

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO NAVOA, RAFAEL NAVOA, RICARDO SITCHON, MACARIO SAGUINZA, JOHN DOE AND PETER DOE, DEFENDANTS-APPELLANTS.

G.R. No. 67966. September 28, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

In this Motion for Reconsideration of the Decision of this Court promulgated on July 31, 1984, which affirmed the judgment of conviction upon defendants-appellants Mario Navoa, Rafael Navoa, and Ricardo Sitchon and sentenced them to suffer reclusion perpetua, and to indemnify, jointly and solidarily, the heirs of the victim, Tomas Izon, in the amount of P30,000.00, the two assigned errors are that "the basic finding of the Intermediate Appellate Court that the appellants shot and killed the late Tomas Izon is not supported by the evidence on record," and "that defendant-appellant Mario Navoa's death on June 14, 1984 properly manifested before the Intermediate Appellate Court on June 20, 1984, had not been accorded proper legal consideration in the Decision."

The first contention is untenable. The Appellate Court's conclusion that the testimony of Macario Saguinza, a co-accused turned State witness, is substantially correct was based on a careful and judicious review of the entire record, specifically based on Exhibits "F", "G", "H" and the testimonies during the hearing of June 9, 1977. The same is true with the Appellate Court's conclusion that the minor inconsistencies in the testimony of witness Baltazar de la Rosa strengthened rather than weakened his credibility.[1] Even assuming that the testimony of de la Rosa is without probative value, still, the un rebutted testimony of Saguinza is more than sufficient to sustain a conviction as it established not only conspiracy, treachery, and evident premeditation, but even the very motive of defendants-appellants in perpetrating the crime.

In respect of the second contention, it appears that the accused, Mario Navoa, died on June 14, 1984 due to a cerebro-vascular attack as shown by the Death Certificate attached to the Motion for Reconsideration. When counsel for the accused manifested that fact before the Appellate Court on June 20, 1984, he was unaware that the latter had already certified the case to this Court, which, in turn, promulgated its Decision on July 31, 1984 unaware of appellant Mario Navoa's death. The judgment of conviction will thus have to be set aside as against him. However, the plea for extinguishment of the deceased's civil and criminal liability is without merit. Only his criminal liability is extinguished by his death but the civil liability remains.[2]

ACCORDINGLY, 1) the prayer for the acquittal of the two remaining accused is hereby denied; 2) the dispositive portion of the Decision of this Court promulgated on July 31, 1984, is hereby modified to read as follows:

"WHEREFORE, we affirm the judgment of conviction imposed upon Rafael Navoa and Ricardo Sitchon and sentence then to suffer reclusion perpetua. And since the guilt of Mario Navoa has been established beyond reasonable doubt, his death during the pendency of this appeal extinguishes only his criminal liability but not his civil liability, so that, his estate and the accused Rafael Navoa and Ricardo Sitchon are hereby sentenced to

indemnify, jointly and severally, the heirs of the victim, Tomas Izon, in the amount of P30,000.00. With proportionate costs.

"SO ORDERED."

SO ORDERED.

Teehankee (Chairman), Plana, Relova, Gutierrez, Jr., and De la Fuente, JJ., concur.

[1] T.s.n., pp. 6-7, December 28, 1976; T.s.n., pp. 13-14, December 18, 1976.

[2] People vs. Sendaydiego, et al., 81 SCRA 120 (1978); People vs. Tirol, et al., 102 SCRA 558 (1981).

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