

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN RUBIO, ACCUSED-APPELLANT.

G.R. No. 118315. June 20, 1996

Ponente: FRANCISCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-118315/>

FRANCISCO, J.:

Appellant ALLAN RUBIO, charged[1] with and convicted of the crime of Robbery with Homicide, was sentenced "to suffer reclusion perpetua" and to "indemnify the heirs of Silvina Cuyos in the amount of P50,000.00, without any subsidiary penalty in case of incapacity to pay." [2] He is now before us on appeal.

The facts of this case as found by the trial court and duly substantiated by the evidence on record are as follows:

"x x x. On May 17, 1992, at about 7:00 o'clock in the evening, witness Anastacio Garbo, whose house is located in Bagay, Daanbantayan, Cebu, heard shouts for help coming from the house of the victim, Silvina Cuyos. The victim and witness Garbo are neighbors, their houses being about 25 to 30 meters from each other. Upon hearing the shouts for help, witness Garbo went out of his house and approached the house of the victim. When he was about seven (7) meters away from the house of the victim, he saw the accused wrestle with the victim. His impression is that the victim and the accused are quarrelling or fighting each other. Upon seeing this, he heard his parents and sisters shouting at him telling him not to approach any closer to the house of the victim because it may be a robbery and the perpetrator or perpetrators may have firearms. So witness Garbo went to the neighboring houses to seek for assistance. Shortly thereafter, witness Garbo, together with four companions, namely: Paulino Ygot, Alfonso Rosello, Bimbo Colina and Randy Ygot proceeded to the house of the victim. Garbo walked ahead of his companions. When he reached the back portion of the house, he saw the accused wearing a black tee-shirt walking away from the house of the victim. Witness Garbo was about five (5) meters away when he saw accused. Witness Garbo did not make any sound and instead, together with his companions, they proceeded to the kitchen of the house of the victim where they saw the victim lying on the ground. He noticed that the victim sustained injuries at the neck just below the jaw about three (3) inches from the right ear. The cheek of the victim was bleeding. An old water jar (banga) was broken. The victim was still alive although not conscious. Witness Garbo did not go up the house of the victim anymore instead he proceeded to the town to secure transportation. He came back in a fire truck together with some policemen. Thereupon, the victim was brought to the Daanbantayan Community Hospital. The victim was later transferred to Verallo Memorial Hospital at Bogu, Cebu. Upon the advice of the doctor in said hospital, the victim was transferred to Cebu City, first, at the Southern Islands Hospital and then to the Cebu Doctor's Hospital where the victim died in the afternoon of the next day." [3]

At the trial, the prosecution presented four (4) witnesses, to wit: (1) Anastacio Garbo, the lone witness who testified to have actually seen Allan Rubio wrestle with Silvina Cuyos in the kitchen of the latter's house in the evening of May 17, 1992; [4] (2) Paulino Ygot, one of the persons from whom Anastacio Garbo sought assistance after witnessing the incident in the evening of May 17, 1992 and whose testimony corroborated that of Anastacio Garbo in all material aspects; [5] (3) Maximo Cuyos, the nephew of Silvina Cuyos who testified to have discovered that her pillows were ripped open and her jewelries were all gone, when he made a check on her house in the evening immediately following the happening of the incident; [6] and (4) Dr. Benigno Aldana, the attending

physician of Silvina Cuyos who testified on the cause of the latter's death.[7] On the other hand, the defense presented the accused himself who admitted his presence outside the house of Silvina Cuyos on that fateful night but named one Lucio Arsenal as the person who wrestled with the victim.[8]

Finding the prosecution's version to be more credible, the trial court, thus, convicted the appellant of the crime of robbery with homicide.

In this appeal, appellant faults the trial court for giving full credence to the testimonies of the prosecution witnesses. He likewise assails their testimonies for being incredible, unreliable and unable to sustain his conviction beyond reasonable doubt.[9]

As in most criminal cases, the principal issue raised herein pertains to the matter of credibility of witnesses. We shall now discuss appellant's contentions in seriatim.

First, appellant argues that the trial court erred in giving full credence to the testimony of the prosecution's eyewitness Anastacio Garbo which testimony, according to the appellant, is fraught with inconsistencies. Except for this general averment, however, appellant did not cite which parts of Anastacio Garbo's testimony are inconsistent with each other. At any rate, our careful review of Garbo's testimony reveals no such inconsistencies claimed. Furthermore, the consistent teaching of our jurisprudence is that the findings of the trial court are given weight and the highest degree of respect by the appellate court.[10] This is the established rule of evidence in view of the fact that the matter of assigning values to the testimony of witnesses is a function best performed by the trial court. It can weigh the testimony of witnesses in the light of the latter's demeanor, conduct and attitude at the trial.[11] This rule of course admits of certain exceptions, which we find absent in this case, to wit: (1) when patent inconsistencies in the statements of witnesses are ignored by the trial court, or (2) when the conclusions arrived at are clearly unsupported by the evidence.[12]

Next, appellant contends that if indeed Anastacio Garbo saw him assaulting Silvina Cuyos, it would have been more in accord with human experience for Garbo to immediately shout at the appellant to desist from further hurting the victim or to alert his neighbors by a cry of alarm. Instead, Garbo went directly to his neighbors' houses, an act which appellant decries as unlikely if not unbelievable. We are not persuaded.

We concede that for a man who witnessed an ongoing crime, an outcry for assistance would have been sufficient if only to arouse the attention of sympathetic neighbors. We do not agree, however, with the appellant's contention that the act of Anastacio Garbo in this case in directly going to his neighbors' houses to seek for assistance is less normal under the circumstances. Witnessing a crime is an unusual experience which elicits different reactions from the witnesses and for which no clear-cut standard form of behavior can be drawn.[13] Thus, as correctly averred by the Solicitor General, Anastacio Garbo cannot be faulted for reacting the way he did, especially in the midst of a startling and unusual circumstance.[14]

Finally, in a desperate attempt to destroy the credibility of Anastacio Garbo, appellant questions his alleged failure to reveal appellant's identity to the police officers who investigated the incident on that same night. This argument is specious as it erroneously assumed that Anastacio Garbo was questioned by the police officers on that night, a fact not duly supported by the records. But even if it were true, his non-disclosure of the identity of the appellant to the police officers immediately after the occurrence of the crime is not entirely against human experience.[15] It is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case, as in fact the natural reticence of most people to get involved is of judicial notice.[16] This is especially true in this case where the parties involved are not just townmates but immediate neighbors.[17]

We hold, therefore, that Anastacio Garbo's categorical identification of the appellant as the person he saw

wrestling with Silvina Cuyos in the evening of May 17,1992, leaves nothing more to be desired. He could not have been mistaken as to the identity of the appellant his long time neighbor. Moreover, the kitchen of Silvina Cuyos' house, the area where the incident happened, was then illuminated by a kerosene lamp[18] and by a fluorescent lamp located ten (10) meters away from the scene of the crime.[19] On top of that, appellant was then just seven (7) meters away from the house of the victim when he saw the incident.[20] These facts, in addition to the failure of the defense to prove that Anastacio Garbo was prompted by any improper motive in testifying against the appellant, bespeak of his credibility.

On the other hand, the defense offered by the appellant merits scant consideration. We quote with approval the following observations of the trial court in this regard:

"x x x. The claim by (sic) accused that he was forced to walk with the brother's Arsenal from 5:30 in the afternoon up to 7:30 in the evening is rather incredible. The actuations of the accused after the incident is likewise seriously open to question and lend doubt as to the truthfulness of his testimony. For instance, he said that soon after hearing the shouts for help by the victim he ran away towards his sister's house which was about 100 to 150 meters from the house of the victim. The reason is that he was afraid that somebody might hear the shouts of the victim and that he was afraid of being discovered. This statement is pregnant with incriminating evidence."

We agree, however, with the appellant that he should have been convicted only of the crime of homicide, and not of robbery with homicide. Our settled rule is that in order to sustain a conviction for robbery with homicide, robbery must be proven as conclusively as the killing itself,[21] otherwise, the crime would only be homicide or murder as the case may be. A perusal of the entire records of this case convinces us that robbery was not duly established. The Information mentioned of gold earrings, gold ring and cash money being taken by the appellant from Silvina Cuyos. Yet no conclusive evidence proving the physical act of asportation thereof by the appellant has been presented by the prosecution. Anastacio Garbo himself, the principal witness for the prosecution, never claimed to have seen any of these items being taken from Silvina Cuyos. Neither did he affirm that appellant was carrying anything when the latter left the house of the victim on that night. We quote hereunder excerpts of his testimony on cross-examination:

"xxx xxx xxx

Q:

Were you able to see any item being taken from the alleged victim?

A:

I did not notice.

Q:

When you came back and you made mention that you allegedly saw a man immediately leaving, did you see that man bringing anything?

A:

I did not notice him bringing anything.

Q:

After that man walked briskly, did you or any of your companions went (sic) inside the house of the victim?

A:

None of us went inside"[22]

The trial court relied heavily on the testimony of Maximo Cuyos who testified to have discovered the loss of these items when he made a check on the victim's house.[23] He admitted,[24] however, that such discovery was made only at about eleven o'clock in the evening of the following day and not on the same night the incident happened. There is a probability, therefore, that during the interim other persons could have surreptitiously entered into the victim's house, now uninhabited, and could have taken therefrom these valuable items. As such, the trial court was in grave error when it conveniently ascribed to the appellant the commission of robbery in this case. Thus, while we are not disputing that robbery has in fact taken place, we are not convinced that it was appellant who committed the same. Neither will our finding of Allan Rubio's guilt with respect to the killing of Silvina Cuyos necessarily raises an inference of his guilt with respect to the element of robbery in the indictment. For to convict the appellant of the special complex crime of robbery with homicide,[25] there must be proof beyond reasonable doubt of both robbery and homicide.

Considering the fact that Silvina Cuyos was already sixty (60) years old at the time she was killed by the appellant, who was then only twenty three (23), the aggravating circumstance of disrespect due the offended party on account of her age must be appreciated.

WHEREFORE, in view of the foregoing, the decision appealed from is hereby MODIFIED. We find accused-appellant guilty of the crime of HOMICIDE only. In view of the aggravating circumstance of disregard of the respect to the victim on account of her age and applying in his favor the benefits of the Indeterminate Sentence Law, he is hereby sentenced to an indeterminate penalty of imprisonment ranging from ten (10) years and one (1) day of prision mayor, as minimum to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, as maximum. The award of P50,000.00 as indemnity for the death of Silvina Cuyos is affirmed.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] Information dated May 27, 1992; Records, pp. 1-2.

[2] RTC-Cebu, Branch IX, Decision dated April 27, 1994, p. 5; Rollo, pp. 18-19.

[3] Id., pp. 2-3; Rollo, pp. 13-14.

[4] TSN., Anastacio Garbo, March 23, 1993, pp. 3-6

[5] TSN., Paulino Ygot, April 13, 1993, pp. 2-5.

[6] TSN., Maximo Cuyos, March 24, 1993, pp. 4, 16.

[7] TSN., Benigno Aldana, Jr., April 20, 1993, p. 3.

[8] TSN., Allan Rubio, February 2, 1994, p. 5.

[9] Appellant's Brief, p. 1; Rollo, p. 32.

[10] People v. Bondoc, 232 SCRA 478 (1994); People v. Nimo, 227 SCRA 69 (1993); People v. de la Cruz, 217 SCRA 283 (1993); People v. Dominguez, 217 SCRA 170 (1993); People v. Caraig, 202 SCRA 357 (1991); People v. Sarol, 139 SCRA 125 (1985).

[11] See People v. Bondoc, 232 SCRA 478 (1994); People v. Ocampo, 226 SCRA 1 (1993); People v. Juma, 220

SCRA 432 (1993); *People v. Bañez*, 214 SCRA 109 (1992) citing *People v. Abrogar*, 73 SCRA 466 (1979).

[12] See *People v. Gumahin*, 21 SCRA 729 (1967); *People v. Secapuri, et al*, 16 SCRA 199 (1966).

[13] See *People v. Radomes*, 141 SCRA 548 (1986), citing *People v. Amoncio*, 122 SCRA 686 (1983).

[14] Appellee's Brief, p. 26; Rollo, p. 98.

[15] See *People v. Danico*, 208 SCRA 472 (1992).

[16] *People v. Caraig*, 202 SCRA 357, 367 (1991), citing *People v. Pacabes*, 137 SCRA 158 (1985).

[17] TSN., Anastacio Garbo, March 23, 1993, p. 4; See *People v. Sabellano*, 198 SCRA 196 (1991).

[18] See *People v. Penillos*, 205 SCRA 546, 556 (1992), citing *People v. Almenario*, 172 SCRA 268 (1989); See also *People v. Reana*, 120 SCRA 583 (1983).

[19] TSN., Anastacio Garbo, March 23, 1993, p. 5.

[20] *Id.*, p. 4.

[21] *People v. Nimo*, 227 SCRA 69 (1993); *People v. Martinado*, 214 SCRA 712 (1992); *People v. Lapan*, 211 SCRA 337 (1992).

[22] TSN., Anastacio Garbo, March 23, 1993, pp. 14-15.

[23] TSN., Maximo Cuyos, March 24, 1993, pp. 15-16.

[24] *Id.*

[25] Art. 294, Revised Penal Code.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.