

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE COURT OF APPEALS (FIFTEENTH DIVISION) AND RAMON GALICIA Y MANRESA, RESPONDENTS.

G.R. NO. 159261. February 21, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for certiorari assails the Court of Appeals' Decision[1] dated May 22, 2003 in CA-G.R. CR No. 23605, entitled "People of the Philippines v. Ramon Galicia y Manresa," on the ground that said decision was issued with grave abuse of discretion. The decision reversed the trial court's conviction of herein private respondent Ramon Galicia, and acquitted him.

The informations against the private respondent as one of the accused in two cases for homicide before the Regional Trial Court (RTC) of Oriental Mindoro, Branch 43, read:

Criminal Case No. R-725

The undersigned accuses RAMON GALICIA, ROBERTO [U]RETA, JOJO MANITO, NESTOR VICENTE, JUN BANANG and MERL[I]N VICENTE of the crime of homicide committed as follows:

That on or about the 16[th] day of August, 1995, at 10:00 o'clock in the evening, more or less, in the Barangay of San Antonio, Municipality of Mansalay, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and conspiring, confederating and mutually aiding one another, did then and there wilfully, unlawfully and feloniously attack, assault and stab one THELMO ABENIR thereby inflicting upon the latter stab wounds on the different parts of his body resultant therewith caused his death shortly thereafter.

Contrary to Article 249 of the Revised Penal Code.[2]

Criminal Case No. R-726

The undersigned accuses "JUN" BANANG, JOJO MANITO RAMON GALICIA, [R]OBERTO [U]RETA, NESTOR VICENTE and MERL[I]N VICENTE of the crime of homicide committed as follows:

That on or about the 16[th] day of August, 1995, at 10:00 o'clock in the evening, more or less, in the Barangay of San Antonio, Municipality of Mansalay, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and conspiring, confederating and mutually aiding one another, did then and there wilfully, unlawfully and feloniously attack, assault and stab one RAMON ABENIR thereby inflicting upon the latter stab wounds on the different parts of his body resultant therewith caused his death shortly thereafter.

Contrary to Article 249 of the Revised Penal Code.[3]

On arraignment, all accused entered pleas of not guilty and thereafter a joint trial ensued.

The Office of the Solicitor General (OSG) summed up the prosecution's version[4] of the incident at bar, as follows:

At about 10:00 p.m. on August 16, 1995, Ramon Abenir (Ramon) arrived at the house of his parents, Thelmo and Dolores, in San Antonio, Mansalay, Oriental Mindoro. Once inside, Ramon shouted "Lumabas kayo Kapitan, Barangay Tanod." [5] Someone who was later identified as Brgy. Captain Ramon Galicia (Galicia) retorted, "Ramon, lumabas ka diyan, labas, babarilin kita." [6] Thereafter, Galicia fired two shots, destroyed the perimeter fence, broke the kitchen door and entered the house. [7] A fight ensued between Ramon and Galicia. The two wrestled for possession of a bladed weapon. Galicia pulled Ramon towards the bed where the spouses Thelmo and Dolores were seated. Dolores saw Roberto Ureta, a companion of Galicia, stab Ramon. According to Dolores, her husband and she were only an arm's length away [8] and they witnessed what happened.

Another companion of Galicia, namely Vicente "Jun" Banang, Jr., also entered the house and then dragged Thelmo towards the back of the house. [9] Ureta joined Banang in the assault on Thelmo, and banged Thelmo's head against the wall of the house. And then, uttering "Kunsintidor sa iyong anak," Ureta stabbed Thelmo. [10]

At about the same time, Audie Abenir, the brother of Ramon, testified that he was about ten meters away from their parents' house. He also heard his brother, Ramon, shouting, "Mga tanod, Kapitan, lumabas kayo." Thereafter, according to Audie, he saw Galicia arrived with some men. He saw Galicia fired shots and call out, "Ramon, lumabas ka, babarilin kita." Suddenly, he heard a commotion from his parents' kitchen and heard his mother saying, "[Roding], tulungan mo kami, pinasok kami nina Kapitan." [11] From his children's room, Audie said, he witnessed his brother Ramon and Galicia fighting. He also saw Ureta in the kitchen. He sought help, and with SPO2 Nolito "Noli" Maning and Felix Maquirang, the responding policemen, they went to his parents' house where he saw his brother Ramon, lying near the front door with a chest wound, and his father, Thelmo, clutching his intestines that were protruding from an open wound as he sat by Ramon's head. [12] Maning rushed Ramon and Thelmo to the hospital. Audie also testified that he had known both Galicia and Ureta from childhood.

