PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMANO MANLAPAZ Y MARIMLA, RENATO PENA Y BUAN – (AT LARGE), ACCUSED. ROMANO MANLAPAZ Y MARIMLA, ACCUSED-APPELLANT.

G.R. No. 121483. October 26, 1999

Ponente: GONZAGA_REYES, J.

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GONZAGA_REYES, J.:

Before us is an appeal from the decision[1] of the Regional Trial Court (RTC) of Angeles City, Branch 59, dated August 24, 1995, finding the accused–appellant ROMANO MANLAPAZ y MARIMLA guilty beyond reasonable doubt of the crime of Robbery with Homicide in Criminal Case No. 92-484.

The accused-appellant, Romano Manlapaz (MANLAPAZ) was charged together with Renato Pena y Buan the crime of Robbery with Homicide in an amended information[2] that reads:

> "That on or about the 18th day of May, 1992, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, with intent of gain and by means of force, violence and/or intimidation of person, rob, steal, take and carry away from ISRAEL A. LACSON cash money in the amount of P100.00 more or less, against his will and consent and the accused in pursuance of and on the occasion of said Robbery, with treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously with intent to kill, attack, assault, shoot and hit the victim on the head, thereby inflicting upon the latter gunshot wound, causing the death of the said ISRAEL A. LACSON.
>
> ALL CONTRARY TO LAW."

On July 2, 1992, the accused was arraigned and entered a plea of not guilty to the crime charged.[3] Renato Pena remained at large.

The lower court summarized the facts as follows:

> "A perusal of the evidence presented shows that on May 18, 1992, victim Israel Lacson and witness Ruel Lopez Dayrit were on board the passenger jeepney of the former plying the route from Dau, Mabalacat, Pampanga, going towards Angeles City proper. Along Henson Street at the railroad crossing, they picked up two (2) male passengers. Upon reaching Henson Street in front of Sembrano Battery Shop, one (1) of the two (2) male passengers ordered the driver, Israel Lacson to stop as they were to alight from the said vehicle. Israel Lacson stopped the vehicle and demanded payment for the fare. Instead of paying the fare, the two (2) passengers poked their guns at Israel Lacson. One of them suddenly held the head of Ruel Lopez Dayrit who was occupying the front seat beside the driver, while the other grabbed the money box. When Israel Lacson refused to give the money box, he was shot at the head causing his death. Ruel Lopez Dayrit identified accused Romano Manlapaz as one of the two (2) passengers who held them up by taking the box containing the passengers' fares and in the process killing the victim-driver.
>
> The widow incurred expenses for hospitalization in the sum of P3,500.00 (Exh. D and submarkings), for burial

> and funeral expenses in the sum of P3,500.00 (Exh. "I") and P7,500.00 (Exh. "F").
>
> The defense put up by the accused is a bare denial. Although he admitted having boarded the passenger jeepney being driven by the victim at that time and having witnessed the incident, he denied being one of the two (2) perpetrators of the crime. His mere denial as against his positive identification made by eyewitness Roel Lopez Dayrin will certainly crumble. He never reported the incident to the police. The defense failed to establish any ill motive on the part of the principal witness for the prosecution as to why the accused should be implicated falsely.
>
> Although the prosecution was not able to prove actual agreement of conspiracy, the same can be deduced from the acts of the two (2) accused. Both accused boarded the jeepney at the same time. They poked their guns at the victim and after shooting the victim both left the scene of the crime together. When there is conspiracy, the act of one is the act of all. It is no longer necessary to determine the identity of the actual person who shot the victim.
>
> Par. 1 of Article 294 of the Revised Penal Code provides that when by reason or on occasion of the robbery, the crime of homicide shall have been committed, the penalty of reclusion perpetua to death shall be imposed. There being no modifying circumstances in attendance, the penalty imposable in this case is reclusion perpetua."[4]

On June 26, 1995, the lower court rendered its decision finding accused MANLAPAZ guilty beyond reasonable doubt of the crime of Robbery with Homicide, the dispositive portion of which reads:

> "WHEREFORE, finding the accused, ROMANO MANLAPAZ y MARIMLA, guilty beyond reasonable doubt of the crime of Robbery with Homicide, said accused is hereby sentenced to suffer the penalty of reclusion perpetua. He is also ordered to pay the heirs of the victim Israel Lacson the sum of P3,500.00 for hospitalization expenses and P11,500.00 for burial and funeral expenses and the sum of P50,000.00 as indemnity."[5]

Hence, this appeal where the accused-appellant assigns the following error:

> "THE COURT A QUO MANIFESTLY ERRED IN CONVICTING APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVED BEYOND REASONABLE DOUBT."[6]

Accused-appellant admits that he was a passenger of the jeep of the victim, Israel Lacson (LACSON) but denies that participated in the commission of the crime. He insists that when he boarded the jeep he sat himself at the back of the jeepney as there were already several passengers on board at that time. Then the man seated behind the driver ordered the driver to stop the jeep when they were in front of the battery shop; as soon as the driver stopped the jeep, he heard an explosion and he saw the driver fall down as a result of a gunshot fired by the man seated behind the driver. He then alighted from the jeep and ran away together with the other passengers. As soon as he arrived home, he told his mother about the incident. The police arrested him the next day and he was brought to the police station where he saw Ruel Lopez Dayrit (DAYRIT) for the first time.

In support of his claim, accused-appellant argues that he was not clearly, convincingly and positively identified as the perpetrator of the crime charged. Prosecution witness DAYRIT did not have ample opportunity to see the faces of the alleged malefactors; and in fact did not actually see who fired the gun. Moreover, DAYRIT could not have positively identified him because he himself admitted that he was in shock after the incident occurred. The fact that he also failed to recall the caliber of the guns being carried by the robbers demonstrates his inability to recall the events that transpired that night. Consequently, his recollection of what actually occurred is necessarily tainted.

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Accused-appellant also claims that the prosecution failed to prove the existence of a conspiracy in view of the unpersuasive, unreliable and incredible testimony of DAYRIT. A conspiracy is not presumed but must be proven beyond reasonable doubt.

We resolve to affirm the judgment of conviction.

Accused-appellant attacks the credibility of the prosecution witness, DAYRIT, and claims that his identification of accused-appellant was not positive. We have carefully gone over the records and find nothing in his account of the events that would show that his testimony suffers from incredibility. He testified as follows:

> "FISCAL BUAN TO DAYRIT ON DIRECT EXAMINATION:
>
> Q: On May 18, 1992, around 10:00 o'clock in the evening, where were you if you still recall?
>
> A: I was with Israel Lacson, sir.
>
> Q: What were you doing with your companion Israel Lacson, if you were doing anything?
>
> A: We were flying our route, sir.
>
> Q: You said you were flying your route Mr. Witness, who was driving at that time between you and Israel Lacson?
>
> A: Israel, sir.
>
> Q: How about you, what were you doing then?
>
> A: I was beside him, sir.
>
> Q: On that particular date and time Mr. Witness, where were you heading?
>
> A: We were heading Angeles City from Dau.
>
> Q: So you were trying to impress this Court you were accompanying Israel Lacson while flying his route?
>
> A: He took me along with him.
>
> Q: While you accompanied Mr. Lacson in flying his route, do you recall if you take-in passenger?
>
> A: Yes, sir.
>
> Q: And do you recall that place where you had the occasion to pick-up passenger?
>
> A: At crossing, sir.
>
> Q: When you picked-up passengers on that time, do you recall how many you picked up?
>
> A: Yes, sir, two.
>
> Q: And these two persons, what sex do they belong?
>
> A: Male, sir.
>
> Q: These two persons who boarded your jeepney, where did they sit?
>
> A: At our back, sir.
>
> Q: While you were on board of the jeepney, Mr. Witness, do you recall of any unusual incident?
>
> A: Yes, sir.

Q: And what was that unusual incident that you recall?

