

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GUILLERMO BALDAGO Y LAGUNA ALIAS “ONDOY”, TEMOTEO
MADULEN Y LAGUE AND CARLITO BANGCAS Y MESO, ACCUSED.
TEMOTEO MADULEN Y LAGU...**

G.R. No. 140277. June 06, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

For the death of Florentino Casas, Guillermo Baldago y Laguna (alias Ondoy), Temoteo Madulen y Laguna (alias Timog) and Carlito Bangcas y Meso were charged with Murder under the following information[1]:

"That on or about the 17th day of May, 1998, in the evening, at barangay Old Kibawe, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill by means of treachery and evident premeditation, taking advantage of their superior strength armed with a hunting knife, a piece of wood and stones, did then and there willfully, unlawfully and criminally stab, attack, assault, whip, strike and stone FLORENTINO CASAS, hitting and inflicting upon his person multiple stab wounds which caused the instantaneous death of FLORENTINO CASAS, to the damage and prejudice of the legal heirs of FLORENTINO CASAS in such amount as may be allowed by law."

The three (3) accused all pleaded not guilty when arraigned on September 15, 1998. On October 20, 1998, accused Guillermo Baldago, through counsel, withdrew his previous plea of not guilty. Upon arraignment, and after the court propounded questions to determine whether his intention to enter a plea of guilty is voluntary and that he understood the consequences of his plea, the accused entered a plea of guilty to the offense of murder as charged in the information. The court thereupon found him guilty of murder and accused was sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of Florentino Casas the sum of P50,000.00 and to pay P30,000.00 for actual damages.

Trial proceeded against the two other accused. In its Decision[2] dated August 19, 1999, the trial court found Temoteo Madulen and Carlito Bangcas guilty as follows:

"WHEREFORE, judgment is hereby rendered finding accused Temoteo Madulen and Carlito Bangcas GUILTY beyond reasonable doubt of the crime of murder and are hereby sentenced to suffer the penalty of reclusion perpetua, and to solidarily indemnify the heirs of their victim Florentino Casas the sum of P50,000.00."

The present appeal is interposed by Temoteo Madulen and Carlito Bangcas.

The prosecution's version of the incident is summarized in the Appellees' Brief as follows:

"On May 17, 1998 at around 8:30 in the evening in Old Kibawe, Kibawe, Bukidnon, Florentino Casas and Cesar Oroyan were drinking fighter wine in the sala of the house of Edilberto Ybañez from whose store they

bought the wine. The store was the walled half portion of the balcony of the house which was elevated from the ground by about thirteen (13) inches. The store entrance was inside the house or on the side of the sala and adjoined the front door leading to the balcony. After consuming the wine, Florentino ordered another bottle of fighter wine and waited on the bench in the balcony with his arms resting sideward on the bamboo railing. Leonila Oroyan, wife of Cesar Oroyan, sat on the opposite bench. Meanwhile, a certain Romel Paje, who is the nephew of Florentino Casas, went up the store to buy cigarettes. As Edilberto was about to get the ordered wine, Guillermo Baldago suddenly went up the balcony coming from behind Florentino and stabbed the latter with a six inch knife, hitting him on the left breast. Almost simultaneously, Temoteo Madulen struck Florentino with a belt on the back, while Carlito Bangcas hit him with a piece of wood on the shoulder. Florentino ran inside the house pursued by Guillermo. The latter thrust his knife to stab Florentino again but only grazed his face. Edilberto at that moment closed the door and pinned Guillermo's hand that held the knife. Romel Paje, who was inside the house along with Cesar Oroyan and Leonila Oroyan who rushed inside the house during the incident, wrestled the knife from Guillermo's hand. Afterwards, Edilberto loosened his grip on the door which freed Guillermo who then ran away. Temoteo and Carlito, who stoned the house of Edilberto in the meantime, likewise fled.

Corazon Casas, wife of the victim Florentino Casas, was on her way to the house of Edilberto Ybañez to follow her nephew Romel Paje when she saw the incident from a distance of about ten (10) meters. Prior to the attack, she saw Guillermo Baldago, Temoteo Madulen and Carlito Bangcas behind the bamboo railing where Florentino was leaning. Suddenly, Guillermo Baldago went up the balcony to face Florentino and immediately stabbed him with a knife. Then Temoteo Madulen struck Florentino with a buckled belt once, followed by Carlito Bangcas who struck Florentino once with a split ipil-ipil firewood. The blows hit the latter on the shoulder and on the left side of the back. After the attackers had fled, Corazon went up the house of Edilberto Ybañez to assist her husband, who died however before reaching the hospital."[3]

The accused-appellants raised alibi and denial as defense, and testified on their own versions of the incident. As summarized in the Appellants' Brief, their testimonies are as follows:

