

## FIRST DIVISION

[ G.R. NO. 150917, September 27, 2006 ]

**ARTEMIO YADAO, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

For Review<sup>[1]</sup> is the 18 April 2001 *Decision*<sup>[2]</sup> and 13 November 2001 *Resolution*<sup>[3]</sup> of the Court of Appeals in CA-G.R. CR No. 19818, affirming *in toto* the 28 March 1996 *Decision*<sup>[4]</sup> of the Regional Trial Court of Bauang, La Union, Branch 33, in Criminal Case No. 1042-BG.

Petitioner Artemio Yadao (Yadao) prays for the reversal of the decision finding him "guilty beyond reasonable doubt of the crime of homicide as charged in the information x x x,"<sup>[5]</sup> defined and penalized under Article 249 of the Revised Penal Code for the death of Deogracias Gundran (Gundran), and sentencing him to suffer the "indeterminate penalty of FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of *prision correccional* in its maximum period, as Minimum to EIGHT (8) YEARS of *prision mayor* in its minimum period, as Maximum, x x x."<sup>[6]</sup>

On 21 April 1989, petitioner Yadao was charged with the crime of *homicide* before the Regional Trial Court (RTC) of Bauang, La Union, Branch 33, for allegedly mauling one Deogracias Gundran, in an Information,<sup>[7]</sup> the accusatory portion of which states:

That on or about the 1st day of October, (sic) 1989, in the Municipality of Bauang, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and maul one DEOGRACIAS GUNDRAN, thereby inflicting upon said victim several injuries on the different parts of his body which directly caused his death, to the damage and prejudice of the heirs of the victims.

CONTRARY TO ART. 249 of the Revised Penal Code.

The case was docketed as Criminal Case No. 1042-BG.

Upon arraignment, petitioner Yadao with assistance of a counsel *de parte*, pleaded "Not Guilty" to the crime charged. Thus, trial ensued, with the prosecution presenting four witnesses, namely 1) Carmelita Limon,<sup>[8]</sup> 2) Teofilo Gundran,<sup>[9]</sup> 3) Napoleon Estigoy<sup>[10]</sup> and 4) Dr. Arturo Llavore,<sup>[11]</sup> to establish petitioner Yadao's culpability beyond reasonable doubt of the crime charged.

To counter the evidence abovementioned, the defense offered the testimonies of the following defense witnesses: 1) petitioner Artemio Yadao, 2) Reynaldo Feratero, <sup>[12]</sup> 3) Dr. Magdalena Alambra, <sup>[13]</sup> 4) Calixto Chan <sup>[14]</sup> and 5) Evelyn Uy, as well as documentary evidence, *i.e.*, the Autopsy Report of Dr. Alambra.

From a review of the record of the case, we cull the following established facts:

It was petitioner Yadao's birthday on 1 October 1988. As such, he had a few guests over at his house to help him celebrate it. The guests included defense witnesses Reynaldo Feratero, Calixto Chan and Evelyn Uy. At around 9:00 a.m., petitioner Yadao noticed the victim, Gundran, <sup>[15]</sup> albeit not invited, to be milling around with the guests and was already drinking gin. At around 3:45 p.m. of the said day, while petitioner Yadao was sitting on one end of a bench, the victim, who happened to be lying down on the other end of the same bench, suddenly stood up. Because no one else was sitting on the middle, said bench tilted due to the weight of petitioner Yadao, thus, causing him to fall to the ground. Upon seeing him fall to the ground, the victim went over to petitioner Yadao and began boxing him on the stomach. Petitioner Yadao's wife tried to pacify her nephew but this merely enraged the latter who then got a can opener and tried to stab petitioner Yadao with it. The latter deflected said attempt and delivered a slap on the face of the victim in order to "knock some sense" into him. But because he was already intoxicated, as he had been drinking since early that morning, the victim lost his balance, hit his head on the edge of a table and fell to the ground landing on his behind. The other guest helped the victim to stand up and proceeded to show him to the door.

The victim, Gundran, left the house of petitioner Yadao, between 4:00 to 5:00 p.m., and proceeded to the house of Carmelita Limon who was the sister of one of his friends. At that time, Limon was inside her house doing the laundry. Upon seeing him, Limon noticed a one-inch in diameter lump on the victim's forehead. The victim told her that he came from the birthday party of petitioner Yadao and that the latter "mauled" him. While she treated the "wound" with "kutsay," an herb, the victim complained of pain on his breast/stomach area, the area where he claimed to have been hit by petitioner Yadao.

