

## SECOND DIVISION

[ G.R. No. 127962, April 14, 2004 ]

**KINGSTON(E) LI Y NUNEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.**

### DECISION

**TINGA, J.:**

On 19 April 1993, the relative early morning calm in General Luna Street, Barangay Bangkal, Makati, was shattered when a petty argument evolved into a street brawl. After the dust had settled, eighteen (18) -year old Christopher Arugay ("Arugay") lay dying from multiple stab wounds, while his neighbor, twenty-four (24)-year old Kingstone<sup>[1]</sup> Li ("Li"), staggered injured, with hack wounds on his head.

Li was charged before the Regional Trial Court (RTC) of Makati, Branch 148,<sup>[2]</sup> with the crime of Homicide.<sup>[3]</sup> On 5 January 1994, after trial, he was found guilty and sentenced to the penalty of eight (8) years and one (1) day of *prision mayor* to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*. His conviction was affirmed by the Court of Appeals Fifteenth Division in a *Decision*<sup>[4]</sup> dated 6 September 1996.

The version presented by the prosecution as to the antecedent facts leading to Arugay's death differs sharply from the version offered by Li. The accused claims that the dispute stemmed from a spurned offer to drink, while the prosecution traces the root of the fight to an indecorous bath in public.

The story of the prosecution was told by the witnesses Aubrey dela Camara ("dela Camara") and Ronaldo Tan ("Tan").<sup>[5]</sup>

Shortly before his death, Arugay was watching television at home with his sisters Cristy and Baby Jane, his girlfriend dela Camara and Baby Jane's boyfriend, Tan. At around 1:15 in the early morning, dela Camara and Tan suddenly heard a noise outside. Peering through the window, they saw Li and a certain Eduardo "Eddie Boy" Sangalang taking a bath completely naked. The two were facing the house of the Arugays.<sup>[6]</sup>

Enraged, Arugay yelled, "*Pare bastos kayo, ba't kayo nakahubad?*"<sup>[7]</sup>

Li shouted back, "*Putang Ina!*" and threw something at the Arugays' house. Sangalang also yelled, "*Putang Ina mo, lumabas ka, papatayin kita!*"<sup>[8]</sup>

An incensed Arugay went out the house where he was met by Li, now wearing briefs and carrying a baseball bat. Li struck Arugay on the head with the bat, causing

Arugay to fall. Li ran back to his house. Tan and dela Camara assisted Arugay and were trying to drag him back to his house when Li re-emerged, this time with a knife. Li then stabbed Arugay once.<sup>[9]</sup>

Immediately thereafter, dela Camara was confronted by Li's sister, Kristine, who proceeded to pull her hair and slap her around. Kristine also wielded a bolo, with which she hacked dela Camara in the arm. Although preoccupied under the circumstances, dela Camara was able to see Sangalang stab Arugay at least once, so she claimed.<sup>[10]</sup>

Tan saw Arugay run towards the street after he was stabbed, with Li and Sangalang chasing him. He saw nothing further of the incident, according to him.<sup>[11]</sup>

In their respective testimonies, dela Camara and Tan are unable to account for the fact that before the fight ended, Li also lay wounded with multiple hack wounds on his head and body. This fact lies at the crux of the petitioner's defense.

On the other hand, Li presents a different version.

Li encountered Arugay out on the street on the night of 18 April 1993, a few hours before the brawl. Arugay was carrying a *bayong* containing various liquors. He invited Li to a drinking session which the latter refused as he had work the following day.<sup>[12]</sup>

Early the next morning, around one o'clock a.m., Li was watching television at his home with his friend Ricky Amerol when they heard objects being thrown at the house. Peeping through the window, they saw Arugay and dela Camara in front of the gate throwing stones and bottles at the direction of Li's house. The stones broke window jalousies and also struck Amerol. At the same time, Arugay was also hurling invectives at Li.<sup>[13]</sup>

Annoyed, Li opened the door asking, "*Pare, ano ba problema mo? Wala naman kaming kasalanan sa 'yo.*" Arugay and his girlfriend just kept on stoning the house and hurling invectives at petitioner. Arugay kicked the gate but Li prevented him from opening it. Arugay then ran towards his house across the street.<sup>[14]</sup>

Li tried to fix the gate, which had become misaligned and its lock destroyed as a result of the kicking. Reacting, he saw Arugay coming out of the house armed with two kitchen knives. In response, Li went inside his house and got a baseball bat. When he returned to the street, Arugay attacked him with a knife. Li managed to avoid Arugay's thrusts and hit Arugay with the baseball bat on the right shoulder. Arugay ran back to his house shouting, "The long one! The long one!" Li also dashed back to his house but before he was able to enter the door, he saw Arugay carrying a two-foot long bolo, running towards him. On Arugay's heels were Ronaldo Tan and Aubrey dela Camara.<sup>[15]</sup>

Arugay tried to hit Li with the bolo. Li raised his right hand to protect himself but Arugay was able to hit him on his right temple and right wrist. Not content, Arugay hit Li on the right shoulder. Li passed out.<sup>[16]</sup>

Upon regaining consciousness, Li tried to crawl back to his house but Ronald Tan hit him at the back of his left ear with a baseball bat. Eventually, Li managed to get back to the house and was brought to the Makati Medical Center by Amerol and *Barangay Tanod* Eduardo Reyes.<sup>[17]</sup>

On cross-examination, Li admitted that Eduardo Sangalang was also in his house at the time the incident started. Sangalang was the boyfriend of Li's half-sister, Cristy.<sup>[18]</sup>

Dr. Alberto Reyes of the Medico Legal Section of the National Bureau of Investigation conducted the post-mortem examination on the body of Arugay. He noted the following injuries:

Pallor, lips and nailbeds.

Contusion, arm, right, poster-lateral, 5.0 x 3.0 cm.

Wounds, incised, scalp, parieto-occipital, right, 6.0 cm.; anterior sheet, left side, suprammary 6.0 cm., inframmary 4.0 cm.

Wounds stab:

1. 3.0 cm., long, spindle[-]shaped edges, irregular, oriented, horizontally, with a sharp, medial and a blunt lateral extremities, located at the anterior chest wall, left side, 15.0 cm. from the anterior median line, directed upwards, backwards and medially, involving the skin and soft tissues only with an approximate depth of 4.0 cm.
2. 4.0 cm., long, spindle shaped edges irregular, with a sharp inferolateral and blunt supero-medial extremities, located at the anterior abdominal wall, right side, 0.5 cm. from the anterior median line, directed upwards , backwards and medially involving the skin and soft tissues, laceration of the diaphragm and the right lobe of the liver, with an approximate depth of 10.0 cm.
3. 1.5 cm. long, spindle shape[d] edges irregular oriented almost horizontally with a sharp lateral and blunt medial extremities, located at the anterior abdominal wall, left side, 9.0 cm. from the anterior median line, directed backwards, upwards and medially involving the skin and soft tissues, penetrating the transverse colon with an approximate depth of 12.0 cm.
4. 1.5 cm. long, spindle, edges irregular oriented almost horizontally with a sharp poster-lateral a blunt antero medial extremities located at the anterior chest wall right side, 21.0 cm. from the anterior median line, directed backward, upwards and medially involving the skin and soft tissues penetrating the 8th intercostals space, into the diaphragm and right lobe of the liver, with an approximate depth of 12.0 cm.

Hemoperitoneum – 1,500 c.c.

Brain and other visceral organs, pale.

Stomach, half-full with rice and brownish fluid.

Cause of death – stab wounds of the chest and abdomen.<sup>[19]</sup>

After trial on the merits, the RTC rendered its *Decision*, finding Li guilty as charged. The dispositive portion reads:

WHEREFORE, premises considered, and finding accused KINGSTONE LI guilty beyond reasonable doubt of the crime of Homicide defined and penalized under Article 249 of the Revised Penal Code, said accused is hereby sentenced to suffer the penalty of from EIGHT (8) YEARS and ONE (1) day of *prision mayor* as minimum to FOURTEEN (14) years, EIGHT (8) MONTHS and ONE (1) DAY of *reclusion temporal* as maximum with all the accessories of the law.

