

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAXRON MAGLAPID Y BALBIN, ACCUSED-APPELLANT.

Ponente: BARZA, J.

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BARZA, J.:

On appeal is the Decision dated 11 June 2013 of the Regional Trial Court, Branch 153, Pasig City, in Criminal Case No. 144228, finding the accused MAXRON MAGLAPID guilty beyond reasonable doubt of the crime of Robbery, as defined and penalized under Article 299 of the Revised Penal Code and sentencing him to suffer the indeterminate penalty of imprisonment of Four (4) years, two (2) months and one (1) day, as minimum, to Eight (8) years and one (1) day, as maximum.

With his father, co-accused Maximo Maglapid (Max)[2], the Information[3] for Robbery reads, as follows:

"That, on or about the 9[th] day of April, 2010 in the City of Taguig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with three (3) other persons yet unidentified; with intent of gain, by means of force and intimidation, and with the ordinary aggravating circumstances of nighttime and dwelling, did, then and there unlawfully, willfully, and feloniously take, rob and divest one FEDERICO F. BANCOD, of his personal properties to wit: cash money of Php2,000.00 and another wad of bills of about Php 1,900.00; all in the total amount of Php 3,900.00; to the damage and prejudice of the said complainant.

CONTRARY TO LAW."

During his arraignment[4], Maxron entered a plea of not guilty. At the pre-trial[5], the parties stipulated on the identity of Maxron Maglapid and the jurisdiction of the trial court. Trial thereafter, ensued.

The facts are, as follows:

On 9 April 2010, at around 6:00 o'clock in the evening, private complainant Federico Bancod (Federico) was in his house at 2281 Alvarado Street, Lower Bicutan, Taguig City. With him were his brother Ernesto Bancod, his niece and the latter's two-week old child. While they were watching the television, someone knocked on the door. When Federico opened the door, he was surprised to see Max Maglapid, Maxron Maglapid, Nassip and Moa. They all went near Federico. Nassip and Moa dragged Federico away from the door. Nassip and Moa asked Federico if he was hiding a gun. After which, Nassip and Moa poked a gun on Federico. They then asked Federico to bring out his gun. When Federico told them that he had no gun, Nassip, upon seeing a hammer on top of the refrigerator, took the same and forcefully destroyed the cabinet. Max, Maxron and Nassip searched the cabinet. When they failed to see any gun, they saw Federico's wife's bag[6] hanging inside the cabinet. They opened the same and Nassip forcibly took the cash in the bag, amounting to P3,000.00. Thereafter, Max and Maxron saw Federico's pants hanging on the wall, took it down and took the money from the pocket amounting to P1,900.00. After which, Max, Maxron, Nassip and Moa left the house with a warning to Federico not to tell the police about the incident or else they will shoot him or throw a grenade at his house.

At the stand, Federico identified Maxron Maglapid[7], as well as the sworn statement[8] he executed in relation to

this case. He knows the Maglapias because they are neighbors for about 20 years. As for Nassip and Moa, Federico would only see them at the house of the Maglapias during their drinking spree. He would also see Nassip roaming in their place after the incident but he did not report to the police out of fear.

Ernesto Bancod, the brother of Federico, was at the said house on the said date and time. He witnessed how Max and Maxron Maglapias, Nassip and Moa entered the house of his brother then proceeded to open the two rooms while looking for a gun. They took the cash in the latter's wife's bag and the cash from his brother's pants that was hanging on the wall, while Moa was poking a gun at his brother. Ernesto identified Maxron as one of the four persons who entered the house as he would see him (Maxron) in the neighborhood. He identified Maxron at the stand[9], including the Joint Affidavit[10] he executed in relation to this case.

For the defense, Vanessa Carlos Anigo, a neighbor of the Bancods and Maglapias where the incident happened, testified that she was cooking in her house on 9 April 2010 at around 4:00 p.m. in the afternoon. Maxron could not have robbed the Bancods because she saw him taking care of his ailing father. At 4:30 p.m., she saw Maxron about to cook also. By 5:00 p.m., she stayed inside her house as she was done cooking and had taken the clothes from the clothesline. About 5:30 p.m., she went out to buy ice and returned by 5:45 p.m. She then stayed in her house.

Maxron Maglapias is 22 years old, single and jobless. At 4:00 p.m. on 9 April 2010, he was at the roof top of their house at No. 8 Orilla Street, Purok 4, Lower Bicutan, Taguig City. He was whiling away with his cousin, Jeffrey Maglapias. He admits knowing the private complainant Federico Bancod as their houses are 5 meters apart. He denies stealing anything from Federico and claims that Federico is pointing to him as the one who stole because Federico holds a grudge against his father. Nassip and one Jhun were responsible for the crime because the two went to Federico's house at around 4:00 p.m. on the said date. On cross-examination, Maxron said that the two passed by their house and at that time, Maxron was taking care of his father. Maxron testified that he did not see the two enter the house of Federico. Upon further testimony, he claims that he saw Nassip enter the house of Federico at 4:00 p.m. and came out of the said house later with one Kuya Jhun.

In due course, the trial court rendered the assailed judgment, the dispositive portion of which reads, as follows:

"WHEREFORE, the Court finds MAXRON MAGLAPIAS y BALBIN, GUILTY BEYOND REASONABLE DOUBT of the crime of robbery and hereby sentences him to suffer the indeterminate penalty of imprisonment of Four (4) years, two (2) months and One (1) day as minimum to Eight (8) years and one (1) day as maximum, which carries with it the accessory penalty of suspension from the right to hold public office, a right to follow a profession or calling and perpetual special disqualification from the right to suffrage.

Considering that accused Maxron Maglapias is out on bail, let a warrant of arrest be issued against him.

SO ORDERED."

Hence, this appeal on the lone assignment of error:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

For the State, the Solicitor General posits that the testimonies of the prosecution witnesses are convincing, credible and sufficient to establish the guilt of the accused-appellant beyond reasonable doubt and recommended that the assailed Decision be affirmed in all respects.

The appeal should be dismissed.

Accused-appellant contends that the trial court erred in giving full weight and credence to the testimony of prosecution witness, Federico Bancod, as not all the elements of robbery had been proven beyond reasonable doubt. His testimony is considered as inconsistent with human experience and even contradictory with one another.

The Court disagrees with accused-appellant's contentions.

The assessment on the credibility of witnesses is a function best discharged by the trial court due to its position to observe the behavior and demeanor of the witness in court. This rule is set aside only when the trial court's evaluation was reached arbitrarily, or when it "overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which could affect the result of the case." [11] In this case, the Court finds no reason to digress from the trial court's assessment of the testimonies given by the prosecution witnesses.

In this case, Federico made a firm and candid declaration that accused-appellant is one of the robbers who entered his house at 6 o'clock in the evening on 9 April 2010, and thereat took away the cash amounting to P3,900.00 belonging to him and his wife. He had known Maxron for a long time, as their respective houses stand 5 meters apart in the same neighborhood for almost 20 years.

The Court finds nothing inconsistent with human experience upon the contention that it was impossible for Federico to witness what was happening in the other room while he was being held at gun point by the doorstep as testified by his brother Ernesto, that the incident would go unnoticed in the same cramped neighborhood, and that Federico did not report the incident to the authorities despite seeing one of the robbers roaming the neighborhood thereafter.

The Court does not find any inconsistency between the assertion of Federico and Ernesto that the former could not have witnessed what was happening in the other room as the latter testified that Federico was being held at gun point near the door. As correctly argued by the State, "While it is true, that Federico was not in the same room where the money was taken, it is worthy of emphasis that the doors to the bedrooms where the actual taking happened were open at that time. It is, thus, not impossible for Federico to see and observe what was happening inside the bedrooms, notwithstanding that he was not inside the same."

It must be stressed that witnesses testifying on the same event do not have to be consistent in every detail as differences in recollection, viewpoint or impressions are inevitable. Total recall or perfect harmony is not required. As long as the witnesses concur on material points, slight differences in details do not reflect on the essential veracity of their testimonies. [12]

Likewise, in agreement with the argument of the State, common experience dictates that crimes, such as the instant case, are committed surreptitiously to avoid being caught in the act. It is, thus, not improbable that although Federico's house is located in a densely populated neighborhood, no one noticed the commission of the crime while it lasted.

It must also be noted that Federico and Ernesto testified that the accused-appellant and his companions warned them against reporting the incident to the police with a threat that they would get shot and they would blast Federico's house if the authorities find out. It is settled that different people react differently to a given situation or type of situation, and there is no standard form of human behavioral response when one is confronted with a strange or startling or frightful experience. Witnessing a crime is an unusual experience which elicits different reactions from the witnesses and for which no clear-cut standard form of behavior can be drawn. [13]

Such also explains the delay in the reporting of the incident to the authorities even if it has been testified that Nassip had been seen roaming the neighborhood after the incident. Although flight is an indication of guilt,

non-flight does not necessarily mean non-guilt or innocence. This judicial doctrine is simply applied to strengthen the evidence of guilt, taking into consideration other corroborative pieces of evidence. It cannot be singularly considered as evidence or as a manifestation determinative of innocence.[14]

Given the positive identification of the accused-appellant as one of the robbers, the trial court is correct in disregarding the defense of denial and alibi posed by the accused-appellant. Alibi is generally viewed with suspicion because of its inherent weakness and unreliability. For this defense to prosper, jurisprudence demands the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident. Where the least chance exists for the accused to be present at the crime scene, the defense of alibi fails.[15] Physical impossibility refers to the distance between the place where the accused was when the crime transpired and the place where it was committed, as well as the facility of access between the two places.[16]

In this case, the physical impossibility that the accused-appellant was so distant from the locus criminis so as to render it impossible for him to be there has not been shown. Even the defense witness in the person of Vanessa Carlos Anigo testified that the respective houses of the Maglapids and the Bancods are near each other. Accused-appellant admitted that Federico Bancod is their neighbor, whose house was five meters away from theirs. No other evidence was presented to prove Maxron's whereabouts on the date and time.

As correctly observed by the trial court:

"Jeffrey, who according to Maxron, was with him at the rooftop of their house on the date and time in question was not presented to corroborate such testimony. Instead, accused presented their neighbor, Anigo, whose testimony refers only to what she had seen or observed before 6:00 o'clock in the evening and as regards accused Maxron only. She, however, admitted that she did not know if accused Maxron had left his house on the date in question."

For there to be robbery, there must be taking of personal property belonging to another, with intent to gain, by means of violence against or intimidation of any person or by using force upon things.[17]

In this case, the prosecution has sufficiently proved that on 9 April 2010, the accused-appellant and his companions entered the house of Federico, and by means of intimidation, took the money belonging to Federico and his wife

Under Art. 293 (5) of the RPC, the penalty for Robbery with violence against or intimidation of persons is prison correccional in its maximum period to prison mayor in its medium period.

There being no modifying circumstances that attended the commission of the crime, the trial court correctly imposed the indeterminate penalty of Four (4) years, two (2) months and One (1) day, as minimum, to Eight (8) years and one (1) day, as maximum, on the accused-appellant.

WHEREFORE, the appeal is DENIED. The assailed Decision dated 11 June 2013, finding accused-appellant, MAXRON MAGLAPID, GUILTY beyond reasonable doubt of the crime of Robbery, as defined and penalized under Art. 293 (5) of the Revised Penal Code, is hereby AFFIRMED.

SO ORDERED.

Abdulwahid, (Chairperson), and Cruz, JJ., concur.

[1] As corrected in the Information, Records, p. 1

[2] Deceased, Certificate of Death, Records, p. 24; Ordered stricken off the record, Records, p. 26

- [3] Records, p. 1
- [4] Certificate of Arraignment, Records, p. 25
- [5] Pre-Trial Order dated November 21, 1998, Records, p. 19
- [6] Exh. "B" for the prosecution, Records, p. 9
- [7] TSN, November 25, 2011, p. 20
- [8] Exh. "A" for the prosecution, Records, pp. 7-8
- [9] TSN, April 13, 2012, p. 12
- [10] Exh. "D" for the prosecution, Records, p. 10
- [11] Marquez vs. People of the Philippine, G.R. No. 181138, December 3, 2012
- [12] People of the Philippines vs. Herbias, G.R. Nos. 112716-17, December 16, 1996
- [13] People of the Philippines vs. Mamaruncas, G.R. No. 179497, January 25, 2012
- [14] Eduarte vs. People, G.R. No. 176566, April 16, 2009
- [15] People of the Philippines vs. Musa, G.R. No. 170472, July 3, 2009
- [16] People of the Philippines vs. Aminola, G.R. No. 178062, September 8, 2010
- [17] Art. 293, Revised Penal Code

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