GUILLERMO WACOY Y BITOL, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 213792. June 22, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in these consolidated petitions for review on certiorari[1] are the Decision[2] dated December 6, 2013 and the Resolution[3] dated July 21, 2014 of the Court of Appeals (CA) in CA-G.R. CR No. 34078, which, inter alia, found petitioners Guillermo Wacoy y Bitol (Wacoy) and James Quibac y Rafael (Quibac) guilty beyond reasonable doubt of the crime of Homicide.

The Facts

In an Information dated June 10, 2004, Wacoy and Quibac were charged with the crime of Homicide, defined and penalized under Article 249 of the Revised Penal Code (RPC), before the Regional Trial Court of Benguet, Branch 10 (RTC), as follows:

> That on or about the 11[th] day of April 2004, at Ambongdolan, Municipality of Tublay, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding each other, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, maul and kick the stomach of one ELNER ARO y LARUAN, thereby inflicting upon him blunt traumatic injuries which directly caused his death thereafter.
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> That the offense committed was attended by the aggravating circumstance of superior strength.
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> CONTRARY TO LAW.[4]

According to prosecution witness Edward Benito (Benito), at around 3 o'clock in the afternoon of April 11, 2004, he was eating corn at a sari-sari store located at Bungis Ambongdolan, Tublay, Benguet, when he heard a commotion at a nearby establishment. Upon checking what the ruckus was all about, he saw his cousin, Elner Aro (Aro), already sprawled on the ground. While in that position, he saw Wacoy kick Aro's stomach twice, after which, Wacoy picked up a rock to throw at Aro but was restrained from doing so. As Aro stood up, Quibac punched him on the stomach, causing him to collapse and cry in pain. Thereafter, Aro was taken to the hospital.[5]

At the hospital, Aro was diagnosed to be suffering from "blunt abdominal trauma with injury to the jejunum" and was set for operation. It was then discovered that he sustained a perforation on his ileum, i.e., the point where the small and large intestines meet, that caused intestinal bleeding, and that his entire abdominal peritoneum was filled with air and fluid contents from the bile. However, Aro suffered cardiac arrest during the operation, and while he was revived through cardiopulmonary resuscitation, he lapsed into a coma after the operation.[6] Due to financial constraints, Aro was taken out of the hospital against the doctor's orders and eventually, died the next day. While Aro's death certificate indicated that the cause of his death was "cardiopulmonary arrest antecedent to

a perforated ileum and generalized peritonitis secondary to mauling," an autopsy performed on his remains revealed that the cause of his death was "rupture of the aorta secondary to blunt traumatic injuries."[7]

In their defense, herein petitioners, Wacoy and Quibac, denied the charge against them. They averred that while playing pool, they saw Aro drunk and lying down. Suddenly, Aro became unruly and kicked the leg of the pool table, causing Wacoy to shout and pick up a stone to throw at Aro but Quibac pacified him. They also claimed that Aro almost hit Wacoy with a 2x3 piece of wood if not for Quibac's intervention. Wacoy ran but Aro chased him and then tripped and fell to the ground. Quiniquin Carias (Kinikin), Aro's companion, followed Wacoy to the waiting shed nearby, cornered and kicked the latter, and the two engaged in a fist fight. Quibac came over to pacify the two and told Wacoy to go home.[8]

The RTC Ruling

In a Judgment[9] dated February 28, 2011, the RTC found Wacoy and Quibac guilty beyond reasonable doubt of the crime of Death Caused in a Tumultuous Affray under Article 251 of the RPC and, accordingly, sentenced them to suffer the penalty of imprisonment for an indeterminate period of six (6) months and one (1) day of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum, and ordered them to pay Aro's heirs the amounts of P25,000.00 as temperate damages, P50,000.00 as civil indemnity ex delicto, and P50,000.00 as moral damages.[10]

The RTC found that Benito's testimony on the mauling incident does not firmly establish that Wacoy and Quibac conspired in the killing of Aro, and that the medical reports were neither categorical in stating that the injuries Aro sustained from the mauling directly contributed to his death.[11] In this relation, it opined that "[a]s conspiracy was not proven and the prosecution has failed to show the extent and effect of injury [that Wacoy and Quibac] personally inflicted on [Aro] that led to his death x x x," Wacoy and Quibac should be held criminally liable for the crime of Death Caused in a Tumultuous Affray and not for Homicide.[12]

