

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. WILFREDO TOLENTINO Y ESPERAT AND JONATHAN FABROS Y CASTRO, ACCUSED. JONATHAN FABROS Y CASTRO, APPELLANT.

G.R. No. 139179. April 03, 2002

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-139179/>

PANGANIBAN, J.:

An appeal in a criminal case opens the entire records to review. The appellate court may pass upon every circumstance favorable to the accused. In the present case, the prosecution failed to prove the existence of conspiracy beyond reasonable doubt. Neither was it able to show that appellant was an accomplice or accessory. Hence, he must be acquitted on reasonable ground.

The Case

Jonathan Fabros y Castro appeals the May 27, 1999 Decision[1] of the Regional Trial Court (RTC) of Zamboanga City (Branch 17) in Criminal Case No. 13698, finding him guilty of murder and sentencing him to reclusion perpetua. The dispositive portion of the Decision reads as follows:

“WHEREFORE, finding the accused Wilfredo Tolentino and Jonathan Fabros guilty beyond reasonable doubt of the crime of murder, and taking into consideration the aggravating circumstance of dwelling (morada) without any mitigating circumstance to offset the same, the Court hereby sentences the above-named accused separately to suffer the penalty of [r]eclusion [p]erpetua, to pay separately the heirs of the victim the sum of P50,000.00 as moral damages, the sum of P50,000.00 as exemplary damages, and to indemnify the said heirs [in] the sum of P15,000.00 as actual damages, and to pay the costs.”[2]

The Information, dated March 2, 1996, charged appellant as follows:

“That on or about February 28, 1996, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a piece of wood and knife, conspiring and confederating together, mutually aiding and assisting with one another, by means of treachery and evident premeditation and with intent to kill, did then and there without any warning, assault, attack and stab with the use of said weapons that they were armed with, at the person of HERNAN SAGARIO y CUESTA, thereby inflicting mortal wounds on the different parts of the latter’s body which directly caused his death, to the damage and prejudice of the heirs of said victim.

“That the commission of the above-stated offense has been attended by the following aggravating circumstances, to wit:

1. Abuse of superior strength; and
2. Dwelling.”[3]

With the assistance of counsel,[4] appellant pleaded not guilty when arraigned on June 7, 1996.[5] After due trial, the RTC rendered the assailed Decision.

The Facts

Version of the Prosecution

The prosecution's version of the facts is summarized by the Office of the Solicitor General as follows:[6]

"On February 28, 1996 around 7:30 in the evening, appellant and his cousins, Sheila Guilayan and Merwin Ledesma, were at their house in Luyahan, Pasonanca, Zamboanga City when their neighbor Wilfredo Tolentino called them. When asked what was it all about, Wilfredo simply motioned to them to come to his house located just across the road. Once they were inside the house, Wilfredo immediately revealed his plan to kill Hernan Sagario, Sheila's stepfather. Wilfredo explained that it was the only way to free Sheila's mother - appellant's aunt - of the sufferings being caused by Hernan. Wilfredo then instructed Merwin to go back to the house and get the bolo of Hernan. Merwin obliged, got the bolo, and gave it to Wilfredo. Thereafter, they were told by Wilfredo to go home and wait for Hernan.

"Around 8:30 in the evening, Hernan arrived. He went directly to the kitchen and fixed the bag of rice he was carrying. Meanwhile, appellant, together with Sheila and Merwin, just stayed quiet in the living room. Moments later, Wilfredo with a 2"x2" piece of wood in his hand entered the house. He then followed Hernan towards the kitchen. When about an armslength away from Hernan, Wilfredo, without saying a word, immediately walloped Hernan on the right side of the neck sending the latter unconscious and falling face down to the ground. Wilfredo immediately instructed appellant and Merwin to help him bring Hernan out of the house. Lifting Hernan out of the house, Wilfredo held him by the neck while both appellant and Merwin grasped his feet. They then carried Hernan towards the creek about seven meters away from the house.

"Upon reaching the creekside, the three stopped and moved closer to the water. At this juncture, Wilfredo successively stabbed Hernan on different parts of the body causing the latter's instant death. After throwing the victim's lifeless body in the creek, the three immediately left.

"The post-mortem examination on the victim's cadaver disclosed that the cause of his death was cardio-respiratory arrest due to shock and hemorrhage secondary to [a] stab wound penetrating the chest." (Citations omitted)

Version of the Defense

Appellant, on the other hand, presented the following version of the facts:[7]

"Accused Jonathan Fabros and Wilfredo Tolentino both denied killing the victim. Instead, they pointed to each other as the one who killed Hernan Sagario. Fabros pointed to Tolentino as the assailant and the latter also fingered the former as the killer of Sagario.

"Relying on his lone testimony and corroborating the testimony of prosecution witness Sheila Guilayan, accused Fabros narrated that he is a resident of Luyuhan, Pasonanca, particularly in the house of his auntie Amparo Guilayan (the common-law wife of Hernan Sagario), together with his cousins Merwin Ledesma and Sheila Guilayan.

"On 28 February 1996, at around 7:00 p.m., he returned home to Luyahan after his work at Astoria Hotel as a waiter. Sheila was at home when he arrived. Shortly thereafter, their neighbor, accused Tolentino, came over and called for Sheila. Sh[ei]la stood up and went to the house of Tolentino, leaving behind Fabros and Merwin Ledesma. After a while, he and Ledesma heard Sheila crying and the two went to the house of Tolentino. At the house of Tolentino, Fabros and Ledesma asked Sheila why she cried. [She] disclosed Tolentino's plan to kill her stepfather Hernan Sagario. When asked for his motive to kill Hernan Sagario, Tolentino merely reasoned that he just wanted to help their auntie Amparo get rid of her problems. When they expressed apprehension [about] being implicated and tried to prevent Tolentino from pursuing his plan, the latter told them not to worry; for he will take care.

“When Tolentino saw their uncle Hernan coming towards the house, he ordered them to go home and they obeyed. As he arrived, Hernan ordered Fabros to boil water. Afterwards, Hernan went out of the house to buy Ovaltine. When Hernan returned, Tolentino approached him and they talked for about two minutes. Afterwards, Tolentino went to his house while their uncle Hernan told him (Fabros) to check if the water was already boiling. Jonathan went to the kitchen while their uncle placed the rice he brought in a container. At that instance, Jonathan heard the sound ‘pok’, and saw Tolentino holding a piece of wood (2” x 2”). Then, he saw his uncle f[a]ll down slowly, his chest hitting the corner edge of a table. Tolentino approached his uncle and kicked him. Then he ordered Fabros to come near him and carry Hernan by his feet. Afraid that Tolentino will hit him with the piece of wood, Fabros held his uncle by the feet while Tolentino pulled Hernan by the shirt and he just followed Tolentino. Tolentino brought Hernan near the river. When Jonathan noticed that his uncle regained consciousness, he ran away towards a banana plantation and from there he saw Tolentino [stab] Sagario on the chest. After stabbing the victim, Tolentino pushed and waded him into the water. Scared, Jonathan ran home. About twenty minutes later, Tolentino arrived and with thumbs up sign, he said, ‘Okey na!’. Jonathan also observed that there was blood on the shoulder of Tolentino. The latter then called the three (3) and warned them that if they will tell other people, he will kill them. Out of fear, they just followed whatever Tolentino told them.

“By reason of fear of Tolentino’s threat, Jonathan told the police that he did not know what happened. On 01 March 1996, however, he was arrested for the death of Hernan Sagario on account of an information received by the police identifying him as the assailant. He was brought to the Sta. Maria Police Station and thereat he was told by the police that if he will not admit, they will show him the witness, which the police later did by showing to him his co-accused Tolentino. On seeing Tolentino, he declared that he (Tolentino) was the one who killed the victim.

“However, on 14 July 2000, long after the trial court’s decision had become final and executory on his part, Wilfredo Tolentino, apparently conscience-stricken, executed an affidavit admitting sole responsibility for the death of Hernan Sagario and retracted his testimony implicating accused-appellant Jonathan Fabros. His affidavit is herein reproduced as follows:

‘I, WILFREDO TOLENTINO y ESPERAT, 65 years old, widower, Filipino, a convicted prisoner with the San Ramon Prison and Penal Farm in Zamboanga City, after having been duly sworn to in accordance with law hereby depose and state:

‘That I was convicted for the crime of Murder in Criminal Case No. 13698 entitled ‘The People of the Philippines, Plaintiff, versus, Wilfredo Tolentino y Esperat and Jonathan Fabros y Castro, accused,’ which Decision was promulgated on May 30, 1999 and ha[s] become final;

