

## SECOND DIVISION

[ G.R. No. 229678, June 20, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
HERMINIO VIDAL, JR. Y UAYAN @ "PATO," ARNOLD DAVID Y  
CRUZ @ "ANOT," CIPRIANO REFREA, JR. Y ALMEDA @ "COBRA,"  
RICARDO H. PINEDA @ "PETER," EDWIN R. BARQUEROS @  
"MARVIN," AND DANIEL YASON@ "ACE," ACCUSED.**

**HERMINIO VIDAL, JR. Y UAYAN @ "PATO," AND ARNOLD DAVID  
Y CRUZ @ "ANOT," ACCUSED-APPELLANTS.**

### DECISION

**PERALTA, J.:**

Before the Court is an appeal from the Decision<sup>[1]</sup> dated February 24, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06206, which affirmed with modification the Judgment<sup>[2]</sup> dated February 6, 2013 of the Regional Trial Court, Branch 25, Biñan City, Laguna (RTC), finding accusedappellants Herminia Vibal, Jr. y Uayan @ Pato (*Vibal*) and Arnold David y Cruz @ Anot (*David*) guilty beyond reasonable doubt of the two (2) counts of the complex crime of Direct Assault with Murder in Criminal Case Nos. 17646-B and 17647-B, and one (1) count of Direct Assault with Frustrated Murder in Criminal Case No. 17648-B.

The antecedent facts are as follows:

Vibal and David, together with accused Cipriano Refrea, Jr. y Almeda @ Cobra (*Refrea*), Ricardo H. Pineda @ Peter (*Pineda*), Edwin R. Barqueros @ Marvin (*Barqueros*) and Daniel Yason @ Ace (*Yason*) were charged with two (2) counts of the complex crime of Direct Assault with Murder and one (1) count of Direct Assault with Frustrated Murder in an Information dated July 4, 2007 and two Amended Informations dated March 9, 2009, respectively, the accusatory portion of each reads:

Criminal Case No. 17646-B  
Complex Crime of Direct Assault with Murder

That on or about the 10<sup>th</sup> day of May 2005, in the City of Sta. Rosa, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another with treachery and evident premeditation and while conveniently being armed with firearms, with intent to kill, did then and there willfully, unlawfully, feloniously attack, assault and shoot Mayor Leon C. Arcillas with the said firearms, knowing fully well that he was a City Mayor of Sta. Rosa City, a person in authority, and while in the performance of his duty as such, thereby

inflicting the latter fatal injuries on the head and other parts of his body that caused his instantaneous death to the damage and prejudice of his surviving heirs.

CONTRARY TO LAW.

Criminal Case No. 17647-B  
Complex Crime of Direct Assault with Murder

That on or about the 10<sup>th</sup> day of May 2005, in the City of Sta. Rosa, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another with treachery and evident premeditation and while conveniently armed with firearms, with intent to kill, did then and there willfully, unlawfully, feloniously attack, assault and shoot Police Officer 2 Erwin B. Rivera with the said firearms, knowing fully well that he was a police officer and an agent of person in authority, and in the performance of his duty as security escort of Mayor Leon C. Arcillas, thereby inflicting him injuries on different parts of his body that caused his instantaneous death to the damage and prejudice of his surviving heirs.

CONTRARY TO LAW.

Criminal Case No. 17648-B  
Complex Crime of Direct Assault with Frustrated Murder

That on or about the 10<sup>th</sup> day of May 2005, in the City of Sta. Rosa, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another with treachery and evident premeditation and while conveniently armed with firearms, with intent to kill, did then and there willfully, unlawfully, feloniously attack, assault and shoot Police Officer 3 Wilfredo B. Almendras with the said firearms, knowing fully well that he was a police officer and an agent of person in authority, and in the performance of his duty as security escort of Mayor Leon C. Arcillas, thereby inflicting him injuries on different parts of his body, thus accused performs all the acts of execution which would produce the crime as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the accused, that is by timely medical attendance on said Police Officer 3 Wilfredo B. Almendras to his damage and prejudice.

CONTRARY TO LAW.

When arraigned on May 13, 2009, appellants and accused Refrea, pleaded not guilty to the crimes charged. Accused Yason entered a plea of not guilty to the charges during his arraignment on April 6, 2010. Accused Ricardo Pineda and Edwin Barqueros have not been arraigned yet as they are still at-large. Pre-trial with respect to Vibal, David and Refrea was terminated on October 22, 2009. While pre-trial with respect to Yason was terminated on June 22, 2010. Thereafter, joint trials on the merits followed.

During trial, Refrea died and as a consequence, he was dropped as one of the accused. Meanwhile, Yason's demurrer to evidence was granted by the RTC which resulted to the dismissal of the criminal cases as against the said accused.

### ***Version of the Prosecution***

The Office of the Solicitor General summarized the evidence for the prosecution in this wise:

On May 10, 2005, at around 8:00 o'clock in the morning, PO3 Wilfredo Almendras, together with PO2 Binmaot and PO2 Erwin Rivera, and two (2) other civilian escorts, was with Mayor Leon Arcillas at the 2nd floor of the Municipal City Hall of Sta. Rosa City. The police officers were assigned as security escorts of the Mayor. Mayor Arcillas was then solemnizing marriages. The ceremony ended at around 10:00 o'clock in the morning. The Mayor then proceeded to the Office of the Commission on Audit (COA) located at the same floor. While they were going out of the room where the ceremony was conducted, PO3 Almendras noticed that they were being followed by two (2) young kids. After spending a moment in the COA office, the group then proceeded to the Office of the Mayor. On their way to said Office, gunshots were fired on them. PO3 Almendras was not able to pull out his gun since there was a rapid fire coming from their front and back. He, PO2 Rivera and the Mayor sustained gunshots wounds. The three (3) fell to the ground. While on the floor, PO3 Almendras heard three (3) more gunshots before he felt dizzy. Thereafter, PO3 Almendras and Mayor Arcillas were brought to the hospital.

At that time, SPO1 Victoriano Peria, received a call from an unknown caller reporting that a shooting incident took place inside the Municipal building.

Upon reaching the municipal hall, he saw Mayor Arcillas bloodied and being carried out by several men and was put inside the vehicle. In the second floor, he saw PO2 Erwin Rivera lying near the door already dead, while the other victim PO3 Almendras was brought to the hospital.

The team searched the whole building of the City Hall for possible apprehension of the culprits, but to no avail. Thus, Regional Director P/Chief Supt. Jesus Versoza created a special investigating task force composed of the NBI, CIDG, Regional Intelligence Unit, SOCO and Laguna Investigation Division to conduct an investigation to ascertain the identity of the assailants.

During the investigation, Cipriano Refrea appeared and told SPO1 Peria that accused-appellants Vibal and David were his companions when the killing transpired. Refrea pointed to them as the gunmen. After knowing from Refrea the identity of accused-appellant Vibal, SPO1 Peria asked his whereabouts. He came to know that accused-appellant Vibal was presently detained at the Trece Martirez. SPO1 Peria, together with the other policemen visited Vibal, and when asked about his participation on

the shooting incident, he at first denied his participation, but later on admitted to his participation.

With respect to the identity of accused-appellant David, they came to know that he was detained at GMA, Cavite.

In his investigation, SPO1 Peria was able to ascertain that Vibal, David and Refrea were members of the gang called Royal Blood Gangsta.

Dr. Roy A. Camarillo, the medico-legal officer of the Regional Crime Laboratory at Camp Vicente Lim, Calamba, Laguna, conducted the autopsy of the cadaver[s] of Mayor Arcillas and PO2 Rivera. Based from the medico-legal report, Mayor Arcillas sustained three (3) gunshot wounds, the fatal of which are the 2 gunshots in his head. PO2 Rivera, on the other hand, sustained two (2) gunshot wounds, on the nape and chest, the latter being the fatal one that caused the death of the victim.

PO3 Almendras was examined and found to have fracture at the left forearm and weakness of the right hand.<sup>[3]</sup>

### ***Version of the Defense***

The defense, on the other hand, relates its version of the facts in this manner:

On 10 May 2005 at 10:00 o'clock a.m., accused ARNOLD DAVID was at Tanay, Rizal, where he has been staying since October 2004 as requested by his father because he was accused of murder in a gang war that happened at GMA, Cavite. He was then arrested on 19 December 2006 in connection with a case in GMA, Cavite, where he was brought somewhere blindfolded. On 2 January 2007, SPO1 Peria arrived and showed him photographs of the gang, but he denied he was in these. He denied knowing Cipriano Refrea, Jr. prior to his arrest, knowing only the latter at the police station.

Accused HERMINIO VIBAL, JR. likewise denied participation in the incident that happened on 10 May 2005. He claimed that on that date, at 10:30 o'clock a.m., he was at GMA, Cavite, with his family, including his sister, LORELYN CORONEL, and did not leave until afternoon. In February 2006, he was arrested and detained at the Cavite Provincial Jail in relation to prior cases. In December 2006, SPO1 Peria visited him and asked about the death of Reynaldo Cesar, to which Vibal denied. SPO1 Peria later took Vibal's photograph and left. He was visited again by SPO1 Peria and asked if he had any participation in the death of Mayor Arcillas. Again, Vibal denied. SPO1 Peria once again visited Vibal, this time with PO3 Almendras. The latter asked Vibal if he knew him, but Vibal could not answer as he was sick at the time. He was again photographed. In January 2007, he was again visited by SPO1 Peria and PO3 Almendras, who were now with Cipriano Refrea, Jr. and who was asked to point at Vibal. Another photograph was taken of Vibal. Prior to this meeting, Vibal did not know who Refrea was.<sup>[4]</sup>

### ***The RTC Ruling***

In its Decision, dated February 6, 2013, the RTC found Vibal and David guilty of the crimes charged. The dispositive portion of the said decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused HERMINIO U. VIBAL, JR. y UAYAN and ARNOLD DAVID y CRUZ, guilty beyond reasonable doubt of the complex crime of direct assault with murder (2 counts) and direct assault with frustrated murder. Accordingly, they are hereby sentenced to suffer the penalty as follows:

- 1) In Criminal Case No. 17646-B and 17647-B, *reclusion perpetua* (two counts). As civil liability, for them to pay jointly the following: 1) P75,000.00 as civil liability *ex-delicto* in each case; 2) P500,000.00 in moral damages to the heirs of the victims in each case;
- 2) In Criminal Case No. 17648-B, the indeterminate penalty ranging from 14 years of *reclusion temporal*, as minimum to 17 years 4 months and 1 day of *reclusion temporal*, as maximum. As civil liability, accused are ordered to pay the victim the amount of P50,000.00 in moral damages.

On the other hand, the cases against accused Ricardo Pineda and Edwin Barqueros are sent to the archives pending their arrest.

SO ORDERED.<sup>[5]</sup>

The RTC concluded that all the elements of the offenses charged were satisfactorily proven by the prosecution. It rejected the twin defenses of denial and alibi interposed by appellants in the light of the positive identification of them by prosecution witness PO3 Wilfreda Almendras (*PO3 Almendras*) as the culprits to the dastardly deeds. The RTC added that the manner by which the appellants committed the felonious acts revealed a community of criminal design, and thereby held that conspiracy exists. Lastly, the RTC ruled that evident premeditation and treachery attended the commission of the crimes which qualified the killing of Mayor Leon Arcillas (*Mayor Arcillas*) and PO2 Erwin Rivera (*PO2 Rivera*) to murder.

Not in conformity, Vibal and David appealed the February 6, 2013 RTC Decision before the CA.

### ***The CA Ruling***

On February 24, 2016, the CA rendered its assailed Decision upholding the conviction of Vibal and David for two counts of the complex crime of Direct Assault with Murder in Criminal Case Nos. 17646-B and 17647-B but held that the said appellants are criminally liable only for the complex crime of Direct Assault with Attempted Murder in Criminal Case No. 17648-B, the decretal portion of which states:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Judgment dated February 6, 2013 of the Regional Trial Court, Branch 25, Biñan City, Laguna is AFFIRMED with MODIFICATION in that the