

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERT LEE, ET AL., ACCUSED-APPELLANT.

G.R. No. 116326. April 30, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an appeal from a decision of the Regional Trial Court, Branch 9, of Malolos, Bulacan, finding appellant guilty of robbery with homicide and sentencing him to a penalty of reclusion perpetua.

The facts of record are as follows:

Private complainant Belen Portugal-Legaspi, in the pursuit of her jewelry business, usually commuted in her car between the family residence in Saluysoy, Meycauayan, Bulacan and the BLG Jewelry Store that she owned and managed at P. Paterno St., Quiapo, Manila.[1]

At about 7:00 p.m. of February 21, 1990, Mrs. Legaspi and her salesgirl, Flordeliza Francisco, were aboard her car, driven by her only son, Joselito, on their way from Quiapo to Saluysoy.[2]

In their green-colored Ford Laser car, Mrs. Legaspi was seated in front beside her son, while Ms. Francisco occupied the backseat alone.[3]

Not long after the said car entered the Meycauayan exit of the North Expressway, while it was cruising along the street leading to the St. Francis Subdivision in Malhacan, Meycauayan, a white old-model Toyota Corona sedan rammed it from behind, immediately overtook it, and finally blocked its path.[4] Four men (three with drawn handguns and one clutching a long firearm) thereupon alighted from the Toyota sedan, while two others remained therein.[5]

Joselito backed up the Ford Laser car but it slammed against the concrete wall of a nearby textile factory and got stalled in that position.[6] The four men rushed to the car of the Legaspis.

One of the men stood by the Ford Laser's car door near the driver's seat and, in quick succession, fired his handgun once in the air, then to the ground and, finally, at Joselito. Then he made a quick turn round the front of the Ford Laser, opened the right front door and forcibly positioned himself beside Mrs. Legaspi.[7]

Another man shoved Joselito towards the middle portion of the front seat and took over the steering wheel.[8]

The other two men occupied the back seat to the left and right of Ms. Francisco.[9]

With the Toyota Corona sedan following closely behind, the Ford Laser was driven along the intended route of the Legaspis over a distance of one kilometer or so, up to a dumpsite in front of a church under construction. There, having already divested Mrs. Legaspi of her personal valuables and taken two bags containing assorted pieces of jewelry worth about P3 Million, and P65,000.00 in cash, the armed men abandoned the Ford Laser, boarded their Toyota Corona sedan and in no time sped away.[10]

Finding the wounded Joselito already lifeless, Mrs. Legaspi hailed a passenger jeepney and, aboard the same, rushed him to the Nazareno Clinic where he was pronounced dead on arrival.[11]

Dr. Benito B. Caballero, Municipal Health Officer of Bocaue, Bulacan, at the request of the PNP-Meycauayan, conducted the autopsy of the cadaver at 8:30 p.m. of February 21, 1990 at the Meycauayan Funeral Homes.[12]

He issued a certificate, stating the cause of Joselito P. Legaspi's death as: "Shock due to massive external and internal hemorrhage due to gunshot wound in the chest penetrating both lungs and heart." [13]

At the time of his death, Joselito was 21 years old, single, and a college student. The family of the deceased incurred expenses in the amount of P60,000.00 for his wake and P20,000.00 for the funeral service.[14]

On April 20, 1990, Robert Lee, Edmundo Rivera, Igmedio del Mundo, Angelito Orosco and Wilfredo Alcantara were charged by the Provincial Prosecutor of Bulacan with the crime of Robbery with Homicide penalized under par. 1, Article 294 of the Revised Penal Code.

The Information, filed with the Regional Trial Court of Malolos, Bulacan, reads as follows:

"That on or about the 21[st] day of February, 1990, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused together with other persons who are still at large and against whom the preliminary investigation has not yet been completed, conspiring, confederating and mutually helping one another, armed with unlicensed firearms such as long firearm and handguns, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of force, violence and intimidation, take, rob and carry away with them cash money in the sum of P65,000.00 and several pieces of jewelry valued at P3,000,000.00 belonging to one Belen Legaspi; to the damage and prejudice of the owner, said Belen Legaspi in the total amount of P3,065,000.00; and on the occasion of the commission of the said robbery in band, the said accused with intent to kill one Joselito Legaspi; did then and there wilfully, unlawfully and feloniously in furtherance of their conspiracy, with evidence premeditation and treachery, attack, assault and shot with the said firearm the said Joselito Legaspi, hitting the latter at his chest which directly caused his death.

The aggravating circumstance of use of a motor vehicle is present in the commission of this offense." [15]

On May 17, 1990, Robert Lee and Eduardo Rivera were arraigned and they pleaded, "not guilty." Trial proceeded as to these two, as the other accused were then at large.

On February 18, 1991, Angelito Orosco was arrested and subsequently brought to the trial court. He also pleaded, "not guilty" upon being arraigned.

