

SECOND DIVISION

[G.R. NO. 143404, June 08, 2005]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE BULAN AND
ALLAN BULAN, APPELLANTS.**

DECISION

CALLEJO, SR., J.:

This case was certified by the Court of Appeals (CA) to this Court for review, in view of its finding in its Decision^[1] that appellants Jose Bulan and his son, Allan Bulan, are guilty of murder as principals by indispensable cooperation punishable by *reclusion perpetua* to death, and not merely as accomplices as found by the Regional Trial Court (RTC) of Virac, Catanduanes, Branch 42.

The Antecedents

Jose Bulan and his sons, Allan and Estemson, were charged with murder in an Information filed on October 11, 1994. The accusatory portion of the Information reads:

That on or about the 6th day of June 1994 at Barangay Datag, Municipality of Caramoran, Province of Catanduanes, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another for a common purpose, that is, to kill with treachery and evident premeditation, did then and there, wilfully, unlawfully and feloniously, Jose Bulan and Allan Bulan held both hands of Alberto Mariano to deprive him of any defense, while Estemson Bulan stabbed him from behind with a deadly weapon, hitting him twice at the back which resulted to his instantaneous death, to the damage and prejudice of the victim's heirs.

That the offense is aggravated by flight and use of superior strength.

ALL ACTS CONTRARY TO LAW.^[2]

Jose and Allan were duly arraigned on March 6, 1995, and pleaded not guilty.^[3] Estemson, on the other hand, remained at large.

The Case for the Prosecution

The Office of the Solicitor General (OSG) based its summary of the facts of the case on the documentary and object evidence, on the testimony of prosecution witnesses Dr. Rico Lareza, SPO2 Pedro Roslin, Mariano Lopez, as well as Perlita Mariano and Pura Mariano, the surviving sister and mother of the deceased Alberto Mariano, respectively. Its version of the case is as follows:

1. On the night of June 6, 1994, a dance was taking place at the barangay plaza of Barangay Datag, Municipality of Caramoran, Catanduanes. Alberto Mariano, a barangay *tanod* in said barangay was assigned the task of seeing to it that anybody who entered the gate to the dance hall at the plaza must have a ribbon (pp. 4-5, tsn, Mariano, July 11, 1995; pp. 6-7, tsn, Lopez, July 10, 1995).
2. Appellant Allan Bulan came to the dance and entered the gate without the required ribbon. Alberto Mariano followed appellant Allan Bulan into the dance hall and asked him why he entered the gate without a ribbon. Instead of answering Alberto's question, Allan boxed him on the head. Accused Estemson Bulan, Allan's brother, who had entered the dance hall, likewise, boxed Alberto. Estemson then held Alberto, while Allan boxed the latter on the chest. Perlita Mariano, Alberto's sister, who was present at the dance, embraced her brother as Allan and Estemson unceasingly pummeled him (pp. 5-7, Mariano, July 11, 1995; pp. 22-25, tsn, Lopez, July 10, 1995; pp. 5-6, Decision).
3. The other barangay *tanods* present at the dance, Ceferino Ceballo and Juan Boribor, and a barangay *kagawad*, Dante Ereso, stopped Allan and Estemson from further beating Alberto. After being pacified by the barangay officials, Allan and Estemson left the dance hall. Alberto, on the other hand, went back to where he originally stood to resume his duty. His sister Perlita stood beside him (p. 7, tsn, Mariano, July 11, 1995; p. 26, tsn, Lopez, July 10, 1995).
4. One Edwin Solo, a policeman, suddenly came into the dance hall and dragged Alberto into the street just outside the entrance. Perlita embraced Alberto as he was dragged outside the barangay plaza. Appellants Jose Bulan and Allan Bulan were waiting for Alberto and immediately held the latter by his shoulders. Jose held Alberto's right shoulder while Allan held his left shoulder. Perlita was still embracing her brother but she was pulled away from him (pp. 8-9 and 25, tsn, Mariano, July 11, 1995; pp. 27-28 and 31-33, tsn, Lopez, July 10, 1995).
5. Accused Estemson Bulan suddenly appeared behind Alberto and stabbed him twice in the back with a small bolo. Perlita screamed for help. However, despite the fact that there were people at the entrance gate, nobody came to help Alberto and Perlita. After stabbing Alberto, Estemson immediately escaped, while Jose and Allan dragged the fatally wounded Alberto away from the barangay plaza to the store of Valentin Talion, which was forty meters away from the scene of the stabbing. They dropped Alberto face down on the ground in front of Valentin's store and then left, running towards the direction of [the] barangay plaza (pp. 10-11, tsn, Mariano, July 11, 1995; pp. 18 and 33-37, tsn, Lopez, July 10, 1995).
6. Perlita, who followed Jose and Allan as they dragged her brother, kept on shouting for help but nobody came to help them. After Jose

