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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 225640**
Plaintiff-Appellee,

Present:

- versus -

**ANTHONY PALADA @ TON-
TON, and JONALYN LOGROSA
@ MISA, ET AL.,**
Accused.

**BERSAMIN, C.J.,
JARDELEZA,
GESMUNDO,
CARANDANG, and
INTING, JJ.**

JOEL ACQUIATAN @ "KAIN",
Accused-Appellant.

Promulgated:

JUL 30 2019

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DECISION

BERSAMIN, C.J.:

Although it is not an element of the crime charged, conspiracy, whenever alleged, must be proved with the same quantum of evidence required to establish an element of the offense, that is, by proof beyond reasonable doubt. Failure to establish the existence of the conspiracy renders each accused only liable for his own specific acts.

The Case

The accused-appellant hereby seeks the review and reversal of the decision promulgated on March 28, 2016,¹ whereby the Court of Appeals (CA) affirmed the judgment rendered on July 1, 2014 by the Regional Trial Court (RTC), Branch 4, in Dolores, Eastern Samar finding him guilty

¹ *Rollo*, pp. 4-20; penned by Associate Justice Gabriel T. Robeniol with the concurrence of Associate Justice Pamela Ann Abella Maxino and Associate Justice Pablito A. Perez.

beyond reasonable doubt of murder for the killing of the late Franco Anacio.²

Antecedents

The accused-appellant was indicted for the murder along with Anthony Palada and Jonalyn Logrosa under the following information that alleged thusly:

That at past 12 midnight of February 1, 2009, in Brgy. 04, Can-avid, Eastern Samar, Philippines, and within the jurisdiction of this [H]onorable [C]ourt, the said accused, conspiring, helping one another and with treachery, malice afterthought, [evident] premeditation and deliberate intent to take the life of FRANCO ANACIO did then and there, willfully, unlawfully, feloniously, attack by shooting with the use of unlicensed firearm known as shotgun fatally hitting and inflicting mortal wounds to the different parts of the body of the victim causing his immediate death.

[CONTRARY TO LAW.]³

All of the accused pleaded *not guilty* to the information. In the course of the proceedings, however, Palada died, and the case against him was dismissed.⁶

The CA summarized the evidence adduced by the parties, to wit:

Evidence for the prosecution

During the trial, the prosecution presented the following witnesses: (1) Marly Anacio, the wife of the victim; (2) Eva Anacio, the mother of the victim; and (3) SPO4 Feleo Grata, the investigating officer.

Culled from the records, the prosecution's version is as follows:

Marly Anacio (Marly) testified that, on 1 February 2009, at about 1:00 o'clock in the morning, she, her husband Franco Anacio (Franco), and their baby, were sleeping inside their house in Brgy. 04, Can-avid, Eastern Samar, when they were suddenly awakened by the barking of their dogs. Alarmed, Franco asked her to switch on the light at the front and back of their house. Franco peeped through a hole in the wall, saw four (4) persons outside their fence, and told his wife about it. Curious, she also peeked and saw these persons. Thereafter, they decided to go back to sleep.

A few minutes later, she heard a gunshot and immediately opened one of the windows of their house. She saw accused-appellant, Palada, and Logrosa who was then carrying a long firearm, and an unidentified

² CA rollo, 46-63; penned by Presiding Judge Filotea M. Estorninos.

³ Id. at 46.

person, walking out of their fence and heading towards the street illuminated by sodium light. She went outside their house where she saw her mother-in-law Eva already thereat. Both Marly and Eva followed the four men. According to Marly, accused-appellant proceeded to his parents' house while his companions went inside the house of a certain Pacita Irasga. Marly and Eva then went back to Franco's house where Marly saw her husband lying down with blood oozing from the side of his body. Upon seeing this, she shouted for help from her neighbors.

Franco succumbed to death[,] Dr. Felix G. Nicart conducted the postmortem examination on Franco's body and concluded that the cause of his death was the multiple gunshot wounds he sustained.

Marly also testified that, previously, Franco had told her that, on 22 December 2008, Palada warned him to watch out as they will "destroy" him. Also, Marly mentioned that, on 8 January 2009, accused-appellant, while with Palada and two other companions, pointed a gun at Franco and his friend Ruel Cebreros, and then fired it upwards. This incident occurred near the Iglesia [n]i Cristo (INC) Church.

Witness Eva Anacio (Eva) essentially affirmed the testimony of Marly as to what transpired in the early hours of 1 February 2009. Additionally, she testified that she rose from her bed to find out why their dogs were barking. She peeped through the jalousie window and saw accused-appellant, Palada, Logrosa and an unidentified person conversing under a guava tree just outside their fence. Eva's house is located a few meters from her son's house which are both enclosed by a common fence. According to Eva, the place where these men were standing was illuminated by a fluorescent light coming from the barangay captain's house which is about 15 meters away. She then returned to sleep, but stood up again when she heard a gunshot. When she opened her jalousie window, she saw accused-appellant, Palada, an unidentified person, and Logrosa who then appeared to be carrying a long firearm, going out of their fence. Eva went out through the back door to go to her son's house, but, when she was already outside the house, she saw Marly coming after those men. Marly told her that those men were quarrelling. Eva observed that the four men were heading towards different directions; some to the INC Church, while the others went to Pacita Irasga's house. When Eva and Marly came back to the house, they found Franco lying down on the floor and wounded. At that point, Eva lost consciousness. Upon regaining consciousness, she joined Marly in asking for help from their neighbors. She further declared that she incurred expenses for her son's wake and burial.

SPO4 Feleo Grata testified that, on 1 February 2009, he was called to investigate the killing of Franco. He went to the victim's house where he saw the dead body of Franco and observed that there was a hole in the wall which was probably caused by a gunshot. He invited Eva and Marly to the police station for investigation where they told him the names of the suspects and gave one (1) empty shell of a homemade shotgun. He declared that the incident was entered in the police blotter wherein the nicknames of accused-appellant and Palada were indicated as the persons responsible for the killing of the victim.

Evidence for the Defense

Accused-appellant raised the defense of alibi. He testified that he was sleeping in his house at about 1:00 o'clock in the morning of 1 February 2009. According to him, his parents, sister and family friend, Wenefrida Cantos, were in his house at that time. He went to sleep early at around 7:00 o'clock that evening of 31 January 2009 so that he can attend a morning mass at the INC Church. He woke up at 6:00 in the morning of the following day and prepared himself for church service. It was from Eustaquio Legion that he learned that Franco Anacio was shot and killed.

Accused-appellant admitted that he knew the victim because they were childhood friends and neighbors. He also mentioned that Franco was known to be a trouble maker whenever he was drunk as evidenced by a statement appearing on Page No. 0912, Entry No. 1058, dated 6 January 2009, of the Police Blotter of the Can-avid Municipal Police Station, Can-avid, Eastern Samar (Exhibit "I").

Witness Wenefrida Cantos corroborated the testimony of accused-appellant and testified that she was in accused-appellant's house at the time of the incident. She recalled that, in that evening of 31 January 2009, accused-appellant arrived home at 6:00 p.m., ate his supper, and went to sleep. She woke up at 4:00 a.m. the following day and saw accused-appellant still asleep. She asked him if he will attend the church service, to which the latter replied that he will just follow later.

^e SPO1 Allan Cebrero, the property custodian of the PNP, Can-avid, Eastern Samar, brought the original police blotter Entry No. 1058 and certified that it is a true copy of the original. However, on cross-examination, he admitted that the original police blotter does not contain the signature of Rodrigo Baliquia and, thus, admitted that the photocopy of the police blotter was not a faithful reproduction of the original copy.

Accused Logrosa and Palada, for their part, denied any participation in the commission of the crime and interposed the defense of alibi. Palada declared that he was asleep in his cousin's house at the time of the incident, while Logrosa claimed that he was then in Balanga City, Bataan. In support of their defense of alibi, they presented their respective witnesses.⁴

Judgment of the RTC

On July 1, 2014, the RTC rendered judgment after trial convicting the accused-appellant of murder, but acquitting Logrosa for failure to prove his guilt beyond reasonable doubt, disposing:

WHEREFORE, in view of all the foregoing, accused JOEL ACQUIATAN is hereby found GUILTY beyond reasonable doubt of the crime of murder and is sentenced to suffer the penalty of reclusion perpetua.

⁴ Rollo, pp. 6-10.