A: While they were on board the jeep, they informed us to stop in front of Sembrano.

Q: What did you do when they asked that the jeep be stopped in front of Sembrano Battery Shop?

A: The two male persons alighted.

Q: What happened next if any?

A: Israel asked for their fare since they did not pay.

Q: When the two persons who alighted did not pay, what did you do if you did anything?

A: Israel asked for their fare and they were near Israel on the side of the jeep.

Q: What did they do when they went on the side of Israel?

A: They poked a gun to israel.

Q: Who poked a gun?

A: Both of them, sir.

Q: Aside from pointing a gun to Israel, what else did they do if they did anything?

A: They took the money from him.

Q: And the money which was taken from Israel, where was it located?

A: At the box where the money are being placed.

Q: Were they successful in taking the money?

A: He refused to give them.

Q: What happened next after Israel Lacson refused to give this box of money to these persons?

A: One of them pulled me outside of the vehicle.

Q: How did he pull you out?

A: He held me by the head, sir.

MS. GARCES: (OIC)

Witness demonstrating by holding his hair.

FISCAL BUAN: (to witness)

Q: Towards what direction were you pulled by this person?

A: Away from the driver.

Q: After you were pulled by one of these persons, what happened?

A: The two persons fired a shot.

Q: Do you know if someone was shot by the fire?

WITNESS:

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A: Yes, sir, there was.

Q: Who was that person whom you know was shot by that gunshot?

A: Israel.

Q: Did you see Israel when he was shot?

A: I just saw him stumble on my lap, sir.

Q: Were you able to see what part of his body was shot?

A: Yes, sir.

Q: What part was that?

A: Head, sir.

Q: After Israel Lacson was shot Mr. Witness, what did you do if you did anything?

A: I was shocked for about 10 minutes, and then I asked for help.

Q: From whom did you ask for help?

WITNESS:

A: The PC came and I asked help from them.

FISCAL BUAN: (to witness)

Q: What did you do with Mr. Israel Lacson, if you did anything?

A: We brought him to the hospital, sir.

Q: To what hospital did you bring him?

A: Angeles Medical Center.

Q: While you were bringing him at the Angeles Medical Center, what was his condition?

A: He breathed a little, sir.

Q: How about upon reaching Angeles Medical Center, what was his condition?

A: He was lifeless already.

Q: Now Mr. Witness, if you see these two persons who boarded your jeep, will you be able to recognize and identify them?

A: Yes, sir.

Q: Kindly look around the courtroom and see if both or one of them are present?

A: Only one of them, sir.

Q: Will you please point to him.

A: That man, sir.

MS. GARCES: (OIC)

Witness pointed to a man wearing white t-shirt, who, when asked, stood-up and gave his name as Romano

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Manlapaz.

Q: This person whom you pointed a while ago, what was his participation?

A: Both of them poked a gun, sir.

Q: Aside from this person poking a gun, what else did he do?

A: He was the one who pulled me away from the jeep.

Q: Aside from that?

A: They were grabbing for the money.

FISCAL BUAN: (to witness)

Q: Mr. Witness, did you report this incident to the police?

A: Yes, sir."[7]

While on cross-examination, DAYRIT testified as follows:

"ATTORNEY BALDERAMA TO DAYRIT:

ATTY. BALDERAMA:

Q: Prior to May 18, 1992, do you know already the Accused, Romano Manlapaz?

A: No, sir.

Q: You testified in your direct testimony, that you are a driver by occupation?

A: No, sir. A carpenter.

Q: On May 18, 1992 you said you were with Israel Lacson, who was a driver and according to you you were plying the route of Dau and Angeles City?

A: Yes, sir.

Q: Why were you with Israel Lacson on May 18, 1992?

A: I was with him in plying the route, sir.

Q: What were you doing to that jeepney with Israel Lacson, while you were plying a route of Dau to Angeles?

A: I was his backride, sir.

Q: Do you recall what time was that while you were plying the said route?

A: At about 6:30 in the morning, sir.

