

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAMERTO RANIS, JR. @ “JUN,” CARLITO ARELLANO Y BUSCAY, BIENVINIDO MURPHY @ “IMBING,” ERNESTO SABIYON Y ELLIDO, CESARIO MURPHY ...

G.R. No. 129113. September 17, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On automatic review is the decision[1] dated February 12, 1997 of the Regional Trial Court of Morong, Rizal, Branch 79, convicting beyond reasonable doubt accused-appellants ERNESTO SABIYON, CESARIO MURPHY and LOLITA SANTOS of the crime of Robbery with Homicide, and sentencing them to suffer the penalty of reclusion perpetua to death as well as to pay jointly and severally P2,000 as actual damages, P18,500 as funeral expenses, and P50,000 as death indemnity to the heirs of the victim, Benedicto Hernandez.

The amended information against the appellants, and co-accused Mamerto Ranis, Jr. @ Jun, Bienvinido Murphy @ Imbing, and Carlito Arellano y Buscay reads as follows:

That on or about the 10th day of March, 1994 in the Municipality of Pililia, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a scythes and knife, conspiring and confederating together and all of them mutually helping and aiding one another, with intent of gain, and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously take, steal and carry away one (1) Rolex watch, one (1) ring and two (2) earrings worth of P400,000.00 and cash money amounting to P2,000.00 all in the total amount of P402,000.00, belonging to Benedicto Hernandez, to the damage and prejudice of the owner thereof in the total amount of P402,000.00; and that by reason and on the occasion of the robbery, the above-named accused, with intent to kill, with treachery and evident premeditation, and abuse of superior strength and number, did then and there willfully, unlawfully and feloniously attack, assault hack and stab with the said scythes and knife said Benedicto Hernandez, thereby causing him to sustain mortal wounds which directly caused his death.

CONTRARY TO LAW[2]

Upon arraignment, appellants ERNESTO SABIYON, CESARIO MURPHY and LOLITA SANTOS pleaded NOT GUILTY. Accused CARLITO ARELLANO died before the scheduled arraignment and was discharged from the Information. Accused MAMERTO RANIS, JR. and BIENVINIDO MURPHY remain at large. After waiving the pre-trial, trial on the merits ensued.

The prosecution presented eight witnesses, namely, MARIVIC RODELAS, the live-in partner of Benedicto (Ben) Hernandez; NOEL ESPINOSA, a long time family friend and a regular visitor of Ben Hernandez; SPO1 MELCHOR BANAGO, a member of the PNP Station at Halayhayin, Pililla, Rizal, whose testimony on the robbery with homicide case as reported to him by Marivic Rodelas on the night of March 10, 1994, was admitted by the defense; MARIA LUISA HERNANDEZ, the legal wife of Ben Hernandez; SPO4 AMBROSIO ANERO, a

police officer assigned at the 2nd PNP District, Halayhayin, Pililla, Rizal; DR. ROSALIN POCEDON, a medico-legal officer of PNP Crime Laboratory at Tandang Sora, Quezon City; SPO1 QUINTIN ARRIESGADO, another police officer assigned at the 2nd PNP District, Halayhayin, Pililla, Rizal; and ATTY. RAFAEL MATEO, a lawyer who assisted the accused during the police investigation.

MARIVIC RODELAS testified that on March 10, 1994 at about 8:00 in the evening, while she and Ben Hernandez with their baby were watching television in their bedroom, two men, both armed with bladed weapons, suddenly entered their unlocked bedroom. One of them, Cesario Murphy, has an alupihan - like scar on the stomach while the other, Ernesto Sabiyon, is cross-eyed. She was able to see the faces and physical attributes of both accused because the television set and the lampshade were turned on. Cesario poked a knife at her neck while Ernesto straddled on top of Ben who was then lying in bed. Cesario asked for the proceeds of the sale of land and some jewelry but she told him that they only had P2,000 in their possession. Cesario then took the P2,000 and several pieces of luxury watches and jewelry worth P400,000 more or less. After taking the money and jewelry, both accused tied her hands and those of Ben with electric cord and then they went out of the house, taking Ben with them.

After untying herself, she informed Noel Espinosa, their guest, about the incident. They started searching for Ben and proceeded to the room of Lolita Santos, their housemaid, but she was not around. They reported the incident to the police where a team of 10 policemen led by SPO4 Ambrosio Anero went with them to their house to help find Ben. Later, Ben's wounded body was found beside an old hut, not far from their house. Ben was groaning and his hands were still tied at his back. He had hack wounds on his head, face, neck, and stomach. They brought him to the Tanay General Hospital where he was pronounced dead on arrival. After returning to her house, she met Lolita who was shocked to know the incident but at the same time looked pale and nervous.[3]

Marivic Rodelas also disclosed that sometime in January 1994, Ben and accused Mamerto "Jun" Ranis, who was accompanied by two workers who resembled appellants Ernesto Sabiyon and Cesario Murphy,[4] had a disagreement on the price to be paid by the former to the latter for the cleaning of the calamansian.[5]

NOEL ESPINOSA testified that on March 10, 1994 at around 7:30 P.M., he heard Marivic screaming while he was resting at the guest room and heard whispering voices of men coming from the terrace. He went out and looked for Lolita Santos who was not around. He realized that there were strangers in the house and overcome by fear, he immediately returned to his room and turned off the light. Later, Marivic, who was crying and looked very frightened, knocked on his door and told him that two persons had entered their room and they took Ben with them. They reported the matter to the police where a team of policemen went back with them to the house. They found the body of Ben beside a cliff about fifteen (15) meters from the house. He noticed that there was a deep hack wound at the side of Ben's mouth which almost separated his jaw. Ben's T-shirt was full of blood.[6]

MARIA LUISA HERNANDEZ testified that she is the legal wife of Ben Hernandez but they had been living separately since 1993; that she was shocked to learn of the death of her husband. She identified in court several watches that were recovered as belonging to her husband, and testified that she spent P12,000 for the funeral expenses and P7,000 for the cremation. At the time of his death, according to her, Ben Hernandez was earning P15,000 to P20,000 as royalties for his past TV show productions.[7]

SPO4 AMBROSIO ANERO testified that on March 10, 1994, he and several policemen went to the house of Ben and noticed that his room was in disarray with the drawers opened. They found the body of Ben lying about five to ten meters from the house with a cloth in the mouth, blood stains on the body, and hack wounds on his right nape and mouth. They brought Ben to the hospital but he was proclaimed dead on arrival.

A follow-up investigation led to the arrest of accused Carlito Arellano, Ernesto Sabiyon, and Cesario Murphy, all

of whom admitted their participation in the crime during investigation. SPO4 Anero investigated and took the statements of Ernesto Sabiyon and Lolita Santos. They were informed of their constitutional rights. Atty. Rafael Mateo assisted them. Ernesto Sabiyon confessed that he killed Ben Hernandez. At the same time, he implicated Lolita Santos, who was also arrested. After initial denials, Lolita also confessed and executed two affidavits regarding her participation in the offense. The duly thumbmarked affidavits were read to her by Atty. Mateo.[8]

Dr. ROSALIN POCEDON, of the PNP Crime Laboratory, testified that she conducted the autopsy on the cadaver of Ben Hernandez. She found a total of 26 wounds in his body, of which six were found in the back. She said several hacking wounds, abrasions, contusions, lacerated wounds and punctured wounds were caused by sharp pointed instruments such as knives or daggers and blunt hard objects.[9]

SPO1 QUINTIN ARRIESGADO testified that he conducted the investigation on Carlito Arellano and Cesario Murphy after duly informing them of their constitutional rights, while they were assisted by Atty. Mateo. Both readily admitted their participation in the crime. Per his investigation, Arriesgado said that Carlito Arellano is the uncle of co-accused Jun Ranis while appellant Cesario Murphy is the brother-in-law of Jun Ranis.[10]

ATTY. RAFAEL MATEO testified that he was requested by a police officer to assist as counsel all the accused in the investigation. He introduced himself as a lawyer who would assist them in the investigation and all of them agreed, especially since Carlito Arellano personally knew him. He conferred and talked to each one of them separately and privately. He informed each accused his right under custodial investigation, particularly the right to remain silent, to have a counsel of his choice, or to have a counsel assigned to him. All of them told him that they knew something about the killing of Ben Hernandez and they were willing to give statements to the police. Throughout the investigation he assisted them by reading and explaining their statements before being signed by them. He also testified that Lolita Santos initially denied any involvement in the crime but later she confessed her participation in the crime because she was bothered by her conscience.[11]

For its part, the defense presented six witnesses, namely, appellants ERNESTO SABIYON, CESARIO MURPHY, and LOLITA SANTOS; FREDDIE ESMINDA, a contractor engaged in the construction business; ESTANISLAO MENDOZA, a laborer; and JUAN PLANTILLA (a.k.a. Mang Johnny), a caretaker of the land owned by Ben Hernandez's mother.

