

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TITING ARANAS @ TINGARDS/RONNIE, ANGELO PARACUELES, JUAN VILLA @ JUANTOY, ELMER MANALILI, ET AL. ACCUSED.

G.R. No. 123101. November 22, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is an appeal from the decision[1] of the Regional Trial Court of Bohol, 7[th] Judicial Region, Branch 3, Tagbilaran City finding accused-appellant Elmer Manalili guilty beyond reasonable doubt of the crime of qualified piracy and sentencing him to suffer the penalty of reclusion perpetua and to indemnify certain individuals.

The Information indicting appellant reads:

That on or about the 15[th] day of December, 1992 in the seawaters of the municipality of Ubay, Province of Bohol, Philippines, which is part of the Philippine waters and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring, confederating and mutually helping one another, with intent to gain, and by means of violence against or intimidation of persons, did then and there willfully, unlawfully and feloniously seize by boarding a passenger sea vessel M/V J & N Princess, owned by one Nelson Uy and under the complement of Gervacio Uy and Saturnino Gaudicos with 19 officers and crew members and while on board said vessel, seized its radio and subsequently demanded and divested them and its passengers cash in the amount of P200,000.00, Philippine Currency and valuables and equipments worth P350,000.00, Philippine currency or in the total amount of Five Hundred Fifty Thousand Pesos (P550,000.00), Philippine Currency, and on the occasion of said piracy, accused committed the crime of physical injuries on the person of Ernesto Magalona, the quarter master; to the damage and prejudice of the offended parties in the above stated total amount.

Acts committed contrary to the provisions of Art. 123 of the Revised Penal Code, as amended by PD 532.[2]

Accused Titing Aranas alias Tingards, Angelo Paracueles, Juan Villa alias Juantoy, Gaudencio Tolsidas and Rodrigo Salas remain at large. Hence, this case proceeded only against appellant Elmer Manalili who was arrested on January 21, 1993 in Cebu City.

When arraigned on August 23, 1993, appellant Manalili pleaded not guilty.[3] He also waived his right to pre-trial. Thereafter, trial ensued.

The prosecution presented the following testimonial evidence:

Prosecution witness Gervacio Ong Uy, 62, operations manager of the cargo-passenger vessel M/V J & N Princess, testified that at 9:40 in the evening of December 15, 1992, Tuesday, he boarded said vessel. The vessel plies the route between Ubay, Bohol and Cebu (and vice-versa) every other day or every Sunday, Tuesday and Thursday. It leaves the port of Ubay, Bohol at 10:00 o' clock in the evening. About twenty minutes after departure on said date, he went down to urinate at the lower deck. After urinating, two persons were standing behind him; one was

pointing a gun at his back and the other was holding his collar. They ordered him to go upstairs to the third or upper deck. Arriving there, they told him to open the radio room, and they destroyed the radio. They also ordered that all lockers of the room be opened. They told him that they were military men looking for firearms and shabu. He opened all lockers except that of quartermaster Ernesto Magalona, who was not around as he was hiding. The crew members looked for him, and when he appeared, the pirates scolded and hit him with an armalite. He was about 3 meters away from Magalona. Magalona opened his locker but the pirates were not able to find anything inside. When the locker was opened, he saw that the left hand of one pirate had a tattoo with the initials "G.V." [4]

The pirates took from Gervacio Uy P30,500.00 in cash and his wristwatch worth P1,500.00. From an inventory made by the purser, the pirates divested from the passengers P200,000.00 in cash, and P300,000.00 worth of personal belongings including radio and jewelry. [5]

After the robbery, the leader of the pirates told the quartermaster to stop the engine of the vessel, then there was a gunshot, which was apparently a signal for the get-away pumpboat. Before the pirates left, they told Uy's group not to go back to Ubay, but to proceed to Cebu, otherwise the boat would be strafed. Nevertheless, they proceeded to Talibon, Bohol in order to report the incident to the police. They arrived in Cebu at 5:00 o'clock in the morning of December 16, 1992. [6]

Gervacio Uy declared that he identified the two persons who initially pointed a gun at him through pictures. The one who pointed an armalite at him was about 5'6" in height, regular in built, brown complexion, with straight hair and between 25 to 28 years old. The second man was older, about 42 years old, 5'3" or 5'4" in height, medium built with brown complexion and black hair; he was carrying what looked like an uzi gun. From pictures presented by the Central Intelligence Service (CIS) when he was investigated, he identified the two as Titing Aranas and Paracueles, all at large. When appellant Elmer Manalili was presented during the preliminary investigation before the municipal judge of Ubay, he told Municipal Judge Napuli that his face was familiar among the eight pirates. However, quartermaster Magalona and Boiser, a passenger, identified him as one of the pirates. [7]

On cross-examination, Gervacio Uy said that out of the 20 pictures presented to him for identification by the CIS, he only positively identified Titing Aranas and Angelo Paracueles. He saw Elmer Manalili for the first time when he was presented before Judge Napuli for investigation. [8]

Prosecution witness Ernesto Magalona, 39, quartermaster of M/V J & N Princess since 1991 to the present, testified that on December 15, 1992, he was on board the said vessel which left the port of Ubay, Bohol bound for Cebu at 10:00 o'clock in the evening. He was off-duty then. At the time of the robbery, he was on the second deck of the boat. He was lying on his cot near the passage way leading to the upper deck when someone shouted, "Ayaw paglihok kay duna mi pangitaon nga shabu ug armas nga uzi," meaning, "Do not move, we are searching for shabu and uzi gun." Then he saw their manager Gervacio Uy being escorted by two armed men. One was armed with an armalite pointed at Uy. The other man was also armed because something was bulging at his waist, but he did not see the kind of firearm he was carrying. He could identify the two armed men who escorted Uy, because he was about three to four meters away from them and the place was well illuminated with fluorescent lights. He identified one of the said armed men by pointing to a person inside the court room who, when asked his name, answered that he was Elmer Manalili. He declared that the other man carried a long firearm. Describing the manner Uy was escorted, he said that the man holding the armalite was also holding the collar of Uy and pushing him while appellant followed. Uy and the two armed men eventually reached the third deck where the armed men destroyed the radio. He came to know that the radio was destroyed because the purser who came from the third deck looking for him told him so. He tried to cover his face with his malong, but ultimately a pirate saw him and struck him with his gun hitting his right ear so he was forced to stand up and go with them to the third deck. When

he was at the third or upper deck, Uy was on his way down to the second deck escorted by appellant. Immediately after his locker was opened, he was instructed to return to his cot and ordered to lie down.[9]

Magalona said that there were about eight (8) pirates. He could only remember and identify the two armed men who escorted Gervacio Uy because the movements of the pirates were so fast and coordinated. He could remember Elmer Manalili because he was facing him and he saw him frontally. The pirates divested the passengers of their belongings. His wallet containing P1,000.00 was taken.[10]

On cross-examination, Magalona stated that when the robbers announced a hold-up, he was lying down. They were ordered to remain lying down, face down for less than an hour. The robbers were in pairs stationed at the lower deck, second deck and third deck while the other two made rounds of these decks. When the passengers were divested of their belongings, operations manager Uy was at the third or upper deck escorted by the two armed men, one of whom was the appellant. He was positive that from the start, the two armed men escorted Uy from the comfort room at the lower deck to the second deck and then the third or upper deck where the radio room was located. They did not separate from Uy but always followed him, and he had a good look at them when they passed by the second deck.[11]

After the incident, Magalona saw the appellant at the office of the chief of police in Ubay, Bohol and then during the investigation at the office of the municipal judge. He also saw the appellant from pictures of suspects shown to him at the office of the chief of police.[12]

Prosecution witness SPO2 Alex Henson Reyes, a member of the Philippine National Police (PNP), Ubay, Bohol, testified that on December 15, 1992 he was a passenger of M/V J & N Princess bound for Cebu. He was asleep when the boat left the port of Ubay, but was awakened by a gunfire. Then he saw a pirate aiming an armalite rifle, and another one, about 16 years old, aiming his carbine rifle, at him. Another pirate got his bag, and taken therefrom was his service revolver, a caliber .38 Smith and Wesson, issued by the Chief of Police. The gun had twelve (12) rounds of ammunition. After the incident, he went to the PNP in Bohol, and from pictures that were shown to him, he identified the pirate who got his bag as Angelo Paracueles. He did not see the appellant during the incident.[13]

Due to fright suffered at the time of the incident, SPO2 Reyes asked for moral damages of P50,000.00, and actual damages of P50,000.00 for the loss of the gun, and P288.00 for the 12 rounds of ammunition.[14]

Prosecution witness PO3 Saul Pino Cuyno,[15] a member of the PNP, Ubay, Bohol, testified that in the evening of December 15, 1992, he was also a passenger of M/V J & N Princess. The pirates took from him P80.00 in cash and his watch worth P4,000.00. The armed men mentioned by SPO2 Reyes were the same men who aimed their guns at him. From pictures that were shown to him after the incident, he identified one of the armed men as Angelo Paracueles.[16]

On the other hand, appellant Elmer Manalili denied that he was involved in the piracy committed on board M/V J & N Princess in the evening of December 15, 1992 in the seawaters of Ubay, Bohol inasmuch as he was in his residence in Cebu City at that time.

Defense witness Jeffrey Dadula Perandos, 26, single, third year high school, industrial painter, testified that he knew appellant since they were neighbors at Cabantan St., Mabolo, Cebu City. Appellant started to live there when he was eight (8) years old and stayed with his elder brother Junior Manalili. He does not know appellant's father because the latter died in Camotes Island before appellant transferred to Mabolo, Cebu City. In 1989, appellant married Cherry Mae Elimino from Lutopan, Cebu. After their marriage, they stayed in Lutopan for a while, and resided in Nivel, Lahug, Cebu City in October or November 1992.[17]

Perandos said that he has been working as an industrial painter since he was 15 years old. In December 1992, he was hired to paint the house of Mr. Chua in La Guardia, Lahug, Cebu City. His companions were appellant, Reynaldo Cardona, Ernesto Dadula and master painter Nicomedes Baguio who was the head of their group. They started painting the house of Mr. Chua sometime during the first week of December, but he did not finish painting the house because he transferred to another painting job at Basak, Mandaue and stopped working with Mr. Chua about the end of January 1993.[18]

According to Perandos, when they started working at La Guardia, he and Reynaldo Cardona slept at appellant's house. On December 14, 1992, he, appellant and Reynaldo Cardona started painting the house of Mr. Chua at 8:00 o' clock in the morning and stopped working at 5:00 o' clock in the afternoon. Then they proceeded to the house of appellant together with Reynaldo Cardona and ate supper there at 8:00 o' clock in the evening. Appellant's wife was not around because she was working as an entertainer in a karaoke bar. Thereafter, they had a drinking spree, and then slept in appellant's house. The next day, December 15, 1992, they went to work at the Chua's residence early in the morning and stopped working at 5:00 o' clock in the afternoon. They proceeded to appellant's house and arrived there at 6:00 o' clock in the evening. Appellant's wife was still around and they ate supper with her. She left for work at 6:30 in the evening. Appellant was left to take care of their child. After supper, he, Reynaldo Cardona and appellant were drinking until 10:00 o' clock in the evening. Appellant slept ahead of them at 11:00 o' clock that night.[19]

Perandos stated that appellant was working continuously at the Chua's residence from the first week of December until his arrest at about 7:00 o' clock in the evening of January 21, 1993. He knew of the arrest because appellant was arrested at the side of his house. At that time, appellant went to his house in order for them to borrow money from a close friend, money lender Cecilia Gupta. After the arrest, he visited appellant at Camp Sotero Cabahug, Cebu City and asked why he was arrested. Appellant said he was only a suspect.[20]

On cross-examination, Perandos said that he was asked to testify by appellant's wife, Cherry Mae, and appellant himself in a letter handcarried by Cherry Mae. In said letter, appellant also asked Reynaldo Cardona, his neighbor, to testify for him. Appellant's wife paid for his fare.[21]

Defense witness Reynaldo Gupta Cardona, 21, single, elementary graduate, painter, and a resident of 55-B Cabantan Street, Barangay Mabolo, Cebu City, testified that appellant resided in Nivel, Lahug, Cebu City. He knew appellant since they worked together in painting the house of Alfonso Chua at La Guardia, Lahug, Cebu City. Aside from appellant, his other companions were Jeffrey Perandos, Ernesto Dadula and Nicolas Baguio. They started painting in December 1992 and finished the work in February 1993. However, appellant was arrested on January 21, 1993 so only four of them finished the painting job.[22]

