

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELANITO QUIJANO, EDWIN LAYOG, DANILO LAPINID AND EDGAR GONZALES, ACCUSED-APPELLANTS.

G.R. No. 84361. May 31, 1991

Ponente: PARAS, J.

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PARAS, J.:

Accused-appellants Elanito Quijano, Danilo Lapinid, Edgar Gonzales and Edwin Layog appeal from the decision of the Regional Trial Court, Branch 16 at Cebu City finding them guilty beyond reasonable doubt as co-principals of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua.

The information indicting them for murder states:

"That on the 16th day of September 1986 at about 11:00 o'clock in the evening at Sitio Tal-ot, Barangay Valencia, Municipality of Carcar, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with deadly weapons, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab, with intent to kill, one Abundio Baring on the different parts of his body, thereby causing his instantaneous death; thereafter, the above-named accused cut off the victim's head and take and carry away the head with them."

The facts, as culled by the Solicitor General from both the documentary and testimonial evidence, are not to be disputed. Thus:

"At about 11:00 o'clock in the evening of September 16, 1986, at Tal-ot, Valencia, Carcar, Cebu, Abundio Baring and his wife Quintina Baring were awakened by Elanito Quijano's call, asking for water. Responding to said call of his nephew, Abundio Baring stood up to get water. Quintina Baring likewise, stood up and followed her husband. Meanwhile, Elanito Quijano and his three other companions namely, Edwin Layog, Edgar Gonzales and Danilo Lapinid had all gone upstairs (t.s.n., Quintina Vda. de Baring, May 26, 1987, p. 7). Armed with a knife, Edgar Gonzales suddenly stabbed Abundio Baring, even before the latter could hand a glass to Elanito Quijano. On the other hand seeing her husband in a helpless situation, Quintina Baring started shouting for help. However, she was immediately led by Danilo Lapinid to her room and told her not to shout as many of the assailants' companions are downstairs (t.s.n., Quintina Baring, May 26, 1987, p. 4). Held by Edwin Layog and Elanito Quijano, Abundio Baring continued to receive multiple stabs from Edgar Gonzales. Thus, causing his instantaneous death. Wanting more than what happened, Edgar Gonzales, in the presence of Quijano, Layog and Lapinid cut off Abundio Baring's head. They then placed the said head inside a sack and left for Mandaue.

"At about 3:30 o'clock in the morning of September 17, 1986, Elanito Quijano, Danilo Lapinid, Edgar Gonzales and Edwin Layog, all riding in a tricycle, were intercepted along the highway in Mandaue City by Pat. Joseph Togonon. Upon inspection of the plastic bag which the four were carrying, the latter found Abundio Baring's head inside (t.s.n., Pat. Joseph Togonon, June 9, 1987, p. 3).

"Meanwhile, in Carcar, Cebu at about 7:00 o'clock in the evening at the same day, Platon Quijano reported to the police that his nephew Abundio Baring was killed in Tal-ot, Valencia. Patrolman Jonas Pananganan who was sent to verify this report found the headless body of Abundio Baring sprawled on the floor of his house (t.s.n., Pat. Jonas Pananganan, June 30, 1987, p. 3). Pictures thereof were taken at the scene of the crime (Exhs. "B" and "C"). On the other hand, Municipal Health Officer Dr. Linda Perez Rodiz examined the cadaver and submitted her medical report finding 13 stab wounds sustained by the victim (Exhs. 'E' and 'E-1', Records, pp. 21-22).

"On the other hand, Quijano, Lapinid, Gonzales and Layog were turned over to Carcar Police Station where they were formally investigated. In separate sworn affidavits, both Edwin Layog and Danilo Lapinid confessed their guilt and participation in the crime. Edwin Layog's was executed on September 22, 1986 with the assistance of Atty. Flavio Vargas (Exh. 'D', p. 15, Records) while, Danilo Lapinid's was executed on September 24, 1986 with the assistance of Atty. Avelino Escubido (Exh. 'F', p. 26, Records)."

Accused-appellants fault the trial court for having committed these alleged errors:

1. The lower court erred in giving credence to the testimony of Quintana Vda. de Baring.
2. The lower court erred in giving credence to the testimony of Pat. Joseph Togonon.
3. The lower court erred in giving credence to the testimonies of Pat. Jonas Pananganan and NBI Agent Benjamin Romero.
4. The lower court erred in giving any weight to the extrajudicial confessions of Edwin Layag and Danilo Lapinid.
5. The lower court erred in finding that there was conspiracy among the accused.
6. The lower court erred in disregarding the testimonies of the accused.
7. The lower court erred in convicting the accused.

The evidence for the defense, as presented by the appellants reads as follows:

"In the morning of September 16, 1986, Gonzales, a worker in a rattan factory in Mandaue City, was fired from his job (TSN, Aug. 17, 1987, p. 4). From his place of work, he went to a restaurant in Lo-ok, Mandaue City, where he accidentally met a friend, Lapinid, taking a snack (TSN, Sept. 14, 1987, p. 3; Aug. 17, 1987, p. 4). Lapinid was a jeepney conductor and had taken time-off from his job to take the snack (TSN, Sept. 14, 1987, p. 3). Seeing that Gonzales was sad, Lapinid asked him the reason, and Gonzales informed Lapinid that he had just been fired (TSN, Sept. 14, 1987, p. 3).

"To cheer up Gonzales, Lapinid invited his friend to a dance to be held in the evening of September 16, 1986 in Perilos, Carcar, Cebu, in connection with the town fiesta (TSN, Sept. 14, 1987, p. 3). Gonzales accepted the invitation. It can be presumed that after the snack, Lapinid went back to his work as a jeepney conductor there being no evidence to the contrary.

"In the meantime, on the same date of September 16, 1986, at about 10:00 o'clock in the morning, also in Mandaue City, Layog was selling cigarettes in the streets (TSN, Sept. 15, 1987, p. 2). At about 12:30 in the afternoon of the same date, a certain Elmer Sompapo (TSN, Sept. 15, 1987, p. 3), a friend of Layog, requested him to look for a buyer for a 60 watt speaker (TSN, Sept. 15, 1987, p. 3). Layog had in mind as a buyer Quijano, who, on a previous occasion, had expressed interest in acquiring a speaker (TSN, Sept. 15, 1987, p. 3). Since Quijano lived in Carcar, Layog went to Quijano's house and arrived there at about 2:30 in the afternoon (TSN, Sept. 15, 1987, p. 3). Quijano asked Layog to wait for his father as he had no money of his own to buy the speaker (TSN, Sept. 15, 1987, p. 3). Quijano's father not having arrived by 5:00 o'clock that afternoon, Layog wanted to leave Quijano's house, but was prevailed upon to wait for the father to arrive

(TSN, Sept. 15, 1987, p. 3). To induce Layog to stay, Quijano invited him to the dance and Layog agreed to attend the affair (TSN, Sept. 15, 1987, p. 3).

"Gonzales and Lapinid left Mandaue City at 7:00 in the evening for the dance and arrived in Perilos, Carcar, at 7:30 (TSN, Sept. 14, 1987, p. 3). At the dance hall, they met Quijano and Layog (TSN, Sept. 14, 1987, p. 3). Lapinid then introduced Gonzales to Quijano and Layog (TSN, Sept. 14, 1987, p. 3; Sept. 15, 1987, p. 4).

"After the introduction, Lapinid remained in the dance hall to dance (TSN, Sept. 14, 1987, p. 4; Sept. 15, 1987, p.4) while Quijano, Layog and Gonzales started to drink White Castle and beer in a nearby store (TSN, Sept. 14, 1987, p. 11; Sept. 15, 1987, p. 4; Sept. 22, 1987, p. 3). In the dance hall, Lapinid met a young lady whom he started to court (TSN, Sept. 14, 1987, p. 4). In the meantime, in the nearby store, Gonzales told Quijano and Layog about his problem and asked Layog why he was in Carcar to which query Layog replied that he was there to sell a speaker (TSN, Sept. 15, 1987, p.4).

"Not long after, Lapinid came out of the dance hall with the young girl whom he came to know as Inday (TSN, Sept. 14, 1987, p. 4) and introduced her to his companions as his 'girlfriend' (TSN, Sept. 15, 1987, p. 5). After that, at the request of Lapinid, the four accused accompanied Inday and her lady chaperon to her home in Tal-ot, Valencia, Carcar (TSN, Sept. 14, 1987, p. 4). The group arrived at Inday's house at about 10:30 in the evening by taking a tricycle (TSN, Sept. 14, 1987, p. 4; Sept. 15, 1987, p. 4) but, at the suggestion of the young lady, none of the accused went inside the house (TSN, Sept. 14, 1987, p. 5; Sept. 15, 1987, p. 5) after getting off the tricycle.

