

## FIRST DIVISION

[ G.R. No. 121671, August 14, 1998 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLY MANALILI Y BOLISAY AND DANILO REYES Y MAMNILA, ACCUSED-APPELLANTS.**

### D E C I S I O N

#### **PANGANIBAN, J.:**

Under the Constitution, an accused has the right to be informed, before trial, of the nature of the offense with which he or she is charged. Regardless of how conclusive and convincing the evidence of guilt may be, there can be no conviction, unless the offense is charged (or is necessarily included) in the complaint or information. On the other hand, an accused, who fails to object prior to arraignment to a duplicitous information, may be found guilty of any or all of the crimes alleged therein and duly proven during the trial, for the allegation of the elements of such component crimes in the said information has satisfied the constitutional guarantee that an accused be informed of the nature of the offense with which he or she is being charged.

#### The Case

Before us is an appeal from the Decision<sup>[1]</sup> of the Regional Trial Court of Santiago City, Isabela, Branch 21,<sup>[2]</sup> in Criminal Case Nos. 21-1156, 21-1157 and 21-1158, finding Willy Manalili y Bolisay and Danilo Reyes y Mamnila guilty of attempted robbery with homicide, sentencing them to *reclusion perpetua* and ordering them to pay, jointly and severally, P50,000 to each of the heirs of the deceased -- Alfredo Tango, Sonny Quintua and Nestor Agustin.

On July 27, 1990, three Informations against the two appellants were simultaneously filed in the Regional Trial Court of Ilagan, Isabela, Branch 16. The first case, docketed as Crim. Case No. 1380, now Crim. Case 21-1156, charged the two with attempted robbery, as follows:

"That on or about the 1st day of February 1990, in the [M]unicipality of Cordon, [P]rovince of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, together with Edmund Belleza, Antolin Maragundon and Allan Montenegro, who are now deceased, conspiring and confederating together and helping one another, all armed with assorted firearms, with intent to gain, by means of violence and intimidation against persons, did then and there willfully, unlawfully and feloniously try and attempt to rob the passengers of a Ballesteros Liner, De Luxe Bus bearing Plate No. PNG-908, thereby commencing the commission of the crime of robbery directly by overt acts and that if the herein accused did not accomplish their unlawful purpose, it was not because of their own voluntary desistance but because a military personnel who was one of the passengers resisted and repelled the

accused with the use of his gun with the result that one of the hold-up men was killed and the others were wounded.”<sup>[3]</sup>

The second case, docketed as Crim. Case No. 1381, now Crim. Case No. 21-1157, charged them with killing three persons, viz.:

“That on or about the 1st day of February 1990, in the [M]unicipality of Cordon, [P]rovince of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the herein accused together with Edmundo Belleza, Antolin Maragundon and Allan Montenegro who are now deceased, not being allowed or authorized by law to keep, possess and carry firearms, did then and there willfully, unlawfully and feloniously have in their possession and under their control and custody assorted firearms without having obtained the necessary permit and/or license therefor and on the occasion of such possession, herein accused, conspiring and confederating together and helping one another, with evident premeditation and treachery, with intent to kill suddenly and unexpectedly and without giving them [a] chance to defend themselves did then and there willfully, unlawfully, and feloniously assault, attack and shoot with said illegally possessed firearms Alfredo Tango y Tabinga, Sonny Quintua and Nestor Agustin y Correo, inflicting upon them gunshot wounds, which directly caused their death.”<sup>[4]</sup>

The third Information, docketed as Crim. Case 1382, now Crim. Case No. 21-1158, charged them with the shooting and wounding, but not the killing, of three other persons as follows:

“That on or about the 1st day of February 1990, in the [M]unicipality of Cordon, [P]rovince of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, together with Edmundo Belleza, Antolin Maragundon and Allan Montenegro who are now deceased, all armed with assorted firearms, conspiring and confederating together and helping one another, with evident premeditation and treachery, with intent to kill suddenly and unexpectedly and without giving them [a] chance to defend themselves, did there and then willfully, unlawfully and feloniously assault, attack and shoot with the said illegally possessed firearms (the possession of which guns, accused were already charged in Criminal Case No. 1381) Michael Guiang, William Simmapan and Fernando Arado, inflicting upon them gunshot wounds, which injuries would ordinarily cause their death, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but, nevertheless, did not produce it by reason of causes independent of their will, that is, by the timely and able medical assistance rendered to the aforesaid Michael Guiang, William Simmapan and Fernando Arada which prevented their death.”<sup>[5]</sup>

Upon arraignment on October 23, 1990, both accused, with the assistance of counsel, entered a plea of not guilty to each of the offenses charged.

After joint trial on the merits, the court rendered the assailed Decision dated February 17, 1995, the decretal portion of which reads:

"WHEREFORE in the light of the foregoing consideration, the Court finds the Accused Danilo Reyes and Willy Manalili GUILTY beyond reasonable doubt of the crime of attempted robbery with homicide and hereby sentences each of them to the penalty of *reclusion perpetua*. They are also ordered to pay, jointly and solidarily, the heirs of the deceased Alfredo Tango, Sonny Quintua and Nestor Agustin the sum of Fifty Thousand Pesos (P50,000) each.

"However the Court finds the accused NOT GUILTY of the crime of qualified illegal possession of firearms used in multiple murder and hereby ACQUITS them.

"SO ORDERED."

The counsel for the accused erroneously filed a Notice of Appeal with the Court of Appeals which correctly transmitted the records of this case to the Supreme Court, inasmuch as *reclusion perpetua* was imposed by the trial court.<sup>[6]</sup>

#### The Facts

##### *Version of the Prosecution*

The facts as presented by the prosecution are summarized in the Appellees' Brief<sup>[7]</sup> in this manner:

"On February 1, 1990, a passenger bus of Ballesteros Liner bound for Manila left its terminal at Ballesteros, Cagayan (p. 3, TSN, June 19, 1991; p. 3, TSN, September 7, 1993). When the bus reached Caquilingan, Cordon, Isabela, appellant Danilo Reyes fired a gun and announced that they [were] staging a hold-up (pp. 5-8, TSN, September 7, 1993; p. 6, TSN, December 12, 1990). The companions of Reyes stood up and likewise announced a hold-up (p. 4, TSN, June 19, 1990; p. 6, TSN, December 12, 1990). Reyes shot and killed the bus helper Sonny Quintua (pp. 6-8, TSN, September 7, 1993; p. 26, TSN, December 12, 1990). The driver stopped the bus (p. 9, TSN, September 7, 1993). Appellant Willy Manalili pointed a gun at Marcelino Liberato (p. 21, TSN, December 12, 1990). Manalili took money from the passenger in seat No. 34 (pp. 16, 17, 21, TSN, December 12, 1990). Suddenly, there was an exchange of gunfire between the robbers and one of the passengers (p. 19, TSN, December 12, 1990). One of the robbers was shot and killed while Manalili was shot on the right shoulder (p. 28-29, TSN, December 12, 1990). The passenger who shot it out with the robbers jumped out of the bus (pp. 20-21, TSN, December 12, 1990). Reyes shot and killed the bus driver, Alfredo Tango (p. 22, TSN, December 12, 1990). Nestor Agustin, a passenger, was also shot and died as a consequence thereof (p. 9, TSN, June 19, 1991). While the robbers were on board a car, the police arrived and fired their guns (p. 27, TSN, December 12, 1990; p. 14, TSN, September 7, 1993). The vehicle used by the robbers turned turtle (p. 4, TSN, December 3, 1990; p. 28, TSN, December 12, 1990). The robbers ran towards the southern direction (p. 5, TSN, December 12, 1990).

"The following morning, Lt. Mariano received a report that the men responsible for the holdup were hiding in the house of Jose Belleza in

Diadi, Nueva Vizcaya (p. 5, TSN, December 3, 1990). Lt. Mariano and his men went to Diadi and coordinated with the CAFGU under Lt. Beltejar and thereafter they raided the house of Jose Belleza, but the two men were no longer there because they fled to the BFD plantation in San Luis, Diadi (pp. 5-6, Ibid). Lt. Mariano and his men proceeded to the BFD plantation (p. 6, Ibid). Some of his men chanced upon the holduppers and there was a firefight and Edmund Belleza, one of the holduppers, was killed (p. 6, Ibid; pp. 10-11, TSN, January 20, 1994). They were not able to apprehend the other suspects that night (p. 7, TSN, December 3, 1990). The following day, February 3, 1990, Lt. Mariano received information that two men were buying sandals in Cordon and that one of them was wounded at the back (p. 7, Ibid). He dispatched his men to apprehend the two who turned out to be the appellants and Manalili was the one who had [a] gunshot wound at the back (pp. 7-8, Ibid; p. 12, TSN, January 20, 1994). Appellants admitted that they were the ones who held up the Ballesteros Liner bus (p. 7, TSN, December 3, 1990; p. 12, TSN, January 20, 1994). The two accused also said that the firearms they used [were] hidden in the house of Cesar Belleza (p. 8, TSN, December 3, 1990). Based on this information, Lt. Mariano immediately went to the house of Cesar Belleza (p. 8, Ibid). The wife of Cesar Belleza was in the house and she told the police that the firearms were hidden at the back of the house (p. 8, Ibid). The police searched the place indicated and they were able to find four (4) live bullets, three (3) empty shells and two (2) Cal. 38 with SN 35977 and SN 77271 and one (1) Squires Bingham Cal. 38 with tampered serial number (p. 9, Ibid; p. 6, TSN, February 26, 1991)."

### *Version of the Defense*

The testimonies of the defense witnesses were summarized in the Appellants' Brief, [8] as quoted hereunder:

"DANILO REYES, one of the accused herein, testified that he had nothing to do with the robbery incident. In the afternoon of February 1, 1990 he was at the house of Willy Manalili at San Ricardo, Isabela, Nueva Ecija to ask the latter to accompany him to see his girlfriend at Isabela. He spent the night at Manalili's house. The following day, the two of them decided to seek permission from Manalili's wife who was then at General Ricarte, likewise in Llanera. However, it was only Manalili who went to see his wife as he waited for the latter at the road junction. Therafter, they proceeded to Cabanatuan City in order to take a ride for Alicia, Isabela. When they reached Alicia, Isabela at 7:00 o'clock in the evening his girlfriend's auntie informed them that [his] girlfriend was in Vigan, Cordon. The two decided to spen[d] the night at Alicia[,] Isabela. The following morning they left for Cordon, Isabela. When they alighted at the town proper of Cordon they were apprehended by armed men. They were brought to the Municipal Hall for investigation. (TSN, pp.1-15, October 20, 1994).

"WILLY MANALILI, the other accused herein likewise testified and asserted that he had no participation in the robbery with homicide incident that occurred inside the bus of Ballesteros Liner. He corroborated all the material aspects of his co-accused Danilo Reyes['] testimony. (TSN, pp.1-18, Nov. 21, 1994)

"ALFONSO SUPSUP, a neighbor of Willy Manalili, testified that in the afternoon of February 1, 1990, while he was in his house he saw Danilo Reyes at the house of Willy Manalili at San Ricardo, Talavera, Nueva Ecija. He heard Danilo Reyes inviting Manalili to accompany him to Alicia, Isabela to see his girlfriend. The two stayed and slept at Manalili's house. [I]t was only on February 4, 1990 when he learned that the two were apprehended and imprisoned for having participated in the commission of the crimes charged. (TSN, pp. 1-13, September 2, 1994)

"RICHARD DIAZ of Ilagan, Isabela, testified that in the evening of February 2, 1990 he was in the house of Juling Cabilion at Alicia [,] Isabela. While he was engaged in a drinking spree with the husband of Juling Cabilion and the latter's friend, the two accused arrived. The duo were looking for Lorna Cabilin, the girlfriend of the accused Danilo Reyes. They spent the night in the house of Juling Cabilion. (TSN, pp. 1-5, August 26, 1994)

"ARNOLD GABRIEL, father-in-law of Willy Manalili, testified and claimed that on February 2, 1990 the latter came to his house at General Ricarte, Llanera, Nueva Ecija and sought permission from Manalili's wife to accompany Danilo Reyes in going to Alicia, Isabela to see the latter's girlfriend. It was only on February 3, 1990, when he learned that his son-in-law was detained at Cordon, Isabela. (TSN, pp. 1-15, Sept. 9, 1994)"

### *Ruling of the Trial Court*

The trial court, in evaluating the evidence presented before it, held:<sup>[9]</sup>

"It is not disputed that a Ballesteros Liner bus on its way to Manila from Ballesteros, Cagayan, was held up in Caquilingan, Cordon, Isabela, in the evening of February 1, 1990. How the holdup was done was not also controverted by the defense. There is nothing incredible about the story that would inspire disbelief. Thus it was satisfactorily established that four armed men who boarded the bus at Santiago, Isabela, drew out their guns and announced a holdup when the bus reached Caquilingan, Cordon at about the same time that a car suddenly overtook the bus which had to stop. One of the armed men in front initially fired a shot. A passenger, supposedly a military man who was not identified, drew out his gun and exchanged fire with the robbers and then broke the window of the bus and jumped out. The robbers must have lost heart and they also left. There were four persons killed. One [was] their companion who was not identified. The three others were Nestor Agustin who was hit on the back, the driver Alfredo Tango who was shot in the abdomen and the bus helper Sonny Quintua who was shot in the head. It is admitted that these three died as a result of the gunshot wounds they suffered.

"It was not shown who shot Nestor Agustin. The witnesses did not see. On this matter something can be said of those who investigated the crime. For some unexplained reason they did not deem it important to interview the passenger who fought with the robbers. They did not also subject the firearms, both that of the passenger and those recovered during the investigation, to ballistic examination. Had they done so, they would have determined what firearm killed Nestor Agustin. Certainly our