In his testimony, appellant ERNESTO SABIYON denied having known Carlito Arellano but admitted that Jun Ranis is his "bilas" and Cesario Murphy as well as Bienvinido Murphy are his "bayaw". He said he came to know Lolita Santos after the police introduced her to him in jail. He claimed that he and Cesario Murphy were arrested in their house in Antipolo, Rizal on March 17, 1994, and that they were handcuffed, blindfolded, and tortured on the way to the police station. At the police station, where several persons were present including the widow of Ben Hernandez, they were further subjected to torture ("slapped, boxed, kicked and kulata") and asked to admit their participation in the killing. However, he said he did not bother to submit himself to a medical examination of his alleged injuries. Nor did he inform any of his relatives about said injuries. He said he did not file any charges against the policemen. He denied talking to Atty. Mateo, although he admitted meeting him as the lawyer who would assist him during the police investigation.[12]

Witness FREDDIE ESMINDA testified that appellants Cesario Murphy and Ernesto Sabiyon worked as masons ("kantero") in his construction business from 1992 to March 12, 1994, the day when he dismissed them at 5:30 P.M. After dismissal, the two remained in his house and they had a drinking spree, consuming a few bottles of beer until 7:30 P.M. Thereafter, he said, the two went home.[13] However, he was uncertain whether the two reported for work on March 10, 1994.[14]

Witness ESTANISLAO MENDOZA testified that he knew appellants Ernesto Sabiyon and Cesario Murphy

because both were his co-workers.[15]

Appellant CESARIO MURPHY substantially corroborated the testimonies of Ernesto Sabiyon. According to Cesario, both of them were arrested, handcuffed and blindfolded at about 2-3 A.M. of March 17, 1994. They were boxed and mauled by the policemen and he said he was told to undress. He denied knowing Lolita Santos and Carlito Arellano until he met them in jail. He said that Carlito Arellano committed suicide, leaving a letter.[16] He said he did not bother to be examined by a doctor, despite being mauled by the police.[17]

Appellant LOLITA SANTOS, an illiterate housemaid of the Hernandez family for about 18 to 20 years, testified that on the night of March 10, 1994 at about 8:00 P.M., she was sleeping in her room when she heard one Marivic Rodelas shout. She went out of her room and saw a “man looking towards the room of Ben”. Thinking that he was Noel Espinosa, she called him in a low voice but the man did not respond. She got frightened and ran towards the house of Juan Plantilla (Mang Johnny) to seek help, she said. However, when she returned to the house, she said Marivic told her that Ben was already dead.[18]

She claimed she had no knowledge of the contents of the two affidavits that she executed before the police officer. She could recall, however, that she was made to thumbmark several papers in the presence of a lawyer whom she was not able to talk to.[19] She said she was forced to admit the crime because she did not want to be hurt anymore.[20] However, she said she did not bother to submit herself to any medical and physical examination.[21]

Witness JUAN PLANTILLA testified that on March 10, 1994 at about 7:00 to 8:00 P.M., Lolita Santos came to his house asking for help. He said he accompanied Lolita to the barangay office to seek assistance.[22]

Witness SIMEON TECSON, an employee of Ben Hernandez, was presented by the prosecution as its rebuttal witness. He testified that he was at the Pililla Police Station on March 21, 1994 about 7:00 to 8:00 P.M. to observe the investigation of the accused in the presence of Atty. Mateo. There were several persons including some media reporters. Atty. Mateo was introduced to the appellants and the lawyer conferred with them during the investigation, he said. He added that the lawyer assisted them in signing their respective statements before affixing his own signature. He stated that there were no threats, intimidation or violence employed on the accused while they were being investigated. Neither did he notice any physical injuries or signs of maltreatment on the appearance of the accused,[23] according to the witness.

After trial, the trial court convicted appellants. The dispositive portion of the decision reads:

WHEREFORE, accused Ernesto Sabiyon, Cesario Murphy and Lolita Santos are found guilty beyond reasonable doubt and hereby imposed the penalty of Reclusion Perpetua to Death in accordance with Article 294, paragraph (1) of the Revised Penal Code. Said accused are further ordered to pay the heirs of Benedicto Hernandez the amount of P2,000.00 as actual damages; P18,500.00 by way of funeral expenses, and the further sum of P50,000.00 for the death of Benedicto Hernandez, to be paid jointly and severally.

SO ORDERED.[24]

In convicting the accused, now appellants, of robbery with homicide, the trial court stressed the positive identification by Marivic Rodelas of Ernesto Sabiyon and Cesario Murphy as the persons who entered her bedroom on March 10, 1994. The intention of both accused to commit robbery was revealed, according to the trial court, when Cesario Murphy pointed a knife at Marivic's neck and asked for the jewelries and the money from the sale of a lot. The trial court concluded that the accused were responsible for the death of Ben Hernandez as established by the following proven circumstances: (1) the accused were present at the scene of the crime; (2) accused Sabiyon and Murphy had weapons in their possession; (3) Hernandez died due to multiple stab or hack

wounds; (4) bloodstains were found at the place where Hernandez was found lying lifeless; and (5) the accused fled.