"From Inday's house, the four companions started to walk. After walking a distance, Gonzales became thirsty and alone went up the stairs of a house to ask for water (TSN, Aug. 17, 1987, p. 6). The house turned out to be that of the victim Abundio Baring. The victim, armed with a bolo, gave Gonzales an empty glass (TSN, Aug. 17, 1987, p. 6; p. 16). Because Gonzales was drunk and because he 'suspected that he had some evil motive towards me' Gonzales stabbed the victim several times without the knowledge of his companions (TSN, Aug. 17, 1987, p. 6). It was only after the stabbing that Layog and Lapinid went inside the house (TSN, Aug. 17, 1987, p. 7). Layog and Lapinid were so 'speechless with fear' that they failed to prevent Gonzales from cutting off the victim's head (TSN, Aug. 17, 1987, p. 9). The reason for the killing and beheading, according to Gonzales, was that 'I was drunk at the time and I did not know what I was doing. Since I lost my job I was mad so I beheaded him and I thought of bringing his head to Mandaue' (TSN, Aug. 17, 1987, p. 7). When the victim was beheaded by Gonzales, he was already dead because the victim did not cry aloud or in pain. He said nothing and did not grimace (TSN, August 17, 1987, p. 18). Gonzales then secured a sack from inside the house (TSN, Aug. 17, 1987, p. 17) and placed the head inside the sack. The sack was later on placed inside a plastic bag which was found by Gonzales on the roadside (TSN, Aug. 17, 1987, p. 17). From the house, the head was brought by Gonzales and the three other accused, who were acting out of fear of Gonzales (TSN, August 17, 1987 p. 8), to Mandaue City because Gonzales wanted to scare his former employer, Carding, with it (TSN, Aug. 17, 1987, p. 14). It was while the four were on their way to Look, Mandaue City, that they were arrested by Pat. Joseph Togonon who saw the victim's head. The narration of facts in the preceding paragraph is based on the testimony in open court of Gonzales who had earlier voluntarily pleaded guilty."

The imputed errors of the trial court may be consolidated and narrowed down to the questions of credibility of prosecution witnesses, the existence of conspiracy in the commission of the crime and the validity of the extrajudicial confessions of appellants Layog and Lapinid.

The prosecution has competently and sufficiently established the fact of the killing of Abundio Baring. His wife Quintina painfully and fearfully witnessed the commission of the crime and identified the accused and the particular role each of them performed.

Very explicitly, the victim's widow thus testified:

Q.

Who stabbed your husband?

A.

Edgar Gonzales

Q.

When Edgar Gonzales stabbed your husband what did Edgar Gonzales' companions do?

A.

They held my husband.

Q.

Did you see Edgar Gonzales when he allegedly stabbed your husband?

A.

Yes, sir.

Q.

When you said that the companions of Edgar Gonzales allegedly held your husband, did you also see the act?

A.

Yes, sir.

.....

Q.

How about this other companion of Elanito Quijano, this Danilo Lapinid, what did he do there?

A.

He went inside the room and warned me not to shout because there are many of them downstairs.

COURT:

At what instance did this Danilo Lapinid allegedly bring you to your room, was it before your husband was stabbed or after he was stabbed.

A.

After my husband was stabbed.

COURT:

Let's clarify. Now, you mentioned earlier that the companions of Edgar Gonzales held your husband. Now, who of the three companions of Edgar Gonzales held your husband?

A.

The persons who held my husband were Edwin Layag and Elanito Quijano. (TSN, of May 26, 1987)

On this score, this Court considers the finding of the trial judge very credible when he declared thus:

"In this connection, after a thorough evaluation of the evidence on record, the Court finds that the defense has not successfully avoided the probative force of the People's evidence. Complainant Quintina Vda. de Baring was present when her husband was killed. She therefore knew whereof she spoke. When she categorically declared that the four accused took part in the killing of her husband she had in effect said all that she had to concerning the incident. No reason has been advanced by the defense which would have motivated the complainant to fabricate evidence against the others and implicate them to such a grave offense. It is then highly improbable that a widow who seeks justice for her husband who has been brutally killed would falsely testify against others who had nothing to do with it. Accordingly, the bare self-serving denials proffered by the three accused, uncorroborated by any disinterested witness, cannot prevail over the positive testimony of the complainant and Pat. Togonon to whom the four accused had expressly acknowledged culpability for the crime."

The widow's testimony has been beefed up by the declarations of Pat. Togonon who intercepted the appellants on board a tricycle heading for Mandaue. When confronted by Pat. Togonon, they readily allowed the inspection of the plastic bag containing the victim's head and assumed responsibility for the crime right there and then.

Notably, when appellants were apprehended by Pat. Togonon in the morning of the following day with the head of their victim, they could have already been sober. Obviously, they were intoxicated the evening before since they drank at the dance party and naturally, when they asked for water from the victim, they were thirsty. Thirst is

a normal after-effect of drinking hard liquor. Possibly, after four and one half hours from the time the crime was committed, the accused had already sobered and returned to their normal senses when they admitted having killed the victim. Also, it should be noted that not one of the four appellants objected to or opposed the admission made before Pat. Togonon. Such a demeanor brings out the fact that all of them were aware of their guilt and were disposed to be held liable for their brutal act. Note further that Pat. Togonon was alone when he intercepted the four appellants and yet, they did not resist the inquiry and finally, the arrest. No sane person would impulsively admit having killed a person and would allow himself to be taken in for investigation unless he really did commit the crime.

Appellants' contention that there was no conspiracy and that only accused Edgar Gonzales should be held responsible for the death of the victim is instantly overturned by the following:

First: Appellants Lapinid and Layag themselves admitted in their separate sworn statements taken with the assistance of their respective lawyers that at ten o'clock in the evening of September 16, 1986, while all four of them were in the house of appellant Quijano, they hatched the plan to kill Abundio Baring. Accused Quijano initiated the idea of killing Abundio because he wanted to get back at the latter whom he suspected to have victimized his grandmother through witchcraft. Edgar Gonzales broached the idea of beheading the victim so he could bring the head to threaten Carding, the factory manager, whom he blames for his dismissal from the factory.

Second: In her sworn statement made on September 17, 1986, witness Quintina Baring declared that she personally knew Elanito Quijano. And even as she did not know the others before the killing took place, yet she was able to identify them as the persons who mutually helped one another in killing her husband. The fact remains that she witnessed the gory and brutal slaying of her husband.

Third: As previously planned, the four assailants, still together, took a tricycle and headed for Mandaue with the victim's head secured in a plastic bag. But before they could execute the final phase of their conspired act (that of scaring the factory manager with the victim's head), they were timely intercepted by Pat. Togonon.

Evidently, from the inception (the hatching of the idea of killing Abundio) to the execution of the crime and up to the planned disposal of the effect of said crime, the four accused thought and acted as one, never for a moment deviating from their concerted plan to kill. They planned and decided to murder the victim; implemented such plan and stuck it out until the next morning when they were accosted by the police. From the planning stage up to the disposal of the effect (head) of the crime, appellants stood by one another faithfully. Could there be still a clearer scenario of a conspiracy?

If only to emphasize and reiterate what this Court has in the past declared, these jurisprudence are worth mentioning –

Thus, in the case of *People v. Arhis*, L-48711, 144 SCRA 687, this Court ruled that the findings of the lower court on the existence of a conspiracy should not be disturbed, not only because they are logical, but also because they are based on evidence appearing in the record.

Thus, too, in *People v. Taaca*, L-35652, September 29, 1989, this Court held that a conspiracy in the statutory language exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The objective then on the part of the conspirators is to perform an act or omission punishable by law. What is required is assent to the perpetration of such a misdeed. That must be their intent. There is need for concurrence of wills or unity of action or purpose, or common and joint purpose and design. . . . If there is a chain of circumstances to that effect, conspiracy has been established. If such be the case then, the act of one is the act of all the others involved and each is to be held to the same degree of liability as the others.

And finally, this Court declared in *People v. Asuncion*, 83870, November 14, 1989, that where conspiracy is established, the act of one is the act of all. It is not necessary to ascertain their individual participation in the final liquidation of the victim.

With regard to the much abused claim of appellants that their extrajudicial confessions were legally defective and hence, should not have been admitted and considered by the trial judge, this Court finds this accusation whimsical and obviously a mere refuge for appellants' turnabout. In their attempt to disclaim criminal liability, they now question the integrity of the police authorities and the reputation of the lawyers who stood by them during the investigation. Indubitably established and now a matter of record is the fact that appellant Lapinid was assisted by Atty. Avelino Escobido who even signed the former's sworn declarations. It is likewise a matter of record that before appellant Layog made his extrajudicial confession, he was first asked if he was amenable to the services of Atty. Vargas, to which query he answered affirmatively.

Finally, the alleged use of force and intimidation has not been substantiated by evidence other than the statements of the appellants. As has been pointed out, such allegation is another naive attempt of appellants to back track from their prior voluntary admission of guilt. Evidently, the taking of their extrajudicial confessions was done with regularity and legality.

WHEREFORE, the appealed decision is hereby **AFFIRMED** with the modification that the indemnity to be paid by appellants should be increased to fifty thousand pesos (P50,000.00).

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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