THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGORIO ARANJA Y ARAÑA AND MAGDALENA ARANJA Y RAMIREZ, ACCUSED-APPELLANTS.

G.R. No. 56268. October 13, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

The spouses Gregorio and Magdalena Aranja were both convicted of murder and sentenced to life imprisonment.[1] They questioned the judgment before this Court, but Magdalena later withdrew her appeal and the case was considered "closed and terminated" as to her.[2] This decision deals only with Gregorio, who continues to protest his innocence and insists he had nothing to do with the killing of Joseph Tan.

The Aranjas and the Tans were neighbors, but they apparently did not believe in the Biblical injunction to love one another. In fact, there was bad blood between the two families. Earlier, Joseph Tan's wife, Adelaida, had filed an action in court against Magdalena Aranja for allegedly hacking her.[3] On another occasion, according to a witness, Joseph Tan had himself assaulted Raul Nuñez, a nephew of the Aranjas with whom he was living. Another witness testified that he overheard Gregorio Aranja say on that very night Joseph Tan was killed: "Kung galit ka sa tao, huwag nang maraming daldal. Patayin na."[4] Shortly thereafter, the scuffle ensued that was to lead to Tan's death.

That encounter occurred at about nine o'clock in the evening of July 2, 1978, at Tomas Mapua street in Sta. Cruz, Manila. Joseph Tan and his friend, Lucilo Amora, were on their way to the compound where the Aranjas were also living when without provocation Roberto Aranja approached Amora and boxed him in the eye, causing him to fall. Roberto and his father, for their part, pinioned Tan's arms, and Magdalena, who was standing nearby, shouted, "Saksakin mo na, Raul!" Nuñez then stabbed Tan in the stomach with a bolo, and a fifth companion, Prado Azurpado, hit Tan in the head with a piece of wood.[5] Roberto, Raul and Prado fled after inflicting more injuries on Tan, leaving their victim helpless and bleeding on the ground. The spouses Aranja remained in their house, where they were subsequently arrested.

The incident created a great deal of commotion in the compound. Adelaida added to the general confusion with her agitated cries for help when she saw her husband being attacked. Several persons assisted Lucilo Amora in bringing Tan to the Philippine General Hospital, and one of them declared that Tan identified his assailants to him as Nuñez, the Aranja spouses, their son Roberto, and the fifth person named Prado. Tan expired three days later. The autopsy revealed that he had sustained several stab and incised wounds, abrasions and contusions, among many other injuries all over his body.[6]

The principal witness for the prosecution was Lucilo Amora, who testified on the details of the attack on Tan and the individual participation of each of the five assailants.[7] Ricardo Pretal was the witness who overheard Gregorio Aranja's meaningful remark that if one hated somebody, he should kill him without further talk.[8] Bernabe Andres declared that it was to him that Joseph Tan identified his five attackers shortly after they had

ganged up on him.[9] Adelaida Tan described how she shouted for help when she saw her husband being killed and testified on the monetary loss she suffered as a result of his death.[10]

The spouses Aranja denied they had any part in the attack on Tan. While Magdalena admitted that she was at the scene of the crime when it occurred, she maintained she merely saw the incident and did not participate in it in any way.[11] Gregorio's defense was that he was sleeping in his house at the time of the incident and did not learn about it until later.[12] Zenaida, their daughter, supported her parents, adding that her mother even tried to pacify Amora and Roberto Aranja. She saw Tan himself box Nuñez, but at that precise moment she shut her eyes out of fear and when she opened them again Tan was already slumped on the ground. She says she heard him call out the name of Nuñez three times.[13] A fourth witness, Benjamin Garcia, swore he saw Gregorio Aranja peacefully sleeping on the floor of his house at the time the encounter was taking place at the gate of the compound.[14]

After assessing the evidence of the parties, Judge Augusto M. Amores of the Court of First Instance of Manila found the Aranja spouses guilty as charged. The court was satisfied that the prosecution had established the complicity of the two in the concerted attack made by all the five assailants against Joseph Tan. Gregorio's defense of alibi was rejected as against the direct testimony that he and his son Roberto held Joseph's arms as Nuñez stabbed him with a bolo. Magdalena's sharp command, "Saksakin mo na, Raul!" revealed all too clearly her own involvement in the conspiracy.

As the trial court saw it, there was a sufficient showing that the five assailants, including the Aranja spouses, had acted in concert in carrying out the aggression against Tan, with each of them performing a specific task. The motive was also there: the hatred of the Aranjas for the Tans because of their previous hostile encounters as earlier related.

The Court agrees with Judge Amores. The rule is that the factual findings of the trial judge are entitled to great respect and should not be disturbed on appeal in the absence of a clear showing that they were arrived at without any substantial basis.[15] We see no reason at all for not applying this rule in the case at bar.

The defense complains that in the original and later the amended informations against the Aranja spouses, the other alleged conspirators were not included or even named although their identities and addresses were known. While such omission may indicate partiality or at least a lack of diligence on the part of the prosecution, such a failing cannot affect the criminal responsibility of the accused-appellants themselves, who were being prosecuted for their own individual parts in the killing of Joseph Tan. Surely, it cannot be seriously argued that because the other attackers have not been indicted (possibly because they are at large), the Aranja spouses should themselves not have been charged at all.

As for their alleged irregular ex parte investi-gation, what the defense should have done was to ask for a re-investigation before the trial of the case.

We have held time and again that minor inconsis-tencies and contradictions in the testimony of the witness do not necessarily impair his credibility as long as his testimony is believable as a whole.[16] This is especially true when the incident in question is attended with such commotion as is likely to cause not a little confusion among the persons at the scene whose recollection of the incident cannot be expected to be perfect in every single detail. So it was in the case before us.

On the question of conspiracy, this Court also agrees that the Aranja spouses acted in concert with the other assailants in committing the aggression against Tan, as shown by Gregorio's act in pinioning Tan while Nuñez stabbed him upon the direct command of Magdalena. The common involvement of the five as revealed by Tan to Bernabe Andres was, if not a dying declaration, validly admitted as part of the res gestae, and is further proof of

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the conspiracy.

We note with gratification the de oficio counsel's spirited defense of the accused-appellants that speaks well, indeed, of their conscientiousness and sense of duty. The fact that the Court cannot agree with their submissions does not detract from the commendation they deserve for having acted, without expectation of monetary reward, in the highest interests of their indigent client. These worthy members of the bar are Attys. Enrico R. Castro, Jose P. Villamor, Jr. and Simeon M. Magdamit.

The crime committed was murder, qualified by treachery. The assailants insured the commission of the offense without risk to themselves because two of them held Tan's arms and rendered him defenseless as another stabbed him with a bolo and a fourth person hit him in the head with a piece of wood. The applicable penalty, there being no generic aggravating or mitigating circumstances, is reclusion perpetua, together with all accessory penalties. The monetary awards of the trial court are also correct except for the civil indemnity, which is increased from P12,000.00 to P30,000.00.

WHEREFORE, the appealed judgment is AFFIRMED as above modified, with costs against the accused-appellant. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

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[1] Decision penned by Judge Augusto M. Amores, Court of First Instance of Manila (now Regional Trial Court), Branch XXIV. The penalty included the payment of the sum of P12,000.00 for the death of the victim, the sum of P72,000.00 for the loss of earnings, the sum of P6,000.00 for moral damages and the sum of P967.20 for hospital expenses.

[2] Resolution dated March 2, 1988; Entry of Judgment of even date.

[3] Decision, p. 4.

[4] Ibid., p. 3.

[5] Id., p. 2.

[6] Exhibit "G."

[7] TSN, October 23, 1978, pp. 7, 12, 15-17; TSN, November 14, 1978, pp. 4-9.

[8] TSN, January 15, 1979, p. 46.

[9] TSN, January 30, 1979, p. 6.

[10] TSN, April 2, 1979, pp. 3-5.

[11] TSN, August 27, 1979, pp. 22-24; TSN, December 11, 1979, pp. 10-17.

[12] TSN, February 4, 1980, pp. 6-8.

[13] TSN, January 7, 1980, p. 14.

[14] TSN, May 19, 1980, p. 5.

[15] People vs. Alvarez y Soriano, 163 SCRA 745; People vs. Salcedo, 151 SCRA 220; People vs. Ligon, 152 SCRA 419; People vs. Berame, 72 SCRA 184; People vs. Velasco, 73 SCRA 574.

[16] People vs. De las Piñas, 141 SCRA 379; People vs. Dava, 149 SCRA 582; People vs. Datahan, 157 SCRA

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215; People vs. Salufrania, 159 SCRA 401; People vs. Cabato, 160 SCRA 98.

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