

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. KHADDAFY JANJALANI, GAMAL B. BAHARAN A.K.A. TAPAY, ANGELO TRINIDAD A.K.A. ABU KHALIL, GAPPAL BANNAH ASALI A.K.A. MAIDAN OR NEG...

G.R. No. 188314. January 10, 2011

Ponente: SERENO, J.

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SERENO, J.:

Before the Court is an appeal from the Decision of the Court of Appeals (CA) dated 30 June 2008, which affirmed the Decision of the Regional Trial Court of Makati City in Criminal Case Nos. 05-476 and 05-4777 dated 18 October 2005. The latter Decision convicted the three accused-appellants - namely, Gamal B. Baharan a.k.a. Tapay, Angelo Trinidad a.k.a. Abu Khalil, and Rohmat Abdurrohman a.k.a. Abu Jackie or Zaky - of the complex crime of multiple murder and multiple frustrated murder, and sentenced them to suffer the penalty of death by lethal injection. The CA modified the sentence to reclusion perpetua as required by Republic Act No. 9346 (Act Abolishing the Imposition of Death Penalty).

Statement of Facts

The pertinent facts, as determined by the trial court, are as follows:

On 14 February 2005, an RRCG bus was plying its usual southbound route, from its Navotas bus terminal towards its Alabang bus terminal via Epifanio de los Santos Avenue (EDSA). Around 6:30 to 7:30 in the evening, while they were about to move out of the Guadalupe-EDSA southbound bus stop, the bus conductor noticed two men running after the bus. The two insisted on getting on the bus, so the conductor obliged and let them in.

According to Elmer Andales, the bus conductor, he immediately became wary of the two men, because, even if they got on the bus together, the two sat away from each other - one sat two seats behind the driver, while the other sat at the back of the bus. At the time, there were only 15 passengers inside the bus. He also noticed that the eyes of one of the men were reddish. When he approached the person near the driver and asked him whether he was paying for two passengers, the latter looked dumb struck by the question. He then stuttered and said he was paying for two and gave Php20. Andales grew more concerned when the other man seated at the back also paid for both passengers. At this point, Andales said he became more certain that the two were up to no good, and that there might be a holdup.

Afterwards, Andales said he became more suspicious because both men kept on asking him if the bus was going to stop at Ayala Avenue. The witness also noticed that the man at the back appeared to be slouching, with his legs stretched out in front of him and his arms hanging out and hidden from view as if he was tinkering with something. When Andales would get near the man, the latter would glare at him. Andales admitted, however, that he did not report the suspicious characters to the police.

As soon as the bus reached the stoplight at the corner of Ayala Avenue and EDSA, the two men insisted on

getting off the bus. According to Andales, the bus driver initially did not want to let them off the bus, because a Makati ordinance prohibited unloading anywhere except at designated bus stops. Eventually, the bus driver gave in and allowed the two passengers to alight. The two immediately got off the bus and ran towards Ayala Avenue. Moments after, Andales felt an explosion. He then saw fire quickly engulfing the bus. He ran out of the bus towards a nearby mall. After a while, he went back to where the bus was. He saw their bus passengers either lying on the ground or looking traumatized. A few hours after, he made a statement before the Makati Police Station narrating the whole incident.

The prosecution presented documents furnished by the Department of Justice, confirming that shortly before the explosion, the spokesperson of the Abu Sayyaf Group - Abu Solaiman - announced over radio station DZBB that the group had a Valentine's Day "gift" for former President Gloria Macapagal-Arroyo. After the bombing, he again went on radio and warned of more bomb attacks.

As stipulated during pretrial, accused Trinidad gave ABS-CBN News Network an exclusive interview some time after the incident, confessing his participation in the Valentine's Day bombing incident. In another exclusive interview on the network, accused Baharan likewise admitted his role in the bombing incident. Finally, accused Asali gave a television interview, confessing that he had supplied the explosive devices for the 14 February 2005 bombing. The bus conductor identified the accused Baharan and Trinidad, and confirmed that they were the two men who had entered the RRCG bus on the evening of 14 February.

Members of the Abu Sayyaf Group - namely Khaddafy Janjalani, Gamal B. Baharan, Angelo Trinidad, Gappal Bannah Asali, Jainal Asali, Rohmat Abdurrohman a.k.a. Abu Jackie or Zaky, and other "John" and "Jane Does" - were then charged with multiple murder and multiple frustrated murder. Only Baharan, Trinidad, Asali, and Rohmat were arrested, while the other accused remain at-large.

On their arraignment for the multiple murder charge (Crim. Case No. 05-476), Baharan, Trinidad, and Asali all entered a plea of guilty. On the other hand, upon arraignment for the multiple frustrated murder charge (Crim. Case No. 05-477), accused Asali pled guilty. Accused Trinidad and Baharan pled not guilty. Rohmat pled not guilty to both charges. During the pretrial hearing, the parties stipulated the following:

- 1.) The jurisdiction of this court over the offenses charged.
- 2.) That all three accused namely alias Baharan, Trinidad, and Asali admitted knowing one another before February 14, 2005.
- 3.) All the same three accused likewise admitted that a bomb exploded in the RRCG bus while the bus was plying the EDSA route fronting the MRT terminal which is in front of the Makati Commercial Center.
- 4.) Accused Asali admitted knowing the other accused alias Rohmat whom he claims taught him how to make explosive devices.
- 5.) The accused Trinidad also admitted knowing Rohmat before the February 14 bombing incident.
- 6.) The accused Baharan, Trinidad, and Asali all admitted to causing the bomb explosion inside the RRCG bus which left four people dead and more or less forty persons injured.
- 7.) Both Baharan and Trinidad agreed to stipulate that within the period March 20-24 each gave separate interviews to the ABS-CBN news network admitting their participation in the commission of the said crimes, subject of these cases.
- 8.) Accused Trinidad and Baharan also admitted to pleading guilty to these crimes, because they were guilt-stricken after seeing a man carrying a child in the first bus that they had entered.

9.) Accused Asali likewise admitted that in the middle of March 2005 he gave a television news interview in which he admitted that he supplied the explosive devices which resulted in this explosion inside the RRCG bus and which resulted in the filing of these charges.

10.) Finally, accused Baharan, Trinidad, and Asali admitted that they are members of the Abu Sayyaf.[1]

In the light of the pretrial stipulations, the trial court asked whether accused Baharan and Trinidad were amenable to changing their "not guilty" pleas to the charge of multiple frustrated murder, considering that they pled "guilty" to the heavier charge of multiple murder, creating an apparent inconsistency in their pleas. Defense counsel conferred with accused Baharan and Trinidad and explained to them the consequences of the pleas. The two accused acknowledged the inconsistencies and manifested their readiness for re-arraignment. After the Information was read to them, Baharan and Trinidad pled guilty to the charge of multiple frustrated murder.[2]

After being discharged as state witness, accused Asali testified that while under training with the Abu Sayyaf in 2004, Rohmat, a.k.a Abu Jackie or Zaky, and two other persons taught him how to make bombs and explosives. The trainees were told that they were to wage battles against the government in the city, and that their first mission was to plant bombs in malls, the Light Railway Transit (LRT), and other parts of Metro Manila.

As found by the trial court, Asali, after his training, was required by the Abu Sayyaf leadership, specifically Abu Solaiman and Rohmat, to secure eight kilos of TNT, a soldering gun, aluminum powder, a tester, and Christmas lights, all of which he knew would be used to make a bomb. He then recalled that sometime in November to December 2004, Trinidad asked him for a total of 4 kilos of TNT - that is, 2 kilos on two separate occasions. Rohmat allegedly called Asali to confirm that Trinidad would get TNT from Asali and use it for their first mission. The TNT was allegedly placed in two buses sometime in December 2004, but neither one of them exploded.

Asali then testified that the night before the Valentine's Day bombing, Trinidad and Baharan got another two kilos of TNT from him. Late in the evening of 14 February, he received a call from Abu Solaiman. The latter told Asali not to leave home or go to crowded areas, since the TNT taken by Baharan and Trinidad had already been exploded in Makati. Thirty minutes later, Trinidad called Asali, repeating the warning of Abu Solaiman. The next day, Asali allegedly received a call from accused Rohmat, congratulating the former on the success of the mission.[3] According to Asali, Abu Zaky specifically said, "Sa wakas nag success din yung tinuro ko sayo."

