

THIRD DIVISION

[G.R. No. 141438-40, February 03, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LITO LIMPANGOG
AND JERRY LIMPANGOG, APPELLANTS.**

DECISION

PANGANIBAN, J.:

In every criminal prosecution, the State must prove beyond reasonable doubt all the elements of the crime charged *and* the complicity or participation of the accused. Where the evidence does not show beyond moral certainty that appellant was one of the perpetrators of the offense, acquittal necessarily follows. The constitutional presumption of innocence must be upheld.

Statement of the Case

Lito and Jerry Limpangog appeal the September 15, 1994 Joint Decision^[1] of the Regional Trial Court (RTC) of Ormoc City (Branch 12) in Criminal Case Nos. 4375-0, 4376-0 and 4393-0, convicting them of murder and two counts of frustrated murder. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, decision is hereby rendered in Criminal Cases Nos. 4375, 4376 and 4393 finding the accused LITO LIMPANGOG and JERRY LIMPANGOG guilty beyond reasonable doubt of Frustrated Murder in Criminal Case No. 4375; Murder in Criminal Case No. 4376; and Frustrated Murder in Criminal Case No. 4393 defined and penalized under Article 248 in relation to Article 6 of the Revised Penal Code. Appreciating the aggravating circumstance of nighttime with no mitigating circumstance to offset it, this court imposes upon the said Lito Limpangog and Jerry Limpangog the sentence of imprisonment for an indeterminate period of TEN (10) years of prision mayor, as minimum, to SEVENTEEN (17) YEARS of reclusion temporal as maximum in Criminal Case No. 4375; RECLUSION PERPETUA in Criminal Case No. 4376; and TEN (10) years of prision mayor, as minimum, to SEVENTEEN (17) YEARS of reclusion temporal, as maximum, in Criminal Case No. 4393, and to indemnify Pedro Casimero and Rene Boy Casimero the sum of TEN THOUSAND PESOS (P10,000.00) each and the heirs of Jose Cabanero the sum of FIFTY THOUSAND PESOS (P50,000.00) and to pay the costs.

"As both convicted accused are detention prisoners, the period of their detention shall be credited in full if they conform in writing with the rules and regulations of convicted prisoners, otherwise, only four[-]fifths thereof."^[2]

Three Informations^[3] charged appellants as follows:

In Criminal Case No. 4375-0 --

"That on or about the 19th day of November, 1993, at Highway District, Poblacion, Merida, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, by conspiring and mutually helping each other with treachery and evident premeditation, did then and there wil[l]fully and feloniously attack, assault, stab and wound one RENY BOY CASIMERO, with the use of sharp pointed weapon, which the accused had provided themselves for the purpose, thereby inflicting upon him the following wounds, to wit:

- '1) Incised wound 1 cm. (L) posterior axillary line.
- '2) Incised wound 2 cm. lateral aspect thigh.
- '3) Incised wound 1.5 cm. (R) mid-clavicular line at the level of T6 T8 penetrating.'

which would have caused his death, thus performing all the acts of execution which would have produced the crime of Murder, as a consequence, but nevertheless did not produce the same, by reason of causes independent of the will of the accused, that is by the timely and adequate medical assistance rendered to the victim which prevented his death."^[4]

In Criminal Case No. 4376-0 --

"That on or about the 19th day of November, 1993, at Highway District, Poblacion, Merida, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, with treachery and evident premeditation, did then and there wil[l]fully, unlawfully and feloniously attack, assault, stab and wound one JOSE CABAÑERO, with the use of sharp pointed weapon which the accused had provided themselves for the purpose, thereby inflicting upon the latter the following wounds, to wit:

- 1) Wound-clean cut, 5.5 cm. in length, bone deep, oblique in direction, cutting the lower lip, right side.
- '2) Stab wound -- 2 cm[.] in length, muscle deep, vertical and upward in direction, first intercostal space, midclavicular line, right anterior chest wall.
- '3) Stab wound -- 2 cm[.] in length, through and through, skin deep, verti[c]al in direction right shoulder.
- '4) Stab wound -- 2 cm[.] in length, probably penetrating the chest cavity, oblique and

downward in direction, first intercostal space, anterior axillary line, left anterior chest wall.

- '5) Stab wound -- 2 cm[.] in length, bone deep, horizontal in level of the fourth intercostal space, midsternum.
- '6) Stab wound -- 2 cm[.] in length, muscle deep horizontal, seventh intercostal space, left paravertebral line"

which caused his death."^[5]

In Criminal Case No. 4393-0 --

"That on or about the 19th day of November, 1993, at Highway District, Poblacion, Merida, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, by conspiring and mutually helping each other, with treachery and evident premeditation, did then and there wil[l]fully and feloniously x x x attack, assault, stab and wound one PEDRO CASIMERO with the use of sharp pointed weapon, which the accused had provided themselves for the purpose, thereby inflicting upon him the following wounds, to wit:

- '1) Stab wound 1.5 cm. (L) scapular area, non penetrating.
- '2) Stab wound 1.5 cm. (R) scapular area, non penetrating[.]'

which would have caused his death, thus performing all the acts of execution which would have produced the crime of Murder, as a consequence but nevertheless did not produce the same, by reason of causes independent of the will of the accused, that is by the timely and adequate medical assistance rendered to the victim which prevented his death."^[6]

During their arraignment for Criminal Case Nos. 4375-0 and 4376-0 on April 20, 1994^[7] and for Criminal Case No. 4393-0 on May 16, 1994,^[8] appellants, assisted by counsel,^[9] pleaded not guilty to the charges. After pretrial and trial in due course, the lower court rendered the assailed judgment.

The Facts

Version of the Prosecution

In its Additional Brief for the Appellee,^[10] the Office of the Solicitor General (OSG) presents the prosecution's version of the facts in this wise:

"Pedro Casimero testified that he was the driver of a Yamaha motorcab owned by Marilyn Barte, plying Cogon, Owak and Isabel, Leyte. On November 19, 1993, about 8:00 o'clock in the evening, while waiting for passengers at the Ormoc City terminal, appellants Lito and Jerry

Limpangog approached him and told him that they wanted to hire his motorcab for P150.00 in going to Isabel, Leyte. Pedro refused and told appellants that they could hire his motorcab for P250.00. Pedro then told appellants that another passenger who turned out to be Jose Cabanero was also going to Isabel, Leyte and could pay the difference.

"While appellants were eating at a well-lighted restaurant, Pedro Casimero noticed that appellant Lito Limpangog had a tattoo on the left hand. Thereafter, appellants took the motorcab of Pedro going to Isabel, Leyte with Jose Cabanero sitting inside the motocab. As Jerry Limpangog was getting into the motorcab, someone called for Lito Limpangog and someone answered that he was urinating. They passed Barangay Puertobello, Merida, Leyte in order to fetch Pedro's cousin, Ren[y] Boy Casimero. Reny Boy sat in the front portion of the motorcab.

"While they were negotiating the Highway of Merida, Leyte, appellant Lito Limpangog ordered Pedro to stop the motorcab as he wanted to urinate. Pedro was hesitant because it was a dark and secluded place. When Pedro turned his head to look behind, he saw appellant Lito Limpangog about to stab him with a hunting knife. Pedro was stabbed on the left and right scapular area. Pedro jumped off the still running motorcab and at the same time shouted at Reny Boy to tell him to jump off the motorcab. Pedro saw Reny Boy jump from the motorcab and stagger as he landed on the ground. With Jose Cabanero still inside the motorcab, Pedro and Reny Boy ran as fast as they could in order to ask for assistance from the police. Reny Boy and Pedro was able to ask for assistance at a nearby house and while inside the house, Pedro saw his motorcab pass by. Afterwards, Pedro and Reny Boy went to the PNP Headquarters at Merida, Leyte to report the incident.

"Reny Boy Casimero narrated that while trying to escape, appellants stabbed him on the armpit, right thigh and back. Later, he and Pedro were taken by the police to the Ormoc District Hospital, Leyte, for treatment.

"PO2 Noel Igot of the PNP, Merida testified that in the evening of November 19, 1993, a barangay tanod and Pedro Casimero reported the carnapping of Pedro's motorcab and the stabbing incident at Merida, Leyte. Igot brought Pedro for treatment to the Ormoc District Hospital at Merida, Leyte where he was joined by Reny Boy, who was also wounded in the incident. The following day, November 20, 1993, a civilian reported that a dead person was found on the creek at the Municipal Highway of Merida, Leyte. The police responded and found the dead body of Jose Cabanero.

"The Certification dated November 19, 1993 issued by Celso S. Antiligando, Chief of Police, PNP, Isabel, Leyte, relative to the incident, reads:

REPORT ON ALLEGED CARNAP YAMAHA L2 100 COLOR RED
WITH PLATE NR TCHV-5093 WITH SIDE CAR NO 515
BELIEVED TO BE STOLEN BY AN UNIDENTIFIED PERSON/S

AND WAS ABANDONED AT OSMENA ST POBLACION ISABEL, LEYTE SUSPECTS FLED AWAY ON FOOT WHEN A TEAM LED BY SPO1 REGALADO B SINGZON PNP, PO111 REYNALDO B COSTAS PNP, PO111 PEDRO S AMODIA & PO1 TAN, ANTONIO I ALL MBRS [OF] THIS STATION WHO RESPONDED TO THE REPORT. SUBJ TRICYCLE WAS BROUGHT TO PNP ISABEL FOR FURTHER INVESTIGATION.

"The Certification dated July 4, 1994 issued by Simplicio D. Muertigue, PNP Record/Administrative Clerk and Virgilio N. Luna, Chief of Police, PNP, Merida, Leyte, relative to the incident, reads:

'THIS IS TO CERTIFY that per records available this Headquarters and or Official entry of the Merida PNP Police Blotter as entered on pages 453 to 454, entry no. 1001 dated 19 November 1993 the following is found and quoted viz:

'That on or about 192245H November 1993, [o]ne Pedro Casimero, of legal age, married, [F]ilipino a resident of Ormoc City Driver In-Charge of a passenger motor tri-cycle reported to this Station that while on board of said motor tri-cycle from Ormoc City bound for Isabel, Leyte two of his passengers one of which with tattoo on the left back hand aboard at the back seat of said motor tri-cycle suddenly stabbed him including his nephew Reny Boy Casimero and one of his passenger[s] x x x Jose Cabanero. Incident happened on or about 192230H Nov'93.

"Dr. Jesus A. Castro of the Ormoc District Hospital, who was Pedro Casimero's attending physician, issued a Medical Report dated November 23, 1993 wherein he stated that Pedro sustained the following injuries:

Stab wound 1.5 cm. (L) scapular area, non penetrating.

Stab wound 1.5 cm. (R) scapular area, non penetrating.

Condition of patient on the date attended:

Conscious/Not admitted.

x x x require medical attendance for a period of fifteen (15) days.

"Dr. Jesus A. Castro was also Reny Boy Casimero's attending physician. As to Reny Boy, Dr. Castro issued a Medical Report dated January 17, 1994 wherein the following was stated as the injuries sustained by Reny Boy:

1. Incised wound 1 cm. (L) posterior axillary line.
2. Incised wound 2 cm. lateral aspect thigh.
3. Incised wound 1.5 cm (R) mid-clavicular line at the level of T6 T8 penetrating.