The trial court admitted the extrajudicial confessions of the accused. It said their claims of being maltreated and coerced were unconvincing. According to the court, apart from their self-serving claims, the accused did not elaborate on the extent of coercion and threats that were employed, and they did not say who made the threats. Neither did they complain of any threat to the fiscal before whom they affirmed their confession.

In the Brief for appellant Lolita Santos, filed February 10, 1998, the Public Attorney's Office made the following assignment of errors:

I

THE COURT A QUO ERRED IN FINDING THAT ACCUSED-APPELLANT LOLITA SANTOS ACTED IN COMPLICITY WITH THE OTHER ACCUSED IN ROBBING AND KILLING [THE] VICTIM.

II

THE COURT A QUO ERRED IN FINDING THAT ACCUSED-APPELLANT LOLITA SANTOS IS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH HOMICIDE.

III

THE COURT A QUO ERRED IN ORDERING ACCUSED-APPELLANT LOLITA SANTOS TO PAY JOINTLY AND SEVERALLY WITH THE OTHER ACCUSED, THE HEIRS OF VICTIM BENEDICTO HERNANDEZ, THE AMOUNT OF P2,000.00 AS ACTUAL DAMAGES; P18,500.00 BY WAY OF FUNERAL EXPENSES AND P50,000.00 FOR THE DEATH OF [THE] VICTIM.[25]

In the Brief for appellants Ernesto Sabiyon and Cesario Murphy, the PAO assigns the following as errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANTS ERNESTO SABIYON AND CESARIO MURPHY HAVE BEEN POSITIVELY IDENTIFIED.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANTS ERNESTO SABIYON AND CESARIO MURPHY [ARE] GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH HOMICIDE.

III

THE COURT A QUO GRAVELY ERRED IN ORDERING ACCUSED-APPELLANTS ERNESTO SABIYON AND CESARIO MURPHY TO PAY JOINTLY AND SEVERALLY WITH THE OTHER ACCUSED, THE HEIRS OF VICTIM BENEDICTO HERNANDEZ, THE AMOUNT OF P2,000.00 AS ACTUAL DAMAGES; P18,500.00 BY WAY OF FUNERAL EXPENSES; AND P50,000.00 FOR DEATH OF [THE] VICTIM.[26]

For the State, Solicitor General Ricardo Galvez first filed on August 17, 1998, a Manifestation and Motion recommending the acquittal of appellant Lolita Santos, chiefly on the ground that "the evidence fails to meet the quantum required to overcome the constitutional presumption of innocence." [27]

Then on May 23, 2000 Solicitor General Galvez submitted his Brief for the Appellee, recommending that the conviction of appellants Ernesto Sabiyon and Cesario Murphy for robbery with homicide be affirmed but their

sentence be modified so that reclusion perpetua be imposed. As hereafter discussed, we are in agreement with the above recommendations of the Solicitor General to (1) acquit appellant Lolita Santos, and (2) convict appellants Sabiyon and Murphy but modify their sentence.

Considering the contentions of the parties and after reviewing the evidence including the testimonies of the witnesses for both the prosecution and the defense, we are convinced that appellant Lolita Santos is innocent. However, we find no merit in the appeal of Ernesto Sabiyon and Cesario Murphy, denying their participation in the commission of the crime.

The relevant issues for resolution concern (1) the validity and admissibility of the extrajudicial confessions of the appellants; (2) the identification of appellants Sabiyon and Murphy and the sufficiency of the prosecution's evidence to sustain their conviction for robbery with homicide; and (3) the legality and propriety of the penalty imposed on them by the trial court.

According to appellants Sabiyon and Murphy, their extrajudicial confessions given before the police in Halayhayin, Pililla, could not be used as evidence against them because these were obtained through coercion and torture, and without an effective and vigilant counsel. The Office of the Solicitor General, for the appellee, argues that appellants failed to submit any concrete evidence to prove their allegation of violence and intimidation inflicted on them. Nor did they ask for medical assistance, much less complain to the prosecutor and the lawyer who assisted them of the alleged violence and intimidation, said the OSG. On the contrary, the OSG added, appellants were adequately afforded the right to counsel, and they never raised during their investigation any objection to the appointment of Atty. Mateo as their counsel.

