

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO TALA, ET AL., ACCUSED-APPELLANTS.

G.R. Nos. 69153-54. January 30, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Appellants Reynaldo Tala, Felizardo Pineda and a "John Doe" were charged with the crimes of Murder and Frustrated Murder in two separate informations filed before the Court of First Instance now Regional Trial Court of Pampanga. The information for murder states:

"That on or about the 25th day of December, 1980 at barangay Cabetican, municipality of Bacolor, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Reynaldo Tala alias 'Rey Tala', Felizardo Pineda alias 'Boy Pineda' and John Doe alias 'Boy Lague' with deliberate intent to kill, with treachery and evident premeditation, night time purposely sought to facilitate the commission of the offense and taking advantage of their superior strength, conspiring, confederating and helping one another, did then and there wilfully, unlawfully and feloniously assault, attack and hit Romeo Ilagan with fist blows and with big stones (boulders) on different parts of the body, inflicting thereby fatal and mortal wounds upon said Romeo Ilagan, which as a result thereof caused the death of Romeo Ilagan instantly."

while the information for frustrated murder states:

"That on or about the 25th day of December, 1980 at barangay Cabetican, municipality of Bacolor, province of this Honorable Court the above-named accused REYNALDO TALA alias 'REY TALA', FELIZARDO PINEDA alias 'BOY PINEDA' and JOHN DOE alias 'BOY LUGUE', with deliberate intent to kill, with treachery and evident premeditation, night time purposely sought to facilitate the commission of the offense, and taking advantage of their superior strength, conspiring, confederating and helping one another did then and there wilfully, unlawfully and feloniously assault, attack and hit Eduardo Ocampo with fist blows and with big stones (boulders) on different parts of the body, inflicting fatal and mortal wounds upon Eduardo Ocampo, which ordinarily would cause the death of said Eduardo Ocampo, thus performing all the acts of execution which would have produced the crime of Murder as a consequence, but nevertheless did not produce it by reason of causes independent of the will of the accused, that is by the timely and able medical assistance rendered on Eduardo Ocampo which prevented his death."

The two cases, docketed as Criminal Case No. 2252 for the crime of murder and Criminal Case No. 2253 for the crime of frustrated murder, were tried jointly.

Only accused-appellant Reynaldo Tala was arrested and tried. His two co-accused are still at large.

The evidence for the prosecution is summarized by the trial court as follows:

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"x x x [T]hat on December 25, 1980 between 10:00 to 11:00 o'clock in the evening, Eduardo Ocampo, complaining witness and offended party in Criminal Case No. 2253, was at San Juan Nepomuceno, Betis,

Guagua, Pampanga, where he attended a party. When the said party was over, he was asked by Romeo Ilagan to accompany him in escorting Tessie (Precy) Pineda home. After accompanying Miss Pineda to her house, the two (Eduardo Ocampo and Romeo Ilagan) proceeded to go home until they reached the waiting shed of the river control station at Cabetican, Bacolor, Pampanga, to wait for a passenger vehicle where they can ride.

"While at this waiting shed, three persons came and approached Romeo Ilagan and Eduardo Ocampo. One of these three told Ilagan and Ocampo that they were policemen from Cabetican. Eduardo Ocampo identified the one who told them that they were policemen as the accused Reynaldo Tala. These three persons then asked Ocampo and Romeo Ilagan to produce their residence certificates. Romeo Ilagan presented his residence certificate but Eduardo Ocampo could not produce any. He told them that he had no residence certificate and he was only about 14 years old at that time.

"Immediately after Eduardo Ocampo made such a statement, he was boxed by accused Reynaldo Tala on the stomach. Almost at that same instant, a motor vehicle passed by and as its headlights focused on the face of Reynaldo Tala, Eduardo Ocampo told Tala in the local dialect, 'I will remember your face'. The two of them, Ocampo and Ilagan, were then brought down from the waiting shed to a nearby place where there was an open septic tank. Here the three accused resumed their boxing and mauling of Eduardo Ocampo and Romeo Ilagan. When both laid on the ground due to the blows rained on them, the three accused threw big stones on both Ocampo and Ilagan until Eduardo Ocampo lost consciousness but not before he heard one of the three say in the local dialect: 'Pareng Rey, let us leave now, they will not survive until morning'. It was only four days later, on December 29, 1980 when Eduardo Ocampo regained consciousness at the town hall of Bacolor, Pampanga, where he was brought by someone.

"After Eduardo Ocampo regained consciousness at the town hall of Bacolor, Pampanga, he was treated at the St. Francis Medical Center at San Fernando, Pampanga, and later on at the Philippine General Hospital in Manila. The medical certificate issued by the Philippine General Hospital states that Eduardo Ocampo suffered cerebral contusion, arteritis, and was subjected to surgical operation - bilateral carotid angiography and scalp biopsy, which required medical attendance for more than 30 days.

"The dead body of Romeo Ilagan was discovered on December 29, 1980, in the morning. It was found inside an empty septic tank in an abandoned area in Cabetican, Bacolor, Pampanga, near the river control station, the same place where Eduardo Ocampo and Romeo Ilagan were mauled by Reynaldo Tala and his two companions on the night of December 25, 1980. An autopsy was conducted on the body of Romeo Ilagan on that same day by the Municipal Health Officer of Bacolor, Pampanga.

"This doctor, however, who conducted the autopsy was not presented as a witness by the prosecution as he is already out of the country and no longer available. Photographs were also taken on Romeo Ilagan's body as it was found in that place on December 29, 1980 (Exhs. "A" & "B").

"Due to the death of Romeo Ilagan, his family spent much for his funeral services including church rites. The sum of P2,300.00 was paid to Funeraria Punsalan for funeral services rendered by it. The amount of P550.00 was paid to the parish of St. James, Betis, Guagua, Pampanga for the church rites. In connection with the autopsy conducted on the body of Romeo Ilagan about P200.00 was spent by the family for chemicals and other miscellaneous items. And when Romeo Ilagan laid in state before his interment, his family spent about P3,000.00 for food and other incident expenses. A mass was also conducted during the 40th day celebration of the death of Romeo Ilagan for which the amount of P500.00, more or less, was spent. During the 9th day celebration, the amount of P200.00 was also spent by the family. At the first anniversary of his death, the sum of P2,000.00 was again spent for church rites and for food served.

"Romeo Ilagan worked as helper in a steel shop in Negros when he was still alive. Every 15th of the month, he used to send his mother the amount of P350.00.

"With respect to Eduardo Ocampo, it was brought out by the evidence presented that for his hospitalization and

treatment at the St. Francis Medical Center, the sum of P2,000.00 was paid to this hospital with a balance of P500.00 still unpaid. At the Philippine General Hospital where Eduardo was transferred for surgical operation and further treatment and where he was confined for more than 3 weeks, his family spent more than P3,000.00 for medicine and other needs. Even after his discharge from this hospital he had to be brought back for about four times, for further check-up and treatment and for these, his family spent about P60.00 per trip for transportation and food.

"Before the incident involved herein, Eduardo Ocampo was employed as a 'sander' in a furniture shop for which he was paid the sum of P15.00 a day."

Tala denied having anything to do with the incident. He traced his whereabouts on the night of December 29, 1980 as follows:

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"x x x [T]hat he was in their house in Cabetican, Bacolor, Pampanga, at about 9:00 o'clock on the night of December 25, 1980. At that hour on that same evening, he proceeded to the house of a cousin, Benjamin Tala, also in the same barrio of Cabetican to watch a dance party. He was alone when he went to his cousin's house. After about 20 minutes he returned to their house accompanied by one Boy Pineda and a person named Lague who are also residents of Cabetican. Upon reaching their place at about 9:30 o'clock in the evening, Tala told his two companions to go home. He stayed in their house and at about 11:00 o'clock of that same evening, he slept and woke up the following morning at about 8:00 o'clock."

After trial, Reynaldo Tala was found guilty as charged in Criminal Case No. 2252. As regards Criminal Case No. 2253, the trial court convicted Reynaldo Tala only of the crime of serious physical injuries. The court stated that the evidence is not clear on whether Eduardo Ocampo, the victim, might have died had there been no timely medical assistance given him. While the trial court ruled out treachery and the aggravating circumstance of nighttime, it found that Reynaldo Tala and his companions took advantage of their superior strength to commit the crimes. Hence, Reynaldo Tala was convicted and sentenced as follows:

"WHEREFORE, and in view of all the foregoing, judgment is hereby rendered finding the accused Reynaldo Tala alias Rey Tala guilty of the crime of Murder in Criminal Case No. 2252 and he is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify the heirs of Romeo Ilagan in the amount of P12,000.00 for his death, the further sum of P8,550.00 corresponding to expenses incident to his funeral and burial, and the amount of P120,000.00 as lost income which he would have earned had he remained alive, plus the amount of P20,000.00 as moral damages.

"This Court also finds this accused guilty of the offense of Serious Physical Injuries in Criminal Case No. 2253 and he is hereby sentenced to suffer the penalty of imprisonment of one (1) year and 8 months of prision correccional, as minimum, to two (2) years and 10 months, also of prision correccional, as maximum, and to indemnify Eduardo Ocampo in the amount of P5,740.00 representing the expenses incurred for his hospitalization and medical treatment, the amount of P900.00 representing his lost income for two (2) months when he was not able to work by reason of his injuries, and the amount of P5,000.00 as moral damages.

"With costs against the accused in both cases."

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In this appeal, Rey Tala raises the following assignments of errors:

I

THE TRIAL COURT ERRED IN GIVING UNDUE WEIGHT TO THE UNCORROBORATED TESTIMONY OF THE WITNESS EDUARDO OCAMPO WHOSE TESTIMONY IS HIGHLY

INCREDIBLE.

II

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT REYNALDO TALA OF THE CRIMES CHARGED ON THE BASIS OF WEAK AND UNCONVINCING EVIDENCE OF THE PROSECUTION.

The issues raised by the appellant in his assignments of errors question the court's findings on the credibility of witnesses.

As a rule, we do not disturb the findings of facts of trial courts on the credibility of witnesses in view of the courts' opportunity to observe the conduct and demeanor of the witnesses while testifying. Where there is a clear cause or strong reason appearing in the record to warrant a departure from such findings, we do not apply the general rule. Such an exception, however, does not exist in the present case.

The focal point of the appellant's argument that the evidence for the prosecution is "shot through with inherent improbabilities and highly suspicious circumstances" is the testimony of Eduardo Ocampo, the lone witness for the prosecution. Ocampo was the companion of Romeo Ilagan on the night of the incident which resulted in the death of the latter.

The appellant capitalizes on a statement of Ocampo that after they were brought from the waiting shed to the place near the septic tank, the three accused started boxing them after which the witness could no longer remember anything. He could not remember how many blows he received and whether or not all three accused boxed him. He could no longer count but merely declared that "many punches" landed.

The continuation of Ocampo's testimony on the above matters, however, shows the following:

"Fiscal Liangco?

"q

While you were being boxed by the accused Rey Tala what if any was being done on the person of your companion Romeo Ilagan if you know?

"a

When we were both lying down on the ground they used stones on us, sir.

"q

How big were these stones if you still recall?

"a

Like this, sir. (witness demonstrating with cupped hands the supposed size of the stones used, estimated to be 6 inches in diameter.)

"q

Now who were using these stones on you?

"a

Once the stones hit against me I forgot everything, sir.

"q

Will you demonstrate before this court how the accused held the stones on you including on Romeo Ilagan?

"a

They were holding the stones in their hands and then they brought them down upon us, sir. (witness demonstrating the way the stones were lifted with his hand over his head and then making a downward as if holding something in his cupped hand.)

"The Court –

"q

Were you standing or lying down when they threw the stone?

"a

I was lying on the ground, Your Honor.

"q

What was your position, was it lying on the back or sidewise?

"a

In prone position, Your Honor.

"q

How many stones more or less if you know?

"a

I can no longer remember, Your Honor, because the first stone that hit me caused me terrible pain.

"q

Which came first the boxing or the throwing of the stones?

"a

The boxing, Your Honor.

"The Court –

Proceed.

"Fiscal Liangco?

"q

How about Romeo Ilagan how was he positioned at the time the accused held the stone on him?

"a

I could not remember, sir, because we were both in terrible pain, sir.

"The Court -

"q

When your face was punched by Rey Tala did you not fight back?

"a

We did not fight back, Your Honor, we stood silent.

"q

Did you not make utterances when the stone landed on you?

"a

Yes, Your Honor.

"q

How about the accused when he boxed you, did he say anything when he boxed you?

"a

They did not utter anything, Your Honor." (TSN., March 24, 1983, pp. 18-21)

The foregoing testimony clearly shows the sequence of the maltreatment suffered by Ocampo and Ilagan at the hands of Rey Tala and his two companions. There is absolutely no implied statement as alleged by the appellant that Ocampo did not witness what was happening to Ilagan at that time because he lost consciousness after receiving the punches and blows on his face, head, and stomach. What is clear from Ocampo's testimony is that, although already hurt and in pain from the punches and blows he initially received from Rey Tala and his two companions, he was still fully conscious as he was able to describe how the assailants used stones on him and Ilagan which caused them terrible pain.

We agree with the appellee's contentions that:

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"x x x The records disclose, however, that Ocampo 'forgot everything' at the time the assailants hurled stones at him, after boxing and punching him (p. 19, tsn., March 24, 1983).

"Indeed, Ocampo was an eyewitness of the highest caliber. He was with the deceased Romeo Ilagan on that fateful night when appellant and his two companions, posing as policemen from Cabetican, accosted them at the Cabetican waiting shed (p. 12, id.). He heard the deceased Ilagan intervene for him, after he was boxed on the stomach, saying that 'really he (Ocampo) had no residence certificate because he was still young' (p. 14, id.) which intervention, by the way, probably angered appellant and his co-accused further. His mind was not blank when he and Ilagan were brought down from the waiting shed to a place where there was an open septic tank, and, there, appellant Tala and his co-accused resumed boxing him and started with Ilagan, too. (pp. 15-16, id.) Likewise, his mind was still alert and his perception keen as he was able to describe the size of the stones and how they were used on them. x x x."

Contrary to the appellant's allegation and the omission of the trial court to make clearer findings based on the facts in the record, there was conspiracy among Rey Tala and his companions in the commission of the crime. Their concerted efforts were performed with closeness and coordination indicating their common purpose to inflict injuries on the victims, Ocampo and Ilagan. For conspiracy to exist, the evidence need not establish the actual agreement which shows the preconceived plan, motive, interest or purpose in the commission of the crime. As we ruled in *People v. Mahusay* (G. R. No. 60470, September 9, 1985, citing *People v. Banayo*, 129 SCRA 725):

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"x x x conspiracy may be inferred though no actual meeting of the minds among the accused was proven (People v. Velez, 58 SCRA 21). Proof of publicly observable mutual agreement is not indispensable to establish conspiracy. Hence, there is conspiracy where two of the accused held the victim's hands and the third stabbed the victim from behind (People v. Rhoda, supra). Each of the offenders performed with such closeness and coordination indicating a common purpose or design. (People v. Geronimo, 53 SCRA 246)."

Since there was conspiracy among Rey Tala and his companions, the actual role played by each of them does not have to be differentiated or segregated from the acts performed by the other accused. (People v. Familgan, 102 SCRA 578). As a conspirator, the appellant would still be equally responsible for the acts of his conspirators. That the appellant actually mauled and bashed with big stones Romeo Ilagan is shown by the evidence. Rey Tala can not escape criminal liability on the technicality that the evidence is not clear as to which of the fist blows or the big stones inflicted the fatal blow. (See People v. Garcia, 105 SCRA 325)

Neither can the appellant escape criminal liability on the defense that the evidence is not clear that Ilagan died of the blows rained on him. The non-availability of the doctor who autopsied the body of the victim is not sufficient ground for acquittal. The well-settled rule is that a person is held responsible for the natural consequences of his unlawful acts. (People v. Cornel, 78 Phil. 458; People v. Barbano, 76 Phil. 702; US v. Baoit, 15 Phil. 338; US v. Escalona, 12 Phil. 54). The boxing and stone-bashing were acts in violation of the law. Death from the severity of the injuries inflicted is a natural and logical consequence. Hence, Rey Tala should be held responsible for the death of Ilagan, a natural consequence of the unlawful acts of Rey Tala and his two companions.

The Solicitor General observes that the court's application of the indeterminate sentence law for the crime of serious physical injuries is not accurate. In this connection, the Solicitor General states:

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"x x x [T]he minimum of the indeterminate penalty (1 year and 8 months) is still within the range of the penalty prescribed by the Revised Penal Code (Art. 263), which is prision correccional in its minimum and medium periods or from 6 months and 1 day to 4 years and 2 months, when under Section 1 of the Indeterminate Sentence Law the minimum 'shall be within the range of the penalty next lower to that: prescribed by the Code for the offense.' In other words, the minimum should be within the range of arresto mayor in its medium and maximum periods from 2 months and 1 day to 6 months.

"The Indeterminate Sentence Law which is mandatory in character must be applied in this case as its application would be favorable to the appellant."

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Hence, the Solicitor General recommends that the indeterminate sentence should be modified and that appellant Rey Tala be sentenced to suffer the penalty of imprisonment of six (6) months as minimum to two (2) years and ten (10) months as maximum. We agree with this recommendation.

WHEREFORE, except for the following modifications: (1) that the penalty imposed on Rey Tala in the crime of serious physical injuries should be imprisonment of SIX (6) MONTHS as minimum to TWO (2) YEARS and TEN (10) MONTHS as maximum and (2) that the indemnity to be paid to the heirs of the victim of Romeo Ilagan in the murder case should be raised to THIRTY THOUSAND PESOS (P30,000.00) instead of TWELVE THOUSAND PESOS (P12,000.00), the judgment in the two (2) cases raised to us on appeal is hereby AFFIRMED.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, De La Fuente, and Patajo, JJ., concur.

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