Thelmo's son and Ramon's brother, Felipe, testified that while attending to his father in the hospital, on August 24, 1995, his father told him in the vernacular, "Ping, may sasabihin ako sa iyo, iyong pakatandaan at huwag mong kalilimutan." [13] Felipe got a pen and paper and wrote the names enumerated by his father as those who entered their house – "Kap. Galicia, Berting Ureta, Jun Banang, Nestor Vicente, Merlin Vicente, Jojo Manito." A few minutes later, Thelmo died. [14]

Dr. Moises Serdoncillo, medico-legal officer of the Calapan Provincial Hospital, unsuccessfully operated on both Ramon and Thelmo; both father and son died.

The medical certificate issued by Dr. Serdoncillo showed that Ramon sustained a stab wound which penetrated the middle portion of his abdomen. The cause of Ramon's death was loss of blood and infection. Thelmo's medical certificate showed that he sustained a stab wound at the left portion of his abdomen which injured his spleen and traversed the colon up to the posterior abdominal wall. Thelmo also had a hematoma at the back, caused by something that hit him. According to the medical certificate, Thelmo died of cardiorespiratory arrest due to myocardial infarction secondary to stab wound.

The defense's version[15] of the incident was culled mainly from the testimonies of accused Galicia, Jojo Manito and Merlin Vicente, as follows:

Galicia testified that at around 8:45 p.m. on August 16, 1995, while he was in his sister Benedicta's house, he saw Ramon in front of the Barangay Hall located about five meters from Benedicta's house. Ramon was shouting, "Kapitan, mga Barangay Tanod, lumabas kayo ryan. Kayo'y aking papatayin!" [16] Galicia approached Ramon

and told him to go home. Ramon relented, and Galicia said he even accompanied Ramon home. Ramon rushed upstairs, straight to the window and started throwing stones, hitting Galicia in the knee. According to Galicia, as he walked away, he heard the continued shouts of Thelmo and his wife calling their sons, Audie and Felix, to help. He tried to ignore Thelmo's wife calling, but when he heard Ramon shouting, "Kapitan, huwag kang umalis. Ikaw ay aking papatayin,"[17] he turned towards the kitchen of the house. He was by the broken fence and about two meters from the door of the kitchen when he told Ramon, "Tukayo, huwag kang lumaban. Maraming tao dito, baka ka madisgrasiya." [18] By then, several persons were milling in front of the gate. But, Ramon suddenly came out of the kitchen and struck him with a scythe. He parried the blow with both hands and they grappled for the scythe. The scythe hit him in his arms and body. Suddenly, Ramon fell and his head hit the doorknob of the kitchen door. They continued grappling and Galicia was hit in the nape.[19] At this point, Galicia shouted for assistance, "Mga kasama, kung meron man diyan sa labas, ako'y may tama!"[20]

Accused Jojo Manito, a barangay tanod who heard the call, approached the protagonists. Manito even demonstrated during trial the position of the two protagonists as they grappled for the scythe. He said that as he entered, Galicia was crouching, holding Ramon's hands. Ramon, still holding on to the scythe, was lying underneath Galicia. Manito said he tried to grab the scythe from Ramon but he was hit on his left hand near the thumb, upper left forearm, and on his right hand, near the thumb. Manito recalled he had a tear gas canister in his pocket and told Galicia about it. After instructing Galicia to cover his face with a towel, Manito sprayed tear gas on Ramon, making Ramon dizzy. Galicia and Manito left. At the gate, they met accused Merlin Vicente, who was about to enter the yard. As Galicia told Merlin that they were on their way to get police assistance to bring Ramon to the police station, someone told them that Ureta had already called the police. Merlin helped Galicia board a tricycle. Galicia with Manito and Banang went to the Medicare Clinic. Manito said that before they left, he noticed several persons enter the house to assist Ramon. He said he did not see accused Ureta and Nestor Vicente during the incident.[21]

Accused Nestor Vicente interposed the defense of alibi,[22] saying he was out fishing with Robert Alunsagay and Abelio[*] Villanueva from 5:00 p.m. until 10:00 p.m. on August 16, 1995. Later, they sold their catch to Carmen Magadia whose house was about half a kilometer from the Abenirs. Magadia[23] and Villanueva[24] were both called as witnesses to support Nestor's alibi.