After trial, on April 22, 1993, the Regional Trial Court found all the three abovementioned accused guilty as charged, stating in the dispositive portion of its decision, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding accused ROBERT LEE y MANUTA of Antipolo, Rizal EDUARDO RIVERA y DELA CRUZ alias "Eddie" of Bagbaguin, Meycauayan, Bulacan and ANGELITO OROSCO y SINCABAN of Pulong Buhangin, Sta. Maria, Bulacan guilty beyond reasonable doubt as co-principals by conspiracy of the crime of Robbery in Band with Homicide as charged in the Information and sentencing each of them to suffer the penalty of reclusion perpetua with all the accessories prescribed by law; and ordering them to jointly pay unto the heirs of the late Joselito P. Legaspi the amounts of P50,000.00 as indemnity for the fact of his death, P80,000.00 as expenses for the traditional wake and funeral services for the aforementioned victim, P50,000.00 as moral damages, P30,000.00 as exemplary damages, and unto Mrs. Belen Portugal-Legaspi the amount of P3,065,000.00 representing the value of the pieces of assorted jewelry and cash subject-matter of the robbery, deducting therefrom the undetermined value of the few jewelry items subsequently recovered and delivered to her.

SO ORDERED.[16]

From said decision, only the accused Angelito Orosco appealed.

Appellant assigned the following as errors:[17]

- THE TRIAL COURT ERRED IN NOT EXCLUDING THE EVIDENCE OF THE PROSECUTION FOR HAVING BEEN TAKEN AS A RESULT OF WARRANTLESS ARRESTS AND IN CONTRAVENTION OF THE SEARCH WARRANT ISSUED.
- THE TRIAL COURT ERRED IN ADMITTING THE EVIDENCE OF THE PROSECUTION, CONSISTING OF THE ALLEGED CONFESSIONS OF ACCUSED ROBERT LEE AND EDUARDO RIVERA, INSPITE OF THE FACT THAT THEY WERE TAKEN IN VIOLATION OF THEIR CONSTITUTIONAL RIGHTS.
- THE TRIAL COURT ERRED IN GREATLY RELYING UPON THE PURPORTED IDENTIFICATION OF THE ACCUSED-APPELLANT ANGELITO OROZCO MADE BY PROSECUTION WITNESSES BELEN LEGASPI AND FLORDELIZA FRANCISCO INSPITE OF THE FACT THAT THEY ARE UTTERLY UNRELIABLE.
- THE TRIAL COURT ERRED IN CONVICTING ACCUSED APPELLANT ANGELITO OROZCO.

Appellant first argues that the extrajudicial confessions of his co-accused, Robert Lee and Eduardo Rivera, should be excluded because said persons were arrested without arrest warrants.

Appellee, through the Solicitor General, replies that arrest without warrant and custodial investigation are two different concepts, subject to separate requisites, so that the invalidity of a warrantless arrest does not per se make the confessions taken during the custodial investigation inadmissible in evidence. Accordingly, appellee submits that even assuming that the aforementioned co-accused were unlawfully arrested without warrants, the same will not affect the extrajudicial confessions signed by them during custodial investigation. The confessions, appellee points out, were taken freely and voluntarily, without any duress. The persons investigated were duly informed of their rights to remain silent and to counsel. They were in fact ably represented by Atty. Dale Dick Liban of the Citizens Legal Assistance Office during said custodial investigation.

The Court finds it unnecessary to resolve the foregoing issue. For independently of the extrajudicial confessions, the prosecution's evidence establishes beyond reasonable doubt the guilt of appellant.

From the testimony of Belen Portugal-Legaspi, there is no question that appellant shot and killed her son that fateful early evening of February 21, 1990, in the course of an armed robbery, thus:

Q

What part did Angelito Orosco have in the commission of that offense that you have described?

A

He was the one who shot my son, sir.

Q

Where was Orosco whom you have pointed to the court now when he shot your son?

A

He was outside on the street and beside the driver's seat where my son is situated.

Q

On which side of the car?

A

Left side (Witness indicating her left side)

Q

How far exactly from the car was him when he shot your son?

A

He was very near.

Q

How far?

A

Less than a meter.

Q

You said that your son was the one driving the car. Now, will you kindly tell the Court the position of Orosco in relation to your son when your son was shot?

A

Orosco was beside the window near the driver's seat.

Q

At the time according to you Orosco shot your son, who were the persons, if any, in the front seat of the car?

A

My son and me.

Q

In your previous testimony you referred to a person who sat beside you, at what moment did this person sit beside you inside the car?

A

After my son was shot.

Q

What did he do?

A

Nothing except that he sat beside me after my son was shot.

Q

After Orosco shot your son can you tell the Court where he went?

A

He was the person who sat beside me, actually, he went around the car and sat beside me and somebody pushed my son and that somebody drove the car.[18]

Appellant would, however, fault this eyewitness on two grounds: (1) she could not have seen the assailant's face, as it was dark; and (2) her testimony is not consistent as to who drove the car and who shot her son, and further differs from that of Flordeliza Francisco.

