



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PO1 CARLO B. DELOS SANTOS,* G.R. No. 231765

Petitioner, Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
BALTAZAR-PADILLA,** JJ.

- versus -

PEOPLE OF THE PHILIPPINES
and FLORANTON V. ONTOG,
Respondents.

Promulgated:
24 AUG 2020

X ----- X

DECISION

INTING, J.:

Before the Court is a Petition for Review¹ on *Certiorari* filed under Rule 45 of the Rules of Court assailing the Decision² dated November 2, 2016 and the Resolution³ dated May 3, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06947 which affirmed with modification the Decision dated March 18, 2014 of Branch 224, Regional Trial Court (RTC), Quezon City in Criminal Case No. Q-08-154512 that found Police Officer I Carlo B. Delos Santos (PO1 Delos Santos), among others, guilty beyond reasonable doubt of the crime of Murder.

* Referred to as "delos Santos" in some parts of the *rollo*.

** On official leave.

¹ *Rollo*, pp. 9-37.

² *Id.* at 39-84; penned by Associate Justice Celia C. Librea-Leagogo with Associate Justice Amy C. Lazaro-Javier (now a member of the Court) and Melchor Q.C. Sadang, concurring.

³ *Id.* at 86-87; penned by Associate Justice Celia C. Librea-Leagogo with Associate Justice Amy C. Lazaro-Javier (now a member of the Court) and Maria Filomena D. Singh, concurring.

The Antecedents

An Information for Murder was filed against PO1 Delos Santos, Salvador C. Galos (Galos), Danilo A. Arevalo (Arevalo), *Barangay* Captain Erlinda Arevalo (Brgy. Capt. Arevalo), Ronaldo “Bahotog” Almoete (Almoete), and three John Does as follows:

“That on or about March 7, 2007 at 7:35 o’clock in the evening thereof at Brgy. Baybay Dagat, Municipality of San Fernando, Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with guns, with intent to kill, evident premeditation, treachery, with superior strength and taking advantage of public position, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and shoot one PIO V. ONTOG, JR., hitting him on different parts of his body which caused his death.

CONTRARY TO LAW.”⁴

Upon arraignment, PO1 Delos Santos pleaded not guilty to the crime as charged.⁵ The venue of the trial was then transferred from Branch 50, RTC, San Jacinto, Masbate to the RTC of Quezon City.

The facts of the case, as found by the CA, are as follows:

On March 7, 2009, at around 7:35 p.m., PO1 Ronald B. Medalla (PO1 Medalla), Pio V. Ontog, Jr. *alias* “Mata” (Pio), and Joseph Oliva (Oliva), a *barangay tanod*, went to the house of Brgy. Capt. Arevalo at *Sitio Bacolod, Baybay Dagat, San Fernando, Masbate* to talk about *Kagawad* Rustom Barroga (Kgd. Barroga). Upon approaching the house of Brgy. Capt. Arevalo, they saw accused Galos and Almoete having a drinking spree with Brgy. Capt. Arevalo and the latter’s husband, Danilo Arevalo (Danilo).⁶

PO1 Medalla and Danilo were having a conversation when they heard Galos shout, “*bakit sino ka ba?*” Galos then pulled his .45 caliber gun and hit PO1 Medalla on his upper left lip with the butt of the gun. Pio tried to pacify the situation and uttered, “*tama na yan, maliit na bagay lang yan.*” PO1 Medalla tried to get a hold of Galos’ gun, but

⁴ *Id.* at 41.

⁵ *Id.*

⁶ *Id.* at 42.

Almoete pulled him back. At that point Galos poked his gun at PO1 Medalla, then aimed his gun at Pio, and fired it hitting the latter above his abdomen. Then, more gunshots were fired. Oliva saw Galos continuously fire his gun at Pio, who tried to hide behind a motorcycle. PO1 Medalla then saw Pio holding his chest. They heard Brgy. Capt. Arevalo shout, “*sige, barilin nyo na si 'Mata' (Pio) dahil matapang yan.*”⁷

Oliva ran away towards the police station to report the incident, but PO1 Delos Santos and Rodolfo Pelones (Pelones), who were both in civilian clothing, prevented him. PO1 Delos Santos poked his M-14 rifle at Oliva and brought him inside a warehouse (*camalig*), owned by one Noli Arevalo (Noli) *alias* “Bullet”, brother of Danilo. Pelones, who was also armed with an M-16 rifle, stayed on guard nearby.⁸

PO1 Delos Santos allowed Oliva to leave the warehouse when two uniformed policemen passed by on their way to the crime scene. Oliva then proceeded to the police station. Since the gate was closed, he went instead to the adjacent house of Tony Uy and reported the incident to Marvie Bravo (Bravo), who was running for mayor against Mayor Helen Bunan (Mayor Bunan), Pio, Kgd. Barroga, and Oliva are leaders/supporters of Bravo, while the Arevalos were the leaders/supporters of Mayor Bunan.⁹

Afterwards, Oliva returned to the crime scene where he saw PO1 Delos Santos with Pelones. He also saw the live-in partner of Pio, among others. He then assisted in the recovery of the body of Pio. They brought Pio to the hospital where Dr. Roger Lim declared Pio dead on arrival. Meanwhile, PO1 Medalla went to the police station to seek assistance and had the incident entered in the police blotter. He then proceeded to the hospital.¹⁰

According to the prosecution’s witnesses, the incident was politically motivated. They positively identified PO1 Delos Santos, who was known as Mayor Bunan’s security escort. PO1 Medalla admitted that he wanted to fix things between Kgd. Barroga and Danilo as the latter prohibited Bravo’s leaders/supporters from using the public road in front of the Arevalos’ house.¹¹

⁷ *Id.* at 42-43, 44.

⁸ *Id.* at 43.

⁹ *Id.* at 43-44.

¹⁰ *Id.* at 43, 45.

¹¹ *Id.* at 44-45.

On the other hand, the version of the defense, as found by the CA, is as follows:

On the fateful date, Galos was in Danilo's house to collect the payment for the fish he sold to the latter. There, he saw PO1 Medalla, who was with Pio, confront Danilo of the prohibition the latter imposed against Bravo's supporters. Thereafter, Pio tried to pacify the conflict. But PO1 Medalla was in a fury. He poked a gun at Danilo and then at Galos. At that instance, Galo grabbed the barrel of the gun, but PO1 Medalla pulled it causing him to almost fall to the ground face down. When PO1 Medalla stood up, Galos saw that the former's lips were already bleeding. PO1 Medalla then threatened to shoot Galos, but Pio tried to break the quarrel. Thereafter, Galos wrestled for the gun, pulled it upwards, and struggled for its possession from PO1 Medalla. In the process, the gun accidentally fired and hit Pio. Pio then ran away leaving PO1 Medalla, who appeared stunned and still holding the gun. Danilo shouted at Galos to run away. Thus, Galos pushed aside PO1 Medalla, escaped towards Danilo's house, and heard and felt gunshots aimed towards the concrete behind him. Galos hid inside the house with Elvira Consegra.¹²

A few minutes later, Galos saw PO3¹³ Roger Alindogan (PO3 Alindogan), who was armed with an armalite. Thereafter, SPO4 Centura arrived. Galos approached SPO4 Centura and the latter told Galos that PO1 Medalla reported him (Galos) as the one who shot Pio. Galos volunteered to go to the police station and there, he saw PO1 Medalla writing in the blotter book.¹⁴

For his part, PO1 Delos Santos admitted that he was at the crime scene with his firearm slinged on his back. However he denied preventing Oliva from reporting the incident to the police station. He testified that at that time, he was in the police station with five other police officers on duty when they heard a certain Gloria Cantojos shout for help. As a result, he and PO3 Alindogan readied their long issued firearms. The station chief then dispatched a team composed of six police officers to respond to the crime scene.¹⁵

¹² *Id.* at 54-55.

¹³ Referred to as "Police Officer P" in some parts of the *rollo*.

¹⁴ *Rollo*, p. 55.

¹⁵ *Id.* at 51.

On the way to the crime scene, PO3 Alindogan and PO3 Recto made a stop to meet someone in a white t-shirt who PO1 Delos Santos later found out to be PO1 Medalla, a cousin of PO3 Alindogan. They then hurried to pursue Galos. Upon arriving at the crime scene, they cordoned the area; PO3 Alindogan and PO3 Recto, with the assistance of *barangay* officials, went inside the house to recover the injured Pio.¹⁶

The other police officers instructed PO1 Delos Santos to secure a vehicle to transport Pio to the hospital. After which, they ordered PO1 Delos Santos to stay at the crime scene and await for the police investigator to conduct the investigation. PO1 Delos Santos recalled that at that time he saw Galos approach SPO4 Centura and heard SPO4 Centura tell Galos that they have been waiting for him for a while since PO1 Medalla pointed to Galos as the suspect. He, likewise, saw Galos and SPO4 Centura leave the area together.¹⁷

Ruling of the RTC

In the Decision¹⁸ dated March 18, 2014, the RTC found PO1 Delos Santos, and his co-accused, guilty beyond reasonable doubt of the crime of Murder. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the accused, SALVADOR GALOS and PO1 CARLO DELOS SANTOS, are hereby found GUILTY beyond reasonable doubt of the crime of MURDER, defined and penalized under Article 248 of the Revised Penal Code, as amended, and they are hereby sentenced to each suffer the penalty of *RECLUSION PERPETUA* and to pay the heirs of PIO V. ONTOG, JR., the amounts of P50,000.00 as indemnity for his death; P25,000.00 as temperate damages; P50,000.00 exemplary damages; P50,000.00 as moral damages; and P20,000.00 as attorney's fees; and the costs.

SO ORDERED.¹⁹

Aggrieved, PO1 Delos Santos appealed his conviction. On the other hand, the case against Galos was dismissed on account of his untimely demise.

¹⁶ *Id.* at 52.

¹⁷ *Id.* at 52-53.

¹⁸ *Id.* at 39-40; as culled from the CA Decision.

¹⁹ *Id.*

PO1 Delos Santos argued that the prosecution failed to prove the presence of the qualifying circumstances of treachery and evident premeditation considering that the testimonies of Oliva and PO1 Medalla showed that there was a confrontation prior to the shooting incident. He further raised that conspiracy was not established; and that the aggravating circumstances of abuse of superior strength, aid of armed men, and abuse of public position were not proved considering that it was only Galos who attacked Pio with a gun.

Ruling of the CA

In the Decision²⁰ dated November 2, 2016, the CA affirmed with modification the RTC's Decision by increasing the award of damages and imposing legal interest. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 18 March 2014 of the Regional Trial Court of Quezon City, Branch 224 in *Crim. Case No. Q-08-154512* finding accused-appellant PO1 Carlo Delos Santos guilty beyond reasonable doubt of the crime of murder under Article 248 of the Revised Penal Code, as amended, and imposing upon him the penalty of *reclusion perpetua* is AFFIRMED with MODIFICATION, in that the amount of civil indemnity, moral damages and exemplary damages are hereby increased to Php75,000.00 each; and temperate damages is also increased to Php50,000.00, plus 6% interest *per annum* on all damages, from the finality of this Decision until fully paid. Costs against accused-appellant PO1 Carlo Delos Santos.

SO ORDERED.²¹

Undeterred, PO1 Delos Santos filed the instant petition.

The Issue before the Court

The issue for the Court's resolution is whether the conviction of PO1 Delos Santos for Murder is proper.

In essence, PO1 Delos Santos questions the court *a quo's* appreciation of conspiracy based on the testimony of a single prosecution witness that he prevented the reporting of a crime. He

²⁰ *Id.* at 39-84.

²¹ *Id.* at 79-80.

asserts that the court *a quo*'s findings that he did nothing to prevent the commission of the crime is baseless since a crime had already been committed when prosecution witness Oliva implicated him. He further insinuates that it is a serious and grave error for the CA to affirm his conviction for his "doing nothing to prevent the commission of a crime."

Our Ruling

Preliminarily, as correctly observed by the Office of the Solicitor General, PO1 Delos Santos availed himself of the wrong mode of appeal. Section 3(e) of Rule 122 of the Rules of Court, in relation to Section 13(c) of Rule 124 of the same Rule, provides that appeal to the Supreme Court in cases where the CA imposes *reclusion perpetua* shall be by notice of appeal filed with the CA.

However, the Court will not put premium on technicalities especially when the liberty of a person is at stake. After all, rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court and a strict and rigid application of rules that would result in technicalities that tend to frustrate rather than promote substantial justice must be avoided.²²

The core of the appeal of PO1 Delos Santos focuses on the lower court's appreciation of evidence on the existence of conspiracy. Conspiracy is present when there is unity in purpose and intention in the commission of a crime; it does not require a previous plan or agreement to commit assault as it is sufficient that at the time of such aggression, all the accused manifested by their acts a common intent or desire to attack.²³ It does not need to be proven by direct evidence and may be inferred from the conduct before, during, and after the commission of the crime indicative of a joint purpose, concerted action, and concurrence of sentiments as in conspiracy.²⁴

In the instant case, the purported participation of PO1 Delos Santos in the alleged conspiracy to commit murder against the victim was his act of preventing Oliva from reporting the shooting incident to

²² *Hilario v. People*, 574 Phil. 348, 363 (2008), citing *Cusi-Hernandez v. Spouses Diaz*, 390 Phil 1245, 1252 (2000).

²³ *People v. Vargas*, G.R. No. 230356, September 18, 2019, citing *People v. Rivera*, 458 Phil. 856, 877-878 (2003).

²⁴ *People v. Las Piñas, et al.*, 739 Phil. 502, 526 (2014).

the police; the lower courts appreciated it as an indication that he had a common purpose with his co-accused against the victim, Pio.

We do not agree.

Mere knowledge, acquiescence, or approval of the act, without cooperation or agreement to cooperate, is not enough to constitute one a party to a conspiracy.²⁵ There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose.²⁶ The shooting incident transpired during a heated argument in a drinking spree. There was no showing that PO1 Delos Santos actively participated in the furtherance of the common design or purpose since the shooting transpired and was consummated even without his cooperation or assistance.

In the same manner, mere presence at the scene of the crime at the time of its commission is not, by itself, sufficient to establish conspiracy in the absence of evidence of actual cooperation rather than mere cognizance or approval of an illegal act is required.²⁷ Although direct proof is not essential to establish conspiracy, there must be positive and conclusive evidence which must satisfy the same degree of proof necessary to establish the crime to support a finding of the presence of a criminal conspiracy.²⁸ Even if the finding as regards the presence of PO1 Delos Santos near the scene where the late Pio was shot by Galos were accurate, his mere presence near the scene of the crime does not of itself constitute sufficient basis for concluding that he was in conspiracy with Galos who was the actual perpetrator of the crime.

WHEREFORE, the Decision dated November 2, 2016 and the Resolution dated May 3, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 06947 finding petitioner Police Officer I Carlo B. Delos Santos guilty beyond reasonable doubt of the crime of Murder is **REVERSED** and **SET ASIDE**. Petitioner Police Officer I Carlo B. Delos Santos is hereby **ACQUITTED** of the crime of Murder committed in conspiracy for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered **IMMEDIATELY RELEASED** from detention unless he is otherwise legally confined for another cause.

²⁵ *Orodió v. Court of Appeals*, 247-A Phil. 409, 416 (1988).

²⁶ *Id.*, citing *People v. Izon, et al.*, 104 Phil. 690, 698 (1958).

²⁷ *Rimando v. People*, 821 Phil. 1086, 1098 (2017), citing *People v. Desoy*, 371 Phil. 362 (1999) and *Abad v. Court of Appeals*, 353 Phil. 247, 253 (1998).

²⁸ *People v. Vda. de Quijano*, 292-A Phil. 157, 164 (1993).

Let a copy of this Decision be sent to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is **DIRECTED** to **REPORT** the action he has taken to this Court within five (5) days from receipt of this Decision.

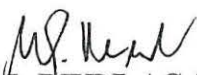
Let entry of judgment be made immediately.

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

(On official leave)
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

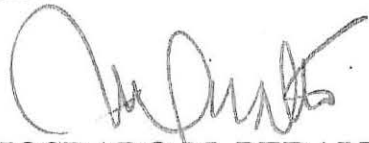
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. BERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice