

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO T. SABBAN Y TOBESORA, ACCUSED-APPELLANT.

G.R. No. 100922. August 22, 1996

Ponente: VITUG, J.

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VITUG, J.:

On 20 September 1989, Eduardo T. Sabban, the appellant herein, together with four others, were accused of Robbery with Homicide in an information that read:

"The undersigned Assistant City Prosecutor accuses EDUARDO SABBAN Y TOBESORA, JOHN DOE, PETER DOE, CHARLIE DOE, and DOUGLAS DOE, the last four (4) accused, whose true names and whereabouts have not as yet been ascertained, of the crime of Robbery with Homicide (Art. 294, par. 1 of the Revised Penal Code), committed as follows:

"That on or about the 2nd day of September, 1989, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, conspiring together, confederating with and mutually helping one another, with intent to gain and by means of violence upon person, did then and there wilfully, unlawfully and feloniously rob NANCY MAXEY Y IBARLES of the following:

"Assorted pieces of jewelry Two (2) firearms

"Cash money

"with an aggregate amount of P250,000.00, Philippine Currency, and on the occasion of said robbery, the said accused, pursuant to their conspiracy with intent to kill and without any justifiable cause, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of NANCY MAXEY Y IBARLES by stabbing her on the different parts of her body and strangling her maid NORA MERCADO Y LADEGNON with an electrical cord, causing injuries which were the direct and immediate cause of their death, to the damage and prejudice of their heirs in the aforementioned amount and in such other amount as may be awarded to them under the provisions of the Civil Code.

"CONTRARY TO LAW."[1]

From what the prosecution could present, the following events took place:

On 03 September 1989, at around two o'clock in the afternoon, Nancy Maxey, an engineer assigned at the Manila Water and Sewerage System ("MWSS") laboratory, and her maid Nora Mercado were found dead inside their residence at No. 25 Windsor St., Fairview, Quezon City. The remains were discovered by Barnevelt Maxey, Nancy's eighteen-year old nephew, who stated that when he went to the victims' residence, he noticed that the gate was unlocked. He entered the premises and rang the doorbell of the house; nobody responded. Seeing that the entrance door was also unlocked, he went in. Inside, he glanced at the maid's quarters whose door was evidently left open and, peering into the room, he saw what appeared to be the lifeless body of Nora Mercado with a wire tied around her neck. Barnevelt ran outside the house to ask for help. Soon police investigators from the Fairview Police Substation were at the scene. Barnevelt was asked to open the room of his aunt Nancy where they found

the room drawers open and a jewelry box ransacked. Nancy's body was discovered in the comfort room bathed in her own pool of blood in the bathtub.

The medico-legal officer, who conducted an autopsy examination, found the following injuries to have been sustained by the victims:

"NANCY MAXEY:

- "(1) Ligature mark, neck, measuring 30 by 0.5 cm., around the neck.
- "(2) Stab wound, neck, measuring 3 by 1 cm, 6.5 cm. left of the anterior midline.
- "(3) Stab wound, neck, measuring 2 by 0.5, 8 cm. left of the anterior midline.
- "(4) Stab wound, right lateral aspect of the neck, measuring 3 by 0.7 cm., 13 cm. from the anterior midline.
- "(5) Stab wound, right lateral aspect of the neck, measuring 2.5 by 0.8 cm., 12.5 cm. from the anterior midline.
- "(6) Stab wound, right supraclavicular region, measuring 0.7 by 0.2 cm., 9.5 cm. from the anterior midline.
- "(7) Stab wound, right supraclavicular region, measuring 2 by 0.5 cm., 9.5 cm. from the anterior midline.
- "(8) Stab wound, neck, measuring 2 by 0.5 cm., 3 cm. left of the anterior midline.
- "(9) Stab wound, left supraclavicular region, measuring 2 by 0.8 cm., 9 cm. from the anterior midline.
- "(10) Stab wound, left supraclavicular region, measuring 2 by 0.5 cm., 11 cm. from the anterior midline.
- "(11) Stab wound, interclavicular region, measuring 0.8 by 0.2 cm., along the anterior midline.
- "(12) Stab wound, right infraclavicular region, measuring 2 by 0.6 cm., 5.5 cm. from the anterior midline.
- "(13) Stab wound, chest, measuring 2 by 0.6 cm., 3 cm. left of the anterior midline.
- "(14) Stab wound, nape, measuring 3 by 0.7 cm., 4 cm. left of the posterior midline.
- "(15) Stab wound, nape, measuring 2.2 by 0.7 cm., 5 cm. left of the posterior midline.
- "(16) Stab wound, left shoulder, measuring 2 by 0.7 cm., 6 cm. from the posterior midline.
- "(17) Stab wound, left shoulder, measuring 2 by 0.7 cm., 7 cm. from the posterior midline.
- "(18) Stab wound, left shoulder, measuring 2 by 0.6 cm., 8 cm. from the posterior midline.
- "(19) Stab wound, right shoulder, measuring 1.5 by 0.5 cm., 6.5. cm. from the posterior midline.
- "(20) Stab wound, right shoulder, measuring 3 by 1 cm., 11 cm from the posterior midline.
- "(21) Ligature mark, left wrist, measuring 16 by 4 cm., around the wrist.
- "(22) Ligature mark, right wrist, measuring 14.5 by 4 cm. around the wrist.

"NORA MERCADO: NECK

- "(1) Ligature mark, neck, measuring 12 by 1.5 cm.
- "(2) Multiple abrasions, neck, measuring 15 by 6.5. cm., bisected by the anterior midline.

"TRACHEA AND ESOPHAGUS:

"The trachea and esophagus are congested. Stomach is 1/4 full of partially digested food particles and the rest

of the visceral organs are grossly unremarkable. Vaginal and peri-urethral smears are negative for gramnegative diplococci and for spermatozoa."[2]

Cesar Agbayani testified that on 02 September 1989, at about eight o'clock in the morning, he went to the house of Nancy Maxey to ask her about his job application. The maid, Nora Mercado, let him in. While Agbayani was still waiting for Nancy, the doorbell rang. The maid attended to the visitors but she did not allow them in. It was Nancy Maxey herself who opened the gate when informed of the guests. Two men came in. The first man to enter was the accused who introduced himself to the witness as "Eddie" and as the former driver of Nancy. Agbayani recalled having been later asked casually by the accused on who else were inside the house at the time. The two men left at approximately eleven o'clock in the morning.

Engr. Cesar Deperio had a contract with MWSS, and he personally knew Nancy Maxey to whom he used to present some samples for testing at the laboratory. Deperio stated that about a year back, Sabban resigned from his company because Sabban's wife, then a househelper of Nancy, was severely scolded by the latter.

Jesus Caacbay testified that in November of 1988, at around seven o'clock in the evening, Sabban, a company driver, approached him and said, in Ilocano, "I am leaving my job. There will be a time, (when) I will be back to (have my) revenge."[3]

Eduardo Sabban was arrested in Cagayan and brought to the Quezon City Jail. During investigation, he confessed to his having taken part in the killing of Nancy Maxey and Nora Mercado. He executed, with the assistance of counsel, a Sworn Statement detailing how the victims were killed and the participation of the other assailants, namely, Victor Cordova, Benito Esperanza, Reynante Maladrigo and Rey Lasam in the commission of the crime.

When his turn to be at the witness stand came, Eduardo Sabban narrated a different story. He asserted that he arrived at the Pantranco Terminal in Quezon Boulevard, Quezon City, in the morning of 02 September 1989 from Cagayan. At the bus station, he chanced upon Victor Cordova, a townmate. Cordova said he needed to borrow P200.00. Sabban replied that he only had enough cash to buy the jeepney spare parts ordered by his mother-in-law but that should there be any extra sum left, he would be happy to lend it. First, however, Sabban had to see Nancy Maxey in Fairview to inform her that his sister Virgie, who also used to be a housemaid for Nancy, would no longer be back for work. Cordova agreed to accompany Sabban. The two went to, and stayed awhile at, Nancy's residence. When they finally left at about eleven o'clock in the morning, Cordova suddenly pulled the accused aside and angrily demanded P200.00 from the latter. Out of fear, the accused gave the amount. Cordova then boarded a passenger jeepney bound for Muñoz market while Sabban proceeded to Roosevelt Avenue where he finally was able to buy the jeepney spare parts. Sabban then rushed to the Pantranco Station to board a bus bound for Tuguegarao, Cagayan.

In a decision, handed down on 29 April 1991, by the trial court,[4] the accused was held guilty beyond reasonable doubt of the crime of Robbery with Homicide; viz:

"WHEREFORE, finding the accused EDUARDO SABBAN y TOBESURA GUILTY beyond reasonable doubt of the crime of Robbery with Homicide as defined in Art. 294, Par. 1 of the R.P.C., as charged in the information, this Court hereby sentences him to suffer an imprisonment of double RECLUSION PERPETUA for the death of Nancy Maxey and Nora Mercado, to pay the heirs of Nancy Maxey and Nora Mercado as compensatory damages in the amount of P50,000.00 each and to pay the cost."[5]

The accused appealed to this Court with the following submissions: That -

"1. The lower court erred in convicting accused, Eduardo T. Sabban, of the crime of Robbery with Homicide for the killing of Nancy Maxey Y Ibarles contrary to the facts and evidence presented by the accused.

"2. The lower court erred in considering inadmissible evidence in violation of the constitutional rights of the accused.

"3. The lower court erred in admitting the affidavit of Eduardo T. Sabban (Exhibit `S') x x x taken in violation of the constitutional rights of the accused."[6]

The main line of defense, it thus appears, is an alleged violation of the constitutional right of appellant to be assisted by a counsel of his own choice in the execution, during custodial investigation, of his sworn statement admitting his participation in the crime.

The evidence does not bear up to the contention.

Pertinent portions of the testimony of Pat. Rolando Fernandez, the investigating officer, read:

"A

We brought Eddie to our headquarters in Quezon City and I investigated him regarding the death of Nancy and Nora Mercado.

"Q

What happened next?

"A

He later broke out and admitted that he was with three (3) other companions who came to the house of Nancy Maxey on the second day of September.

"Q

Now, if this Eddie you are referring is here inside the courtroom, could you please point to him?

"A

Yes, sir, that person (witness pointing to a man inside the courtroom and who answered when asked of his name as Eduardo Sabban).

"Q

You said you investigated Eduardo Sabban, what did you before the investigation?

"A

Before he gave his admission, I apprised first of his constitutional rights.

"Q

How did you apprise him of his rights?

"A

I told him that he has to remain silent; he has the right of avail of his own counsel, but he gave his statement in the presence of Atty. Justino San Juan of the Integrated Bar of the Philippines, Quezon City Chapter.

"Q

You mean, Atty. Faustino San Juan was present when he gave his statement before you?

"A

Because I brought Eddie Sabban at the back of the Quezon City Hall, sir, in front of Aristocrat Restaurant where the office of Atty. Justino San Juan of IBP is.

"Q

By the way, why did you bring Sabban to the office of Atty. San Juan?

"A

To prove that in the investigation, he is telling the truth and so that he is assisted by counsel.

"Q

Did Sabban and Atty. San Juan talk to each other?

"ATTY. BANDAL:

Leading, Your Honor, objection.

"COURT:

May answer.

"WITNESS:

Yes, sir.

"FISCAL:

When you brought Sabban to the office of the IBP where Atty. San Juan was, and they talked to each other, what happened next?

"A

I took the statement of Eduardo Sabban.

"Q

Where?

"A

Right there in the office of the IBP before Atty. San Juan.

"Q

How did Eduardo Sabban . . . Did he sign the statement he gave to you?

"A

Yes, sir.

"Q

How about Atty. San Juan?

"A

He also signed, sir.

"Q

Now, I am showing to you this two-page statement which is part of the records of the prosecution, given by Eduardo Sabban on September 15, 1989 at about 10:00 o'clock in the morning, at the office of the Integrated Bar of the Philippines Quezon City Chapter before Justino San Juan, please tell the Court if you can identify this?

"A

Yes, sir, this is the statement of Eduardo Sabban."[7]

Atty. Justino San Juan, who himself was later presented as a rebuttal witness, testified, as follows:

"Q.

Do you happen to know the accused in this case Eduardo Sabban?

"A.

Yes, Sir.

"Q.

How? Under what circumstances did you come to know the accused?

"A.

Sometime in the month of September I think, I am not quite sure of the date and the day, an Operative from Homicide Section whom I later came to know answering by the name of Fernandez or Hernandez, came to our office which is located at the ground floor of Salvador Building at Malakas Street, tagging along Sabban whom I later found out he is Sabban because of the identification he made and that he declared that this Sabban is willing to make an extra-judicial confession.

"Q.

Before we go further, if Mr. Sabban is inside the Courtroom will you please point him out.

"A.

There, Sir. (witness pointed to a man inside the Courtroom who when asked answered by the name of Eduardo Sabban).

"Q.

You mentioned of an office to where Mr. Sabban was brought to you. What office is that?

"A.

That is the office of the I.B.P., Quezon City chapter.

"Q.

Atty. San Juan, will you please tell the Court if you are officially connected with the I.B.P.? Q.C. Chapter?

"A.

Yes, Sir. I am presently the Executive Director of the I.B.P., and in the absence of the free legal aid lawyers, I am also commissioned to act as counsel of the free legal aid.

"Q.

And since this Patrolman Fernandez told you that Mr. Sabban wanted to give an extra judicial confession, what

did you do?

"A.

I am following certain procedure in the office that before an individual is given or asked questions, I have to see to it that there were no signs of bodily or physical harm and in so doing, I have to ask them to strip to the waist to find out if there are any marks on the body. And the next question is whether they were promised rewards or whether they were intimidated or they were manhandled by the investigating officers. Finding the individual negative of all these body marks, I proceeded by asking the investigator to profound the questions, all done in my presence.

"COURT:

What about the answers?

"A.

And the answers also, Your Honor.

"Q.

Mr. Sabban testified before this Court to the effect that when he was brought to the office of the IBP there was already a prepared statement which he was forced to sign, what can you say to that?

"A.

That is quite not true, Sir.

"Q.

Do you know where was the statement prepared?

"A.

The statement was prepared in my presence at the office of the Integrated Bar of the Philippines, situated at Malakas Street.

"Q.

Mr. Sabban also testified that before signing that statement, he told you that he could not sign it because the contents of that statement is not true, what can you say to that?

"A.

On the contrary, Your Honor, before the statement is signed by any person, whose statement is being made I ask them in tagalog whether they understand the statement and whether they know how to write and read tagalog and so after asking them and answering in the affirmative, that is the time that they signed the statement, each and every page thereof. I even direct them to sign on the left hand margin on each and every page of their statement.

"Q.

Now, regarding that statement which Mr. Sabban signed, did you also sign that statement?

"A.

Yes, Sir.

"FISCAL:

I am showing our Exhibit S and S-1, which is the statement of Mr. Sabban, kindly go over this statement and tell the court where is your signature in this statement?

"A.

My signature appears on two sections of the page, on the left hand margin and at the middle of the statement, Sir.

"FISCAL CASBAR:

May I request that these two signatures pointed to by Atty. San Juan, the one at the left hand margin of Exhibit 'S' be marked as Exhibit 'S-7'.

"COURT:

Mark it.

"FISCAL:

The other signature found in the middle of Exhibit 'S' be marked as Exhibit 'S-8'

"COURT:

Mark it.

"FISCAL:

I am asking you to go over Exhibit 'S-1', page 2 of Exhibit 'S', please tell the Court if you also signed this portion of Exhibit 'S'?

"A.

Yes, Sir.

"FISCAL:

Witness, Your Honor, is pointing to a signature found at the bottom portion of Exhibit 'S-1' which was previously been marked as Exhibit 'S-4'. Now, aside from looking for signs for torture or maltreatment or signs that the accused was under intimidation, at the time he gave his statement, what else did you do?

"A.

To be sure, Your Honor, that he has been apprised of his constitutional rights, I see to it that I read to him or recite to him his constitutional rights and whether he understands the tenor thereof.

"Q.

And what were these constitutional rights that you apprised him of?

"A.

That he is entitled to hire a counsel of his own choosing and that whatever statement that maybe given by him freely maybe used in his favor or against him later in Court and that he may refuse to answer questions which may tend to be incriminating and among others.

"Q.

What was his response to these measures that you told him?

"A.

Well, he understood by saying, yes.

"Q

And you said that you told him that he had the right to avail of the services of counsel of his own choice. What did he say to that?

"A.

I told him that since he does not have a lawyer at that time, if he would be willing to give out his statement with me as his counsel for purposes of that extra judicial confession, he said 'yes.'"[8];

A lawyer is an officer of the court, and he has in his favor the presumption of regularity in the performance of his sworn duties and responsibilities.[9] Besides, as the trial court itself has so observed, appellant's sworn declaration is replete with details which only a confessant could have known and supplied. The material portions of the statement read;

"01. Tanong

-Ano ang iyong buong pangalan at mga bagay hinggil sa iyong tunay na pagkatao?

Sagot

-Ako po si EDUARDO SABBAN Y TOBESORA, 23 taon gulang, may asawa, driver, tubo at nakatira sa Barrio Cordova, Amulong, Cagayan.

"0.2 T

-Ano ang dahilan at ikaw ay pumapasa-ilalim sa isang pagsisiyasat?

S

-Dahilan po sa pagkamatay ni Ate NANCY at isa ako sa napagbibintangan.

PAUNAWA

Ikaw, EDUARDO SABBAN TOBESORA, ay nasa ilalim sa isang pagsisiyasat sa isang krimen na naganap dito sa lungsod ng Quezon. Ngunit bago kita tanungin ay ipinabatid ko sa iyo na ayon sa ating saligang batas ay karapatan mo ang manatiling tahimik at huwag sagutin and aking mga tanong. Karapatan mo ang kumuha ng iyong sariling abogado at kung wala ka ay bibigyan ka ng isa na walang kaukulang kabayaran. Lahat ng iyong sasabihin sa pagtatanong na ito ay maaring gamitin ng panig o laban sa iyo sa alinmang hukuman dito sa Pilipinas. Ikaw ay hindi sinaktan, tinakot o pinangakuan ng anumang bagay na ikaluluwag mo sa iyong sarili.

TANONG:

Ngayon, matapos mong mabatid and iyong mga karapatan, naiintindihan mo ang mga ibig sabihin?

SAGOT:

Opo.

TANONG:

Kung iyong naiintindihan ang iyong mga karapatan, lalagdaan mo ba ang pahayag mong ito sa harap ni Atty. Justino San Juan na siyang katulong mong abogado sa pagsisiyasat na ito?

SAGOT:

Opo.

NOTE:

Signed in the presence of (Atty. Justino San Juan, Exh. S-8)

"0.3 T:

Nais mo bang magbigay ng iyong pahayag sa harap ni Atty. JUSTINO SAN JUAN, tungkol sa bintang sa iyo?

S:

Opo.

"0.4 T

-Kung gayun, sino naman ang iyong tinutukoy na Ate NANCY na wika mo ay pinatay?

S

-NANCY MAXEY po ang buo niyang pangalan na nakatira sa No. 25 Windsor Street, Fairview Park, Quezon City.

"0.5 T

-Sa anong dahilan naman ang pagkamatay ni NANCY MAXEY?

S

-Ayon sa nabasa ko sa pahayagan ng Balita noon ika-4 ng Setyembre 1989, ay pinagsasaksak siya.

"06 T

-May nalalaman ka ba sa pagkamatay ni NANCY MAXEY kung bakit ikaw ang siyang pinagbibintangan?

S

-Opo, pero mayroon ibang tao na pumatay.

"0.7 T

-May nalalaman ka ba naman kung kailan pinatay si NANCY MAXEY?

S

-Noon pong ika-2 ng Setyembre 1989.

"0.9 T

-Bakit mo naman nalaman na ika-2 ng Setyembre 1989 pinatay si NANCY?

S

-Kasi kasama po ako sa grupo ng mga pumatay.

"10. T

-Sinu-sino naman ang grupong iyong tinutukoy?

S

-Sina VICTOR CORDOVA, alias GORIO, BENITO ESPERANZA, REYNANTE MALADRIGO, at REY

LASAM na pamangkin ko. At ako.

"11. T

-Ano naman ang iyong naging partisipasyon sa nasabing krimen?

S

-Bale ako po ang naging dahilan kaya sila nakapasok sa bahay ni Ate NANCY.

"12. T

-Nakita mo ba nang patayin sina NANCY at ang kaniyang katulong na nagngangalang NORA MERCADO?

S

-Hindi po dahil sa nang sakalin ni VICTOR CORDOVA si Ate NANCY na noon ay nagpapakain ng kaniyang tuta sa sala ng bahay ay tumakbo na ako papalabas bahay. Noon oras din na iyon ay umuwi ako sa amin bayan sa Cordova, Amulong, Cagayan.

Kinabukasan, ika-3 ng Setyembre 1989, araw ng Linggo ay nagka-usap kami ni VICTOR CORDOVA at ni REY LASAM at nasabi nila sa akin na napatay nila si NANCY at ang kaniyang katulong. Don din sa bahay ni VICTOR CORDOVA ay ipinakita niya sa akin ang kanilang nakuhang baril na .45 calibre at isa .38 caliber revolver sa bahay nina NANCY. Bago ako umuwi ng bahay ay binigyan pa ako ni VICTOR ng pera na halagang P200.00 piso.

"13. T

-Para saan naman ang nasabi mong halagang P200.00 piso na ibinigay sa iyo ni VICTOR CORDOVA?

S

-Iyon daw ang aking naging parte sa kanilang mga nakuha.

"14. T

-Sa magkanong halaga naman and nakuha ng iyong grupo ng kanilang pasukin ang bahay ni NANCY?

S

-Ang nasabi lamang sa akin ay P1,800.00 pesos at pati na nang mga nasabing dalawang baril.

"15. T

-Saan naman kayo nakita ng iyong mga grupo?

S

-Doon na rin sa amin barrio sa Cordova kung saan ay dinala kami ni CORDOVA sa kanilang bahay sa Tuguegarao kung saan ay doon namin isinagawa ang aming plano para pasukin ang bahay ni NANCY.

"16. T

-Sino naman sa inyong grupo ang may pakana?

S

-Ako po.

"17. T

-Sa anong dahilan naman at nagawa mong pasukin ang bahay ni NANCY MAXEY?

S

-Kasi po siya ang naging dahilan kung bakit ako tinanggal ni Engineer CESAR DE PERIO sa aking trabaho sa kanilang Kompanya.

"18. T

-Ano naman ang relasyon ni Eng. DE PERIO kay NANCY?

S

-Magkaibigan po sila.

"19. T

-Bakit ka naman nakilala ni NANCY?

S

-Dahil kay Eng. DE PERIO ay naipasok kong katulong ang aking kapatid sa bahay nina NANCY.

"20. T

-Kailan pa napa-alis ang iyong kapatid sa bahay ni NANCY?

S

-Noon mga buwan ng Nobyembre, 1988.

"21. T

-Pansamantala ay wala na muna akong itatanong, lalagdaan mo ba ang pahayag mong ito?

S

-Opo."^[10]

Mildred Valencia, a caretaker of Nancy's next door neighbor at 26 Windsor St., Fairview, Quezon City, also confirmed, like prosecution witness Cesar Agbayani, appellant's presence at the scene of the crime on the day it was committed.

"Q.

On September 2, 1989, at around 9:00 o'clock in the morning, where were you?

"A.

I was at our garage, sir.

"Q.

What were you doing at your garage?

"A.

I was sweeping, sir.

"Q.

Were you still sweeping at the garage when Eduardo Sabban with companions were pressing the doorbell of the house of Nancy Maxey?

"A.

Yes, sir, I saw Eddie Sabban with companions.

"Q.

How many companions did Eddie have?

"A.

There were four (4) companions of Eddie Sabban.

"COURT:

"Q.

When you said Eddie Sabban, are you referring to accused Eduardo Sabban?

"A.

Yes, Your Honor.

"Q.

What was Eddie Sabban doing at the time with his four (4) companions when you saw him?

"A.

They were pressing the doorbell of the gate of the house of Nancy Maxey, sir.

"Q.

Where is this?

"A.

At Windsor St., Your Honor, No. 25.

"Q.

Who was pressing the doorbell?

"A.

Eduardo Sabban himself, Your Honor.

"FISCAL:

"Q.

How sure are you that it was Eduardo Sabban who was pressing the doorbell of the gate of the house of Nancy Maxey?

"A.

Because I saw him, sir, and I know him very well, as he knows me also.

"Q.

How far were you from the gate where Eduardo Sabban was pressing the doorbell?

"A.

Maybe from here and that man (witness pointing to a person outside the door of the courtroom, which prosecution and defense agreed to be about 10 to 11 meters distance)."[11]

All together, the Court is convinced that the trial court did not err in finding the evidence to be quite ample in establishing beyond reasonable doubt appellant's guilt in the commission of Robbery with Homicide.

WHEREFORE, the appealed decision of the trial court is **AFFIRMED**, in toto. Costs against appellant.

SO ORDERED.

Padilla, Bellosillo and Kapunan, JJ., concur.

Hermosisima, Jr., J., on leave.

[1] Rollo, pp. 5-6.

[2] Exhs. G & H, Folder of Exhibits, pp. 7-8.

[3] TSN., 16 February 1990, p. 17.

[4] Regional Trial Court of Quezon City, Hon. Tirso Velasco, presiding.

[5] Rollo, p. 25.

[6] Rollo, pp. 42-43.

[7] TSN., 09 February 1990, pp. 6-7.

[8] TSN., 10 April 1990, pp. 6-9.

[9] People vs. Barlis, 231 SCRA 426.

[10] Exh. S, Folder of Exhibits, pp. 16-17.

[11] TSN., 14 February 1990, pp. 4-5.

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