The accused is further ordered to pay to the heirs of the late Christopher Arugay the sum of P50,000.00 for and as indemnity for causing the death of said victim.

With costs against the accused.

SO ORDERED.<sup>[20]</sup>

Li appealed to the Court of Appeals but it affirmed with modification the RTC *Decision*. He filed a *Motion for Reconsideration* which the Court of Appeals denied.<sup>[21]</sup>

Li filed the present *Petition for Review*, seeking the reversal of his conviction for the crime of homicide.

Li denies killing Arugay. He contends that the RTC erred in holding that he was the instigator of the events leading to Arugay's death; in not basing its *Decision* on the evidence on record; in holding that he was guilty of homicide by reason of conspiracy; and in not ruling that the evidence of the prosecution does not prove his guilt beyond reasonable doubt.<sup>[22]</sup>

There is a difference in the factual findings of the RTC and those of the Court of Appeals. The variance warrants the close review of the findings of the two courts. While both courts argue that Li was guilty of homicide, their respective rationales are different.

Neither court disputes that the proximate cause of the death of Arugay was the stab wounds he received. The RTC concluded though that it was Sangalang, and not Li, who stabbed Arugay:

From all these conflicting versions, this court after piecing out the evidence presented and from what can be deduced in the circumstances obtaining finds that because of the altercation between Christopher

Arugay and Kingstone Li, Christopher Arugay armed himself with a bolo and Kingstone Li armed himself with a baseball bat.

From the evidence presented, it became clear to the court that it was Kingstone Li who hit first with a baseball bat Christopher Arugay hitting the latter not on the head but at the right arm which is near the shoulder.  
[23]

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Now, after Kingstone Li has hit the deceased with a baseball bat, the deceased who is armed with a bolo, retaliated by hacking Kingstone Li on the head and indeed he was hit on the head and right wrist causing Kingstone Li to lose his hold on the baseball bat and fell (sic) semi-unconscious or unconscious.

At this point in time, Eduardo Sangalang, who was then also present stabbed the deceased several times at least six times.

This is explained by the findings of Dr. Alberto Reyes that Christopher Arugay sustained an incise[d] wound on scalp, on the left chest, and four stab wounds that are fatal.

When Christopher Arugay sustained the fatal wounds, two (2) of them piercing his liver xxx[24]

While the RTC concluded that Li had not stabbed Arugay, it nevertheless held him guilty, predicated on a finding of conspiracy with Sangalang. This issue shall be explored in greater detail later.

In contrast, the Court of Appeals did not rule out the possibility that Li had stabbed Arugay, and rendered unnecessary a finding of conspiracy to attach guilt to the accused. It held:

The deceased suffered four fatal wounds, then (sic) the accused **might have inflicted at least one fatal stab wound** and so with his friend Eddie Boy, who remains at large. Since it has not been established which wound was inflicted by either one of them, they should both be held liable and each one is guilty of homicide, whether or not a conspiracy exists.[25] (Emphasis supplied)

The appellate court's formulation is wrong as the converse is the correct rule: with the existence of conspiracy, it is no longer necessary to determine who among the malefactors rendered the fatal blow;[26] whereas in the absence of conspiracy, each of the accused is responsible only for the consequences of his own acts.[27] Thus, it is necessary to determine whether a conspiracy existed between Li and Sangalang, and if there was none, to ascertain the particular acts performed by Li.

The Court of Appeals also cited the testimonies of the prosecution witnesses, Tan and dela Camara, to the effect that they saw Li stab Arugay at the left portion of the body.[28] These testimonies are vital as they constitute the only evidence that Li actually stabbed Arugay. A careful examination of the case however cautions us