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No costs.

SO ORDERED.

Aquino (Chairman), Concepcion Jr., Escolin, and *Cuevas, JJ.*, concur.

Abad Santos, J., is on leave.

FIRST DIVISION

[G.R. No. L-41605. August 19, 1985]

ROGELIO PRING and ALBERTO (ROBERTO) ROXAS, *petitioners, vs.* **THE HONORABLE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CONSPIRACY; PRESENT IN CASE AT BAR.**— The evidence pointed out to this Court, however, indicate that the acts and behavior of the accused reveal their common purpose to assault and inflict harm upon Loreto Navarro and the latter's group. There was a concerted execution of that common purpose from which the element of conspiracy can be reasonably deduced. The evidence of a common agreement to assault Loreto Navarro and his group can be clearly inferred from the fact that when the herein petitioners and his co-accused saw the group of Loreto Navarro at the Abucay Canteen, some of the accused entered the canteen, while the others stayed outside.

2. **CRIMINAL LAW; CONSPIRACY; LIABILITY OF CONSPIRATORS; CASE AT BAR.**— While the acts done by the petitioners herein vary from those of their co-accused, there

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is no question that they were all prompted and linked by a common desire to assault and retaliate against the group of Loreto Navarro. Thus, they must share equal liability for all the acts done by the participants in such a felonious undertaking. While petitioners herein, Rogelio Pring and Alberto (Roberto) Roxas, on their part, had ganged up Jesus Yumol who belonged to the group of their adversaries by hitting the latter with a bench and a piece of wood, and that it was a certain David Ravago who stabbed the deceased Loreto Navarro, nevertheless, it is a rule that conspirators would necessarily be liable also for the acts of the other conspirators unless such acts differ radically or substantially from that which they intend to commit.

DECISION

ALAMPAY, *J.*:

Petitioners herein, Rogelio Pring and Alberto (Roberto) Roxas, were among the defendant, charged with Murder before the Court of First Instance of Bataan in Crim. Case No. 8185, entitled "*The People of the Philippines versus Angelito Naungayan, et al.*" They were accused of having conspired and having mutually helped one another in assaulting and engaging in a fight Loreto Navarro and the latter's group and in the course thereof, Loreto Navarro was fatally stabbed.

After the appropriate court proceedings, the trial court, on January 21, 1973, found the defendants, among whom are the petitioners herein, guilty beyond reasonable doubt of the crime of Homicide and sentenced them to suffer imprisonment of eight (8) years and one (1) day of *prision mayor*, as minimum to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, to indemnify jointly and severally the heirs of the deceased in the sum of ₱12,000.00 and to pay the costs.

Excepting from the said judgment, the herein petitioners appealed to the then Court of Appeals, contending that the trial court erred in finding them equally liable for the crime of

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Homicide despite the alleged absence of evidence establishing their conspiracy with their other co-accused. Appellants claimed that the facts and circumstances consistent with their innocence was disregarded and that they should have been acquitted on grounds of reasonable doubt.

Upon review of the evidence, and considering the refutation made by the People of the alleged errors raised in the appeal, the respondent Court of Appeals, in its decision promulgated on March 13, 1975 affirmed the decision of the trial court, based on the following findings of facts:

"x x x x x x x x x

"The acts and behavior of the accused-appellants hereinbefore mentioned, as established by the evidence of the prosecution, show their common purpose to beat up Loreto Navarro and the others in his group. They were united in the execution of that common purpose. Angelito Naungayan was seen using a wooden stool during the fight and another in his group using a piece of wood. David Ravago used a knife, which killed Loreto Navarro. It is a rule that conspirators should necessarily be liable for the act of another conspirator even though such act differs radically and substantially from that which they intended to commit (*People vs. Enriquez*, 58 Phil. 536; *People vs. Rosario*, 68 Phil. 720). It cannot be denied that a blow with a wooden stool might well have resulted in the taking of life as the blow might hit the head of the person assaulted, and the circumstance that a knife was also used in striking the deceased does not relieve the appellants from the consequence of their joint acts' (*People vs. Enriquez, supra*). The ruling applies with equal force to those who only gave fist blows in attacking the others in the group of Loreto Navarro, for they did not prevent Angelito Naungayan from using the wooden stool in the assault.

"x x x x x x x x x

"At any rate, the conspiracy among the appellants and between them and David Ravago is also shown by the circumstances established by the evidence on record, namely: (1) all of them were close friends and often seen together; (2) as admitted by Angelito Naungayan himself which confirms the evidence of the prosecution, the day before Loreto Navarro was killed, there had been an incident which induced him to have an encounter with Loreto Navarro;

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(3) as also admitted by Angelito Naungayan which likewise confirms the evidence of the prosecution, David Ravago was with the group when they went to the canteen; and (4) *the group of Angelito Naungayan simultaneously attacked the group of Loreto Navarro in the canteen.* x x x (Italics supplied). [Decision, CA-G.R. No. 14925-CR, 14-17; *Rollo*, pp. 87-90.]

After the court below denied the petitioners' motion for reconsideration of its judgment, the instant petition for review on *certiorari* was filed with this Court.

The principal thrust of the petitioners is that, the respondent Court of Appeals committed grave error in convicting them of the crime of Homicide based upon a finding that there was a conspiracy between the petitioners and the other accused.

Petitioners contend that even if they are considered to be members of the group of Loreto Navarro and that they, with the other co-accused were seen together soon before the fatal stabbing of Loreto Navarro took place, these circumstances are inadequate to prove that they had a common purpose to kill Loreto Navarro. Petitioners submit that even assuming there was an agreement to retaliate against Loreto Navarro and his group, the prosecution had failed to establish, as even so stated by the trial court, the manner or extent of the retaliation to be done. Petitioners argue that a mere agreement to retaliate cannot lead to the conclusion that the petitioners hatched a conspiracy to kill Loreto Navarro. On this argument, petitioners claim that the evidence submitted against them is bereft of any showing of any conspiracy to kill Loreto Navarro. Petitioners submit that in the absence of an actual conspiracy to kill and as they were not the ones who inflicted the fatal stab wounds but a certain David Ravago, they should be absolved of any responsibility for the death of Loreto Navarro.

The evidence pointed out to this Court, however, indicate that the acts and behavior of the accused reveal their common purpose to assault and inflict harm upon Loreto Navarro and the latter's group. There was a concerted execution of that common purpose from which the element of conspiracy can

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be reasonably deduced. The evidence of a common agreement to assault Loreto Navarro and his group can be clearly inferred from the fact that when the herein petitioners and his co-accused saw the group of Loreto Navarro at the Abucay Canteen, some of the accused entered the canteen, while the others stayed outside. These acts of the various accused have been pointed out in the appellees' brief: —

"It was proved that the defendants pursued by their acts the same object, one performing one part and another part of the same, so as to complete it, with a view to the attainment of that same object. Applied to the facts before this Honorable Court, it is incontestable that all of the accused were imbued with the same purpose, which was to avenge themselves on the group of Loreto Navarro who previously threw a calamansi peelings on the Naungayan group. A common feeling of resentment animated all of them.

"The effort to lead this Honorable Court into the realm of speculation is unavailing in the fact of actualities. Joint assent may be reasonably inferred from the fact that when Naungayan saw the group of Loreto Navarro in the Abucay canteen, some of the accused entered the canteen, while others stayed outside. Loreto Navarro was pointed to David Ravago by Carlos Tolentino as David Ravago did not know the former because he was not present during the wake. Thereafter, Tolentino returned inside the canteen and suddenly boxed Cerezo, one of the friends of Loreto Navarro, who was invited to celebrate the latter's birthday. As soon as Cerezo fell down, Carlos Tolentino rushed towards Loreto and boxed him while Naungayan tried to hit Loreto with a "*sungkahan.*" Fidel Pantaleon and Carlos Tolentino gave Loreto fist blows. Meanwhile, Domingo, Pring, Roxas and Yuzon ganged up Jose Yumol, hit him with a bench and a piece of wood. Naungayan tried to hack Yumol, but the latter was able to run to the kitchen where he was hit by Fidel Pantaleon with a chair. Loreto Navarro during the free for all left the canteen but the latter was stabbed by David Ravago, who actually positioned himself there. x x x" Brief for Respondents, pp. 15-16.

The individual acts of the various accused clearly demonstrate a common desire and purpose to assault the group of Loreto Navarro. Unfortunately, as a consequence of the incident that ensued, the death of the latter resulted.

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While the acts done by the petitioners herein vary from those of their co-accused, there is no question that they were all prompted and linked by a common desire to assault and retaliate against the group of Loreto Navarro. Thus, they must share equal liability for all the acts done by the participants in such a felonious undertaking. While petitioners herein, Rogelio Pring and Alberto (Roberto) Roxas, on their part, had ganged up Jesus Yumol who belonged to the group of their adversaries by hitting the latter with a bench and a piece of wood, and that it was a certain David Ravago who stabbed the deceased Loreto Navarro, nevertheless, it is a rule that conspirators would necessarily be liable also for the acts of the other conspirators unless such acts differ radically or substantially from that which they intend to commit (*People vs. Enriquez*, 58 Phil. 536; *People vs. Rosario*, 68 Phil. 720).

The pronouncements made by this Court in the aforecited case of *People vs. Enriquez*, still serve as the governing rule that should be applied to the case at bar. In the said case, this Court stated:

"x x x x x x x x x"

"We are of the opinion that this contention is not tenable. The accused had undoubtedly conspired to do grave personal injury to the deceased, and now that the injuries actually inflicted have resulted in death, they cannot escape from the legal effect of their acts on the ground that one of the wounds was inflicted in a different way from that which had been intended. x x x.

"As has been said by the Supreme Court of the United States, 'If a number of persons agree to commit, and enter upon the commission of the crime which will probably endanger human life such as robbery, all of them are responsible for the death of a person that ensues as a consequence.' (*Boyd vs. U.S.*, 142' U.S., 450; 35 Law. ed., 1077). In *United States vs. Patten*, the court said: 'Conspirators who join in a criminal attack on a defenseless man with dangerous weapons, knock him down, and when he tries to escape, pursue him with increased numbers, and continue the assault are liable for manslaughter when the victim is killed by a knife wound inflicted by one of them during the beating, although in the beginning they did not contemplate the use of a knife.' (42 Appeals, D.C., 239)"

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Although during the incident in question the aggression committed by the petitioners herein was directed against the other members of the group of Loreto Navarro and not on the deceased, this would not relieve them from the consequence of the acts jointly done by another member of the petitioners' group who stabbed the deceased Loreto Navarro.

The factual findings of the trial court which was affirmed by the then Court of Appeals, establishing the manner of aggression committed by the petitioners' group against the opposite group of the deceased, are entitled to much weight and value. There is also no question of law involved in this case that would compel favorable consideration of petitioners' case.

WHEREFORE, the petition for review on *certiorari* in this case is hereby DISMISSED for lack of merit.

SO ORDERED.

Melencio-Herrera, Plana, Relova, Gutierrez, Jr., and *De la Fuente, JJ.*, concur.

Teehankee (Chairman), J., took no part.

EN BANC

[G.R. No. L-45662. August 20, 1985]

FELIPE U. ERESE, *claimant-appellant, vs.* **EMPLOYEES' COMPENSATION COMMISSION, GSIS METRO MANILA,** *appellee.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; EMPLOYEES' COMPENSATION ACT; HERNIA IS NOT INCLUDED IN THE LISTING OF OCCUPATIONAL DISEASES; CASE AT BAR.—