PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE BULAN AND ALLAN BULAN, APPELLANTS.

G.R. NO. 143404. June 08, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This case was certified by the Court of Appeals (CA) to this Court for review, in view of its finding in its Decision[1] that appellants Jose Bulan and his son, Allan Bulan, are guilty of murder as principals by indispensable cooperation punishable by reclusion perpetua to death, and not merely as accomplices as found by the Regional Trial Court (RTC) of Virac, Catanduanes, Branch 42.

The Antecedents

Jose Bulan and his sons, Allan and Estemson, were charged with murder in an Information filed on October 11, 1994. The accusatory portion of the Information reads:

> That on or about the 6th day of June 1994 at Barangay Datag, Municipality of Caramoran, Province of Catanduanes, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another for a common purpose, that is, to kill with treachery and evident premeditation, did then and there, wilfully, unlawfully and feloniously, Jose Bulan and Allan Bulan held both hands of Alberto Mariano to deprive him of any defense, while Estemson Bulan stabbed him from behind with a deadly weapon, hitting him twice at the back which resulted to his instantaneous death, to the damage and prejudice of the victim's heirs.
>
> That the offense is aggravated by flight and use of superior strength.
>
> ALL ACTS CONTRARY TO LAW.[2]

Jose and Allan were duly arraigned on March 6, 1995, and pleaded not guilty.[3] Estemson, on the other hand, remained at large.

The Case for the Prosecution

The Office of the Solicitor General (OSG) based its summary of the facts of the case on the documentary and object evidence, on the testimony of prosecution witnesses Dr. Rico Lareza, SPO2 Pedro Roslin, Mariano Lopez, as well as Perlita Mariano and Pura Mariano, the surviving sister and mother of the deceased Alberto Mariano, respectively. Its version of the case is as follows:

> - On the night of June 6, 1994, a dance was taking place at the barangay plaza of Barangay Datag, Municipality of Caramoran, Catanduanes. Alberto Mariano, a barangay tanod in said barangay was assigned the task of seeing to it that anybody who entered the gate to the dance hall at the plaza must have a ribbon (pp. 4-5, tsn, Mariano, July 11, 1995; pp. 6-7, tsn, Lopez, July 10, 1995).
>
> - Appellant Allan Bulan came to the dance and entered the gate without the required ribbon. Alberto Mariano

followed appellant Allan Bulan into the dance hall and asked him why he entered the gate without a ribbon. Instead of answering Alberto's question, Allan boxed him on the head. Accused Estemson Bulan, Allan's brother, who had entered the dance hall, likewise, boxed Alberto. Estemson then held Alberto, while Allan boxed the latter on the chest. Perlita Mariano, Alberto's sister, who was present at the dance, embraced her brother as Allan and Estemson unceasingly pummeled him (pp. 5-7, Mariano, July 11, 1995; pp. 22-25, tsn, Lopez, July 10, 1995; pp. 5-6, Decision).

- The other barangay tanods present at the dance, Ceferino Ceballo and Juan Boribor, and a barangay kagawad, Dante Ereso, stopped Allan and Estemson from further beating Alberto. After being pacified by the barangay officials, Allan and Estemson left the dance hall. Alberto, on the other hand, went back to where he originally stood to resume his duty. His sister Perlita stood beside him (p. 7, tsn, Mariano, July 11, 1995; p. 26, tsn, Lopez, July 10, 1995).

- One Edwin Solo, a policeman, suddenly came into the dance hall and dragged Alberto into the street just outside the entrance. Perlita embraced Alberto as he was dragged outside the barangay plaza. Appellants Jose Bulan and Allan Bulan were waiting for Alberto and immediately held the latter by his shoulders. Jose held Alberto's right shoulder while Allan held his left shoulder. Perlita was still embracing her brother but she was pulled away from him (pp. 8-9 and 25, tsn, Mariano, July 11, 1995; pp. 27-28 and 31-33, tsn, Lopez, July 10, 1995).

- Accused Estemson Bulan suddenly appeared behind Alberto and stabbed him twice in the back with a small bolo. Perlita screamed for help. However, despite the fact that there were people at the entrance gate, nobody came to help Alberto and Perlita. After stabbing Alberto, Estemson immediately escaped, while Jose and Allan dragged the fatally wounded Alberto away from the barangay plaza to the store of Valentin Talion, which was forty meters away from the scene of the stabbing. They dropped Alberto face down on the ground in front of Valentin's store and then left, running towards the direction of [the] barangay plaza (pp. 10-11, tsn, Mariano, July 11, 1995; pp. 18 and 33-37, tsn, Lopez, July 10, 1995).

- Perlita, who followed Jose and Allan as they dragged her brother, kept on shouting for help but nobody came to help them. After Jose and Allan left, Perlita returned to the barangay plaza and sought help from her relatives who were at the dance. She, likewise, sought the help of the barangay officials present and informed them that Alberto was already dead (pp. 12-13, tsn, Mariano, July 11, 1995).

- Minutes later, Nelson Rubio, a policeman, went to the place where Alberto lay. When the policeman tried to lift Alberto, the small bolo which was used in stabbing Alberto and which remained embedded in his back, fell to the ground. The Municipal Mayor of Caramoran and Dr. Rico Lareza, a doctor and the Chief of the Caramoran Municipal Hospital, also went to the site where Alberto lay. The doctor then requested the mayor to bring Alberto's body to the hospital for a post-mortem examination (pp. 13-14, tsn, Mariano, July 11, 1995; pp. 37-38, tsn, Lopez, July 10, 1995; pp. 4-5, tsn, Lareza, May 22, 1995).

