

**EDUARDO LEYSON, EDUARDO BANTULO ALIAS “BOY,”
DOMINADOR BANTULO ALIAS “DOMING,” EDUARDO
PADAYAG ALIAS “EDRING,” EDDIE PADAYAG ALIAS
“OYONG,” AND RODOLFO PADAYAG ALIAS
“JUAN,” PET...**

G.R. NO. 150756. October 11, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a Petition for Review on Certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 23756 affirming that of the Regional Trial Court (RTC), General Santos City, Branch 23, in Criminal Case No. 12205, except as to the penalty imposed on petitioners Eduardo Leyson, Sr., Eduardo Bantulo, Dominador Bantulo, Eduardo Padayag, Eddie Padayag and Rodolfo Padayag.

The Antecedents

On February 28, 1997, an Information charging petitioners with arson was filed before the RTC of General Santos City:

That on or about 10:00 o'clock in the morning of September 7, 1996 at Nopol, Conel, General Santos City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Eduardo Leyson, as ranch owner, and the accused Ramon Soy, Dominador Bantulo alias Doming, Bernardo Bantulo alias Boy, Eduardo Padayag alias Edring, Eddie Padayag alias Oyong and Rodolfo Padayag alias Juan, who are the cowboys or farm-hands of accused Eduardo Leyson, conspiring, confederating and mutually helping one another with malice aforethought, with intent to destroy and cause damage and in order to drive away the different complainants from the area of the ranch of Eduardo Leyson which they have been cultivating for years, did then and there willfully, unlawfully and feloniously set fire on the thirteen (13) houses one after the other of the complainants causing damage representing the value of the houses and their personal belongings which were reduced to ashes with their corresponding value as follows:

1. Pedro Lawa

-

P67,795.00

2. Jennifer Moso

-

7,000.00

3. Lino Mendi

-

37,500.00

4. Mamer Bagon

-

85,950.00

5. Joel Bagon

-

8,500.00

6. Teresita Bagon

-

19,000.00

7. Lea Taculod

-

31,160.00

8. Lilia Bagon

-

25,000.00

9. Gloria P. Anda

-

7,000.00

10. Alicia B. Gilon

-

98,735.00

11. Eddie Bagon

-

27,140.00

12. Pedro Bagon

-

28,710.00

13. Romeo Jarmin

-

25,000.00

with the total value of P468,490.00, more or less, and to their damage and prejudice in such amount.

CONTRARY TO LAW.[2]

Petitioners, assisted by counsel, were arraigned on September 25, 1997 and entered their respective pleas of not guilty.

The Case for the Prosecution

Sometime in October 1993, Eduardo Leyson allowed some members of the B'laan Tribe to till portions of his 29-hectare landholding in Nopol, Conel, General Santos City which he called Nopol Hills Ranch. The following members of the B'laan Tribe were allowed to build their houses and till portions of the land, provided that they would deliver to Leyson 50% of their produce: Romeo Jarmin, Judith Jarmin, Mamer Bagon, Joel Bagon, Teresita Bagon, Lilia Bagon, Eddie Bagon, Pedro Bagon, Pedro Lawa, Jennifer Moso, Lino Mendi, Leah Taculod, Gloria P. Anda, Alicia B. Gilon, and Bonifacio Batata.

Romeo Jarmin built his house on the ranch sometime in December 1993. The roof was made of cogon, the walls of split bamboo, and the side of a coconut tree was used for flooring. The portion of the ranch where he planted corn and palay was about 3 hectares.[3] Mamer Bagon, his brother-in-law, lived about 50 meters away from him, also in a house made of wood.[4] Mamer Bagon planted palay, coconut trees and other agricultural plants and gave 50% of his produce to Leyson.[5] Joel, Teresita, Lilia, Eddie, Pedro, all surnamed Bagon, also built their respective huts in the ranch. Pedro Lawa, who also built a house on the landholding, also delivered to Leyson his share of the produce from his agricultural crops as agreed upon.

However, on July 20, 1996, Leyson called all the farmers to a meeting and told them to vacate his ranch. The farmers refused to leave the premises.[6]

At about 4:00 p.m. on September 1, 1996, Leyson and his son Winkie, together with his employees Ramon Soy, Dominador Bantulo, Juan Padayag and Eduardo Padayag and some policemen, arrived in the ranch. They were armed, and Leyson himself had a long firearm.[7] They fired their guns at the farmers in an effort to drive them away from the land. Although no one was hurt, the farmers were petrified. They fled from the ranch and sought sanctuary at the barangay hall. The next day, Romeo Jarmin, Mamer Bagon, Bonifacio Batata and the other farmers returned to their houses to retrieve their farm animals.[8] Leyson and his men threatened to inflict bodily harm on them unless they left the ranch. The farmers reported the incident to Barangay Captain Manuel Abadimas and to Benjamin Sumog-Oy, the Executive Assistant for Community Affairs of the City Mayor of General Santos City.[9]

At about 10:00 a.m. on September 7, 1996, Romeo Jarmin returned to his house in the ranch with Mamer Bagon and Bonifacio Batata. Bonifacio Batata wanted to get his share of the agricultural crops from Alicia Gilon.[10] Jarmin proceeded to the house of his brother-in-law, Mamer Bagon, and saw Leyson with his employees Rodolfo Padayag, Dominador Bantulo, Eduardo Bantulo, Eduardo Padayag, Eddie Padayag and Ramon Soy.[11] Two of the men were armed with M-16 carbine rifles, another with an M-16 rifle, and yet another with an armalite.[12] When they saw the armed men, Jarmin and Batata hid in a canal near the cogon area. The armed men fired their guns in the air. One of them set fire on the houses of Mamer Bagon, Pedro Bagon, Alicia Gilon, Joel Bagon, Romeo Jarmin, Pedro Lawa. The houses of the other farmers were also set aflame. He, along with Mamer Bagon and Bonifacio Batata, watched as the houses burned down to mere rubble. The value of the structures and personal belongings that were lost in the fire, as well as their respective owners, are as follows:

- a. Pablo Lawa, for his house & the items inside

P67,000.00

b. Jennifer Moso, for her house

7,000.00

c. Lino Mendi, for his house, corn plants, and lost personal properties

37,500.00

d. Mamer Bagon, for his house, 8 chickens, shoes, pants, 2 sacks rice, 2 sacks corn

85,000.00

e. Joel Bagon, for his house

8,500.00

f. Teresita Bagon, for her house

19,000.00

g. Lea Taculod, for her house, 1/2 sack rice, a plow, and a guitar

31,000.00

h. Delia Bagon, for her house & personal belongings

30,000.00

i. Gloria P. Anda, for her small hut

7,000.00

j. Alicia B. Gilon, for her house, corn planted in 1/2 hectares of land, 35 punos of banana plants, 10 head chickens, and carpentry tools

98,000.00

k. Eddie Bagon, for his house & other belongings

27,000.00

l. Pedro Bagon, for his house and other lost properties

28,700.00

m. Romeo Jarmin, for his house

25,000.00[13]

The farmers reported the matter to Sumog-Oy who then invited members of the media, police and barangay personnel to the ranch on September 10, 1996. Leyson and the six employees responsible for the burning of the farmers' houses were pointed out to Sumog-Oy.[14] He examined the debris and what remained of the farmers' razed houses. Pictures of the site were also taken.[15] Sumog-Oy also saw cattle owned by Leyson feasting on the crops of the farmers nearby.[16] When Sumog-Oy asked Leyson what the latter planned to do about the incident, the latter replied that he wanted to be furnished the list of the crops which had been eaten by his cattle, including the damages sustained by the farmers and the amount thereof. He averred, however, that the cost of the wood used in constructing the huts should not be included because the farmers had taken the same from his ranch.[17]

Leyson stated that he would pay for the damages sustained by the farmers.

The Case for the Accused

Petitioners denied having burned the huts of the complainants and interposed the defense of alibi.

Leyson testified that his co-accused Dominador Bantulo, Eduardo Bantulo, Eduardo Padayag, Jun Padayag and Eddie Padayag, were employees in his eight-hectare farm located at Lower Nopol, Purok 7, Barangay Mabuhay, General Santos City.[18] Ramon Soy, however, was not his employee. Leyson claimed that this property is different from his ranch. He had a contract with Pioneer Seeds Production for the use of his property for the production of corn seeds.[19]

He narrated that during the period of September 1 to 11, 1996, he was supervising his men in the harvesting and loading of corn in his farm which was about 6 kilometers from his ranch, one to two hours away by horse ride.[20] They did not go to his ranch on September 1 to 7, 1996.[21] He admitted that he allowed Pedro Lawa, Judith Jarmin, who was the wife of Romeo Jarmin, Leah Taculod, Romeo Mozo, Eddie Bagon, Mamer Bagon, Joel Bagon, Lilia Bagon and her two sons, to farm portions of his ranch and to construct their huts thereon.[22] He asked them to leave the place after two years, but they refused to go, and even filed a complaint against him before the barangay captain, who endorsed it to the Department of Environment and Natural Resources.[23] Sometime in August 1996, he went to his ranch to repair the perimeter fence and saw 47 heavily armed men who appeared to be professional squatters and MILF elements.[24]

Dominador Bantulo testified that he and Bernardo Bantulo were brothers, employed by Leyson as laborers in the farm. Rodolfo and Eduardo Padayag were also Leyson's laborers. All of them resided in Leyson's house in Lower Nopol, Purok 7. Romeo Jarmin was also employed as Leyson's "cowboy." [25] Dominador denied any involvement in the burning of the farmers' houses. He claimed that he and his co-accused were harvesting corn in Leyson's farm in Lower Nopol from September 1 to 11, 1996. Leyson and his son later asked him to operate the trailer-tractor, while the others loaded the corn.[26] They did not leave the place because they were prohibited from visiting their families. They had to watch the seeds.[27]

The other accused likewise denied the charge. They insisted that they were in the farm of Eduardo Leyson harvesting and loading corn from September 1 to 11, 1996.

Renilo Punay, a laborer of Pioneer Seeds Production, corroborated the testimony of the accused. He narrated that he was the roving guard of the company and stayed with the men as they harvested and loaded corn for Pioneer Seeds Production from September 1 to 11, 1996. His tour of duty was from 6:00 p.m. to 6:00 a.m. the following day.[28] There were times that the accused left the farm, but only one at a time to get food.[29] He further testified that at 4:30 p.m. on September 1, 1996, the accused were in Leyson's farm, which was about 5 to 6 kms away from the ranch.[30] They were also in the farm on September 7, 1996 at 10:00 a.m.

On August 10, 1997, the court rendered judgment convicting all the accused of arson, except Leyson who was acquitted on the ground of reasonable doubt. However, all the accused were ordered to pay, jointly and severally, the damages sustained by the private complainants. The fallo of the decision reads:

WHEREFORE, JUDGMENT is hereby rendered finding the accused DOMINADOR BANTULO alias DOMING, EDUARDO BANTULO alias BOY, EDUARDO PADAYAG alias EDRING, EDDIE PADAYAG alias OYONG, RODOLFO PADAYAG alias JUAN, GUILTY beyond reasonable doubt of the crime of ARSON, and there being no aggravating or mitigating circumstance, each of them is hereby sentenced to an indeterminate penalty of two years four months and one day as minimum, to eight years, as maximum. All of them, including Eduardo Leyson, are severally liable for the actual damages of private complainants.

Accused EDUARDO LEYSON, SR. is hereby ACQUITTED. However, he is hereby ordered to pay jointly and severally with the other accused the following amounts to the private complainants:

1. Pablo Lawa, for his house & the items inside

P62,000.00

2. Jennifer Moso, for her house

7,000.00

3. Lino Mendi, for his house, corn plants, and lost personal properties

32,500.00

4. Mamer Bagon, for his house, 8 chickens, shoes, pants, 2 sacks rice, 2 sacks corn

80,000.00

5. Joel Bagon, for his house

8,500.00

6. Teresita Bagon, for her house

14,000.00

7. Lea Taculod, for her house, 1/2 sack rice, a plow, and a guitar

26,000.00

8. Delia Bagon, for her house & personal belongings

25,000.00

9. Gloria P. Anda, for her small hut

7,000.00

10. Alicia B. Gilon, for her house, corn planted in 1/2 hectares of land, 35 punos of banana plants, 10 head chickens, and carpentry tools

93,000.00

11. Eddie Bagon, for his house & other belongings

22,000.00

12. Pedro Bagon, for his house and other lost properties

23,700.00

13. Romeo Jarmin, for his house

20,000.00

The accused found guilty should suffer all the accessory penalties provided for by law. Also, they are ordered to pay the cost of suit. SO ORDERED. [31]

The accused appealed the decision to the CA, alleging that

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE IDENTITIES OF THE PERSONS WHO BURNED THE HOUSES OF PRIVATE COMPLAINANTS WERE CLEARLY ESTABLISHED.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED EDUARDO BANTULO ALIAS BOY, DOMINADOR BANTULO ALIAS DOMING, EDUARDO PADAYAG ALIAS EDRING, EDDIE PADAYAG ALIAS OYONG, AND RODOLFO PADAYAG ALIAS JUAN DESPITE REASONABLE DOUBTS ON THE IDENTITIES OF THE PERSONS WHO ALLEGEDLY BURNED THE HOUSES.[32]

On July 31, 2001, the CA rendered judgment affirming the decision of the RTC with modification as to the sentence of the appellants. The fallo of the decision reads:

WHEREFORE, the decision of the court a quo is AFFIRMED with the modification that accused DOMINADOR BANTULO, EDUARDO BANTULO, EDUARDO PADAYAG, EDDIE PADAYAG and RODOLFO PADAYAG are hereby sentenced to suffer the penalty of reclusion perpetua. In all other respects, the appealed decision is AFFIRMED.[33]

According to the appellate court, the testimony of Batata and Jarmin, corroborated by Lino Mendi, were credible and entitled to full probative weight. It took into account Leyson's admission that he would pay for the damages sustained by the private complainants. The appellate court rejected as barren of factual basis the appellants' defenses of denial and alibi.