Merlin Vicente testified that he was in his house which is about forty meters from the house of the Abenirs, at around 10:00 p.m. on August 16, 1995.[25] As he rushed to the Abenirs' house, he heard shouts of "Tabang kayo mga kapitbahay." [26] On the way, he said he met a certain Norma Cunanan. When they reached Thelmo's house, he saw a bloodied Galicia, aided by Manito, on the way out of the compound. He helped Manito guide Galicia towards a tricycle.[27] He also testified that he did not see Ureta nor Thelmo all the time that he was at the gate.[28]

Dr. Domingo Asis corroborated the testimony of Galicia. He said he treated Galicia at around 9:30 p.m. on August 16, 1995. He described the eleven incised wounds Galicia sustained.[29] He also said that the injuries sustained by Galicia could have been inflicted while grappling for possession of a sharp bladed instrument like a scythe.[30] He added that he treated a companion of Galicia whose name he could not recall.[31] Accused Ureta and Banang jumped bail during trial and were tried in absentia. [32]

On August 19, 1999, the RTC rendered a joint decision. The decretal portion of the said decision reads:

WHEREFORE, judgment is hereby rendered as follows:

(a) In Criminal Case No. R-726, accused Ramon Galicia y Manresa and accused Roberto [U]reta y Ortega are hereby pronounced GUILTY of the crime of Homicide with the aggravating circumstance of dwelling which

was off-setted (sic) by the mitigating circumstance of sufficient provocation and each of them is hereby sentenced to an indeterminate penalty of imprisonment ranging from eight (8) years and one (1) day of prison mayor as MINIMUM to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal medium as MAXIMUM and for them to pay in solidum the heirs of the victim of Ramon Abenir, the sum of P50,000.00 as compensatory damages and the additional sum of P50,000.00 as moral damages;

(b) The rest of the accused in Criminal Case No. R-726 namely Joseph a.k.a. as Jojo Manito y Galicia, Nestor Vicente y Gervacio, Vicente “Jun” Banang, Jr. y Buncag and Merl[i]n Vicente y Buncag are ACQUITTED for insufficiency of evidence and the bailbonds posted by them are hereby ordered discharged;

(c) In accordance with Administrative Circular No. 12-94 entitled “Amendments to Rule 114 of the 1985 Rules of Criminal Procedure more particularly paragraph a, Section 2 of Rule 114 to the effect that the bail shall be effective upon approval unless sooner cancelled until the promulgation of judgment by the Regional Trial Court, the bail bond posted by the accused Ramon Galicia y Manresa is cancelled and he is ordered committed to the Provincial Jail. Pursuant to the ruling of the Honorable Supreme Court in Jose T. Obosa vs. Court of Appeals, et al., G.R. No. 114350, prom. January 16, 1997 that the grant of bail even in non-capital offenses after conviction of the accused by the Regional Trial Court is now a matter of discretion and it appearing that none of the circumstances mentioned in paragraph 3, Section 5, Rule 114 of the Revised Rules of Criminal Procedure which could preclude the grant of bail is present, said accused is allowed to post bail which is hereby fixed at P90,000.00 should he decide to appeal from the decision for his provisional liberty during the pendency of the appeal;

(d) Let an alias warrant of arrest be issued against accused Roberto [U]reta y Ortega who has jumped bail during the trial of the case.