Assignment of Errors

Accused-appellants raise the following assignment of errors:

- The trial court gravely erred in accepting accused-appellants' plea of guilt despite insufficiency of searching inquiry into the voluntariness and full comprehension of the consequences of the said plea.
- The trial court gravely erred in finding that the guilt of accused-appellants for the crimes charged had been proven beyond reasonable doubt.[4]

First Assignment of Error

Accused-appellants Baharan and Trinidad argue that the trial court did not conduct a searching inquiry after they had changed their plea from "not guilty" to "guilty." The transcript of stenographic notes during the 18 April 2005 re-arraignment before the Makati Regional Trial Court is reproduced below:

Court

:

Anyway, I think what we should have to do, considering the stipulations that were agreed upon during the last hearing, is to address this matter of pleas of not guilty entered for the frustrated murder charges by the two accused, Mr. Trinidad and Mr. Baharan, because if you will recall they entered pleas of guilty to the multiple murder charges, but then earlier pleas of not guilty for the frustrated multiple murder charges remain... [I]s that not inconsistent considering the stipulations that were entered into during the initial pretrial of this case? [If] you will recall, they admitted to have caused the bomb explosion that led to the death of at least four people and injury of about forty other persons and so under the circumstances, Atty Peña, have you discussed this matter with your clients?

... ..

Atty. Peña

:

Then we should be given enough time to talk with them. I haven't conferred with them about this with regard to the multiple murder case.

... ..

Court

:

Okay. So let us proceed now. Atty. Peña, can you assist the two accused because if they are interested in withdrawing their [pleas], I want to hear it from your lips.

Atty. Peña

:

Yes, your Honor.

(At this juncture, Atty. Peña confers with the two accused, namely Trinidad and Baharan)

I have talked to them, your Honor, and I have explained to them the consequence of their pleas, your Honor, and that the plea of guilt to the murder case and plea of not guilty to the frustrated multiple murder actually are inconsistent with their pleas.

Court

:

With matters that they stipulated upon?

Atty. Peña

:

Yes, your Honor. So, they are now, since they already plead guilt to the murder case, then they are now changing their pleas, your Honor, from not guilty to the one of guilt. They are now ready, your Honor, for re-arraignment.

... ..

INTERPRETER

:

(Read again that portion [of the information] and translated it in Filipino in a clearer way and asked both accused what their pleas are).

Your Honor, both accused are entering separate pleas of guilt to the crime charged.

COURT

:

All right. So after the information was re-read to the accused, they have withdrawn their pleas of not guilty and changed it to the pleas of guilty to the charge of frustrated murder. Thank you. Are there any matters you need to address at pretrial now? If there are none, then I will terminate pretrial and accommodate...[5]

As early as in *People v. Apduhan*, the Supreme Court has ruled that "all trial judges ... must refrain from accepting with alacrity an accused's plea of guilty, for while justice demands a speedy administration, judges are duty bound to be extra solicitous in seeing to it that when an accused pleads guilty, he understands fully the meaning of his plea and the import of an inevitable conviction." [6] Thus, trial court judges are required to observe the following procedure under Section 3, Rule 116 of the Rules of Court:

SEC. 3. Plea of guilty to capital offense; reception of evidence. -- When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf. (Emphasis supplied)

The requirement to conduct a searching inquiry applies more so in cases of re-arraignment. In *People v. Galvez*, the Court noted that since accused-appellant's original plea was "not guilty," the trial court should have exerted careful effort in inquiring into why he changed his plea to "guilty." [7] According to the Court:

The stringent procedure governing the reception of a plea of guilt, especially in a case involving the death penalty, is imposed upon the trial judge in order to leave no room for doubt on the possibility that the accused might have misunderstood the nature of the charge and the consequences of the plea. [8]

Likewise, the requirement to conduct a searching inquiry should not be deemed satisfied in cases in which it was the defense counsel who explained the consequences of a "guilty" plea to the accused, as it appears in this case. In *People v. Alborida*, this Court found that there was still an improvident plea of guilty, even if the accused had already signified in open court that his counsel had explained the consequences of the guilty plea; that he understood the explanation of his counsel; that the accused understood that the penalty of death would still be meted out to him; and that he had not been intimidated, bribed, or threatened. [9]

We have reiterated in a long line of cases that the conduct of a searching inquiry remains the duty of judges, as they are mandated by the rules to satisfy themselves that the accused had not been under coercion or duress; mistaken impressions; or a misunderstanding of the significance, effects, and consequences of their guilty plea. [10] This requirement is stringent and mandatory. [11]

Nevertheless, we are not unmindful of the context under which the re-arraignment was conducted or of the factual milieu surrounding the finding of guilt against the accused. The Court observes that accused Baharan and Trinidad previously pled guilty to another charge - multiple murder - based on the same act relied upon in the multiple frustrated murder charge. The Court further notes that prior to the change of plea to one of guilt, accused Baharan and Trinidad made two other confessions of guilt - one through an extrajudicial confession (exclusive television interviews, as stipulated by both accused during pretrial), and the other via judicial admission (pretrial stipulation). Considering the foregoing circumstances, we deem it unnecessary to rule on the sufficiency of the "searching inquiry" in this instance. Remanding the case for re-arraignment is not warranted, as the accused's plea

of guilt was not the sole basis of the condemnatory judgment under consideration.[12]

Second Assignment of Error

In *People v. Oden*, the Court declared that even if the requirement of conducting a searching inquiry was not complied with, "[t]he manner by which the plea of guilt is made ... loses much of great significance where the conviction can be based on independent evidence proving the commission by the person accused of the offense charged." [13] Thus, in *People v. Nadera*, the Court stated:

Convictions based on an improvident plea of guilt are set aside only if such plea is the sole basis of the judgment. If the trial court relied on sufficient and credible evidence to convict the accused, the conviction must be sustained, because then it is predicated not merely on the guilty plea of the accused but on evidence proving his commission of the offense charged. [14] (Emphasis supplied.)

In their second assignment of error, accused-appellants assert that guilt was not proven beyond reasonable doubt. They pointed out that the testimony of the conductor was merely circumstantial, while that of Asali as to the conspiracy was insufficient.

Insofar as accused-appellants Baharan and Trinidad are concerned, the evidence for the prosecution, in addition to that which can be drawn from the stipulation of facts, primarily consisted of the testimonies of the bus conductor, Elmer Andales, and of the accused-turned-state-witness, Asali. Andales positively identified accused Baharan and Trinidad as the two men who had acted suspiciously while inside the bus; who had insisted on getting off the bus in violation of a Makati ordinance; and who had scampered away from the bus moments before the bomb exploded. On the other hand, Asali testified that he had given accused Baharan and Trinidad the TNT used in the bombing incident in Makati City. The guilt of the accused Baharan and Trinidad was sufficiently established by these corroborating testimonies, coupled with their respective judicial admissions (pretrial stipulations) and extrajudicial confessions (exclusive television interviews, as they both stipulated during pretrial) that they were indeed the perpetrators of the Valentine's Day bombing. [15] Accordingly, the Court upholds the findings of guilt made by the trial court as affirmed by the Court of Appeals.

Anent accused Rohmat, the evidence for the prosecution consisted of the testimony of accused-turned-state-witness Asali. Below is a reproduction of the transcript of stenographic notes on the state prosecutor's direct examination of state-witness Asali during the 26 May 2005 trial:

Q

:

You stated that Zaky trained you and Trinidad. Under what circumstances did he train you, Mr. Witness, to assemble those explosives, you and Trinidad?

A

:

Abu Zaky, Abu Solaiman, Khadaffy Janjalani, the three of them, that Angelo Trinidad and myself be the one to be trained to make an explosive, sir.

Q

:

Mr. witness, how long that training, or how long did it take that training?

A

:

If I am not mistaken, we were thought to make bomb about one month and two weeks.

... ..

Q

:

Now, speaking of that mission, Mr. witness, while you were still in training at Mr. Cararao, is there any mission that you undertook, if any, with respect to that mission?

... ..