Leyson and his men filed a motion for reconsideration, which the appellate court denied; hence, the instant petition for review on certiorari, where petitioners submit the following contentions:

BOTH COURTS SERIOUSLY ERRED IN FINDING THAT THE IDENTITIES OF THE PERSONS WHO BURNED THE HOUSES OF PRIVATE RESPONDENTS WERE CLEARLY ESTABLISHED. THIS FINDING IS PURE SPECULATION, SURMISE AND CONJECTURE, BEING CONTRARY TO THE EVIDENCE ON RECORD IN THIS CASE.

x x x

BOTH COURTS GRAVELY ERRED IN CONVICTING ACCUSED EDUARDO BANTULO alias "BOY" DOMINADOR BANTULO alias "DOMING," EDUARDO PADAYAG alias "EDRING," EDDIE PADAYAG alias "OYONG" and "RODOLFO PADAYAG alias "JUAN," DESPITE DOUBTS ON THE IDENTITIES OF THE PERSONS WHO ALLEGEDLY BURNED THE HOUSES OF THE PRIVATE RESPONDENTS. THIS FINDING IS A MISAPPREHENSION OF FACTS.

x x x

BOTH COURTS GRAVELY ERRED IN FINDING EDUARDO LEYSON, SR. CIVILLY LIABLE TOGETHER WITH THE CONVICTED ACCUSED, THUS, THE TRIAL COURT AND THE COURT OF APPEALS WRONGLY APPLIED THE LAW ON CIVIL LIABILITY OF AN ACCUSED IN A CRIMINAL CASE.[34]

The issues to be resolved in the present case are: (1) whether the prosecution was able to prove the guilt of petitioner, except petitioner Leyson, of the crime of arson under Article 320 of the Revised Penal Code; and (2) whether petitioner Leyson is civilly liable for alleged damages to the private complainants.

Petitioners aver that respondents failed to prove their guilt beyond reasonable doubt for arson. The testimonies of respondent Romeo Jarmin and Bonifacio Batata were inconsistent with the affidavits given to the police investigators. While Jarmin pointed to and identified petitioner Eduardo Leyson during the trial as one of those who burned the houses, in his affidavit,[35] Jarmin failed to mention Leyson, and even erroneously declared that the men were "cowboys." Petitioners further point out that Jarmin had admitted that he returned to the farm only

on September 2, 1996; hence, it was impossible for him to have seen the burning of the houses on September 11, 1996.

Bonifacio Batata admitted when he testified that even before the burning of the houses on September 7, 1996 he already knew petitioner Leyson, yet, never identified him as one of the perpetrators in the affidavit which he gave to the police investigators.[36] In fact, Batata, in his affidavit, never identified any of petitioners as the perpetrators. Moreover, Batata and Jarmin could not have seen the burning of the houses so as to properly identify the culprits, considering that the surface of the canal where they claim to have hidden was covered by three feet cogon grass, and Jarmin and Batata were only 5 feet and four inches tall. While Batata declared that he saw petitioners burn the houses of private respondents, he later changed his testimony and declared that he saw only one of them setting the houses on fire. Batata even admitted that he did not see the face of the arsonist. And contrary to the ruling of the CA, Lino Mendi did not see the burning of the houses.

Petitioners conclude that conformably with the aphorism *falsus in uno, falsus in omnibus*, the testimonies of Jarmin and Batata have no probative weight.

For its part, the Office of the Solicitor General asserts that the ruling of the CA is buttressed by the testimonial and documentary evidence on record. The alleged inconsistencies between the testimonies of Jarmin and Batata and their respective affidavits pertain to minor and peripheral matters, and did not necessarily discredit them. The OSG asserts that Leyson, having been acquitted merely on reasonable doubt, is nevertheless civilly liable to private respondents. It points out that he even obliged himself to pay for the damages sustained by private respondents.

We agree with the rulings of the RTC and the CA that petitioners conspired to burn the houses of private respondents on September 7, 1996.

Well-entrenched rule is that the findings of the trial court, affirmed by the CA on appeal, are accorded with high respect, if not conclusive effect by this Court. The assessment by the trial court of the credibility of the witnesses and its calibration of the probative weight thereof are even conclusive on this Court, absent clear evidence that facts and circumstances of substance which if considered would alter or reverse the outcome of the case were ignored, misinterpreted or misconstrued.[37]

The testimony of a witness must be considered in its entirety instead of in truncated parts. The technique in deciphering a testimony is not to consider only its isolated parts and anchor a conclusion on the basis of said parts. In ascertaining the facts established by a witness, everything stated by him on direct, cross and redirect examinations must be calibrated and considered.

It must be stressed that facts imperfectly or erroneously stated in answer to one question may be supplied or explained as qualified by his answer to other question. The principle *falsus in uno, falsus in omnibus* is not strictly applied in this jurisdiction.[38] The doctrine deals only with the weight of evidence and is not a positive rule of law, and the same is not an inflexible one of universal application.[39] The testimony of a witness can be believed as to some facts and disbelieved as to others:

Nor can we subscribe to the proposition that since the trial court did not give credit to Edwin and Lina's testimonies that they positively identified Edgardo, it should, pursuant to the maxim "*falsus in uno, falsus in omnibus*," likewise disregard their testimonies as against the appellant and accordingly acquit him. In *People vs. Dasig*, this Court stated that the maxim is not a mandatory rule of evidence, but rather a permissible inference that the court may or may not draw. In *People vs. Pacada*, we stated that the testimony of a witness can be believed as to some facts and disbelieved as to others. And in *People vs. Osias*, we ruled that: It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with

respect to other facts. And it has been aptly said that even when witnesses are found to have deliberately falsified in some material particulars, it is not required that the whole of their uncorroborated testimony be rejected but such portions thereof deemed worthy of belief may be credited.

