

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO DE GUZMAN AND MARCIANO RAMOS, ACCUSED-APPELLANTS.

G.R. No. 118670. February 22, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Renato de Guzman, Marciano Ramos, Frederick Mosqueda and Paquito Ancheta were charged with Robbery with Homicide before the Regional Trial Court of Baguio City, Branch 7 in an Information dated January 26, 1993 which reads, thus:

"That on or about the 2nd day of December, 1992, in the City of Baguio, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, did then and there, willfully, unlawfully and feloniously, by means of violence, intimidation, taking advantage of nighttime, and with intent to gain, and against the consent of the owners, take, rob and carry away the following articles, to wit:

Cash

P 7,000.00

One (1) 22k bracelet

3,200.00

Three (3) 18k Pinky rings

3,500.00

One pair Creolla earrings

1,800.00

One men's Seiko watch

5,000.00 (\$200)

One pocketbell unit

12,000.00

One ID leather case

150.00

One check slip

One Chefmate knife

One Chinese 24k ring

8,000.00

One ID bracelet 18k

2,500.00

One bracelet with stones

2,500.00

One Kia Pride car

280,000.00

T O T A L

P325,650.00

to the damage and prejudice of the said owners Dr. Amadeo Belmonte and Mrs. Maria Regina Belmonte in the aforesaid amount; that on the occasion and by reason of said robbery and for the purpose of enabling them to take, steal, rob and carry away the properties aforementioned, the above-named accused, did then and there willfully, unlawfully, feloniously and with intent to kill, being then armed with a knife and gun, taking advantage of the night, and of their superior strength, and by means of treachery, and ignominy, stab, shoot, strangle, hang then kill Dr. Amadeo Belmonte, and with the same circumstances kill Teresa Hape."[1]

Only De Guzman, Ramos and Mosqueda were apprehended. Ancheta remains at-large. When they were arraigned, the three accused entered a plea of "not guilty." At the trial and upon motion of the prosecution,

Mosqueda was discharged and was utilized as state witness.

On December 21, 1994, the Regional Trial Court rendered a decision finding de Guzman and Ramos guilty beyond reasonable doubt of robbery with homicide, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, this Court finds the accused Renato de Guzman and Marciano Ramos guilty beyond reasonable doubt of the crime of robbery with homicide and hereby sentences them to suffer the penalty of reclusion perpetua and accessory penalty of perpetual absolute disqualification (See Art. 41 and 73 of the R.P.C.) (NOTE: the old law is still more favorable to the accused than the new law, R.A. 7659).

With respect to the civil aspect, this Court hereby orders Renato de Guzman and Marciano Ramos:

1. To restore to the legal heirs of the victim, Dr. Belmonte, the following: (1) a cash amount of P7,000.00 representing a fee of Dr. Belmonte; (2) a Seiko watch at P5,000.00; (3) an I.D. leather case valued at P150.00; (4) a pocketbell unit valued at P12,000.00; (5) earrings valued at P1,800.00; (6) a 22k bracelet valued at P2,500.00 each; (7) a Chinese gold ring valued at P8,000.00; (8) another ring valued at P3,500.00; (9) a VHS unit; and (10) a pair of rubber shoes valued at P500.00, or in case of failure to do so, to pay jointly and solidarily the value thereof as therein stated;
2. To indemnify jointly and solidarily the legal heirs of Dr. Belmonte and Teresa Hape in the amount of P50,000.00 each victim (Art. 2206) or a total of P100,000.00 for all.
3. To indemnify jointly and solidarily the legal heirs of Dr. Belmonte for consequential damages as follows:
 - a) P46,200,000.00 representing the lost earnings of Dr. Belmonte for 25 years since he was only 35 years old when killed and the life expectancy of an average Filipino is now 60 years old;
 - b) P274,809.00 representing actual and/or compensatory damages;
 - c) P1,000,000.00 as moral damages;
 - d) P100,000.00 as exemplary damages;
4. To indemnify jointly and solidarily the legal heirs of Teresa Hape P100,000.00 as exemplary damages;

The accused shall be credited in full of their preventive imprisonment, or 4/5 thereof, as the case may be, pursuant to Art. 29, RPC. This is material in connection with any pardon that may be bestowed upon the said accused pursuant to Art. 27, RPC. No subsidiary imprisonment in case of insolvency.

Costs against the accused."[2]

Unsatisfied with the verdict, accused-appellants are now before this Court on appeal. However, during the pendency of this case, accused-appellant De Guzman filed an Urgent Motion to Withdraw Appeal,[3] which was granted by this Court in a Resolution dated December 2, 1998.[4] Consequently, the instant appeal pertains only to that of accused-appellant Ramos.

The facts as found by the trial court are as follows:

Sometime in September 1992, Dr. Amadeo Belmonte and his wife Maria Regina Belmonte engaged the services of Renato De Guzman, a welder by profession, to construct and install a water tank in their house in Loakan, Baguio City. De Guzman, in turn, hired Frederick Mosqueda as sub-contractor. While the work was in progress, De Guzman, on October 27, 1992, sent Mosqueda to the house of the Belmontes to ask for an additional P2,000.00 with which to buy paint for the tank. The spouses Belmonte refused to give him the amount because they believed De Guzman had already obtained more than enough to defray the expenses for the construction and

installation of the water tank. In turn, the spouses demanded that De Guzman return the amounts he had already received considering his failure to finish construction and installation of the water tank.

When De Guzman heard what the Belmontes said, he was furious. He then manifested to Mosqueda his intent to kill the Belmontes.

During a drinking spree sometime in November 1992, De Guzman, Paquito Ancheta, Marciano Ramos and Mosqueda planned to break into the house of Dr. Belmonte. Mosqueda was to serve as the look-out. About two (2) to three (3) days later, De Guzman, Mosqueda, Ancheta, together with Rudy Andrada and Rudy Casuga, again gathered in a drinking spree and discussed their plan to enter the house of Dr. Belmonte. Accused-appellant Ramos later arrived and joined them.

On November 28, 1992, the Belmonte couple left for Cabanatuan City. Dr. Belmonte instructed Lolita Valera, a trusted househelp of his father, to accompany Teresa Hape, their househelper, in the house while they were away. In the evening of November 30, 1992, De Guzman and Mosqueda went to the house of the Belmontes on the pretext of delivering the water tank. In fact, their intention was to inspect the layout of the house. That night, they learned from the househelpers that the Belmonte couple was scheduled to return from Cabanatuan City on December 1, 1992. Dr. Belmonte did return on December 1, 1992, but his wife remained in Cabanatuan City to take care of her sick father.

Of the group, only De Guzman, Mosqueda, Ancheta and Ramos decided to pursue their plan. At around 7:00 in the evening of December 2, 1992, the four proceeded to the house of Dr. Belmonte. They alighted in front of a waiting shed near the said house. As planned, Mosqueda remained outside and acted as the look-out while De Guzman, Ancheta and Ramos went inside. After 45 minutes, the white Kia car of Dr. Belmonte sped out of the gate. Mosqueda hid himself as he was afraid he might be seen. But when he saw it was Ramos who was driving the car with De Guzman and Ancheta seated at the back, he yelled at them, but the three did not hear him. In fact, Ramos, Ancheta and De Guzman were in such a great hurry that Ramos even overshot a curve. In their haste, they left behind Mosqueda.

At around 11:00 o'clock that same evening, Marilyn Serran saw a white Kia car pull up in front of her house in Barangay Batakil, Pozorrubio, Pangasinan. She saw Ramos, at that time a member of the Pozorrubio police force, alight from the car followed by De Guzman. When Serran woke up at 4:00 o'clock the next morning, she saw the same white Kia car still parked in front of her house.