Q: You likewise testified that while plying the route from Dau to Angeles City, you were able to pick-up two (2) passengers crossing in Marisol?

A: Yes, sir.

Q: What time was that when those 2 passengers boarded the jeepney being driven by Israel Lacson?

A: We had already some rounds, it was about 10:00 o'clock P.M., sir.

Q: When those 2 male passengers boarded the jeepney on May 18, 1992 crossing Marisol were there any other

passengers boarded the jeep at that time?

A: No more, sir.

Q: When these 2 male passengers boarded the jeepney driven by Israel Lacson, do you recall were those 2 persons seated?

A: At the back, sir.

Q: While you are proceeding towards Angeles City with these 2 male passengers inside your jeep were there any other who boarded the jeepney aside these 2 passengers?

FISCAL:

That was already answered, Your Honor, there were only 2 passengers.

COURT:

Sustain.

ATTY. BALDERAMA:

Q: From the moment, the 2 male passengers boarded the jeepney, were there any other passengers boarded your jeepney while driving along Angeles City?

A: No more, sir.

Q: You want to impress the Court that from the time these 2 male passengers boarded the jeepney, there were no other passengers boarded the jeepney but only the 2 male passengers?

A: Yes, sir.

Q: You testified also during your direct testimony that you were present when the alleged accused poked his gun to the driver, Israel Lacson, were according to you Israel Lacson stumbled right at your lap and you want to impress the Hon. Court that you actually saw the incident?

A: Yes, sir.

Q: But you did not immediately report the matter to the police, is that correct?

A: We reported it on May 19, 1992, after the incident, sir.

Q: What police precinct did you report the incident?

A: It was the policeman who came to the hospital and that was the time they took report from us, sir.

Q: So you did not go to the police to report the matter but it was the police who went to the hospital and investigate there?

A: Yes, sir. He asked me about the 2 accused.

Q: Do you recall who was the police officer who investigated you at the hospital?

A: No, sir.

Q That police officer went to the hospital that was on May 18, 1992?

A: Yes, sir. Because they were the ones who brought the victim to the hospital.

Q: Were you able to see the police to the hospital who conducted investigation there?

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A: Yes, sir.

Q: Did you tell him that you were there when this Israel Lacson was gundown by the 2 accused?

A: Yes, sir.

Q: Did you give any written statement to the police on May 18, 1992, after you reported that you were the eye witness of that incident?

A: The following day, sir that was on May 19, 1992 and that was the time when I gave my statement to the police.

Q: Did you voluntarily go to the police or did the police fetch you somewhere else in order to give your statement?

A: I voluntarily went there, sir.

Q: Who was your companion in going there?

A: The brother of Israel Lacson, sir.

Q: By that time were you able to know that the accused were already apprehended when you gave your statement to the police on May 19, 1992?

A: Yes, sir.

Q: How did you able to know that the accused were already apprehended?

A: The brother of Israel Lacson told me that they were already apprehended, sir.

Q: Before that time, you have no idea about how the accused look like prior to your statement to police on May 18, 1992?

A: No, sir.

Q: When you gave your statement to the police on May 19, 1992, did the police tell you that the accused were already apprehended?

A: They were told to go out from the cell and I was told to point the accused, sir.

Q: Who were told to go out from the cell?

A: There were five (5) persons that were told to go out from the cell, sir.

Q: What did the police officer do with those five (5) persons that were told to go out from the cell?

A: They were told to seat there and they told me to pin point the accused among those five (5) persons, sir.

Q: Were you able to pinpoint the accused while those five (5) persons sitting down?

A: Yes, sir.

Q: What was your basis, why you pinpointed particularly that one of the five (5) persons from that cell as one of the culprits of that shooting incident?

A: Because they boarded the jeep that is why I know them, sir.

Q: But you just stated before that you no idea as to the identity of the accused?

FISCAL

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That is misleading, Your Honor. The accused who was one of the two persons who boarded the jeep and that the basis of the witness why he pinpointed one of them because they boarded the jeep that is why he knew them.

COURT:

Sustained.

ATTY. BALDERAMA:

Q: And the person you pointed out to the police precinct was the accused, referring to Romano Manlapaz?

A: Yes, sir.

Q: Did you confront Romano Manlapaz, as one of the accused?

A: I just went near him and I pointed him as one of the accused, sir.

Q: Did you not talk to accused Romano Manlapaz when you pointed him?

A: No, sir. Because I do not know him.

Q Did you hear any answer from Mr. Manlapaz whenyou pointed to him that he was the assailant in the shooting incident?

A: None, sir. He was not telling anything."[8]

On re-direct examination, DAYRIT also established that money was in fact taken from the moneybox:

"ATTY. CARREON to LOPEZ:

Q: You stated in your Affidavit which was marked as exhibit "A" for the Prosecution, that money from the money box was taken by one (1) of the accused, is that correct?

A: Yes, sir, the money.

Q: Who did you know took the money?

A: Because when they were taking the money, I heard a gunshot, sir. And he told me to get the money.

Q: On that box, were there paper bills or coins?

A: There were paper bills and coins, sir.

Q: Do you know how much money was contained in that box? Paper bills and coins?

A: I was not able to count them, sir.

Q: Meaning you do not know the amount?

A: No, sir."[9]

DAYRIT's identification of accused-appellant Romano Manlapaz was positive and categorical. Although he did not previously have an idea about the identity of the accused-appellant, he clearly saw the incident occur as he was seated beside the driver, the deceased, when the accused-appellant together with his companion boarded the jeep and poked a gun at the driver. When the driver refused to give the money, DAYRIT was pulled by the hair away from the driver, who was later shot in the head. DAYRIT was able to pinpoint the accused-appellant from a police line-up of five inmates, and eventually identified the latter in court. His testimony is corroborated by the testimony of Dr. Dominic L. Aguda on the findings of the autopsy report[10] he prepared. Dr. Aguda's testimony

tallies with the testimony of DAYRIT that LACSON was shot from the right side of the jeep or from where DAYRIT was seated. Dr. Aguda testified that:

> "SP. COUNSEL BUAN TO DR. AGUDA ON DIRECT-EXAMINATION:
>
> Q: Since you were the one conducted the autopsy, can you inform us the relative position of the assailant, taking into consideration the location of the wound sustained by the victim?
>
> A: If I am the victim, the assailant must have been at his side (Witness referring to his right side), around forty-five (45°) degrees, pointed the gun at any horizontal line and the assailant must have been in the higher position than the victim, Ma'am."[11]

Even if DAYRIT admitted that he was in a state of shock for ten minutes after the incident occurred, this is not sufficient to impeach his testimony and his identification of MANLAPAZ as the perpetrator of the robbery. "It is the most natural reaction for victims of criminal violence to ascertain the appearance of their assailants and observe the manner in which the crime was committed."[12] Although a shocking experience may distort the pattern of reaction of a witness, there is no evidence to show that DAYRIT was so petrified with fear that made him incapable of identifying the assailant. On the contrary, DAYRIT was unwavering and steadfast in his assertions in his above-quoted testimony that MANLAPAZ was one of the assailants.

Moreover, this Court has ruled on countless occasions that the trial court is in the best position to determine facts and to assess the credibility of witnesses as it is in a unique position to observe the witnesses' deportment while testifying which opportunity the appellate court is denied on appeal; this Court will respect the findings and conclusions of the trial court provided that they are supported by substantial evidence on record.[13] We find no cogent reason to disturb the trial court's appreciation of the evidence and find no basis in the record to rule that DAYRIT's testimony was not credible.

