

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARTURO BARLAAN Y ABION, APPELLANT.

G.R. NO. 177746. August 31, 2007

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On March 20, 2001, an Information was filed charging Alex Esquillon, George Domingo and Arturo Barlaan with the crime of murder committed as follows:

That on or about the 10[th] day of February 2001, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, with intent to kill, and with treachery and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously stab with a bladed weapon one MARVIN SUETOS, thereby inflicting upon the latter multiple stab wounds, and as a result thereof, the said Marvin Suetos died.

That the killing was attended by the qualifying circumstance of treachery in that the attack against the victim with a bladed weapon was sudden and the victim was unarmed and was not able to defend himself.

The killing was likewise attended by the qualifying circumstance of abuse of superior strength in that the accused were three and armed with bladed weapons while the victim was alone.

CONTRARY TO LAW.[1]

Barlaan was arrested while Esquillon and Domingo remain at large.[2]

During the arraignment, Barlaan pleaded not guilty. Trial on the merits then ensued.

The facts as found by the trial court are as follows:

It appears that in the evening of February 10, 2001, Jose Dasalla and Marvin Suetos were walking downtown Baguio when they came upon the group of accused Arturo Barlaan, Alex Esquillon and George Domingo who invited them for a round of drinks. At around 11:00 p.m., they all entered the Ledsay Eatery along Otek Street, Baguio City. During their drinking session, they conversed and sang on videoke until around 1:00 a.m. of the following day, February 11, 2001. When they were about to leave the place, there ensued an argument as to who will pay their bill of about P200.00. Initially, the group asked Marvin Suetos to pay the bill but the latter refused and was offering only to contribute a certain amount. After some exchanges, the group pointed to Esquillon to pay the bill for which reason the latter got mad and brought out his fan knife. At this juncture, Dasalla and Suetos scampered out of the establishment for their safety and proceeded towards the direction of the nearby Orchidarium. Forthwith, the three accused chased them. When Dasalla and Suetos were running in front of the gate of the Orchidarium, Suetos stumbled and fell on the pavement face down. While Suetos was lying down on the pavement face down, the three accused caught up with him. Esquillon stabbed him at the back several times in rapid succession while Barlaan was preventing him from getting up and escaping by holding his legs. Domingo also lifted the body of Suetos and stabbed him in front. All these were witnessed by Dasalla from a distance of 4 to 5 meters away. Dasalla attempted to help Suetos but Esquillon attacked him

with the fan knife. However, Dasalla swiftly moved backwards and so only his cheek got caught by the blade of Esquillon's weapon. Dasalla ran but was chased by the three accused. While chasing him, Esquillon again attempted to stab him but only his shirt got caught by the knife. Dasalla was chased up to Rizal Park at Burnham Park, Baguio City. He went directly to the Baguio City Police Office and reported the incident but was told that there is no available mobile car. He then went back to the crime scene but Suetos was no longer there. He learned from the security guard of the nearby Benguet Pine Hotel that the body of Suetos was rushed to the hospital.

At the Baguio General Hospital, Suetos expired.

An autopsy was conducted by Dr. John Tinoyan who made the following findings:

"FINDINGS:

- Stab wound no. 1, located at the left axillary, anterior, measuring 5 cm in width, with superior pole sharp and the inferior pole blunt. It was directed slightly upward, anteriorly to the midline, penetrating to the skin and part of the left pectoralis major muscle. Depth was 7 cm.
- Stab wound no. 2 located at the right inguinal area, diagonally with superior pole sharp and inferior pole blunt, measuring 7.5 cm in width. It was directed slightly downward to the midline, cutting through the skin lacerating the femoral artery and femoral vein, then to the pelvic cavity. The depth was 10 cm. Massive hematoma and hemorrhage noted on the pelvic cavity.
- Group stab wounds at the back numbering in three, with superior poles sharp and posterior poles blunt. Width measures 1.7 cm average, and depth average was 5 cm. All stabwounds were muscle deep.
- Abrasions: Right knee, measuring 4 cm by 4 cm dimension. Left knee measuring 2 cm. by 3 cm. dimension.
- Linear superficial cuts, right lower arm, anterior, 3 lines, parallel, diagonally with average length of 9 to 10 cm.

x x x

DEATH: HYPOVOLEMIC SHOCK MASSIVE HEMMORRHAGE. MULTIPLE STAB WOUNDS OF THE BODY.

x x x."

A certificate of Death was issued.