Upon the other hand, in Criminal Case No. R-725, the court pronounced judgment as follows:

(a) Accused Vicente “Jun” Banang, Jr. y Buncag and Roberto [U]reta y Ortega are hereby found GUILTY of the crime of Homicide with the aggravating circumstance of dwelling without any mitigating circumstance and each of them is hereby sentenced to an indeterminate penalty of imprisonment ranging from twelve (12) years of prison mayor to seventeen (17) years, four (4) months and one (1) day of reclusion temporal maximum as MAXIMUM and for them to pay in solidum the heirs of Thelmo Abenir the sum of P50,000.00 as compensatory damages and the sum of P50,000.00 as moral damages;

(b) The rest of the accused in R-725 namely Ramon Galicia y Manresa, Joseph “Jojo” Manito y Galicia, Nestor Vicente y Gervacio and Merl[i]n Vicente y Buncag are ACQUITTED for insufficiency of evidence and the bail bonds posted by them are discharged;

(c) Let an alias warrant of arrest be issued against accused Vicente “Jun” Banang, Jr. y Buncag and Roberto [U]reta y Ortega.

No award of actual damages could be made in both cases for failure of the prosecution to establish the factual bases for entitlement to said damages.

For the convicted accused to pay the cost of suit.

SO ORDERED.[33]

Galicia appealed his conviction for the death of Ramon. He averred that the trial court erred in finding him guilty of homicide with Ureta, considering that the prosecution failed to prove that he and Ureta conspired to kill Ramon; and that the prosecution’s evidence showed it was only Ureta who stabbed Ramon.

The Court of Appeals acted favorably on Galicia’s appeal and held:

WHEREFORE, premises considered, the appeal is GRANTED and judgment is hereby rendered reversing the

assailed Decision and ACQUITTING accused-appellant RAMON GALICIA Y MANRESA of the crime charged. The civil liability pronounced by the Decision as against him is hereby deleted. The bailbond posted by accused-appellant is ordered cancelled.

SO ORDERED.[34]

In this petition, the OSG asserts:

I.

PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION BY HOLDING THAT THE TRIAL COURT'S FINDING OF CONSPIRACY BETWEEN PRIVATE RESPONDENT AND ROBERTO [U]RETA HAD NO LEGAL BASIS IN DISREGARD OF THE PLAIN EVIDENCE EXTANT IN THE RECORD OF THIS CASE THAT PROVED THE PRESENCE OF CONSPIRACY TO INFLICT PHYSICAL HARM ON RAMON ABENIR, MAKING THE ACT OF ONE, THE ACT OF ALL.

II.

PUBLIC RESPONDENT GRAVELY ERRED IN HOLDING THAT BASED ON THE MEDICAL FINDING, THE VICTIM RAMON ABENIR SUFFERED ONLY ONE FATAL STAB WOUND AS NO AUTOPSY REPORT WAS CONDUCTED.

III.

PUBLIC RESPONDENT GRAVELY ERRED IN NOT TAKING INTO CONSIDERATION THELMO ABENIR'S DYING DECLARATION; ASSUMING ARGUENDO THAT THELMO ABENIR'S STATEMENT IS NOT ADMISSIBLE AS AN ANTE MORTEM DECLARATION, IT MAY NONETHELESS BE CONSIDERED AS PART OF THE RES GESTAE, AS IT WAS MADE IMMEDIATELY AFTER A STARTLING OCCURRENCE AND WHEN THE VICTIM DID NOT HAVE TIME TO CONTRIVE A FALSEHOOD.

IV.

PUBLIC RESPONDENT GRAVELY ERRED IN ACQUITTING PRIVATE RESPONDENT BECAUSE THE PROSECUTION WAS ABLE TO PROVE BEYOND REASONABLE DOUBT THE GUILT OF PRIVATE RESPONDENT RAMON GALICIA AND ROBERTO [U]RETA AND THEIR CONSPIRACY TO INFLICT PHYSICAL INJURIES THAT LED TO RAMON ABENIR'S DEATH.[35]

In sum, the main issues for our resolution are: (1) Did the Court of Appeals commit grave abuse of its discretion when it declared there was no conspiracy to kill Ramon? (2) Did the appellate court err in its appreciation of the medico-legal report and ante mortem declaration as res gestae, and then in concluding that the guilt of Galicia had not been proven beyond reasonable doubt?

Let us now focus on the matter of conspiracy. The OSG contends that conspiracy on the part of Galicia and his companions to kill Ramon was apparent from the following events and circumstances:

- (1) Before the incident, Ramon and Galicia had a heated argument and Ramon threatened to kill Galicia and his companions, giving reason for Galicia and his companions to conspire to enter the house of the Abenirs and attack Ramon.
- (2) Before breaking into the house, Galicia showed his intention to shoot Ramon when he shouted, "Ramon, lumabas ka diyan. Labas. Babarilin kita."
- (3) Galicia was the leader and active participant in the attack on Ramon and not just a passive bystander.

(4) When Galicia was hurt, he called on his companions for help, prompting Manito to use a tear gas that made Ramon helpless until Ureta stabbed Ramon.

The OSG argues that even if it was not Galicia who stabbed Ramon but Ureta, Galicia as co-conspirator was as guilty because it was he who threatened Ramon, destroyed the perimeter fence, and broke the kitchen door. In short, he was the leader of the attack on Ramon.

Further, the OSG challenges the reliance of the appellate court on the medical certificate showing that Ramon sustained only one stab wound contrary to Dolores's testimony that her son was stabbed twice. The OSG points out that the medical certificate was issued only for identifying the cause of Ramon's death and not to identify all the injuries. The OSG stresses that Dr. Serdoncillo admitted he did not conduct an autopsy on Ramon because while operating on the victim, he already knew the cause of death.

In addition, the OSG points out that the appellate court overlooked the dying declaration of Thelmo identifying his assailants. According to the OSG, at the very least, Thelmo's statement should have been considered by the appellate court as a dying declaration.

Lastly, the OSG concludes that after the prosecution had shown the acts and conduct of Galicia – before, during and after the incident – as constituting complicity to attack Ramon, Galicia should be held responsible for the death of Ramon in accordance with Article 4 of the Revised Penal Code. Article 4 reads:

ART. 4. Criminal liability. – Criminal liability shall be incurred:

1. By any person committing a felony (delito) although the wrongful act done be different from that which he intended.
2. By any person performing an act which would be an offense against persons or property, were it not for the inherent impossibility of its accomplishment or on account of the employment of inadequate or ineffectual means.

In his Comment, Galicia contends that there was no grave abuse on the part of the Court of Appeals, and adds that any mistake or error in the appreciation of facts, evidence or law is merely an error of judgment and not an error of jurisdiction, and hence, not a subject of a petition for certiorari.

Most significantly, the defense for private respondent points out that to give due course to the instant petition and review the acquittal by the appellate court of Galicia would constitute double jeopardy.

Thus, before tackling the two-pronged issues raised by petitioner, we must address first the threshold issue raised by private respondent: Would a review of the acquittal of Galicia constitute double jeopardy?

Section 21, Article III of the 1987 Constitution states:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Section 7, Rule 117 of the Revised Rules on Criminal Procedure provides:

SEC. 7.–Former conviction or acquittal; double jeopardy.— When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included

in the offense charged in the former complaint or information.

However, the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information under any of the following instances:

- (a) the graver offense developed due to supervening facts arising from the same act or omission constituting the former charge;
- (b) the facts constituting the graver charge became known or were discovered only after a plea was entered in the former complaint or information; or
- (c) the plea of guilty to the lesser offense was made without the consent of the prosecutor and of the offended party except as provided in section 1 (f) of Rule 116.

In any of the foregoing cases, where the accused satisfies or serves in whole or in part the judgment, he shall be credited with the same in the event of conviction for the graver offense.

As we have previously held in *People v. Serrano, Sr.*:^[36] A verdict of acquittal is immediately final and a reexamination of the merits of such acquittal, even in the appellate courts, will put the accused in jeopardy for the same offense. The finality-of-acquittal doctrine has several avowed purposes. Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials. It also serves the additional purpose of precluding the State, following an acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty.^[37] In *People v. Velasco*,^[38] we stressed that an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. Hence, it cannot be disputed that the verdict of the Court of Appeals acquitting Ramon Galicia is now final and irreviewable.^[39] This is not to say that the constitutional guarantee against double jeopardy is without exceptions. For there are two recognized exceptions: (1) Where there has been deprivation of due process and where there is a finding of a mistrial,^[40] or (2) Where there has been a grave abuse of discretion under exceptional circumstances.^[41] However, in this case, we find that the exceptions do not exist.

