



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 230778

Present:

BERSAMIN, C.J.,
 Chairperson,
 DEL CASTILLO,*
 JARDELEZA,**
 GESMUNDO, and
 CARANDANG, JJ.

- versus -

JUAN CREDO y DE VERGARA
 and DANIEL CREDO y DE
 VERGARA,
 Accused-Appellants.

Promulgated:

JUL 22 2019

X-----

DECISION

CARANDANG, J.:

This is an Appeal¹ from the Decision² dated October 13, 2016 of the Court of Appeals (CA) finding accused-appellants Juan Credo y De Vergara (Juan) and Daniel Credo y De Vergara (Daniel) guilty beyond reasonable doubt of murder and frustrated murder as co-conspirators. Juan was also found guilty for violation of Presidential Decree No. (P.D.) 1866,³ the dispositive portion of which reads:

WHEREFORE, the appeal is DENIED. The assailed Decision of the Regional Trial Court, Branch 219 of Quezon City dated 9 September 2013, is AFFIRMED.

* On official leave.

** Acting Working Chairperson.

¹ Rollo, pp. 19-20.

² Penned by Associate Justice Romeo F. Barza, with Associate Justices Andres B. Reyes, Jr. (now a Member of this Court) and Agnes Reyes-Carpio, concurring; id. at 2-18.

³ Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition, of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof and for Relevant Purposes.

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SO ORDERED.⁴ (Emphasis in the original)

The Antecedents

Juan and Daniel (collectively, accused-appellants) were charged with murder and frustrated murder. The two separate Information⁵ respectively read as follows:

MURDER CASE NO. Q-04-125714

That on or about the 16th day of March, 2004, in Quezon City, Philippines, the said accused, conspiring and confederating with four (4) other persons, whose true names, identities and whereabouts have not as yet been ascertained, and mutually helping one another, with intent to kill, qualified by evident premeditation[,] treachery and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of ANTONIO ASISTIN y PALCO @ TONY, by then and there stabbing him several times with a bladed weapon, hitting him on the back and other parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said ANTONIO ASISTIN y PALCO @ TONY.

CONTRARY TO LAW.⁶

FRUSTRATED MURDER CASE No. Q-04-125715

That on or about the 16th day of March, 2004, in Quezon City, Philippines, the said accused, conspiring and confederating with four (4) other persons, whose true names, identities and whereabouts have not as yet been ascertained and mutually helping one another, with intent to kill, with evident premeditation and treachery, did then and there willfully (sic), unlawfully and feloniously attack, assault and employ personal violence upon the person of EVANGELINE CIELOS-ASISTIN @ Vangie, by then and there stabbing her several times with a bladed weapon, hitting her on the different parts of her body, thereby inflicting upon her serious and grave wounds, thus performing all the acts of execution which would produce the felony of MURDER as consequence, but nevertheless, did not produce it by reason of some causes or accident independent of the medical attendance rendered to the will of the said accused, that is, the timely and ablesaid victim, to the damage and prejudice of the said EVANGELINE CIELOS-ASISTIN @ VANGIE.

CONTRARY TO LAW.⁷

Juan was additionally charged with violation of Section 32, in

⁴ *Rollo*, p. 17.

⁵ *Records*, pp. 2-5.

⁶ *Id.* at 2.

⁷ *Id.* at 4.

relation to Section 36 of Republic Act No. (R.A.) 7166⁸ and Section 264 of Batas Pambansa Blg. (B.P.) 881,⁹ and Commission on Election Resolution No. 6446;¹⁰ and violation of P.D. 1866.¹¹ The Information against Juan states:

VIOLATION OF GUN BAN CASE NO. Q-04-125717

That on or about the 16th day of March, 2004 in Quezon City, Philippines, the said accused, without any authority of law, did then and there willfully, unlawfully and feloniously bear, carry or transport [a] firearm, more particularly described as follows: one (1) homemade shotgun (*sumpak*) in a public place, private vehicle or public conveyance, without written authority from the COMMISSION ON ELECTIONS.

CONTRARY TO LAW.¹²

VIOLATION OF P.D. NO. 1866 CASE NO. Q-04-125717

That on or about the 16th day of March, 2004 in Quezon City, Philippines, the said accused, without any authority of law, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) homemade shotgun (*sumpak*), without first having secured the necessary license/ permit issued by the proper authorities.

CONTRARY TO LAW.¹³

Upon arraignment, accused-appellants pleaded not guilty to the charges filed against them.¹⁴ Trial thereafter ensued.

According to the prosecution witnesses, Spouses Antonio Asistin (Antonio) and Evangeline Asistin (Evangeline) operated a computer shop and a store at their residence located at No. 5 Zodiac Ext. Sagittarius St., Remar Village, Bagbag, Novaliches, Quezon City. Daniel and Juan, brothers, are nephews of Evangeline. At around lunch time on March 16, 2004, Daniel, an assistant at the computer shop, entertained male customers who wanted to rent tapes. Evangeline instructed Daniel to let the male customers in. Evangeline got up and asked the men where they are from. One of the men replied, "*ano nga bang lugar iyon?*" Evangeline then told them that if they are not from the area, they could just buy the tapes. Evangeline went back to the table and

⁸ An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes.

⁹ Otherwise known as Omnibus Election Code of the Philippines.

¹⁰ Rules and Regulations on: (A) Bearing, Carrying or Transporting Firearms or Other Deadly Weapons; (B) Security Personnel or Bodyguards; (C) Bearing Arms by Any Member of Security or Police Organization of Government Agencies and Other Similar Organization; (D) Organization or Maintenance of Reaction Forces During the Election Period in Connection with the May 10, 2004 Synchronized National and Local Elections.

¹¹ Codifying the Laws on Illegal/ Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition, of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof and for Relevant Purposes.

¹² Records, pp. 6.

¹³ Id. at 8.

¹⁴ Id. at 45-46.

continued eating her lunch.¹⁵

When Evangeline stood up to get water from the refrigerator, Daniel and the two unidentified men suddenly appeared. One of the unidentified men strangled her. Without saying anything, he pressed the *lanseta* and started stabbing her. Evangeline struggled and resisted until she fell to the floor while that person continued to stab her. Evangeline kicked him so he would not reach her body. Thereafter, the men who assaulted her left. Evangeline recalled that she sustained eight stab wounds.¹⁶

Once the two unidentified men left, Evangeline stood up and saw Antonio standing at the gate with several stab wounds. Upon seeing Antonio, Evangeline told Daniel to chase the two men who had just left. According to Evangeline, Daniel did not help her and even watched while she was being stabbed. He did not go out to chase the two men.¹⁷

After being stabbed, Antonio was able to walk to the door of the computer shop.¹⁸ Evangeline and Rufo Baguio (Baguio), a neighbor, allegedly saw Daniel carry Antonio about two feet from the ground and then drop him, causing his head to hit the ground.¹⁹ A few minutes later, Antonio was carried to the vehicle of a neighbor while Evangeline took a tricycle with neighbor Roy Bischofso to the hospital.²⁰ Antonio was declared dead on arrival.

Medico-Legal Report No. M-1171-04²¹ revealed that the cause of Antonio's death is "multiple stab wounds on the back, chest, and neck."²² On the other hand, Evangeline's Medico-Legal Certificate²³ showed that she suffered multiple stab wounds specified below:

FINDINGS:

GS-conscious, coherent, stretcher-borne.

1. Multiple stab wounds located at the following areas:
 - a. 2.0 cm, epigastric area;
 - b. 4.0 cm, left upper quadrant, abdomen;
 - c. 2.0 cm and 3.0 cm, left anterior pectoral area;
 - d. 2.0 cm, level of T5-T6, anterior axillary line, left;
 - e. 3.0 cm, left antero-medical axillary area;
 - f. 2.0 cm and 3.0 cm, proximal-third, postero-lateral, left brachial region;
 - g. 3.0 cm, left scapular region;
 - h. 3.0 cm, left infra-scapular region.

CONCLUSION:

Under normal condition without subsequent complications and/or deeper involvement present but not clinically apparent at the time of examination, the above-

¹⁵ TSN dated June 14, 2005, p.11.

¹⁶ Id. at 14-15.

¹⁷ Id. at 16-17.

¹⁸ Id at 17.

¹⁹ TSN dated December 5, 2006, pp. 14-15; TSN dated June 14, 2005, p. 18.

²⁰ TSN dated June 14, 2005, pp. 18-20.

²¹ Records, p. 61.

²² Id.

²³ Records, p. 32.

described physical injuries shall require medical attention or shall incapacitate the patient/ victim for a period not less than 31 days x x x.²⁴

Incidentally, Baguio testified that at around 1:45 pm on March 16, 2004, he was in his house located at No. 3 Zodiac Street, Remarville Subdivision, Bagbag, Novaliches, Quezon City. While watching pool players with his grandchild Roy, he saw Juan and another person carrying a heavy bag. Thereafter, two other men arrived.²⁵ Baguio noticed that Juan pointed to the direction of the residence of Spouses Asistin. The two men proceeded to the house of Spouses Asistin, and, later on, Juan and the other man followed.²⁶

Meanwhile, prosecution witness Reynante Ganal (Ganal) testified that he was outside Spouses Asistin's residence when he saw Juan and Daniel talking to each other in a vacant room together with three other male companions. Although he was merely four arms-length away, he did not hear the conversation of the group.²⁷ Juan came up to him and asked how much he was renting his place.²⁸ A few minutes later, while he was preparing to take a bath, he saw Juan walking with an unidentified person.²⁹ Juan asked permission to urinate at the back of the house.³⁰ Thereafter, someone shouted "*nasaksak sila tatay at nanay.*" Then, his sister-in-law told him that two persons climbed the fence.³¹

In a sworn statement of Felipe Roque (Roque), Bantay Bayan Chairman, he stated that he responded at the crime scene and assisted in rushing the victims to Bernardino Hospital. Roque claimed that at the emergency room, Evangeline told him that Daniel was present when she and her husband were brutally stabbed and that he did not do anything to help them.³² He went back to the crime scene where he found Daniel cleaning broken plates. He then turned Daniel over to the responding barangay officials who later brought him to the police station for investigation.³³

On March 17, 2004, a follow-up operation was conducted by the police led by Police Officer 2 (PO2) Victorio B. Guerrero (PO2 Guererro) after Daniel allegedly implicated his brother Juan to the crime. The operation resulted to the arrest of Juan at his rented room. In his sworn statement, PO2 Guerrero alleged that Juan was nabbed while stashing in his bag a homemade shot gun (*sumpak*). The bag also contained clothing, two live ammunitions for shotgun and a fan knife measuring approximately seven inches long. He was allegedly in the process of absconding when he was apprehended.³⁴

²⁴ Id. at 32.
²⁵ TSN dated December 5, 2006, pp. 4-6.
²⁶ Id. at 7-9.
²⁷ TSN dated September 25, 2007, pp. 8-9.
²⁸ TSN dated May 20, 2008, p. 14.
²⁹ Id. at 23.
³⁰ Id. at 20-21.
³¹ Id. at 24.
³² Records, p. 22.
³³ Id.
³⁴ Records, p. 29.

Juan and Daniel denied the allegations against them. Juan maintained that he sought employment with Spouses Asistin but was rejected. Juan accepted their decision without any ill-feelings.³⁵ On March 16, 2004, at around 1:30 pm, Juan watched television at his rented place in Luzon, Fairview, Quezon City. Thereafter, from 3:00 pm to 5:00 pm, he watched a basketball game about 14 meters away from the room he was renting. Then, at around 6:30 pm to 6:45 pm, he again watched television at his place. It was at this time that he heard a noise coming from outside. Suddenly, someone kicked the door of his room. An armed policeman appeared with his brother Daniel who was in handcuffs. He was asked to go with them to the police station where he was allegedly tortured into admitting committing the crimes he is charged with.³⁶ He also denied that a shotgun or *sumpak* was confiscated from him.³⁷

On the other hand, Daniel testified that at around 11:00 am on March 16, 2004, he was painting the roof of the house of Spouses Asistin when he suddenly heard Evangeline shouting for help. Daniel immediately went down from the roof and saw Antonio lying covered with blood on the ground near the garage.³⁸ He was shocked upon seeing Antonio's state.³⁹ Daniel testified that he raised Antonio when he saw him wounded but the latter stood up, went out, and kept cursing. When he went inside, he fell to the ground so Daniel carried him to a taxi.⁴⁰

Ruling of the RTC

After trial, the Regional Trial Court (RTC) of Quezon City, Branch 219 rendered its Decision⁴¹ dated September 9, 2013, the dispositive portion of which reads:

MURDER CASE NO. Q-04-125714

WHEREFORE, judgment is hereby rendered finding the accused Juan Credo y de Vergara and Daniel Credo y de Vergara guilty beyond reasonable doubt of the crime of Murder and they are hereby sentenced to suffer the penalty of *reclusion perpetua* for the death of Antonio Asistin y Palco.

Accused Juan Credo y de Vergara and Daniel Credo y de Vergara are further adjudged to pay jointly and severally, the heirs of Antonio Asistin y Palco, represented by his widow, Evangeline Cielos-Asistin, and his daughter, Juliet Asistin, the following amounts:

- 1) Php 75,000.00 as civil indemnity *ex delicto*;
- 2) Php 50,000.00 as moral damages;

³⁵ TSN dated May 31, 2011, p. 9.

³⁶ TSN dated February 8, 2011, pp. 11-20.

³⁷ TSN dated May 31, 2011, p. 6.

³⁸ TSN dated December 17, 2012, pp. 4-6.

³⁹ Id. at 21.

⁴⁰ Id. at 8-10.

⁴¹ Penned by Acting Presiding Judge Maria Filomena D. Singh; CA *rollo*, pp. 73-95.

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- 3) Php 30,000.00 as exemplary damages; and
- 4) Php 53,800.00 as actual damages.

FRUSTRATED MURDER CASE NO. Q-04-125715

WHEREFORE, the accused Juan Credo y de Vergara and Daniel Credo y de Vergara are hereby found guilty beyond reasonable doubt of the crime of Frustrated Murder committed against Evangeline Cielos-Asistin, and they are hereby sentenced to suffer the indeterminate penalty of imprisonment of 10 years and 1 day of *prision mayor* as minimum to 12 years and 1 day of *reclusion temporal* as maximum.

The accused Juan Credo y de Vergara and Daniel Credo y de Vergara are also sentenced to pay, jointly and severally, the victim, Evangeline Cielos-Asistin, the sum of P207,277,89.00 (sic) as actual damages and moral damages in the sum of P20,000.00.

VIOLATION OF GUN BAN CASE NO. Q-04-125716

WHEREFORE, the Court hereby acquits the accused Juan Credo y de Vergara of the offense of violation of Section 32 in relation to Section 36 of Republic Act No. 7166 and Section 264 of Batas Pambansa Blg. 881 and COMELEC Resolution No. 6446, for lack of evidence.

VIOLATION OF P.D. NO. 1866 CASE NO. Q-04-125717

WHEREFORE, the accused Juan Credo y de Vergara is found guilty beyond reasonable doubt of simple illegal possession of firearm and ammunitions under Section 1 of P.D. No. 1866 and he is hereby imposed an indeterminate sentence of imprisonment ranging from ten (10) years and one (1) day of *prision mayor* as minimum, up to eighteen (18) years, eight (8) months and one (1) day of *reclusion temporal* as maximum.

The subject firearm and ammunitions shall be turned over to the Firearms and Explosives Division of the Philippine National Police for disposal.

No cost is adjudged in any of these cases.⁴²

In convicting Juan, the RTC gave credence to the testimonies of the prosecution witnesses. The RTC found that Juan and Daniel merely made a general denial and failed to support their respective alibis. Consequently, they filed their appeal with the CA.

In their Brief,⁴³ Juan and Daniel impugned the findings of the RTC and raised the following errors:

⁴² Id. at 94.

⁴³ Id. at 52-71.



I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE THE INSUFFICIENCY OF THE PROSECUTION'S EVIDENCE.

II

ASSUMING THAT THE ACCUSED-APPELLANTS INFLECTED THE FATAL INJURIES UPON THE VICTIMS, THE TRIAL COURT GRAVELY ERRED IN APPRECIATING TREACHERY AND ABUSE OF SUPERIOR STRENGTH TO QUALIFY THE CRIMES TO MURDER AND FRUSTRATED MURDER.⁴⁴

Juan and Daniel argued that their presence, without executing any overt act, does not prove conspiracy in inflicting of fatal injuries to Spouses Asistin.⁴⁵ The defense emphasized that Daniel's alleged failure to help the victims does not constitute positive act of assent or cooperation in the commission of the crimes charged.⁴⁶ The defense pointed out that the testimonies of the prosecution witnesses even confirmed that Daniel actually helped in carrying Antonio.⁴⁷ Also, Juan and Daniel did not flee. Daniel remained at the house of Spouses Asistin and cleaned the place while Juan was found watching television at his rented place.⁴⁸ Moreover, the defense insists that no motive can be attributed to Daniel or Juan to conspire with strangers to commit the crimes. For the defense, Antonio's refusal to accommodate Juan in their house is a shallow reason to provoke them to kill Spouses Asistin. The defense also maintained that the admission of his arrest does not suffice to warrant a conviction under P.D. 1866. The defense merely admitted the fact of Juan's arrest effected by PO2 Guerrero and nothing more. There was no admission with regard to the confiscation of a shotgun or *sumpak*, ammunicions, or fan knife from his possession. Hence, his conviction based on his supposed admission constitutes a reversible error.⁴⁹

Ruling of the Court of Appeals

In a Decision⁵⁰ dated October 13, 2016, the CA denied Juan and Daniel's appeal and affirmed their respective convictions. In affirming their convictions, the CA held that the sworn statement of PO2 Guerrero sufficiently established Juan's guilt beyond reasonable doubt for violation of P.D. 1866. The CA also found the circumstantial evidence the prosecution presented sufficient to convict Juan and Daniel of conniving to commit murder and frustrated murder.⁵¹ The CA did not consider Daniel's non flight as a badge of innocence sufficient to exculpate him from criminal liability.⁵²

⁴⁴ Id. at 54.

⁴⁵ Id. at 65.

⁴⁶ Id. at 66.

⁴⁷ Id. at 67.

⁴⁸ Id.

⁴⁹ CA *rollo*, p. 64

⁵⁰ *Supra* note 2.

⁵¹ *Rollo*, pp. 11-13.

⁵² Id. at 14.

While the CA did not find treachery and abuse of superior strength attendant in the case, evident premeditation was considered because Juan and Daniel were seen with the other unidentified co-conspirators gathering near the scene of the crime.⁵³ Hence, this appeal.

Juan and Daniel filed a Notice of Appeal⁵⁴ on November 3, 2016. The Court notified the parties to file their supplemental briefs.⁵⁵ However, Juan and Daniel opted not to file a supplemental brief since they believe that they had exhaustively discussed the assigned errors in their brief.⁵⁶ For its part, the Office of the Solicitor General manifested that it is adopting its brief for the plaintiff-appellee.⁵⁷

Issues

- 1) Whether Juan and Daniel are guilty of murder;
- 2) Whether Juan and Daniel are guilty of frustrated murder; and
- 3) Whether Juan should be held criminally liable for violation of P.D. 1866.

Our Ruling

The appeal is meritorious.

As a rule, the trial court's findings of fact are entitled great weight and will not be disturbed on appeal. However, this rule does not apply where facts of weight and substance have been overlooked, misapprehended or misapplied in a case under appeal.⁵⁸ After a judicious examination of the records, this Court found material facts and circumstances that the lower courts had overlooked or misappreciated which, if properly considered, would justify a conclusion different from that arrived by the lower courts.

Murder Case No. Q-04-125714 & Frustrated Murder Case No. Q-04-125715

The Court cites Rule 133, Section 5 of the Rules of Court in stating that “[c]ircumstantial evidence is sufficient to sustain a conviction if (i) there is more than one circumstance; (ii) the facts from which the inference is derived are proven; and (iii) the combination of all circumstances is such as to produce conviction beyond reasonable doubts.⁵⁹ Here, careful scrutiny of the testimonies of the prosecution witnesses reveals flaws and inconsistencies that cast serious doubt on the veracity and truthfulness of their allegations and would merit the acquittal of Juan and Daniel.

Evangeline admitted that neither Daniel nor Juan stabbed her and that

⁵³ Id. at 16.
⁵⁴ *Rollo*, p. 19.
⁵⁵ Id. at 26-27.
⁵⁶ Id. at 45.
⁵⁷ Id. at 40.
⁵⁸ *People v. Robles*, 604 Phil. 536, 543 (2009).
⁵⁹ *People v. Gaffud, Jr.*, 587 Phil. 521, 530 (2008).



she did not see Juan during the incident.⁶⁰ Their complicity was merely based on circumstantial evidence, having been allegedly seen near the residence of Spouses Asistin, talking to strangers, before the incident took place. The prosecution witnesses admitted to not knowing nor hearing what Daniel, Juan, and the other men were discussing. They also admitted not seeing who killed Antonio.⁶¹

As We have held in *Macapagal-Arroyo v. People*,⁶² to wit:

x x x x

Conspiracy transcends mere companionship, and mere presence at the scene of the crime does not in itself amount to conspiracy. Even knowledge of, or acquiescence in or agreement to cooperate is not enough to constitute one a party to a conspiracy, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose. Hence, conspiracy must be established, not by conjecture, but by positive and conclusive evidence.

In terms of proving its existence, conspiracy takes two forms. The first is the express form, which requires proof of an actual agreement among all the co-conspirators to commit the crime. However, conspiracies are not always shown to have been expressly agreed upon. Thus, we have the second form, the implied conspiracy. An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment. Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of crime indubitably pointing to a joint purpose, a concert of action and a community of interest.

But to be considered a part of the conspiracy, each of the accused must be shown to have performed at least an overt act in pursuance or in furtherance of the conspiracy, for without being shown to do so none of them will be liable as a co-conspirator, and each may only be held responsible for the results of his own acts. ⁶³ (Citations omitted; emphasis ours)

In this case, We find that the prosecution failed to present sufficient proof of concerted action before, during, and after the commission of the crime which would demonstrate accused-appellants' unity of design and

⁶⁰ TSN dated June 8, 2006, pp. 3-5.

⁶¹ TSN dated March 13, 2007, p. 6.

⁶² 790 Phil. 367 (2016).

⁶³ Id. at 419-420.



objective. There is no direct proof nor reliable circumstantial evidence establishing that Juan and Daniel conspired with the unidentified men who stabbed Spouses Asistin.

The circumstantial evidence presented by the prosecution – testimonies of Baguio and Ganal claiming that they saw Juan and Daniel talking to each other moments before the crimes were committed do not prove conspiracy. Baguio and Ganal insisted seeing three (3) unidentified men and Juan enter the house of Spouses Asistin. However, neither of the witnesses could confirm to the Court that these men were the same men who stabbed Spouses Asistin nor could they confirm that they heard their conversation. Furthermore, the claim of Baguio and Ganal that three (3) unidentified men entered the house of Spouses Asistin contradicts the statement of Evangeline that only two (2) unidentified men were allowed by Daniel to enter their house,⁶⁴ and that she did not see Juan.⁶⁵

Ganal allegedly saw Juan and Daniel climb the fence of the compound of Spouses Asistin's residence moments after they were stabbed.⁶⁶ However, this allegation was belied by his subsequent testimony quoted below:

PROS ONG:

Q What did you find out, if any?

A When I went out of the house I heard a shout repeatedly saying "si tatay at nanay nasaksak and **my sister in law told me that two male persons "umakyat sa bakod"**".

Q When your hipag told you that there were two persons "umakyat sa bakod" did she point to you the direction of that bakod?

A Yes, ma'am.⁶⁷ (Emphasis ours)

It is evident from the above-quoted testimony that he was testifying on a matter not perceived by his very own senses as he did not see Juan and Daniel climb the fence. He merely relied on what his sister-in-law told him.

Moreover, Ganal's statement that Juan and Daniel climbed a fence is belied by the claim of Baguio that he guarded Daniel while waiting for him to be arrested.⁶⁸ His statement is difficult to believe since even Roque mentioned in his *Sinumpaang Salaysay*⁶⁹ that upon returning to the scene of the crime, he found Daniel cleaning broken plates. Thus, We cannot rely on Ganal's testimony to corroborate the claim of the prosecution that they tried to escape.

Anent the strange behavior of Daniel, We find the degree of interference or participation of Daniel by allegedly standing still while Evangeline was being stabbed and failing to come to her and Antonio's aid, insufficient to warrant the conclusion that he is a co-conspirator. His conduct during and

⁶⁴ TSN dated June 14, 2005, pp. 9-10.

⁶⁵ TSN dated June 8, 2006, p. 5.

⁶⁶ TSN dated September 25, 2007, pp. 11.

⁶⁷ TSN dated May 20, 2008, p. 24.

⁶⁸ TSN dated December 5, 2006, p. 15.

⁶⁹ Records, p. 22.

immediately after the stabbing incident cannot be equated to a direct or overt act in furtherance of the criminal design of the two unidentified men.

While it may be true that Daniel acted differently from what was expected of him in the given situation, We cannot fault him for reacting the way he did. We have held that “different people react differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.”⁷⁰ Certainly, a stabbing incident unfolding before his very eyes, involving his aunt and uncle at that, was a frightful experience for Daniel. He should not be faulted for being in a state of shock after witnessing a gruesome event.

Neither Evangeline nor any of the other prosecution witnesses saw who stabbed Antonio.⁷¹ The glaring fact that her statements are not consistent with each other and that her conclusion was not supported by evidence is shown in the exchange quoted below:

- Q And, then what happened, Madam Witness? [sic]
A Afterwards, he left me and when I saw that he was gone, I stood up and I saw my husband standing at the gate. But, before that he already sustained several stab wounds because **I think** Daniel and the other man help out in stabbing him.

Prosecutor Macaren

- Q And, when you saw your husband bloodied standing by your gate, what happened next?
A When I saw him standing I saw blood in his mouth and I told Daniel to help me in chasing the two (2) men because they had just left but Daniel did not help me. And even before that, I already asked him while we were being stabbed but he didn't help us and instead just watched us being stabbed.

Prosecutor Macaren

- Q And, then what did you [sic] after asking Daniel to chase these two (2) persons who he let in?
A He didn't go out?

Q And, what happened then?
A I was even the first one (1) to go out of the house and that's why the neighbors learned that I was stabbed, Sir.⁷²
(Emphasis ours)

If she really thought at that moment that Daniel conspired with the two unidentified men in stabbing them, then it is illogical for her to ask Daniel to help in chasing the two men. Moreover, considering that Antonio was at the gate outside of the house and Daniel was inside the house while Evangeline was being stabbed, Evangeline could not have known who stabbed Antonio. Thus, Evangeline's statement that Daniel watched her being stabbed inside

⁷⁰ *People v. Espero*, 400 Phil. 461, 469 (2000).

⁷¹ TSN dated July 1, 2008, pp. 3-4; TSN dated September 7, 2010, p. 15.

⁷² TSN dated July 1, 2008, pp.15-17.

the house negates her own claim that Daniel helped out in stabbing Antonio who was at the gate of the house.

Interestingly, the claim of Evangeline⁷³ and Baguio⁷⁴ that Daniel carried Antonio and suddenly dropped him, causing the latter to sustain a head injury, is belied by the Medico-legal Report. The report did not indicate that Antonio sustained any head injury at the time of his death.⁷⁵ Moreover, this assertion contradicts Evangeline's other claim that Daniel did not assist nor come to their aid after the stabbing incident. Considering that she and Baguio admitted seeing Daniel carrying Antonio, We find no other reasonable explanation for him to carry Antonio at that moment other than to come to the aid of Antonio.

It is also contrary to ordinary human experience to remain at the crime scene after the victims were brought to the hospital. One who is guilty would have immediately fled the scene of the crime to avoid being arrested by the authorities. If Daniel really conspired with the two unidentified men, he would have done acts that would consummate the crime and he would have escaped to avoid being identified. A person with a criminal mind would have ensured Evangeline's death and immediately fled the scene of the crime. Contrary to the observation of the lower court, his non-flight is sufficient ground to exculpate him from criminal liability. His non-flight, when taken together with the numerous inconsistencies in the circumstantial evidence the prosecution presented, provides the Court sufficient basis to acquit Daniel.

To Our mind, the testimonies of the prosecution witnesses, when taken as a whole, failed to present a coherent and consistent narration of the facts. Absent any proof sufficient to connect/relate Daniel and Juan to the criminal design of killing Spouses Asistin, it cannot be concluded that Daniel and Juan were in conspiracy with the unidentified aggressors in committing murder and frustrated murder. With their inconclusive conduct and participation, We cannot conscientiously declare that they were principals or even accomplices in the crimes charged. The presumption of innocence in their favor has not been overcome by proof beyond reasonable doubt.

Violation of P.D. No. 1866 (Case No. Q-04-125717)

Juan's conviction of violation of P.D. 1866, based solely on the testimony of arresting officer PO2 Guerrero, is erroneous. We cannot ignore the possibility that the shotgun, ammunitions, and knife confiscated from Juan were merely planted. It is too coincidental that at the very moment the police conducted a follow-up operation and made a protective search at the room where Juan was staying, he was caught packing a bag filled with the seized items.

As pointed out by the defense, PO2 Guerrero only admitted the fact of Juan's arrest and nothing more. There was no admission with regard to the

⁷³ TSN dated June 14, 2005, p. 18.

⁷⁴ TSN dated March 13, 2007, pp. 8-9.

⁷⁵ Records, p. 61.

confiscation of a shotgun or *sumpak*, ammunitions or fan knife from Juan's possession.⁷⁶ Juan cannot be convicted solely on the basis of the self-serving statement of PO2 Guerrero⁷⁷ who was not even presented during trial. Even the shotgun and the ammunitions confiscated were not presented during the trial. The non-presentation of PO2 Guerrero and the seized items was suspicious, and should have alerted the lower courts to be more circumspect in examining the records, considering the persistent claim of Juan of having been a victim of frame-up. In view of the possibility of that the shotgun and ammunitions were planted, We find PO2 Guerrero's statement insufficient to convict Juan of violation of P.D. 1866.

Furthermore, even if the weapons seized from Juan were not planted, it does not follow that the prosecution proved Juan's purported participation in the crimes charged against him. Contrary to what the prosecution would like Us to believe, there appears to be no direct relation between the seized articles and the weapons used to inflict the stab wounds on Evangeline and Antonio. It was not shown during trial that the weapons allegedly confiscated from Juan were the same objects used in stabbing Evangeline and Antonio. In view of the dismissal of the criminal cases for murder and frustrated murder, there is no reason to consider the items seized from Juan during an alleged protective search on the person of Juan pursuant to a follow-up operation PO2 Guerrero conducted.

In conclusion, We recognize that the evidence for the defense is not strong because Daniel and Juan merely denied participating in the brutal stabbing of Spouses Asistin. Their testimonies were uncorroborated by any other evidence. Admittedly, the defense of denial or frame-up, like alibi, has been viewed with disfavor. Nevertheless, the apparent weakness of Juan and Daniel's defense does not add any strength nor can it help the prosecution's cause. If the prosecution cannot establish, in the first place, Juan and Daniel's guilt beyond reasonable doubt, the need for the defense to adduce evidence in its behalf in fact never arises. However weak the defense evidence might be, the prosecution's whole case still falls. The evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.

WHEREFORE, the appeal is **GRANTED**. The Decision dated September 9, 2013 of the Regional Trial Court of Quezon City, Branch 219 in Criminal Case Nos. Q-04-125714, Q-04-125715, Q-04-125717, as well as the Decision dated October 13, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06428 are hereby **REVERSED** and **SET ASIDE**. Accused-Appellants Juan Credo y De Vergara and Daniel Credo y De Vergara are **ACQUITTED** for failure to prove their guilt beyond reasonable doubt, and are **ORDERED** to be immediately released unless they are being held for some other valid or lawful cause. The Director of Prisons is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

⁷⁶ CA rollo, p. 65.

⁷⁷ Records, p. 264.

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SO ORDERED.


ROSMAR D. CARANDANG
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

(on official leave)
MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



LUCAS P. BERSAMIN
Chief Justice