

ROBERTO SITON Y ENSALADA, PETITIONER, VS. HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 94065. December 02, 1991*

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-94065/>**PARAS, J.:**

Can there be a conspiracy in a free-for-all fight? This is the issue we are faced with.

At around 11:00 o'clock in the evening of February 9, 1985, Norberto Notar, a barangay tanod of the place, was outside the Hair Works Beauty Salon located near the corner of A. Francisco and Chromium Streets, Sta. Ana, Manila.[1] Also in the vicinity were accused-appellant Roberto Siton, Joey Calip, nephew of Notar, and Andres Borbon, a resident of the area.[2] Subsequently, a group of seven to eight young men, including Roylan Holgado, passed by, walking towards Chromium Street.

A brief exchange of words occurred between Norberto Notar and Holgado. Subsequently, a free-for-all ensued between the group of Holgado on one hand, and Norberto Notar, Joey Calip, Andres Borbon, and the accused-appellant, Roberto Siton, on another.

At the end of the melee, both Holgado and Notar suffered stab wounds. Holgado suffered two stab wounds, one of which was fatal, causing his death. He expired later at the Philippine General Hospital.[3] Notar was confined at the Manila Doctors Hospital for a stab wound on his left chest but was later released after recovering.[4]

Prosecution witness Bernardo Ferrer testified that at around 10:30 o'clock on the night of February 9, 1985, he was with Gerry Flores at the corner of Aqua Marina and A. Francisco Streets when their friends from Tondo, numbering about seven, arrived and invited them to a Valentine's party. When they declined, the group, led by his friend, Roylan Holgado, proceeded towards Chromium Street. After five minutes, they heard shouts coming from the direction of Chromium Street. Thus, Ferrer and Flores proceeded to Chromium Street.[5] The trial court summarized what Bernardo Ferrer saw:

"While approaching the place, Bernardo (Ferrer) saw Andres Borbon hit Roylan with a piece of wood on the head, Roberto Siton, alias 'Berting Tura', who was behind Roylan stabbed Roylan with an icepick on the right hip once. Thereafter, Joey Calip also stabbed Roylan on the right side of the waistline with a kitchen knife once. Afterwards, Roylan fell and was taken to Philippine General Hospital by his companions and Bernardo. The victim, Roylan was thereafter treated by the doctors but the same proved futile as he died." [6]

Mario Pahita, a cashier at the Hair Works Beauty Salon, testified for the defense. He averred that at around 11:00 o'clock on the night of February 9, 1985, he was in front of his beauty parlor with two of his beauticians, Joy and Rolly. Notar was also with them. They then saw a group of around seven to eight young men, including Roylan Holgado, walk past them, towards Chromium Street. After a while, they heard sounds of what seems to be stones being hurled at the roofs of houses. Then, they saw the same group of men retreating towards their direction. Notar asked Holgado what the noise was all about. The latter replied: "Wala yon." The group, which appeared to be drunk and heavy-eyed, was advised by Notar to go home as the police might pass by.[7] The lower court

summed up the ensuing events:

"The group of Roylan resented the advice of Norberto and suddenly, the latter was boxed by one of the companions of Roylan. Later on, all of them ganged up on him. Roylan stabbed Norberto with an icepick. On the other hand, Joey Calip, nephew of Norberto, stabbed Roylan two (2) times at the right side of his stomach with a bladed weapon." [8]

The defense presented another witness, Mario Baul, a member of Holgado's group which figured in the free-for-all. He testified that he, together with Roylan Holgado and some five others, were on their way to his house on Chromium Street when they were met by Norberto Notar. After uttering some words which he (Baul) did not understand, Notar stood up and boxed Holgado. Then a free-for-all ensued. He did not see the accused-appellant Roberto Siton. [9]

For his part, accused-appellant Roberto Siton gave an alibi and asseverated that in the evening of February 9, 1985, he was in Cainta, Rizal, in the house of his sister, Miguela Siton Soliman, a public school teacher. He was there from February 8, 1986 and stayed until February 15, 1986, to borrow money from his sister. [10]

The trial court gave credence to the positive identification made by Bernardo Ferrer and disregarded the alibi of Roberto Siton, who was charged to have conspired with others in murdering the victim, Roylan Holgado. Consequently, the Regional Trial Court of Manila, Branch XI, [11] in a decision rendered on March 1, 1988, found Roberto Siton guilty beyond reasonable doubt of the crime of homicide. The dispositive portion of the decision reads:

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the crime of homicide and hereby sentences him to suffer the indeterminate penalty of TWELVE (12) YEARS of prison mayor as a minimum to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of reclusion temporal as maximum, less preventive period of his confinement, and to pay the heirs of Roylan Holgado the amount of P30,000.00 as indemnity for the latter's death.

"SO ORDERED." [12]

Unsatisfied with the judgment of the trial court, accused-appellant Roberto Siton elevated his case to the Court of Appeals. The Sixth Division of the Court of Appeals [13] upheld the angle of conspiracy and in a decision promulgated on March 27, 1990, affirmed in toto the decision of the trial court. The appellate court disposed:

"WHEREFORE, finding the decision of March 1, 1988 of the RTC-Manila, Branch II, in Criminal Case No. 85-41920, to be in accordance with law and evidence, the same is hereby AFFIRMED in all respects. Costs against accused-appellant.

"The Office of the City Fiscal of Manila is hereby directed to file the necessary information against the persons, whose identities are now known, although their present whereabouts are still unknown, and who, according to the information filed in the present case, conspired and confederated with each other and with the accused-appellant Roberto Siton in killing the deceased Roylan Holgado.

"SO ORDERED." [14]

Upholding its findings of the existence of a conspiracy, the appellate court [15] denied the accused-appellant's motion for reconsideration in a resolution [16] promulgated on June 26, 1990.

Accused-appellant Roberto Siton now comes before us and argues that the Court of Appeals erred in finding that there is conspiracy in a free-for-all. Consequently, it erred in finding the accused-appellant guilty beyond reasonable doubt of the crime of homicide.

The accused-appellant contends that in a free-for-all fight, the protagonists do not have the sole objective of mauling or killing a particular individual. Rather, the protagonists were excited by their reflexes to face their opponents as the exigency of the fighting demands.

Under Article 8 of the Revised Penal Code, "conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it." In the case at bar (as testified by the defense witness, Mario Pahita), the deceased was stabbed by Joey Calip not because of a concerted action but in retaliation only to the act of the deceased in stabbing his relative, Norberto Notar. Certainly, there was no indication of a common purpose or design to constitute conspiracy.

The accused-appellant then asserts that even assuming that he had joined in attacking the victim, "such act alone does not satisfy the requirement of a conspiracy because 'the rule is that neither joint nor simultaneous action is per se sufficient proof of conspiracy. It must be shown to exist as clearly and convincingly as the commission of the offense itself.'"

There being no conspiracy, the accused-appellant submits that his liability should be limited to his participation only, assuming arguendo that he indeed participated.

The Solicitor-General, however, maintains that conspiracy was present because the malefactors, including Roberto Siton, acted in concert pursuant to the same objective, i.e., the killing of Roylan Holgado, which objective they were in fact able to attain. Settled is the rule that for conspiracy to exist, the evidence need not establish the actual agreement which shows the pre-conceived plan, motive, or interest, or purpose in the commission of the crime.[17]

Conspiracy need not be proved by direct evidence as the same can be inferred from the acts of the conspirators to the effect that at the time the offense was committed the participants had the same purpose and were united in its execution.[18] Thus, when the defendants by their acts aimed at the same object, one performing one part and another performing another part so as to complete it, with a view to the attainment of the same object, and their acts, though apparently independent, were in fact concerted and cooperative, indicating closeness of personal association, concerted action, and concurrence of sentiments, conspiracy is present.[19]

We modify the findings of the appellate court.

We affirm the assailed decision with respect to the findings that an alibi, when faced with positive identification, deserves scant consideration. Be that as it may, we believe conspiracy was absent.

Well-entrenched is the doctrine that when an accused has been positively identified by clear, explicit, and convincing evidence, his defense of alibi can not be given weight. Accordingly, we affirm the presence of the accused-appellant in the free-for-all fight which resulted in the death of Roylan Holgado.

Alibi, as we have repeatedly held, must yield to and can not prevail over the positive identification made by the prosecution's witness.[20] The testimony of defense witness Mario Baul as to the absence of accused-appellant can not likewise be given credence as he testified that he was somewhat drunk during the incident.[21]

On the issue of conspiracy, we hold that it was not established beyond reasonable doubt.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[22] In the present case, there is no showing that there was a previous agreement relating to the commission of the crime, it appearing that the meeting between the group of Notar and the group of Holgado was casual and unarranged, and the aggression ensued at the spur of the moment.[23] Although proof of the agreement may be inferred from the acts and conduct of the conspirators disclosing a common understanding

among them with respect to the commission of the offense,[24] we have also invariably ruled that like the offense itself, conspiracy must be proved beyond reasonable doubt.[25]

Conspiracy, like any other ingredient of the offense, must be shown by clear and convincing evidence.[26] Indeed, conspiracy was not established since the attack on Roylan Holgado was not agreed upon beforehand. The meeting between the two groups was not planned in advance. It was unexpected and unarranged; the fracas was instantaneous, perhaps caused by the arrogance of Notar and the intoxication of Holgado (since the three alleged eyewitnesses gave conflicting testimonies on what exactly precipitated the free-for-all).

It is evident from the records that there could not have been a pre-conceived plan to attack Holgado as there was a free-for-all. This is very clear. Prosecution witness Bernardo Ferrer testified thus:

WITNESS:

There was a free-for-all, sir, 'Naglabu-labo.'

COURT:

The companions of Roylan Holgado, numbering six (6) also engaged with [sic] the fistcuff fight with the group of Norberto Notar?

WITNESS:

Yes, Your Honor.[27]

In fact, the attack on Holgado could not have been pre-planned as Holgado had with him six other men compared to Notar's company which was comprised of only the accused-appellant Siton, Calip, and Borbon. For Notar's group to intentionally single out Holgado would be dangerous as it would expose them to the probable assault of Holgado's six other companions. The attack on Holgado was a spontaneous reaction in response to a situation the Notar group found itself in.

As early as 1929, this Court has ruled in *People of the Philippine Islands v. Caballero, et al.*[28] that it is not enough that the attack be joint and simultaneous; it is necessary that the assailants be animated by one and the same purpose. A conspiracy must be shown to exist as clearly and convincingly as the crime itself.

We reiterated this ruling in *People v. Bartolay* (1971)[29] and in *People v. Dorico* (1973).[30] Once more, we rely on it. Consequently, we hold that conspiracy was not established beyond reasonable doubt.

Since conspiracy has not been proven, the responsibility of the accused is individual and the accused must be dealt with individually.[31]

Going back to the testimony of prosecution witness, Bernardo Flores, it is plain and clear that accused-appellant Roberto Siton stabbed the victim, Roylan Holgado on the latter's right hip. The record speaks for itself:

ATTY. SEBASTIAN:

Mr. Witness, you stated that Roberto Siton alias Berting Tura stabbed Roylan Holgado with an icepick, will you please inform the Honorable Court what part of the body of Roylan Holgado was stabbed by Roberto Siton alias Berting Tura?

WITNESS: (Bernardo Flores):

The right hip, sir.[32]

But the stab wound inflicted by Roberto Siton was non-fatal. This was confirmed by the medico-legal officer of

the Western Police District:

COURT:

Wound No. 1 (referring to the penetrating stab wound slashing the right lobe of the liver, piercing the right kidney and grazing the 1st lumbar vertebra, inflicted by Joey Calip as per the testimony of Bernardo Ferrer), will you show again where the vital organ is affected.

WITNESS:

The right lobe of the liver piercing the kidney.

xxx xxx xxx

COURT:

That wound No. 1 could be the cause of death?

WITNESS:

Yes, Your Honor.

xxx xxx xxx

COURT:

Could this kind of injury (referring to wound No. 2, a stab wound on the right hip region inflicted by accused-appellant Roberto Siton) cause the death of the victim?

WITNESS:

No, sir. This is non-fatal (references, supplied).[33]

Absent any evidence proving conspiracy, accused-appellant Roberto Siton can not be held liable for homicide but merely for less serious physical injuries, considering the extent of the stab wound he inflicted on the victim. It would be safe to presume that the offended party would have been incapacitated for labor for ten days or more, or would have required medical attendance of the same period, by reason of the stab wound on his hip should he have not suffered any other injury (Article 265 of the Revised Penal Code).

WHEREFORE, the appealed decision is hereby MODIFIED by finding accused-appellant Roberto Siton y Ensalada guilty of less serious physical injuries and sentencing him to suffer the penalty of imprisonment of four (4) months of arresto mayor, with the accessory penalties provided by law and to pay the costs. If he has been detained for a period longer than four (4) months, his immediate release from custody is hereby ordered, unless he is being held to answer for some other offense or offenses.

SO ORDERED.

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

[1] TSN, August 12, 1986, 4-5.

[2] TSN, October 2, 1986, 6-7.

[3] TSN, April 3, 1986, 12.

[4] TSN, October 16, 1986, 6-7.

- [5] TSN, April 24, 1986, 5-7.
- [6] Rollo, 21
- [7] TSN, August 12, 1986, 4-8
- [8] Rollo, 23.
- [9] TSN, November 27, 1986, 5; December 2, 1987, 5.
- [10] TSN, December 18, 1986, 9.
- [11] Hon. Manuel E. Yuzon, Presiding Judge.
- [12] Rollo, 29.
- [13] Decision penned by Associate Justice Jaime M. Lantin, concurred in by Associate Justices Serafin Camilon (Chairman) and Regina G. Ordonez--Benitez
- [14] Rollo, 63.
- [15] Sixth Division of the Court of Appeals.
- [16] Resolution penned by Associate Justice Jaime M. Lantin, concurred in by Associate Justices Serafin Camilon (Chairman) and Regina G. Ordonez-Benitez.
- [17] *Antonio v. Sandiganbayan*, No. L-57937, October 21, 1988, 166 SCRA 595, at 602.
- [18] *People v. Pineda*, No. L-72400, January 15, 1988, 157 SCRA 71, at 84; *People v. Masangkay*, No. L--73464, January 25, 1988, 157 SCRA 320, at 329.
- [19] *People v. Sunpongco*, No. L-42665, June 30, 1988, 163 SCRA 222, at 235.
- [20] *People v. Mandal*, G.R. No. 87959, August 13, 1990, 188 SCRA 526, at 530, among many other cases.
- [21] TSN, December 2, 1986, 5.
- [22] Article 8, Revised Penal Code.
- [23] *People v. Resayaga*, No. L-49536, March 30, 1988, 159 SCRA 426 at 431.
- [24] *People v. Saavedra*, No. L-48738, May 18, 1987, 149 SCRA 610, at 623-624.
- [25] *People v. Saavedra*, supra, at 624; *Castaneda v. Sandiganbayan*, G.R. No. 61243, March 16, 1989, 171 SCRA 263, at 269; *Navaro v. CA*, G.R. No. 84423, January 31, 1989, 169 SCRA 861, at 869; *People v. Orodio*, G.R. No. 57519, September 13, 1988, 165 SCRA 316, at 324, among a litany of cases.
- [26] *People v. Agda*, No. L-36377, January 30, 1982, 111 SCRA 331.
- [27] TSN, April 24, 1986, 8.
- [28] No. 31254, Sept. 25, 1929, 53 Phil. 585, at 595-596
- [29] No. L-30610, October 22, 1971, 42 SCRA 1.
- [30] No. L-31568, November 2, 1973, 54 SCRA 172.
- [31] *People v. Elizaga*, 167 SCRA 516, at 523; *People v. Laurio*, G.R. No. 95351, August 9, 1991.

[32] TSN, April 24, 1986, 11.

[33] TSN, April 3, 1986, 11-14.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.