- On the same night, at around 11:30, Dr. Lareza examined Alberto and found that his body bore the following wounds and injuries:
(1) Stab wound, 6 cms. in length and 13 cms. in depth, located at back of the victim at the level of the fifth intercostals space of the right middle back, penetrating towards the heart;

(2) Stab wound, 3.5 cms. in length and 11 cms. in depth, located on the left side of the back of the victim, directed upward towards the scapular bone area from the left middle back;

(3) Linear hematoma, 4.5 cms. in length, located at the right side of the neck, lateral aspect;

(4) Multiple abrasions located on the left third of the left little finger;

(5) Multiple abrasions located at the back middle part of the left index finger; and

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(6) Multiple abrasions located on the middle third of the right lower arm. (pp. 7-9, tsn, Lareza, May 22, 1995)

- According to Dr. Lareza, "(t)he most fatal wound is wound No. 1" (p. 9, tsn, Lareza, May 22, 1995) and that Alberto Mariano died of Cardio-Respiratory Arrest due to a stab wound penetrating towards the heart (vide, pp. 10-11, tsn, Lareza, May 22, 1995; pp. 20-21, Record).[4]

The Case for the Appellants

Jose, a businessman from Datag East, Caramoran, Catanduanes, denied the charge. He testified that on the night of June 6, 1994, he was with Mayor Idanan of Caramoran and the latter's son-in-law Ely Ty. He was with them from 10:00 p.m. onwards and never left their company; hence, had no inkling that Alberto had been stabbed near the gate of the dance hall.[5] He further alleged that he and his companions were drinking around a table and left the plaza only when a commotion ensued.[6] He found out that he had been charged with murder only on June 17, 1994, when policemen informed him that the Municipal Trial Court (MTC) of Caramoran had issued a warrant for his arrest. He, likewise, had no knowledge that Alberto had been manhandled by his sons, and that Estemson was the one who stabbed the victim. He admitted having received the warrant of arrest issued against him by the MTC on June 17, 1994.[7] At the police station, he was told that he would be allowed to get out of jail if he could produce his son Estemson.[8]

Allan, likewise, denied the charge. He admitted that he and Alberto had an altercation inside the dance hall; the latter had boxed him on the upper lip, and he retaliated by punching Alberto on the stomach.[9] He claimed that he went home after the incident. As he was in front of the store of one Valentin Talion, Alberto and five to six companions accosted him, and gave him fist blows on the forehead and neck. He was also kicked on different parts of the body. Alberto even bit the upper part of his wrist.[10] Allan averred that his injuries were evidenced by the medical certificate issued by Dr. Rico Lareza dated June 7, 1994. Afterwards, he fled to the house of his uncle Rudy Frondero. He told his father of the incident, but did not inform the police or barangay authorities.[11] He left for Legaspi City on June 10, 1994 and attended school as an irregular student at the Polytechnic College Foundation. Upon his mother's request, Allan accompanied her to Manila on June 27, 1994 to locate his brother Estemson. It was only then that he learned that his father was in jail for the death of Alberto. Allan also confirmed that he was arrested by NBI agents on August 7, 1994.

The appellants presented Mariano Ereso, a barangay kagawad, to corroborate the testimony of Jose Bulan. Another witness, Barangay Captain Magin Isuela, testified that he did not notice any commotion before Irma Cabrera's announcement at the dance floor that somebody had been stabbed.[12] He was so shocked that he went home.[13]

Dr. Lareza testified that considering the wounds of the victim, the assailant could not have held the bolo with the tip of the blade pointed to the elbow, then lifted the arm holding the bolo to the level of the victim's head, before stabbing the latter on the right middle portion of the back. The doctor averred that in such a case, the trajectory of the wound would be downward and not horizontal.[14] Moreover, Wound No. 2 could not have been inflicted by one who held the bolo above the victim's head, then thrusted it downwards.[15] The doctor also explained that the road from the plaza gate to the store was stony; if the victim had been dropped on the road, face and chest down, it was possible that he would have a blackeyed face or sustained abrasions.[16] Considering that there was a pool of blood where the body was found, the victim could have been stabbed in front of the store.[17]

Rudy Tuqueño testified that he was drinking beer near the gate but did not witness any stabbing incident. Apropriano Selsona, Jr. corroborated Tuqueño's testimony.

After trial, the trial court rendered judgment convicting the accused of murder as accomplices. The fallo of the

decision reads:

> WHEREFORE, in view of the foregoing, Jose and Allan Bulan, considering the Indeterminate Sentence Law in their favor, are hereby sentenced to suffer the penalty of imprisonment ranging from ten (10) years and one (1) day of prision mayor as minimum to seventeen (17) years and four (4) months of prision temporal as maximum and to indemnify the heirs of the accused in the amount of P50,000.00. The period of their detention is credited in full in their favor in the service of their sentence.
>
> The case as against Estemson Bulan who remains at large up to present is hereby placed in the archive till after his arrest.
>
> SO ORDERED.[18]

The trial court declared that there was no conspiracy between the appellants and Estemson.

On appeal to the CA, the appellate court rendered judgment on June 13, 2000 affirming the decision of the RTC, with the modification that the appellants and Estemson were guilty of murder as principals by indispensable cooperation. The appellate court declared that as gleaned from the evidence on record, the three of them conspired to kill the deceased. The fallo of the decision reads:

> WHEREFORE, pursuant to Article VIII, Section 5 of the 1987 Constitution which provides:
> "The Supreme Court shall have the following powers:
>
> . . .
>
> (d) all criminal cases in which the penalty imposed is reclusion perpetua or higher"

and Par. 2, Section 13, Rule 124, Rules of Court, which states:

> "Whenever a Criminal Cases Division should be of the opinion that the penalty of death or life imprisonment be imposed in a case, the said Division after the discussion of the evidence and the law involved, shall render judgment imposing the penalty of death or reclusion perpetua or higher as circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review."

and finding the accused-appellants, Jose Bulan and Allan Bulan, guilty beyond reasonable doubt of conspiring in murdering Alberto Mariano, as penalized under Article 248 of the Revised Penal Code by reclusion perpetua to death. We hereby certify this case to the Honorable Supreme Court for final determination and proper action.

SO ORDERED.[19]

On March 22, 2001, the Court resolved to accept the case.[20] The appellants opted not to file a supplemental brief.[21]

The appellants aver that the trial court committed the following errors:

> - THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS MARIANO LOPEZ THAT WITHIN TWO METERS FROM THE GATE OF THE DATAG PLAZA WHERE A DANCE WAS BEING HELD, THE DECEASED ALBERTO MARIANO WAS STABBED BY ESTEMSON BULAN WHILE BEING HELD BY ACCUSED-APPELLANTS JOSE AND ALLAN BULAN WHO THEN ALLEGEDLY DRAGGED HIM FROM THE GATE TOWARDS THE STORE OF VALENTIN TALION FORTY METERS AWAY.
>
> - THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS PERLITA MARIANO THAT WITHIN TWO METERS FROM THE GATE OF THE DATAG

PLAZA WHERE A DANCE WAS BEING HELD, THE DECEASED ALBERTO MARIANO WAS STABBED BY ESTEMSON BULAN WHILE BEING HELD BY ACCUSED-APPELLANTS JOSE AND ALLAN BULAN WHO THEN ALLEGEDLY DRAGGED HIM FROM THE GATE TOWARDS THE STORE OF VALENTIN TALION FORTY METERS AWAY.

- THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF ACCUSED ALLAN BULAN ALLEGING THAT HE WAS MAULED BY ALBERTO MARIANO AND COMPANIONS IN FRONT OF VALENTIN'S STORE AND DENYING THE ALLEGED HOLDING AND STABBING AT AND DRAGGING FROM THE GATE OF THE DATAG PLAZA.

- THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF ACCUSED-APPELLANT JOSE BULAN DENYING THE ALLEGED HOLDING AND STABBING AT AND DRAGGING FROM THE DATAG PLAZA.

- THE LOWER COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANTS.[22]

The appellants assert that the trial court erred in giving credence and probative weight to the testimony of Mariano and Perlita that Alberto was stabbed about two meters away from the gate of the plaza. They aver that the physical evidence on record even negates their testimony, as to where and how the victim was stabbed. They point out that the pool of blood was found in front of Talion's store, and not within the vicinity of the plaza gate where the dance was being held. Moreover, the deceased still had his slippers on, and his feet and face bore no abrasions or hematoma; according to the appellants, this proved that the victim was not dragged from near the plaza gate to the place near Talion's store as testified to by Mariano and Perlita. The appellants maintain that the absence of any reaction from those in the dance hall and the vendors near the gate negates their testimony – that Perlita saw her brother being stabbed near the plaza gate. Moreover, the testimony of Mariano Lopez and Perlita Mariano were replete with inconsistencies on material points; hence, are barren of probative weight. In contrast, the testimony of appellant Allan Bulan is consistent with and corroborated by his medical certificate,[23] as well as Dr. Lareza's post-mortem report.[24]

For its part, the OSG asserts that while Dr. Lareza's testimony on the trajectory of the wounds of the deceased did not jibe with that of Mariano, the undeniable fact is that the deceased was stabbed twice at the back. The OSG posits that Mariano was not expected to have a recorded memory of the incident. Moreover, the only evidence relied upon by the appellants to prove the absence of blood trails from the plaza gate going to the store where the stabbing occurred was their own testimony. The OSG surmises that Mariano's shouts for help went unnoticed; as such, the appellants still managed to carry the deceased from the gate to the place near the store where he was eventually found. The OSG further points out that the bolo the appellants used to stab the victim remained embedded on his back. The bare fact that the victim did not suffer any abrasions on the face and that one of his slippers remained on his left toe did not negate Mariano and Perlita's testimony (that the appellants carried the victim and dropped him near the said store). The OSG avers that while there may have been inconsistencies between the testimonies of Perlita and Mariano, their respective accounts were still consistent on material points.

The Ruling of the Court

The general rule is that the factual findings of the trial court, including its assessment of the credibility of the witnesses and the probative weight thereof, as well as the conclusions of the trial court based on its factual findings, are accorded high respect, if not conclusive effect, especially if such findings are affirmed by the CA. This is so because the trial court is able to observe at close range the demeanor and deportment of the witnesses as they testify.[25] However, the general rule does not apply if the trial court overlooked, misunderstood or misapplied some facts or circumstances which, if considered, will warrant a modification or reversal of the outcome of the case.[26]

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The prosecution is burdened to prove the guilt of the accused beyond reasonable doubt. Indeed, the testimony of a lone witness, if found positive and credible by the trial court, is sufficient to support a conviction especially when the testimony bears the earmarks of truth and sincerity. While the number of witnesses may be considered a factor in the appreciation of evidence, proof beyond reasonable doubt is not necessarily with the greatest number. Conviction of the accused may still be had on the basis of the credible and positive testimony of a single witness.[27]

It must be stressed that evidence to be believed must not only proceed from the mouth of a credible witness but it must also be credible in itself, such that common experience and observation of mankind lead to the inference its probability under the circumstances.[28] On the other hand, inconsistencies as to minor details and peripheral or collateral matters do not affect the credibility of witnesses nor the probative weight of their testimonies. Such minor inconsistencies may even serve to strengthen their credibility as they negate any suspicion that their testimonies are fabricated or rehearsed.[29] Even the most candid of witnesses commit mistakes and make confused and inconsistent statements. As the Court declared in People v. Alolod:[30]

> ... Not all persons who witness an incident are impressed in the same manner and it is but natural that in relating their impressions, they disagree on the minor details and that there be contradictions in their testimonies. Witnesses cannot be expected to recollect with exactitude every minute detail of an event. This is especially true when the witnesses testify as to facts which transpired in rapid succession, attended by flurry and excitement. The testimony of each witness should not be expected to be identical to and coinciding with each other. It is enough that the principal points covered by their testimonies are established although they do not dovetail in all details – which would even prove well-rehearsed and studied declarations. ...[31]

Absent evidence showing any reason or motive for a witness to falsely testify against the accused, the logical conclusion is that no such improper motive exists and the testimony should be accorded full faith and credit.[32]

The testimony of a witness must be considered and calibrated in its entirety and not by truncated portions thereof or isolated passages therein.[33] It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts,[34] as there is hardly a witness who can perfectly remember the details of a crime. Human memory is not as unerring as a photograph.[35] Thus, corroborative evidence in order to be credible need not coincide on all aspects.[36]

In this case, the prosecution relied on the collective testimonies of Perlita and Mariano, who claimed to have seen Estemson stab Alberto; the prosecution also anchored its case on the testimony of Dr. Lareza and his medico-legal report. The Court declares that Perlita's testimony, the medico-legal certificate and the expert testimony of Dr. Lareza would have been enough to prove the guilt of the appellants beyond reasonable doubt.

Perlita, the sister of the deceased, testified that Estemson stabbed her brother with a small bolo at the back, about two meters more or less from the plaza gate. She declared that Jose held the deceased by the right shoulder, while Allan held him by the left; Estemson then appeared from behind the victim. Perlita was near her brother when he was stabbed:

> Q
>
> Please inform the court what happened afterwards?
>
> A
>
> Immediately, a man came and went inside the dance hall, then held my brother and told us that he would bring my brother outside, Sir.

Q

And at that period of time, what was your reaction, if any?

A

That man who came in was Edwin Solo and I asked him why he would bring my brother outside and asked him he is doing so (sic) are you a barangay captain?

Q

Then what was the reaction of Edwin Solo after you told him that?

A

He did not mind me and dragged my brother out while I was embracing my brother, Sir.

Q

Was Edwin Solo able to drag your brother out of the gate?

A

Yes, Sir.

Q

And what happened after your brother and you had been dragged out of the plaza?

A

Upon reaching outside, Jose Bulan and Allan Bulan immediately held my brother on his shoulders, Sir.

ATTY. BERCES:

We just want to make it of record that the witness is crying and we request [that] we be given little time to let her regain her composure, Your Honor.

COURT:

Alright, recess for five minutes.

(After five minutes, session was resumed.)

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ATTY. BERCES:

Q

So, you said upon reaching outside the gate, your brother was held by Jose Bulan and Allan Bulan by the shoulders?

A

Yes, Sir.

Q

Before I proceed, when you mentioned about Jose Bulan, are you referring to Jose Bulan who is one of the accused in this case?

A

Yes, Sir.

Q

Will you please point to him if he is inside the court room?

A

(Witness pointing to the accused Jose Bulan.)

Q

Can you tell the court, if you know, what relation has this Jose Bulan to the other accused Allan Bulan and Estemson Bulan?

A

Jose Bulan is the father of Allan and Estemson Bulan, Sir.

Q

On what side did Jose Bulan hold your brother?

A

At the right side of my brother, Sir.

Q

What about this Allan Bulan?

A

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On the left side, Sir.

Q

And where were you at that time?

A

I was still near my brother and then somebody suddenly pulled me from my brother, Sir.

Q

And after that moment, what happened next, if any?

A

Estemson Bulan immediately entered coming from behind and immediately stabbed my brother, Sir.

Q

Do you know the cardinal directions, North and South?

A

Yes, Sir.

Q

Now, using that as reference, from what direction did Estemson Bulan come?

A

From the South, Sir.

Q

And as you said upon appearing this Estemson Bulan stabbed your brother, was your brother hit?

A

Yes, Sir.

Q

In what part of his body was your brother hit by Estemson Bulan?

A

At the back, Sir.

Q

After you saw Estemson Bulan stabbed (sic) your brother, what did you do?

A

I shouted for help and no one came, Sir.

Q

Can you tell the Court whether after the first stabbing by Estemson Bulan, was your brother stabbed subsequently?

A

When I cried for help and no one came, all of a sudden I saw Estemson Bulan ran (sic) away, Sir.

Q

By the way, what is the distance of the place where your brother is being held by Jose Bulan and Allan Bulan and stabbed by Estemson Bulan in relation to the gate of the plaza?

A

More or less two meters, Sir.

Q

Now, considering that it was nighttime, how were you able to see that incident?

A

At the gate, there was a fluorescent lamp and the plaza was surrounded by light bulbs, Sir.

Q

What is found at the gate, were there fluorescent lamp at the same time light bulbs?

A

Only fluorescent lamp, Sir.

Q

And where were the bulbs installed?

A

They were installed around the plaza and at the dance hall, Sir.[37]

After Estemson had fled, the appellants dragged the victim to the store of Valentin Talion, about 40 meters away.

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They then dropped the victim on the ground and fled from the scene. When she realized that no one was responding to her cries for help, Perlita returned to the plaza to seek the aid of her relatives and the barangay authorities:

Q

After Estemson Bulan stabbed your brother and subsequently fled as you said, what did this Jose Bulan and Allan Bulan do?

A

Jose Bulan and Allan Bulan dragged my brother up to the place fronting the store of Mang Enting.

Q

What is the full name of this Mang Enting?

A

Valentin Talion, Sir.

Q

About how many meters is that place of Valentin Talion to the place where your brother was stabbed?

A

More or less forty meters, Sir.

Q

Now, if we will use that place where you are seated now as the place where your brother was stabbed, can you please point to a place which would correspond to the extent of forty meters?

A

(Witness pointed to a distance of about forty meters.)

Q

When your brother was dragged towards the front of Valentin Talion's store, what happened next, if any?

A

Somebody poked the light of his flashlight on them and that was the time the two dropped my brother, Sir.

Q

When you said they dropped your brother, you are referring to Jose Bulan and Allan Bulan?

A

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Yes, Sir.

Q

Were you able to identify the person who had a flashlight?

A

Yes, Sir.

Q

And after Allan Bulan and Jose Bulan dropped your brother in that place, what did they do?

A

They ran away, Sir.

Q

Towards the North, South or what direction?

A

They fled and ran towards the direction of the plaza, Sir.

Q

Then what did you do at that moment?

A

I was with my brother in the place where he was dropped and I kept on shouting for help but then I thought I was not heard since the music and the dance was going on, so I went back to the plaza and look for my relatives and I saw Tiya Corazon and Irma Cabrera, Sir.

Q

And what did you do upon seeing your Tiya Corazon and Irma Cabrera?

A

I asked the help of the barangay captain and a kagawad and inform them that my brother was already dead, Sir.

Q

Was there anybody who responded to your call for help?

A

Yes, Sir.

Q

Who was that?

A

It was policeman Nelson Rubio, Sir.

Q

Can you give an estimate if how many minutes after did this policeman come to your assistance after Jose and Allan Bulan dropped your brother near the place of the store of Valentin Talion?

A

About a few minutes, Sir.

Q

And after Nelson Rubio arrived, what did you do?

A

He tried to lift my brother and then a knife (palas or small bolo) fell on the ground, Sir.

Q

From where did this "palas" come?

A

From the back of my brother, Sir.

Q

What relation has that to the weapon that was used by Estemson Bulan in stabbing your brother?

A

That was the weapon that was used in stabbing my brother, Sir.

Q

If that weapon is shown to you, would you be able to identify the same?

A

Yes, Sir.

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Q

I am showing to you a small bolo which is marked already as Exh. C, kindly look at this and inform the Court whether this was the same weapon which you saw dropped from the body of your brother?

A

Yes, Sir.[38]

On the other hand, Dr. Lareza testified that the victim was stabbed at the back with a sharp and pointed instrument which he saw at the place where the victim lay:

Q

Let us go to Item No. 1 which I read:

"Stabbed wound 6 cms. in length and 13 cms. in depth penetrating towards the heart over the 5th intercostal space, with associated fracture of the rib bone on the right middle back." Will you explain in layman's term, what this means?

A

In layman's term, the stabbed wound was located at the back of the victim at the level of the fifth intercostal space of the right middle back, penetrating towards the heart.

Q

What do you mean here with associated fracture of the rib bone?

A

There is a broken rib bone.

Q

What could have caused this stab wound?

A

That stab wound may be (sic) caused by a sharp and pointed instrument, Sir.

Q

So that it could be caused by the same instrument you saw at the place of the incident?

A

Maybe, Sir.

Q

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> Showing to you a bladed instrument with wooden handle still stained with blood, to your recollection, is this the bladed weapon which you saw at the scene of the incident?
>
> A
>
> More or less the same, Sir.[39]

The Court is not impervious of the fact that while Perlita testified that she saw her brother being stabbed only once, the medico-legal certificate issued by Dr. Lareza shows that the victim sustained another stab wound at the back, less severe than the first. This seeming inconsistency, however, does not detract from the verisimilitude of Perlita's testimony that she saw Estemson stab her brother. As Perlita recounted, she was so shocked and horrified by the sudden appearance of Estemson and the subsequent stabbing of her brother that she frantically shouted for help. It is possible that it was at that precise moment when Estemson stabbed her brother anew at the back, hence, Perlita failed to witness it. Indeed, this Court declared in People v. Bihison[40] –

> Eyewitnesses to a horrifying event cannot be expected, nor be faulted if they are unable, to be completely accurate in picturing to the court all that has transpired and every detail of what they have seen or heard. Various reasons, mostly explainable, can account for this reality; the Court has long acknowledged the verity that different human minds react distinctly and diversely when confronted with a sudden and shocking event, and that a witness may sometimes ignore certain details which at the time might have appeared to him to be insignificant but which to another person under the same circumstances, would seem noteworthy.[41]

The Court notes that the only evidence of the appellants to prove that there were no traces of human blood from near the gate to the store of Talion was the testimony of Dr. Lareza. However, the doctor did not testify that he investigated the condition of the path from the gate to the store to ascertain the presence or absence of blood.

The appellants contend that Perlita's testimony is incredible, since she claimed to have shouted for help, but there was no reaction from the crowd. The Court rejects this contention. It bears stressing that festivities were then ongoing at the plaza, the blaring music thus drowned out Perlita's shouts for help. Perlita must have realized this and thus went back to the plaza from the store and informed her relatives that Alberto had been stabbed. With the dancing and partying, no one in the plaza noticed the appellants dragging Alberto towards the direction of the store. Perlita then managed to talk to her cousin Irma Cabrera, the barangay captain and policeman Nelson Rubio who, with the municipal mayor, responded to her report. When Perlita relayed the stabbing to Irma Cabrera, the latter, in turn, hurriedly announced the incident over the microphone; it was only then that the public became aware of the tragedy. Rubio then recovered the palas (small bolo) when it fell from the victim's back as he lifted the lifeless body. The Court agrees with the following submissions of the OSG:

> Moreover, it cannot be discounted that other people may have seen the stabbing of Alberto but they chose not to volunteer and reveal what they had seen to the police authorities. It must be pointed out that the natural tendency of most people not to get involved in criminal cases is of judicial notice [People v. Tulop, 289 SCRA 316 (1998)] and that "(i)t is of common human experience that people overcome by great fear, not only for their lives but also of those of their loved ones, will choose to remain tight-lipped about an incident and suffer in silence rather than expose to risk their own safety and of those for whom they care" [People v. Dadles, 278 SCRA 393 (1997)].[42]

The pool of blood in the vicinity where the appellants dropped Alberto face down near Talion's store, and the absence of any traces of blood from the gate to the store cannot be the basis of a conclusion that Alberto was stabbed in that place and not near the plaza gate. Considering that the appellants dropped Alberto face down near the store and the cadaver remained thereat for some time, it is but logical that a pool of blood would have formed near the body. Thus:

Q

And by the time that a person was carried at a distance of about 40 to 50 meters, the bulk or the greater quantity of the blood will flow or ooze and dropped in that place where he was rested?

Q

Doctor, we will have the question reread to you and answer it accordingly. I am just concentrating in the place where the pool of blood was found at the scene of the cadaver. I am only focusing my question in this particular pool of blood as shown in the picture. Assuming that the patient was stabbed in the gate of the plaza and was brought to another site and assuming that the patient was dragged about 40 to 50 meters, naturally there will be a trail of blood along the way and on the place where he was rested? But the greater quantity also of the blood be accumulated in that place where he was rested, particularly he has been there for about an hour as depicted in the picture?

A

Yes, Sir.[43]

The appellants failed to adduce evidence that there was no pool of blood near the gate of the plaza where Alberto was stabbed. In fact, even the absence of blood near the gate would not negate Perlita's claim that her brother was stabbed there. The evidence on record shows that immediately after Estemson stabbed the victim, the appellants dragged Alberto face down from the gate towards the store. It is entirely possible that the blood from the victim's wounds had not yet accumulated and dripped to the ground before he was dragged:

ATTY. BERCES:

Q

From your expert testimony, doctor, when a person is stabbed and subsequently the bladed instrument is withdrawn from the body, the blood does not automatically ooze from the wound?

A

There are some blood in other wounds that will come out, Sir.

Q

And after a certain distance, this blood that were, in the meantime, retained in the body could be released after a few minutes?

ATTY. FERNANDEZ:

May I just comment that there are two stab wounds.

ATTY. BERCES:

I am referring now to both wounds. Anyway, they were inflicted within a split second.

Q

Would that be possible that the blood would be emitted a little after?

A

It depends on what portion of the body that was hit, Sir.[44]

That Estemson carried the palas (small bolo) to the plaza is not unlikely. The inscrutable fact is that he stabbed the victim with a small bolo; where the assailant secured the weapon is irrelevant.

The absence of any abrasions or bruises on the face and feet of the victim, and the fact that his Spartan slipper was still hanging from his left foot, do not negate Perlita's testimony that he was dragged 40 meters away from the gate. We agree with the following submission of the OSG:

> (6) The fact that Alberto still had his "Spartan" slipper on his left toe and that his toes and feet did not bear abrasions do not necessarily indicate that Alberto was not dragged by appellants forty meters away from where he was stabbed. Moreover, appellants' assertion that Alberto's face did not bear any abrasions does not necessarily mean that he was not dropped by appellants face down on the ground in front of the store.
>
> It must be pointed out that the fact that Alberto still had his "Spartan" slipper on his left toe (sic) could also indicate that he had been dragged for some distance before being left in front of the store. In the process of being dragged, Alberto lost his right slipper and his left slipper remained entangled on his left toe.
>
> The fact that his toes did not bear abrasions could also indicate that his right slipper was only dislodged as appellants were nearing Valentin Talion's store and that his left slipper, though partially dislodged as it remained on Alberto's left toe, still afforded minimum protection to Alberto's left foot. Moreover, there was no official finding that the terrain of the path through which Alberto had been dragged was rough and stony as to damage Alberto's feet.
>
> As regards the absence of abrasions on Alberto's face, it must be pointed out that the height from which Alberto was dropped was never determined or established. It is possible that Alberto may have been dropped by appellants with his face only a few inches from the ground. Thus, when Alberto was dropped, the impact of the fall was not enough to cause abrasions or bruises on his face.[45]

Significantly, the victim's other slipper has not been accounted for by the police investigators.

There is, likewise, no evidence that Perlita had any ill or devious motive to falsely implicate Estemson and the appellants to the stabbing of her brother. Barely two days after the incident (on June 8, 1994), Perlita gave her sworn statement to SPO4 Ruben T. Sarmiento, naming Estemson as her brother's assailant, with the appellants as companions.[46] Hence, the testimony of Perlita must be accorded full faith and credit.

The next issue is whether or not the appellants are guilty of the crime charged as principals by direct participation as ruled by the CA, or, as ruled by the RTC, mere accomplices to the crime of murder.

Article 8 of the Revised Penal Code provides that there is conspiracy when two or more persons agree to commit a crime and decide to commit it. Direct proof is not essential to prove conspiracy; it may be established by acts of the accused before, during and after the commission of the crime charged, from which it may be logically inferred the existence of a common purpose to commit the same.[47] The prosecution must prove conspiracy by the same quantum of evidence as the felony charged itself. Indeed, proof of previous agreement among the malefactors to

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commit the crime is not essential to prove conspiracy.[48] It is not necessary to show that all the conspirators actually hit and killed the victim; what is primordial is that all the participants performed specific acts with such closeness and coordination as to indicate a common purpose or design to bring out the victim's death.[49] Once conspiracy is established, it is unnecessary to prove who among the conspirators inflicted the fatal injury.[50] If conspiracy is proved, all the conspirators are criminally liable for the crime charged and proved. The act of one is the act of all.

In this case, the appellants were waiting outside the dance hall near the gate when Edwin Solo brought the victim towards them, onto the street. Jose held the victim by the right shoulder, while Allan held him by the left. Estemson suddenly appeared from behind the victim and stabbed the latter at the back with a small bolo. The appellants continued holding the victim as Estemson stabbed him yet again. Even as Estemson fled, the appellants dragged the victim from the gate, towards the store, where they dropped the victim's body and fled from the scene. Allan then left Catanduanes and hid in Pasay City where he was arrested by the NBI on August 7, 1994.[51]

Considering the foregoing, the Court affirms the finding of the CA that the appellants are guilty as principals by direct participation in the killing of Alberto Mariano.[52]

Indeed, the only defenses proffered by the appellants are denial and alibi, which are, however, the weakest of defenses in criminal cases. The well-established rule is that denial and alibi are self-serving negative evidence; they cannot prevail over the spontaneous, positive and credible testimony of Perlita Mariano who pointed to and identified the appellants as the two of the malefactors.[53] Indeed, alibi is easy to concoct and difficult to disprove.[54] The Court notes that the appellants even admitted that they were in the dance hall before the stabbing, and that Jose left only after the incident. Moreover, Jose did not present any other witness to corroborate his alibi.

The crime committed by the appellants is murder qualified by treachery. Although there was an altercation between Estemson and the victim shortly before the latter was stabbed, treachery nevertheless attended the commission of the crime. As this Court held in People v. Teston:[55]

> We disagree with the trial court's ruling that treachery did not attend the killing. Treachery is present when the attack is sudden and unexpected, depriving the victim of any real chance to defend himself and thereby ensuring the commission of the crime without risk to the offender. The lower court held that since Vladiner and FORCA fought on the day of the killing, Vladiner was forewarned of the danger to himself. Also, it considered the fight as evidence that the accused did not consciously adopt their mode of attack "as their confrontation was coincidental."
>
> That the victim and the accused had an altercation immediately before the attack upon the victim does not negate the presence of treachery. In People v. Molina, we held that "[t]reachery may also be appreciated even when the victim was warned of danger or initially assaulted frontally, but was attacked again after being rendered helpless and had no means to defend himself or to retaliate." Similarly, in People v. Villonez, this Court declared that –However, we do not share the assessment of the trial court that there was no treachery in this case because the victim had engaged in a fight previous to the killing and was thus forewarned of an attack against him. Treachery may still be appreciated even when the victim was forewarned of danger to his person. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate. The overwhelming number of the accused, their use of weapons against the unarmed victim, and the fact that the victim's hands were held behind him preclude the possibility of any defense by the victim.

In the instant case, it has been established that while Vladiner was being held down by GACO and OSORIO, FORCA stabbed him several times. However, despite Vladiner's helpless and vulnerable condition, TESTON still

hacked him repeatedly, guaranteeing that the victim would not survive the attack. This undoubtedly constitutes treachery for the means employed by accused ensured the execution of their nefarious designs upon the victim without risk to themselves arising from any defense which the offended party might have made.[56]

Under Article 248 of the Revised Penal Code, murder is punishable by reclusion perpetua to death. There being no mitigating or aggravating circumstances in the commission of the felony, the appellants should be sentenced to reclusion perpetua, conformably to Article 63, paragraph 2 of the Revised Penal Code. The appellants are also civilly liable to the heirs of the deceased in the amount of P50,000.00 by way of civil indemnity, and P50,000.00 by way of moral damages.[57]

IN LIGHT OF ALL THE FOREGOING, the Decision of the Court of Appeals in CA-G.R. CR No. 22904 is AFFIRMED WITH MODIFICATION. Appellants Jose Bulan and Allan Bulan are found GUILTY beyond reasonable doubt of murder as defined in Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, qualified by treachery. There being no aggravating or mitigating circumstances in the commission of the crime, they are hereby sentenced to suffer the penalty of reclusion perpetua. The appellants are ORDERED to pay, jointly and severally, the heirs of Alberto Mariano the amount of P50,000.00 by way of civil indemnity, and P50,000.00 by way of moral damages. Costs against the appellants.

SO ORDERED.

Austria-Martinez, (Acting Chairman), Tinga, and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.

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[1] Penned by Associate Justice Bernardo P. Abesamis (retired), with Associate Justices Eugenio S. Labitoria and Wenceslao I. Agnir, Jr., concurring.

[2] CA Rollo, pp. 74-75.

[3] Records, p. 84.

[4] CA Rollo, pp. 111-114.

[5] TSN, 14 August 1996, p. 29.

[6] Id. at 30.

[7] Records, p. 22.

[8] TSN, 14 August 1996, pp. 28-34.

[9] Id. at 1-7.

[10] Id. at 11.

[11] TSN, 14 August 1996, pp. 2-27.

[12] TSN, 24 April 1996, p. 11.

[13] Id. at 17.

[14] TSN, 26 September 1995, pp. 2-18.

[15] Id. at 7.

[16] TSN, 26 September 1995, pp. 8-9.

[17] Id. at 16.

[18] Rollo, pp. 83-84.

[19] Rollo, p. 176.

[20] Id. at 18.

[21] The appellants, through counsel, informed the Court on March 10, 2004 that they found no more need for them to file any Supplemental Brief. (Rollo, p. 203.)

The appellants filed a motion to withdraw their appeal but, on January 10, 2005, the Court resolved to deny the said motion. (Rollo, p. 253.)

[22] CA Rollo, pp. 26-27.

[23] Exhibit "B."

[24] Exhibit "A."

[25] People v. Miana, Sr., G.R. No. 134565, 9 August 2001, 362 SCRA 456.

[26] People v. Obello, G.R. No. 108772, 14 January 1998, 284 SCRA 79.

[27] People v. Teston, G.R. No. 134938, 8 June 2000, 333 SCRA 404 (2000); People v. Tulop, G.R. No. 124829, 21 April 1998, 289 SCRA 316; People v. Salcedo, 273 SCRA 473 (1997).

[28] People v. Manambit, G.R. Nos. 72744-45, 18 April 1997, 271 SCRA 344.

[29] People v. Tamayo, G.R. No. 138608, 24 September 2002, 389 SCRA 540 (2002); People v. Amazan, G.R. Nos. 136251, 138606 & 138607, 16 January 2001, 349 SCRA 218.

[30] G.R. Nos. 117506-07, 7 January 1997, 266 SCRA 154.

[31] Id. at 161.

[32] People v. Samudio, G.R. No. 126168, 7 March 2001, 353 SCRA 746.

[33] People v. Sagaral, G.R. Nos. 112714-15, 7 February 1997, 267 SCRA 671.

[34] People v. De Manuel, G.R. No. 117950, 9 October 1996, 263 SCRA 49.

[35] People v. Cañales, G.R. No. 126319, 12 October 1998, 297 SCRA 667.

[36] People v. Leangsiri, G.R. No. 112659, 24 January 1996, 252 SCRA 213.

[37] TSN, 11 July 1995, pp. 8-11.

[38] TSN, 11 July 1995, pp. 11-14.

[39] TSN, 22 May 1995, p. 7.

[40] G.R. No. 132024, 17 June 1999, 308 SCRA 510.

[41] Supra, p. 517.

[42] CA Rollo, p. 122.

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[43] TSN, 26 September 1995, p. 17.

[44] Id. at 16.

[45] CA Rollo, pp. 123-124.

[46] Exhibit "F."

[47] People v. Flores, 389 Phil. 532 (2000).

[48] People v. Carriaga, G.R. No. 135029, 12 September 2003, 411 SCRA 40 (2003).

[49] Peole v. Amazan, supra.

[50] People v. Obello, supra.

[51] Records, p. 35.

[52] People v. Teston, supra.

[53] People v. Payot, G.R. No. 119352, 8 June 1999, 308 SCRA 43; People v. Taclan, G.R. No. 123109, 17 June 1999, 308 SCRA 368.

[54] People v. Sanchez, G.R. No. 118423, 16 June 1999, 308 SCRA 264.

[55] Supra.

[56] Id. at 422-423.

[57] People v. Tamayo, G.R. No. 138608, 24 September 2002, 389 SCRA 540.

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