A

:

Our first mission was to plant a bomb in the malls, LRT, and other parts of Metro Manila, sir.[16]

The witness then testified that he kept eight kilos of TNT for accused Baharan and Trinidad.

Q

:

Now, going back to the bomb. Mr. witness, did you know what happened to the 2 kilos of bomb that Trinidad and Tapay took from you sometime in November 2004?

A

:

That was the explosive that he planted in the G-liner, which did not explode.

Q

:

How did you know, Mr. witness?

A

:

He was the one who told me, Mr. Angelo Trinidad, sir.

... ..

Q

:

What happened next, Mr. witness, when the bomb did not explode, as told to you by Trinidad?

A

:

On December 29, Angelo Trinidad got 2 more kilos of TNT bombs.

... ..

Q

:

Did Trinidad tell you why he needed another amount of explosive on that date, December 29, 2004? Will you kindly tell us the reason why?

... ..

A

:

He told me that Abu Solaiman instructed me to get the TNT so that he could detonate a bomb

... ..

Q

:

Were there any other person, besides Abu Solaiman, who called you up, with respect to the taking of the explosives from you?

A

:

There is, sir... Abu Zaky, sir, called up also.

Q

:

What did Abu Zaky tell you when he called you up?

A

:

He told me that "this is your first mission."

Q

:

Please enlighten the Honorable Court. What is that mission you are referring to?

A

:

That is the first mission where we can show our anger towards the Christians.

... ..

Q

:

The second time that he got a bomb from you, Mr. witness, do you know if the bomb explode?

A

:

I did not know what happened to the next 2 kilos taken by Angelo Trinidad from me until after I was caught, because I was told by the policeman that interviewed me after I was arrested that the 2 kilos were planted in a bus, which also did not explode.

Q

:

So besides these two incidents, were there any other incidents that Angelo Trinidad and Tapay get an explosive for you, Mr. witness?

... ..

A

:

If I am not mistaken, sir, on February 13, 2005 at 6:30 p.m.

Q

:

Who got from you the explosive Mr. witness?

A

:

It's Angelo Trinidad and Tapay, sir.

... ..

Q

:

How many explosives did they get from you, Mr. witness, at that time?

A

:

They got 2 kilos TNT bomb, sir.

Q

:

Did they tell you, Mr. witness, where are they going to use that explosive?

A

:

No, sir.

Q

:

Do you know, Mr. witness, what happened to the third batch of explosives, which were taken from you by Trinidad and Tapay?

... ..

A

:

That is the bomb that exploded in Makati, sir.

Q

:

Why did you know, Mr. witness?

A

:

Because I was called in the evening of February 14 by Abu Solaiman. He told me not to leave the house because the explosive that were taken by Tapay and Angelo Trinidad exploded.

... ..

Q

:

Was there any other call during that time, Mr. Witness?

... ..

A

:

I was told by Angelo Trinidad not to leave the house because the explosive that he took exploded already, sir.

Q

:

How sure were you, Mr. witness, at that time, that indeed, the bomb exploded at Makati, beside the call of Abu Solaiman and Trinidad?

A

:

It was told by Abu Solaiman that the bombing in Makati should coincide with the bombing in General Santos.

... ..

A

:

He told it to me, sir... I cannot remember the date anymore, but I know it was sometime in February 2005.

Q

:

Any other call, Mr. witness, from Abu Solaiman and Trinidad after the bombing exploded in Makati, any other call?

... ..

A

:

There is, sir... The call came from Abu Zaky.

Q

:

What did Abu Zaky tell you, Mr. witness?

A

:

He just greeted us congratulations, because we have a successful mission.

... ..

A

:

He told me that "sa wakas, nag success din yung tinuro ko sayo."

... ..

Q

:

By the way, Mr. witness, I would just like to clarify this. You stated that Abu Zaky called you up the following day, that was February 15, and congratulating you for the success of the mission. My question to you, Mr. witness, if you know what is the relation of that mission, wherein you were congratulated by Abu Zaky, to the mission, which have been indoctrinated to you, while you were in Mt. Cararao, Mr. witness?

A

:

They are connected, sir.

Q

:

Connected in what sense, Mr. witness?