A confession of the accused constitutes evidence of a high order since it is supported by a strong presumption that no person of normal mind would deliberately and knowingly confess to a crime unless prompted by truth and his conscience.[28] Once the prosecution has shown that there was compliance with the constitutional requirement on pre-interrogation advisories, a confession is presumed to be voluntary, and the burden is on the accused to destroy this presumption. The declarant bears the burden of proving that his confession is involuntary and untrue. A confession is admissible until the accused successfully proves that it was given as a result of violence, intimidation, threat, or promise of reward or leniency.[29]

In the case of Sabiyon and Murphy, aside from their self-serving testimonies that they were coerced into admitting to the crime, no evidence was presented to substantiate their denial that they did not commit the crime as charged. Moreover, they never submitted themselves to any medical examination for the injuries allegedly inflicted by the police, nor did they ever file charges against those who allegedly employed physical torture on them to extract their confessions. Neither did they complain to Atty. Rafael Mateo, who assisted them during custodial investigation, that violence and intimidation had been inflicted upon them. The failure of these two appellants to complain to the swearing officer or to file charges against the persons who allegedly maltreated them, although they had chances to do so, casts doubt that they were coerced; instead, we agree with the trial court that such failure manifests voluntariness in the execution of the confessions.[30] As aptly observed by the trial court:

But apart from saying that they (accused) were coerced, threatened and boxed, the said accused did not elaborate as to their signing the extra-judicial confession. They did not say they were beaten or subjected to third degree methods or coerced to sign the confession. They did not say what were told to them if they refused to sign. Neither did they say who of the police officers made the threat.

On the contrary, the following circumstances belie their claim that they had been threatened, maltreated or coerced into signing the confession:

- a. The accused signed the confession in the presence of Atty. Rafael Mateo, the lawyer who, according to the

latter, assisted them during the custodial investigation;

b. As reflected in their confession document, they were duly informed of their constitutional rights like the right to remain silent, anything that they say might be used against them, they have the right to counsel;

c. They did not complain of any threat, intimidation or force used against them when brought to the Fiscal of Rizal before whom they affirmed their confession.” (Italics supplied)[31]

Further, the claims of the two appellants, Sabiyon and Murphy, were refuted by Mr. Simeon Tecson, a rebuttal witness, who was present when appellants gave and signed their statements. Thus:

TESTIMONY OF SIMEON TECSON:

Q: Now, during the course of the investigation of Lolita Santos, Carlito Arellano, Ernesto Sabiyon and Cesario Murphy, there were so many persons who were present at that time?

A: Yes, sir.

Q: And were there any threat or intimidation that were being made by the investigator or other police officers to the four (4) accused at that time?

A: None, sir.

Q: Were there any violence that were done on them during the investigation?

A: None, sir.

Q: During the investigation, did you notice if there are any physical injuries or sign of maltreatment on the appearance of the four accused?

A: None, sir.[32]

As to appellants’ contention that they were not represented by an effective and vigilant counsel during the custodial investigation, we find little basis for this assertion, which appears rather belated. First, accused did not say they had their own counsel. They never signified their desire to have a lawyer of their own choice, at their own expense. Nor did they manifest that they could not afford a lawyer’s services but they would prefer a lawyer of their own. Nor did they object to be represented by Atty. Rafael Mateo, who is a fully qualified and licensed member of the bar. A lawyer provided by the investigators is deemed engaged by the accused where the accused never raised any objection against the lawyer’s appointment during the course of the investigation, and the accused thereafter subscribes to the veracity of his statement before the swearing officer.[33] Second, the records of the case would show that appellants Sabiyon and Murphy were adequately and ably represented by Atty. Rafael Mateo. Thus:

TESTIMONY OF ATTY. RAFAEL MATEO:

Q: What steps did you take in assisting the accused in this case?

A: I arrived at the detachment at Jalayjayin. I talked to them separate (sic) from the members of the PNP, talked to them privately in a room. I told them if they were the persons under investigation by the police and why they were there and they told me that they were being investigated because they are suspects in the killing of certain Ben Hernandez, sir.

Q: What else did you tell them during this private conversation?

A: I introduced to them that I am a lawyer and I told them that in a police investigation, they have the right to secure services of counsel and I told them if they are willing me (sic) to be their counsel during the course of

the investigation and they told me that they are willing and in fact, one of them know me and he is a resident of Barangay Tinukan, Tanay, Rizal, sir.

Q: You said that one of the accused personally know you. Who is that accused? Is he present?

A: He is not here, sir.

Q: Are you referring to the deceased Carlito Arellano?

A: I came to know later that he died at the cell in Pililla, sir.

Q: After the accused agreed to be represented by you, what else happened?

A: I explained to them their right under custodial investigation. I explained to them that it is their right to remain silent if they are not willing to talk to tell the facts about this case. It is their right and they told me that they know something about the killing, sir.

Q: Who in particular told you that they know about the killing?

A: The one who died, Carlito Arellano, sir.

Q: After explaining their right, what else happened?

A: They told me that they are willing to give statement to the police, sir.

Q: Are you referring to all of the accused?

A: Yes, sir.

Q: Were you present when the four accused were being investigated by the police?

A: Yes, sir.

Q: You were present when their statement were (sic) typed by the police officer?

A: One after the other, sir.

Q: After the statement of these four accused were typed, what action if any did you take before the accused signed the statement?

A: The police officer who typed the statement presented it to me and I was allowed to read it and after I read it, I explained to the accused one by one the statement and I told them if this is their statement, if they know it and understand it and they told me that is what happened, sir.

Q: You witnessed the four accused placing their signatures on this statement?

A: Yes, sir.[34]

(CROSS EXAMINATION)

Q: In availing your legal services, did you explain to them the consequence of their admission, the possible punishment against them?

A: Yes, sir.

xxx

Q: What possible punishment did you inform them?

A: I told them that if they will admit their participation on the killing of Ben Hernandez, they will surely be

punished or incarcerated, sir.

Q: How did they answer you in return?

A: According to them, wala raw magagawa, talagang ganoon ang nangyari, sir.[35]

At any rate, even without the extrajudicial confessions of the accused, we are convinced that the culpability of appellants Ernesto Sabiyon and Cesario Murphy for robbery with homicide had been proven beyond reasonable doubt, as hereafter discussed.

In charging robbery with homicide, the onus probandi[36] is to establish: (a) the taking of personal property with the use of violence or intimidation against a person; (b) the property belongs to another; (c) the taking is characterized by animus lucrandi;[37] (d) on the occasion of the robbery or by reason thereof, the crime of homicide, which is used in the generic sense, has been committed.[38]

In this case, Marivic Rodelas positively identified appellants Ernesto Sabiyon and Cesario Murphy as the two persons who entered her bedroom. Using sharp, bladed weapons, appellants demanded and took money, watches, and jewelry belonging to the victim, Ben Hernandez. Thereafter, Hernandez was found stabbed to death just outside an old hut, some 15 meters' distant from his house.

Appellants, however, express doubt on whether Marivic Rodelas could positively identify, much less physically describe, appellants Ernesto Sabiyon and Cesario Murphy considering that at the time of the incident, she was already in a state of fear, and that her bedroom was not well illuminated. In essence, appellants question the credibility of Marivic Rodelas as a witness. However, we find no cogent reason to set aside the trial court's findings on the credibility of Marivic Rodelas. As repeatedly held, matters concerning the credibility of a witness are best addressed to the sound judgment of the trial court. It is well-settled that appellate courts will not interfere with the trial court's assessment in this regard, absent any indication or showing that the trial court has overlooked some material facts of substance or value, or gravely abused its discretion. The matter of assigning values to declarations at the witness stand is best and most competently performed or carried out by a trial judge who, unlike appellate magistrates, can weigh such testimony in the light of accused's behavior, demeanor, conduct, and attitude at the trial.[39]

Here, the witness Marivic Rodelas was able to positively identify in open court (1) Cesario Murphy as the one who poked a knife at her neck and who had an uncovered face with no T-shirt on, which showed the scars on his stomach; and (2) Ernesto Sabiyon as the cross-eyed fellow, who went on top of or astride Ben Hernandez.[40] Even if said witness was frightened at that precise moment, it is not sufficient reason to prevent her from later recalling identified body marks of appellants. It is the most natural reaction of victims of criminal violence to strive to ascertain the appearance of their assailants and observe the manner in which the crime was committed. Most often, the face and body movements of the assailants create a lasting impression on the victims' minds which cannot be easily erased from their memory.[41] Lastly, appellants did not show that Marivic Rodelas was impelled by any malice or evil motive to implicate them in the commission of the heinous crime. In the absence of proof that said witness is moved by improper motive, it is presumed that she was not so moved and, therefore, her testimony is entitled to full faith and credit.[42]

We now come to the culpability of appellants Sabiyon and Murphy for the death of Ben Hernandez by reason and as a consequence of the robbery committed by them. While admittedly there is no direct evidence presented by the prosecution on the killing of the victim by appellants, the established circumstances, however, constitute an unbroken chain, consistent with each other and to the hypothesis that appellants are guilty, to the exclusion of all other hypotheses.[43] As found by the trial court, the lack of an eyewitness to the killing of Hernandez was made up by conclusive circumstantial evidence.[44] Precedents have sustained the conviction of an accused through

circumstantial evidence, as long as the following requisites are present: (1) there must be more than one circumstance; (2) the inference must be based on proven facts; and (3) the combination of all circumstances produces a conviction beyond doubt regarding the guilt of the accused.[45]

In this case of robbery with homicide, the following facts and circumstances, taken together, are sufficient to establish the guilt of appellants Ernesto Sabiyon and Cesario Murphy, to wit:

1. Appellants Ernesto Sabiyon and Cesario Murphy, while armed with bladed and sharp weapons, took money and jewelry from the bedroom of Ben Hernandez;
2. After getting the money, watches and jewelry, appellants went out of the house bringing with them Ben Hernandez whose hands were tied at the back;
3. The body of Ben Hernandez, full of blood, was found several meters from his house, with his hands still tied at the back, and his body bearing multiple stab and hack wounds;
4. A scythe and a stone were found and recovered at the scene of the crime and a decorative knife was found and recovered on the bed of Ben Hernandez;[46]
5. Based on the kind and nature of wounds, the cause of the death of Ben Hernandez, as testified by Dr. Pcedon, is hemorrhage as a result of multiple stab wounds of the trunk and hack wounds on the head which were inflicted by using more than one bladed instrument;
6. Both accused fled the scene of the crime;
7. Appellants confessed their guilt during police investigation;
8. Marivic Rodelas testified that she had met appellants and Jun Ranis, who had a disagreement with Ben Hernandez regarding money matters.

The foregoing circumstantial evidence and the positive identification made by witness Marivic Rodelas leave no doubt as to the participation of appellants Ernesto Sabiyon and Cesario Murphy in the crime of robbery with homicide. However, the same cannot be said concerning appellant Lolita Santos. Aside from her alleged extrajudicial confession, her participation in the gruesome crime was not established or proved by any other evidence, direct or circumstantial. In fact, Marivic Rodelas, the eyewitness to the crime, testified that Lolita Santos was nowhere to be found at the time of the commission of the crime. This was corroborated by another witness, Noel Espinosa, who also testified that he did not see Lolita Santos in her room that same night.

Now, while she was assisted by Atty. Mateo during the police investigation, we are of the view that her illiterate condition militates against full understanding of her own sworn statements which she could not even sign but could only thumbprint. We have no reason to disbelieve her testimony that she did not comprehend the significance of the contents of her alleged extrajudicial confession. In this situation, the Court must give her, because of her illiteracy and lowly status in life, the benefit of the doubt. It was indeed error for the court a quo to rely on her alleged confession in order to convict her.

Her guilt, in our view, could not also be established on the basis of conspiracy. Conspiracy should be proved in the same manner as the criminal act. Although direct proof is not absolutely essential, conspiracy must be shown to exist as clearly as the commission of the offense itself. It is a fundamental rule that a charge of conspiracy must be proven, just like any other criminal accusation, “independently and beyond reasonable doubt”.[47] In her case, even the Solicitor General manifested “there is no clear independent evidence showing appellant’s conspiracy with the other accused.”[48] In our view, there appears no convincing evidence that she had participated in the planning and the actual commission of the crime together with her co-appellants.

In fine, while we sustain the conviction of appellants Ernesto Sabiyon and Cesario Murphy, we find no sufficient evidence to prove the guilt of appellant Lolita Santos. The records are simply too sparse to link her to the killing of Ben Hernandez. Perforce she must be acquitted for lack of the required quantum of proof to sustain a conviction.

The aggravating circumstances of treachery, evident premeditation, and abuse of superior strength allegedly attended the commission of the offense charged. However, under the Revised Penal Code, Art. 14, par. 16, treachery may be considered as an aggravating circumstance only in crimes against persons, and not in crimes against property.[49] Evident premeditation cannot also be appreciated as there was no evidence adduced that the execution of the criminal act was preceded by cool thought and reflection upon the resolution to carry out the criminal intent during the space of time sufficient to arrive at a calm judgment. Besides, we have held that evident premeditation is inherent in robbery and should not have been considered against the accused.[50] Lastly, abuse of superior strength cannot be appreciated as there was no evidence at all that appellants took advantage of their combined strength to consummate the crime. Mere numerical count of the accused does not by itself result in proof of this circumstance. All told, none of the aggravating circumstances alleged was properly proved, hence none could be utilized in imposing the penalty for the offense.

Thus, we now come to the question of the proper penalty. The lower court imposed the penalty of reclusion perpetua to death on appellants. This is legally erroneous and inappropriate. It should be corrected.