In addition, the appellant has failed to show any improper motive on the part of the DAYRIT to falsely impute such a terrible crime to him. The testimony of a single witness, when credible and trustworthy, is sufficient to convict[14] and must be given full faith and credence when no reason to falsely testify is shown.[15]

As for the conspiracy, suffice to say that a conspiracy may be deduced from the mode and manner by which the offense was perpetrated provided that it be established by positive and conclusive evidence.[16] In the present case, the prosecution sufficiently established the existence of the conspiracy and we quote with approval the findings of the lower court on this point:

> "Although the prosecution was not able to prove actual agreement of conspiracy, the same can be deduced from the acts of the two (2) accused. Both accused boarded the jeepney at the same time. They poked their guns at the victim and after shooting the victim both left the scene of the crime together. When there is conspiracy, the act of one is the act of all. It is no longer necessary to determine the identity of the actual person who shot the victim."[17]

Finally, accused-appellant's defense of denial is self-serving as it is unsubstantiated by clear and convincing evidence; it cannot be given greater evidentiary weight over the testimony of a credible witness who testified on affirmative matters.[18]

We come now to the imposition of the proper penalty.

The crime of robbery with homicide is a special complex crime punishable under Article 294 of the Revised Penal Code with reclusion perpetua to death. Considering the absence of any modifying circumstance, the penalty imposable in the present case is reclusion perpetua.[19]

We sustain the awards for actual damages amounting to P11,500.00 for burial and funeral expenses but reduce the amount granted for hospitalization expenses to P3,466.00. These are the amounts duly substantiated by receipts.[20] This is in consonance with this Court's ruling that it can only grant such amount for expenses, which are duly supported by receipts.[21]

We also affirm the award of P50,000.00 as indemnity for the loss of LACSON's life as this is in accord with prevailing jurisprudence.[22]

WHEREFORE, the appealed decision of the Regional Trial Court is hereby AFFIRMED, and the accused-appellant is found GUILTY OF ROBBERY WITH HOMICIDE and sentenced to reclusion perpetua. Accused-appellant is further ordered to pay the heirs of the victim the following: (1) death indemnity of P50,000.00 and (2) actual damages amounting to P11,500.00 for burial and funeral expenses and P3,466.00 for hospitalization expenses.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

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[1] Penned by Judge Eliezer R. De Los Santos, Rollo, pp. 16-20.

[2] Record, pp. 4-5. The information was amended to include RENATO PENA y BUAN instead of a John Doe as accused.

[3] Record, p. 28.

[4] Decision, pp. 3-4; Rollo, pp. 18-19.

[5] Decision, p. 4; Rollo, p. 19.

[6] Appellant's Brief, p. 1; Rollo, p. 73.

[7] T.S.N., September 2, 1992, pp. 3-11.

[8] T.S.N., September 16, 1992, pp. 2-5.

[9] T.S.N., October 28, 1992, pp. 4-5.

[10] Exhibit "K", Exhibits Folder.

Findings:

"ENTRANCE – 0.9 cms. X 1.1 cms. (sutured) located at the right parieto-ocipital region of the head, 9.0 cms. Above and 1.5 cms. In front of the right external auditory meatus directed backwards, downward and to the left involving the right parieto-occipital lobe and the occipital lobe of the brain were the bullet was lodged and recovered."

[11] T.S.N., December 17, 1992, p. 11.

[12] People vs. Martinez, 274 SCRA 259 at p. 269[997].

[13] People vs. Mahinay, G.R. No. 122485, February 1, 1999 at p. 16; People vs. Banela, G.R. No. 124973, January 18, 1999 at p. 5.

[14] People vs. Bajar, 281 SCRA 262 at p.[1997].

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[15] People vs. Mahinay, Supra.

[16] People vs. Berroya, 283 SCRA 111 at p. 129[1997].

[17] Decision, p. 4; Rollo, p. 146.

[18] People vs. Zamora, G.R. No. 107746, July 28, 1999 at p. 7.

[19] Article 63, Revised Penal Code.

[20] Exhibits “D”, “D-1”, “D-2”, “D-3”, “D-4”, “D-5”, “F” and “I”.

[21] People vs. Gutierrez, Jr., G.R. No. 116281, February 8, 1999 at p. 24.

[22] People vs. Verde, G.R. No. 119077, February 10, 1999 at p. 17.

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