"TEMOTEO MADULEN, said that on May 17, 1998 at about 7:00 p.m. he had dinner in his house together with his brethren, parents, and four brothers and sisters. Around 9:00 p.m. Baldago went to his house looking for him. Baldago asked Madulen to accompany him to the barangay captain's house for him to surrender because he has stabbed Florentino Casas. Upon reaching the house of the barangay captain, Rodolfo Paig, the latter's daughter informed them that her father was not at home. Then they proceeded to the house of Baldago's sister, Mely. At 10:00 p.m. the policemen arrived at Mely Baldago's house and arrested Guillermo Baldago. After Baldago was arrested, Madulen went home. Two hours after, the same policemen who arrested Baldago came to his house and arrested him. He was brought to the house of Edilberto Ybañez and Cesar Oroyan pointed him as one of the assailants of Florentino Casas, he was then brought to the police headquarters.

CARLITO BANGCAS claimed that on May 17, 1998 at around 6:00 p.m. he was having conversation with the barangay captain. They heard a commotion so the barangay captain left him to investigate. At about 7:30 p.m. he took supper with his family. He went to bed at around 9:00 p.m.

Carlito Bangcas learned about the killing incident from stories of the people on May 18, 1998.

On May 22, 1998 the police went to his house to bring him to the police precinct. After asking him if he had anything to do with the killing of Florentino Casas, he was imprisoned."[4]

In support of their plea for acquittal, appellants raise the following assignment of errors:

"I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE CONFLICTING TESTIMONIES OF THE PROSECUTION WITNESSES.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED FOR CONSPIRING TO COMMIT MURDER."[5]

The trial court's finding with respect to the participation of Madulen and Bangcas is stated in the decision as follows:

"The prosecution's evidence, apparently, is strong and sufficient given the fact that there were four eyewitnesses who clearly recognized them as they cooperated and conspired with Guillermo Baldago in the execution of their common criminal act. Perhaps Madulen and Bangcas did not have the intention of killing Casas for they only stood outside and only used a belt and a stock. Nevertheless, by their conspiracy with their co-accused who performed the fatal act, they are all liable for the death of their victim. The bookworn rule stated that in conspiracy "the act of one is the act of all."

As against the clear and direct testimonies of the four witnesses of the government, the alibi of Madulen and Bangcas have no leg to stand on. There appeared no motive in the part of said witness to falsely implicate Madulen and Bangcas with Baldago in the assault against Casas. And by itself, alibi has been considered a very weak defense by reason of the case by which it can be set forth. Further, for alibi to prosper, it must be positively established that the accused was at a certain place and that it was impossible for him to be at the crime scene when it was committed. In fact, in the instant case, both accused were in their respective houses in barangay Old Kibawe which is also the same barangay where Florentino Casas was killed. Both accused did not even have a single witness to corroborate their alibi.

The offense of murder as charged in the information was committed because treachery was plainly established by the prosecution. Florentino Casas was enjoying the evening with some friends and never suspected that the three accused show up to assault him. Without the least warning, Baldago suddenly stabbed the victim, while Madulen and Bangcas struck him from behind."[6]

In assailing the trial court's giving credence to the prosecution evidence, the accused-appellants cite certain portions of the testimonies of prosecution witnesses Leonila Oroyan and Edilberto Ybañez which are allegedly conflicting and which tend to show that Leonila was not at the place of the incident when it happened. The alleged irreconcilable inconsistencies in the testimonies of Oroyan and Ybañez are substantially as summarized in Appellee's Brief as follows:

"(a) Although Leonila Oroyan testified that at the time of the incident the persons who were in the place of Edilberto Ybañez were the victim Florentino Casas, Cesar Oroyan, Romel Paje, Corazon Casas and herself, Edilberto Ybañez stated however that only his wife was his companion in the house until Florentino Casas and Cesar Oroyan arrived; (b) Leonila Oroyan testified that Edilberto Ybañez drank wine with Florentino Casas and Cesar Oroyan but Edilberto said he did not; (c) There is a variance in the testimonies of Leonila Oroyan and Edilberto Ybañez regarding the description of the latter's store in relation to his house, as well as whether or not Leonila was seated on the balcony bench at the time of the incident; (d) The testimony of Leonila Oroyan contradicts her affidavit where she did not mention seeing appellants Temoteo Madulen and Carlito Bangcas; (e) Edilberto Ybañez did not mention seeing Carlito Bangcas and merely assumed that appellant Temoteo Madulen struck the victim because he heard him say "Hoy", accompanied by a thudding sound; (f) Corazon Casas, wife of the victim, testified that the attack on her husband was immediately preceded by another incident wherein their nephew, Romel Paje, was attacked by the same accused-appellants; however, she did not mention this fact in her affidavit; (g) Neither did Corazon Casas warn her husband of the impending danger posed by the accused-appellants; (h) Romel Paje could not have witnessed the incident because he was inside the sala of the house of Edilberto Ybañez; likewise, he did not mention appellant Carlito Bangcas in his affidavit."[7]

We agree with appellee that the alleged discrepancies in the said witnesses' testimonies relate to minor matters and do not disprove that Leonila was present at the crime scene. Although the testimonies of Leonila Oroyan, Edilberto Ybañez, Corazon Casas, and Romel Paje did not jibe in all the minor details, they coincide on the material points establishing the participation of accused-appellants in the incident where Casas was suddenly stabbed by Baldago, namely, as found by the trial court, that Madulen hit Casas with a belt with a heavy buckle on the back while Bangcas struck the said victim with a piece of wood almost simultaneously without warning.

The alleged inconsistencies in the testimonies of Leonila Oroyan and Edilberto Ybañez refer to the presence of Corazon Casas and Romel Paje in the house of Edilberto Ybañez in the evening of May 17, 1998,[8] which was not mentioned by Edilberto Ybañez in the latter's testimony[9]; the participation of Edilberto Ybañez in drinking fighter wine as declared by Leonila Oroyan[10] which was not exactly confirmed by Edilberto Ybañez[11]; the set-up of the house of Edilberto Ybañez in relation to the store[12] and the presence of Leonila Oroyan in the said house, which was allegedly not corroborated by Edilberto Ybañez. A reading of the testimonies cited in Appellants' Brief fails to substantiate the alleged irreconcilabilities. It is unnatural and illogical to expect that the respective narration of witnesses to the same event should coincide or be exactly the same in all details specially since no attempt appears to have been made to make the witness concerned to explain his declarations in light of probable contradictory statements from other witnesses. Moreover, the transcripts adverted to were not always quoted in proper context, e.g. Edilberto Ybañez testified that he was alone in the balcony before the stabbing[13] but positively confirmed on the same direct examination the arrival of Romel Paje before the stabbing incident and the presence of Leonila Oroyan who helped the victim inside his sala after the latter was stabbed by Baldago,[14] as well as the presence of Corazon Casas, who was among those who brought his husband, the victim to the hospital.[15]

The accused-appellant also cites certain disparities between the affidavits and the testimonies in court of Leonila Oroyan as to whether she noticed who was with Baldago when the latter arrived at the scene of the crime, and of Corazon Casas, (whether she heard Romel Paje shout for help before the stabbing of Casas took place, and of Romel Paje, as to the participation of Bangcas). But the absence of absolute coincidence in the narration of the details is not fatal to the credibility of the witnesses. Moreover, the declarations in open court will be given superior weight as affidavits taken ex parte are almost always incomplete and often inaccurate.[16]

What is significantly relevant in the testimonies of the prosecution witnesses who were present in the scene of the stabbing incident is that they coincide in the material points concerning the participation of accused-appellants Madulen and Bangcas. From our own reading of the testimonies, we find the following evaluation by the trial court to be in accord with the evidence of record:

"There were four witnesses of the prosecution who saw Madulen and Bangcas with Baldago during the incident. They were the owner of the house Edilberto Ybañez, Leonila Oroyan who followed her husband Cesar Oroyan to Ybañez' house waiting for her husband Cesar Oroyan who was a drinking companion of the victim that night, Romel Paje who is a nephew of the victim and the widow Corazon Casas. All agreed having seen Madulen standing below the balcony railing and striking the head of Florentino Casas with a piece of wood. As to the participation of Bangcas, however, said witnesses varied in the observations. Thus, Ybañez did not tell the court about seeing the presence of Bangcas. Leonila Oroyan and Romel Paje testified they saw both Madulen and Bangcas, each armed with a piece of wood, striking Casas. Corazon Casas, on the other hand told the court that she came from her own house and when she was almost at Ybañez' house, she saw her husband at the balcony being stabbed two times by Baldago; she also saw accused Madulen and Bangcas below the bamboo balcony, Madulen hitting her husband with a belt with heavy buckle, while Bangcas using a piece of ipil-ipil wood.[17]

The issue posed before us is basically one of credibility of the three (3) witnesses who testified on the presence

and participation of accused-appellants Madulen and Bangcas in the killing of Florentino Casas. Although Edilberto Ybañez saw only Madulen strike Casas on the back with something that caused a "thudding sound"[18], the participation of Bangcas was the subject of the positive declaration of Corazon Casas, who saw Madulen strike her husband on the shoulder with "a belt with a buckle" and saw Bangcas strike also her husband on the back on the left side with a split ipil-ipil firewood.[19] Romel Paje also identified accused-appellants as the two (2) persons who struck the victim after the latter was stabbed.[20] On cross-examination, Paje insisted that both accused-appellants struck his uncle Casas, and declared that he included Bangcas in his statement before the police investigator.[21]

Nowhere in the record is there allegation, much less proof, that the said prosecution witnesses whose testimonies were relied upon by the trial court were influenced by ill-motives to falsely implicate accused-appellants.

The second assignment of error also lacks merit. Accused-appellants assert that conspiracy was not proven beyond reasonable doubt. Accused-appellants claim conspiracy cannot be inferred from the proven circumstances of the case, namely that they each hit the victim only once as shown by the two markings of hemotoma, one on the right and the other on the left side of his back indicating that they did not aim to hit the victim in the vital parts of his body, such as his head or neck, which would insure his death; moreover, when Baldago pursued the victim accused-appellants did not follow, so that when Baldago attempted to stab the victim for the second time, they already desisted from their acts of aggression.

We are not impressed.

There was a unity of intention in attacking Florentino Casas as shown by their actions prior, during and after the incident. As correctly observed by the appellee:

"Conspiracy is a unity of purpose and intention in the commission of a crime (People vs. Lising, 285 SCRA 595). Conspiracy does not require a previous plan or agreement to commit assault; it is sufficient if, at the time of such aggression, all the accused manifested by their acts a common intent or desire to attack (People vs. Robedillo, 286 SCRA 379). No doubt the assailants herein acted in concert for the purpose of attacking the victim. They were together prior to the incident, and each had a ready instrument which they used against the victim during the incident, namely, a knife, a belt and piece of wood. They attacked the victim almost at the same time, but were deterred only from inflicting more injuries upon the latter because he was able to run away. It is immaterial that, when the victim rushed inside the sala, only Guillermo Baldago pursued him. For neither did Temoteo Madulen and Carlito Bangcas perform overt acts to stop or dissociate themselves from Baldago's criminal act. On the contrary, while Baldago's hand was pinned by the door in his pursuit of the victim, appellants Madulen and Bangcas stoned the house of Edilberto Ybañez and stopped only when they fled the crime scene together with Baldago (TSN, 2/2/99, pp. 11-12).

The acts of appellants manifestly disclose their joint purpose and design, concerted action and community of interest (People vs. Sumampong, 290 SCRA 471). Where conspiracy is shown, the precise extent of participation of each accused in the crime secondary and the act of one may be imputed to all conspirators (People vs. Pulusan, 290 SCRA 353). The liability of the conspirators is collective, and each participant will be equally responsible for the acts of the others (People vs. Chua, 297 SCRA 229)."[22]

Indeed, the accused, Baldago, Madulen and Bangcas entertained a common design to assault Florentino Casas. Coming together from the cockpit, they "waylaid" Casas' nephew, Romel Paje whom Baldago also attempted to stab, but killing the latter's rooster instead, and thereafter proceeded together to the house of Edilberto Ybañez when they almost simultaneously attacked Casas, without warning, each carrying an instrument which they used against the victim. Although Baldago failed to stab Casas again when his hand was pinned by the door, appellants Madulen and Bangcas stoned the house until Baldago escaped, and then fled the crime together with Baldago.

There was a community of interest clearly betrayed by their actuations, and such conspiracy makes the act of one imputable to all.

WHEREFORE, the judgment appealed from is AFFIRMED.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

[1] Original Records, p. 27.

[2] Penned by Judge Vivencio P. Estrada.

[3] Rollo, pp. 72-74.

[4] Rollo, pp. 50-51.

[5] Rollo, p. 27.

[6] Rollo, p. 15.

[7] Rollo, pp. 75-76.

[8] Tsn, February 2, 1999, pp. 5-6.

[9] Tsn, February 16, 1999, p. 5.

[10] Tsn, February 2, 1999, p. 6.

[11] Tsn, February 16, 1999, p. 6.

[12] Tsn, February 16, 1999, pp. 6-7; Tsn, February 2, 1999, p. 7.

[13] Tsn, February 16, 1999, p. 6.

[14] At p. 11.

[15] At p. 10.

[16] *People vs. Sanchez*, 302 SCRA 21; *People vs. Mercado*, 304 SCRA 504; *People vs. Cristobal*, 301 SCRA 358.

[17] Rollo, p. 62

[18] Tsn, February 16, 1999, pp. 8-9.

[19] Tsn, February 16, 1999, pp. 23-24.

[20] Tsn, March 23, 1999, p. 12.

[21] At p. 21.

[22] Rollo, p. 82-83.

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