On February 15, 2001, Jose Dasalla gave his Sworn Statement to the Baguio Police, narrating the circumstances surrounding the death of Marvin Suetos and naming Alex Esquillon, George Domingo and Arturo Barlaan as the assailants who helped one another in stabbing Suetos which was the basis for the filing of the instant case. Dasalla likewise complained against the three accused for an attempt on his life when he tried to aid Suetos which resulted to the filing of an Information for Attempted Homicide against said accused in another court.

On the civil aspect, Florian Suetos, wife of the deceased, spent P22,500.00 for the services of the Baguio Memorial Chapel, P20,000.00 for food during the wake, P17,306.00 and P3,500.00 for the interment fees and P4,500.00 for her husband's hospitalization expenses or a total of P67,806.00. Her husband Marvin Suetos died at the age of 29 and, during his lifetime, was managing the business of his parents and was earning an income of P10,000.00 a month.

For his part, Arturo Barlaan denied the charges against him. He testified that when Alex Esquillon was stabbing the deceased, he tried to prevent him by shouting "Alex, don't! He is our companion" but, instead, Alex Esquillon turned to him and attempted to stab him so he ran away. Esquillon chased him but did not catch

up with him. He proceeded directly home after the incident. At the time Esquillon was stabbing the deceased, he did not see George Domingo around. Few hours thereafter, George Domingo, who is his neighbor, went to his house and informed him that Suetos died.[3]

The trial court found the version of the prosecution more credible. It held that Barlaan conspired with Esquillon and Domingo in killing Suetos; that the testimony of Dasalla was corroborated by the autopsy report of Dr. Tinoyan; that treachery attended the killing; and that the aggravating circumstance of abuse of superior strength is deemed absorbed in treachery.

The dispositive portion of the decision of the Regional Trial Court of Baguio City, Branch 6,[4] reads as follows:

WHEREFORE, the Court finds the accused Arturo Barlaan guilty beyond reasonable doubt of the crime of Murder, qualified by treachery, defined and penalized under Art. 248 of the Revised Penal Code as amended by Sec. 6 of R.A. 7659 and hereby sentences him to Reclusion Perpetua; to indemnify the heirs of the deceased Marvin Suetos the sum of P50,000.00 as indemnity for his death, P67,806.00 as actual damages, P2,040,000.00 as unearned income and P50,000.00 as moral damages for the pain and anguish suffered by his heirs by reason of his death, all indemnifications being without subsidiary imprisonment in case of insolvency; and to pay the costs.

The accused Arturo Barlaan being a detention prisoner, is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

In respect to his co-accused Alex Esquillon and George Domingo who remained at large, let an alias warrant of arrest be issued against them so that upon their arrest, they shall be entitled to a separate trial. And pending their arrest, the case as to them is archived to be revived upon their arrest.

SO ORDERED.[5]

On appeal, the Court of Appeals affirmed the factual findings of the trial court. In particular, the appellate court found that the assailants conspired with each other as can be inferred from their conduct before, during and after the commission of the crime. Their actions showed a common purpose and design. Thus, when Dasalla and the victim fled, they were chased by Esquillon, Domingo and Barlaan. When the malefactors caught up with the victim, they ganged up on him. Thereafter, Esquillon and Domingo took turns in stabbing him, while Barlaan held the victim's legs to prevent him from escaping.

The Court of Appeals, however, found that treachery was not present because a heated argument and a chase preceded the actual stabbing. Thus, the victim and Dasalla were aware that the accused would harm them when they fled from the restaurant. Moreover, the appellate court noted that the stabbing was spontaneous and there was no evidence showing that the assailants have planned and deliberately or consciously adopted their mode of attack upon the victim.

On the other hand, it appreciated the presence of abuse of superior strength because the aggressors took advantage of their combined strength in order to consummate the offense. The victim was lying prone on the ground and his feet were being held by Barlaan when the two other assailants, Esquillon and Domingo, simultaneously delivered the fatal stab wounds.

The Court of Appeals likewise sustained the awards of P50,000.00 each as civil indemnity and moral damages and P2,040,000.00 as lost earnings, but reduced the amount of actual damages awarded by the trial court to only P43,306.50 as the same was the amount duly supported by official receipts.

The dispositive portion of the Decision of the Court of Appeals, reads:

WHEREFORE, in view of the foregoing, the decision dated March 26, 2002 of the Regional Trial Court of

Baguio City, Branch 6, in Criminal Case No. 18724-R is AFFIRMED with modification. Accused-appellant ARTURO BARLAAN y ABION is found GUILTY beyond reasonable doubt of the crime of murder, qualified by abuse of superior strength, under Article 248 of the Revised Penal Code, as amended, and hereby sentenced to suffer the penalty of reclusion perpetua, and ORDERED to pay the heirs of the victim Marvin Suetos y Velasco the following amounts: P43,306.50 in actual damages; P50,000.00 as indemnity; P50,000.00 as moral damages; and, the sum of P2,040,000.00 representing lost earnings.

SO ORDERED.[6]

Hence, this appeal.

Barlaan alleges that the existence of conspiracy was not proven beyond reasonable doubt and that the trial court erred in convicting him of the crime of murder. He claims that the testimony of prosecution witness Dasalla that he (Barlaan) was holding the legs of the victim who was in a prone position should not have been given credence for being preposterous. He argues that since Esquillon was on top of the victim, then there is no necessity for him (Barlaan) to hold the legs of the victim to prevent his escape. He alleges that Dasalla could have misinterpreted the reason for his presence in the crime scene. At any rate, mere presence at the scene of the crime does not establish conspiracy.

The appeal lacks merit.

The issue raised in this appeal, i.e., whether or not the accused participated in the commission of the crime by holding the legs of the victim, is factual in nature. Settled is the rule that this Court is not a trier of facts. Factual findings of the lower courts are accorded great weight and respect and are deemed final, moreso in this case where the appellate court affirmed the factual findings of the trial court. Admittedly, there are exceptions to this rule, such as when the trial court ignored, misconstrued or misinterpreted facts and circumstances of substance which, if considered, would alter the outcome of the case.[7] However, none is present in the instant case. At any rate, we reviewed the findings of the trial court and the Court of Appeals and found the same to be duly supported by the records. Besides, as between categorical testimonies that ring of truth on one hand and a bare denial on the other, this Court has strongly ruled that the former must prevail. Indeed, positive identification of the appellants when categorical and consistent and without any ill-motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial.[8]

There is no merit in Barlaan's contention that the trial court and the Court of Appeals erred in construing his presence in the crime scene as proof that he acted in conspiracy with Esquillon and Domingo. The defense misread the findings of the lower courts vis-à-vis the issue of conspiracy.

Conspiracy exists among perpetrators of a crime when there is unity of purpose and intention in the commission of the crime. To establish conspiracy, direct evidence of a previous plan or agreement to commit assault is not required, as it is sufficient that at the time of the aggression, all the accused manifested by their acts a common intent or desire to attack. Indeed, conspiracy may be inferred when by their acts, two or more persons proceed towards the accomplishment of the same felonious objective, with each doing his act, so that their acts though seemingly independent were in fact connected, showing a closeness of former association and concurrence of sentiment.[9]

Records show that the findings that Barlaan conspired with Esquillon and Domingo in killing the victim was not based solely on the fact that he was seen at the crime scene. On the contrary, both the trial court and the Court of Appeals considered Barlaan's actions before, during and after the commission of the crime in arriving at the conclusion that there was conspiracy among the malefactors.

As correctly noted by the trial court:

- There is evidence that Arturo Barlaan and his co-accused conspired and confederated in killing the deceased making the act of one the act of all.

For collective responsibility among the accused to be established, it is not required that there be a previous agreement to commit the crime. It is enough that at the time of the assault, all the accused acted in concert and performed specific acts manifesting a common desire or purpose to attack and kill the victim therefore making the act of one as the act of all.

Here, when Suetos and Dasalla scampered out of the Ledsay Eatery after sensing danger, Barlaan, Esquillon and Domingo immediately ran after them. And when the three caught up with Suetos after he fell to the pavement face down, Esquillon and Domingo stabbed him while Barlaan made sure he does not escape by holding his feet. The act of Barlaan in restraining their victim while being stabbed by his confederates show that he was in unity with them in their purpose to kill Suetos. The intent to kill is manifest from the number, location and nature of the stab wounds inflicted. There is no showing at all that Barlaan attempted or endeavored to stop his confederates from inflicting further harm on their victim. Besides, when Dasalla attempted to aid Suetos, he was attacked by Esquillon with a knife prompting him to ran away but Esquillon, Domingo and Barlaan chased him. All these show unity of purpose and design of the accused and that they were acting in concert.[10]

Similarly, the Court of Appeals found that:

Concededly, there is no direct evidence that any of the stab wounds sustained by the victim was inflicted by accused-appellant. He is, however, still criminally liable because he and his co-accused, Esquillon and Domingo, conspired to kill the victim.

x x x x

In the present case, when the victim and Dasalla fled to escape the rage of accused Esquillon, accused-appellant along with accused Esquillon and Domingo, chased them. When the victim stumbled and fell on the pavement, Esquillon and Domingo took turns in stabbing him while accused-appellant held the victim's feet to prevent him from getting up. When Dasalla came to the victim's rescue, Esquillon tried to stab him. Dasalla ran and the trio, including accused-appellant, likewise chased him. Given these circumstances, it cannot be said that accused-appellant did not conspire with his co-accused in the common purpose to kill the victim.

Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident and all the perpetrators are liable as principals. Thus, while accused-appellant was not the one who actually stabbed and killed the victim, he is still criminally liable since the existence of conspiracy makes the act of one the act of all. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.[11]

We agree with the Court of Appeals that treachery did not attend the commission of the crime. There is treachery when the offender commits any of the crimes against persons employing means, methods, or forms in the execution thereof which tend directly and especially to ensure the execution of the crime without risk to himself from any defense which the victim might make. It must be clearly shown that the method of assault adopted by the aggressor was deliberately chosen to accomplish the crime without risk to the aggressor.[12] Thus, the Court ruled that:

The impulsive stabbing followed a brief argument x x x. While the attack may have been sudden, the circumstances show that the casual, brief, and tension-filled encounter did not afford the accused-appellant an

opportunity to plan and deliberately adopt the method of assault as to accomplish the crime without risk to himself. He simply used whatever weapon he had on hand. To our mind, therefore, treachery cannot be appreciated.[13]

In the instant case, the attack was spontaneous and there is no evidence showing that the malefactors consciously adopted the method of the attack. Also, an altercation preceded the stabbing. Thus, when Dasalla and the victim fled from the restaurant, they were already aware that the accused would harm them.

The Court of Appeals correctly appreciated the aggravating circumstance of abuse of superior strength. The accused positioned themselves in such a way as to ensure that the victim cannot escape. Thus, Barlaan held the legs of the victim while his body was being pinned down by Esquillon. Domingo, on the other hand, positioned himself in front of the victim. With synchronicity, the trio attacked the victim who was unarmed. Their concerted actions showed that they cooperated in such a way as to secure advantage from their combined superiority in strength.[14]

The Court of Appeals also correctly awarded the amounts of P50,000.00 as civil indemnity and another P50,000.00 as moral damages in line with recent jurisprudence. Civil indemnity is mandatory and is granted to the heirs of the victim without need of proof other than the commission of the crime.[15] Moral damages on the other hand are awarded in a criminal offense resulting in physical injuries,[16] including death. The award of P43,306.50 as actual damages is proper considering it is the amount supported by official receipts.

Under Art. 2206 of the Civil Code, the heirs of the victim are also entitled to indemnity for loss of earning capacity. To be entitled to such an award, documentary evidence is necessary. By way of exception, testimonial evidence would suffice: (1) if the victim was self-employed, earning less than the minimum wage under current labor laws and judicial notice may be taken of the fact that in the victim's line of work, no documentary evidence is available; or (2) if the victim was employed as a daily wage worker earning less than the minimum wage under current labor laws.[17]

In this case, the victim's widow testified that her husband manages the small business of his parents of supplying Baguio's native products, for which he earns a monthly income of P10,000.00.[18] Thus, the award of P2,040,000.00 representing lost earnings is proper.

WHEREFORE, the Decision of the Court of Appeals finding Arturo Barlaan guilty of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P43,306.50 as actual damages and P2,040,000.00 as lost earnings, are AFFIRMED.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Records, p. 1.

[2] Id. at 19.

[3] Id. at 98-101.

[4] Penned by Judge Ruben C. Ayson.

[5] Records, pp. 108-109.

[6] CA rollo, p. 121. Penned by Associate Justice Rosalinda Asuncion-Vicente and concurred in by Associate Justices Jose L. Sabio, Jr. and Sesinando E. Villon.

[7] *People v. Tagana*, G.R. No. 133027, March 4, 2004, 424 SCRA 620, 638.

[8] *Id.* at 640-641.

[9] *Id.* at 641.

[10] Records, pp. 103-104.

[11] CA rollo, pp. 109-110.

[12] *People v. Bejo*, G.R. No. 138454, February 13, 2002, 376 SCRA 651, 668.

[13] *Id.*

[14] *Id.*

[15] *Sabang v. People*, G.R. No. 168818, March 9, 2007.

[16] CIVIL CODE, Art. 2219.

[17] *People v. Tagana*, *supra* note 7 at 647.

[18] CA rollo, p. 120.

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