On the first point, Mrs. Legaspi testified that the road was lighted and that there were lights coming from the houses around the area and from the vehicles traveling on the road, and said lights enabled her to see and identify the perpetrators of the crime.

She testified, thus:

COURT:

Q

Let's go back to the scene of the crime or where your son was shot by the assailants, was that area lighted at the time considering that it was already night-time?

A

Yes, sir.

Q

The place was lighted with what?

A

The road is lighted and that road is being used by vehicles.

Q

Aside from that street lamp, were there other sources of light in the premises?

A

There are, the lights coming from the houses around there.

Q

Was that a residential area or a commercial area?

A

A sort of combination, residential and commercial area and there are many vehicles passed (sic) that way.

x x x x x x x x

Q

Now, you answered the Court that when the incident took place on February 21, 1990 the place was lighted, do you recall the time when this incident took place?

A

More or less, 7:00 o'clock in the evening.

Q

And some of the commercial places which you said were lighted were already closed at 7:00 o'clock, is it not?

A

Yes, sir.

Q

And the only light that illumines the place is the light of the electric post?

A

Aside from that, the lights from the incoming vehicles and also the lights from residential houses.[19]

Furthermore, on cross-examination, Mrs. Legaspi maintained the same point:

x x x x x x x x

Q

Madam witness, from the time that your car was bumped from behind by the car of the holduppers you will agree with me that no light inside your car was on at that very moment,

A

Yes, sir. Seldom do car-owners light their lights inside the car.

Q

That is true also at the time the four holduppers entered or boarded your car, is it not?

A

But it was brightly illuminated by the coming vehicles.

Q

My question is, no light inside your car was on at that time.

A

There was no light actually inside the car but it was bright in that particular place, I could easily see them.

Court:

Q

By the way, did the Court get you right when you declared that it was Angelito Orosco who shot your late son?

A

Yes, Your Honor. He was the one.

Q

Prior to that incident have you ever known or seen the accused Angelito Orosco?

A

No, Your Honor.

x x x x x x x x.[20]

As correctly noted by appellee, the Court has held that the light from the stars,[21] or the moon,[22] or flames from an oven,[23] or a wick lamp or “gasera,”[24] can give ample illumination to enable a person to identify or recognize another. Clearly, therefore, lights from street lamps, houses and passing cars are sufficient to enable the eye- witness to identify the appellant.

Regarding the second point, on the alleged inconsistencies, the same are minor in nature and do not detract from the credibility of the witnesses. Besides, Mrs. Legaspi never wavered on the point that it was appellant herein, Angelito Orosco, who shot and killed her son. She only erred in first saying that he also drove their car, but later she corrected herself on this point. Similarly, Flordeliza Francisco, who was seated at the back, thought it was appellant who drove the car. As stated, these are minor inconsistencies that do not affect the thrust of the testimony of Mrs. Legaspi that appellant shot and killed her son.

The award of damages are correct and in accordance with law and the evidence, except the award of P80,000 for

wake and funeral expenses. This was not supported by receipts and therefore cannot be granted.[25] However, an award of P25,000 for temperate damages may be allowed, under Article 2224 of the Civil Code,[26] since the fact of having incurred expenses for such purposes is incontrovertible.[27]

WHEREFORE, the decision of the court a quo is hereby AFFIRMED, with the MODIFICATION that the award of P80,000 for wake and funeral expenses is set aside but an award of P25,000 as temperate damages is GRANTED. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Carpio, JJ., concur.

[1] TSN, 15 October 1990, pp. 22-24.

[2] Ibid, pp. 16-24; TSN, 1 February 1991, p. 6.

[3] Ibid, p. 7.

[4] Ibid, pp. 17-18.

[5] Ibid, pp. 18, 25.

[6] Ibid, p. 18.

[7] Ibid, pp. 19-20.

[8] Ibid, p. 26.

[9] Ibid, p. 27.

[10] Ibid, pp. 30-32.

[11] Ibid, pp. 34-35.

[12] TSN, March 15, 1991, pp. 10-11.

[13] Exhibit A, RTC Records, p. 189.

[14] Ibid, pp. 41-42 and 45.

[15] Records, p. 1.

[16] Decision, pp. 20-21; Rollo pp. 38-39.

[17] Appellee's Brief, pp. 4-5; Rollo, p. 105.

[18] TSN, October 18, 1991, pp. 13-16.

[19] TSN, Ibid, pp. 72-73.

[20] TSN, November 20, 1991, pp. 44-45

[21] People v. Vacal, 27 SCRA 24 (1969).

[22] People v. Pueblos, 127 SCRA 746 (1984).

[23] People v. De la Cruz, 147 SCRA 359 (1987).

[24] *People v. Aboga*, 147 SCRA 404 (1987).

[25] *People v. Plazo*, 350 SCRA 433 (2001); *People v. Go-od*, 331 SCRA 612 (2000).

[26] Art. 224 of the Civil Code provides: “Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be proved with certainty.”

[27] *People v. Sumibcay*, G.R. Nos. 132130-31, May 29, 2002; *People v. Plazo*, *supra*, see note 25.

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