Robbery with homicide is punishable by two indivisible penalties, i.e. reclusion perpetua to death, under Article 294 (1) of the Revised Penal Code. This is called the prescribed penalty which is distinct from the impossible penalty on the accused, after considering the evidence and the attendant modifying circumstances in the case.

In this case, there being no aggravating nor mitigating circumstance, the proper penalty to be imposed on appellants Ernesto Sabiyon and Cesario Murphy is reclusion perpetua, pursuant to Article 63 of the Revised Penal Code. The award of actual damages in the amount of P2,000, plus funeral expenses in the amount of P18,500, is supported by the evidence. The civil indemnity of P50,000 for the death of Benedicto Hernandez is in accord with law and current jurisprudence. These awards must be sustained.

WHEREFORE, the appealed decision is MODIFIED. Appellants ERNESTO SABIYON AND CESARIO MURPHY are found GUILTY of robbery with homicide and sentenced to suffer the penalty of reclusion perpetua. They are ordered to return by way of restitution the sum of P2,000 together with the watches and jewelry taken from the victim; and to pay severally and jointly the heirs of the victim Benedicto Hernandez P50,000 as civil indemnity and P18,500 as actual damages duly proved, inclusive of funeral expenses.

Appellant LOLITA SANTOS, however, is ACQUITTED for lack of sufficient evidence. She is hereby ordered RELEASED from confinement immediately, unless she is being held for another lawful cause. The Director of the Correctional Institution for Women, Mandaluyong City, is directed to report hereon within five days from receipt of this decision.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, and Callejo, Sr., JJ., concur.

Sandoval-Gutierrez, J., on leave.

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- [1] Rollo, pp. 37-47.
- [2] Records, pp. 62-63.
- [3] TSN, June 21, 1994, pp. 2-20.
- [4] TSN, June 28, 1994, pp. 10-12.
- [5] Id. at 3-4
- [6] TSN, July 20, 1994, pp. 2-15.
- [7] TSN, August 9, 1994, pp. 2-14.
- [8] TSN, August 30, 1994, pp. 2-18.
- [9] TSN, October 4, 1994, pp. 2-16.
- [10] TSN, November 15, 1994, pp. 2-13.
- [11] TSN, November 16, 1994, pp. 2-13.
- [12] TSN, January 10, 1995, pp. 2-20.
- [13] TSN, January 17, 1995, pp. 2-5.
- [14] TSN, March 28, 1995, p. 10.
- [15] TSN, May 16, 1995, pp. 2-4.
- [16] TSN, May 23, 1995, pp. 2-16.
- [17] TSN, May 30, 1995, pp. 2-5.
- [18] TSN, June 27, 1995, pp. 2-6.
- [19] Id. at 13-16.
- [20] TSN, November 21, 1995, p. 5.
- [21] Id. at 6.
- [22] TSN, August 29, 1995, pp. 3-5.
- [23] TSN, June 5, 1996, pp. 2-11
- [24] Records, pp. 46-47.
- [25] Rollo, pp. 98-99.
- [26] Id. at 191-192.
- [27] Id. at 158.
- [28] *People vs. Salvador*, 163 SCRA 574, 582 (1988).
- [29] *People vs. Suarez, et al.*, 267 SCRA 119, 134-135 (1997).
- [30] Id. at 136.

- [31] Rollo, p. 45
- [32] TSN, June 5, 1996, p. 11.
- [33] Supra, note 30.
- [34] TSN, November 16, 1994, pp. 4-7.
- [35] Id. at 10-12.
- [36] Burden of proof. (Black's Law Dictionary-5th Ed., p. 983)
- [37] The intention to make a gain or profit. (Black's Law Dictionary-5th Ed., p. 81)
- [38] People vs. Jarandilla, 339 SCRA 381, 394 (2000).
- [39] People vs. Boquirin, G.R. No. 136829, June 6, 2002, p. 6.
- [40] TSN, June 21, 1994, pp. 3-5.
- [41] People vs. Gonzales, et al., G.R. No. 142932, May 29, 2002, p. 12.
- [42] Id. at 14.
- [43] People vs. Maliput et al., 252 SCRA 519, 529 (1996).
- [44] Rollo, p. 46
- [45] People vs. Sanchez, 298 SCRA 48, 56 (1998).
- [46] TSN, August 30, 1994, pp. 19-20.
- [47] People vs. Loreno, et al., G.R. No. 130889, June 6, 2002, p. 9.
- [48] Rollo, p. 153.
- [49] But see Regalado, Criminal Law Conspectus, p. 95, citing People vs. Balagtas, 68 Phil. 675.
- [50] People vs. Morial, et al., G.R. No. 129295, August 15, 2001, p. 34.

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