Accused is hereby order to indemnify the heirs of Franco Anacio the amount of SEVENTY FIVE THOUSAND PESOS (₱75,000.00); the amount of FIFTY THOUSAND PESOS (₱50,000.00) as moral damages; and the amount of TWENTY FIVE THOUSAND PESOS (₱25,000.00) as temperate damages.

On the other hand, accused JONALYN LOGROSA is hereby ACQUITTED of the crime charged for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Unit-in-charge of the Bureau of Jail Management and Phenology (sic), Dolores, Eastern Samar is hereby ordered to release immediately the body of Jonalyn Logrosa, unless he is detained for some other case/s.

Furnish copy of this decision to the Bureau of Immigration and Deportation and the National Bureau of Investigation for them to delete the name of Jonalyn Logrosa from the roster of persons with cases pending before the Regional Trial Courts.

SO ORDERED.⁵

The RTC deemed as credible the testimonies of witnesses Marly Anacio and Eva Anacio regarding the presence of the accused-appellant and two unidentified persons at the crime scene prior to the shooting. It relied on Marly's testimony that after hearing the shots she had then seen the accused-appellant and his companions leave the area, and she had thereafter found her husband dead. It ruled that treachery had attended the killing of Franco because it was committed while the victim was asleep.

Decision of the CA

On March 28, 2016, the CA promulgated the assailed decision affirming the RTC with modification of the damages, as follows:

WHEREFORE, premises considered, the appeal is **DENIED**. The Decision dated 1 July 2014 of the Regional Trial Court of Dolores, Eastern Samar, 8th Judicial Region, Branch 4, in Criminal Case No. 266-09-04 is **AFFIRMED with MODIFICATION as to the damages**. In addition to the civil indemnity, moral and temperate damages awarded by the court *a quo*, accused-appellant is ordered to pay the heirs of Franco Anacio exemplary damages in the amount of ₱30,000.00.

The aforementioned awards shall be subject to interest at the legal rate of six percent (6%) per annum from the date of finality of this decision until fully paid.

SO ORDERED.⁶

⁵ CA rollo, pp. 61-63.

⁶ Rollo, p. 20.

The CA noted that the accused-appellant had conspired with his co-accused to kill Franco; that all the accused had arrived at the crime scene together, had conversed and had immediately walked away together after the shots had been fired; and that although no eyewitness had seen the shooting, sufficient circumstantial evidence to pin the crime on all of the accused, including the accused-appellant, existed considering that they had conspired in committing the murder.

Hence, this appeal.

Issue

The accused-appellant insists that the CA erred in its finding of the conspiracy among the accused; and that the circumstantial evidence presented by the Prosecution was insufficient to establish his participation in the murder of Franco.

Was the conviction of the accused-appellant supported by proof beyond reasonable doubt?

Ruling of the Court

The appeal is meritorious.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Where all the accused acted in concert at the time of the commission of the offense, and it is shown by such acts that they had the same purpose or common design and were united in its execution, conspiracy is sufficiently established. It must be shown that all participants performed specific acts with such closeness and coordination as to indicate a common purpose or design to commit a felony.⁷ Conspiracy transcends mere companionship. Mere presence at the scene of the crime does not in itself amount to conspiracy. Even knowledge or acquiescence in or agreement to cooperate is not enough to constitute one a party to a conspiracy, absent any showing of his active participation in the commission of the crime with a view to the furtherance of the common design and purpose.⁸ In this regard, we stress that conspiracy must be established, not by conjecture, but by positive and conclusive evidence.⁹ In other words, conspiracy requires the same degree of

⁷ *People v. Buatista*, G.R. No. 188601, June 29, 2010, 622 SCRA 524, 540.

⁸ *Ladonga v. People*, G.R. No. 141066, February 17, 2005, 451 SCRA 673, 685.

⁹ *Macapagal-Arroyo v. People*, G.R. No. 220598, July 19, 2016, 797 SCRA 241, 312.

proof required to establish the elements of the crime itself—the proof beyond reasonable doubt.¹⁰

In finding that conspiracy among the accused was amply established, the CA observed that:

In the case at bar, although no one witnessed the actual shooting of the victim, the prosecution had sufficiently established that accused-appellant and his companions acted together to achieve one common design, *i.e.*, to kill Franco. As already discussed above, the series of events and the actuations of the accused-appellant and his companions reveal that there was a common design, understanding, and agreement amongst themselves to commit the crime charged. They arrived together at the crime scene and positioned themselves outside the victim's fence. A few minutes later, a gunshot was heard. Immediately after the gunshot, they were seen fleeing from the *situs criminis*. With the foregoing, unbroken chain of events, duly established by the evidence for the prosecution, the conclusion of conspiracy is inevitable. Thus, each one of the accused-appellant and his companions is guilty as principal perpetrator of the crime as the act of one is the act of all. When conspiracy is established, it matters not who[m] among the assailants actually shot and killed the victim.¹¹

The observation of the CA lacked factual and legal bases.

Although the CA found that witnesses had seen the accused-appellant and his companions near the house of Franco prior to the fatal shooting, with one of them being armed, and that they had left the yard after the shot had been heard, such circumstances would not suffice to establish the conspiracy without showing that each of the accused had committed at least an overt act in furtherance of the attack on Franco. Without the clear showing of their *respective* overt acts, conspiracy could not be shown to exist, and each of them could only be held responsible for the results of his own acts.

In this connection, the character of the *overt act* is well explained in *People v. Lizada*:¹²

An overt or external act is defined as some physical activity or deed, indicating the intention to commit a particular crime, more than a mere planning or preparation, which if carried out to its complete termination following its natural course, without being frustrated by external obstacles nor by the spontaneous desistance of the perpetrator, will logically and necessarily ripen into a concrete offense. **The *raison d'être* for the law requiring a direct overt act is that, in a majority of cases, the conduct of the accused consisting merely of acts of preparation has never ceased to be equivocal; and this is necessarily**

¹⁰ *San Juan v. People*, G.R. No. 177191, May 30, 2011, 649 SCRA 300, 314.

¹¹ *Rollo*, pp. 15-16.

¹² G.R. No. 143468-71, January 24, 2003, 396 SCRA 62, 94-95.

so, irrespective of his declared intent. It is that quality of being equivocal that must be lacking before the act becomes one which may be said to be a commencement of the commission of the crime, or an overt act or before any fragment of the crime itself has been committed, and this is so for the reason that so long as the equivocal quality remains, no one can say with certainty what the intent of the accused is. It is necessary that the overt act should have been the ultimate step towards the consummation of the design. It is sufficient if it was the "first or some subsequent step in a direct movement towards the commission of the offense after the preparations are made." The act done need not constitute the last proximate one for completion. It is necessary, however, that the attempt must have a causal relation to the intended crime. In the words of Viada, the overt acts must have an immediate and necessary relation to the offense. (Bold underscoring supplied for emphasis)

The lack of direct evidence on the commission of the murder as far as the accused-appellant was concerned would not have hampered the effort to incriminate him had sufficient circumstantial evidence presented herein been sufficient. The *Rules of Court* specifies that in order for circumstantial evidence to suffice to produce a conviction, some requisites must concur, namely: (a) there is more than one circumstance, (b) the facts from which the inferences are derived have been proven, and (c) the combination of all the circumstances results in a moral certainty that the accused, to the exclusion of all others, is the one who has committed the crime.¹³

The CA listed the following eight circumstances in supporting its finding of guilt against the accused-appellant, to wit:

1.) As testified to by witnesses Marly and Eva, minutes before Franco was shot, accused-appellant together with Palada and two (2) other men were seen outside the fence of their house;

2.) Eva also testified that, minutes before the shooting, accused-appellant and his companions were conversing under a guava tree;

3.) When Marly heard a gunshot, she immediately opened her jalousie window and saw accused-appellant and his companions fleeing from the crime scene;

4.) Eva also testified that she saw accused-appellant together with his companions going out of their fence after she heard a gunshot;

5.) One of the men was carrying a long firearm;

6.) A spent shell of a 12 gauge homemade shotgun was recovered at the crime scene;

7.) The Certificate of Death states that "multiple gunshot wounds" were the underlying cause of Franco's death; and

¹³ Section 4, Rule 133, *Rules of Court*.

8.) The prosecution witnesses had no ill motive to testify against accused-appellant.¹⁴

The foregoing requisites for circumstantial evidence to be sufficient to establish guilt did not concur.

The mere presence of the accused-appellant at the scene of the crime could not justly incriminate him considering that the identity of the shooter himself remained not reliably established. In fact, Eva Anacio precisely recalled that it was Logrosa whom she had seen carrying the long firearm right after the shooting. Despite that testimony, however, the trial court acquitted Logrosa on the ground that the Prosecution did not establish his guilt beyond reasonable doubt.¹⁵ This should reveal that the combination of all the circumstances did not result in a moral certainty that the accused-appellant, *to the exclusion of all others*, had committed the crime.

Rule 133 of the *Rules of Court* provides in its Section 2 that:-

.... [i]n a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. **Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.** (Bold underscoring supplied)

The requirement of proof beyond a reasonable doubt has this vital role in our criminal procedure for very good reasons. The accused has at stake an interest of immense importance to protect, both because of the possibility that he may lose his liberty upon conviction and because of the certainty that he would be stigmatized by a conviction. Accordingly, a society that values the good name and personal freedom of every individual should not easily condemn a man for the commission of a crime when there is reasonable doubt about his guilt. Due process commands that no man shall lose his liberty unless the Government has borne the burden of convincing the factfinder of his guilt. To this end, the reasonable doubt standard is indispensable, for it impresses on the trier of fact the necessity of reaching certitude of the facts in issue.¹⁶ The Court must now acquit the accused-appellant in order to breathe life to the constitutional presumption of innocence.

WHEREFORE, the Court **GRANTS** the appeal; **REVERSES** and **SETS ASIDE** the decision promulgated on March 28, 2016; **ACQUITS** the accused-appellant **JOEL ACQUIATAN @ KAIN** for failure to establish

¹⁴ *Rollo*, pp. 13-14.

¹⁵ *Supra* note 5.

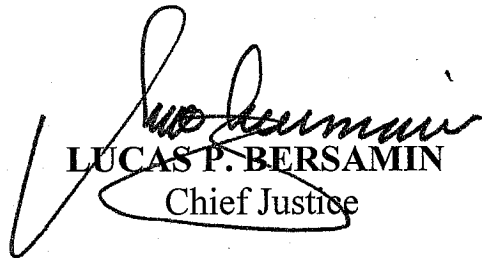
¹⁶ *People v. Morales*, G.R. No. 172873, March 19, 2010, 616 SCRA 233, 225.

the guilt beyond reasonable doubt; and **ORDERS** his immediate **RELEASE** from detention unless he is otherwise legally confined for another cause.

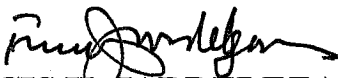
No pronouncement is made on the civil liability in view of the record not showing the factual basis to render the accused-appellant responsible for the killing of the victim.

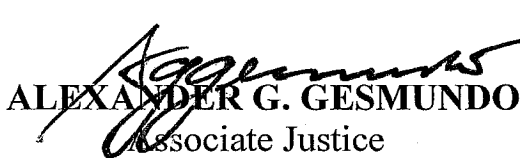
Let a copy of this decision be sent to the Superintendent, Bureau of Corrections, Leyte Regional Prison, for immediate implementation. The Superintendent of the Bureau of Corrections, Leyte Regional Prison is directed to report the action taken to this Court within five days from receipt of this decision.

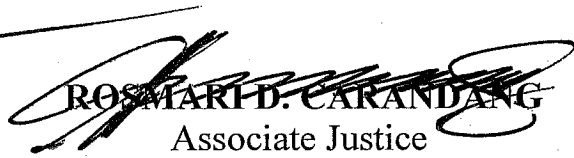
SO ORDERED.


LUCAS P. BERSAMIN
Chief Justice

WE CONCUR:


FRANCIS H. JARDELEZA
Associate Justice

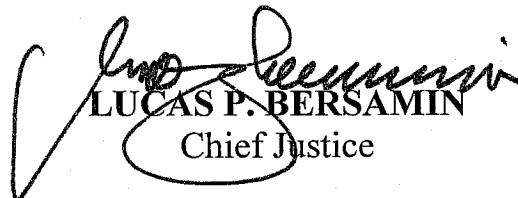

ALEXANDER G. GESMUNDO
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice