Republic of the Philippines
Supreme Court
Manila

SPECIAL FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 175602**
	Present:
- versus -	LEONARDO-DE CASTRO, *Acting Chairperson,* BERSAMIN, DEL CASTILLO, VILLARAMA, JR., and *LEONEN, *JJ.*
PO2 EDUARDO VALDEZ and EDWIN VALDEZ, Accused-Appellants.	Promulgated: FEB 13 2013

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RESOLUTION

BERSAMIN, *J.*:

The two accused were tried for three counts of murder by the Regional Trial Court (RTC), Branch 86, in Quezon City. On January 20, 2005, after trial, the RTC convicted them as charged, prescribed on each of them the penalty of *reclusion perpetua* for each count, and ordered them to pay to the heirs of each victim ₱93,000.00 as actual damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages.

The Court of Appeals (CA) upheld the RTC on July 18, 2006, subject to the modification that each of the accused pay to the heirs of each victim ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱25,000.00 as temperate damages, and ₱25,000.00 as exemplary damages, plus costs of suit.

The two accused then came to the Court on final appeal, but on May 9, 2007, Edwin Valdez filed a *motion to withdraw appeal*, which the Court

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* Vice Chief Justice Renato C. Corona, per Section 7, Rule II of the *Internal Rules of the Supreme Court.*

granted on October 10, 2007, thereby deeming Edwin's appeal closed and terminated.[1]

On January 18, 2012, the Court promulgated its judgment on the appeal of PO2 Eduardo Valdez, finding him guilty of three counts of homicide, instead of three counts of murder, and meting on him for each count of homicide the indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum,[2] to wit:

> WHEREFORE, the decision of the Court of Appeals promulgated on July 18, 2006 is MODIFIED by finding PO2 Eduardo Valdez guilty beyond reasonable doubt of three counts of HOMICIDE, and sentencing him to suffer for each count the indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum; and to pay to the respective heirs of the late Ferdinand Sayson, Moises Sayson, Jr., and Joselito Sayson the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as temperate damages.
>
> The accused shall pay the costs of suit.
>
> SO ORDERED.

Subsequently, Edwin sent to the Court Administrator a self-explanatory letter[3] dated March 12, 2012, where he pleaded for the application to him of the judgment promulgated on January 18, 2012 on the ground that the judgment would be beneficial to him as an accused. The letter reads as follows:

> HON. MIDAS MARQUEZ
> Court Administrator
> Office of the Court Administrator
> Supreme Court of the Philippines
> Manila
>
> SUBJECT: Re. Section 11 (a), Rule 122 of Rules of Court, Request for.
>
> Your honor,
>
> The undersigned most respectfully requesting through your Honorable office, assistance on the subject mentioned above.
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> I, Edwin and Eduardo, both surnamed *Valdez* were both charged before the Regional Trial Court, Branch 86, Quezon City for the entitled Crime of Murder in Criminal Case Nos. Q-00-90718 to Q-0090720,

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1 *Rollo*, p. 57.
2 Id. at 81.
3 Id. at 87.

> which convicted us to suffer the penalty of Reclusion Perpetua for each of the three (3) offense.
>
> Then after the decision of the RTC Branch 86, the same was appealed to the Court of Appeals with CA-G.R. CR-HC No. 00876 and again on July 18, 2006 the Honorable Court of appeals Ninth Division issued a Decision AFFIRMED the questioned Decision with MODIFICATION.
>
> Only my Co-principal Accused EDUARDO V. VALDEZ enterposed appealed (sic) the Affirmatory Decision of the Honorable Court of Appeals to the Highest Tribunal with G.R. Nos. 175602. On my part, I decided to withdraw my appeal, because I believe that there is no more hope for me, but I was wrong when I read the Decision of the First Division of the Supreme Court, dated January 18, 2012 signed by the Chief Justice Honorable Renato C. Corona and finally I found hope.
>
> And now I come to your Honorable Office through this letter to seek help and assistance that the Decision of the Supreme Court to my Brother *Eduardo V. Valdez* may also benefitted (*sic*) the undersigned through Section 11 (a) , Rule 122 of the Rules of Court.
>
> "(a) An Appeal taken by [the] one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the Appellate Court is favorable and applicable to the latter: x x x"
>
> Favorable Humanitarian consideration on this matter.
>
> Thank you very much and more power, God Bless.
>
> Respectfully yours
>
> EDWIN V. VALDEZ

Through a comment filed on September 25, 2012,[4] the Solicitor General interposed no opposition to the plea for the reduction of Edwin's sentences for being in full accord with the *Rules of Court* and pertinent jurisprudence.

We grant the plea for reduction of Edwin's sentences.

The final judgment promulgated on January 18, 2012 downgraded the crimes committed by Eduardo from three counts of murder to three counts of homicide, and consequently prescribed lighter penalties in the form of indeterminate sentences. As a result, Eduardo would serve only an indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum, under which he can qualify for parole in due course by virtue of the *Indeterminate Sentence Law*, instead of suffering the indivisible penalty of *reclusion perpetua* for each count.

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[4] Id. at 101.

The Court rationalized the result as follows:

> **x x x The records show that the version of PO2 Valdez was contrary to the established facts and circumstances showing that he and Edwin, then armed with short firearms, had gone to the *jai alai* betting station of Moises to confront Jonathan Rubio, the teller of the betting booth then busily attending to bettors inside the booth; that because the accused were calling to Rubio to come out of the booth, Moises approached to pacify them, but one of them threatened Moises; *Gusto mo unahin na kita?;* that immediately after Moises replied: *Huwag!*, PO2 Valdez fired several shots at Moises, causing him to fall to the ground; that PO2 Valdez continued firing at the fallen Moises; that Ferdinand (another victim) rushed to aid Moises, his brother, but Edwin shot Ferdinand in the head, spilling his brains; that somebody shouted to Joselito (the third victim) to run; that Edwin also shot Joselito twice in the back; and that Joselito fell on a burger machine. The shots fired at the three victims were apparently fired from short distances.**
>
> The testimonial accounts of the State's witnesses entirely jibed with the physical evidence. Specifically, the medico-legal evidence showed that Ferdinand had a gunshot wound in the head; that two gunshot wounds entered Joselito's back and the right side of his neck; and that Moises suffered a gunshot wound in the head and four gunshot wounds in the chest. Also, Dr. Wilfredo Tierra of the NBI Medico-Legal Office opined that the presence of marginal abrasions at the points of entry indicated that the gunshot wounds were inflicted at close range. Given that physical evidence was of the highest order and spoke the truth more eloquently than all witnesses put together, the congruence between the testimonial recollections and the physical evidence rendered the findings adverse to PO2 Valdez and Edwin conclusive.
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> Thirdly, conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit the felony. Proof of the actual agreement to commit the crime need not be direct because conspiracy may be implied or inferred from their acts. Herein, both lower courts deduced the conspiracy between the accused from the mode and manner in which they perpetrated the killings. We are satisfied that their deduction was warranted.
>
> **Based on the foregoing, PO2 Valdez cannot now avoid criminal responsibility for the fatal shooting by Edwin of Ferdinand and Joselito. Both accused were convincingly shown to have acted in concert to achieve a common purpose of assaulting their unarmed victims with their guns. Their acting in concert was manifest not only from their going together to the betting station on board a single motorcycle, but also from their joint attack that PO2 Valdez commenced by firing successive shots at Moises and immediately followed by Edwin's shooting of Ferdinand and Joselito one after the other. It was also significant that they fled together on board the same motorcycle as soon as they had achieved their common purpose.**

To be a conspirator, one did not have to participate in every detail of the execution; neither did he have to know the exact part performed by his co-conspirator in the execution of the criminal acts. Accordingly, the existence of the conspiracy between PO2 Valdez and Edwin was properly inferred and proved through their acts that were indicative of their common purpose and community of interest.

And, fourthly, it is unavoidable for the Court to pronounce PO2 Valdez guilty of three homicides, instead of three murders, on account of the informations not sufficiently alleging the attendance of treachery.

Treachery is the employment of means, methods or forms in the execution of any of the crimes against persons which tend to directly and specially insure its execution, without risk to the offending party arising from the defense which the offended party might make. It encompasses a wide variety of actions and attendant circumstances, the appreciation of which is particular to a crime committed. Corollarily, the defense against the appreciation of a circumstance as aggravating or qualifying is also varied and dependent on each particular instance. Such variety generates the actual need for the state to specifically aver the factual circumstances or particular acts that constitute the criminal conduct or that qualify or aggravate the liability for the crime in the interest of affording the accused sufficient notice to defend himself.

It cannot be otherwise, for, indeed, the real nature of the criminal charge is determined not from the caption or preamble of the information, or from the specification of the provision of law alleged to have been violated, which are mere conclusions of law, but by the actual recital of facts in the complaint or information. In *People v. Dimaano*, the Court elaborated:

> For complaint or information to be sufficient, it must state the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed. What is controlling is not the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violated, these being mere conclusions of law made by the prosecutor, but the description of the crime charged and the particular facts therein recited. The acts or omissions complained of must be alleged in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. **Every element of the offense must be stated in the information. What facts and circumstances are necessary to be included therein must be determined by reference to the definitions and essentials of the specified crimes. The requirement of alleging the elements of a crime in the information is to inform the accused of the nature of the accusation against him so as**

> **to enable him to suitably prepare his defense. The presumption is that the accused has no independent knowledge of the facts that constitute the offense.** [emphasis supplied]

The averments of the informations to the effect that the two accused "with intent to kill, qualified with treachery, evident premeditation and abuse of superior strength did x x x assault, attack and employ personal violence upon" the victims "by then and there shooting [them] with a gun, hitting [them]" on various parts of their bodies "which [were] the direct and immediate cause of [their] death[s]" did not sufficiently set forth the facts and circumstances describing how treachery attended each of the killings. It should not be difficult to see that merely averring the killing of a person by shooting him with a gun, without more, did not show how the execution of the crime was directly and specially ensured without risk to the accused from the defense that the victim might make. Indeed, the use of the gun as an instrument to kill was not *per se* treachery, for there are other instruments that could serve the same lethal purpose. Nor did the use of the term *treachery* constitute a sufficient averment, for that term, standing alone, was nothing but a conclusion of law, not an averment of a fact. In short, the particular acts and circumstances constituting treachery as an attendant circumstance in murder were missing from the informations.

x x x. The requirement of sufficient factual averments is meant to inform the accused of the nature and cause of the charge against him in order to enable him to prepare his defense. This requirement accords with the presumption of innocence in his favor, pursuant to which he is always presumed to have no independent knowledge of the details of the crime he is being charged with. To have the facts stated in the body of the information determine the crime of which he stands charged and for which he must be tried thoroughly accords with common sense and with the requirements of plain justice, x x x.

x x x x

x x x. There being no circumstances modifying criminal liability, the penalty is applied in its medium period (*ie.*, 14 years, 8 months and 1 day to 17 years and 4 months). Under the *Indeterminate Sentence Law*, the minimum of the indeterminate sentence is taken from *prision mayor*, and the maximum from the medium period of *reclusion temporal*. **Hence, the Court imposes the indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum for each count of homicide.**

WHEREFORE, the decision of the Court of Appeals promulgated on July 18, 2006 is **MODIFIED** by **finding PO2 Eduardo Valdez guilty beyond reasonable doubt of three counts of HOMICIDE, and sentencing him to suffer for each count the indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum;** and to pay to the respective heirs of the late Ferdinand Sayson, Moises Sayson, Jr., and Joselito Sayson the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as temperate damages.

> The accused shall pay the costs of suit.
>
> **SO ORDERED**.[5] (Emphasis supplied)

On his part, Edwin cannot be barred from seeking the application to him of the downgrading of the crimes committed (and the resultant lighter penalties) despite the finality of his convictions for three counts of murder due to his withdrawal of his appeal. The downgrading of the crimes committed would definitely be favorable to him. Worth pointing out is that to deny to him the benefit of the lessened criminal responsibilities would be highly unfair, considering that this Court had found the two accused to have acted in concert in their deadly assault against the victims, warranting their equal liabiliy under the principle of conspiracy.

We grant Edwin's plea based on Section 11(a), Rule 122 of the *Rules of Court*, which relevantly provides:

> Section 11. *Effect of appeal by any of several accused.* – (a) **An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.**
>
> x x x x

In this connection, the Court has pronounced in *Lim v. Court of Appeals*[6] that the benefits of this provision extended to all the accused, regardless of whether they appealed or not, to wit:

> As earlier stated, both petitioner and the OSG laterally argue that in the event of Guingguing's acquittal, petitioner should likewise be acquitted, based on Rule 122, Section 11(a) of the Revised Rules of Criminal Procedure, as amended, which states:
>
> > SEC. 11. Effect of appeal by any of several accused.-
> >
> > (a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.
>
> Private respondent however, contends that said provision is not applicable to petitioner inasmuch as he appealed from his conviction, and the provision states that a favorable judgment shall be applicable only to those who *did not appeal*.
>
> A literal interpretation of the phrase "*did not appeal*," as espoused by private respondent, will not give justice to the purpose of the provision.

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5 Id. at 72-79.

6 G.R. No. 147524, June 20, 2006, 491 SCRA 385.

It should be read in its entirety and should not be myopically construed so as to defeat its reason, *i.e.*, to benefit an accused who did not join in the appeal of his co-accused in case where the appellate judgment is favorable. In fact, several cases rendered by the Court applied the foregoing provision without regard as to the filing or non-filing of an appeal by a co-accused, so long as the judgment was favorable to him.

In *People v. Artellero*, the Court extended the acquittal of Rodriguez's co-accused to him despite the withdrawal of his appeal, applying the Rule 122, Section 11(a), and considering that the evidence against both are inextricably linked, to wit:

> Although it is only appellant who persisted with the present appeal, the well-established rule is that an appeal in a criminal proceeding throws the whole case open for review of all its aspects, including those not raised by the parties. The records show that Rodriguez had withdrawn his appeal due to financial reasons. However, Section 11 (a) of Rule 122 of the Rules of Court provides that "[a]n appeal taken by one or more [of] several accused shall not affect those who did not appeal, except insofar as the judgment of the appellant court is favorable and applicable to the latter." As we have elucidated, the evidence against and the conviction of both appellant and Rodriguez are inextricably linked. Hence, appellant's acquittal, which is favorable and applicable to Rodriguez, should benefit the latter.

In *People v. Arondain*, the Court found accused Arondain guilty only of homicide. Such verdict was applied to his co-accused, Jose Precioso, who was previously found guilty by the trial court of robbery with homicide, despite the fact that Precioso appealed but failed to file an appellant's brief. The Court also modified Precioso's civil liability although the additional monetary award imposed on Arondain was not extended to Precioso since it was not favorable to him and he did not pursue the appeal before the Court.

In *People v. De Lara*, Eduardo Villas, together with several co-accused, were found by the trial court guilty of forcible abduction. During pendency of the review before the Court, Villas withdrew his appeal, hence his conviction became final and executory. Thereafter, the Court found Villas' co-accused guilty only of grave coercion. Applying Rule 122, Section 11(a), the Court also found Villas guilty of the lesser offense of grave coercion since it is beneficial to him.

In *People v. Escaño*, the Court granted a motion filed by accused Julian Deen Escaño, praying that the Court's Decision dated January 28, 2000, acquitting his co-accused Virgilio T. Usana and Jerry C. Lopez in Criminal Case No. 95-936 for violation of Section 4, Article II of Republic Act No. 6425, as amended, be applied to him. Escaño originally filed a Notice of Appeal with the trial court but later withdrew the same.

In the foregoing cases, all the accused appealed from their judgments of conviction but for one reason or another, the conviction became final and executory. Nevertheless, the Court still applied to them the favorable judgment in favor of their co-accused. The Court notes that

> the Decision dated September 30, 2005 in G.R. No. 128959 stated, "the verdict of guilt with respect to Lim [herein petitioner] had already become final and executory." In any event, the Court cannot see why a different treatment should be given to petitioner, given that the judgment is favorable to him and considering further that the Court's finding in its Decision dated September 30, 2005 specifically stated that "the publication of the subject advertisement by petitioner and Lim cannot be deemed by this Court to have been done with actual malice."[7]

ACCORDINGLY, the Court **GRANTS** the plea of **EDWIN VALDEZ** for the application to him of the judgment promulgated on January 18, 2012 finding **PO2 EDUARDO VALDEZ** guilty of three counts of homicide, and sentencing him to suffer for each count the indeterminate sentence of 10 years of *prision mayor* as minimum to 17 years of *reclusion temporal* as maximum, and to pay to the respective heirs of the late Ferdinand Sayson, the late Moises Sayson, Jr., and the late Joselito Sayson the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as temperate damages for each count.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

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[7] Id. at 393-395.

ATTESTATION

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

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice