

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO ACUNO Y BABASOL, ACCUSED-APPELLANT.

G.R. No. 130964. September 03, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

A treacherous and sanguinary plot claimed the lives of three innocent persons and wounded more than a dozen others. No culprit could be identified at first. But after a couple of days, accused-appellant Ricardo Acuno's name surfaced to end the puzzling search for the perpetrator. Indicted, he vehemently denied responsibility. His trial, however, appeared to have proved otherwise and he was thus convicted. But as he maintains his innocence, we heed the call for a review.

Records show that accused-appellant was prosecuted and subsequently convicted under an information^[1] for multiple murder and multiple frustrated murder filed before the Regional Trial Court, Cagayan de Oro City, Branch XIX, the accusatory portion of which reads:

“That on or about July 31, 1993, at 4:00 o'clock in the afternoon at Capt. Vicente Roa Street, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously and with intent to kill, and with the qualifying aggravating circumstance of evident premeditation and treachery, deliberately placed inside a cement bag containing rice grains fragmentation grenade, a deadly explosive, inside a passenger jeepney loaded with several passengers, with deliberate intent to cause explosion of the same and as a consequence of which (explosion) resulted to the death of passengers Teresita Mabulay, Celso Tunglos, and Cookie Grace Dayla and serious physical injuries to passengers Richard Rabela, Ruben Cabanyas, Reynante Doria, Rey Nagac, Elsie Nagac, Charmaine Nagac, Angelina Mabunay, Oliveth Bacarrisas, Gladys Abella, Arturo Domingo, Jess Nazar, Elizabeth Abratiguin, which were necessarily fatal and mortal, thus performing all the acts of execution which should have also produce (sic) the crime of Murder as a consequence, but nevertheless did not produce it by reason of causes independent of his will, that is, by the timely and able medical assistance rendered to the latter twelve (12) persons which prevented their death.”

Accused-appellant pleaded not guilty to the indictment. On December 1, 1993, a “Partial Stipulation of Facts” was entered into and signed by accused-appellant, private complainants, and their respective counsel, wherein the following facts were admitted:

1. Identity of Accused Ricardo Acuno y Babasol. - Accused Ricardo Acuno y Babasol, who was arraigned before this Honorable Court on August 23, 1993, and who pleaded “Not Guilty” thereto, is the person being charged before this Court by numerous private complainants, led by Goldmar Mabulay, Gemma O. Gayla, Elizabeth Abratiguin, Angelina Mabunay, etc., for Multiple Murder and Multiple Frustrated Murder;
2. Occurrence of grenade explosion at hereinunder stated date, time, and place. - On July 31, 1993, at about 4:00 P.M., right inside a PUJ Jeep, bearing Plate No. KBR-125, plying the Cogon Market-Pagatpat and vice versa route parked at the Pagatpat Terminal Area, in Capt. Vicente Roa Street, this city, an explosion occurred, later determined to be caused by a fragmentation grenade;

3. As consequence of aforecited explosion, three (3) passengers died, while thirteen (13) were wounded. - The explosion mentioned in paragraph 2 immediately preceding was the direct cause of the death of three (3) of the PUJ jeep's passengers, to wit:

- a. Teresita (Indang) Mabulay of legal age, married and a resident of Pagatpat, this city;
- b. Celso Tunglos of legal age, married and a resident of Pagatpat, this city;
- c. Cookie Grace Gayla a minor, aged 3 years and 11 months, and a resident of Canitoan, this city;

while thirteen (13) other passengers of the same vehicle sustained multiple injuries as follows:

- a. Richard Rabela – from Pagatpat, Cagayan de Oro City;
- b. Ruben Cabanyas – from Canitoan, Cagayan de Oro City;
- c. Reynante Doria - from Canitoan, Cagayan de Oro City;
- d. Rey Nagac - from Kauswagan, Cagayan de Oro City;
- e. Elsie Nagac - from Kauswagan, Cagayan de Oro City;
- f. Charmaine Nagac - from Kauswagan, Cagayan de Oro City;
- g. Angelina Mabunay - from San Simon, Cagayan de Oro City;
- h. Oliveth Bacarrisas – from Pagatpat, Cagayan de Oro City;
- i. Glady Abella - from Canitoan, Cagayan de Oro City;
- j. Arturo Domingo - from Canitoan, Cagayan de Oro City;
- k. Jess Nazar - from Canitoan, Cagayan de Oro City;
- l. Elizabeth Abratiguin - from Pagatpat, Cagayan de Oro City;
- m. Gemma Gayla - from Canitoan, Cagayan de Oro City.

4. Idemnifications for Death of some passengers of subject PUJ jeep. - The heirs of the late Teresita (Indang) Mabulay and Cookie Grace Gayla, are entitled for idemnifications in the sum of P50,000.00 each, in accordance with the Rulings of the Supreme Court in recently-decided cases.

5. In addition, the heirs of deceased Teresita (Indang) Mabulay and Cookie Grace Gayla claim for expenses incurred for the funeral during the wake/vigil, labor and materials for pantheon and moral damages. – Due to the untimely deaths of Teresita (Indang) Mabulay and Cookie Grace Gayla, their heirs, namely: Engr. Goldmar Mabulay (Husband) and Orville Gayla (father), respectively, have incurred various expenses and therefore further claim for the following idemnifications:

- a. For the late Teresita (Indang) Mabulay:

1) Funeral expense (supported by receipt) - - - - -

P7,500.00

2) Labor and materials for construction of Pantheon - - - - -

5,000.00

3) Expenses during wake/vigil for six (6) days and burial- - - - -

15,000.00

4) Moral damages- - - - -

50,000.00

Total

P77,500.00

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b. For the late Cookie Grace Gayla:

1) Funeral expenses- - - - -

P7,500.00

2) Labor and materials for construction of Pantheon - - - - -

5,000.00

3) Expenses during wake/vigil and burial - - - - -

15,000.00

4) Moral damages - - - - -

50,000.00

Total

P77,500.00

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6. Indemnifications for the other Passengers who were injured. - The following private complainants also sustained multiple wounds by reason of an explosion that occurred inside a PUJ jeep bearing Plate No. KBR-125, as described fully above of which they were passengers, as a result of which they incurred huge medical and other expenses; in addition, they are claiming for moral damages, to wit:

a. Injured Passenger Angelina Mabunay:

1) Wounds sustained per Medical Certificate dated October 11, 1993:

“Multiple lacerated wounds left forehead, 3rd ICS (R), 4th ICS (L) (R) arm, (R) forearm, (L) forearm, (L) lumbar umbilical area (L) thigh (R) knee, (R) foot 2’ to allege blast injury.”

2) Per x-ray/ultra sound Report dated August 2, 1993, metallic fragments are still left inside the body of Angelina Mabunay, thus:

“Skull, APL:

Metallic fragments in the left frontal area.
No demonstrable defect.

Chest PA:

Metallic foreign body in the right hilar area.
Negative for pneumohemothorax.
Negative hear and lungs.”

3) Medical, actual, transportation and loss earnings

P24,556.00

4) Moral damages 30,000.00

Total

P54,556.00

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5) Sold one (1) cow for P6,000.00, to support needs for medicines, as evidenced by a Deed of Sale dated August 2, 1993.

b) Injured Passenger Gemma O. Gayla. -

1) Medical, actual, transportation and loss of earnings- - - - - P25,238.80

2) Moral damages - - - - -
30,000.00

Total

P55,238.80

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c) Injured passenger Oliveth Bacarrisas. -

1) Medical expenses incurred - - - - - P3,406.15

2) Actual, transportations, loss of earnings - - - -
3,000.00

3) Moral Damages - - - - -
10,000.00

Total

P16,406.15

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d) Injured passenger Elizabeth L. Abratiguin. -

1) Wounds suffered per Medical Certificate dated October 12, 1993 issued by Dr. Manuel Z. Sison, M.D.:

“Fractured maxillary left central lateral incisors cuspid and first premolar and mandibular right first and 2nd premolars due to a grenade blast.”

2) Dental wounds sustained per Medical Certificate dated October 18, 1993:

“Grenade blast injury with shrapnel wounds on (R) elbow with incomplete fracture of ULNS, shrapnel wounds on face with laceration of (R) side of upper lip, (R) cheek and tongue, with comminution of (R) lower canine, (R) lateral incisor (R) upper central & lateral incisors, and (R) premolar teeth.”

3) Hospital bill cost of medicines - - - - - P15,901.20

4) Actual, transportation and loss of earnings - -
5,945.00

5) Moral damages- - - - - 30,000.00

Total

P51,846.20

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e) Injured passenger Arturo Domingo:

1) Wounds sustained per Medical Certificate issued by Dr. Alex Barlaan dated October 12, 1993:

“Lacerated wound 2 cm. frontal left side.
punctured wound forehead.
- Punctured wounds 2 pts. midsternal area 2nd & 3rd rib level.
- Punctured wounds right forearm M/3rd medial aspect.
- Punctured wounds left thigh, ant. aspect.
- Foreign body metallic, soft tissue posteromedial aspect left leg.
- Foreign body, metallic, anterior tibia w/ linear fracture.

2) Hospital charges and cost of medicines - - - - P5,006.30

3) Transportation, food, etc. - - - - -
3,500.00

4) Moral damages - - - - -
30,000.00

Total

P38,506.30

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5) Money borrowed from a lending institution and from relatives - - - - - P 6,200.00

7) Aforenamed heirs of deceased and private complainants will re-affirm above-stated stipulations if called to testify. - Goldmar Mabulay (husband of the late Teresita “Indang” Mabulay) and Ornille Garla (father of the late Cookie Grace Gayla), as well as private complainants Angelina Mabunay, Gemma O. Gayla, Oliveth Bacarrissas, Elizabeth L. Abratiguin, and Arturo Domingo, if called to testify in the case before this Honorable Court, will testify in accordance with, and re-affirm the factual allegations and other claims aforesated.

8) Reservations. - The other private complainants are reserving their rights to institute separate claims/cases for

civil liabilities against the accused, and/or enter into subsequent partial stipulations of facts.

On April 14, 1997, the trial court rendered its decision[2] finding him guilty as follows

“WHEREFORE, the court finds accused Ricardo Acuno y Babasol guilty beyond reasonable doubt for the crime of multiple murder of Teresita Mabulay, Celso Tunglos, and Cookie Grace Gayla, and frustrated murder of Ricardo Rabela, Ruben Cabanyas, Reynante Doria, Rey Nagac, Elsie Nagac, Charmaine Nagac, Angelina Mabunay, Oliveth Bacarrisas, Glady Abella, Arturo Domingo, Jess Nazar, Elizabeth Abratiguin and Gemma Gayla, qualified by treachery, and hereby sentences [him] to suffer [the penalty of] reclusion perpetua.

“Accused is also ordered to indemnify the heirs of Cookie Grace Gayla the sum of P50,000.00, pay them moral damages also in the sum of P50,000.00, and actual damages in the sum of P25,238.80.

“Accused likewise is ordered to indemnify the heirs of Teresita Mabulay the sum of P50,000.00[,] moral damages in the sum of P50,000.00 and actual damages in the sum of P27,500.00.

“He is likewise ordered to indemnify the heirs of Celso Tunglos[,] if there are any[,] in the sum of P50,000.00.

He is also ordered to indemnify for the hospitalization and medical expenses of Gemma Gayla, Angelina Mabunay and Elizabeth Abratiguin in the respective amounts of P24,556.00, P9,372.55 and P21,846.20.

“Accused is ordered to pay the costs and is sentenced to suffer all accessory penalties provided by law.

“SO ORDERED.”

Evidence for the prosecution shows that at about 4:00 o’clock in the afternoon of July 31, 1993, Gemma Gayla and her three-year old daughter Cookie Grace, boarded the Pagatpat-bound passenger jeepney “Catli 2” which was then parked near the Yip Modern Bakery located along Capt. Vicente Roa Street in Cagayan de Oro City. There were already a number of passengers who were on board when she sat on the jeepney’s left side just behind the driver. While seated, she noticed a man in military fatigue uniform wearing sunglasses and a multi-colored bandana on his head. She saw the man kneel on the right front seat of the jeepney and place a jute sack of rice on the seat behind him. After that, the man, whom this witness later identified as accused-appellant Acuno, glanced at her, alighted from the jeepney and walked away.

Later, as additional passengers were boarding, the dispatcher urged those already on board to move in their seats. One passenger, Elizabeth Abratiguin, who sat next to the deceased Teresita “Indang” Mabulay on the right side of the vehicle, requested the latter to move. Mabulay apparently protested because the sack was on the seat beside her, thus, prompting Abratiguin to call the dispatcher’s attention. The dispatcher requested Mabulay to remove the sack. Right after Mabulay removed the sack, there was a hissing sound followed by a deafening explosion. A commotion ensued as passengers scampered for safety. Gayla sustained a wound on her leg while her daughter Cookie Grace was hit by shrapnel on the right temple. Both of them were brought to the hospital for treatment but, unfortunately, Cookie Grace died the following day. The untimely death of her daughter caused her worry, anxiety, and wounded feelings.

Gayla testified further that a few days after the incident, she went to the “OKK”[3] office at the NAPOLCOM Training Center upon the invitation of police officers investigating the same. Inside the office, she trembled and cried when she saw accused-appellant whom she immediately recognized as the one who was wearing fatigue uniform, sunglasses and bandana and the one who put the jute sack inside the jeepney that caused the explosion.

Gayla’s testimony was substantially corroborated by witnesses Elizabeth Abratiguin and Angelina Mabunay who were also on board the ill-fated jeepney at the time the explosion occurred.

Abratiguin confirmed the fact that she was seated beside the deceased Mabulay when she requested that the latter move after the dispatcher requested the passengers already on board to move in their seats in order to accommodate additional passengers. She remembered that she saw the jute sack behind the front seat and that she requested Mabulay to put the sack on the floor. After that, she heard Mabulay utter, "What is this?" and then an explosion followed. She was hospitalized for three days because of the injuries she sustained from the explosion. She likewise testified that she experienced nightmares and that she became scared of traveling from then on.

Angelina Mabunay, on the other hand, testified that she boarded the jeepney with Abratiguin and Mabulay opposite her. She claimed that she also heard the dispatcher's request for Mabulay to remove the sack and that thereafter she heard a whistling sound and then an explosion. Although already injured on the head, she managed to get out of the window at which time she saw Gayla. They then went together to the hospital for treatment. She stated further that immediately prior to the incident, she saw the accused-appellant sitting near a table inside Yip Modern Bakery. She remembered that accused-appellant, who was only about four meters away from her, looked suspicious because he was restless and could not remain in his seat.

Witness Noel Silabay, who was initially suspected of perpetrating the crime but was later released after investigation, testified that he was inside the Yip Modern Bakery at about the time the incident occurred. He recalled that accused-appellant, who was just outside the bakery, would stand up and walk to the right front side of the jeepney. He would then stay in the vehicle's front seat, peep inside, and then return to where he sat. When seated, he kept on turning his head from left to right, looking at the direction of the bakery and then the jeepney. Just before the explosion, this witness saw accused-appellant approach the jeepney again and when the explosion occurred, he did not see him anymore.

Felix Reyes, the jeepney's dispatcher, also noticed accused-appellant at the bakery. He observed that accused-appellant was very alert. Just before the explosion, he recalled seeing accused-appellant across the street or about ten "fathoms"[4] away from the vehicle.

Immediately after the explosion, policemen responded to the crime scene and found shrapnel, scattered parts of the jeepney, and assorted items belonging to the passengers. During the investigation that followed, accused-appellant's name came up as one of the suspects. Since he had previous criminal records, police officers proceeded to his residence at Basurahan, Carmen, Cagayan de Oro City. He was not at home, so police officers followed him to the Carmen Market where he had gone according to the owner of the house. Finding him there, the police team invited him to go with them for investigation. SPO4 Ronnie Lagsa, Chief of the Homicide and Arson Section, informed accused-appellant of his constitutional rights. When asked by Lagsa about the clothes he wore at the time of the incident, accused-appellant readily surrendered a military fatigue uniform, sunglasses, and a multi-colored bandana. He was then brought to the NAPOLCOM Training Center for further investigation. It was there where Gayla identified him as the very person who placed the sack behind the front seat of the passenger jeepney.

Staff Sgt. Emmanuel Cawaling testified that at about 4:00 o'clock in the afternoon of July 31, 1993, police officers sought his assistance in investigating the cause of the explosion. In the course of the investigation, he found grenade Mark II shrapnel on the front seat and around the place where the sack was placed. According to him it was absolutely possible that the safety pin of the grenade had been removed and that moving the sack could have triggered its explosion within four to five seconds. He testified further that the fatal range of said grenade was five meters.

The defense, on the other hand, had a different version. Testifying for himself, accused-appellant narrated that in the morning of July 31, 1993, he went to Amoros, El Salvador, Misamis Oriental in the company of four other

relatives where they harvested mangoes and gathered coconuts. At around 3:00 o'clock in the afternoon, they left Amoros and went to Pagatpat terminal where the ill-fated jeepney was parked waiting for passengers to board. He alleged that he was left behind by his four other companions who boarded another jeepney. It was at this juncture that he stationed himself beside the jeepney where the explosion later took place. Contrary to the prosecution witnesses' testimony, he claimed that he never left the jeepney and that he stayed near the front seat because it was about to depart and he really wanted to ride in front of said vehicle. This was why he was hit on the face, nose, ear, neck, and chest when the explosion occurred. Although he was hit, he was still conscious and was able to walk towards the Opol terminal which was located a block away. At the terminal, he met his uncle who inquired why he was bleeding and he replied that he was hit by grenade splinters. He was brought to the hospital for treatment but he was allowed to go home on the same day.

Two days after the incident, he alleged that he was arrested, brought to a forested area, and maltreated by police officers. During the investigation that followed, he disclaimed having perpetrated the crime and stated that he never knew who Gayla was. He declared further that he did not act suspiciously when he was at the jeepney terminal; that he did not bring anything with him when he tried to board the ill-fated jeepney; that he was not a soldier; that he never obtained any training whatsoever on how to explode a grenade, but he knew how a grenade looks like and that he had seen one in their place.

Yore Miel, another defense witness, corroborated accused-appellant's claim that he was at Amoros in the morning of July 31, 1993 and that accused-appellant was left behind upon the invitation of a certain "Tata," who is a bus driver.

During the pre-trial, the parties entered into a partial stipulation of facts: that accused-appellant was arraigned and had pleaded not guilty; that at around 4:00 o'clock in the afternoon of July 31, 1993, an explosion caused by a fragmentation grenade occurred inside a jeepney bearing plate number KBR-125, plying the Cogon Market-Pagatpat route which was then parked along Capt. Vicente Roa St.; that as a consequence of the explosion, three persons died and thirteen others were wounded. It was further agreed that the victims' heirs shall be entitled to indemnification as well as medical expenses.

The sole and crucial issue to be determined in this appeal is whether accused-appellant is guilty of the crime for which he was indicted in the court a quo.

Accused-appellant maintains that he is innocent and urges this Court to absolve him of the crime charged as the prosecution's evidence failed to link him to the authorship of the grenade blast that killed three and wounded several other passengers. According to him, not one of the witnesses for the prosecution knew him and that their testimonies merely confirmed his presence at the crime scene, which fact he never disputed. He further avers that the witnesses could not categorically say that he was the one who placed the grenade inside the sack and that Gayla's testimony was actually contrived and a mere emotional outburst owing to the loss of a loved one. Finally, he capitalizes on the fact that after the incident, he still stayed in his uncle's house in Carmen, Cagayan de Oro City which he alleged was an indication of his innocence, because had it been otherwise, he would have fled to Kalilangan, Bukidnon where he actually resided.

We deny the appeal.

This Court finds no cogent reason to reverse the finding of conviction. A judicious scrutiny of the records and the trial court's ratiocination shows beyond cavil of doubt that the People's evidence against accused-appellant meets the exacting standards of proof required to overturn the constitutional presumption of innocence in his favor.

As stated earlier, accused-appellant challenges the sufficiency of the prosecution's evidence linking him to the

crime because not a single witness ever saw him place a grenade inside the sack. This argument fails to persuade us. Under the rules on evidence, accused-appellant can still be convicted even if no eyewitness is available to directly testify that he was seen placing a grenade inside a sack. All that is required is that enough circumstantial evidence has been established by the prosecution to prove beyond reasonable doubt that it was accused-appellant who committed the crime.[5] To put it differently, accused-appellant may be convicted based on circumstantial evidence where the circumstances constitute an unbroken chain which leads to one fair and reasonable conclusion that points to him, to the exclusion of all others, as the guilty person.[6] Indeed, circumstantial evidence may be sufficiently cogent to satisfy the judicial conscience, and may be as potent as direct testimony in tending to connect accused-appellant to the commission of the offense.[7]

In the case at bar, we find that the prosecution was able to meet the sufficient quantum of circumstantial evidence regarding accused-appellant's participation in the offense charged. First, it was established and, in fact, admitted, by the accused that at about the time the blast occurred, he was in the locus criminis or vicinity of the crime scene. Second, the testimonies of Mabunay, Abratiguin, and S/Sgt. Cawaling confirmed the fact that the explosion was due to a fragmentation grenade as evidenced by the shrapnel recovered from the ill-fated vehicle and that such fragmentation grenade was placed inside a sack whence a hissing sound was heard immediately before the blast. Third, the sack would have been the only place where the grenade was hidden because the fatalities, Cookie Grace Gayla and Teresita Mabulay, were both near or adjacent to the sack. Fourth, Gemma Gayla positively identified accused-appellant both at the police station and during trial as the man wearing a military fatigue uniform, sunglasses and multi-colored bandana who placed the sack behind the front seat where deceased Mabulay sat and that at the time he was placing said sack, he was observed acting suspiciously. Finally, witness Noel Silabay described accused-appellant at the crime scene as acting suspiciously, always alert and could not remain in his seat.

Against this string of circumstances duly established by the prosecution's evidence, all that accused-appellant could interpose as defense are mere denials which, under settled jurisprudence, could not prevail over the positive testimony of witnesses. Denial is intrinsically a weak defense which must be buttressed by strong evidence of non-culpability to merit credibility.[8] Moreover, the mere fact that he did not leave Cagayan de Oro City does not mean that he is any less guilty. Flight in jurisprudence is a strong indication of guilt, although its converse does not necessarily imply innocence.[9] While it is a rule that the prosecution cannot profit from the weakness of accused-appellant's defense and that it must rely on the strength of its own evidence, nonetheless, we believe that the aforecited circumstances when taken together point to no other conclusion than that accused-appellant was indeed the perpetrator. Needless to say, proof beyond reasonable doubt does not mean that which produces absolute certainty --- only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.[10]

WHEREFORE, the decision of the Regional Trial Court, Cagayan de Oro City, Branch XIX, in Criminal Case No. 91-1693 dated April 14, 1997, is AFFIRMED in toto.

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Rollo, p. 10; docketed as Criminal Case No. 91-1693.

[2] Rollo, pp. 36-58; penned by Judge Anthony E. Santos.

[3] TSN, July 7, 1994, p. 17.

[4] TSN, January 30, 1997, p. 150.

[5] *People v. Lagao, Jr.*, 271 SCRA 51 (1997).

[6] *People v. Salvame*, 270 SCRA 766 (1997); *People v. Grefaldia*, 273 SCRA 591 (1997); *People v. Bionat*, 278 SCRA 454 (1997).

[7] *People v. Eubra*, 274 SCRA 180 (1997).

[8] *People v. Burce*, 269 SCRA 293 (1997).

[9] *People v. Angeles*, 275 SCRA 19 (1997).

[10] *Juliano v. Sandiganbayan*, 269 SCRA 52 (1997).

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