

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANITO BEN; VILLANUEVA, JIMMY VILLANUEVA AND RUDY VILLANUEVA, ACCUSED-APPELLANTS.

G.R. Nos. 97144-45. July 10, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

For the death of one Justiniano Paloyo and the injuries sustained by his brother, Marcelino Paloyo on or about December 27, 1985 on the occasion of an affray in a wedding party, two criminal cases were filed.

Rudy Villanueva y Tombaga, Juanito Villanueva y Tombaga alias “Ben” and Jimmy Villanueva y de Guzman alias “Erning” were charged with the crime of Murder docketed as Criminal Case No. T-761 before the Regional Trial Court of Tayug, Pangasinan, under the following information:

“That on or about the 27th day of December 1985, in barangay Abot-Molina, Municipality of Umingan, Province of Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, armed with a bladed weapon, with intent to kill and with treachery, did then and there willfully, unlawfully and feloniously stab Justiniano Paloyo inflicting upon the following injuries:

- 1) Stab wound right side of the chest, 2 and 1/2 inch length, 1 1/2 inch depth
- 2) Stab wound left side, 4 inch depth, 2 1/2 inch length, 1/2 inch width penetrating the heart
- 3) Stab wound mid epigastric region, multiple successive wounds (13 stab wounds)
- 4) Stab wound left arm thru & thru
- 5) Stab wound clavicular region 3 1/2 inch depth
- 6) Stab wound sternal region - 5 inch depth
- 7) Stab wound left lateral axillary region - 5 inch depth
- 8) Hematoma, forehead

which caused his death as a consequence, to the damage and prejudice of his heirs in the amount of no less than P30,000.00.

“Contrary to Article 248 of the Revised Penal Code.” (pp. 14-15, Rollo)

Rudy Villanueva y Tombaga, Vito Villanueva, Maning Cariño and Nelson Villanueva were charged with the crime of Frustrated Murder docketed as Criminal Case No. T-769 before the Regional Trial Court of Tayug, Pangasinan, under the following information:

“That on or about the 27th day of December 1985, in barangay Abot-Molina, Municipality of Umingan,

Province of Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to kill and with treachery did then and there willfully, unlawfully and feloniously stab Marcelino Paloyo with a bladed weapon inflicting upon him the following injuries:

- Stab wound, sternum area at the level of the 5th rib measuring 1/2 inch in length
- Stab wound (L) anterior axillary line at the level of the 4th rib measuring 1 inch in length
- Lacerated wound (L) arm lateral part of the distal 3rd measuring 1 1/2 inches in length

the accused having thus performed all the acts of execution which would have produced the crime of Murder as a consequence but which nevertheless, did not produce it by reason of causes independent of the will of the accused, that is the timely medical assistance afforded to said Marcelino Paloyo which prevented his death, to his damage and prejudice.

“Contrary to Article 248 in relation to Article 6 of the Revised Penal Code.” (pp. 16-17, Rollo)

Upon the other hand, for the injuries sustained by Juanito Villanueva and Jimmy Villanueva the same melee, two other criminal charges were filed.

Marcelino Paloyo y Collado alias “Boy” was charged with two crimes of Attempted Homicide docketed as Criminal Case Nos. T-783 and T-784. The following informations in Criminal Case No. T-783 where the alleged victim is Juanito Villanueva, reads as follows:

“That on or about the 27th day of December, 1985 in the afternoon, in the municipality of Umingan, province of Pangasinan, New Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, and armed with an unlicensed short gun, did then and there wilfully, unlawfully and feloniously attack, assault and shoot one JUANITO VILLANUEVA alias ‘Ben’, inflicting upon the latter the following injuries to wit:

- Gunshot wound with incomplete fracture left, femur, thru and thru POE Anterior proximal thigh left; POEX lateral proximal thigh left.

thus commencing the commission of the crime of HOMICIDE directly (sic) to overt acts but did not perform all the acts of execution which would produce the crime of Homicide as a consequence but nevertheless did not produce by reason of some cause other than accused own spontaneous desistance, that is, the accused did not hit a vital organ or a portion of the body, which prevented the death of the complainant, all to the damage and prejudice of the latter.