‘That of the four years I have been in prison, I have contemplated on the consequences of my acts and have been conscience stricken causing me sleepless nights and deep pity [for] my co-accused Jonathan Fabros whom I have wrongfully imputed to be the killer of the victim Hernan Sagario y Cuesta. As he appealed the Decision, [maybe] I still have the chance to rectify the wrong I have done to him and tell the Honorable Court what actually happened [o]n the night of February 28, 1996, as hereunder narrated;

‘That I had known Hernan Sagario earlier in 1994 when he was still a security guard and he attempted to shoot me with his service firearm and although we had amicably settled the matter between us, when he came to be my neighbor, I would remember that incident and my old grudge against him would be rekindled;

‘That earlier that night of February 28, 1996, I came home quite drunk [after] my drinking spree with my relatives across the river and one of the topics we discussed was about the incident when Hernan Sagario attempted to shoot me. As I recalled that incident, my old grudge against him resurfaced and I resolved right then and there to take my revenge on Hernan. So when he came home and he was in the kitchen, I took hold of a piece of wood and hit him with it and when he fell down unconscious, I dragged his body outside of the house, ordering Jonathan Fabros who was then in the kitchen to help me carry the body of Hernan outside or

else he would also become my victim. Jonathan unwillingly assisted me carry the body of Hernan outside and upon my direction, we dragged the body of Hernan towards the river where to finish him off, I stabbed [him] in the chest and pushed him down into the water to hide his body. For his part, Jonathan left me when the body reached the river;

‘That after [the] killing, I threatened Jonathan Fabros, Neneng (the daughter of Hernan’s live-in-partner) and Weng-weng, a cousin of Neneng and Jonathan[,] never to report the incident to any one or else they could become my next victim;

‘That during the investigation of the killing, I pointed to Jonathan as the killer of Hernan, thinking that I would not be implicated. Even when I was also charged for the killing, I was confident that I would be acquitted if I would point to Jonathan as the killer. During the trial of the case, I bribed Jonathan and even gave P20,000.00 to a middle man to effect the pay off but Jonathan returned the money to me saying he could not admit what he did not commit;

‘That my conscience ha[d] been greatly troubled by denying Jonathan his future by [my] own evil acts and by this affidavit hopes to correct the wrongs I had done to Jonathan Fabros;

‘That I am executing this affidavit [to] attest to the truth of the foregoing narration of facts and to appeal to the Court authorities to rectify the wrongs I had done to Jonathan Fabros and I am willing to testify in court of[n] these statements narrated.’”

Ruling of the Trial Court

The trial court held that the prosecution’s evidence positively identified Wilfredo Tolentino as the person who had hit the victim with a piece of wood and later stabbed him with a bolo. It also ruled that the killing was qualified by treachery and attended by the aggravating circumstance of dwelling.

The court a quo observed that overt and positive acts of appellant manifested his approval of the killing and the concurrence of his acts with those of the other accused.[8] Thus, the RTC concluded that Fabros was a co-conspirator and should be held equally responsible for the murder.

Hence, this appeal.[9]

The Issue

In his Brief, appellant assigns the following alleged errors for our consideration:

I

“The Court a quo gravely erred in convicting herein Accused-appellant Jonathan Fabros of the crime charged notwithstanding the categorical statement of Prosecution Witness Sheila Guilayan that it was Accused Wilfredo Tolentino who actually killed the victim, Hernan Sagario.

II

“The Court a quo gravely erred in convicting accused-appellant notwithstanding Wilfredo Tolentino’s categorical admission of guilt [of] the crime charged.”[10]

The errors boil down to the sufficiency of the prosecution evidence.

This Court’s Ruling

The appeal is meritorious; appellant should be acquitted.

Main Issue:

Sufficiency of Prosecution Evidence

The RTC held that the assistance of appellant in bringing the body of the victim from the house to the river bank where the latter was allegedly stabbed to death positively showed that the former had conspired in the commission of the crime.[11] In its abbreviated nine-page Brief, the Office of the Solicitor General agrees that conspiracy has been duly proven. On the other hand, appellant argues that his “fleeting participation” in helping carry the victim’s body to the river bank did not indicate unity of purpose or design. We agree with him.

An appeal in a criminal action opens the whole case to review. This implies that the Court may pass upon every circumstance favorable to the accused. In *People v. Manambit*,^[12] the Court explained thus:

“Indeed, the Supreme Court is clothed with ample authority to review matters, even those not raised on appeal, if it finds that their consideration is necessary in arriving at a just disposition of the case. It is a matter of justice that the two other appellants be exonerated of the charges. This we do because an appeal in a criminal action opens the whole case for review and this includes the review of the penalty and indemnity. Every circumstance in favor of the accused shall be considered.”^[13]

No Conspiracy

Even the Office of the Solicitor General admits that appellant did not directly kill the victim. It, however, urges us to convict him on the basis of conspiracy.

In theory, conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.^[14] To prove conspiracy, the prosecution must establish the following three requisites: (1) two or more persons came to an agreement, (2) the agreement concerned the commission of a crime, and (3) the execution of the felony was decided upon.^[15] Once conspiracy is established, the act of one becomes the act of all.^[16]

Well-settled is the rule that the existence of conspiracy cannot be presumed.^[17] Quite the contrary, the evidence for it must be shown beyond reasonable doubt.^[18] As this Court has repeatedly stated, criminal conspiracy must be founded on facts, not on mere surmises or conjectures.^[19] Prior agreement or assent is usually inferred from the acts of the accused showing concerted action, common design and objective, actual cooperation, and concurrence of sentiments or community of interests.^[20] Mere presence at the scene of the crime or even knowledge of the plan or acquiescence thereto are not sufficient grounds to hold a person liable as a conspirator.^[21] Therefore, the task in every case is to determine whether the particular acts established by the requisite quantum of proof reasonably yield that inference.^[22]

In the case before us, we agree that the culpability of Tolentino was clearly established, but we are also convinced that the evidence fails to show the culpability of appellant beyond reasonable doubt.^[23] Because, unquestionably, the latter did not personally inflict any of the fatal flows, he can be held liable as a principal, only if conspiracy is proven.^[24] To recall, Sheila Guilayan, the prosecution eyewitness, narrated the circumstances surrounding the killing of Hernan Sagario as follows:

“Q

On February 28, this year, 1996, at around 7:30 o’clock in the evening, can you still remember where were you?

A

Yes, I could still remember, I was in our house.

Q

You were in your house, are you referring to your house in Pasonanca, Luyahan?

A

Yes.

Q

Can you also remember who were with you in that evening of February 28, 1996 in your house at Pasonanca, Luyahan?

A

Yes, I can still remember, my companions were Jonathan Fabros and Melwin Ledesma.

x x x x x x x x

Q

And you said while you were in the sala sitting down, writing, there was an incident that transpired, will you please tell us what transpired?

ATTY. JIMENEZ:

That will ask for narration, what transpired?

COURT:

Be more specific on that.

PROSECUTOR ORILLO:

Q

What happened?

A

I was called by Tolentino and he requested me to go to their house.

Q

You are referring to Wilfredo Tolentino?

ATTY. JIMENEZ:

Leading, Your Honor.

COURT:

Sustained.

PROSECUTOR ORILLO:

Q

What did you do after you were called by this Tolentino?

A

So I went with him to their house.

Q

Where is his house?

A

Just beside our house or near our house.

COURT:

Q

Where was Tolentino when he called you to go with him?

A

He was by the door of our house although he was still outside but he was at the door of our house when he called me.

COURT:

Continue.

PROSECUTOR ORILLO:

Q

And you said you went with him to his house, now what happened there in his house?

A

There in their house he told me just to keep quiet because he [was] going to kill my step-father.

Q

And what did you do next after he told you about that?

A

After he told me that I cried and I told him not to do that because we will be implicated.

Q

What else did you do aside from crying and telling him not to do it because we will be implicated, what else did you do?

A

Well, I just cried until my two cousins heard me and they, the two, also went to the house of Tolentino.

Q

While your two cousins were already in the house of Tolentino, what happened next?

A

My cousins asked me why I was crying.

Q

And then?

A

They asked Tolentino why I was crying.

Q

What did you do next?

A

I just cried and kept on telling him not to do it because we will be implicated and also my mother [was] not [t]here.

Q

And how about Tolentino, what did he do?

A

Well, he again told me just not to tell it to anybody because if I [was] going to tell it to anybody, he will also kill us.

Q

How about your two cousins, what did they do?

A

My cousins also told him not to do it because they said they [were] the only persons [t]here and for sure we will be implicated.

Q

And thereafter, what happened next?

A

Tolentino said he will just take care.

Q

So what happened next after that?

A

And then Tolentino asked Melwin Ledesma to get the bolo of my stepfather in our house.

Q

And what did your cousin Melwin Ledesma do after he was ordered by Tolentino to get the bolo?

A

Then Melwin Ledesma went to the house and got the bolo and brought the same to the house of Tolentino.

Q

And after bringing the bolo to the house of Tolentino, what happened next?

A

Then when my step-father was on his way to our house, Tolentino told us to go home.”[25]

“Q

What happened next after you said your step-father went out to buy ovaltine?

A

Then several minutes thereafter my stepfather again arrived in our house then he got inside the house and he went directly to the kitchen.

Q

And what did your step-father do?

A

After that he transferred the rice he brought which was placed on a plastic cellophane to another plastic container.

Q

And what else happened?

A

And then after that Tolentino entered our house and went directly to the kitchen and there he hit my step-father.

Q

And what instrument did Tolentino use in hitting your step-father?

A

A piece of wood.

Q

Will you please describe this piece of wood?

A

A round piece of wood.

Q

How about the length of this piece of wood?

A

(Witness extended her both hands to demonstrate the length which when measured gave us twenty inches in length).

Q

You said it was a round piece of wood, can you more or less tell us the diameter of this piece of wood?

A

(Witness again made a circle to demonstrate the diameter which [was] three and a half inches x x x).

PROSECUTOR ORILLO:

Q

And where was your step-father hit by that piece of wood used by Tolentino?

A

He was hit on the right side of his neck x x x extending to his right jaw.

Q

Will you please tell this Honorable Court your particular position when you saw Tolentino hit with the piece of wood your step-father?

A

I was in a sitting position in the sala but you know in our house even if you are seated in the sala you can see the kitchen from there.

Q

Before you saw that, where did Tolentino come from?

ATTY. JIMENEZ:

Witness is incompetent, Your Honor.

PROSECUTOR ORILLO:

If she knows, Your Honor.

ATTY. JIMENEZ:

She was seated in the sala, how can [she] know?

COURT:

According to her she went home and she was in the sala. If she went to the sala, probably she will know. If she knows she may answer.

A

I did not know where he came from but I just saw him getting inside our house and [going] directly to the kitchen.

PROSECUTOR ORILLO:

Q

When you saw Tolentino hit your step-father, where was your step-father facing?

A

He was facing forward while Tolentino came from behind him.

Q

And what happened next after your step-father was hit by that piece of wood used by Tolentino?

A

After he was hit he fell [face] down x x x, he fell down first on the table and after that to the ground. From the table he continued to fall to the ground.

Q

And while your step-father was already on the ground, what if any did Tolentino do?

A

Then when my step-father was already at the cemented pavement Tolentino stepped on his head several times.

Q

And then what happened next?

A

After that I cried but he told me to keep quiet because if I [was] not going to keep quiet he will also kill us.

Q

After that, what happened?

A

And then he asked my cousins to help him to bring the body of my step-father outside of the house.

Q

And then?

A

Then they brought my step-father outside of the house and Tolentino held him on the collar of his shirt and my cousins held him on his feet.

Q

And while already outside the house, towards what direction did they bring your step-father?

ATTY. JIMENEZ:

Witness is incompetent, we object, Your Honor.

COURT:

Sustained.

PROSECUTOR ORILLO:

Q

What else happened after you saw your cousins Jonathan Fabros and Tolentino carrying your step-father?

ATTY. FABIAN:

Objection, Your Honor, there was no mention of any Jonathan Fabros in her testimony.

COURT:

Cousin only.

ATTY. FABIAN:

Yes, Your Honor, cousin only, no mention of Jonathan Fabros.

COURT:

I do not know if it was cousin or cousins.

ATTY. JIMENEZ:

I heard cousins, Your Honor.

COURT:

Cousins, with 'S'. She may answer. Yes, according to her it was only her cousins who were with her.

ATTY. FABIAN:

I heard the name Jonathan Fabros being mentioned by the prosecution, Your Honor.

COURT:

That is why I told the prosecutor to change it to cousins.

ATTY. FABIAN:

Yes, Your Honor.

A

It was only Jonathan and Tolentino who carried him.

Q

So what happened next after you saw them carrying your step-father?

A

They brought my step-father to the creek.

Q

How far is this 'sapa' or creek from your house?

A

Maybe from here (witness again by the use of the witness stand as reference point, pointed to the fourth bench from the front,) about 6.5 meters, because from the witness stand to the main door is measured 7.5 meters, so if it is from here, it is only 6.5 meters.

ATTY. JIMENEZ:

That is about 7 to 8 meters.

COURT:

That is about 7 meters already from the witness stand to the fourth bench, more or less 7 meters.

PROSECUTOR ORILLO:

Q

This 'sapa' or creek that you are referring to, please describe to this Honorable Court this creek which according to you is only 7 meters more or less away from your house?

A

This is a wide creek.

Q

And what else did you see?

A

Well, since it was clear from our house although I stayed inside our house and since the walling of our house, the portion of this is made of screen, I saw Tolentino when they were carrying my step-father in the act of

stabbing my step-father (witness demonstrated as if she was holding something and thrust[ing it] forward).

Q

What else did you see?

A

And then after that, I only saw Tolentino [place] the body of my step-father on the water and there I did not see my cousin anymore.

Q

And then what transpired next?

A

Then a few minutes thereafter my cousin returned to the house.

Q

And what did you do when your cousin returned to the house?

A

And then when he arrived home I just cried and I told him, because his nickname is Nonong, so I said: 'Nonong, we will be really implicated and he said nothing and instead he just went to his previous position and sat down.

Q

How about the other cousin of yours Melwin Ledesma, where was he?

A

He was also beside me and he was embracing me from behind.

Q

What happened next?

A

Then another few minutes after, Tolentino arrived in our house.

Q

And when he arrived at your house, what did he do?

A

And then there inside our house he flashed a thumb's up and he said it is already okey.

Q

What else did he do?

A

Then he approached me and told me not to report [t]his incident because if I [was] going to report [it] he [was] going to kill me.

Q

And that particular time when he arrived at your house, what if any did you notice from his person, this Tolentino?

ATTY. JIMENEZ:

Leading, Your Honor.

COURT:

Sustained.

PROSECUTOR ORILLO:

What if any have you noticed from Tolentino?

COURT:

Will you please be more specific with your question.

PROSECUTOR ORILLO:

At the time when Tolentino arrived at your house and told you 'okey na', with thumb's up, that particular time, what if any have you noticed on his person?

ATTY. JIMENEZ:

It is [a] very general question, Your Honor.

COURT:

Anything she noticed, she may answer.

A

I noticed that his shortpants was wet and there [were] bloodstains on his shirt.”[26]

The above testimony shows that Tolentino attacked Hernan Sagario. The assault was carried out without the participation of appellant,[27] who did not personally hit or stab the victim, but only subsequently helped carry the latter from the house to the nearby creek.[28] Nothing in the testimony conveyed a coordinated action, concerted purpose or community of design to commit the criminal act.[29] It must be emphasized that Tolentino's plan to kill the victim was concocted in the absence of appellant.[30] The latter's participation, as shown by the foregoing testimony, was made when the decision to kill was already a fait accompli.[31]

Further, conspiracy cannot be inferred from the overt acts of appellant.[32] He did nothing to assist Tolentino in the actual commission of the murder.[33] Neither did the former bear any weapon, much less use one to inflict injury on the victim.[34] In fact, appellant, showing clearly his lack of support for the criminal intent of Tolentino, even tried to prevent the latter from hacking the victim, according to the eyewitness.[35]

Indeed, the trial court based its finding of conspiracy on mere presumptions, not on solid facts indubitably indicating a common design to commit murder.[36] Such suppositions do not constitute proof beyond reasonable doubt.[37]

Because of the lack of a united purpose, appellant cannot be considered a principal by indispensable cooperation.[38] Absent a conspiracy, his responsibility, as well as that of his co-accused, is individual -- not collective -- and each is to be punished only for his own separate acts.[39]

Not an Accomplice

Neither can appellant be convicted as an accomplice. Article 18 of the Revised Penal Code defines accomplices as “those persons who, not being included in Article 17,[40] cooperate in the execution of the offense by previous or simultaneous acts.” To be convicted as an accomplice, it is necessary that the accused be aware of the criminal intent of the principal and then cooperate knowingly or intentionally by supplying material or moral aid for the efficacious execution of the crime.[41]

To consider a person an accomplice in the commission of the offense, the following must concur: (1) community of design -- knowing the criminal design of the principal by direct participation, one concurs therein; (b) cooperation in the execution of the offense by previous or simultaneous acts, with the intention of supplying material and moral aid in the execution of the crime in an efficacious way; and (c) a relation between the acts done by the principal and those attributed to the person charged as accomplice.[42]

To be deemed an accomplice, one needs to have had both knowledge of and participation in the criminal act.[43] In other words, the principal and the accomplice must have acted in conjunction and directed their efforts to the same end.[44] Thus, it is essential that both were united in their criminal design.[45]

In the case before us, appellant did not concur in or lend support to the nefarious intent of Tolentino.[46] The mere fact that the former had prior knowledge of the latter’s criminal design did not automatically make him an accomplice.[47] This circumstance, by itself, did not show his concurrence in the principal’s criminal intent.[48]

That appellant helped Tolentino carry the victim from the house to the creek did not necessarily demonstrate concurrence of wills or unity of purpose or action.[49] Quite the contrary, the former’s attempt to dissuade the latter from killing Sagario was attested to by the prosecution witness.[50] With the nominal role appellant played in the drama that had been thrust upon him, we cannot declare that he was an accomplice in the crime charged.[51]

Not an Accessory Either

Appellant cannot be convicted as an accessory either. Article 19 of the Revised Penal Code defines an accessory as one who had knowledge of the commission of the crime and did not participate in its commission as principal or accomplice, yet took part subsequent to its commission by any of three modes: (1) profiting oneself or assisting the offender to profit by the effects of the crime; (2) concealing or destroying the body of the crime, or the effects or instruments thereof, in order to prevent its discovery; and (3) harboring, concealing, or assisting in the escape of the principals of the crime, provided the accessory acts with abuse of his public functions or when the offender is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime. To convict an accused as an accessory, the following elements must be proven: (1) knowledge of the commission of the crime and (2) subsequent participation in it by any of the three above-cited modes.[52]

Under paragraph 2 of said codal provision, the concealment or the destruction of the body of the crime or of the effects or the instruments thereof must have been done in order to prevent the discovery of the crime.[53] That, precisely, is wanting in the present case.[54]

In his testimony,[55] appellant stated that because he was afraid his co-accused would hurt him if he refused, he agreed to assist the latter in carrying the victim towards the river. The fact that appellant left thereafter likewise indicated his innocence of the charge.[56] Verily, he adequately explained his conduct prior to the stabbing incident as one born of fear for his own life.[57] It is not incredible for an eyewitness to a crime, especially if unarmed, to desist from assisting the victim if to do so would put the former’s life in peril.[58]

Thus, in *People v. Verzola*,[59] we explained as follows:

“x x x. It must be noted that Josefina testified that she helped her co-appellant bring the body of the deceased down the stairs because of fear. Even if she assisted her co-appellant without duress, simply assisting Verzola in bringing the body down the house to the foot of the stairs and leaving said body for anyone to see, cannot be classified as an attempt to conceal or destroy the body of the crime, the effects or instruments thereof, must be done to prevent the discovery of the crime.”[60]

The presumption of innocence in favor of appellant has not been overcome by proof beyond reasonable doubt.[61] Thus, he must be acquitted.[62]

WHEREFORE, the appeal is GRANTED and the assailed Decision SET ASIDE. Appellant is ACQUITTED on reasonable doubt. He is ordered RELEASED from custody immediately, unless legally held for another cause. In this regard, the director of the Bureau of Corrections is directed to report to this Court his compliance with this Decision within five (5) days from receipt hereof.

SO ORDERED.

Melo, (Chairman), Sandoval-Gutierrez, and Carpio, JJ., concur.
Vitug, J., abroad on official business.

[1] Written by Judge Tibing A. Asaali; rollo, pp. 20-45; records, pp. 132-157.

[2] RTC Decision, p. 26; rollo, p. 45; records, p. 157.

[3] Rollo, p. 8, records, p. 1; signed by Asst. City Prosecutor Isidro L. Balan.

[4] Atty. Catherine Fabian.

[5] Order dated June 7, 1996; records, p. 27.

[6] Appellee's Brief, pp. 3-5; rollo, pp. 154-156. The Brief was signed by Assistant Solicitor General Carlos N. Ortega and Solicitor Romeo S. Buenaventura.

[7] Pages 8-12; rollo, pp. 102-106. The Brief was signed by Attys. Arceli A. Rubin, Amelia C. Garchitorena and Jubeth P. Lopez -- all of the Public Attorney's Office.

[8] Assailed Decision, p. 24; rollo, p. 43.

[9] This case was deemed submitted for resolution on October 16, 2001, upon receipt by this Court of appellee's Brief. The filing of a reply brief was deemed waived, as none had been submitted within the reglementary period.

[10] Appellant's Brief, pp. 1-2; rollo, pp. 95-96.

[11] Assailed Decision, p. 21; rollo, p. 40.

[12] 271 SCRA 344, April 18, 1997.

[13] Ibid., pp. 385-386, per Panganiban, J.

[14] *People v. Abarri*, 242 SCRA 39, March 1, 1995.

[15] Reyes, *The Revised Penal Code*, Vol. 1, (13th ed., 1993), p. 125.

[16] *People v. Maluenda*, 288 SCRA 225, March 27, 1998.

[17] Ibid.

- [18] People v. Samudio, GR No. 126168, March 7, 2001.
- [19] People v. De Vera, 312 SCRA 640, August 18, 1999.
- [20] People v. Asoy, 251 SCRA 682, December 29, 1995; People v. De Leon, 245 SCRA 538, July 3, 1995; People v. Torres, 247 SCRA 212, August 11, 1995.
- [21] People v. Santiago, 342 SCRA 52, October 4, 2000.
- [22] People v. Cupino, 329 SCRA 581, April 3, 2000.
- [23] People v. Mucam, 335 SCRA 552, July 13, 2000.
- [24] People v. Elijorde, 306 SCRA 188, April 21, 1999.
- [25] TSN, August 19, 1996, pp. 16-20.
- [26] Ibid., pp. 24-30.
- [27] People v. Roche, 330 SCRA 91, April 6, 2000.
- [28] People v. Elijorde, supra.
- [29] People v. Abina, 298 SCRA 260, October 27, 1998.
- [30] People v. De Vera, supra.
- [31] Ibid.
- [32] People v. Rafael, 343 SCRA 97, October 13, 2000.
- [33] People v. Elijorde, supra.
- [34] People v. Rafael, supra.
- [35] People v. Cupino, supra.
- [36] People v. De Vera, supra.
- [37] Ibid.
- [38] People v. Abina, supra.
- [39] People v. Tan, 315 SCRA 375, September 28, 1999.
- [40] This article provides:
- “ART. 17. Principals.- The following are considered principals:
- Those who take a direct part in the execution of the act;
- Those who directly force or induce others to commit it;
- Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.”
- [41] People v. Quinao, 269 SCRA 495, 511, March 13, 1997.
- [42] People v. Villanueva, supra.

[43] Garcia Jr. v. Court of Appeals, 340 SCRA 545, September 18, 2000.

[44] People v. Villanueva, supra.

[45] People v. Cual, 327 SCRA 623, March 9, 2000.

[46] People v. Rafael, supra.

[47] Garcia Jr. v. Court of Appeals, supra.

[48] People v. Cual, supra.

[49] People v. Elijorde, supra.

[50] People v. Jorge, 231 SCRA 693, April 22, 1994.

[51] People v. Mariano, 347 SCRA 109, December 6, 2000.

[52] People v. Cui, 314 SCRA 153, September 10, 1999.

[53] Reyes, supra, p. 565.

[54] People v. Elijorde, supra.

[55] TSN, December 2, 1996, p. 15.

[56] People v. Cual, supra.

[57] People v. Baltazar, GR No. 129933, February 26, 2001.

[58] Ibid.

[59] 80 SCRA 600, December 21, 1977.

[60] Ibid., p. 609, per Antonio, J.

[61] People v. Mariano, supra.

[62] People v. Cupino, supra.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.