Two days later, or on 3 October 1988, Teofilo Gundran, the father of the victim was informed by his granddaughter that his son, the victim, was having difficulty breathing. Teofilo Gundran then proceeded to where the victim was, which happened to be in his (the victim's) sister's house, a short distance away from Limon's house. When he got to the house, Teofilo Gundran saw the victim sitting on an "*arinola*" gasping for breath. He then held the victim's two hands until the latter expired.

On the same day that he died, the body of the victim was autopsied by Dr. Magdalena Alambra, Medical Specialist II of the Rural Health Unit of Bauang, La Union. In her Autopsy Report, she made the following findings:

#### PERTINENT PHYSICAL FINDINGS:

1. Hematoma suboponeurotic layer of the scalp rt. Fronto parietal area 10 cm. in length and 9 cm. in width.
2. Fibrocaseous necrosis of the right lung with loss of lung parenchymal tissue and pleural adhesion of the rt. Lateral wall of

the chest.

CAUSE OF DEATH: Cardio respiratory arrest due to pulmonary tuberculosis. Far advanced with massive pleural adhesion rt. side.<sup>[16]</sup>

During the trial of the case, Dr. Alambra testified for the defense. She stated under oath that immediately after the death of the victim, she conducted the autopsy of the body of said victim; that during the procedure, she made an internal, as well as external, examination of the body of the victim; that fibrocaceous meant that half of the victim's lungs, the right one in particular, was already gone; that she was only told that the victim had been mauled and that the latter became weak thereafter; that although a hematoma<sup>[17]</sup> was present on the victim's forehead, she did not consider it as the cause of death as hematoma alone will not cause the death of a person especially seven to eight days later; and, that when she opened the skull of the victim to study the latter's brain, she did not see anything unusual. Dr. Alambra then confirmed that the cause of death of the victim was cardio-respiratory arrest due to pulmonary tuberculosis that was already so far advanced with massive pleural adhesions. On cross, however, she stated that a person with only one lung left, with proper medication, would still be able to live normally.

Disbelieving that cardiac arrest secondary to Tuberculosis was the cause of death of his son; Teofilo Gundran had the victim's body re-autopsied, this time by the National Bureau of Investigation. The re-autopsy was conducted by Dr. Arturo G. Llavore, a Medico-Legal Officer of the National Bureau of Investigation (NBI) Regional Office, San Fernando, La Union, on 11 October 1991, or eight days after the first autopsy.<sup>[18]</sup> Dr. Llavore's autopsy report stated:

#### AUTOPSY REPORT NO. 88-26-LU

#### POSTMORTEM FINDINGS

Cadaver, embalmed.

- I. Abrasions: Frontal region, left side. 0.9 x 0.2 cm.; Arm, left, upper third, anterior aspect, 2.0 x 0.6 cm.; Forearm, right, upper third, anteromedial aspect, 0.2 x 0.2 cm.; Elbow, left, posterior aspect, 0.6 x 0.4 cm., and right, posters-medial aspect, 2.0 x 0.5 cm. in size.
- II. Hematoma, Scalp, Interstitial; Fronto-temporo-parietal region, right side, 13.0 x 10.0 cms., massive, extensive; Frontal region, slightly to the right of the anterior medial line, 2.0 x 1.6 cms., mild; Occipital region, mid-aspect, 8.0 x 2.3 cms, moderate.
- III. Brain, markedly congested, with flattening and widening of gyri and narrowing of the sulci. Cerebral blood vessels markedly engorged.
- IV. Lungs, Left lung intact; right lung previously dissected. Cut sections showed areas of fibrosis at the right lung (focal) surrounded by atelectatic and emphysematous changes, (Pleural Adhesions, right. - B-2)<sup>[19]</sup>

V. Other internal visceral organs, markedly congested.

VI. Stomach, with approximately 60 cc of dark brownish fluid.

\*\*\* end \*\*\*

CAUSE OF DEATH: CEREBRAL EDEMA, SEVERE, SECONDARY TO TRAUMATIC INJURIES; HEAD/

REMARKS: Pls. see pathology Report No. P-88-339. Old healed scars noted at Chest, anterior and lateral aspects, right. Scalp incision, postmortem, extending from above left ear, over the superior midline and down to the front of right ear, 36.0 cms. long. Postmortem incision, Y-shaped, extending from anterior superior portion of Chest to abdominal area, lower quadrant, 53.0 cms. long.

During the trial, prosecution witness Dr. Llavore testified that the cause of death of the victim was the collective effect of all the injuries sustained by the latter on the head. He explained that the forces that could have caused the injuries to the victim's head were also the same forces that could have caused the edema or swelling of the victim's brain. He illustrated further that a human fist applied with "sufficient" force on the *fronto-temporo-parietal* region of the head could cause an injury the same as that sustained by the victim on his forehead. Similarly, the injury found at the back of the head of the victim could have been caused by an edge of a palm applied with sufficient force or it could have been caused by hitting his head on the edge of a table as the shape of said injury is somewhat elongated. On cross examination, Dr. Llavore admitted that he did the re-autopsy seven (7)<sup>[20]</sup> days after the victim died but that his Autopsy Report failed to indicate that the cadaver had previously been autopsied by another physician; that the blow inflicted on the head of the victim was strong enough to have injured the "moorings" of the brain causing the destruction of the brain cells and the shifting of the fluid in the skull to one side; that the most serious wound between the two injuries sustained by the victim on the head is the one found on his right forehead; and that the process of swelling became irreversible when the compression of the brain had caused its center to become "imbalanced," so that the victim's brain ceased to function.

After trial, in a *Decision*<sup>[21]</sup> promulgated on 28 March 1996, the RTC rendered judgment finding petitioner Yadao guilty of the crime of homicide, and sentencing him as follows:

WHEREFORE, in view of the foregoing, the Court, finding the accused guilty beyond reasonable doubt of the crime of Homicide as charged in the information, and after considering two (2) mitigating circumstances, hereby sentences him to suffer an indeterminate penalty of FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correccional in its maximum period, as Minimum to EIGHT (8) YEARS of prision mayor in its minimum period, as Maximum, and to indemnify the heirs of the deceased the sum of P50,000.00 for the death of Deogracias Gundran and to pay the costs.

SO ORDERED.

The RTC held that:

After a careful consideration and examination of the testimonies of both medico-legal officers, this Court is inclined to give more weight on the testimony of Dr. Arturo Llavore that the cause of death of Deogracias Gundran was "cerebral edema, severe, secondary to traumatic injuries, head" and not "Cardio respiratory Arrest due to pulmonary tuberculosis. It is to be noted that Dra. Magdalena Alambra testified and even admitted that a person even if he has no (sic) lungs can still live. Hence, the injuries which the victim Deogracias Gundran sustained on his head caused his death as he did not immediately undergo medical treatment. And as testified to by Dr. Arturo Llavore x x x the blow inflicted was fatal or very serious that "if no medical intervention is made, it will be untreated (sic)" (T.S.N., September 25, 1991, p. 38).

x x x [g]ranting for the sake of argument that accused Artemio Yadao did not maul the victim but only slapped him slightly which caused him to fall down as he was very drunk, still accused is liable for the consequences of his act.

x x x x

The case involves the application of Article 4 of the Revised Penal Code, which provides that "Criminal liability shall be incurred: (1) By any person committing a felony (delito) although the wrongful act done be different from that which he intended. x x x "Pursuant to this provision, "an accused is criminally responsible for the acts committed by him in violation of law and for all the natural and logical consequences resulting there from". (sic) x x x.

x x x x

Under paragraph 1, Article 4, revised Penal Code, a person committing a felony is still criminally liable even if -"x x x

(c) the injurious result is greater than that intended-prater-intentionem.  
x x x

Indeed the act of the accused in slapping the victim Deogracias Gundran causing the latter to fall down hitting his head which caused his eventual death is something which the accused cannot escape. This Court does not favor making conjectures but looking at the body built (sic) of the accused who is tall and sturdy as compared to the body built (sic) of the victim who was described to be tall and lanky, it is not hard to believe that accused did not know that natural and inevitable result of the act of slapping the victim, considering the fact that accused even admitted that the victim was then very drunk.

Aggrieved, petitioner Yadao appealed the aforequoted decision to the Court of Appeals. The appellate court, in its *Decision*<sup>[22]</sup> of 18 April 2001, affirmed *in toto* the judgment of conviction rendered by the RTC. The *fallo* of Court of Appeals decision states that: