

KINGSTON(E) LI Y NUNEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.

G.R. No. 127962. April 14, 2004

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TINGA, J.:

On 19 April 1993, the relative early morning calm in General Luna Street, Barangay Bangkal, Makati, was shattered when a petty argument evolved into a street brawl. After the dust had settled, eighteen (18) -year old Christopher Arugay (“Arugay”) lay dying from multiple stab wounds, while his neighbor, twenty-four (24)-year old Kingstone[1] Li (“Li”), staggered injured, with hack wounds on his head.

Li was charged before the Regional Trial Court (RTC) of Makati, Branch 148,[2] with the crime of Homicide.[3] On 5 January 1994, after trial, he was found guilty and sentenced to the penalty of eight (8) years and one (1) day of prision mayor to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal. His conviction was affirmed by the Court of Appeals Fifteenth Division in a Decision[4] dated 6 September 1996.

The version presented by the prosecution as to the antecedent facts leading to Arugay’s death differs sharply from the version offered by Li. The accused claims that the dispute stemmed from a spurned offer to drink, while the prosecution traces the root of the fight to an indecorous bath in public.

The story of the prosecution was told by the witnesses Aubrey dela Camara (“dela Camara”) and Ronaldo Tan (“Tan”).[5]

Shortly before his death, Arugay was watching television at home with his sisters Cristy and Baby Jane, his girlfriend dela Camara and Baby Jane’s boyfriend, Tan. At around 1:15 in the early morning, dela Camara and Tan suddenly heard a noise outside. Peering through the window, they saw Li and a certain Eduardo “Eddie Boy” Sangalang taking a bath completely naked. The two were facing the house of the Arugays.[6]

Enraged, Arugay yelled, “Pare bastos kayo, ba’t kayo nakahubad?”[7]

Li shouted back, “Putang Ina!” and threw something at the Arugays’ house. Sangalang also yelled, “Putang Ina mo, lumabas ka, papatayin kita!”[8]

An incensed Arugay went out the house where he was met by Li, now wearing briefs and carrying a baseball bat. Li struck Arugay on the head with the bat, causing Arugay to fall. Li ran back to his house. Tan and dela Camara assisted Arugay and were trying to drag him back to his house when Li re-emerged, this time with a knife. Li then stabbed Arugay once.[9]

Immediately thereafter, dela Camara was confronted by Li’s sister, Kristine, who proceeded to pull her hair and slap her around. Kristine also wielded a bolo, with which she hacked dela Camara in the arm. Although preoccupied under the circumstances, dela Camara was able to see Sangalang stab Arugay at least once, so she claimed.[10]

Tan saw Arugay run towards the street after he was stabbed, with Li and Sangalang chasing him. He saw nothing further of the incident, according to him.[11]

In their respective testimonies, dela Camara and Tan are unable to account for the fact that before the fight ended, Li also lay wounded with multiple hack wounds on his head and body. This fact lies at the crux of the petitioner's defense.

On the other hand, Li presents a different version.

Li encountered Arugay out on the street on the night of 18 April 1993, a few hours before the brawl. Arugay was carrying a bayong containing various liquors. He invited Li to a drinking session which the latter refused as he had work the following day.[12]

Early the next morning, around one o'clock a.m., Li was watching television at his home with his friend Ricky Amerol when they heard objects being thrown at the house. Peeping through the window, they saw Arugay and dela Camara in front of the gate throwing stones and bottles at the direction of Li's house. The stones broke window jalousies and also struck Amerol. At the same time, Arugay was also hurling invectives at Li.[13]

Annoyed, Li opened the door asking, "Pare, ano ba problema mo? Wala naman kaming kasalanan sa 'yo." Arugay and his girlfriend just kept on stoning the house and hurling invectives at petitioner. Arugay kicked the gate but Li prevented him from opening it. Arugay then ran towards his house across the street.[14]

Li tried to fix the gate, which had become misaligned and its lock destroyed as a result of the kicking. Reacting, he saw Arugay coming out of the house armed with two kitchen knives. In response, Li went inside his house and got a baseball bat. When he returned to the street, Arugay attacked him with a knife. Li managed to avoid Arugay's thrusts and hit Arugay with the baseball bat on the right shoulder. Arugay ran back to his house shouting, "The long one! The long one!" Li also dashed back to his house but before he was able to enter the door, he saw Arugay carrying a two-foot long bolo, running towards him. On Arugay's heels were Ronaldo Tan and Aubrey dela Camara.[15]

Arugay tried to hit Li with the bolo. Li raised his right hand to protect himself but Arugay was able to hit him on his right temple and right wrist. Not content, Arugay hit Li on the right shoulder. Li passed out.[16]

Upon regaining consciousness, Li tried to crawl back to his house but Ronald Tan hit him at the back of his left ear with a baseball bat. Eventually, Li managed to get back to the house and was brought to the Makati Medical Center by Amerol and Barangay Tanod Eduardo Reyes.[17]

On cross-examination, Li admitted that Eduardo Sangalang was also in his house at the time the incident started. Sangalang was the boyfriend of Li's half-sister, Cristy.[18]

Dr. Alberto Reyes of the Medico Legal Section of the National Bureau of Investigation conducted the post-mortem examination on the body of Arugay. He noted the following injuries:

Pallor, lips and nailbeds.

Contusion, arm, right, poster-lateral, 5.0 x 3.0 cm.

Wounds, incised, scalp, parieto-occipital, right, 6.0 cm.; anterior sheet, left side, suprammary 6.0 cm., inframmary 4.0 cm.

Wounds stab:

- 3.0 cm., long, spindle[-]shaped edges, irregular, oriented, horizontally, with a sharp, medial and a blunt

lateral extremities, located at the anterior chest wall, left side, 15.0 cm. from the anterior median line, directed upwards, backwards and medially, involving the skin and soft tissues only with an approximate depth of 4.0 cm.

- 4.0 cm., long, spindle shaped edges irregular, with a sharp inferolateral and blunt supero-medial extremities, located at the anterior abdominal wall, right side, 0.5 cm. from the anterior median line, directed upwards, backwards and medially involving the skin and soft tissues, laceration of the diaphragm and the right lobe of the liver, with an approximate depth of 10.0 cm.

- 1.5 cm. long, spindle shape[d] edges irregular oriented almost horizontally with a sharp lateral and blunt medial extremities, located at the anterior abdominal wall, left side, 9.0 cm. from the anterior median line, directed backwards, upwards and medially involving the skin and soft tissues, penetrating the transverse colon with an approximate depth of 12.0 cm.

- 1.5 cm. long, spindle, edges irregular oriented almost horizontally with a sharp poster-lateral a blunt antero medial extremities located at the anterior chest wall right side, 21.0 cm. from the anterior median line, directed backward, upwards and medially involving the skin and soft tissues penetrating the 8th intercostals space, into the diaphragm and right lobe of the liver, with an approximate depth of 12.0 cm.

Hemoperitoneum – 1,500 c.c.

Brain and other visceral organs, pale.

Stomach, half-full with rice and brownish fluid.

Cause of death – stab wounds of the chest and abdomen.[19]

After trial on the merits, the RTC rendered its Decision, finding Li guilty as charged. The dispositive portion reads:

WHEREFORE, premises considered, and finding accused KINGSTONE LI guilty beyond reasonable doubt of the crime of Homicide defined and penalized under Article 249 of the Revised Penal Code, said accused is hereby sentenced to suffer the penalty of from EIGHT (8) YEARS and ONE (1) day of prision mayor as minimum to FOURTEEN (14) years, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal as maximum with all the accessories of the law.

The accused is further ordered to pay to the heirs of the late Christopher Arugay the sum of P50,000.00 for and as indemnity for causing the death of said victim.

With costs against the accused.

SO ORDERED.[20]

Li appealed to the Court of Appeals but it affirmed with modification the RTC Decision. He filed a Motion for Reconsideration which the Court of Appeals denied.[21]

Li filed the present Petition for Review, seeking the reversal of his conviction for the crime of homicide.

Li denies killing Arugay. He contends that the RTC erred in holding that he was the instigator of the events leading to Arugay's death; in not basing its Decision on the evidence on record; in holding that he was guilty of homicide by reason of conspiracy; and in not ruling that the evidence of the prosecution does not prove his guilt beyond reasonable doubt.[22]

There is a difference in the factual findings of the RTC and those of the Court of Appeals. The variance warrants the close review of the findings of the two courts. While both courts argue that Li was guilty of homicide, their

respective rationales are different.

Neither court disputes that the proximate cause of the death of Arugay was the stab wounds he received. The RTC concluded though that it was Sangalang, and not Li, who stabbed Arugay:

From all these conflicting versions, this court after piecing out the evidence presented and from what can be deduced in the circumstances obtaining finds that because of the altercation between Christopher Arugay and Kingstone Li, Christopher Arugay armed himself with a bolo and Kingstone Li armed himself with a baseball bat.

From the evidence presented, it became clear to the court that it was Kingstone Li who hit first with a baseball bat Christopher Arugay hitting the latter not on the head but at the right arm which is near the shoulder. [23]

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Now, after Kingstone Li has hit the deceased with a baseball bat, the deceased who is armed with a bolo, retaliated by hacking Kingstone Li on the head and indeed he was hit on the head and right wrist causing Kingstone Li to lose his hold on the baseball bat and fell (sic) semi-unconscious or unconscious.

At this point in time, Eduardo Sangalang, who was then also present stabbed the deceased several times at least six times.

This is explained by the findings of Dr. Alberto Reyes that Christopher Arugay sustained an incise[d] wound on scalp, on the left chest, and four stab wounds that are fatal.

When Christopher Arugay sustained the fatal wounds, two (2) of them piercing his liver xxx[24]

While the RTC concluded that Li had not stabbed Arugay, it nevertheless held him guilty, predicated on a finding of conspiracy with Sangalang. This issue shall be explored in greater detail later.

In contrast, the Court of Appeals did not rule out the possibility that Li had stabbed Arugay, and rendered unnecessary a finding of conspiracy to attach guilt to the accused. It held:

The deceased suffered four fatal wounds, then (sic) the accused might have inflicted at least one fatal stab wound and so with his friend Eddie Boy, who remains at large. Since it has not been established which wound was inflicted by either one of them, they should both be held liable and each one is guilty of homicide, whether or not a conspiracy exists.[25] (Emphasis supplied)

The appellate court's formulation is wrong as the converse is the correct rule: with the existence of conspiracy, it is no longer necessary to determine who among the malefactors rendered the fatal blow;[26] whereas in the absence of conspiracy, each of the accused is responsible only for the consequences of his own acts.[27] Thus, it is necessary to determine whether a conspiracy existed between Li and Sangalang, and if there was none, to ascertain the particular acts performed by Li.

The Court of Appeals also cited the testimonies of the prosecution witnesses, Tan and dela Camara, to the effect that they saw Li stab Arugay at the left portion of the body.[28] These testimonies are vital as they constitute the only evidence that Li actually stabbed Arugay. A careful examination of the case however cautions us from giving full faith and credence to the supposed eyewitnesses for the prosecution. The RTC itself cast doubt on the veracity of all the eyewitness testimony, whether for the prosecution or for the accused. The RTC noted, thus:

At the outset, the court has to state that it has noted that the witnesses for the prosecution and that of the defense either held back on material facts or have deliberately withheld some facts or added some matters to the real facts for these are not only gaps but holes in the versions of the witnesses for the prosecution and the defense. What this court can do is to cull from the evidence presented what could be the approximate or near

the truth. The prosecution did not help this court any to have a good view of the facts and neither the defense.[29]

The relationships of the witnesses dela Camara and Tan to Arugay or the latter's family cannot be easily discounted. Dela Camara was the boyfriend of Arugay, while Tan was the boyfriend of Arugay's sister, Baby Jane. As such, they are not wholly neutral or disinterested witnesses. Both of them actually asserted in open court that they were not willing to say anything derogatory against Arugay. Tan testified as follows:

Q:

Since Jane Arugay is your girlfriend, and Christopher Arugay was your friend, you did not like to say anything derogatory against Christopher Arugay, did you?

A:

Yes, maam.

Q:

Neither did you want to say anything also derogatory against the family of Christopher Arugay, did you?

A:

Yes, maam.[30]

Similarly, dela Camara testified as follows:

Q:

As the girlfriend of Christopher Arugay, you did not say anything derogatory [about] the said Christopher Arugay, am I correct?

A:

Yes, maam.

Q:

You do not like to besmirch his memory, am I correct?

A:

Yes, maam.

Q:

So that if Christopher Arugay assaulted Kingstone Li on April 19, 1993, you did not like this, do you know that, did you Ms. Dela Camara.

A:

Yes, maam.[31]

The revelations serve caution against accepting the testimonies of Tan and dela Camara as gospel truth. They cast doubt as to whether these witnesses would be capable to attest to an unbiased narration of facts, especially if by doing so, they would be forced to impute culpability on Arugay, thereby staining the sainted memory of their

deceased friend.

Moreover, the respective testimonies of dela Camara and Tan are inconsistent with each other with respect to material points. Dela Camara claimed that she and Tan together assisted Arugay after the latter had been struck down with the baseball bat.[32] Yet while Tan admitted that he had pulled Arugay away from the scene of the melee, he made no mention of the assistance of dela Camara.[33] In fact, Tan stated that dela Camara remained inside the house.[34] This assertion contradicts dela Camara's claim that she was outside the house during the whole time the incident transpired.[35] Nor did Tan advert to the scene painted by dela Camara of Kristine Li wielding a bolo while pulling on the hair of Arugay's girlfriend. That is an unusual enough occurrence that would stick to the mind of anybody who would witness such.

Indeed, the tale weaved by Tan arouses more curiosity upon examination of his sworn statement, executed the night after the incident. Therein, Tan referred to some existing bad blood between Arugay and Li over a borrowed tape, a fact which subsequently none of the parties would call attention to.[36] Curiously, Tan never mentioned any baseball bat having been used by Li during the incident. Nor did he mention any participation of Sangalang in the actual brawl. On the other hand, dela Camara in her own sworn statement, asserted that both Li and Sangalang had stabbed Arugay and that she herself was hacked on the arm by Kristine Li.[37]

Both Tan and dela Camara testified that Li stabbed Arugay on the left side of the body as the latter was being pulled towards his house after having been struck with the baseball bat.[38] However, Tan testified that Li came from behind Arugay to inflict the stab wound,[39] while dela Camara stated that Arugay was facing Li when he was stabbed.[40]

Most importantly, the testimonies of dela Camara and Tan both contradict the physical evidence. As consistently held:

Time and again, we have upheld the primacy of physical evidence over biased and uncorroborated testimony of witnesses. We have held:

...Physical evidence is a mute but eloquent manifestation of truth, and it ranks high in our hierarchy of trustworthy evidence. In criminal cases such as murder or rape where the accused stands to lose his liberty if found guilty, this Court has, in many occasions, relied principally upon physical evidence in ascertaining the truth...[W]here the physical evidence on record ran counter to the testimonial evidence of the prosecution witnesses, we ruled that the physical evidence should prevail.[41]

It is undisputed that Li had armed himself with a baseball bat as he prepared to face Arugay. It also appears that the baseball bat remained at the scene of the fight, as the same weapon was used to strike Li on the head after he lay injured.[42] In order to sustain the claim of Tan and dela Camara that Li had stabbed Arugay, we would have to postulate that Li was armed with both a knife and a baseball bat. This scenario is severely flawed.

First, Tan and dela Camara would have us believe that Li faced off Arugay with a baseball bat, then after having struck Arugay, he ran off to his home to get a knife, returned to the melee, then stabbed Arugay.[43] This projected sequence is simply incredulous. Li was already armed with a weapon that could incapacitate or kill. He had already struck a blow that apparently forced the victim down. There is no logical reason for Li to suddenly run off to get a knife, considering he already had a weapon capable of inflicting damage and was at an advantageous position vis-à-vis the prostrate Arugay.

There is of course the possibility that Li was already carrying the knife when he emerged with the baseball bat, but that was not established by the prosecution. Moreover, the scenario of Li brandishing a knife with one hand and wielding a bat with the other is highly improbable. It would require unusual physical dexterity for a person to wield both weapons simultaneously and still utilize them with adequate proficiency. Nor is it likely that Li

concealed the knife in his clothing. According to Tan, Li was only wearing briefs when he attacked Arugay with the baseball bat.[44]

Second. The pathological findings likewise cast severe doubt on the possibility that Li had stabbed Arugay. The trial court concluded that only one knife was used in killing Arugay, and probably only one wielder thereof. The RTC decision said:

The court noted also with particular interest the description of the four wounds as found by Dr. Reyes. The first wound has been described by Dr. Reyes as 3.0 cm. long, spindle[-]shaped edges, irregular, etc; the No. 2 wound has also been described as 4.0 cm. long, spindle[-] shaped, edges irregular, etc.; No. 3 wound is 1.5 cm. long, spindle-shaped, edges, irregular, etc.; and the fourth wound is 1.5 cm. long, spindle shaped edges irregular;

Thus there are two (2) outstanding characteristics of the four (4) stab wounds sustained by Christopher Arugay. All of them are spindle[-]shaped and irregular in their edges. This is significant because it would appear to the court that only one weapon was used because all the characteristics of the four wounds were the same. Thus, to the mind of the court there is only one person who inflicted these wounds, not two (2) or three (3). It could be possible that there were two who inflicted the stab wound[s] if the weapon used was given to another after using the same and the other one to whom it was transferred used it also. But in this case there is no showing that such incident did happen.[45]

It must be qualified that Dr. Reyes, the NBI Medico-Legal, refused to definitively conclude that only one knife was used in stabbing Arugay though he conceded that such was possible.[46] Nevertheless, the fact that Arugay sustained the same kind of stab wounds tends to support the conclusion that only one knife was used on him.

Third. Dela Camara testified that she saw both Li and Sangalang stab Arugay. Considering that there was only one knife used, her version would hold water only if we were to assume that the same knife passed from the hands of Li to Sangalang or that they held identical or similar knives. As the RTC ruled, nothing of the sort was established. The more logical assumption would be that there was only one stabber using one knife. The question now arises, was it Li or Sangalang who stabbed Arugay?

There is the dubious claim of Tan and dela Camara that they did see Li stab Arugay once. Assuming this were true, this blow would not have been the fatal stab wound, as it did not prevent Arugay from further participating in the rumble and, as subsequently established, inflicting damaging blows on Li. However, the physical evidence belies any conclusion that Li inflicted any of the several fatal wounds on Arugay.

Dr. Pedro P. Solis, the medico-legal consultant of Makati Medical Center who also happens to be one of the country's leading experts in Legal Medicine[47], examined Li's injuries on the same day of the incident, and subsequently testified on his findings. He concluded that Li suffered three types of wounds on his body. The first type consisted of abrasions, consistent with forcible contact accompanied by a hard object. The two other types of injuries were considerably more serious: incised wounds and a contusion. As found by the RTC:

According to (sic) Dr. Pedro Solis, who examined the accused at the Makati Medical Center on the very night after the incident and (sic) found the following injuries on Kingstone Li, to wit:

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- Wound, incised, 12 cm., scalp, fronto-parietal area, right, 9 cm., right; 9 cm. posterior aspect, shoulder, right; 1.5 cm., postero-medial aspect, distal third, forearm, right.

- Contusion, 4 x 5 cm., scalp, parieto-occipital area (post suricular) left.

From the expert testimony and opinion of Dr. Pedro Solis, the injuries suffered by Kingstone Li were defense

wounds, and that there were two (2) weapons used in inflicting injuries on Kingstone Li. One is a sharp edge[d] instrument such as a bolo and the other one is [a] blunt instrument.[48]

The physical evidence of Li's injuries are consistent with his version that Arugay had hacked him, and as he struggled to recover from the blow, he was struck with his own baseball bat by Tan, thus explaining the contusion on his head. More importantly though, the injuries were serious enough to incapacitate Li at the scene, calling into question his ability to inflict the fatal blows on Arugay. As Dr. Solis testified:

A:

[I] noticed in this particular case that there are incise[d] wound[s] on the right hand and right shoulder. These are injuries brought about, as I said, brought about by [a] sharp edged instrument. This I presumed to have been brought about by the inherent self defensive (sic) mechanism of the victim. In so far as the injury on the head is concerned, it must be a hit, now, I am referring to the incise wound on the head, incise[d] wound on the head will also cause pressure on the skull thereby producing some effect on the brain, this has been aggravated by a blunt instrument applied on the left side of his neck and joining as together the two injuries the incise[d] wounds and that of contusion which is brought about by blunt instrument it might have cause[d] him some degree of loss of consciousness.

Q:

Would that person have been able to stab somebody one time, two times, three times or four times after sustaining those injuries?

A:

In that condition he has no complete power to perform volitional acts because he must have lost partially or totally his consciousness primarily the hit on the left side of the head because the brain is a vital organ and slight jarring will cause los[s] of consciousness and what we call in ordinary parlance, you saw shooting stars as a consequence.

Q:

Aside from los[s] of consciousness, would that person who sustained that injury have been able to walk without the assistance of anybody?

A:

In all [likelihood], he might have lost I said of his volitional movement, he [may be] able to walk but as I have observe[d] it must be with assistance more particularly in this case whereby the incise wound on the head is measured 12 cm., the head is a bloody organ in a way that if a person is erect, blood will flow on that area and it might cause even modification of his visual perception.[49]

Li was slashed on the head with a bolo, causing a twelve centimeter (12 cm.)-wound, among other wounds. In such a condition, it is highly improbable that he was capable of inflicting the fatal stab wounds on Arugay. Moreover, it could not be established that Li was ever armed with a knife. Difficult as it is already to believe that the wounded Li could have stabbed Arugay several times, the incredulity is compounded by imagining that Li would have also groped around for a knife, dazed and severely wounded as he was. Simply put, Li could not have stabbed Arugay. The assertions to the contrary of Tan and dela Camara are inherently flawed.

Fourth. In all, the factual determination made by the RTC is wholly believable up to a point. There were four participants in the brawl, namely Li, Sangalang, Arugay and Tan. The first blow was struck by Li, who had armed

himself with a baseball bat and used the same to hit Arugay on the left upper arm. This unprovoked assault by Li establishes at least some degree of criminal culpability on his part. Arugay then armed himself with a bolo which he used to inflict an incised wound on the head of Li. After Li had fallen, Sangalang, himself armed with a knife, fatally stabbed Arugay at least four times. Tan had picked up the baseball bat dropped by the wounded Li and struck Li on the head with the bat. These findings are consistent with the physical evidence, reliance on which should be given greater primacy over the unreliable eyewitness testimony of Tan and dela Camara.

Thus, Sangalang alone had stabbed Christopher Arugay. Yet the RTC still found Li guilty on the tenuous determination that a conspiracy between Li and Sangalang existed. The RTC held:

From the evidence presented, the court believes and it so holds that there was conspiracy.

It must be pointed out that Kingstone Li and Eduardo Sangalang were then in the same house at the same time. Eduardo Sangalang is the boyfriend of the half-sister of Kingtone Li.

The act of Kingstone Li [in] getting a baseball bat and using it as a weapon and the act of Eduardo Sangalang alias Eddie Boy in arming himself with a sharp pointed weapon and both going out to meet Christopher Arugay whose only sin is to point to the accused his scandalous and indecent act in bathing nude not in the bathroom but in a place which is crowded by people who can see him especially the ladies and is provocative to others are patent and conclusive presumption of conspiracy for their acts were concerted and so close to each other that there is no way but to conclude a conspiracy.[50] (Emphasis not ours)

Proving conspiracy is a dicey matter, especially difficult in cases such as the present wherein the criminal acts arose spontaneously, as opposed to instances wherein the participants would have the opportunity to orchestrate a more deliberate plan. Spontaneity alone does not preclude the establishment of conspiracy, which after all, can be consummated in a moment's notice – through a single word of assent to a proposal or an unambiguous handshake. Yet it is more difficult to presume conspiracy in extemporaneous outbursts of violence; hence, the demand that it be established by positive evidence. A conviction premised on a finding of conspiracy must be founded on facts, not on mere inferences and presumption.[51]

It is worth noting that while conspiracy was alleged in the Information against Li, the prosecution devoted its efforts to prove that Li had actually inflicted the stab wounds on Sangalang, tagging him as a direct participant in the crime. Thus, there seems to be no evidence that would directly establish the fact that Li and Sangalang had come into an agreement to commit a common felony. Any conclusion that there was a conspiracy will have to be drawn inferentially, as the RTC did.

It is not necessary to prove a previous agreement to commit a crime if there is proof that the malefactors have acted in concert and in pursuance of the common objectives. Direct proof is not essential to show conspiracy since it is by its nature often planned in utmost secrecy and it can seldom be proved by direct evidence.[52] Conspiracy may be inferred from the acts of the accused themselves when such point to a joint purpose and design.[53] Complicity may be determined by concert of action at the moment of consummating the crime and the form and manner in which assistance is rendered to the person inflicting the fatal wound.[54]

However, caution dictates a careful examination of the established facts before concluding, as the RTC did, that an implied conspiracy had been established. An implied conspiracy must still be based on facts established by positive and conclusive evidence.[55] Even if conspiracy per se is not criminal, as it rarely is in this jurisdiction,[56] the weight of factual evidence necessary to prove conspiracy is the same as required to establish criminal liability – proof beyond reasonable doubt.[57] Suppositions based on mere presumptions and not on solid facts do not constitute proof beyond reasonable doubt.[58]

The RTC's conclusion that there was a conspiracy was drawn from these circumstances, namely: that Li and

Sangalang were in the same house at the same time; and that they both armed themselves before going out to meet Arugay. The fact that they were in the same house at the same time is not in itself sufficient to establish conspiracy. Conspiracy transcends companionship,[59] and mere presence at the scene of the crime does not in itself amount to conspiracy.[60]

The other circumstance that Li and Sangalang had emerged from Li's house, both armed, to face Arugay has to be weighed against other facts also relied upon by the RTC. As the RTC held, Sangalang stabbed Arugay only after petitioner had become unconscious. Before that point, even as Li struck Arugay with a baseball bat, it was not proven that Li had asked for, or received, any assistance from Sangalang. Based on these circumstances, the Court is hard put to conclude that Sangalang and Li had acted in concert to commit the offense. In fact, the stabbing of Arugay could very well be construed as a spur-of-the-moment reaction by Sangalang upon seeing that his friend Li was struck on the head by Arugay. From such a spontaneous reaction, a finding of conspiracy cannot arise.[61]

Moreover, it appears that the fight involved two distinct phases. The first phase commenced when Li, without sufficient provocation, assaulted Arugay with the baseball bat. Li's participation in this phase, albeit as a solitary actor, was indubitably established. Sangalang's participation, much less his physical presence during this phase, was not established at all. In the second phase, Sangalang was the main actor. Li was incapacitated by then. Clearly, the existence of conspiracy should be ruled out.

After Arugay had been struck down, it appears that there would have been a lapse of at least a few minutes, affording him time to procure the bolo. The second phase in the brawl then commenced. No further blows appear to have been inflicted by Li. On the other hand, Li himself became the victim of the hack wounds on the head inflicted by Arugay. As Li lay incapacitated, possibly unconscious, it remained highly doubtful whether he had any further participation in the brawl. At that point, Sangalang, whose previous participation was not conclusively established, emerged into the fray. Sangalang stabbed Arugay to death. Verily, it cannot be assumed that Sangalang did what he did with the knowledge or assent of Li, much more in coordination with each other.

The scenario as established by the RTC still leaves many open-ended questions and admits to a myriad of possibilities. This very uncertainty indicates that Li's liability as a conspirator was not established beyond reasonable doubt. The general principle in criminal law is that all doubts should be resolved in favor of the accused. Consequently, when confronted with variant though equally plausible versions of events, the version that is in accord with the acquittal or the least liability of the accused should be favored.

The only injury attributable to Li is the contusion on the victim's right arm that resulted from Li striking Arugay with a baseball bat. In view of the victim's supervening death from injuries which cannot be attributed to Li beyond reasonable doubt, the effects of the contusion caused by Li are not mortal or at least lie entirely in the realm of speculation. When there is no evidence of actual incapacity of the offended party for labor or of the required medical attendance, the offense is only slight physical injuries, penalized as follows:

Art. 266. Slight physical injuries and maltreatment. – The crime of slight physical injuries shall be punished:

....

2. By arresto menor or a fine not exceeding 200 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical attendance;[62]

The duration of the penalty of arresto menor is from one day to thirty days.[63] The felony of slight physical injuries is necessarily included in the homicide charge. Since the Information against Li states that among the

means employed to commit the felonious act was the use of the baseball bat, conviction on the lesser offense of slight physical injuries is proper. There being no aggravating or mitigating circumstances established, the imposition of the penalty in its medium period is warranted.[64] Li was convicted by the RTC on January 5, 1994. Having long served more than the imposable penalty, Li is entitled to immediate release unless, of course, he is being lawfully detained for another cause.

What transpired during the dawn hours of 19 April 1993 was an artless, spontaneous street fight devoid of any methodical plan for consummation. It arose not because of any long-standing grudge or an appreciable vindication of honor, but because the actors were too quick to offense and impervious to reason. Yet, however senseless this lethal imbroglio is, a judicious examination of the circumstances must be made to avoid leaps into hyperbole. Careful scrutiny of the evidence reveals that the criminal culpability of Kingstone Li in the death of Christopher Arugay was not established beyond reasonable doubt. Unfortunately, the person who is responsible for the death apparently remains at large. Yet absent any clear showing of conspiracy, as in this case, Kingstone Li cannot answer for the crime of Eduardo Sangalang.

WHEREFORE, the Decision of the Court of Appeals is MODIFIED. Petitioner Kingstone Li is ACQUITTED of the charge of Homicide for lack of evidence beyond reasonable doubt. However, he is found GUILTY of the crime of SLIGHT PHYSICAL INJURIES, as defined and punished by Article 266 of the Revised Penal Code, and accordingly sentenced to suffer the penalty of arresto menor in the medium period of ten (10) to twenty (20) days. Considering that petitioner has been incarcerated well-beyond the period of the penalty herein imposed, the Director of the Bureau of Prisons is ordered to cause petitioner's IMMEDIATE RELEASE, unless petitioner is being lawfully held for another cause, and to INFORM this Court, within five (5) days from receipt of this Decision, of the compliance with such order.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Petitioner is identified in his Petition for Review as "Kingston Li", yet the case records, as well as the assailed lower court decisions, give his name as "Kingstone Li".

[2] Presided by Judge Oscar Pimentel.

[3] The accusatory portion of the Information reads:

That on or about the 19[th] day of April 1993, in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one alias Eddie Boy whose true identity and present whereabouts (sic) is still unknown and mutually helping and aiding one another, armed with a fan knife (balisong) and baseball bat, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one CHRISTOPHER ARUGAY y RAMIREZ, on the left side of his body, thereby inflicting upon the latter stab wounds which directly caused his death.

CONTRARY TO LAW. See Records, p. 12.

[4] Penned by the late Justice Maximiano Asuncion, Jr., and concurred in by Justices Salome A. Montoya and Godardo A. Jacinto.

[5] See TSNs dated 20 July 1993 and 20 September 1993.

[6] TSN, 13 July 1993, p. 12.

[7] Id. at 16.

[8] Ibid.

[9] Id. at 21.

[10] TSN, 20 September 1993, p. 49.

[11] TSN, 13 July 1993, p. 27.

[12] TSN dated 20 October 1993, pp. 7-8.

[13] Id. at 11.

[14] Id. at 15.

[15] Id. at 16-21.

[16] Id. at 27.

[17] Id. at 29-30.

[18] See TSN, 20 October 1993, pp. 46-47.

[19] Records, pp. 37-38.

[20] Records, p. 46.

[21] See Rollo, p. 79.

[22] Rollo, p. 30.

[23] Records, p. 41.

[24] Records, p. 43.

[25] Rollo, p. 74.

[26] *People v. Dindo*, G.R. No. 129305, 18 January 2001, 349 SCRA 492, 497-498.

[27] See *U.S. v. Abiog and Abiog*, 37 Phil. 131, 140 (1917); *People v. Tamayo*, 44 Phil. 38, 47-49 (1922); *People v. Tividad*, 126 Phil. 913, 920 (1967).

[28] Rollo, p. 71.

[29] Records, p. 35.

[30] TSN, 20 July 1993, pp. 6-7.

[31] TSN, 20 September 1993, p. 44.

[32] Id. at 53.

[33] TSN, 13 July 1993, pp. 19-20.

[34] TSN, 20 July 1993, p. 21.

[35] See TSN, 20 September 1993, p. 41.

[36] RTC Records, p. 5.

[37] Id. at 7.

[38] Interestingly, Tan testified as to Arugay's purported stabbing by Li during his direct examination in the following manner:

Q:

According to you that while you were dragging along Mr. Christopher Arugay towards their house the accused came back with a knife and stabbed Christopher Arugay, is that right?

A:

Yes sir, Kingstone Li stabbed Christopher Arugay in the left portion of his body. (TSN, 13 July 1993, p. 21)

It is quite clear from the above that the admission came from Tan after having been prompted by a blatantly leading question, which unfortunately, was not objected to by defense counsel. This is but another circumstance that cast doubt on the objective credibility of the testimony of the supposed eyewitnesses for the prosecution.

[39] TSN, 13 July 1993, p. 24.

[40] TSN, 20 September 1993, p. 16.

[41] *People v. Roche*, G.R. No. 115182, 6 April 2000, 330 SCRA 93, citing *Jose v. Court of Appeals*, G.R. Nos. 118441-42, 18 January 2000, 322 SCRA 25.

[42] *Rollo*, p. 43.

[43] See *Records*, pp. 14, 36.

[44] *Records*, p. 14.

[45] *Records*, pp. 38-39.

[46] TSN dated 16 September 1993, p. 14.

[47] Dr. Solis was the author of the widely-used standard textbooks, "Medical Jurisprudence" and "Legal Medicine," among others.

[48] *Records*, pp. 39-40.

[49] TSN, 27 October 1993, pp. 12-14.

[50] *Records*, p. 44.

[51] *People v. Halili*, G.R. No. 108662, 27 June 1995, 245 SCRA 340, 352.

[52] *People v. Peralta*, 134 Phil. 703, 722 (1968); citing *People v. Cadag*, L-13830, 31 May 1961 and *People v. Romualdez*, 57 Phil. 148 (1932).

[53] See, e.g., *People v. Saul*, G.R. No. 124809, 19 December 2001, 372 SCRA 636, 646.

[54] *People v. Mozar*, 215 Phil. 501, 511 (1984).

[55] *People v. Furugganan*, G.R. No. 90191-96, 28 January 1991, 193 SCRA 481, citing *People v. Drilon*, 123 SCRA 72 (1983); *People v. Martinez*, 127 SCRA 260 (1984).

[56] Under the Revised Penal Code, the very act of conspiracy itself is punishable as a separate crime only in

cases of conspiracy to commit treason, coup d'état, rebellion or insurrection. See Arts. 115 and 136, Revised Penal Code.

[57] *People v. Furugganan*, supra note 46.

[58] *People v. De Vera*, 371 Phil. 563, 581. (1999). "The conspiracy itself must be shown to exist as clearly and convincingly as the crime itself." *People v. Saul*, supra note 44.

[59] *People v. Compo*, G.R. No. 112990, 28 May 2001, 358 SCRA 266, 272.

[60] *People v. Dindo*, G.R. No. 129305, 18 January 2001, 349 SCRA 492, 497-498. See also *People v. Campos*, 202 SCRA 387, 3 October 1991.

[61] "If the tragedy was a chance stabbing, there can be no conspiracy to speak of." *People v. Agapinay*, G.R. No. 77776, 27 June 1990, 186 SCRA 812, 821.

[62] See *People v. Fortich*, G.R. Nos. 80399-404, 13 November 1997, 281 SCRA 600.

[63] See Article 27, REVISED PENAL CODE.

[64] See Article 64, par. (1), REVISED PENAL CODE.

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