

SECOND DIVISION

[G.R. No. 126047, September 16, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LEOPOLDO AQUINO ALIAS POLDONG AND LORETO AQUINO,
ACCUSED-APPELLANTS.**

D E C I S I O N

BELLOSILLO, J.:

LEOPOLDO AQUINO alias *Poldong* and LORETO AQUINO, brothers, appeal from the Decision of the Regional Trial Court, Br. 32, Agoo, La Union, finding them guilty of murder and sentencing them to *reclusion perpetua*, to pay the heirs of Loreto Cecilio P50,000.00 as civil indemnity, P21,596.00 for actual expenses, P100,000.00 as moral damages, and the costs.^[1]

On the night of 23 December 1988 Loreto Cecilio attended a Christmas dance in Bgy. Dulao, Aringay, La Union. Prosecution witness Pablo Medriano Jr. narrated in court that on the same evening he and three (3) lady friends were having snacks in a store near the dance hall. Loreto Cecilio was also at the store conversing with Ronald Medriano. Witness Pedro Medriano Jr. knew Loreto Cecilio because the latter was a friend of his brother Julito Medriano. At the back of the store were the accused Leopoldo Aquino and Loreto Aquino who were drinking liquor. While having their snacks, witness Medriano learned that a fight erupted between two (2) groups, one from Bgy. Dulao, and the other, from Bgy. Alaska. But the protagonists were immediately pacified.

Shortly thereafter, the Aquino brothers approached Pablo Medriano and challenged him to a fight. They asked him if he could still remember the time when he stoned them, but Pablo replied in the negative.

For fear of his life Pablo Medriano ran towards the house of Liberato Madriaga, his uncle, to seek shelter and help. Upon reaching the yard of his uncle, Pablo turned back to see if he was still being pursued by the Aquino brothers; instead, he saw them mauling Loreto Cecilio. Leopoldo Aquino was hugging Loreto Cecilio from behind while Loreto Aquino was boxing and hitting their victim. Already dazed and beaten, Loreto Cecilio was hit by Leopoldo with a stone on the neck causing him to fall down.

Upon reaching the house of his uncle Liberato, Pablo was met by his mother who hid him from his attackers until some people carried the lifeless body of Loreto Cecilio to the yard of the house. The victim was rushed to the hospital but was pronounced dead on arrival.

On 4 January 1989 Dr. Arturo Llavore, medico-legal officer of the National Bureau of Investigation in San Fernando, La Union, conducted a post-mortem examination of

the exhumed body of Loreto Cecilio. In his report, Dr. Llavore concluded that the death of Loreto Cecilio was caused by a very strong force from a blunt object delivered on the right side of the neck. This conclusion confirmed the testimony of Pablo Medriano that Loreto Cecilio was hit by Leopoldo Aquino on the neck with a stone.

As expected, the defense gave a different account of the events. According to accused-appellants, after 11 o'clock in the evening of 23 December 1988, they were drinking beer at the store of a certain Virgilio Bautista. The group of Pablo Medriano and that of the victim Loreto Cecilio were behind the store also drinking liquor. After 30 minutes past midnight of 23 December 1988, the two (2) camps started throwing stones at each other and a free-for-all ensued.

The Aquino brothers denied participation in the melee. Instead, they pointed to prosecution witness Pablo Medriano and his companions as the ones who figured in the brawl. In view of the fight, they thought it prudent to go home and stay away from trouble. The following morning they were arrested and questioned for the killing of Loreto Cecilio. They were later released after being detained by the police for a couple of hours. Both vehemently denied any involvement in the death of Loreto Cecilio. They claimed that the victim was a stranger and they had no grudge against him. There was no reason for them to kill or harm him.

To buttress their defense, accused-appellants presented Ambrocio Caoile who testified that he was also at the Christmas dance that night of 23 December 1988. According to him, he stayed and roamed around the area looking for his friends from 10:00 o'clock in the evening of 23 December up to 2 o'clock the following morning. He confirmed that a fight broke out between two (2) groups, one from Bgy. Dulao, and the other from Bgy. Alaska. Caoile admitted seeing the Aquino brothers in front of the store of Virgilio Bautista. However, he denied having seen them figure in any altercation, mauling, or killing. In fact, according to Caoile, he did not observe any unusual incident during the dance except for the fracas between the two (2) groups; and, that he only learned about the death of Loreto Cecilio the next morning.

In convicting the Aquino brothers of murder, the trial court ratiocinated thus -

The identity of the two accused has been established beyond reasonable doubt by the testimony of Pablo Medriano, Jr. He knew the two accused since he was still young as they all came from Dulao, Aringay, La Union x x x Pablo Medriano could have seen clearly the mauling of Loreto Cecilio as the place of the mauling was well lighted. There was light from the store and the dance hall. The place of the mauling was just 10 to 12 meters from the store and the dance hall.

On the other hand, the defense of the accused consisted merely of denials. They admitted they were at the scene of the incident. They also admitted that Pablo Medriano Jr. and Loreto Cecilio were also present near the store. But they tried to project a saintly poise of indifference to the fight between the two groups and smugly claims that they went home. Their witness Ambrocio Caoile also testified in the same manner by saying that there was no mauling incident involving Loreto Cecilio as he did not witness any mauling during all the time he was near the store

x x x x The testimony of Pablo Medriano Jr. is a positive narration of the facts surrounding the killing of Loreto Cecilio. The testimonies of the accused and their lone witness are mere denials hence negative. The testimony of Pablo Medriano Jr. being a positive narration of facts must be given greater weight than the negative testimonies of the defense witness of the two accused.

Accused-appellants impute the following alleged errors to the lower court: (1) in considering the existence of conspiracy and the attendance of the qualifying circumstance of abuse of superior strength; (2) in disregarding the mitigating circumstance of voluntary surrender in favor of the accused; (3) in admitting in evidence the exhumation report/postmortem findings to show the injuries sustained by the deceased Loreto Cecilio; (4) in relying on the uncorroborated testimony of a single witness in convicting the two (2) accused and in not acquitting them on reasonable doubt; and, (5) in acting more like a prosecutor and/or failed to observe the neutrality of an impartial tribunal.

We affirm the Decision of the court below.

First. Accused-appellants submit that they could not have conspired to harm and kill Loreto Cecilio as the latter was a stranger to them and they had nothing against him. Their meeting was merely accidental.

This argument is misplaced. Conspiracy exists when two (2) or more persons come to an agreement concerning the commission of a felony and decide to commit it.^[2] What is fundamental for conspiracy is the unity of purpose and unity in the execution.^[3] Direct proof of the accused's previous agreement to commit a crime is not indispensable. This fact may be deduced from the mode and manner in which the offense was perpetrated.^[4] It is not required that there be an agreement for an appreciable period prior to the occurrence. It is sufficient that at the time of the commission of the offense, the accused had the same purpose and were united in its execution.^[5] A conspiracy may be inferred without need of showing that the parties actually came together and agreed in express terms to enter into and pursue a common design.^[6] As found by the trial court -

x x x [the accused-appellants'] behavior and participation as narrated by Pablo Medriano, Jr. clearly shows that there [was a] conspiracy by and between them in the commission of the crime. They aided each other in perpetrating the crime. They [had] the same common purpose, and they pursued it x x x x^[7]

Accused-appellants likewise claim that the trial court erred in considering the qualifying circumstance of abuse of superior strength. They insist that "the alleged mauling was a spur of the moment impulse, hence, it may not be said that the accused had cooperated and intended to use or secure advantage from such superior strength, or had specifically contrived or deliberately intended and prepared to take advantage of superior strength in a projected assault against the victim."^[8]

This contention is without merit. To appreciate the attendant circumstance of abuse of superior strength, what should be considered is whether the aggressors took advantage of their combined strength in order to consummate the offense.^[9] The