A

:

Because when we were undergoing training, we were told that the Abu Sayyaf should not wage war to the forest, but also wage our battles in the city.

Q

:

Wage the battle against who, Mr. witness?

A

:

The government, sir.[17]

What can be culled from the testimony of Asali is that the Abu Sayyaf Group was determined to sow terror in Metro Manila, so that they could show their "anger towards the Christians." [18] It can also be seen that Rohmat, together with Janjalani and Abu Solaiman, had carefully planned the Valentine's Day bombing incident, months before it happened. Rohmat had trained Asali and Trinidad to make bombs and explosives. While in training, Asali and others were told that their mission was to plant bombs in malls, the LRT, and other parts of Metro Manila. According to Asali, Rohmat called him on 29 December 2004 to confirm that Trinidad would get two kilos of TNT from Asali, as they were "about to commence" their "first mission." [19] They made two separate attempts to bomb a bus in Metro Manila, but to no avail. The day before the Valentine's Day bombing, Trinidad got another two kilos of TNT from Asali. On Valentine's Day, the Abu Sayyaf Group announced that they had a gift for the former President, Gloria Macapagal-Arroyo. On their third try, their plan finally succeeded. Right after the bomb exploded, the Abu Sayyaf Group declared that there would be more bombings in the future. Asali then received a call from Rohmat, praising the former: "Sa wakas nag success din yung tinuro ko sayo." [20]

In the light of the foregoing evidence, the Court upholds the finding of guilt against Rohmat. Article 17 of the Revised Penal Code reads:

Art. 17. Principals. -- The following are considered principals:

- Those who take a direct part in the execution of the act
- Those who directly force or induce others to commit it
- Those who cooperate in the commission of the offense by another act without which it would not have been accomplished

Accused Rohmat is criminally responsible under the second paragraph, or the provision on "principal by inducement." The instructions and training he had given Asali on how to make bombs - coupled with their careful planning and persistent attempts to bomb different areas in Metro Manila and Rohmat's confirmation that Trinidad would be getting TNT from Asali as part of their mission - prove the finding that Rohmat's co-inducement was the

determining cause of the commission of the crime.[21] Such "command or advice [was] of such nature that, without it, the crime would not have materialized." [22]

Further, the inducement was "so influential in producing the criminal act that without it, the act would not have been performed." [23] In *People v. Sanchez, et al.*, the Court ruled that, notwithstanding the fact that Mayor Sanchez was not at the crime scene, evidence proved that he was the mastermind of the criminal act or the principal by inducement. Thus, because Mayor Sanchez was a co-principal and co-conspirator, and because the act of one conspirator is the act of all, the mayor was rendered liable for all the resulting crimes. [24] The same finding must be applied to the case at bar.

The Court also affirms the finding of the existence of conspiracy involving accused Baharan, Trinidad, and Rohmat. Conspiracy was clearly established from the "collective acts of the accused-appellants before, during and after the commission of the crime." As correctly declared by the trial court in its Omnibus Decision:

Asali's clear and categorical testimony, which remains unrebutted on its major points, coupled with the judicial admissions freely and voluntarily given by the two other accused, are sufficient to prove the existence of a conspiracy hatched between and among the four accused, all members of the terrorist group Abu Sayyaf, to wreak chaos and mayhem in the metropolis by indiscriminately killing and injuring civilian victims by utilizing bombs and other similar destructive explosive devices.

While said conspiracy involving the four malefactors has not been expressly admitted by accused Baharan, Angelo Trinidad, and Rohmat, more specifically with respect to the latter's participation in the commission of the crimes, nonetheless it has been established by virtue of the aforementioned evidence, which established the existence of the conspiracy itself and the indispensable participation of accused Rohmat in seeing to it that the conspirators' criminal design would be realized.

It is well-established that conspiracy may be inferred from the acts of the accused, which clearly manifests a concurrence of wills, a common intent or design to commit a crime (*People v. Lenantud*, 352 SCRA 544). Hence, where 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 will be held liable as principals (*People v. Ellado*, 353 SCRA 643). [25]

In *People v. Geronimo*, the Court pronounced that it would be justified in concluding that the defendants therein were engaged in a conspiracy "when the defendants by their acts aimed at the same object, one

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