Cardona stated that on December 14, 1992, he, appellant and Jeffrey Perandos started painting the house of Mr. Chua at 7:00 o' clock in the morning, and stopped working at 5:00 o' clock in the afternoon. Then they proceeded to the house of appellant where they slept to save on fare. They ate supper at 6:00 o' clock in the evening together with appellant's wife Cherry Mae, who did not work as it was her day-off. Appellant went to bed at past 7:00 o' clock in the evening, and slept with his child. He and Cherry Mae talked about her work, while Jeffrey Perandos listened. They all slept at 10:00 to 11:00 o' clock that night. The following day, December 15, 1992, they went to work at Mr. Chua's residence at 7:00 o' clock in the morning. They stopped working at 5:00 o' clock in the afternoon, then proceeded to appellant's house. They ate supper at 6:00 o' clock in the evening with Cherry Mae as it was still her day-off. Appellant slept ahead because he had to make his child sleep. They conversed with Cherry Mae after they cleaned the house, and slept at past 10:00 o' clock that night. The following day, December 16, 1992, he woke up ahead and prepared his "baon" at 5:50 in the morning. Appellant and Jeffrey Perandos woke up at the same time. Appellant played ball with his child. They left for work at past 6:00 o' clock in the morning, and

started working at 7:00 o' clock. His companions were appellant, Jeffrey Perandos, Nicolas Baguio and Ernesto Dadula.[23]

On cross-examination, Cardona said that appellant's wife requested him to testify in this case, and gave him P70.00 for fare. On December 3, 1993, she gave him and Jeffrey Perandos more than P200.00.[24]

On re-direct examination, Cardona clarified that while they were staying at appellant's house when they were then painting the house of Mr. Chua, they contributed money for their food.[25]

Defense witness Cherry Mae Manalili declared that she was appellant's wife. In December 1992, her husband was a painter. She knew Jeffrey Perandos and Reynaldo Cardona since the time they had a painting job together with her husband at the Chua's residence in La Guardia, Lahug, Cebu City. At that time, her family consisting of her husband and one-year-old child, was residing at Nivel, Lahug, Cebu City. They rented a room and kitchen from one Nang Ason in the middle of November. She was then working at the X-O Karaoke Bar. Her work was from 7:30 in the evening to 2:00 o' clock in the morning. In June 1993, she transferred to Steve's Karaoke Bar where she is presently employed.[26]

Cherry Mae said that while working with her husband at the Chua's residence, Perandos and Cardona lived with her family at Nivel, Lahug, Cebu City since December 7, 1992 to minimize travel expenses. They contributed money for their food.[27]

She stated that on December 14, 1992, Perandos and Cardona were still staying with them. When she left for work at 7:30 in the evening, her husband was at home taking care of their child. On December 15, 1992, she left for work at about 8:00 o' clock in the evening. Her husband, their son, Perandos and Cardona were left at home. She arrived home at about 1:20 in the morning after their Christmas party. It was her husband who opened the door of their house; their child, Perandos and Cardona were still sleeping.[28]

According to Cherry Mae, Perandos and Cardona stayed in their house from December 7, 1992 to January 21, 1993. They left when her husband was arrested. At the time of his arrest, she was in Lutopan, Toledo City as she attended the burial of her grandmother on January 20, 1993. It was Perandos who informed her that her husband was arrested at 7:00 o' clock in the evening of January 21, 1993 in Mabolo, Cebu City. He was in Mabolo at that time because he wanted to borrow money.[29]

Appellant Elmer Manalili y Pogio, 24 years old, testified that he was a painter by profession. He does not know the co-accused Titing Aranas, Angelo Paracueles, Juan Villa, Gaudencio Tolsidas and Rodrigo Salas. He denied that in the evening of December 15, 1992, he was at the wharf of Ubay, Bohol.[30]

He is married to Cherry Mae Elemينو who is employed as a disco karaoke entertainer in Cebu City. They got married in 1989, and then lived with his in-laws in Lutopan for about a year in 1990 before transferring to Lahug, Cebu City.[31]

Appellant stated that in December 1992, they resided in Nivel, Lahug, Cebu City. In the morning and afternoon of December 15, 1992, he was working as a painter in the house of Mr. Chua in La Guardia, Lahug. In the evening, he was at home with his wife and child, Reynaldo Cardona and Jeffrey Perandos. That night, his wife left after 7:00 o' clock in the evening and attended a party given by her employer at the X-O Karaoke Bar.[32]

He was arrested at 7:00 o' clock in the evening of January 21, 1993, at Cabantan Street, Mabolo, Cebu City by policemen without a warrant of arrest. He was in Mabolo to borrow money from the spouses Gupta, who were neighbors of Jeffrey Perandos. At that time, his wife was in Lutopan as she attended the burial of her grandmother. After his arrest, he was brought to Camp Cabahug, Cebu City and then brought to Bohol on January

24, 1993 and detained at Camp Dagohoy in Tagbilaran City until September 10, 1993. He was later transferred to the Bohol Detention and Rehabilitation Center.[33]

According to appellant, while he was in the municipal jail of Ubay, Bohol, about 30 people, whom he did not know, came to see him at his prison cell. Two of them were prosecution witnesses Gervacio Uy and Ernesto Magalona. It was Magalona who asked him, "Who is Elmer Manalili?" He answered that he was the one. There were four inmates then inside the prison cell. Uy did not talk to him, but just took a good look at him. Magalona pointed at him as one of the pirates and said "mao mao," which means, "looked like" one of the pirates.[34]

Appellant denied that he was in the vicinity of Ubay, Bohol in the evening of December 15, 1992. He went to Bohol for the first time when he was brought to Tagbilaran City after he was arrested by the police in Cebu City.[35]

Although prosecution witness Gervacio Uy testified that one of the pirates who opened the locker of the quartermaster had a tattoo with the initials "GV" on his left hand, the court found no such tatoo mark on appellant's left hand. Moreover, appellant's height is 5 feet 7 and 1/2 inches.[36]

The trial court found that prosecution witnesses Gervacio Uy and Ernesto Magalona identified appellant as one of the pirates. It held that the defense of alibi could not prevail over said positive identification.[37] On September 2, 1994, the trial court rendered judgment against appellant, the dispositive portion of which reads:

WHEREFORE, in the light of the foregoing premises, this Court finds accused ELMER MANALILI GUILTY of Qualified Piracy beyond reasonable doubt and hereby sentences him to a penalty of imprisonment of RECLUSION PERPETUA. Further, accused Elmer Manalili is ordered to reimburse and pay complaining witnesses the following:

A. Complaining witness Gervacio Ong Uy:

1. P30,500.00

-

representing cash taken from him by the pirates:

2. P1,500.00

-

value of his Seiko watch;

3. P4,000.00

-

value of his diamond ring;

4. P10,000.00

-
representing actual, exemplary, and moral damages.

B. Complaining witness Ernesto Rodriguez Magalona:

1. P1,000.00

-
representing cash taken from him together with his wallet;

2. P10,000.00

-
representing cash taken from him together with his wallet;

C. Complaining witness SPO2 Alex Henson Reyes:

1. P200.00

- cash taken from him together with his wallet;

2. P15,288.00

- value of the government issued firearm and live bullets taken by the pirates;

3. P10,000.00

- representing actual, exemplary, and moral damages.

D. Complaining witness PO3 Saul Cuyno Pino:

1. P80.00

-
representing cash taken from him together with his wallet;

2. P4,000.00

-

value of his Seiko watch;

3. P10,000.00

-

representing actual, exemplary, and moral damages.

But without subsidiary imprisonment in case of insolvency.

Without pronouncement as to Costs.

SO ORDERED.[38]

Appellant Elmer Manalili ascribes to the trial court the following errors:

I. THE COURT A QUO GRAVELY ERRED IN THE APPRECIATION OF THE TESTIMONIAL EVIDENCES BOTH FOR THE PROSECUTION AND THE DEFENSE;

II. THE COURT A QUO COMMITTED GRAVE ERROR IN THE APPRECIATION OF THE EVIDENCES FOR THE DEFENSE REGARDING THE IDENTITY OF ACCUSED ELMER MANALILI, RESULTING TO GRAVE ABUSE OF DISCRETION.[39]

The appeal is meritorious.

Appellant contends that the trial court erred in appreciating the testimonial evidence of both the prosecution and defense which led to his conviction. He argues that the prosecution failed to prove beyond reasonable doubt that he was one of the pirates in this case.

We agree. A careful review of the records shows that about twenty minutes after the vessel M/V J & N Princess left the port of Ubay, Bohol bound for Cebu on December 15, 1992, prosecution witness Gervacio Uy, the operations manager of the vessel, urinated at the lower deck. After urinating, two persons were standing behind him; one pointed a gun at his back, while the other held his collar. He was ordered to go upstairs with them to the third or upper deck where the radio room was located, and they then destroyed the radio.[40] When asked whether he could identify the two armed men who initially pointed a gun at him, Uy replied in the affirmative, and stated that he had identified them through pictures presented by the CIS as Titing Aranas and Angelo Paracueles. This is reflected in the records thus:

FISCAL:

Q.

You said that initially there were two persons after they pointed a gun at you, if you can see these persons, can you still identify them?

A.

Yes, I identified them thru the pictures.

Q.

Could you describe to this Honorable Court the description of these two persons?

A.

The one who pointed an armalite he was about 5'6" in height, regular in built, brown complexion and his age is between 25 and 28 years old.

The second suspect is older, I think about 42 years old, 5'3" or 5'4" in height , medium built, brown complexion.

Q.

How about the hair?

A.

The hair is straight.

Q.

How about the second?

A.

Black hair and he was carrying like an uzi gun.

Q.

You said a while ago that you were showed pictures, where?

A.

There were pictures presented by the CIS when I was investigated.

Q.

And did you identify those pictures?

A.

I positively identified two, one is Titing Aranas and the other Paracuellos, all at large.[41]

On the other hand, prosecution witness Ernesto Magalona, quartermaster of the same vessel, testified that while he was lying on his cot at the second deck near the passage way to the upper deck, someone shouted, "Do not move, we are searching for shabu and uzi gun." Then he saw their manager, Gervacio Uy, being escorted by two armed men. One was armed with an armalite pointed at Uy; the other was also armed but he did not see the kind of firearm he was carrying at his waist. He could identify the two armed men who escorted Uy because he was three to four meters away from them and the place was well illuminated with fluorescent lights. He identified one of the armed men as appellant. He said that the other man holding the armalite was also holding the collar of Uy while pushing him, while appellant "followed fast." Uy and the two armed men eventually reached the third or upper deck where the armed men destroyed the radio as reported to him by the purser who came down looking for him from the upper deck.[42] Of the eight pirates, he could only remember and identify the two armed men who escorted Uy, because their movements were so fast and coordinated.[43] He stated that from the start the two armed men, one of whom he identified as the appellant, escorted Uy from the comfort room at the lower deck to the second deck and then proceeded to the third or upper deck where the radio room was located. They did always

followed Uy, and he had a good look at them when they passed by the second deck.[44]

From the foregoing, prosecution witness Gervacio Uy identified the two armed men, who initially pointed a gun at him in the comfort room at the lower deck, and who ordered him to go with them to the radio room at the third or upper deck, as Titing Aranas and Angelo Paracueles. On the other hand, prosecution witness Ernesto Magalona who saw Gervacio Uy and the two armed men as they passed by the second deck on their way to the third deck, identified one of those two armed men as appellant Elmer Manalili.

Where eyewitnesses contradict themselves on a vital question, such as the identity of the offender, the element of reasonable doubt is injected and cannot be lightly disregarded.[45] The identity of the offender, like the crime itself must be proven beyond a reasonable doubt.[46] In the case at bench, there is no positive identification of the appellant inasmuch as prosecution eyewitnesses Uy and Magalona contradicted themselves on the identity of the alleged offender.

Moreover, although prosecution witness Gervacio Uy stated that one of the pirates who opened the locker of Ernesto Magalona had a tattoo on his left hand with the initials "GV," the trial court did not see any tattoo mark on the appellant's left hand.[47]

Further, witness Uy declared that he saw appellant for the first time during the investigation before the municipal judge of Ubay.[48] He told the municipal judge that appellant's face was "familiar among the eight seajackers," but Magalona identified appellant as one of the pirates.[49] Compared with the identification made by Magalona, Uy's statement that appellant's face was familiar among the pirates is characterized by uncertainty. His identification of appellant in the trial court based on the aforementioned statement retained its doubtful tenor.

Significantly, the passenger named Boiser who allegedly identified the appellant as one of the pirates before the municipal judge of Ubay was significantly not presented as a witness by the prosecution. The records show thus:

FISCAL LIGASON:

I would like to made (sic) manifestation, Your Honor, that I did not present Ms. Alma Casil and Melecio Boiser, they were listed, but after I confronted them that they did not identify this accused, so that I did not present them, because there are others who can identify.[50]

From the foregoing, it appears that the prosecution failed to prove beyond reasonable doubt that appellant was one of the eight men who committed qualified piracy in the instant case.

Appellant's defense of alibi is generally considered a weak defense. However, it assumes importance when his identification as an alleged offender in the crime charged is inconclusive or unreliable.[51] Appellant asserted that at the time of the piracy in the seawaters of Ubay, Bohol, he was in his residence in Cebu City, and which alibi was corroborated by Jeffrey Perandos, Reynaldo Cardona and his wife, Cherry Mae Manalili. Although alibi can be fabricated, it is not always false and without merit, and when coupled with the improbabilities and uncertainties of the prosecution evidence, the defense of alibi deserves merit.[52]

Besides, the prosecution has the burden of proof in establishing the guilt of the accused.[53] When the prosecution fails to discharge its burden, an accused need not even offer evidence in his behalf.[54] In every criminal prosecution, the identity of the offender or offenders must be established by proof beyond reasonable doubt.[55] There must be moral certainty in an unprejudiced mind that it was accused-appellant who committed the crime. Absent this required quantum of evidence would mean exoneration for accused-appellant.[56] It is our view, therefore, and we hold that the prosecution failed to prove beyond reasonable doubt that appellant was one of the pirates who committed the crime charged. Hence, the appellant must be acquitted.

WHEREFORE, the assailed decision of the trial court is REVERSED and SET ASIDE, and appellant Elmer Manalili is hereby ACQUITTED on the ground of reasonable doubt.

The Director of Prisons is hereby directed to cause the immediate release of appellant unless the latter is being lawfully held for another cause, and to inform the Court accordingly within ten (10) days from notice hereof.

SO ORDERED

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Penned by Judge Pacito A. Yape.

[2] Records, p. 73.

[3] Records, p. 97.

[4] TSN, November 16, 1993, pp. 2-5.

[5] TSN, November 16, 1993, pp. 5-6.

[6] Id., pp. 6-8.

[7] Id., pp. 7, 9.

[8] Id., pp. 9-10.

[9] TSN, November 18, 1993, pp. 2-6.

[10] Id., pp. 6-7.

[11] Id., pp. 8-10.

[12] Id., pp. 11-12.

[13] TSN, November 18, 1993, pp. 2-5.

[14] Id., pp. 4-5.

[15] PO3 Saul Cuyno Pino in Decision, p. 19, Rollo, p. 34.

[16] Id., pp. 6-8.

[17] TSN, December 3, 1993, pp. 2-3.

[18] Id., pp. 3-5.

[19] Id., pp. 7-13.

[20] Id, pp. 6-7, 15-16.

[21] Id., pp. 16-17.

[22] TSN, Dec. 6, 1993, pp. 4-7.

[23] Id., pp. 21-54.

[24] Id., pp. 62-63.

[25] Id., pp. 74-75.

- [26] TSN, December 10, 1993, pp. 6-10, 15.
- [27] Id., pp. 13-15.
- [28] Id., pp. 16-21.
- [29] Id., pp. 22-27; February 1, 1994, pp. 2-3.
- [30] TSN, Feb. 2, 1994, pp. 4-5.
- [31] Id., pp. 5-7.
- [32] Id., pp. 8-10
- [33] Id., pp. 11-15, 17.
- [34] Id., pp. 15-19, 22-26.
- [35] Id., pp. 29-30.
- [36] Id., pp. 39-40.
- [37] Decision, pp. 15-16, Rollo, pp. 30-31.
- [38] Rollo, pp. 34-35.
- [39] Rollo, p. 60.
- [40] TSN, November 16, 1993, pp. 2-4.
- [41] Id., p. 7.
- [42] TSN, November 18, 1993, pp. 3-5
- [43] Id., p. 6.
- [44] Id., p. 10.
- [45] *People v. Manambit*, 271 SCRA 344, 379 [1997].
- [46] *People v. Beltran*, 61 SCRA 246, 250 [1974]; *People v. Galvez*, 101 SCRA 544, 602 [1980].
- [47] TSN, February 2, 1994, pp. 38-40.
- [48] TSN, November 16, 1993, p. 10.
- [49] Id., p. 9.
- [50] TSN, February 2, 1994, p. 43.
- [51] *People v. Manambit*, 271 SCRA 344, 381 [1997].
- [52] *People v. Castelo*, 133 SCRA 667, 684 [1984]; *People v. Padilla*, 177 SCRA 129, 138 [1989].
- [53] Rules of Court, Rule 131, Section 2.
- [54] *People v. Marcos*, G.R. No. 115006, March 18, 1999, 305 SCRA 1, 13.
- [55] *People v. Manambit*, 271 SCRA 344, 377 [1997].
- [56] *People v. Comesario*, 306 SCRA 400, 405 [1999]; *People v. Manambit*, 271 SCRA 344, 385 [1997]; Rules of

Court, Rule 133, Section 2.

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