Aggrieved, Wacoy and Quibac appealed to the CA.[13]

The CA Ruling

In a Decision[14] dated December 6, 2013, the CA modified Wacoy and Quibac's conviction to that of Homicide under Article 249 of the RPC with the mitigating circumstance of lack of intent to commit so grave a wrong, and accordingly adjusted their prison term to an indeterminate period of six (6) years and one (1) day of prision mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum. Further, the CA also imposed a legal interest of six percent (6%) per annum on the damages awarded by the RTC pursuant to prevailing jurisprudence.[15]

In so ruling, the CA gave credence to Benito's simple, direct, and straightforward testimony. In this relation, it observed that the mere fact that Benito is Aro's cousin should not militate against his credibility since there was no proof that his testimony was driven by any ill motive.[16] However, contrary to the RTC's findings, the CA ruled that Wacoy and Quibac should not be convicted of the crime of Death Caused in a Tumultuous Affray since there were only (2) persons who inflicted harm on the victim, and that there was no tumultuous affray involving several persons. Instead, they were convicted of the crime of Homicide, with the mitigating circumstance of lack of intent to commit so grave a wrong appreciated as it was shown that the purpose of their assault on Aro was only to maltreat or inflict physical harm on him.[17]

Aggrieved, Wacoy and Quibac separately moved for reconsideration.[18] In a Resolution[19] dated July 21, 2014, the CA denied Quibac's motions for reconsideration;[20] hence, the instant petitions.

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The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly found Wacoy and Quibac guilty beyond reasonable doubt of the crime of Homicide.

The Court's Ruling

The petition is without merit.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers upon the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.[21]

Proceeding from the foregoing, the Court agrees with the CA's ruling modifying Wacoy and Quibac's conviction from Death Caused in a Tumultuous Affray to that of Homicide, as will be explained hereunder.

Article 251 of the RPC defines and penalizes the crime of Death Caused in a Tumultuous Affray as follows:

> Art. 251. Death caused in a tumultuous affray. - When, while several persons, not composing groups organized for the common purpose of assaulting and attacking each other reciprocally, quarrel and assault each other in a confused and tumultuous manner, and in the course of the affray someone is killed, and it cannot be ascertained who actually killed the deceased, but the person or persons who inflicted serious physical injuries can be identified, such person or persons shall be punished by prision mayor.
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> If it cannot be determined who inflicted the serious physical injuries on the deceased, the penalty of prision correccional in its medium and maximum periods shall be imposed upon all those who shall have used violence upon the person of the victim.

The elements of Death Caused in a Tumultuous Affray are as follows: (a) that there be several persons; (b) that they did not compose groups organized for the common purpose of assaulting and attacking each other reciprocally; (c) that these several persons quarrelled and assaulted one another in a confused and tumultuous manner; (d) that someone was killed in the course of the affray; (e) that it cannot be ascertained who actually killed the deceased; and (f) that the person or persons who inflicted serious physical injuries or who used violence can be identified.[22] Based on case law, a tumultuous affray takes place when a quarrel occurs between several persons and they engage in a confused and tumultuous affray, in the course of which some person is killed or wounded and the author thereof cannot be ascertained.[23]

On the other hand, the crime of Homicide is defined and penalized under Article 249 of the RPC, which reads:

> Art. 249. Homicide. - Any person who, not falling within the provisions of Article 246, shall kill another, without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

The elements of Homicide are the following: (a) a person was killed; (b) the accused killed him without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of Murder, or by that of Parricide or Infanticide.[24]

In the instant case, there was no tumultuous affray between groups of persons in the course of which Aro died. On the contrary, the evidence clearly established that there were only two (2) persons, Wacoy and Quibac, who picked on one defenseless individual, Aro, and attacked him repeatedly, taking turns in inflicting punches and kicks on the poor victim. There was no confusion and tumultuous quarrel or affray, nor was there a reciprocal

aggression in that fateful incident.[25] Since Wacoy and Quibac were even identified as the ones who assaulted Aro, the latter's death cannot be said to have been caused in a tumultuous affray.[26] Therefore, the CA correctly held that Wacoy and Quibac's act of mauling Aro was the proximate cause[27] of the latter's death; and as such, they must be held criminally liable therefor, specifically for the crime of Homicide.

On this note, the Court does not find merit in Wacoy's contention that in view of their intent only to inflict slight physical injuries on Aro, they should only be meted the corresponding penalty therefor in its maximum period,[28] pursuant to Article 49 of the RPC. The said provision reads:

> Art. 49. Penalty to be imposed upon the principals when the crime committed is different from that intended. - In cases in which the felony committed is different from that which the offender intended to commit, the following rules shall be observed.
>
> 1. If the penalty prescribed for the felony committed be higher than that corresponding to the offense which the accused intended to commit, the penalty corresponding to the latter shall be imposed in its maximum period.
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> 2. If the penalty prescribed for the felony committed be lower than that corresponding to the one which the accused intended to commit, the penalty for the former shall be imposed in its maximum period.
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> 3. The rule established by the next preceding paragraph shall not be applicable if the acts committed by the guilty person shall also constitute an attempt or frustration of another crime, if the law prescribes a higher penalty for either of the latter offenses, in which case the penalty provided for the attempt or the frustrated crime shall be imposed in the maximum period.

Jurisprudence instructs that such provision should only apply where the crime committed is different from that intended and where the felony committed befalls a different person (error in personae); and not to cases where more serious consequences not intended by the offender result from his felonious act (praeter intentionem),[29] as in this case. It is well-settled that if the victim dies because of a deliberate act of the malefactors, intent to kill is conclusively presumed.[30] In such case, even if there is no intent to kill, the crime is Homicide because with respect to crimes of personal violence, the penal law looks particularly to the material results following the unlawful act and holds the aggressor responsible for all the consequences thereof.[31]

Be that as it may, the penalty for the crime of Homicide must be imposed in its minimum period due to the presence of the mitigating circumstance of lack of intention to commit so grave a wrong under Article 13 (3) of the RPC in favor of Wacoy and Quibac, as correctly appreciated by the CA. In determining the presence of this circumstance, it must be considered that since intention is a mental process and is an internal state of mind, the accused's intention must be judged by his conduct and external overt acts.[32] In this case, the aforesaid mitigating circumstance is available to Wacoy and Quibac, given the absence of evidence showing that, apart from kicking and punching Aro on the stomach, something else had been done; thus, evincing the purpose of merely maltreating or inflicting physical harm, and not to end the life of Aro.

Anent the proper penalty to be imposed on Wacoy and Quibac, the CA correctly imposed the penalty of imprisonment for an indeterminate period of six (6) years and one (1) day of prision mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum, taking into consideration the provisions of the Indeterminate Sentence Law.

Finally, the awards of civil indemnity and moral damages in the original amount of P50,000.00 each are increased to P75,000.00 each in order to conform with prevailing jurisprudence.[33] All other awards, as well as the imposition of interest at the rate of six percent (6%) per annum on all the monetary awards from the date of finality of judgment until the same are fully paid, are retained.

WHEREFORE, the petition is DENIED. The Decision dated December 6, 2013 and the Resolution dated July 21, 2014 of the Court of Appeals in CA-G.R. CR No. 34078 are hereby AFFIRMED with MODIFICATION. Accordingly, petitioners Guillermo Wacoy y Bitol and James Quibac y Rafael are found GUILTY beyond reasonable doubt of the crime of Homicide defined and penalized under Article 249 of the Revised Penal Code with the mitigating circumstance of lack of intent to commit so grave a wrong under Article 13 (3) of the same Code. They are sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) years and one (1) day of prision mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum, and ordered to pay the heirs of Elner Aro the amounts of P25,000.00 as temperate damages, P75,000.00 as civil indemnity ex delicto, and P75,000.00 as moral damages, all with interest at the rate of six percent (6%) per annum from the finality of this Decision until fully paid.

SO ORDERED.

Sereno, C. J. (Chairperson), Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

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[1] Rollo (G.R. No. 213792), pp. 5-13; rollo (G.R. No. 213886), pp. 4-19.

[2] Rollo (G.R. No. 213792), pp. 16-30; rollo (G.R. No. 213886), pp. 23-37. Penned by Associate Justice Melchor Q.C. Sadang with Associate Justices Celia C. Librea-Leagogo and Franchito N. Diamante concurring.

[3] Rollo (G.R. No. 213792), pp. 37-38.

[4] Rollo (G.R. No. 213792), pp. 17 and 39; rollo (G.R. No. 213886), p. 24.

[5] See Rollo (G.R. No. 213792), p. 18: and rollo (G.R. No. 213886), p. 25.

[6] Rollo (G.R. No. 213792), pp. 18-19: rollo (G.R. No. 213886). pp. 25-26.

[7] Rollo (G.R. No. 213792), p. 19; rollo (G.R. No. 213886), p. 26.

[8] Rollo (G.R. No. 213792), pp. 19-20; rollo (G.R. No. 213886), pp. 26-27.

[9] Rollo, (G.R. No. 213792), pp. 39-45. Penned by Presidina Judae Edgardo B Diaz De Rivera Jr.

[10] Id. at 45.

[11] See id. at 42-44.

[12] See id. at 44.

[13] Not attached to the rollos.

[14] Rollo (G.R. No. 213792), pp. 16-30: rollo (G.R. No. 213886), pp. 23-37.

[15] See rollo (G.R. No. 213792), pp. 29-30; and rollo (G.R. No. 213886), pp. 36-37.

[16] See rollo (G.R. No. 213792), pp. 23-26; and rollo (G.R. No. 213886), pp. 30-33.

[17] See rollo (G.R. No. 213792), pp. 26-29; and rollo (G.R. No. 213886), pp. 33-36.

[18] See Wacoy's motion for reconsideration dated January 6, 2014; rollo (G.R. No. 213792), pp. 31-35. Meanwhile, Quibac filed a motion for reconsideration dated January 3, 2014 and another motion for reconsideration (with Notice of Entry of Appearance for the Accused-Appellant) dated January 20, 2014 (both not attached to the rollo): see rollo (G.R. No. 213792), p. 37.

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[19] Rollo (G.R. No. 213792), pp. 37-38.

[20] The rollo does not contain any attachment that resolves Wacoy's motion for reconsideration.

[21] People v. Arguta, G.R. No. 213216, April 22, 2015, citing Luz v. People, G.R. No. 197788, February 29, 2012, 667 SCRA 421, 428 and Eusebio-Calderon v. People, 484 Phil. 87, 98 (2004).

[22] People v. Julianda, Jr., 422 Phil. 28, 51 (2001).

[23] Sison v. People, 320 Phil. 112, 134 (1995), citing United Stales v. Tandoc, 40 Phil. 954, 957 (1920).

[24] Villanueva v. Caparas, G.R. No. 190969, January 30, 2013, 689 SCRA 679, 686.

[25] See Sison v. People, supra note 23.

[26] See People v. Dalabajan, 345 Phil. 944, 961 (1997).

[27] "Proximate cause is defined as 'that cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred.'" (People v. Villacorta, 672 Phil. 712, 722 (201 1), citing Calimutan v. People, 517 Phil. 272, 284 [2006].)

[28] See Wacoy's Petition; rollo (G.R. No. 213792), pp. 9-11.

[29] See People v. Tomotorgo, 220 Phil. 617, 623 (1985); citations omitted.

[30] Yapyuco v. Sandiganbayan, G.R. Nos. 120744-46, 122677, and 122676, June 25, 2012, 674 SCRA 420, 461, citing People v. Delim, 444 Phil. 430, 450 (2003).

[31] Id., citing United States v. Gloria, 3 Phil. 333, 335 (1904).

[32] See People v. Regato, 212 Phil. 268, 274 (1984).

[33] See People v. Villalba, G.R. No. 207629, October 22, 2014.

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