

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, ALEX LOPEZ AND JOVITO “FEDERES” LAGANSON, ACCUSED-APPELLANTS.

Ponente: COSICO, J.

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COSICO, J.:

Before us is an appeal from the judgment[1] of the Regional Trial Court, Branch 3 of Legazpi City in Criminal Case No. 9528 finding herein accused-appellants guilty beyond reasonable doubt of the crime of robbery with physical injuries.

The Facts

Herein accused-appellants were charged with the crime of robbery with physical injuries committed by a band via an amended information[2], the pertinent portions of which read—

“The undersigned, hereby accuses GLENN CONDES, FER BRITO, ALEX LOPEZ, JOVITO ‘FEDERES’ LAGANSON, and REYMAR NOLASCO, the first three accused, residents of Purok 5, Salvacion, Daraga, Albay, and the latter two accused, residents of Quirangay, Camalig, Albay, with the crime of ROBBERY WITH PHYSICAL INJURIES COMMITTED BY A BAND, committed as follows:

“That on or about August 3, 2001, at Daraga, Albay, Philippines, and within the jurisdiction of this Honorable Court, the said accused, acting in concert, all armed, with intent to gain, did then and there willfully, unlawfully and feloniously, by means of violence assault, attack, and hack ARNEL A. LOPO inflicting injuries to the latter which caused his incapacity for labor for thirty (30) to forty five (45) days after which the accused took, stole and carried away the following personal items belonging to Arnel A. Lopo, against his will and consent:

- 1) One Seiko 5 wristwatch valued at P3,000.00;
- 2) Nokia Cellphone worth P6,200.00;
- 3) One gold necklace worth P5,000.00;
- 4) Cash in the amount of P1,200.00;

With a total value of P15,700.00, to his damage and prejudice.

“ACTS CONTRARY TO LAW.”

Upon arraignment, accused-appellants Alex Lopez and Jovito “Federes” Laganson pleaded “not guilty” to the offense charged. Accused Glenn Condes, Fer Brito and Reyemar Nolasco remained at-large.

After pre-trial, trial on the merits ensued.

The version of the prosecution is as follows:

In the evening of August 3, 2001, private complainant Arnel Lopo was at Purok 5, Salvacion, Daraga, Albay and was on his way home when accused-appellants Alex Lopez and Jovito “Federes” Laganson, together with their co-accused Glenn Condes, Fer Brito and Reyemar Nolasco, blocked his way. Condes then struck the victim’s head with a pipe while the other accused mauled him (Lopo). Brito also hacked the victim with a bolo, hitting the

victim's left arm and chin. After Lopo fell to the ground, his assailants took his personal belongings, namely, his cellular phone worth P6,200.00, gold bracelet worth P5,000.00, wallet and money worth P1,200.00, and wristwatch worth P3,300.00. He was able to recognize his five assailants because the place was lighted and these assailants used to be his friends. After the taking, somebody from the nearby house shouted, "Tama na, pondo na (That is enough, stop it)!" The group then ran away and left Lopo alone. Lopo stood up and, with the help of another person, went home. His sister and brother-in-law then brought him to the Bicol Regional Training & Teaching Hospital (BRTTH) for treatment. He stayed in the hospital for two weeks and incurred medical expenses in the amount of P3,633.00[3].

The medico-legal certificate[4] prepared by Dr. Je Sean Ciocon, Medical Officer III, indicates that victim Arnel Lopo sustained the following injuries: (1) hacked wound #2, 5 cm. and 7 cm. parietal right; (2) hacked wound 6 cm. w/ chip fracture lateral canthus left; (3) hacked wound 8 cm. forearm, post aspect left; and (4) avulsed wound chin. These injuries required medical attention for thirty (30) to forty-five (45) days, barring complications.

The accused-appellants did not testify during the trial. Only Allan Lopera Asilo, a barangay kagawad, testified for the defense. Asilo claimed that on August 3, 2001, at approximately 8:00 o'clock in the evening, he was about to enter a billiard hall in Purok 5, Barangay Salvacion, Daraga, Albay, when he heard victim Arnel Lopo utter to accused Glenn Condes, "Putangina (You're a whore)!" Condes then retorted, "Niyang pigon tak? Maali na lang ako (Why, what have I done to you? I will just go home)." Lopo still wanted to argue with Condes but when Condes turned around to go home, accused Fer Brito appeared and then hacked Lopo using a long bolo known as "ginunting." Thereafter, Reyman Nolasco struck Lopo with a lead pipe. When Lopo fell to the ground, Condes took the bolo and then hacked again the victim. Following the advice of his mother, accused Brito left the crime scene. Accused-appellants Alex Lopez and Jovito "Federes" Laganson then arrived at the crime scene and found Nolasco and Condes still mauling Lopo. Lopez and Laganson then simultaneously kicked the victim. The brawl ended and the accused ran away after somebody shouted, "Stop!" Witness Asilo denied private complainant's claim that the accused took with them the personal belongings of Lopo.

The Ruling of the RTC

The RTC of Legazpi City, Branch 3, lent more credence to the testimonies of the prosecution witnesses. Thus, on August 8, 2005, it rendered its judgment finding herein accused-appellants Alex Lopez and Jovito "Federes" Laganson guilty beyond reasonable doubt of the special complex crime of robbery with physical injuries. The dispositive portion of the judgment reads—

"ACCORDINGLY, the court finds accused Alex Lopez and Jovito Laganson alias 'Federes' guilty beyond reasonable doubt of the crime of robbery defined in Sec. 4, Article 294, Revised Penal Code, in the course of the execution of which physical injuries defined in paragraph 4 of Article 263 were inflicted which have caused the illness or incapacity for labor of the victim for thirty (30) to forty-five (45) days. Applying the Indeterminate Sentence Law, the accused are sentenced to an indeterminate penalty of 8 yrs. and 20 days of prison mayor as minimum to 14 yrs., 10 mos. and 20 days of reclusion temporal, as maximum, and to pay in solidum Arnel Lopo: 1) the amount of Php 15, 700.00 for the value of the stolen personal items (Seiko watch, Nokia cellphone, gold necklace and wallet with cash); and 2) Php 3,633 for expenses for medicines. With costs de oficio. Likewise, the accused shall be credited in the service of their sentence with the full time of their preventive imprisonment provided they have agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners; however, if they did not so abide, they shall therefore be credited only four-fifths of the time of preventive imprisonment.

"SO ORDERED."

The RTC rejected the allegation that the crime was committed by a band, considering that only two of the

malefactors were armed with a bolo and a lead pipe.

Accused-appellants' motion for new trial/reconsideration was denied by the trial court via an Order^[5] dated August 15, 2005. Hence, the instant appeal.

The Instant Appeal

Accused-appellants make the following assignment of errors in their appeal brief:

- The lower court erred in convicting the accused-appellants of the crime of robbery with physical injuries defined in Section 4, Article 294 of the Revised Penal Code; and
- The lower court erred in ordering the accused-appellants to pay in solidum Arnel Lopo the amount of P15,700.00 for the value of the stolen items, and P3,633 for expenses for medicines.

This Court's Ruling

After due study, this Court finds no reversible error committed by the trial court in finding herein accused-appellants guilty beyond reasonable doubt of the crime of robbery with physical injuries.

It is well-settled in our jurisdiction that findings of fact of the trial court, its calibration and assessment of the probative weight of the testimonial evidence of the parties and its conclusions anchored on its findings are accorded by the appellate court high respect if not conclusive effect.^[6] Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial judge was in a better position to determine their credibility.^[7] These findings of the trial court are set aside only when it overlooked or misappreciated material or substantial facts which, if properly taken into account, can alter the outcome of the case.

This Court's careful and judicious scrutiny of the records of the case reveals that the trial court committed no such errors. The RTC noted in the assailed decision how the prosecution witnesses testified in a categorical and straightforward manner, free from any sign of impropriety or falsehood, on the material facts which transpired in the evening of August 3, 2001. The transcript of the proceedings conducted in the court below supports such conclusion, where the following facts were established—

Victim Arnel Lopo was on his way home when accused-appellants Alex Lopez and Federes Laganson, together with their co-accused Glenn Condes, Fer Brito and Reyamar Nolasco blocked his way, assaulted him and inflicted serious physical injuries upon him, and then took away, with evident intent to gain, the victim's personal properties, namely: a wristwatch, a wallet with money, a gold bracelet and a cellular phone. The foregoing circumstances clearly amount to robbery with physical injuries as defined under Article 294, paragraph 4 of the Revised Penal Code, which reads—

“Article 294. Robbery with violence against or intimidation of persons – Penalties. – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

x x x

4. The penalty of prision mayor in its maximum period to reclusion temporal in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by subdivisions 3 and 4 of said Article 263.”

The following elements of this crime were established: (1) the taking of personal property was perpetrated by

means of violence or intimidation against victim Lopo; (2) the stolen property belonged to the victim; (3) the taking was characterized by intent to gain or animus lucrandi; and (4) in the course of the execution of the crime, the offenders inflicted upon the victim physical injuries covered by subdivisions 3 and 4 of Article 263 of the Revised Penal Code.

The damages sustained by victim Lopo clearly fall under subdivision 4 of Article 263 of the Revised Penal Code inasmuch as such injuries necessitated medical attention for thirty (30) to forty-five (45) days, barring any complication. Article 263 of the Revised Penal Code reads—

“Article 263. Serious physical injuries. – Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

x x x

4. The penalty of arresto mayor in its maximum period to prision correccional in its minimum period, if the physical injuries inflicted shall have caused the illness or incapacity for labor of the injured person for more than thirty days.”

As correctly pointed out by the trial court, the testimony of lone defense witness Allan Lopera Asilo is insufficient to justify the accused-appellants’ exoneration. Asilo even admitted seeing the accused-appellants assault the victim; what he denied was the fact that the accused-appellants took with them the victim’s belongings. In determining which of the versions of the prosecution and the defense must be upheld, the significant question hinges on the issue of credibility accorded to the witnesses and their testimonies, which matter has been discussed in this decision.

Contrary to the allegations in the appellants’ brief, accused-appellants’ active participation in the commission of the crime was sufficiently and convincingly established. As testified to by victim Lopo –

DIRECT EXAMINATION BY PROSECUTOR NAZ:

Q: Now, while you were on your way home, what happened, if any?

A: Yes, when I reached Purok 5, Glenn Condes blocked my way, together with Federes Laganson, Fer Brito, Alex Lopez and Reyman Nolasco.

Q: After these five (5) persons whom you mentioned blocked your way, what happened next?

A: They hit me with a pipe.

Q: Who hit you with a pipe?

A: Glenn Condes, sir.

x x x

Q: How about the four (4) others whom you mentioned, namely: Fer Brito, Alex Lopez, Federes Laganson and Reyman Nolasco, what did they do?

A: After Glenn Condes struck me with a pipe, they mauled me and hacked me, sir.

Q: Were you hit?

A: Yes sir, I was hit on my left arm, (Witness pointing to his left arm and pointing to his chin after removing the plaster and likewise showing a scar on his left temple).

Q: Now, do you mean to say that these five (5) persons [whom] you mentioned helped each other in the

injuries which you sustained, which injuries you have just shown to this honorable court?

A: Yes sir.[8]

x x x

Q: Now, after these five (5) persons mauled you, what happened next?

A: They took away my personal belongings, sir.

Q: What are these personal belongings that you are talking about?

A: My cellphone, sir.

Q: What else?

A: My gold bracelet, my wallet and my [wristwatch], sir.[9]

As per Lopo's testimony, he was able to identify the accused-appellants as the perpetrators of the crime because they were his friends in the past. Such identification was likewise facilitated by a light coming from a house near the scene of the crime. Notably, victim Lopo was able to identify in open court the accused-appellants as his assailants on the fateful night of August 3, 2001.[10]

The foregoing considered, we find no reversible error committed by the RTC in finding herein accused-appellants guilty beyond reasonable doubt of the crime of robbery with physical injuries, as defined under Article 294, paragraph 4 of the Revised Penal Code. The law provides that the crime shall be penalized with the penalty of prision mayor in its maximum period to reclusion temporal in its medium period. By applying the Indeterminate Sentence Law, accused-appellants should be imposed the indeterminate penalty of eight (8) years, and one (1) day of prision mayor, as minimum, to fourteen (14) years, and eight (8) months of reclusion temporal as maximum. Thus, the penalty of the RTC should be modified.

Considering that the unlawful taking of personal property belonging to victim Lopo has been established, the order upon the accused-appellants to pay, jointly and severally, the victim the amount of P15,700.00 representing the value of the stolen properties is hereby sustained. Victim Lopo is likewise entitled to the payment of P3,633.00 for the medical expenses he incurred by reason of the injuries inflicted upon him by the accused-appellants.

WHEREFORE, in view of the foregoing, the assailed decision of the Regional Trial Court, Branch 3 of Legazpi City in Criminal Case No. 9528 is hereby AFFIRMED with MODIFICATION as above indicated.

SO ORDERED.

Sundiam, and Librea-Leagogo, JJ., concur.

[1] Records, p. 163.

[2] Id. at 43.

[3] Exhibits "C", "C-1" to "C-40"; Folder of Exhibits, pp. 106-112.

[4] Exhibit "A"; Folder of Exhibits, p. 114.

[5] Records, p. 172.

[6] People v. Bocalan, 410 SCRA 373 (2003).

[7] People v. Lopez, 416 SCRA 543 (2003).

[8] T.S.N., May 10, 2005, pp. 4-6.

[9] Id. at 7-8.

[10] Id. at 7.

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