

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AMADO CHANCOCO AND JOAQUIN CHANCOCO,
DEFENDANTS-APPELLANTS.**

G.R. No. L-29383. August 17, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

Appellants Amado Chancoco and Joaquin Chancoco, father and son, together with Dioscoro Carimpong, Pedro Naui, Daniel Hermosa and Rosenio Obosa were charged before the Court of First Instance of Nueva Vizcaya with the crime of Robbery with Homicide as defined and penalized in Article 294, paragraph 1 of the Revised Penal Code. Before the arraignment, and over the opposition of the other defendants, thru counsel, Daniel Hermosa was discharged so that he could be utilized as state witness.

Upon arraignment, the rest of the defendants pleaded not guilty. After the trial, the lower court rendered its decision, the dispositive part of which reads:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, and finding the accused Amado Chancoco, Joaquin Chancoco, Dioscoro Carimpong and Pedro Naui guilty beyond reasonable doubt of the crime of homicide without the attendance of any qualifying circumstance, the Court hereby sentences each one of them to suffer an indeterminate penalty ranging from EIGHT (8) YEARS and ONE (1) DAY of prision mayor as minimum to SIXTEEN (16) YEARS and ONE (1) DAY of reclusion temporal as maximum, with the accessory penalties of the law, each to indemnify jointly and severally the heirs of the deceased Uy Dit in the amount of P5,000.00, without subsidiary imprisonment in case of insolvency and to pay one-sixth (1/6) of the costs of the proceedings.

"The accused Captain Rosenio Oboza is hereby acquitted of the charge against him in the information.

"The accused Dioscoro Carimpong and Pedro Naui are hereby credited with one-half of the time they have undergone preventive imprisonment." (pp. 20-21, Rollo)

From the above decision, the accused Dioscoro Carimpong and Pedro Naui did not appeal. Amado Chancoco and Joaquin Chancoco appealed to the Court of Appeals, assigning the following errors:

"1. The trial court erred in allowing the discharge of accused Daniel Hermosa to become a state witness over and above objections of counsels of the other accused.

"2. The trial court erred in giving value and credence to the testimony of discharged accused Daniel Hermosa as state witness even after it has totally discredited the testimony of prosecution witness Feliza Gutierrez Vda. de Ostaris.

"3. The trial court erred in declaring that the crime committed was that of Homicide alone; that it was proven beyond reasonable doubt as against the herein appellants together with their co-accused Dioscoro Carimpong and Pedro Naui; meting out to each of them the penalty embodied in the decision, Annex 'A' thereof." (pp. 1-2, Appellants' Brief)

From the evidence on record, We find the facts stated in the People's Brief to have been duly established, to wit:

"Appellants do not dispute the fact that Uy Dit, for whose death they were charged with robbery with homicide, was in the afternoon of November 24, 1958 really found dead in his own 'bodega' in Aritao, Nueva Vizcaya (Appellants Brief, p.2). Dr. Carlina V. Naldo, who as municipal health officer of Aritao was called upon by the police to examine the cadaver, declared on the Witness stand that when she saw the cadaver of Uy Dit at about 5 o'clock in the afternoon of November 24, 1958, its state of rigor mortis indicated the time of death as around 15 or 17 hours previously, or sometime between 12 and 2 o'clock in the afternoon (tsn, p. 25).

"She further declared that when she first saw the cadaver, there were three sacks of rice on it, one over the head and two over the body (tsn., p. 26).

"The day after, the doctor set down her findings as follows:

"AUTOPSY REPORT

Subject: UY DIT

Age: Between 55-60 years old (not exact)

Address: Aritao, Nueva Vizcaya

Place, Date, and Time of Autopsy: Inside the Bodega and home of Uy Dit; November 24, 1958 at 5:00 P.M.

Remark: Face and body was found in prone position and in rigor mortis with three (3) sacks of rice over the head and body and blood discharged from the nose, mouth and ears.

Injuries found:

- (1) Triangular shaped contusion with bluish discoloration over the right eyebrow;
- (2) Depressed contusion size of a peseta elongated and horizontal with irregular borders over the left cheek;
- (3) Lacerated wound 1½ inches long below the left eyebrow;
- (4) Lacerated wounds with swelling of the lips;
- (5) Contusions with considerable swelling in front, below and behind the left ear and the posterior left side of the base of the head;
- (6) Lacerated straight wound 2 inches long just behind the left ear;
- (7) Abrasions on the anterior middle portion of the neck surrounded with bluish discoloration;
- (8) Depressed rounded contusions 1-1/3 inches and ½ inch in diameter respectively over the left knee with free movement of the leg below the injury; and
- (9) Abrasions 1 cm. and ½ cm. in diameter respectively over the right knee.

Causes of Death: Hemorrhage and shock due to fracture of the base of the skull and asphyxia due to strangulation and heavy pressure on the head and body (Exh. 'C', Record, p. 7)"

Discharged defendant Daniel Hermosa narrated how the luckless Uy Dit was killed by the accused for the money that Uy Dit hid in his 'bodega.' Having picked up Hermosa from a circus he was watching in the town of Aritao late in the night of November 23, 1958, Joaquin Chancoco and Dioscoro Carimpong set up Hermosa as look out outside Uy Dit's 'bodega' by the national highway, where Hermosa was presently joined by accused Pedro Naui (tsn, pp. 155-158). Hermosa saw Joaquin Chancoco open the door of the 'bodega' with a key, walk

inside, and knock three times on the wall of the 'bodega' adjoining Amado Chancoco's residence. Soon, as on signal, Amado Chancoco arrived at the scene with two other men (tsn, pp. 167-159, 161).

"These three men now, together with Joaquin Chancoco and Dioscoro Carimpong, started looking around the 'bodega' until Amado Chancoco came upon a pile of money under the flooring of the 'camalig' just where the sacks of palay were stacked (tsn, pp. 163-167, 196).

"Long before Uy Dit, in the company of Feliza Gutierrez, came upon the accused in the 'bodega.' On the instant, Amado Chancoco pulled Uy Dit towards him and struck Uy Dit a fistblow in the face, while Dioscoro Carimpong hit Uy Dit in the shin with a club. Someone handed a gun over to Amado Chancoco with which he struck Uy Dit on the head. All this time the surprised Uy Dit was exclaiming: 'Compadre (Amado Chancoco), why do you strike me?' (tsn, pp. 163-167)

"When Uy Dit lay prostrate on the floor, Amado Chancoco pulled out a key from one of the victim's pockets and with it opened the door of the small office within the 'bodega' (tsn., pp. 168-169). Feliza Gutierrez, with whom Uy Dit came upon the accused in the 'bodega', supplied the fact that Amado Chancoco was able to find more of Uy Dit's money inside the little office (tsn, pp. 228-229).

"Before the accused left the 'bodega', Joaquin Chancoco and Dioscoro Carimpong placed three cavans of palay on the dead or dying body of Uy Dit (tsn, p. 177)." (pp. 2-5, People's Brief)

The Court of Appeals, in a resolution dated July 16, 1966, said that the crime committed by the appellants and their co-accused is not simple homicide but robbery with homicide, as defined and penalized in Article 294, paragraph 1 of the Revised Penal Code, which reads:

"ART. 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:

"1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed. x x x "

and, pursuant to Section 34 of the Judiciary Act of 1946, forwarded the records to Us for final determination of the appeal.

The victim Uy Dit was killed "by reason or on the occasion of robbery." On this point, defendant - turned state witness - Daniel Hermosa, whose testimony appeared to be absolutely necessary, declared that before Uy Dit arrived at the bodega where he was killed, the accused came upon a pile of money that they were looking for under the floor where the sacks of palay were stacked. Hereunder is the testimony of Daniel Hermosa:

"Q How long did Joaquin Chancoco and Dioscoro Carimpong search, if you know?

A I cannot tell, because I had no watch.

Q You stated that you saw Amado Chancoco in that place, did you see him enter the bodega personally?

A Yes, sir.

Q Where did he pass?

A Thru the door, sir.

Q You mean in between you and Naui?

A Yes, sir.

Q With whom, if there were any?

A I saw three persons, sir.

Q And you do not know them?

A No, sir.

Q And you do not know them?

A No, sir.

Q You never have seen them anywhere in Aritao?

A No, sir.

Q Armado Chancoco and the three entered the bodega in Aritao?

A Three men approached us and I know one and recognized Amado Chancoco.

Q And these three men entered the bodega?

A Yes, sir.

Q They also searched?

A Yes, sir.

Q And it was at this juncture when Amado Chancoco during that search found the money?

A Yes, sir.

Q And you came to know that because you were also peeping?

A Yes, sir.

Q Because you did not enter the bodega at all?

A Yes, sir.

Q And in what place of the bodega did Amado Chancoco find the money?

A Under a vault under the cavans of palay that were piled.

Q On the ground floor?

A Between the vault where the cavans of palay were piled and the cement floor.

Q Was the money in bunch or contained in a certain receptacle?

A It was in bunch, tied with rubber bands.

Q And it was wrapped by certain paper, is that right?

A It was wrapped in paper and he opened the wrapper and I saw that they were tied with rubber bands.

Q And during that time, the people you identified were Amado Chancoco, Joaquin Chancoco, Dioscoro Carimpong and two others whom you do not know?

A Yes, sir. (tsn., pp. 195-196, Dec. 20, 1962 hearing)

x x x x x x x x

Q And it was Amado Chancoco who got the bundle of money?

A Yes, sir.

Q You stated that not long afterwards Uy Dit and a certain Feliza arrived. How long do you think from the time when Amado Chancoco allegedly took from underneath the stack of palay up to the time when the two arrived, that is Uy Dit and Feliza?

A One hour more or less, sir, after when they arrived.

Q And within that period of time Amado Chancoco and the rest, namely: Carimpong, Joaquin Chancoco and the two unidentified were inside the bodega in possession of the bundle of money?

A Yes, sir.

Q And after that one hour, Uy Dit and Feliza came, is that what you mean?

A Yes, sir." (tsn., pp. 199-200, Dec. 20, 1962 hearing)

Further, prosecution witness Feliza Gutierrez testified that after Uy Dit was killed, appellant Amado Chancoco opened the door of the little office inside the bodega where he took more money. We are quoting the testimony of Feliza Gutierrez:

"Q What was that unusual incident?

A When Uy Dit and I entered the bodega Amado Chancoco met him and grabbed his collar and Joaquin Chancoco took hold of his neck to strangle him.

Q What else?

A Oboza handed his pistol and they gave him a blow in the head.

Q What happened to Uy Dit when he was given a blow in the head with the pistol?

A He screamed, sir.

Q What else happened?

A Carimpong got hold of a wooden club this long and hit the leg of Uy Dit which made him fall down.

Q After he fell down what else happened?

A They dragged him near a big stack of cavans of palay, placed two cavans on top of his back and one on his head.

Q What did you do upon seeing Uy Dit punished?

A I was just standing, sir.

Q Then what happened?

A They took the key from his pocket and they opened the bodega where his money was.

Q Were you able to see all those incidents clearly?

A Yes, sir.

Q Why?

A I was then there, sir.

Q Was the bodega dark, because it was night time?

A It was bright, because there was light.

Q You said they opened the bodega and got money. How much money, if you know, did they get?

A I do not know, sir, because I did not count the money.

Q Have you seen the denominations of the money that was taken from the bodega of Uy Dit?

A I could only recognize then the P5.00 bills, P10.00 bills.

Q Why were you able to recognize the P5.00 and P10.00 bills?

A Because I was near, sir." (tsn., pp. 227-229, Dec. 21, 1962 hearing)

It is clear that the crime of robbery, by reason or on the occasion on which Uy Dit was killed, has been established by evidence.

Against the People's evidence, appellants put up the defense of alibi. Amado Chancoco and Joaquin Chancoco declared that in the morning of November 23, 1958 they were in the barrio of Kirang, Aritao, Nueva Vizcaya, which is about one kilometer from the town proper of Aritao. They, together with tenant Launario Campos, were busy in the harvesting of peanuts the whole day and the whole night until 3:00 in the following morning. It was between 3:30 and 4:00 in the afternoon of November 24, 1958 when they received news that his (Amado) compadre Uy Dit was killed. Thereafter, they returned to their house at the poblacion.

Well settled is the rule that alibi has no weight against the positive identification of the culprit. State witness Daniel Hermosa has identified and pointed to appellants Amado Chancoco and Joaquin Chancoco, as well as to the accused Dioscoro Carimpong and Pedro Naui as the persons who took direct participation in the crime in which the deceased Uy Dit was the victim. On the basis of the evidence on record, appellants Amado Chancoco and Joaquin Chancoco are guilty of robbery with homicide as charged in the information against them.

WHEREFORE, the judgment of conviction on appellants Amado Chancoco and Joaquin Chancoco is hereby **AFFIRMED**, but modified in the sense that they are guilty of the crime of robbery with homicide and sentenced to suffer reclusion perpetua.

SO ORDERED.

Teehankee, Acting C.J., Melencio-Herrera, Plana, Escolin, Vasquez, and Gutierrez, Jr., JJ., concur.

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