

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OSCAR ROBLES Y MOANA, ANTONIO MANAS Y FLAVA, VICENTE ANTONIO Y HAYA, ACCUSED, OSCAR ROBLES Y MOANA, ACCUSED-APPELLANT.

G.R. No. 101335. June 08, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision dated March 30, 1989 of the Regional Trial Court of Makati, Branch 148, in Criminal Case No. 28829, convicting appellant Oscar Robles y Moana, together with his co-accused Antonio Manas y Flava,[1] of the crime of Robbery with Homicide, sentencing them to suffer the penalty of reclusion perpetua, and ordering them to pay the heirs of the victims jointly and severally the amount of P30,000.00 as indemnity.[2] Vicente Antonio y Haya, the third accused, remains at large. Since Manas did not appeal, we are here concerned only with Robles.

The facts, based on the records, are as follows:

On January 30, 1987, at around 1:00 P.M., Patrolmen Rey Cocson, Edgar Amurao, and C. Tabanera[3] were on board a police vehicle patrolling the vicinity of Del Pan Street, Tondo, Manila. The police car came alongside a taxicab with two male passengers. When the policemen noticed that the passengers were acting suspiciously and could not look directly at them, they signalled the taxicab driver to stop for routine inspection. The policemen asked the names of the passengers. The one seated beside the driver was identified as Manas, while the one at the back seat was appellant Robles. The policemen saw two bags on the floor of the back of the taxicab. When asked whether the bags belonged to them, the two men initially refused to answer. However, Robles broke down and admitted that they had robbed the house of one Jose Macalino in Makati. Manas remained silent. Patrolman Cocson frisked Robles and found a .38 cal. revolver. Patrolman Tabanera frisked Manas, and recovered a fan knife (balisong) from him.[4]

In the bags were shoes, cameras, watches, and assorted items. Robles admitted taking them from the residence of Jose Macalino. After apprising them of their constitutional rights, the policemen brought Robles and Manas to the police headquarters. Since Patrolman Cocson noticed a bag with the nametag Beth M. Puzon and a telephone number,[5] he called up the number and spoke with Beth M. Puzon, a daughter of Jose Macalino.[6] Subsequently, Robles and Manas were turned over to the Makati Police Department.[7]

Detective Ernesto Gatpayat of the Makati Police Station proceeded to the house of Jose Macalino and found the house ransacked. He discovered two dead persons inside the house, later identified as Marilou Dalugdugan and Diego Limato, household helpers of Macalino. Gatpayat recovered a screwdriver beside the body of Dalugdugan.[8]

After apprising Robles and Manas of their constitutional rights and in the presence of counsel, Patrolman Celso Noriega, Makati Police station investigator, took down their statements.[9]

In his statement Robles, then 29 years old and employed as a tinsmith, admitted that he participated in the robbery, but not in the killing. He stated that on the night of January 29, 1987, Manas, Antonio, and one Jun planned the robbery. The following day, however, Jun stood them up at the meeting place. Undaunted, Manas and Antonio pushed through with their plan. Manas knocked at the gate of Macalino's house, which was opened by Dalugdugan. Manas entered the house followed by Antonio. Robles stayed at the nearby Shakey's as lookout. After about 10 minutes, Manas came out and motioned Robles to enter. Robles went inside and saw Dalugdugan and Limato sprawled dead in the kitchen. Manas admitted that he killed Dalugdugan, while Antonio killed Limato. Thereafter, the three men opened the rooms using tools which they found inside the house. They quickly stashed valuables inside two black bags. Thereafter, Antonio went his separate way. Robles and Manas carried the loot and boarded a taxi to Sta. Ana, where Robles had a relative (who was not home). They were proceeding to Tondo when apprehended by the police officers.

Manas, then 39 years old, employed as a housepainter in the shop of Macalino, admitted in his statement that he stabbed Dalugdugan with a screwdriver to stop her from screaming when she saw Antonio stabbing Limato. Manas claimed that Robles was with them inside the house, not waiting at the nearby Shakey's.