Firstly, was there a deprivation of due process, or a mistrial? The records show that during the trial, both parties had more than sufficient occasions to be heard and to present their evidence. The same is true during the appeal. The State represented by the prosecution had not been deprived of a fair opportunity to prove its case.

Second, has there been a grave abuse of discretion by the Court of Appeals? Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility, and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined by law, or to act at all in contemplation of law.^[42] Certiorari alleging grave abuse of discretion is an extraordinary remedy. Its use is confined to extraordinary cases wherein the action of the inferior court is wholly void.^[43] Its aim is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction.^[44] No grave abuse of discretion may be attributed to the court simply because of its alleged misappreciation of facts and evidence.^[45] While certiorari may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.^[46] In its decision, the Court of Appeals, said that it overturned Galicia's conviction because the trial court held that Galicia was in no way involved in Thelmo's death, and only Ureta and Banang conspired to kill Thelmo. The Court of Appeals explained that the finding of the trial court, now final,

should be upheld and applied to Galicia insofar as the death of Ramon was concerned. The Court of Appeals went on to say that the deaths of Ramon and Thelmo happened on the same occasion, in the same place and involved the same participants; that there was a continuous unbroken chain of events which meant that the act and intention of each participant could not be split into segments/phases such that there was conspiracy as to one aspect but none in the other aspect.[47] It also held that there is no such thing as partial conspiracy.

The Court of Appeals also observed that the testimonies of the prosecution witnesses lacked credibility and were filled with inconsistencies.[48] Among them, (1) Dolores and Audie both claimed that Galicia was armed with a gun and fired two consecutive shots, but surprisingly, the latter did not use his gun when he fought with Ramon. (2) Ureta stabbed Ramon, yet, Galicia did not finish off Ramon by shooting him. (3) After Ramon was stabbed, Dolores claimed that all the accused ganged up on her son, and yet, she could not specifically say who kicked, boxed or strangled Ramon. (4) Dolores categorically testified that Ureta stabbed Ramon twice even pointing out that the first stab was at the right shoulder and the second at the left chest, but, the medical certificate showed that Ramon sustained only one wound. Lastly, (5) Dolores said that when Galicia fired his gun, he and his companions were already inside their house, yet, Audie told the court he heard two shots before the group of Galicia arrived.[49] The Court of Appeals observed that Ureta was seemingly on a rampage, stabbing Ramon first and then Thelmo. It noted that Ureta did not even see what happened to Galicia who was still locked in a fight with Ramon.[50]

The Court of Appeals concluded that the RTC based its decision on the weakness of the defense evidence, rather than on the strength of the prosecution's. It went on to say,

... there is no evidence to show unity of purpose and design between appellant and accused [U]reta. The fact that the fight between appellant and Ramon commenced prior to the actual stabbing of the latter by [U]reta does not of itself demonstrate concurrence of wills or unity of purpose and action, in the same manner that the fact that the assault on Ramon was carried out by accused [U]reta while appellant was grappling with Ramon does not conclusively show that appellant knew that [U]reta intended to stab, much less kill the victim. Simultaneity, it has been held, would not itself demonstrate the concurrence of will or the unity of action and purpose that could be a basis for collective responsibility of two or more individuals. Thus, contrary to the findings of the trial court, appellant and accused [U]reta acted independently of, not in conspiracy with each other. Appellant fought with Ramon in response to the latter's challenge to a fight. And while the two were fighting and grappling for the possession of a scythe, accused [U]reta stabbed Ramon.[51]

Finally, the Court of Appeals rejected the trial court's finding that the conspiracy between Ureta and Galicia was strengthened by the former's decision to jump bail and go into hiding, for being contrary to the doctrine of *res inter alios acta*. According to the Court of Appeals, this conclusion of the court *a quo* partakes more of wild conjectures and speculations which have no probative value whatsoever since there was no evidence that the escape of Ureta was with the knowledge, much less consent of Galicia.[52]

In our considered view, the conclusions arrived at by the Court of Appeals cannot by any measure be characterized as capricious, whimsical nor arbitrary, to constitute grave abuse of discretion under Rule 65. While it may be argued that there have been instances where the appreciation of facts might have resulted from possible lapses in evaluation of the evidence, nothing therein detracts from the fact that relevant and material evidence was scrutinized, considered and evaluated.

We note that while the OSG alleges grave abuse of discretion as the core of its petition, the issues it raises concern errors of judgment, not errors of jurisdiction, which is tantamount to converting the petition for certiorari into an appeal, contrary to the express injunction of the Constitution, the Rules of Court, and prevailing jurisprudence.[53] Conformably then, we need not embark upon review of the factual and evidentiary issues

raised by the OSG, as these are not within the realm of the present petition.

WHEREFORE, the instant petition is DISMISSED for lack of merit. The acquittal of herein private respondent by the Court of Appeals in its Decision dated May 22, 2003 in CA-G.R. CR No. 23605, entitled “People of the Philippines v. Ramon Galicia y Manresa,” is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

- [1] Rollo, pp. 9-24.
- [2] CA rollo, p. 23.
- [3] Records, p. 1.
- [4] Rollo, pp. 11-12.
- [5] TSN, April 1, 1997, p. 8; TSN, June 9, 1997, p. 2.
- [6] Id. at 9.
- [7] Id. at 9-10.
- [8] Id. at 11.
- [9] TSN, June 9, 1997, pp. 25, 27.
- [10] Id. at 26-27.
- [11] Id. at 31-32.
- [12] Id. at 37-38.
- [13] Records, p. 206; TSN, September 2, 1997, p. 29.
- [14] Id.; Id. at 29-30.
- [15] Rollo, pp. 12-15.
- [16] Records, p. 206; TSN, September 1, 1998, p. 4 (Ramon Galicia).
- [17] TSN, September 1, 1998, pp. 4-5 (Ramon Galicia).
- [18] Id. at 6.
- [19] Id.
- [20] Id. at 7.
- [21] TSN, January 12, 1999, pp. 13-14.
- [22] TSN, October 20, 1998, pp. 2-17.
- [*] Abello in some parts of the records.
- [23] TSN, November 10, 1998, pp. 2-10 (Carmen Magadia).

[24] Id. at 10-16 (Abelio Villanueva).

[25] TSN, January 19, 1999, p. 3.

[26] Id. at 4.

[27] Id. at 4-6.

[28] Id. at 6-7.

[29] TSN, September 1, 1998, pp. 3-6 (Dr. Domingo Asis).

[30] Id. at 6-7.

[31] Id. at 3.

[32] Records, p. 209.

[33] Id. at 213-215.

[34] Rollo, p. 24.

[35] Id. at 46-47.

[36] G.R. No. 135451, September 30, 1999, 315 SCRA 686, 689.

[37] People v. Dela Torre, G.R. Nos. 137953-58, April 11, 2002, 380 SCRA 596, 606.

[38] G.R. No. 127444, September 13, 2000, 340 SCRA 207, 240.

[39] See People v. Court of Appeals, G.R. No. 142051, February 24, 2004, 423 SCRA 605, 615.

[40] People v. Tria-Tirona, G.R. No. 130106, July 15, 2005, 463 SCRA 462, 469-470, citing People v. Velasco, G.R. No. 127444, September 13, 2000, 340 SCRA 207.

[41] People v. Serrano, Sr., *supra* at 690.

[42] People v. Court of Appeals, G.R. No. 128986, June 21, 1999, 308 SCRA 687, 698, citing Commissioner [of] Internal Revenue v. Court of Appeals, G.R. No. 119322, June 4, 1996, 257 SCRA 200, 209.

[43] Herrera v. Barreto and Joaquin, 25 Phil. 245, 271 (1913).

[44] People v. Court of Appeals, *supra* note 39, at 612.

[45] People v. Court of Appeals, *supra* note 42, at 699, citing Teknika Skills and Trade Services, Inc. v. Secretary of Labor and Employment, G.R. No. 97896, June 2, 1997, 273 SCRA 10, 20.

[46] People v. Dela Torre, *supra* note 37, at 607, citing People v. Court of Appeals, *supra* note 42, at 704.

[47] Rollo, pp. 19-20.

[48] Id. at 20.

[49] Id. at 20-21.

[50] Id. at 21.

[51] Id. at 22.

[52] Id.

[53] Supra note 46.

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