

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN BRITANICO AND JOJO BRITANICO, ACCUSED-APPELLANTS.*G.R. No. 201836. June 22, 2015*

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-201836/>**DEL CASTILLO, J.:**

Three brothers, namely Allan, Rolly and Jojo, and their father, Francisco, all surnamed Britanico, were charged with murder for the death of Segundo Toralde y Belmonte (Segundo). The Information[1] alleged that at around 5 o'clock in the afternoon of August 23, 2003, in barangay Libtong, municipality of Libon, province of Albay, all four accused conspired to kill the victim, and with the use of bladed weapons, with treachery and evident premeditation, hacked the victim several times hitting him on different parts of his body, resulting in his instantaneous death. The case was raffled to the Regional Trial Court (RTC) of Ligao, Albay, Branch 13 which issued a warrant of arrest[2] against the four accused. However, only Allan and Rolly were initially apprehended and eventually detained at the Polangui District Jail in Polangui, Albay. Both were arraigned on. December 10, 2003 where they entered a plea of not guilty to the charge.[3]

A few days after, or on January 28, 2004, Francisco was apprehended[4] and imprisoned with his sons, Rolly and Allan, in detention at Polangui District Jail in Albay.[5] As manifested by the Jail Warden, and based on the evaluation of the Municipal Health Officer, Francisco was suffering from severe anemia when committed to the jail facility.[6] Thus, the Jail Warden requested the RTC to allow Francisco to be confined at a hospital. However, the court a quo did not permit Francisco's confinement in a hospital; instead, he was allowed to undergo medical examination with a proviso that he be returned to the City Jail after every consultation.[7] On February 20, 2004, Francisco was arraigned where he entered a plea of not guilty.[8] On March 11, 2004, Francisco was brought to the Josefina Belmonte Duran Memorial District Hospital but was pronounced dead on arrival.[9] Consequently, the charge against Francisco was dismissed.[10]

Jojo was the last accused to be apprehended.[11] On October 27, 2004, he was ordered committed at the Polangui District Jail together with Alan and Rolly.[12] On December 8, 2004, he was arraigned where he entered a plea of not guilty.[13]

In the meantime, Rolly who was a minor at the time of the commission of the crime, was released on recognizance to the custody of his mother.[14] Thereafter, and in the course of the trial, the defense filed a Motion to Dismiss the Case Against Minor Accused Rolly Britanico.[15] Citing Republic Act No. 9344 or the Juvenile: Justice and Welfare Act of 2006 which raised the minimum age of criminal responsibility from nine to 15 years, and considering that Rolly was only 14 years of age when the crime was committed on August 23, 2003, having been born on October 29, 1988, the defense prayed that the charge against Rolly be dismissed. Finding merit in the motion, the RTC granted the same in an Order[16] dated April 16, 2009 and accordingly dismissed the case against Rolly.

Consequently, only Allan and Jojo, hereinafter collectively referred to as appellants, remained out of the four

accused.

On December 7, 2009, the RTC rendered its Judgment[17] finding appellants guilty as charged. The court a quo lent credence to the eyewitness account of Rolando Toralde (Rolando) who narrated that in the afternoon of August 23, 2003, he was on his way to the house of his uncle, Segundo. However, when he was about to pass by the house of Francisco, he saw the latter and his sons, Rolly, Allan, and Jojo, hack Segundo with the use of bladed weapons. Fearing for his life, he hid in the grassy portion for about 10 minutes. Upon seeing his uncle fall to the ground, Rolando left and immediately informed his cousin, Alma, about the misfortune that befell her father. When placed on the witness stand, Alma testified that it was Rolando who informed her about the hacking incident. She claimed that Francisco is her uncle, being the brother of her mother, while Jojo, Allan and Rolly are her cousins.

Appellants could only offer denial and alibi. Allan claimed that on August 23, 2003, he was at San Antonio, Iriga City overseeing the fishpond of Flor Epres. For his part, Jojo averred that at around 5 o'clock in the afternoon of August 23, 2003, he went to barangay Amuguis in Polangui to fetch his wife. Teresita Britanico (Teresita), the mother of appellants, also testified. She alleged that in the afternoon of August 23, 2003, Segundo passed by their house and had an argument with her husband, Francisco. The altercation became heated and both parties exchanged hacking blows. Teresita and her daughter Maricel left in order to seek help. However, considering that the nearest house is 200 meters away, they decided to return whereupon they saw Segundo running away and being chased by Francisco. When Francisco returned, his shirt was stained with blood and in answer to her query, Francisco admitted having killed Segundo. Fearing retaliation from the family of the deceased, Francisco and Teresita, together with their children Rolly and Ronald, left their house and proceeded to Anilao, Libon, Albay.

Ruling of the Regional Trial Court

The trial court did not lend credence to the denial and alibi of appellants in view of their positive identification by prosecution eyewitness Rolando. Moreover, the trial court noted that both failed to show that it was physically impossible for them to be at the scene of the crime at the time of its commission. Besides, the prosecution was able to refute the testimony of Allan by presenting Emilio Toralde who saw Allan leave the fishpond on August 23, 2003. On the other hand, the trial court found Jojo's alibi to be self-serving and uncorroborated.

Finding the qualifying circumstance of treachery to have attended the commission of the crime, the RTC found appellants guilty of the crime of murder, viz:

WHEREFORE, the Court finds accused ALLAN BRITANICO and JOJO BRITANICO guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, as amended by Section 6 of Republic Act No. 7659. Accordingly, said accused are hereby sentenced to suffer the penalty of reclusion perpetua.

On the civil liability of the accused, judgment is hereby rendered ordering accused Allan Britanico and Jojo Britanico to indemnify the heirs of the deceased Segundo Toralde, jointly and severally, the following: (a) the sum of P75,000.00, as civil indemnity; (b) the sum of P75,000.00 as moral damages; (c) P16,818.50 as actual damages and (d) P25,000.00 as exemplary damages.

Costs against the accused.

SO ORDERED.[18]

Ruling of the Court of Appeals

Appellants appealed to the CA. In their Brief,[19] they claimed that the trial court erred in lending credence to the narration of Rolando as the same was fraught with inconsistencies and improbabilities. They contended that it was

unnatural for Rolando to simply watch for 10 minutes while his uncle was being hacked to death. They believed that when faced with such situation, Rolando would naturally shout to distract his uncle's assailants or to seek help. Moreover, they insisted that Rolando should have immediately reported the incident to the authorities, and not just to his cousin, Alma. Further, the number of wounds sustained by the victim did not tally with the number of blows supposedly delivered by the assailants as testified to by Rolando. For the defense, all these make Rolando's credibility highly suspect.

The CA found the appeal lacking in merit. In its November 17, 2011 Decision,[20] it affirmed in full the ruling of the trial court.

Hence, this appeal.

Our Ruling

In a July 16, 2012 Resolution,[21] we required the parties to file their respective supplemental briefs. Only the appellants complied; the Office of the Solicitor General opted not to file its supplemental brief considering that all the issues were already discussed in the brief it filed before the CA.

In their Supplemental Brief,[22] appellants merely reiterated the arguments they raised before the CA. They maintain that Rolando's testimony is unreliable and could not be used as basis for their conviction; that it was unnatural for Rolando to watch for 10 minutes the hacking of his uncle and not seek for help; that it defies reason why Rolando did not immediately report the incident to the authorities; and that the number of wounds sustained by the victim did not match the number of blows supposedly received by the victim.

We dismiss the appeal for utter lack of merit.

At the outset, it must be emphasized that the issues raised by the appellants before this Court are the same arguments brought on appeal, and already resolved, by the CA. In short, these are recycled and rehashed arguments. In any case, we find that contrary to appellants' contention, we find no material inconsistencies or improbabilities in the testimony of Rolando. We thus affirm both the RTC and the CA in finding Rolando's testimony to be credible.

It is a settled principle that people react differently when confronted with a startling and dangerous experience. For example, a person who witnessed a hacking incident may faint, act with nonchalance, or may hide out of fear for his life; on the other hand, he may also act with bravery by coming to the aid and succor of the victim, most especially if the latter is a relative; or, he may act cautiously and seek the help of other people. The list is not all-encompassing because people do not act similarly to a given situation. Hence, we do not find it unnatural, as the appellants claim, for Rolando to hide in the grassy area upon witnessing the hacking of his uncle, Segundo, by the appellants. Rolando also admitted that he got scared which is also a reasonable and logical reaction to such a startling event.

The failure of Rolando to immediately report the incident to the authorities did not diminish his credibility. According to Rolando, upon seeing his uncle fall to the ground, he left his hiding place and proceeded directly to the house of his cousin, Alma, the daughter of the deceased, and informed her of what happened to her father. Thereafter, he went home as it was already nighttime. However, appellants assail this reaction on the part of Rolando; according to them, if Rolando indeed saw the incident, then he should have lost no time in reporting the same to the authorities. We are not persuaded. Rolando's actuations should not be measured against the expectations of appellants. It is possible that as far as Rolando is concerned, he already did his share. And considering that he already divulged the incident to the family of the deceased, then it was up to them to decide on the next possible course of action. Surprisingly, appellants did not question the failure of Alma (as well as her

mother and brother) to immediately inform the police authorities about the fate of her father. Records show that upon being informed about the incident, Alma and her brother proceeded to the house of the Britanicos to avenge their father. Upon their arrival thereat, nobody was around but they saw bloodstains in the yard. In fact, they even thought, and hoped, that their father was able to escape and that he was still alive. Without reporting the incident yet to the police authorities, they returned home. It was only upon the discovery of the decomposing body of their father that they decided to disclose the incident to the police.

The credibility of the eyewitness account of Rolando was not diminished just because the number of wounds sustained by the victim did not match the number of blows delivered to Segundo as surmised by Rolando. For one, this does not negate the fact that appellants hacked the victim. In any event, Rolando testified that he did not consciously count the number of blows delivered by the victim's assailants. He only surmised that the number of wounds sustained by Segundo is four because he saw Francisco, Rolly, Allan and Jojo each deliver a hacking blow on the victim. The medico-legal officer found a gaping wound on the victim's forehead; his neck was slashed and his head almost got detached from his body; and both his hands were cut when he tried to parry the blows. It is also possible that the victim sustained other injuries but were no longer detected since his body was already in a state of decomposition.

In fine, we find that the trial court and the CA properly found appellants guilty of the crime of murder qualified by treachery. Appellants were thus properly sentenced to suffer the penalty of reclusion perpetua. However, they are not eligible for parole pursuant to Section 3 of Republic Act No. 9346, An Act Prohibiting the Imposition of Death Penalty in the Philippines.

The RTC and the CA properly awarded the heirs of the victim civil indemnity in the amount of P75,000.00 and moral damages in the amount of P75,000.00. However, the award of exemplary damages is increased to P30,000.00 in line with prevailing jurisprudence. The award of actual damages in the sum of P16,818.50 is deleted and in lieu thereof, temperate damages in the amount of P25,000.00 is awarded. This is pursuant to our ruling in *People v. Villanueva*[23] which states that "when actual damages proven by receipts during the trial amount to less than P25,000.00, as in this case, the award of temperate damages of P25,000.00 is justified in lieu of actual damages of a lesser amount." Finally, all damages awarded shall earn interest at the rate of 6% per annum from date of finality of this judgment until full payment.

WHEREFORE, the assailed November 17, 2011 Decision of the Court of Appeals in CA-G.R. CR HC No. 04267 finding appellants, Allan Britanico and Jojo Britanico, guilty of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua, is **AFFIRMED** with **MODIFICATIONS** that appellants are not eligible for parole; the award of actual damages is deleted and, in lieu thereof, temperate damages in the amount of P25,000.00 is awarded; the award of exemplary damages is increased to P30,000.00; and all damages awarded shall earn interest at the rate of 6% per annum from date of finality of this judgment until fully paid.

SO ORDERED.

Carpio (Chairperson), Perez,[*] Mendoza, and Reyes,**] JJ., concur.

[*] Per Special Order No. 2067 dated June 22, 2015.

[**] Per Special Order No. 2056-C dated June 10, 2015.

[1] Records, p. 16.

[2] Id. at 9.

[3] Id. at 26.

[4] Id. at 33, dorsal portion.

[5] Id. at 34.

[6] Id. at 39-40.

[7] Id. at 58; penned by Judge Pedro R. Soriao.

[8] Id. at 49.

[9] Id. at 57, 59.

[10] Id. at 66.

[11] Id. at 98, dorsal portion.

[12] Id. at 99.

[13] Id. at 105, 109.

[14] Id. at 147.

[15] Id. at 442-443.

[16] Id. at 446.

[17] Id. at 474-494; penned by Judge Angeles S. Vasquez.

[18] Id. at 494.

[19] CA rollo, pp. 76-95.

[20] Id. at 155-177; penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Hakim S. Abdulwahid and Marlene Gonzales-Sison.

[21] Rollo, pp. 30-31.

[22] Id. at 48-53.

[23] 456 Phil. 14, 29 (2003).

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