

SECOND DIVISION

[G.R. No. 209464, July 01, 2015]

**DANDY L. DUNGO AND GREGORIO A. SIBAL, JR., PETITIONERS,
VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

MENDOZA, J.:

The fraternal contract should not be signed in blood, celebrated with pain, marred by injuries, and perpetrated through suffering. That is the essence of Republic Act (R.A.) No. 8049 or the Anti-Hazing Law of 1995.

This is a petition for review on *certiorari* seeking to reverse and set aside the April 26, 2013 Decision^[1] and the October 8, 2013 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05046, which affirmed the February 23, 2011 Decision^[3] of the Regional Trial Court, Branch 36, Calamba City (RTC). The RTC found petitioners Dandy L. Dungo (*Dungo*) and Gregorio A. Sibal, Jr. (*Sibal*), guilty beyond reasonable doubt of the crime of violation of Section 4 of R.A. No. 8049, and sentenced them to suffer the penalty of *reclusion perpetua*.

The Facts

On February 1, 2006, the Office of the City Prosecutor of Calamba, Laguna, filed the Information^[4] against the petitioners before the RTC, the accusatory portion of which reads:

That on or about 2:30 in the early morning of January 14, 2006, at Villa Novaliches, Brgy. Pansol, Calamba City, Province of Laguna and within the jurisdiction of the Honorable Court, the above-named accused, during an initiation rite and being then members of Alpha Phi Omega fraternity and present thereat, in conspiracy with more or less twenty other members and officers, whose identity is not yet known, did then and there willfully, unlawfully and feloniously assault and use personal violence upon one MARLON VILLANUEVA y MEJILLA, a neophyte thereof and as condition for his admission to the fraternity, thereby subjecting him to physical harm, resulting to his death, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.

On February 7, 2006, upon motion, the RTC admitted the Amended Information^[5] which reads:

That on or about 2:30 in the early morning of January 14, 2006, at Villa Novaliches, Brgy. Pansol, Calamba City, Province of Laguna and within

the jurisdiction of the Honorable Court, the above-name accused, during a planned initiation rite and being then officers and members of Alpha Phi Omega fraternity and present thereat, in conspiracy with more or less twenty other members and officers, whose identity is not yet known, did then and there willfully, unlawfully and feloniously assault and use personal violence upon one MARLON VILLANUEVA y MEJILLA, a neophyte thereof and as condition for his admission to the fraternity, thereby subjecting him to physical harm, resulting to his death, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.

On February 7, 2006, Dungo filed a motion to quash for lack of probable cause,^[6] but it was denied by the trial court because the ground cited therein was not provided by law and jurisprudence. When arraigned, the petitioners pleaded not guilty to the crime charged.^[7] Thereafter, trial ensued.

Version of the Prosecution

The prosecution presented twenty (20) witnesses to prove the crime charged. Their testimonies are summarized as follows:

At around 3:20 o'clock in the morning of January 14, 2006, the victim Marlon Villanueva (*Villanueva*) was brought to the emergency room of Dr. Jose P. Rizal District Hospital (*JP Rizal Hospital*). Dr. Ramon Masilungan (*Dr. Masilungan*), who was then the attending physician at the emergency room, observed that Villanueva was motionless, not breathing and had no heartbeat. Dr. Masilungan tried to revive Villanueva for about 15 to 30 minutes. Villanueva, however, did not respond to the resuscitation and was pronounced dead. Dr. Masilungan noticed a big contusion hematoma on the left side of the victim's face and several injuries on his arms and legs. He further attested that Villanueva's face was cyanotic, meaning that blood was no longer running through his body due to lack of oxygen; and when he pulled down Villanueva's pants, he saw large contusions on both legs, which extended from the upper portion of the thighs, down to the couplexial portion, or back of the knees.

Dr. Masilungan disclosed that two (2) men brought Villanueva to the hospital. The two told him that they found Villanueva lying motionless on the ground at a store in Brgy. Pansol, Calamba City, and brought him to the hospital. When he asked them where they came from, one of them answered that they came from Los Baños, Laguna, *en route* to San Pablo City. He questioned them on how they found Villanueva, when the latter was in Brgy. Pansol, Calamba City. One of the men just said that they were headed somewhere else.

Dr. Masilungan reduced his findings in a medico-legal report.^[8] Due to the nature, extent and location of the injuries, he opined that Villanueva was a victim of hazing. He was familiar with hazing injuries because he had undergone hazing himself when he was a student and also because of his experience in treating victims of hazing incidents.

Dr. Roy Camarillo (*Dr. Camarillo*), Medico-Legal Officer of the Philippine National

Police Crime Laboratory (*PNP-CL*) in Region IV, Camp Vicente Lim, Canlubang, Calamba City, testified that he performed an autopsy on the body of Villanueva on January 14, 2006 and placed down his findings in an autopsy report.^[9] Upon examination of the body, he found various external injuries in the head, trunk and extremities. There were thirty-three (33) external injuries, with various severity and nature. He concluded that the cause of death was subdural hemorrhage due to head injury contusion-hematoma. Based on multiple injuries and contusions on the body, and his previous examinations of hazing injuries, Dr. Camarillo opined that these injuries were hazing-related. During the autopsy, he retrieved two (2) matchsticks from the cadaver with the marking of Alpha Phi Omega (*APO*) Fraternity.^[10]

Susan Ignacio (*Ignacio*) was the owner of the *sari-sari* store located at Purok 5, Pansol, Calamba City, in front of Villa Novaliches Resort, which was barely ten steps away. On January 13, 2006, at around 8:30 to 9:00 o'clock in the evening, she was tending her store when she saw a jeepney with more than twenty (20) persons arrive at the resort. Ignacio identified Dungo as the person seated beside the driver of the jeepney.^[11] She estimated the ages of these persons in the group to be between 20 to 30 years old. They were in civilian clothes, while the other men wore white long-sleeved shirts. Before entering the resort, the men and women shook hands and embraced each other. Three (3) persons, riding on a single motorcycle, also arrived at the resort.

Ignacio saw about fifteen (15) persons gather on top of the terrace of the resort who looked like they were praying, and then the lights of the resort were turned off. Later that evening, at least three (3) of these persons went to her store to buy some items. During her testimony, she was shown photographs and she identified Christopher Braseros and Sibal as two of those who went to her store.^[12] It was only on the morning of January 14, 2006 that she learned from the policemen visiting the resort that the deceased person was Villanueva.

Donato Magat (*Magat*), a tricycle driver plying the route of Pansol, Calamba City, testified that at around 3:00 o'clock in the morning of January 14, 2006, he was waiting for passengers at the corner of Villa Novaliches Resort. A man approached him and told him that someone inside the resort needed a ride. Magat went to the resort and asked the two (2) men at the gate who needed a ride. Afterwards, he saw three (3) men in their 20's carrying another man, who looked very weak, like a vegetable, towards his tricycle. Magat touched the body of the man being carried and sensed it was cold.

Magat asked the men what happened to their companion. They replied that he had too much to drink. Then they instructed Magat to go to the nearest hospital. He drove the tricycle to JP Rizal Hospital. Upon their arrival, two of his passengers brought their unconscious companion inside the emergency room, while their other companion paid the tricycle fare. Magat then left to go home. Several days after, he learned that the person brought to the hospital had died.

Abelardo Natividad (*Natividad*) and Seferino Espina y Jabay (*Espina*) were the security guards on duty at JP Rizal Hospital, from 11:00 o'clock in the evening of January 13, 2006 until 7:00 o'clock in the morning of January 14, 2006. In the early morning of January 14, 2006, two men, who signed on the logbook^[13] under the names Brandon Gonzales and Jerico Paril, brought the lifeless body of a person.

Pursuant to the standard operating procedure of the hospital, the security guards did not allow the two men to leave the hospital because they called the police station so that an investigation could be conducted. Two policemen arrived later at the hospital. During his testimony, Natividad identified Sibal and Dungo as the two persons who brought Villanueva to the hospital.

PO2 Alai delon Ignacio (*PO2 Ignacio*) testified that on January 14, 2006 at around 3:30 o'clock in the early morning, Natividad called up the PNP Calamba City Station to report that a lifeless body of a man was brought to JP Rizal Hospital. When PO2 Ignacio arrived, he saw Villanueva's corpse with contusions and bite marks all over his body. PO2 Ignacio and his policemen companions then brought Dungo and Sibal to the police station. He asked them about what happened, but they invoked their right to remain silent. The policemen then proceeded to Brgy. Pansol at around 9:00 o'clock in the morning. After finding Villa Novaliches Resort, they knocked on the door and the caretaker, Maricel Capillan (*Capillan*), opened it.

The police asked Capillan if there were University of the Philippines Los Baños (*UP Los Baños*) students who rented the resort on the evening of January 13, 2006. Capillan said yes and added that about twenty (20) persons arrived onboard a jeepney and told her that they would be renting the resort from 9:30 o'clock in the evening up to 7:00 o'clock the following morning.

Gay Czarina Sunga (*Sunga*) was a food technology student at UP Los Baños during the academic year of 2005-2006 and a member of the Symbiosis UPLB Biological Society. Around 3:00 o'clock in the afternoon of January 13, 2006, she was at their organization's *tambayan* in the UPLB Biological Sciences Building, when she noticed three (3) men seated two meters away from her. She identified the two of the three men as Sibal and Dungo.^[14] They were wearing black shirts with the logo of APO. Later at 5:00 o'clock in the afternoon, two more men arrived and, with their heads bowed, approached the three men. One of them was Villanueva, who was carrying a 5-gallon water container. Dungo then stood up and asked Villanueva why the latter did not report to him when he was just at their *tambayan*. Dungo then punched Villanueva twice, but the latter just kept quiet with his head bowed. Fifteen minutes later, all the men left.

Joey Atienza (*Atienza*) had been a good friend of Villanueva since 2004. They were roommates at the UP Los Baños Men's Dormitory and housemates at the DPS Apartment in Umali Subdivision, Los Baños, Laguna. According to Atienza, on January 9, 2006, Villanueva introduced him to Daryl Decena (*Decena*) as his APO - Theta Chapter batchmate, who was also to undergo final initiation rites on January 13, 2006.

Severino Cuevas, Director of the Students Affairs at UP Los Baños, testified that Dungo and Sibal were both members of the APO Fraternity, and that there was no record of any request for initiation or hazing activity filed by the said fraternity.

McArthur Padua of the Office of the Registrar, UP Los Baños, testified that Villanueva was a B.S. Agricultural Economics student at the UP Los Baños,^[15] as evidenced by his official transcript of record.^[16]

Atty. Eleno Peralta and Dina S. Carlos, officers of the Student Disciplinary Tribunal

(SDT) of the UP Los Baños, testified that an administrative disciplinary case was filed on March 31, 2006 against the APO Fraternity regarding the death of Villanueva. They confirmed that Capilla of Villa Novaliches Resort and Irene Tan (*Tan*) of APO Sorority Theta Chapter appeared as witnesses for the complainant.^[17]

Roman Miguel De Jesus, UP - Office of the Legal Aid (*UP-OLA*) supervising student, testified that he met Tan of the APO Sorority sometime between July and August 2006 in UP Diliman to convince her to testify in the criminal case. Tan, however, refused because she feared for her safety. She said that after testifying in the SDT hearing, her place in Imus, Cavite was padlocked and vandalized.

Evelyn Villanueva, mother of victim Villanueva, testified that, as a result of the death of her son, her family incurred actual damages consisting of medical, burial and funeral expenses in the aggregate amount of P140,000.00 which were evidenced by receipts.^[18] Her husband also incurred travel expenses in the amount of P7,000.00 in returning to the Philippines to attend his son's wake and burial, as supported by a plane ticket.^[19] She further attested that she experienced mental anguish, sleepless nights, substantial weight loss, and strained family relationship as a result of her son's death.

Version of the Defense

The defense presented seven (7) witnesses to prove the innocence of the petitioners. Their testimonies are summarized as follow:

Richard Cornelio (*Cornelio*), an APO Fraternity member, testified that on January 13, 2006, around 4:00 to 4:30 o'clock in the afternoon, he met Dungo at the UP Los Baños Graduate School. Dungo asked him if he would attend the initiation ceremony, and Cornelio answered in the negative because he had other things to do. At 10:00 o'clock in the evening of the same day, Cornelio again met Dungo and his girlfriend while eating a hamburger at the Burger Machine along; Raymundo Street, Umali Subdivision, Los Baños, Laguna (*Raymundo Street*). He asked Dungo if he would attend the initiation ceremony. Dungo replied that he would not because he and his girlfriend had something to do.

Ana Danife Rivera (*Rivera*), the girlfriend of Dungo, testified that on January 13, 2006 at around 1:00 o'clock in the afternoon, Dungo came and visited her at her boarding house on Raymundo Street. Around 4:00 o'clock of the same afternoon, they went to the UP Los Baños Graduate School and saw Cornelio. Afterwards, they went back to her boarding house and stayed there from 5:00 o'clock in the afternoon to 7:00 o'clock in the evening. Then, they went to Lacxo Restaurant for dinner and left at around 10:00 o'clock in the evening. On their way back to her boarding house, they encountered Cornelio again at the Burger Machine. Dungo then stayed and slept at her boarding house. Around 2:00 o'clock in the early morning of January 14, 2006, they were roused from their sleep by a phone call from Sibal, asking Dungo to go to a resort in Pansol, Calamba City. Dungo then left the boarding house.

Dungo testified that around 1:00 o'clock in the early afternoon of January 13, 2006, he arrived at the boarding house of his girlfriend, Rivera, on Raymundo Street. At around 4:00 o'clock in the afternoon, they went to the UP Los Baños Graduate