“Contrary to Article 249 in relation to Article 6, par. 3, of the Revised Penal Code.

“Tayug, Pangasinan, July 24, 1986.

(SGD.) HERMITO T. EVANGELISTA

Assistant Provincial Fiscal”

(p.18, Rollo)

On the other hand, the information in Criminal Case No. T-784 referring to Jimmy Villanueva as victim reads as follows:

“That on or about the 27th day of December, 1986 (sic) in the afternoon, in the municipality of Umingan, province of Pangasinan, New Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, an(d) armed with an unlicensed short gun, did then and there

wilfully, unlawfully and feloniously attack, assault and shoot one JIMMY VILLANUEVA, inflicting upon the latter the following injuries to wit:

- Gunshot wound thru and thru with incomplete fracture left proximal femur, POE Anterior, proximal left thigh, POEX left Buttocks.

thus commencing the commission of the crime of HOMICIDE directly by overt acts but did not perform all the acts of execution which would produce the crime of Homicide as a consequence but nevertheless did not produce by reason of some cause other than accused own spontaneous desistance, that is, the accused did not hit a vital organ or a portion of the body, which prevented the death of the complainant, all to the damage and prejudice of the latter.

Contrary to Article 249 in relation to Article 6, par. 3 of the Revised Penal Code.

Tayug Pangasinan, July 24, 1986.

(SGD.) HERMITO T. EVANGELISTA

Assistant Provincial Fiscal”

(p. 19, Rollo)

These four cases involving the same parties and arising from the same facts were jointly tried upon agreement of the parties. After due trial, the trial court rendered judgment convicting the accused in Criminal Case Nos. T-761 and T-769 for murder and frustrated murder, respectively, and acquitting the accused in Criminal Cases Nos. T-783 and T-784 attempted homicide. The dispositive portion of the decision ruled as follows:

“THEREFORE, in RESUME of the four (4) above-mentioned respective informations, judgment is hereby rendered:

“1) Criminal Case No. T-761, For ‘MURDER’ -

RUDY VILLANUEVA, JUANITO ‘BEN’ VILLANUEVA, and JIMMY VILLANUEVA, ‘GUILTY’ with a penalty of reclusion temporal in its maximum period, death penalty being abolished. And applying the Indeterminate Sentence Law - Prision mayor in its maximum period from 10 years, and 1 day to 12 years as minimum to 12 years, and 4 months of reclusion temporal as maximum, minus the preventive imprisonment of RUDY VILLANUEVA and JUANITO “BEN” VILLANUEVA (From 23 January 1986, p. 5, rec. T-761). JIMMY VILLANUEVA is presently at-large, the Warrant of Arrest previously issued is in order.

“RUDY VILLANUEVA, being a PAROLE, (sic) (T.S.N., p. 7, rec. Aug. 26, 1986) is hereby ordered to serve the unexpired term of his former penalty and to jointly and severally pay as compensatory damages to the heirs of the late Justiniano Paloyo, the sum of P30,000.00 with cost de officio;

“2) CRIMINAL CASE NO. T-769 FOR FRUSTRATED MURDER -

“RUDY VILLANUEVA, NELSON VILLANUEVA and VINO VILLANUEVA ‘GUILTY’ -- Contrary to Article 248 in relation to Article 6 of the Revised Penal Code with a penalty of Prision mayor, 6 years, 1 day to 12 years, and applying the Indeterminate Sentence Law, 2 years, 4 months, 1 day, prission (sic) correccional 10 years in its maximum period. The two (2) accused VINO (Sabino) VILLANUEVA AND NELSON VILLANUEVA are both at large, let a Warrant of Arrest issue, with cost de officio (sic);

“3) CRIMINAL CASE NO. T-783 FOR ‘ATTEMPTED HOMICIDE’ - ‘ACQUITTED,’ and

“4) CRIMINAL CASE NO. T-784 FOR ‘ATTEMPTED HOMICIDE’ - ‘ACQUITTED’.

“The corresponding bailbond for accused are hereby canceled and returned to bondsmen with receipt hereof.”
(pp. 56-57, Rollo)

Thereupon, the accused in Criminal Cases Nos. T-761 and T-769 filed an appeal to the Court of Appeals. As accused Jimmy Villanueva had jumped bail, the Court of Appeals made it clear that only Juanito Villanueva and Rudy Villanueva are deemed to have interposed the appeal. After the briefs were filed, the Court of Appeals rendered judgment as follows:

“In view of the foregoing and pursuant to Section 13, Rule 124 of the 1985 Rules on Criminal Procedure; judgment is hereby rendered in CA-G.R. CR No. 07331; finding accused-appellants guilty of the crime of murder, as charged in the Information, and sentencing them to suffer the penalty of reclusion perpetua; to pay the heirs of the deceased Justiniano Paloyo, jointly and severally, the sum of P50,000.00 (Supreme Court Resolution En Banc of August 30, 1990; People vs. Daniel Sison, No. 86455, September 14, 1990; People vs. Dante Bartolay, G.R. No. 83696, December 21, 1990) and to pay the costs.

“In addition, accused-appellant Rudy Villanueva, who is a parolee, is ordered to serve the unserved or unexpired portion of his sentence under his previous conviction (tsn, p. 7, August 26, 1986).

“Let the records of the case be elevated to the Honorable Supreme Court for review, and it is understood that no entry of judgment shall issue until after the Supreme Court shall have acted on the case, with finality.

“In CA-G.R. CR No. 07332, appellant Rudy Villanueva is likewise found guilty beyond reasonable doubt of the crime of frustrated murder, defined and penalized under Article 248, in relation to Article 50, supra; and is hereby sentenced to an indeterminate penalty of SEVEN (7) YEARS and TEN (10) DAYS of prision mayor, as minimum, to THIRTEEN (13) YEARS and TEN (10) DAYS of reclusion temporal, as maximum, and to pay the proportionate costs.

“SO ORDERED.” (pp. 133-134, Rollo)

This Court has thereby been called upon to review the judgment only in CA-G.R. No. 07331 which is the appeal from the judgment of conviction in Criminal Case No. T-761 for Murder against accused Rudy Villanueva, and Juanito “Ben” Villanueva considering that the Court of Appeals found the said accused-appellants guilty of the crime of murder and had sentenced them to reclusion perpetua. Under Section 17 (1) of the Judiciary Act, the Supreme Court has jurisdiction to review, reverse, modify or affirm on appeal, as the law or Rules of Court may provide, final judgments and decrees of inferior courts in all criminal cases involving offenses for which the penalty imposed is death or life imprisonment. Thus, the Court of Appeals properly refrained from issuing an entry of judgment until the Supreme Court shall have acted on the case.

The facts of the case, as gleaned from the testimony of the witnesses the prosecution are as follows:

In the afternoon of December 27, 1985, at around three (3:00) o’clock, Marcelino Paloyo, his son Antonio Paloyo and friends, Dionisio Alarcio and Nicanor Otones (referred to as the Paloyo group) were collecting empty sacks from farmers in Barangay Abot-Molina, Umingan, Pangasinan when they chanced upon Vino Villanueva who invited them to attend the wedding party of Merle Villanueva. Upon learning that one of the wedding sponsors was Justiniano, Marcelino Paloyo’s brother, the group readily accepted the invitation.

A little later, when they arrived at the wedding reception, the Paloyo group saw Justiniano Paloyo drinking liquor with Vino Villanueva, Rudy Villanueva, Juanito “Ben” Villanueva, Jimmy Villanueva, Meliton Villanueva, Maning Cariño and Johnny Tualla. At around four o’clock in the afternoon, the Paloyo group left the party with Justiniano Paloyo. While they were about five hundred (500) meters away from the ‘Villanuevas’ house, one of the Villanuevas signalled at them to wait as he had something to tell them. When the Villanuevas reached the place where the Paloyo group was waiting, Jimmy alias “Eming” Villanueva and Juanito “Ben” Villanueva held

Justiniano Paloyo on the shoulders while Rudy Villanueva stabbed him on and on until he fell to the ground. At this juncture, Vito Villanueva and Meliton Villanueva, instead of answering Marcelino Paloyo's query why Justiniano was being attacked also held Marcelino on the shoulders while Rudy Villanueva started stabbing him. The fallen Marcelino Paloyo called for his companions to help him. Nicanor Otones, Dionisio Alarcio and Antonio Paloyo rushed to his aid. The Villanuevas however away only to return later and chase the Paloyo group who took shelter at the house of Dalmacio Molina leaving behind the lifeless body of Justiniano Paloyo lying on the ricefield. From Dalmacio Molina's place, Marcelino Paloyo was brought to the Medicare Hospital in Umingan, Pangasinan for immediate treatment. He was later transferred to the Eastern Pangasinan General Hospital.

The defense, on the other hand, espoused a different version of the fateful event of December 27, 1985 in Barangay Abot-Molina. Witnesses said that Marcelino Paloyo arrived at the wedding party of Merle Villanueva drunk. Yet, he and his companions were welcomed by the Villanuevas since they were visitors. After sometime, Juanito Villanueva and his cousin Jimmy Villanueva proceeded to the basketball court and the Paloyo group joined them. Along the way, Marcelino Paloyo uttered the following words: "Addento maaramid nga arte" (Something will happen which is an art) and shot Jimmy Villanueva on the left thigh. A free for all fight ensued. Marcelino Paloyo and Jimmy Villanueva grappled with each other even as they fell into the mud. Jimmy Villanueva called for help, so Juanito also jumped into the mud and noticed that Jimmy was holding a "veinte-nueve" knife. Justiniano Paloyo shot Jimmy on the leg. Then Marcelino Paloyo and his companions ran away while Juanito Villanueva and Jimmy Villanueva were brought to Baguio for treatment.

As aforesaid, from the judgment of conviction, the accused appealed to the Court of Appeals the following assignment of errors:

I

THAT THE LOWER COURT ERRED IN FINDING THAT THERE WAS CONSPIRACY IN THE OFFENSE CHARGED.

II

THAT THE LOWER COURT ERRED IN NOT ACCEPTING THEIR DEFENSE.

III

THAT THE DECISION APPEALED FROM IS CONTRARY TO THE EVIDENCE AND THE LAW.

Accused-appellants contend that the court erred in deducing conspiracy from the evidence presented. They alleged that the prosecution failed to prove the participation of Juanito and Jimmy Villanueva in the murder of Justiniano Paloyo.

Appellants' denial of the existence of conspiracy is antagonistic to the evidence on hand.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The objective of the conspirators is to perform the act or omission punishable by law. What is required is assent to the perpetration of such misdeed. There is a 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 is deemed to have 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 in the same degree of liability as the others (*People vs Quijano*, G.R. No. 84361, May 31, 1991). In this case, the hapless Justiniano Paloyo was held on the shoulders by Juanito and Jimmy Villanueva while he

was stabbed by Rudy Villanueva. His brother Marcelino Paloyo was also held on the shoulders by Vino and Nelson Villanueva when he was attacked by Rudy Villanueva.

The following testimony of Marcelino Paloyo indubitably proves the existence of conspiracy:

“Fiscal Evangelista:

Q: Will you demonstrate to the Honorable Court how your brother Justiniano Paloyo was stabbed?

A: (Witness demonstrating before the Honorable Court how his brother Justiniano Paloyo was stabbed.)

Court:

Q: You mean to say that two (2) persons held the shoulder of your brother when he was stabbed?

A: Yes, Sir.

Q: Who was holding the left shoulder of your brother?

A: Eming Villanueva.

Q: How about the right shoulder of your brother?

A: Ben Villanueva.

Q: How was your brother stabbed?

A: When my brother turned his back towards us, Rudy Villanueva stabbed him on the breast.

Q: Who were the two Villanuevas whom you said held Justiniano Paloyo before he was stabbed?

A: Eming Villanueva and Ben Villanueva.

Q: Are they in court today?

A: Yes, Sir.

Q: Will you please stand up and point where is Ben Villanueva.

A: (Witness went down the witness stand and went to the place of Ben Villanueva and tapped his shoulder and when asked his name, he answered Juanito Villanueva @ Ben.

Q: How about Rudy Villanueva, where is he?

A: He is here, Sir (witness tapping the shoulder of Rudy Villanueva.) (pp. 165-166, TSN, August 26, 1986)

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Fiscal Evangelista:

Q: After you have seen your brother Justiniano Paloyo being stabbed, what did you and your companions do at that time?

A: I told them why they are stabbing my brother.

Q: And telling them why they have been stabbing your brother what happened to you?

A: I was held by Councilman Vino Villanueva and Nelson Villanueva and they stabbed me.

Q: Were you hit?

A: Yes, Sir.

Q: This Councilman Vino Villanueva, if he is in Court will you point him?

A: He is not in court, Sir.

Q: Who stabbed you?

A: Rudy Villanueva, Sir.” (p. 167, TSN, August 26, 1986)

In the case of *People vs. Solis* (G.R No. 93628, March 18, 1991), this Court declared that the concerted acts of the appellants to attain a common criminal objective signify conspiracy. Their respective acts of boxing, beating and stabbing the victim show a unity of action and singleness of purpose to inflict physical harm. It is not necessary that there be evidence of previous plan or agreement to commit the assault. It is sufficient that at the time of the aggression, all the accused manifested by their acts of common intent or desire to attack so that the act of one accused becomes the act of all.

Conspiracy having been established, all the conspirators are liable as co-principals regardless of the extent and character of their participation because in contemplation of the law, the act of one is the act of all (*People vs. Base*, G.R. No. 92124, May 6, 1991).

Rudy Villanueva’s defense of alibi that he was not even at the scene of the crime does not also ring true. Well-established is the rule that alibi is unavailing against positive identification of the accused by credible witnesses. Neither will it prosper in the absence of satisfactory showing of the physical impossibility of the accused being present at the scene of the crime at the time of its commission. Appellant Rudy Villanueva was approximately only 300-500 meters away from the scene of the crime. For his defense of alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and it was physically impossible for him to have been at the scene of the crime (*People vs. Aniñon*, 158 SCRA 701). Moreover, Rudy Villanueva was positively pointed to by the prosecution’s witnesses as the one who stabbed the victims. This Court has time and again pronounced that the defense of alibi would not prosper in view of the convincing and positive identification of accused as the perpetrators of the crime. Treachery was also properly appreciated against the accused-appellants. The victims were stabbed without warning. So sudden was the attack on them that they were not even given a chance to defend themselves as shown by the severity and multiplicity of wounds inflicted on them.

The penalty for murder as provided for by Article 248 of the Revised Penal Code is reclusion temporal in its maximum period to death. In the absence of any aggravating or mitigating circumstance, the penalty to be imposed on Rudy Villanueva and Juanito “Ben” Villanueva is reclusion perpetua. The Court of Appeals properly sentenced them to suffer the penalty of reclusion perpetua.

ACCORDINGLY, the judgment of conviction against Juanito Villanueva and Rudy Villanueva in Criminal Case No. T-761 is AFFIRMED, as properly modified by the Court of Appeals in CA-G.R. No. 07331 as to the penalty imposed so that said accused-appellants are hereby sentenced to suffer reclusion perpetua and to pay jointly and severally an increased indemnity of P50,000.00 to the heirs of Justiniano Paloyo.

SO ORDERED.

Cruz, (Chairman), Grino-Aquino, and Bellosillo, concur.

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