracy was not proved by the prosecution, the appellant should likewise be acquitted.

Second. The testimonies of the Manongas spouses are unworthy of credit for the spouses were not able to identify the appellant to the police when they reported the incident on the night of February 12, 1995.

We find merit in the appeal.

By its nature, conspiracy is a joint offense as one person cannot conspire alone. In conspiracy, the commission of a crime is through the joint act or intent of two or more persons. However, there is nothing irregular with the acquittal of one of the supposed co-conspirators and the conviction of another. Generally, conspiracy is only a means by which a crime is committed as the mere act of conspiring is not by itself punishable. Hence, it does not follow that one person alone cannot be convicted when there is a finding of conspiracy. As long as the acquittal of a co-conspirator does not remove the basis of a charge of conspiracy, one defendant may be found guilty of the offense.[17]

In the case at bar, it is incorrect to state that accused Albasin was acquitted because conspiracy was not proved by the prosecution. On the contrary, the evidence established beyond doubt the existence of conspiracy to rob the

Manongas spouses and, on the occasion of said robbery, Simplicio Manongas was brutally stabbed to death. However, we find that the evidence proved only the existence of a conspiracy but not the culpability of the appellant. The trial court noted that the Manongas spouses had no sufficient opportunity to recognize accused Albasin and hence acquitted him. Our evaluation of the evidence reveals that the same is true insofar as the appellant is concerned. The prosecution evidence itself shows that as soon as the robbers entered the Manongas house, they blew out the light in the lamp on the table, turning the house pitch black. Thereafter, the appellant allegedly approached Bernardita Manongas and demanded money and the latter fainted. When she regained consciousness, she immediately handed the money to the appellant. The robbers then left. We hold that it is highly improbable that, with the swiftness of the events that fateful night, coupled with the unlit room and the momentary loss of consciousness by Bernardita Manongas due to fright, she and her husband would be able to identify the malefactors.

We likewise note one significant circumstance that was overlooked by the trial court, i.e., the unexplained delay of the Manongas spouses in identifying the appellant to the police authorities as one of the malefactors. The rule is that delay in reporting the crime or identifying the malefactors does not affect the credibility of the witnesses for as long as the delay is sufficiently explained.[18] In the case at bar, there is absolutely nothing on the record to explain why the Manongas spouses failed to immediately name the appellant to the police authorities despite the fact that the appellant, who resided in a nearby barangay, was known to the spouses. When Emiliano Manongas initially reported the incident that fateful night, he made no mention of the identities of the alleged culprits to the police. The morning after, when accused Albasin and the appellant rushed to the Manongas' to assist with the burial of Simplicio, the Manongas spouses never breathed a word about their alleged participation in the death of Simplicio. They were even allowed by the Manongas spouses to assist in the burial preparations. Two (2) days after Simplicio's burial, the appellant was arrested by the police. While the appellant was detained in jail, it was one Efren Pacquez, accompanied by the Manongas, who identified him as one of the robbers. It took the Manongas spouses four (4) days from the date of the robbery to cause the apprehension of the appellant and his alleged cohorts. What adds confusion to the inexplicable delay is that the appellant and his alleged cohorts were all known to the Manongas spouses as they were all residents of nearby barangays.[19] Noticeably, too, the prosecution evidence is silent as to the circumstances surrounding the appellant's arrest and his identification before the police authorities. Thus, the appellant's evidence surrounding the delay in and the manner of his identification stand un rebutted by the prosecution. Indeed, a defense of alibi is always suspect and must stand searching scrutiny. However, alibi acquires commensurate strength where no proper identification of the malefactors has been made.[20] In the case at bar, we find that the prosecution evidence failed to establish the guilt of the appellant beyond reasonable doubt.

IN VIEW WHEREOF, the impugned Decision finding appellant EPIE ARLALEJO y CAPUCANAN guilty beyond reasonable doubt of the special complex crime of robbery with homicide and sentencing him to suffer the penalty, of death is REVERSED and SET ASIDE. The appellant is ACQUITTED and his immediate release is ordered unless he is held for some other cause. The Director of the Bureau of Prisons shall, within five (5) days from receipt hereof, report to this Court his compliance herewith.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

Vitug, J., on official leave.

- [1] Original Records, p. 63.
- [2] TSN, October 25, 1995, Bernardita Manongas, pp. 7-9; Emiliano Manongas, pp. 28-29.
- [3] Id., pp. 9, 11-13, 21-26; Id., pp. 30-31, 35.
- [4] Id., pp. 8, 10, 14-15, 17, 23, 25-26; Id., pp. 29-31, 38-39.
- [5] Id., pp. 15-16, 24, 27; Id., pp. 32-33, 35.
- [6] Id., Emiliano Manongas, pp.36, 42-43.
- [7] Id., pp. 10-13, 20-21.
- [8] Also referred to in other parts of the transcript as Editha and Elipa De Dios.
- [9] February 29, 1996 TSN, pp. 3-6, 8-9.
- [10] March 14, 1996 TSN, pp. 2-5.
- [11] Id., pp. 5-6, 18.
- [12] Id., pp. 6-8, 19.
- [13] Id., pp. 8-9.
- [14] Id., pp. 10-13.
- [15] July 31, 1996 TSN, pp. 4-5.
- [16] Original Records, at pp. 424-425; As per Decision, dated November 8, 1996, by Presiding Judge Romeo C. Buenaflor, Regional Trial Court, 11th Judicial Region, Branch 41, Cantilan, Surigao del Sur.
- [17] Aquino, The Revised Penal Code, 1987 Edition, at p. 124, citing U.S. vs. Remigio, 37 Phil. 599.
- [18] People vs. Agsunod, Jr., 306 SCRA 612 (1999); People vs. Reduca, 301 SCRA 516 (1999); People vs. Banela, 301 SCRA 84 (1999)
- [19] TSN, Bernardita Manongas, October 25, 1995, p. 25.
- [20] People vs. Bautista, 290 SCRA 58 (1998)

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