and Allan left, Perlita returned to the barangay plaza and sought help from her relatives who were at the dance. She, likewise, sought the help of the barangay officials present and informed them that Alberto was already dead (pp. 12-13, tsn, Mariano, July 11, 1995).

7. Minutes later, Nelson Rubio, a policeman, went to the place where Alberto lay. When the policeman tried to lift Alberto, the small bolo which was used in stabbing Alberto and which remained embedded in his back, fell to the ground. The Municipal Mayor of Caramoran and Dr. Rico Lareza, a doctor and the Chief of the Caramoran Municipal Hospital, also went to the site where Alberto lay. The doctor then requested the mayor to bring Alberto's body to the hospital for a post-mortem examination (pp. 13-14, tsn, Mariano, July 11, 1995; pp. 37-38, tsn, Lopez, July 10, 1995; pp. 4-5, tsn, Lareza, May 22, 1995).
8. On the same night, at around 11:30, Dr. Lareza examined Alberto and found that his body bore the following wounds and injuries:
 - (1) Stab wound, 6 cms. in length and 13 cms. in depth, located at back of the victim at the level of the fifth intercostals space of the right middle back, penetrating towards the heart;
 - (2) Stab wound, 3.5 cms. in length and 11 cms. in depth, located on the left side of the back of the victim, directed upward towards the scapular bone area from the left middle back;
 - (3) Linear hematoma, 4.5 cms. in length, located at the right side of the neck, lateral aspect;
 - (4) Multiple abrasions located on the left third of the left little finger;
 - (5) Multiple abrasions located at the back middle part of the left index finger; and
 - (6) Multiple abrasions located on the middle third of the right lower arm. (pp. 7-9, tsn, Lareza, May 22, 1995)
9. According to Dr. Lareza, "(t)he most fatal wound is wound No. 1" (p. 9, tsn, Lareza, May 22, 1995) and that Alberto Mariano died of Cardio-Respiratory Arrest due to a stab wound penetrating towards the heart (*vide*, pp. 10-11, tsn, Lareza, May 22, 1995; pp. 20-21, Record).^[4]

The Case for the Appellants

Jose, a businessman from Datag East, Caramoran, Catanduanes, denied the charge. He testified that on the night of June 6, 1994, he was with Mayor Idanan of

Caramoran and the latter's son-in-law Ely Ty. He was with them from 10:00 p.m. onwards and never left their company; hence, had no inkling that Alberto had been stabbed near the gate of the dance hall.^[5] He further alleged that he and his companions were drinking around a table and left the plaza only when a commotion ensued.^[6] He found out that he had been charged with murder only on June 17, 1994, when policemen informed him that the Municipal Trial Court (MTC) of Caramoran had issued a warrant for his arrest. He, likewise, had no knowledge that Alberto had been manhandled by his sons, and that Estemson was the one who stabbed the victim. He admitted having received the warrant of arrest issued against him by the MTC on June 17, 1994.^[7] At the police station, he was told that he would be allowed to get out of jail if he could produce his son Estemson.^[8]

Allan, likewise, denied the charge. He admitted that he and Alberto had an altercation inside the dance hall; the latter had boxed him on the upper lip, and he retaliated by punching Alberto on the stomach.^[9] He claimed that he went home after the incident. As he was in front of the store of one Valentin Talion, Alberto and five to six companions accosted him, and gave him fist blows on the forehead and neck. He was also kicked on different parts of the body. Alberto even bit the upper part of his wrist.^[10] Allan averred that his injuries were evidenced by the medical certificate issued by Dr. Rico Lareza dated June 7, 1994. Afterwards, he fled to the house of his uncle Rudy Frondero. He told his father of the incident, but did not inform the police or barangay authorities.^[11] He left for Legaspi City on June 10, 1994 and attended school as an irregular student at the Polytechnic College Foundation. Upon his mother's request, Allan accompanied her to Manila on June 27, 1994 to locate his brother Estemson. It was only then that he learned that his father was in jail for the death of Alberto. Allan also confirmed that he was arrested by NBI agents on August 7, 1994.

The appellants presented Mariano Ereso, a *barangay kagawad*, to corroborate the testimony of Jose Bulan. Another witness, Barangay Captain Magin Isuela, testified that he did not notice any commotion before Irma Cabrera's announcement at the dance floor that somebody had been stabbed.^[12] He was so shocked that he went home.^[13]

Dr. Lareza testified that considering the wounds of the victim, the assailant could not have held the bolo with the tip of the blade pointed to the elbow, then lifted the arm holding the bolo to the level of the victim's head, before stabbing the latter on the right middle portion of the back. The doctor averred that in such a case, the trajectory of the wound would be downward and not horizontal.^[14] Moreover, Wound No. 2 could not have been inflicted by one who held the bolo above the victim's head, then thrust it downwards.^[15] The doctor also explained that the road from the plaza gate to the store was stony; if the victim had been dropped on the road, face and chest down, it was possible that he would have a blackeyed face or sustained abrasions.^[16] Considering that there was a pool of blood where the body was found, the victim could have been stabbed in front of the store.^[17]

Rudy Tuqueño testified that he was drinking beer near the gate but did not witness any stabbing incident. Apropriano Selsona, Jr. corroborated Tuqueño's testimony.

After trial, the trial court rendered judgment convicting the accused of murder as accomplices. The *fallo* of the decision reads:

WHEREFORE, in view of the foregoing, Jose and Allan Bulan, considering the Indeterminate Sentence Law in their favor, are hereby sentenced to suffer the penalty of imprisonment ranging from ten (10) years and one (1) day of *prision mayor* as minimum to seventeen (17) years and four (4) months of *prision temporal* as maximum and to indemnify the heirs of the accused in the amount of P50,000.00. The period of their detention is credited in full in their favor in the service of their sentence.

The case as against Estemson Bulan who remains at large up to present is hereby placed in the archive till after his arrest.

SO ORDERED.^[18]

The trial court declared that there was no conspiracy between the appellants and Estemson.

On appeal to the CA, the appellate court rendered judgment on June 13, 2000 affirming the decision of the RTC, with the modification that the appellants and Estemson were guilty of murder as principals by indispensable cooperation. The appellate court declared that as gleaned from the evidence on record, the three of them conspired to kill the deceased. The *fallo* of the decision reads:

WHEREFORE, pursuant to Article VIII, Section 5 of the 1987 Constitution which provides:

"The Supreme Court shall have the following powers:

. . .

(d) all criminal cases in which the penalty imposed is *reclusion perpetua* or higher"

and Par. 2, Section 13, Rule 124, Rules of Court, which states:

"Whenever a Criminal Cases Division should be of the opinion that the penalty of death or life imprisonment be imposed in a case, the said Division after the discussion of the evidence and the law involved, shall render judgment imposing the penalty of death or *reclusion perpetua* or higher as circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review."

and finding the accused-appellants, Jose Bulan and Allan Bulan, guilty beyond reasonable doubt of conspiring in murdering Alberto Mariano, as penalized under Article 248 of the Revised Penal Code by *reclusion perpetua* to death. We hereby certify this case to the Honorable Supreme Court for final determination and proper action.

SO ORDERED.^[19]