On February 5, 1987, the following Information for Robbery with Double Homicide[10] was filed against Robles and Manas:

"The undersigned Assistant Fiscal accuses Antonio Mañas y Lava and Oscar Robles y Moaña of the crime of Robbery with Double Homicide committed as follows:

That on or about the 30th day of January, 1987 in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring and confederating with Vicente Antonio Y Haya @ Ric, who is at large and mutually helping and aiding with one another with intent of gain and by means of force upon things and intimidation of persons entered the house of one Jose Macalino y Manalac and once inside, did then and there willfully, unlawfully and feloniously take, steal and carry away, the following items to wit:

One (1) Yashita Camera P1,500.00

One (1) Minolta Camera 2,800.00

One (1) Minolta Electronic Flash 800.00

Sanyo Walkman 1,500.00

Radio Transistor 250.00

Micro Cassette 800.00

Handcrafted domino 300.00

Two playing cards 80.00

One Colgate 20.00

Leica Handbook 40.00

Adidas Rubber Shoes 250.00

Seven (7) pcs. Handkerchief 100.00

Walkman Accessories 550.00

Walkman Aiwa 500.00

One (1) Ladies Watch Seiko 800.00

One (1) Casio Watch 350.00

Seiko La Salle 8,500.00

One (1) Citizens Watch 1,500.00

One (1) men's ring white gold with diamond 15,000.00

One (1) Smith & Wesson Rev. 3,500.00

Two (2) Leather Bag 300.00

all in total amount of P29,440.00, belonging to said Jose Macalino, to the damage and prejudice of the owner thereof in the aforementioned amount of P29,440.00.

That on said occasion, the above-named accused, conspiring and confederating together and all of them mutually helping and aiding with one another, while armed with a knife and a screw-driver and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab Diego Limato and Marilou Dalugdugan hitting them on the vital parts of their bodies and as a result of which, they sustained fatal injuries which directly caused their death."

During trial, the Information was amended to include another accused named Vicente Antonio y Haya @ "Ric," who remains at large to date.

On August 19, 1987, assisted by Atty. Eugenio Macababayao Jr., Robles and Manas were arraigned. Both pleaded not guilty to the charge of Robbery with Double Homicide.[11] The prosecution and defense during a pre-trial agreed on the following facts:[12]

1. The fact and cause of death of Marilou Dalugdugan and Diego Limato;
2. The existence and genuineness of the Certificate of Post Mortem Examination issued by Dr. Mariano Cueva, Jr., as a result of the examination conducted by him of the late Marilou Dalugdugan, which certificate was marked in evidence by the prosecution as Exhibit "A";
3. The existence and genuineness of the Certificate of Post Mortem Examination issued by Dr. Mariano Cueva, Jr., as a result of the examination conducted by him on the late Diego Limato, which certificate was marked in evidence by the prosecution as Exhibit "B";
4. The existence, identity and value of the articles alleged to have been stolen and which are specifically enumerated in the information filed in the above-entitled case; the fact of ownership thereof by Jose Macalino; and the recovery thereof and their subsequent return to the said Jose Macalino;
5. The existence of the Malayang Salaysay signed by Oscar Robles y Moana, which salaysay was marked in evidence by the prosecution as Exhibit "C", but the truth of the contents of which were denied by the accused on the ground that intimidation was allegedly exerted on him prior to the execution thereof;
6. The existence of the Malayang Salaysay signed by Antonio Manas y Lava, which salaysay was marked in evidence by the prosecution as Exhibit "D", but the truth of the contents of which were denied by the accused on the ground that intimidation was allegedly exerted on him prior to the execution thereof;
7. The fact that Atty. Eugenio Macababayao assisted the accused in the course of their investigation by the police, particularly in the giving by the accused of their statements marked as Exhibit "C" and "D";

In consequence of the foregoing, the defense agreed that the prosecution need not present Dr. Mariano Cueva,

Jr. to testify on the post mortem examinations conducted by him on the cadavers of the late Marilou Dalugdugan and Diego Limato, and that Jose Macalino need not testify on the fact of ownership, existence, and identity of the articles stolen, but only with respect to the receipt by him of an alleged letter dated May 30, 1987 sent by the accused Antonio Manas y Lava.

With the above stipulations of facts during pre-trial, only the following witnesses were presented by the prosecution: (1) Det. Ernesto C. Gatpayat, the policeman who proceeded to the house of Jose Macalino and discovered the two dead bodies. He also took down the statement of Jose Macalino. (2) Aida Pascual, Forensic Chemist of the National Bureau of Investigation, who testified that the blood recovered from the screwdriver and balisong were type A. The blood type of Dalugdugan was type A, and Limato, type O.[13] (3) Patrolman Rey Cocson, who was one of the policemen who flagged down the taxi for routine inspection. He also identified in court the items recovered from appellant and accused;[14] (4) Patrolman Celso Noriega, Jr., police investigator at the Makati Police Station, who took down the statements of appellant and accused, while they were assisted by counsel, Atty. Eugenio Macababayao, Jr..[15]

For the defense, Robles and Manas testified. Robles denied participating in either the robbery or the killings. He testified that in the morning of January 30, 1987, Manas fetched him from his house to repair a car in Del Pan, Tondo, Manila. However, before they reached their destination, they were apprehended by policemen who told them that they were the suspects in a robbery. The policemen brought them to the precinct where they were interrogated and threatened into making a confession. Robles denied any knowledge of the two bags found inside the taxi. While he admitted that he was assisted by Atty. Macababayao during custodial investigation, he denied executing any statement and claimed he could not remember signing any document.[16]

After trial, on March 30, 1989, the trial court rendered a decision[17] finding conspiracy, and correspondingly sentenced accused as follows:

"WHEREFORE, premises considered, and finding accused OSCAR ROBLES and ANTONIO MANAS guilty beyond reasonable doubt of the complex crime of Robbery with Homicide, both are hereby sentenced to suffer the penalty of Reclusion Perpetua, with all the accessories of the law.

Further, both accused are hereby ordered to jointly and severally pay unto the heirs of Diego Limato the amount of P30,000.00 as indemnity for causing his death, and likewise to pay jointly and severally the heirs of Marilou Dalugdugan the sum of P30,000.00 as indemnity for causing her death.

Equal Costs against the two (2) accused.

SO ORDERED."

Pending appeal, the records of the stenographic notes containing the testimonies of Aida Pascual, Manas and Robles were burned. Manas manifested that he was not appealing the judgment of the trial court. Hence, only the testimonies of Pascual and Robles were retaken at the National Bilibid Prison.[18]

In his brief, appellant contends that the trial court erred in convicting accused-appellants,[19]

I. ... OF THE CRIME AS CHARGED IN THE INFORMATION BASE[D] ON THE ALLEGED CONFESSIONS MADE BY THE[M] DESPITE ITS INADMISSIBILITY.

II. ... BASED ON CIRCUMSTANTIAL EVIDENCE PRESENTED BY THE PROSECUTION THOUGH THE SAME IS NOT SUFFICIENT TO CONVICT BOTH ACCUSED-APPELLANT OF THE CRIME AS CHARGED.

Appellant argues that his extrajudicial confession is inadmissible against him because it was obtained through threats and without the effective assistance of counsel. He says the only evidence linking him to the commission

of the crime is his presence in the same taxicab as his co-accused and Antonio. Circumstantial evidence alone, he argues, is insufficient to sustain his conviction for the complex crime of Robbery with Homicide.

The Office of the Solicitor General, for the State, prays for the affirmance of the judgment, except with respect to the indemnity which should be increased to P50,000.00 per victim. The Solicitor points out that appellant, together with his co-accused, was duly assisted by counsel de oficio during custodial investigation, and in fact, the same counsel de oficio assisted him during trial.

In sum, we find that the issues center on (1) the ADMISSIBILITY of the extrajudicial confession of the appellant, and (2) the SUFFICIENCY of the EVIDENCE to convict him beyond reasonable doubt.

Considering appellant's contentions as well as those of the OSG, in the light of the testimonies and other pieces of evidence submitted and on record, we now hold that first, the extrajudicial confessions of appellant and his co-accused are admissible against them. The allegation that they were not assisted by counsel during custodial investigation is belied by the records, which clearly show that Atty. Eugenio C. Macababayao Jr. was present during the entire investigation. Further, the same lawyer acted as counsel for appellant Robles during trial.[20] Atty. Macababayao did not dispute that he was present and he assisted the appellant and his co-accused at the time they executed their confessions. Neither did he deny his signatures attesting that he was present in the preparation of the extrajudicial confessions and assisted appellant and his co-accused. As pointed out by the trial court, appellant Robles never brought to the attention of his counsel that he was threatened by the policemen into making his extrajudicial confession. Accused Manas even corrected the middle initial of his name from "L" to "F" in the preparation of his extrajudicial confession.[21] Further, the prosecution and defense entered into a stipulation during pre-trial that -

"... Atty. Eugenio Macababayao assisted the accused in the course of their investigation by the police, particularly in the giving by the accused of their statements marked as Exhibit "C" (Sworn Statement of Oscar Robles) and "D" (Sworn Statement of Antonio Manas)."[22]

Appellant avers that it was just his misfortune that he rode in the same taxicab with Manas and Antonio. This claim is inconsistent with the records which show that Antonio was not with them when they were apprehended at the Del Pan Bridge. According to appellant himself, Antonio already went his separate way right after the robbery.