A short while later, Gervasio Serran came and asked Marilyn Serran about the car. Gervasio took a closer look at the car, and saw a book and a kitchen knife inside. Suspecting the car to be carnapped, they reported the matter to the police authorities. The policemen from Pozorrubio, Pangasinan, including accused-appellant Ramos, came to investigate.

The robbery and killing of Dr. Belmonte and Teresa Hape were discovered on December 3, 1992. The body of Dr. Belmonte was found hanging with a scarf covering his mouth and his hands tied behind his back. Likewise, the dead body of Teresa Hape was found, her hands and feet were tied, and a cavan of rice was used to cover her face and shoulder. The cause of death of Dr. Belmonte was determined to be "asphyxia secondary to strangulation by ligature and hanging; neurogenic (traumatic) shock due to gunshot wound and multiple stab wounds at the back."^[5] Likewise, the cause of death of Teresa Hape was "asphyxia secondary to strangulation by ligature; hypovolemic shock secondary to penetrating and perforating wounds of the superior vena cava and right lung due to multiple stab wounds in the right anterior chest wall."^[6]

Several attempts were made by the police to arrest accused-appellant De Guzman but he successfully evaded

them. Finally, with the cooperation of his sister Alicia de Guzman, accused-appellant was arrested in Cebu in January 1993. Accused-appellant Ramos, on the other hand, was already a suspect so he was summoned to the PNP Command in Lingayen, Pangasinan on January 20, 1993. Accused-turned-state-witness Mosqueda identified Ramos in a police line-up.

In his defense, accused-appellant De Guzman testified that he last saw Belmonte on December 1, 1992 when he and Paquito Ancheta went to his house and asked him to sign a check for the installation of the water tank. When they arrived at the house of Dr. Belmonte, De Guzman saw Edwin Guadamor and a certain Benny inside drinking coffee. After Dr. Belmonte signed the check, he asked De Guzman and Ancheta to wait for him outside. While outside, they peeped inside the house and saw Edwin and Benny collaring Dr. Belmonte. De Guzman and Ancheta rushed inside to help but Benny hit Ancheta on the leg causing him to fall down. Benny poked a gun at De Guzman. Edwin and Benny then tied the hands of De Guzman, Ancheta, Dr. Belmonte and Hape with electric cords. Dr. Belmonte and Hape were brought inside a room while De Guzman and Ancheta were left near the stairs. Thereafter, Edwin and Benny proceeded to ransack the room. After an hour, Edwin and Benny went out of the room and placed De Guzman and Ancheta at the backseat of a Kia car. Edwin and Benny went back inside the house. Thirty minutes later, Edwin and Benny emerged from the house holding a white bag and a pair of white rubber shoes. Edwin drove the car and when they reached a certain place in the lowlands, they released De Guzman and Ancheta with the instruction not to go back to Baguio City ever. Despite the warning, De Guzman and Ancheta boarded a tricycle and proceeded back to Baguio. De Guzman claimed he only learned of the death of Dr. Belmonte and Hape on December 5, 1992. Anent Mosqueda's testimony against him, De Guzman said that the former had nurtured ill-feelings towards him since he punched him sometime in 1989 or 1990.

Accused-appellant Ramos was a member of the PNP stationed at Pozorrubio, Pangasinan. He denied any knowledge or participation in the crime, and proffered the defense of alibi. He testified that at the time of the commission of the crime, he was in Pozorrubio, Pangasinan. Specifically, from 12:00 o'clock noon of December 2, 1992 up to 8:00 o'clock in the morning of December 3, 1992, he was on duty as building and jail guard in Pozorrubio, Pangasinan. He was not acquainted with De Guzman or Mosqueda. He claimed that he saw Mosqueda for the first time during the police line-up.

The prosecution presented rebuttal evidence. SPO1 Manuel Francisco who testified that he was on duty at the Pozorrubio Police Station from 4:00 o'clock in the afternoon up to 12:00 o'clock midnight of December 2, 1992. He only saw Ramos at around 12:05 in the morning of December 3, 1992 when the latter relieved him from duty. Their turn-over was reflected in the logbook. SPO4 Gloria Torio, administrative officer assigned at Pozorrubio Police Station, testified that Ramos took the weekly detail she posted at the bulletin board of their station and refused to return it to her.

Accused-appellants De Guzman and Ramos filed separate appeals to this Court. But as aforesaid, De Guzman later withdrew his appeal. Thus, this Court has to resolve only the appeal of accused-appellant Ramos. Accused Paquito Ancheta still remains at large.

Accused-appellant Ramos claims that:

I

THE TRIAL COURT ERRED IN GRANTING THE MOTION TO DISCHARGE ACCUSED FREDERICK MOSQUEDA TO BE UTILIZED AS STATE WITNESS.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT MARCIANO RAMOS GUILTY OF

THE CRIME OF ROBBERY WITH HOMICIDE DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND A REASONABLE DOUBT.[7]

This Court is not persuaded. Ergo, the conviction of accused-appellant Ramos for the crime of robbery with homicide is affirmed.

The requirements for the discharge and utilization of an accused as a state witness are enumerated in Rule 119, Section 9 of the Rules of Court, viz:

- (a) There is absolute necessity for the testimony of the accused whose discharge is requested;
- (b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of the accused;
- (c) The testimony of the accused can be substantially corroborated in its material points;
- (d) Said accused does not appear to be the most guilty; and
- (e) Said accused has not at any time been convicted of any offense involving moral turpitude.

Accused-appellant Ramos claims that requirements (a), (b) and (d) were not properly complied with. He insists there is no absolute necessity for the testimony of Mosqueda and that if at all, his testimony would not constitute direct evidence but only circumstantial. He likewise asserts that conspiracy having been clearly established among the malefactors, Mosqueda was equally guilty with the rest of his co-accused. Although Mosqueda did not actually participate in the robbery-killing since his alleged participation was limited to being a look-out, still, he is deemed to have committed the same criminal acts by virtue of the conspiracy. As such, he is equally guilty and should not have been discharged and utilized as a state witness. Since his discharge was erroneous, it follows that his testimony should not have been given credence by the trial court.

While this Court agrees that some of the requirements under Section 9 of Rule 119 for the discharge of Mosqueda to become state witness were not strictly and properly met, nonetheless, this Court does not subscribe to the suggestion of the defense that Mosqueda's testimony should be disregarded. This issue has long been settled. Although the trial court may have erred in discharging the accused, such error would not affect the competency and the quality of the testimony of the defendant.[8] The discharge of an accused under these circumstances is not reversible. Once his discharge is effected, the legal consequence of acquittal follows unless the accused so discharged fails or refuses to testify pursuant to his commitment. The order for his discharge may only be recalled in one instance, and that is when he subsequently fails to testify against his co-accused.[9]

This Court so decreed in *People v. De los Reyes*: [10]

The reasons advanced for the discharge of Cresencio were that (a) the prosecution did not have direct evidence with which to convict all the accused; (b) there was an absolute necessity for the testimony of Cresencio Singue which could be corroborated in its material points; and (c) the said accused did not appear to be the most guilty.

It may be observed that the trial court initially found these grounds to be well-taken and, consequently, granted the discharge of Cresencio. On the other hand, his reinclusion in the Information made two and a half (2 1/2) years after his discharge was based solely on the oral motion of the defense that he was the most guilty considering that he had a written confession where he admitted that he and Faustino x x x were the ones who entered the house they robbed, while their co-accused were left downstairs x x x.

However, in denying the motion to quash, the court a quo considered another ground, i.e., that Cresencio "failed to comply with his commitment to act as a state witness" which, as the records will show, is not correct. For, the

truth of the matter is that no notice was given him for his appearance in court.

It bears stressing that under Sec. 10 of Rule 119, the only instance where the trial court may validly recall its order discharging an accused to become a state witness is when he subsequently fails to testify against his co-accused. That, certainly, is a violation of the condition for his discharge. But, once his discharge from the Information is effected, the legal consequence of acquittal follows and persists unless the accused so discharged fails or refuses to testify pursuant to his commitment. The fact that not all requisites for his discharge are present is not a ground to recall the discharge order. Unless and until it is shown that the discharged accused failed or refused to testify against his co-defendants, subsequent proof showing that any or all of the conditions listed in Sec. 9, of Rule 119 were not fulfilled would not wipe away the resulting acquittal. (*Italics supplied*)

Corrolarily, this same pronouncement was reiterated in *People v. Armada*,^[11] thus:

"The discharge of an accused so he may turn state witness is expressly left to the sound discretion of the court, subject to the conditions prescribed in Rule 115, Section 9, of the Rules of Court. It could be argued that there was no absolute necessity for the testimony of Lorca, considering the eyewitness testimony of Librando. Even so, Lorca's testimony may still be considered under our ruling in *People v. Jamero* (24 SCRA 206), viz: 'This Court has time and again declared that even if the discharged witness should lack some of the qualifications enumerated by Sec. 9, Rule 119 of the Rules of Court, his testimony will not, for that reason alone, be discarded or disregarded. In the discharge of a co-defendant, the court may reasonably be expected to err; but such error in discharging an accused has been held not to be a reversible one. This is upon the principle that such error of the court does not affect the competency and the quality of the testimony of the discharged defendant.'"

Thus, although it appears that the court below erred in discharging accused Mosqueda, his recall at this time would not be proper. If recalled, Mosqueda would be placed in double jeopardy because upon his discharge from the Information, he is deemed to have been acquitted of the charges against him. Besides, there is no proper and valid ground for his recall considering that he testified against his co-accused. To repeat, the only instance when a discharged accused may be validly recalled is when he refuses to testify against his co-accused pursuant to his commitment. Based on the foregoing, the protestation by the defense that "minus the testimony of state witness Frederick Mosqueda whose discharge is in error, the only evidence left for the prosecution are the testimonies of Marilyn Serran and Patricio Domantay,"^[12] would not hold water.

The defense, in its attempt at exculpation, draws the attention of this Court on the credibility of the witnesses presented by the prosecution. It argues that their testimonies are unconvincing, unreliable and insufficient to sustain conviction beyond reasonable doubt.

Again, the argument fails to persuade.

A close and careful scrutiny of the records would reveal that the trial court did not err in its assessment of the facts and the credibility of the witnesses. As such, this Court finds no compelling reason to disturb and depart from such findings. On the issue of credibility, we quote with approval the trial court when it held:

"While the state witness may be himself a culprit, and, therefore, is likely to put the blame on his co-accused rather than himself, yet, it appears from a perusal of his testimony that the same is sincere and given unhesitatingly and in a straightforward manner. Mosqueda's testimony is full of details which by their nature could not have been the result of deliberate afterthought. (*People v. Cuya*, G.R. No. 33046, February 18, 1986) His demeanor, as observed by this Court, exudes an assurance that he is telling the truth unlike that of the other accused which engenders suspicion."^[13]

In the face of his positive identification, the defense of alibi interposed by accused-appellant Ramos fails in the

first instance. Besides, his alibi was not air-tight. He claims to have been in Pozorrubio, Pangasinan at the time of the incident. But the prosecution successfully rebutted this defense by presenting the testimony of SPO1 Manuel Francisco, that accused-appellant was nowhere in the vicinity of their police station at the time of the commission of the crime. In fact, accused-appellant Ramos reported late for duty. Also, the distance between Pozorrubio, Pangasinan and Baguio City can be traversed by car such that accused-appellant could be in Baguio City at 7:00 in the evening and be back in Pozorrubio at 11:00 o'clock of the same evening. Accused-appellant did not present any satisfactory evidence to prove that he was not at the crime scene at the time it was committed and that it would be highly impossible for him to be in that place at that time. Accused-appellant's defense of alibi must therefore fail.

Article 294 of the Revised Penal Code provides in pertinent part:

Any person guilty of robbery with the use of violence or intimidation against any person shall suffer:

(1) The penalty of reclusion perpetua to death, when by reason or on occasion of robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson. xxx

This Court agrees with the trial court that although treachery, use of motor vehicle, dwelling, and nocturnity attended the robbery-killing, still, the proper imposable penalty is reclusion perpetua considering that at the time of the commission of the crime, the imposition of the death penalty was legally proscribed.

However, we do not agree with the award given by the trial court for loss of earnings. As established, Dr. Belmonte was earning an average of P150,000.00 as practicing physician; P20,000.00 as professor of medicine per month or P2,088,000.00 per year. It was likewise established that Dr. Belmonte was only thirty-five (35) years old at the time of his death. Loss of earning capacity is computed based on the following formula:[14]

$$\begin{aligned} & \text{Net Earning Capacity Life expectancy } [2/3 (80 - \text{age at death})] \times \text{Gross annual income (GAI) - Living expenses} \\ & \quad (50\% \text{ of GAI}) \\ & = [(2/3) (80-35)] \times \text{P2,088,000.00} - \text{P1,044,000.00} \\ & = [(2/3) (45)] \times \text{P1,044,000.00} \\ & = 30 \times \text{P1,044,000.00} \\ & = \text{P31,320,000.00} \end{aligned}$$

Thus, the award for loss of earnings is reduced to P31,320,000.00.

As regards the award for actual damages, the same is reduced from P274,809.00 to P113,709.75 since this is the amount that was proved and duly receipted.

The award for moral damages to the legal heirs of Dr. Belmonte is likewise reduced to P50,000.00, in line with prevailing jurisprudence. The lower court should have awarded moral damages for the killing of Teresa Hape considering its finding that aggravating circumstances attended the robbery-killing, in accordance with Article 2230 of the Civil Code. Thus, the award of P50,000.00 as moral damages is warranted under the circumstances. Likewise, the award for exemplary damages is reduced to P20,000.00 each for the heirs of Dr. Belmonte and Teresa Hape.

WHEREFORE, the decision of the Regional Trial Court of Baguio City, Branch 7, finding accused-appellant Marciano Ramos guilty beyond reasonable doubt of the crime of robbery with homicide and sentencing him to suffer the penalty of reclusion perpetua is **AFFIRMED** with **MODIFICATIONS**, as follows:

Accused-appellant is ordered:

1. To restore to the legal heirs of the victim, Dr. Belmonte, the stolen items enumerated in the appealed decision;
2. To indemnify jointly and solidarily the legal heirs of Dr. Belmonte and Teresa Hape in the amount of P50,000.00 each victim;
3. To indemnify jointly and solidarily the legal heirs of Dr. Belmonte for consequential damages as follows:
 - a) P31,320,000.00 representing the lost earnings of Dr. Belmonte;
 - b) P113,709.75 representing actual and/or compensatory damages;
 - c) P50,000.00 as moral damages;
 - d) P20,000.00 as exemplary damages;
4. To indemnify jointly and solidarily the legal heirs of Teresa Hape P50,000.00 as moral damages and P20,000.00 as exemplary damages.

Costs against the accused.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Pardo, JJ., concur.

- [1] Rollo, p. 6.
- [2] Decision penned by Judge Clarence J. Villanueva, Rollo, pp. 71-96.
- [3] Rollo, p. 303.
- [4] Rollo, p. 306-A.
- [5] Medico-Legal Autopsy Report, Exhibit "P".
- [6] Medico-Legal Autopsy Report, Exhibit "Q".
- [7] Rollo, p. 247.
- [8] *People v. Armada*, 225 SCRA 644, 647-648 [1993].
- [9] *People v. De los Reyes*, 215 SCRA 63, 74-75 [1992].
- [10] *Supra*.
- [11] See Note 8.
- [12] Appellant's Brief, Rollo, p. 266.
- [13] Decision, Rollo, p. 85.
- [14] *People v. Jose Silvestre y Cruz*, G.R. No. 127573, May 12, 1999.

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