The primordial consideration is that the witness was present at the scene of the crime and that he positively identified [the accused] as one of the perpetrators of the crime charged x x x.-

Professor Wigmore gives the following enlightening commentary:

"It may be said, once for all, that the maxim is in itself worthless —first, in point of validity, because in one form it merely contains in loose fashion a kernel of truth which no one needs to be told, and in the others, it is absolutely false as a maxim of life; and secondly, in point of utility, because it merely tells the jury what they may do in any event, not what they must do or must not do, and therefore it is a superfluous form of words. It is also in practice pernicious, first, because there is frequently a misunderstanding of its proper force, and secondly, because it has become in the hands of many counsel a mere instrument for obtaining new trials upon points wholly unimportant in themselves." [40]

The general rule is that inconsistencies and discrepancies between the testimony of a witness in contrast with what he stated in an affidavit do not necessarily discredit him. Affidavits given to police and barangay officers are made ex parte and often incomplete or incorrect for lack or absence of sufficient inquiries by the investigating officer.[41] It is of judicial knowledge that sworn statements are almost incomplete and often inaccurate and are generally inferior to the testimony of a witness in open court.[42]

Inconsistencies or discrepancies in the testimony of the witness relative to minor or peripheral matters and not to the significant facts vital to the guilt or innocence of the accused from the crime charged or the elements of such crime are not grounds for the acquittal of the accused.

It is not correct for petitioners to claim that Jarmin[43] in his affidavit, did not implicate petitioner Leyson for the burning of the houses. In fact, Jarmin declared therein that petitioner Leyson conspired with his co-petitioners to burn the houses of private respondents because they refused to vacate the ranch.[44] Moreover, petitioner Leyson, with his co-petitioners, was present when the houses were burned on September 7, 1996, as he was even armed with a long firearm. Petitioner Leyson even assured Sumog-oy later that he would pay for the damages sustained by private respondents. The testimony of Sumog-Oy on the matter reads:

Q

And you talked to Mister Leyson?

A

Yes, sir, and in fact I asked him what things he will do considering that his cattle were feasting on the crops of the B'laans and he told me that all these things will be listed and he will pay for them.[45]

Sumog-oy reiterated his testimony on cross examination:

Q

Because you of course asked Mister Leyson if he could assist those people?

A

No sir, I just asked him what is he planning to do that his cattle were feasting on the crops of the B'laans.

Q

And so you asked particularly on the crops that as you said were feasted by his cattle?

A

Yes sir including the houses and he said to list all the things that were damaged and then including the crops amount and he also mentioned about the houses and in fact he told me that they should not charge the cost of the woods because the woods used for the construction of the houses were just cut from his ranch, he said.

Q

And that was the response of Mister Leyson when you asked him if he could assist these people?

A

I did not particularly ask him to assist, it was his own suggestion.

Q

So he suggested that he would assist these people?

A

Because I told him, "what are you going to do now that the houses of these people were destroyed and your cattle were feasting on the crops" and he told me that "just tell them to list the things that were destroyed including the amount and I will pay them."

Q

Pay them as his assistance to these people?

A

He just plainly said, "I will pay."

Q

In other words, his offer to pay was in response to your questioning him what he would do to the destroyed houses and on the damaged crops, correct?

A

That is the logical interpretation sir.

Q

That is the correct interpretation?

A

Probably the logical interpretation.[46]

On redirect examination, Jarmin declared that, in his affidavit he wanted to charge not only petitioner Leyson's employees but also the "cowboys" as well:

Q

Mister Witness, do you understand the words or how do you understand the words "to file a complaint against the cowboys of Mr. Eduardo Leyson", as far as against whom you are filing?

A

All of them, Mister Leyson and his cowboys.[47]

Apparently, Jarmin did not know whether petitioners were farmhands or cowboys of petitioner Leyson. But whether petitioners were the farmhands or cowboys of petitioner Leyson is of little significance. The fact of the matter is that petitioner Leyson employed his co-petitioners, who were given long firearms when they drove away the private respondents from the farm on September 1 to 2, 1996; and on September 7, 1996, they fired shots and burned private respondents' houses.

Petitioner Leyson ordered his men to intimidate the private respondents with bodily harm if they did not leave the ranch. Indeed, as testified by Jarmin, petitioner Leyson was with his co-petitioners on September 7, 1996 when private respondents' houses were burned:

Q

Where are your houses now?

A

Our houses were burned on September 7, 1996.

Q

How many houses were burned on September 7, 1996?

A

13 houses were burned down.

Q

Around what time were the houses burned?

A

10 o'clock in the morning.

Q

Who were those persons who burned the houses Mister Jarmin?

A

Their companions were Ramon Soy, Doming Bantolo, Juan Padayag, Boy, Ebring Padayag together with Mister Eduardo Leyson.

Q

Are they in court today Mister Jarmin?

A

There are only four here in court now.

Q

Will you please point at them.

A

That is one (witness pointing to a person wearing a striped t-shirt who answered by the name of Rodolfo Padayag). That person Doming Bantolo (who answered by the name of Dominador Bantolo) and that person (who answered by the name of Fernando Bantolo) and Mister Eduardo Leyson (pointing to a person wearing red t-shirt who answered by the name of Eduardo Leyson).

Q

Will you tell us how they burned your houses?

A

They set on fire on the cogo[n] roofing with a match.[48]

We agree with petitioners' contention that during his direct examination on June 24, 1998, Jarmin testified that after they were driven off with gun fire from their houses on September 2, 1996, they were never able to return to their farmhouses "until today." However, when queried by the trial court if he returned to the farm after September 2, 1996, Jarmin declared that he came back on September 2 and on September 7, 1996:

COURT:

Q

Did you not return on September 2?

A

I returned there to get some vegetables and to get my carabao.

Q

So that was the only time you returned?

A

Yes, Your Honor.

Q

On September 2, 1996?

A

The last time to go there was on September 7.

COURT

Proceed.

ATTY. MELLIZA:

Q

And what was the reason why you returned there on September 2, 1996?

A

To get my carabao and to harvest some vegetables.

Q

As a matter of fact, you were not able to enter the area?

A

I actually went inside the area because my carabao was inside the area.

Q

And you were able to get your carabao?

A

Yes, sir.

Q

Who were your companions in returning to that place on September 2, 1996?

A

Mamer Bagon and Bonifacio Batata.

Q

And were they able to get their work animals?

A

This Bonifacio Batata has no animal of his own there because he just went there to harvest palay.

Q

What is the complete name of Batata?

A

Bonifacio Batata.[49]

Evidently, when Jarmin was asked whether he returned to the farm after September 2, 1996 he understood the question to refer to him and to the other private respondents. Indeed, the only persons who returned to the farm on September 7, 1996, were Jarmin himself, Mamer Bagon and Batata. The other private respondents no longer returned to their farmhouses.

We agree with petitioners' contention that Lino Mendi did not witness the burning of his house and the houses of the other private respondents on September 7, 1996 and that he learned of the burning and all the perpetrators thereof only from Batata and Jarmin.[50] However, the thrust of Mendi's testimony was only for the purpose of proving the actual damages he sustained, consisting of the value of his house and his other personal belongings which were burned. Likewise of minimal significance is the seeming discrepancy between the testimony of Jarmin, that petitioners burned the houses of private respondents, and the testimony of Batata, that only one of petitioners whose face he did not actually see burned the houses.

Considering the entirety of the testimonies of Batata and Jarmin, they declared that all the petitioners were responsible for the burning because of their collective acts, including those that transpired on September 1 and 2, 1996. By their collective acts, petitioners (except petitioner Leyson) conspired to burn the houses of private respondents. It is elementary that when there is a conspiracy, the act of one is the act of all the conspirators, and a conspirator may be held as a principal even if he did not participate in the actual commission of every act constituting the offense. In conspiracy, all those who in one way or another helped and cooperated in the

consummation of the crime are considered co-principals since the degree or character of the individual participation of each conspirator in the commission of the crime becomes immaterial. Thus, liability exists notwithstanding appellant's non-participation in every detail in the execution of the crime.[51] Thus, Batata testified that petitioners, who were in the company of petitioner Leyson, burned private respondents' houses. From the canal where he and Jarmin hid, they saw one of them burn the houses after firing their guns:

Q

Did you see the persons who fired their guns?

A

Yes, sir.

Q

Will you still be able to recognize them if you see them again?

A

I only knew them through their faces but not their names.

Q

Are they in court today?

A

Yes, sir, they are here.

Q

Please point at them.

A

These persons (pointing to all the persons seated at the accused bench).

Q

So what did you do Mister Witness when you heard the persons firing their guns?

A

We jumped towards the canal near the cogonal place and hid ourselves.

Q

And then what happened thereafter?

A

After firing their guns, they set the houses on fire.

Q

Whose house Mister Witness?

A

The first house was the house of Mamer Bagon.

Q

And then?

A

They again went upwards and set fire the house of Pedro Bagon and Alicia Gilon, as well the house of Eddie Bagon.

Q

Did you see the persons who set the fire on the houses?

A

The same persons who burned the house of Mamer.

Q

Are they in court today?

A

Yes, sir.

Q

Will you please point to them.

A

The same persons seated in the accused bench.

Q

And after witnessing the persons setting fire on the houses of the complaining witnesses in this case, what happened next?

A

They proceeded going towards the upper direction.

Q

How many houses were burned?

A

From the house starting down going upward were burned.

Q

Can you estimate how many houses were burned?

A

About 14 houses.

Q

Do you know the owners of the houses Mister Witness?

A

Mamer, Eddie, Pedro, Alicia, Romeo Jarmin, the house of Ronnie, Lawa while the others I do not know the owners' names but which were also burned.

Q

Do you still remember at what time were the houses burned by the accused?

A

About 10 o'clock in the morning.[52]

x x x x

ATTY. MELLIZA:

Q

You said the persons whom you saw set fire on the houses. Do you mean that all those persons whom you saw actually set fire on the houses?

A

Yes, sir, although only one person set fire on the houses.

Q

Who was that person when you said only one person set fire on the houses, who was that person?

A

I did not see him when he set fire on the houses because his back was towards me.

Q

So it is now clear Mister Batata that the person whom you actually saw setting fire on the houses could not be one of the persons now sitting on the accused bench?

A

No, sir, because his back was towards me.

Q

But you are very much certain that only one of the six (6) armed men set fire on the houses?

A

Yes, sir.

Q

What weapons if you could remember were used by the six (6) armed men who fired the gunshots?

A

Garand, carbine and M-16 armalite.

Q

So you are very sure of that, that it is or the only weapons used?

A

Yes, sir.

Q

What weapon was being held by that person who was setting fire on the houses?

A

Garand.

Q

You have generally pointed to all the persons sitting now on the accused bench. What weapon was being held by this man?

A

M-16 armalite.

Q

What [w]as he doing with the M-16 armalite?

A

While he was setting fire on the houses, the other accused were standing by as if they are guarding.

Q

How many garand rifles did you see at that time?

A

If I am not wrong, two of them were carrying a garand.

Q

And how many of them did you see carrying M-16 rifles?

A

One.

Q

So what else were the weapons you saw at that time?

A

Carbine.

Q

How many carbine rifles did you see?

A

Two.

Q

So one armalite, two garands and two carbines, is that what you mean?

A

Yes, sir.

COURT:

Q

Five?

A

Yes, Your Honor.[53]

x x x x

Q

Mister Batata, you said you were in Nopol Hills on September 7, 1996 when you witnessed the burning by the accused in this case and you pointed to these persons in the accused bench. Why, please tell us, did you point at these persons in the accused bench?

A

Because they are the ones whom I saw setting fire on the houses and fire their guns.

Q

You saw them on September 7, 1996?

A

Yes, sir.

Q

You see the first person?

COURT:

Q

At a distance of 40 meters?

A

Yes, Your Honor, but only through their faces but not their names.

COURT:

Continue.

ATTY. GACAL:

Q

Did you see the first person and I am pointing to Mister Leyson?

A

Yes and I know him.

ATTY. MELLIZA:

May we request Your Honor that the statement "I know him because he is an ex-kagawad" be included.

ATTY. GACAL:

Q

About the second person in the person of Eduardo Padayag?

A

I also saw him.

Q

And the third person by the name of Dominador Bantolo, you saw him also?

A

Yes, sir.

Q

What about the fourth person Bernardo Bantolo, you saw him?

A

Yes, sir.

Q

What about the fifth person Padayao?

A

Yes, sir, I saw him.[54]

It bears stressing that Batata saw petitioners before the latter burned the houses, when they fired their guns to scare off anybody who could be in the houses:

COURT:

Q

So actually you were only going there from time to time to harvest palay or corn in the farm of your friends?

A

Yes, Your Honor.

Q

Because you have no farm there of your own?

A

No, Your Honor.

Q

So during the gun firing or the burning you were only looking at these persons?

A

Yes, Your Honor.

Q

For how many minutes did you look at them?

A

I can not estimate Your Honor.

Q

For a long time or a short time.

A

For quite a time.

Q

About one hour?

A

No, Your Honor.

Q

About half an hour?

A

About 10 minutes only.[55]

While it is true that Jarmin and Batata fled, jumped into a canal and hid there while petitioners burned private respondents' houses, the foliage or the surface of the canal did not obstruct their view. Batata is five feet and four inches tall, and the canal was only three feet deep:

ATTY. GACAL:

Q

Mister Batata, you mentioned that while you were in the canal or where cogon grasses on the surface of the canal, will you tell us how tall are the cogon grasses?

A

The height of the cogon is that when you will stand up, your head will be exposed.

COURT:

So that must be about two (2) feet tall from the ground?

A

About this tall (demonstrating a height of about 2 to 3 feet).

Q

How tall are you?

A

5'4".

Q

How tall is the canal?

A

Up to my breast (about 3 feet deep).

COURT:

3 feet cogon above the canal about 6 feet.[56]

Jarmin's view was likewise not obstructed by the cogon grass:

Q

Were the cogons then thick Mister Witness?

A

Not so thick.

Q

Were there obstructions from your vision to the 40 meters distance where you said you saw the accused?

A

None, if you will look down, you can see the place.

Q

Were you on a high plain or lower plain?

A

We are on the higher plain.

Q

So the cogon grass were never an obstruction to your vision?

A

No, sir.[57]

Thus, petitioners' denials and alibi cannot prevail over the collective positive testimonies of Jarmin and Batata,

who positively and spontaneously pointed to them as the perpetrators at the trial. Denial and alibi are weak defenses in criminal prosecution: alibi is easy to concoct and difficult to disprove, while denial is mere self-serving evidence which cannot prevail over the positive testimonies of witnesses who identified the perpetrators. To merit approbation, clear and convincing evidence must be adduced to show that petitioners were in a place other than the situs of the crime when it was committed, such that it was physically impossible for them to have committed the crime.[58] In this case, it was not impossible for petitioners to rush to the ranch of petitioner Leyson from his farm which was only 5 to 6 kms away on horseback, arrive there at 10:00 a.m., fire their guns and burn the houses of private respondents.

The trial court acquitted petitioner Leyson of arson but ruled that he is civilly liable to private respondents. The CA affirmed the ruling of the court a quo. We quote with approval the ruling of the appellate court:

Finally, the rule is that a person's acquittal of a crime on the ground that his guilt has not been proven beyond reasonable doubt does not bar a civil action for damages founded on the same acts involved in the offense. Rule 111, Section 2(b) of the Revised Rules of Court provides: "Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist." It is also an established rule that the acquittal of an accused on reasonable doubt is not generally an impediment to the imposition, in the same criminal action, of civil liability for damages on said accused. In the case at bar, there is no finding by the court a quo that the houses of the complainants were not burned which is the basis of the civil liability of appellant Leyson. Leyson was acquitted for lack of evidence to prove his guilt beyond reasonable doubt.[59]

Besides, petitioner Leyson obliged himself to pay for the damages sustained by private respondents.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CR No. 23756 is AFFIRMED. Costs against petitioners.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Eriberto U. Rosario, Jr. with Associate Justices Buenaventura J. Guerrero and Edgardo P. Cruz, concurring; rollo, pp. 43-56.

[2] Records, pp. 5-6.

[3] TSN, June 24, 1998, pp. 8-10.

[4] TSN, August 20, 1998, p. 69; TSN, June 24, 1998, p. 15.

[5] Exhibit "C."

[6] Exhibits "B," "D," "E," and "K."

[7] TSN, June 24, 1998, p. 11.

[8] Id.

[9] TSN, April 13, 1999, p. 230.

[10] TSN, November 24, 1998, p. 125.

[11] TSN, June 24, 1998, pp. 12-13.

[12]TSN, November 24, 1998, p.134.

[13] Records, p. 193.

[14] TSN, April 13, 1999, pp. 225-226.

[15] Exhibits "H," "I," and "J."

[16] TSN, April 13, 1999, p. 225.

[17] Id. at 231-233.

[18] TSN, December 1, 1998, p. 169.

[19] Exhibits "I" and "I-A."

[20] TSN, December 1, 1998, pp. 169-170.

[21] Id. at 193.

[22] Id. at 178-180.

[23] Id. at 181.

[24]Id. at 182-183.

[25]Id. at 193.

[26]Id. at 190-192.

[27] Id. at 192.

[28] Id. at 156-157.

[29]Id. at 157.

[30] Id. at 158.

[31] Records, pp. 193-194.

[32] CA rollo, pp. 43-44.

[33]Id. at 164.

[34] Rollo, pp. 10-11.

[35] Exhibit "A."

[36] Exhibit "C."

[37] People v. Mahinay, G.R. No. 139609, November 24, 2003, 416 SCRA 402, 412; Jose v. People, G.R. No. 148371, August 12, 2004, 436 SCRA 294, 306; People v. Masapol, G.R. No. 121997, December 10, 2003, 417 SCRA 371; People v. Montemayor, 452 Phil. 283, 297 (2003); People v. Ducay, G.R. No. 86939, August 2, 1993, 225 SCRA 1.

[38] People v. Montemayor, *supra*, at 300.

[39] People v. Masapol, *supra*, at 378.

[40] People v. Ducay, *supra*, at 14-15.

[41] *People v. Español*, G.R. No. 105676, April 10, 1996, 256 SCRA 137, 145; *People v. Masapol*, *supra*, at 378.

[42] *People v. Silvestre*, G.R. No. 127573, May 12, 1999, 207 SCRA 68, 83.

[43] Exhibit "A."

[44] Exhibit "A-1."

[45] TSN, April 13, 1999, p. 226.

[46] *Id.* at 232-233.

[47] TSN, June 24, 1998, p. 35.

[48] *Id.* at 12-13.

[49] *Id.* at 23-24.

[50] TSN, November 23, 1998, p. 94.

[51] *People v. Isnani*, G.R. No. 133006, June 9, 2004, 431 SCRA 439, 453.

[52] TSN, November 24, 1998, pp. 125-127.

[53] *Id.* at 132-134.

[54] *Id.* at 137-139.

[55] *Id.* at 144.

[56] *Id.* at 139-140.

[57] *Id.* at 142

[58] *People v. Ibarrientos*, G.R. Nos. 148063-64, June 17, 2004, 432 SCRA 424, 437.

[59] *Rollo*, pp. 54-55.

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