Appellant makes a belated attempt to question the validity of his arrest because of the police's failure to inform him of his Miranda rights at the time of arrest. Note, however, that any objection involving the acquisition of jurisdiction over the person of an accused must be made before he enters his plea, otherwise, said objection is deemed waived.[23] The defects in the arrest, if any, were cured by appellant's voluntary submission to the jurisdiction of the trial court, when he entered his plea during arraignment and when he actively participated in the trial, without raising those defects.[24]

Second, we also hold that there is sufficient evidence to convict appellant beyond reasonable doubt of the offense charged.

Section 4 of Rule 133 of the Rules of Court[25] provides that circumstantial evidence is sufficient to convict (1) when there is more than one circumstance, (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In this case, the following circumstances prove the culpability of appellant for the crime charged: (1) He planned the robbery of the house of Mr. Macalino with accused Manas and Ric. (2) He acted as look-out while accused Manas and Ric entered the house. (3) He participated in the looting of the house after the two victims were killed.

(4) He left the house with accused Manas carrying the proceeds of the robbery with them.

The unexplained possession of stolen articles gives rise to a presumption of theft, unless it is proved that the owner of the articles was deprived of possession by violence or intimidation, in which case, the presumption becomes one of robbery.[26] In robbery with homicide cases, the prosecution need only prove these elements: (a) the taking of personal property is perpetrated by means of violence or intimidation against a person; (b) the property taken belongs to another; (c) the taking is characterized by intent to gain or *animus lucrandi*, and (d) on the occasion of the robbery or by reason thereof, the crime of homicide, here used in its generic sense, is committed.[27] The homicide may precede the robbery or may occur after the robbery. What is essential is that there is an intimate connection between robbery and the killing whether the latter be prior or subsequent to the former or whether both crimes be committed at the same time.[28]

The rule is well-established that whenever homicide has been committed as a consequence of or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special complex crime of robbery with homicide although they did not actually take part in the homicide, unless it clearly appears that they endeavored to prevent the homicide.[29] In this case, appellant tries to exculpate himself from the homicides by insisting that he did not participate nor could he have prevented them. However, considering his established participation in looting the Macalino residence where the killing of the victims took place during said robbery, his culpability for the complex crime of robbery with homicide is well grounded and sufficiently proved.

We note that Section 3 of Rule 133 of the Rules[30] requires that an extrajudicial confession made by an accused shall not be sufficient ground for conviction, unless corroborated by evidence of *corpus delicti*. *Corpus delicti* is the body of the crime and, in its primary sense, means a crime has actually been committed.[31] Applied to a particular offense, it is the actual commission by someone of the particular crime charged.[32] In this case, aside from the extrajudicial confessions, the police found the stolen goods, the murder weapons, and the dead bodies, thereby conclusively establishing the needed corroborating evidence of *corpus delicti*.

As to the penalty. When more than one person is killed on the occasion of the robbery, the additional killing should be appreciated as an aggravating circumstance to avoid the anomalous situation where, from the standpoint of the gravity of the offense, robbery with one killing would be on the same level as robbery with multiple killings.[33] At the time of the commission of the offense on January 30, 1987, the penalty for robbery with homicide under Article 294 of the Revised Penal Code was reclusion perpetua to death. In view, however, of the subsequent suspension of the death penalty by the 1987 Constitution, favorable to appellant,[34] the proper penalty is reclusion perpetua, a single indivisible penalty regardless of the attending aggravating or mitigating circumstances.[35] The trial court, therefore, properly imposed the sentence of reclusion perpetua on appellant.

But, pursuant to existing jurisprudence, the amount of indemnity should be increased to P50,000.00 for the death of each of the victims.[36] In addition, the presence of one aggravating circumstance, which is the second killing, justifies the award of exemplary damages pursuant to Article 2230 of the New Civil Code, which we now award in the amount of P10,000.00 to the heirs of each of the victims. All the recovered items from the robbers should be and have been duly restituted to the lawful owners Jose Macalino and his daughter Beth M. Puzon.[37]

WHEREFORE, the decision of the Regional Trial Court of Makati, Branch 148, in Criminal Case No. 28829, convicting appellant OSCAR ROBLES y MOANA of the crime of ROBBERY WITH HOMICIDE beyond reasonable doubt and sentencing him to reclusion perpetua is AFFIRMED with MODIFICATIONS as to the imposition of the amount of death indemnity and also the award of exemplary damages. The amount of said indemnity to be paid to the heirs of each of the victims is increased to P50,000.00, together with a further award in

the amount of P10,000.00, as exemplary damages to be paid to the heirs of each of the victims also. Costs against appellant.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Manas did not appeal, hence his sentence is already final.

[2] Records, pp. 220, 222; New Records, p. 28.

[3] First name not in the records. Already deceased at the time of trial.

[4] TSN, October 28, 1988, pp. 15-21, 27-30; Report of Patrolmen Amurao, Cocson, and Tabanera, Exhibit "O", Records, p. 255.

[5] TSN, October 28, 1988, p. 12.

[6] Ibid.

[7] Id. at 13.

[8] TSN, April 18, 1988, pp. 25-27; TSN, October 28, 1988, pp. 36-38.

[9] TSN, November 22, 1988, pp. 7-27.

[10] Records, pp. 1-2. The Information was later amended to change the designation of the crime to Robbery with Homicide, per Order dated July 10, 1987, by Judge Jose C. de la Rama.

[11] Records, pp. 17-18.

[12] Pre-trial Order, Id. at 24-24a.

[13] TSN, July 24, 1992, pp. 7-8.

[14] TSN, October 28, 1988, pp. 3-11.

[15] TSN, November 22, 1988, pp. 7-10, 20-22, 25-26.

[16] TSN, June 11, 1993, pp. 5-15.

[17] Records, pp. 194-219.

[18] TSN, July 24, 1992, TSN, June 11, 1993.

[19] Rollo, p. 124; Although accused Manas did not appeal, the Public Attorney's Office filed an appellants' brief for both Manas and Robles. We shall, however, consider the appeal, only insofar as appellant Robles is concerned.

[20] TSN, April 18, 1988, p. 2.

[21] TSN, November 22, 1988, pp. 15-16.

[22] See Note 15, pp. 10-27.

[23] People v. Alojado, G.R. Nos. 122966-67, March 25, 1999, p. 16; People v. Tidula, 292 SCRA 596, 611 (1998); People v. Salvatierra, 276 SCRA 55, 63 (1997).

[24] *People v. Alojado*, supra.

[25] Sec. 4. Circumstantial evidence, when sufficient. - Circumstantial evidence is sufficient for conviction if:

(a) There is more than one circumstance;

(b) The facts from which the inferences are derived are proven; and

(c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

[26] *People v. Leonor*, G.R. No. 125053, March 25, 1999, p. 10; See also Section 3 (j), Rules 131, Rules of Court.

[27] *People v. Sumallo*, G.R. No. 116737, May 24, 1999, p. 16.

[28] *People v. Nang*, 289 SCRA 16, 33 (1998); *People v. Hernandez*, 46 Phil. 48, 49 (1924).

[29] *People v. Nang*, 289 SCRA 16, 33-34 (1998).

[30] Sec. 3. Extrajudicial confession, not sufficient ground for conviction. - An extrajudicial confession made by an accused, shall not be sufficient ground for conviction, unless corroborated by evidence of corpus delicti. (3)

[31] *People v. Mantung*, G.R. No. 130372, July 20, 1999, p. 11.

[32] *Ibid.*

[33] *People v. Abdul*, G.R. No. 128074, July 13, 1999, p. 24.

[34] Article 22, Revised Penal Code.

[35] *People v. Mores*, G.R. No. 107746, July 28, 1999, p. 8.

[36] *People v. Paraiso*, G.R. No. 127840, November 29, 1999, p. 18.

[37] Article 105, Revised Penal Code; See also *People v. Sanchez*, 89 Phil. 423, 428 (1951).

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