

SPECIAL FIRST DIVISION

[G.R. No. 175602, February 13, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PO2
EDUARDO VALDEZ AND EDWIN VALDEZ, ACCUSED-APPELLANTS.**

R E S O L U T I O N

BERSAMIN, J.:

The two accused were tried for three counts of murder by the Regional Trial Court (RTC), Branch 86, in Quezon City. On January 20, 2005, after trial, the RTC convicted them as charged, prescribed on each of them the penalty of *reclusion perpetua* for each count, and ordered them to pay to the heirs of each victim P93,000.00 as actual damages, P50,000.00 as civil indemnity, and P50,000.00 as moral damages.

The Court of Appeals (CA) upheld the RTC on July 18, 2006, subject to the modification that each of the accused pay to the heirs of each victim P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, and P25,000.00 as exemplary damages, plus costs of suit.

The two accused then came to the Court on final appeal, but on May 9, 2007, Edwin Valdez filed a *motion to withdraw appeal*, which the Court granted on October 10, 2007, thereby deeming Edwin's appeal closed and terminated.^[1]

On January 18, 2012, the Court promulgated its judgment on the appeal of PO2 Eduardo Valdez, finding him guilty of three counts of homicide, instead of three counts of murder, and meting on him for each count of homicide the indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum,^[2] to wit:

WHEREFORE, the decision of the Court of Appeals promulgated on July 18, 2006 is MODIFIED by finding PO2 Eduardo Valdez guilty beyond reasonable doubt of three counts of HOMICIDE, and sentencing him to suffer for each count the indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum; and to pay to the respective heirs of the late Ferdinand Sayson, Moises Sayson, Jr., and Joselito Sayson the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as temperate damages.

The accused shall pay the costs of suit.

SO ORDERED.

Subsequently, Edwin sent to the Court Administrator a self- explanatory letter^[3] dated March 12, 2012, where he pleaded for the application to him of the judgment promulgated on January 18, 2012 on the ground that the judgment would be beneficial to him as an accused. The letter reads as follows:

HON. MIDAS MARQUEZ
Court Administrator
Office of the Court Administrator
Supreme Court of the Philippines Manila

SUBJECT: Re. Section 11 (a), Rule 122 of Rules of Court, Request for.

Your honor,

The undersigned most respectfully requesting through your Honorable office, assistance on the subject mentioned above.

I, Edwin and Eduardo, both surnamed *Valdez* were both charged before the Regional Trial Court, Branch 86, Quezon City for the entitled Crime of Murder in Criminal Case Nos. Q-00-90718 to Q-0090720, which convicted us to suffer the penalty of Reclusion Perpetua for each of the three (3) offense.

Then after the decision of the RTC Branch 86, the same was appealed to the Court of Appeals with CA-G.R. CR-HC No. 00876 and again on July 18, 2006 the Honorable Court of appeals Ninth Division issued a Decision AFFIRMED the questioned Decision with MODIFICATION.

Only my Co-principal Accused EDUARDO V. VALDEZ enterposed appealed (sic) the Affirmatory Decision of the Honorable Court of Appeals to the Highest Tribunal with G.R. Nos. 175602. On my part, I decided to withdraw my appeal, because I believe that there is no more hope for me, but I was wrong when I read the Decision of the First Division of the Supreme Court, dated January 18, 2012 signed by the Chief Justice Honorable Renato C. Corona and finally I found hope.

And now I come to your Honorable Office through this letter to seek help and assistance that the Decision of the Supreme Court to my Brother *Eduardo V. Valdez* may also benefitted (sic) the undersigned through Section 11 (a), Rule 122 of the Rules of Court.

“(a) An Appeal taken by [the] one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the Appellate Court is favorable and applicable to the latter: x x x”

Favorable Humanitarian consideration on this matter. Thank you very much and more power, God Bless. Respectfully yours

EDWIN V. VALDEZ

Through a comment filed on September 25, 2012,^[4] the Solicitor General interposed no opposition to the plea for the reduction of Edwin's sentences for being in full accord with the *Rules of Court* and pertinent jurisprudence.

We grant the plea for reduction of Edwin's sentences.

The final judgment promulgated on January 18, 2012 downgraded the crimes committed by Eduardo from three counts of murder to three counts of homicide, and consequently prescribed lighter penalties in the form of indeterminate sentences. As a result, Eduardo would serve only an indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum, under which he can qualify for parole in due course by virtue of the *Indeterminate Sentence Law*, instead of suffering the indivisible penalty of *reclusion perpetua* for each count.

The Court rationalized the result as follows:

x x x The records show that the version of PO2 Valdez was contrary to the established facts and circumstances showing that he and Edwin, then armed with short firearms, had gone to the *jai alai* betting station of Moises to confront Jonathan Rubio, the teller of the betting booth then busily attending to bettors inside the booth; that because the accused were calling to Rubio to come out of the booth, Moises approached to pacify them, but one of them threatened Moises; *Gusto mo unahin na kita?*; that immediately after Moises replied: *Huwag!*, PO2 Valdez fired several shots at Moises, causing him to fall to the ground; that PO2 Valdez continued firing at the fallen Moises; that Ferdinand (another victim) rushed to aid Moises, his brother, but Edwin shot Ferdinand in the head, spilling his brains; that somebody shouted to Joselito (the third victim) to run; that Edwin also shot Joselito twice in the back; and that Joselito fell on a burger machine. The shots fired at the three victims were apparently fired from short distances.

The testimonial accounts of the State's witnesses entirely jibed with the physical evidence. Specifically, the medico-legal evidence showed that Ferdinand had a gunshot wound in the head; that two gunshot wounds entered Joselito's back and the right side of his neck; and that Moises suffered a gunshot wound in the head and four gunshot wounds in the chest. Also, Dr. Wilfredo Tierra of the NBI Medico-Legal Office opined that the presence of marginal abrasions at the points of entry indicated that the gunshot wounds were inflicted at close range. Given that physical evidence was of the highest order and spoke the truth more eloquently than all witnesses put together, the congruence between the testimonial recollections and the physical evidence rendered the findings adverse to PO2 Valdez and Edwin conclusive.

Thirdly, conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit

the felony. Proof of the actual agreement to commit the crime need not be direct because conspiracy may be implied or inferred from their acts. Herein, both lower courts deduced the conspiracy between the accused from the mode and manner in which they perpetrated the killings. We are satisfied that their deduction was warranted.

Based on the foregoing, PO2 Valdez cannot now avoid criminal responsibility for the fatal shooting by Edwin of Ferdinand and Joselito. Both accused were convincingly shown to have acted in concert to achieve a common purpose of assaulting their unarmed victims with their guns. Their acting in concert was manifest not only from their going together to the betting station on board a single motorcycle, but also from their joint attack that PO2 Valdez commenced by firing successive shots at Moises and immediately followed by Edwin's shooting of Ferdinand and Joselito one after the other. It was also significant that they fled together on board the same motorcycle as soon as they had achieved their common purpose.

To be a conspirator, one did not have to participate in every detail of the execution; neither did he have to know the exact part performed by his co-conspirator in the execution of the criminal acts. Accordingly, the existence of the conspiracy between PO2 Valdez and Edwin was properly inferred and proved through their acts that were indicative of their common purpose and community of interest.

And, fourthly, it is unavoidable for the Court to pronounce PO2 Valdez guilty of three homicides, instead of three murders, on account of the informations not sufficiently alleging the attendance of treachery.

Treachery is the employment of means, methods or forms in the execution of any of the crimes against persons which tend to directly and specially insure its execution, without risk to the offending party arising from the defense which the offended party might make. It encompasses a wide variety of actions and attendant circumstances, the appreciation of which is particular to a crime committed. Corollarily, the defense against the appreciation of a circumstance as aggravating or qualifying is also varied and dependent on each particular instance. Such variety generates the actual need for the state to specifically aver the factual circumstances or particular acts that constitute the criminal conduct or that qualify or aggravate the liability for the crime in the interest of affording the accused sufficient notice to defend himself.

It cannot be otherwise, for, indeed, the real nature of the criminal charge is determined not from the caption or preamble of the information, or from the specification of the provision of law alleged to have been violated, which are mere conclusions of law, but by the actual recital of facts in the complaint or information.

In *People v. Dimaano*, the Court elaborated: