PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAYMOND MAXION Y GASPAR, ACCUSED-APPELLANT.

G.R. No. 135145. July 19, 2001

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal from the decision of the Regional Trial Court, Quezon City, Branch 77[1] convicting accused Raymond Maxion y Gaspar of robbery with homicide, sentencing him to the penalty of reclusion perpetua, to pay the owner of Hi-Top Supermarket in the amount of P1,464,644.75, to pay the heirs of Emmanuel Gargaceran in the amount of P50,000.00 as indemnity, P20,000.00 as moral damages and P25,310.00 as reimbursement of burial expenses.

On June 29, 1993, Assistant City Prosecutor of Quezon City Robert H. Tobia filed with the Regional Trial Court, Quezon City an information charging Raymond Maxion y Gaspar and Carlos Villacruz with robbery with homicide, committed as follows:

> "That on or about the 24[th] day of May, 1993, in Quezon City, Philippines, the above-named accused, conspiring, confederating with other person whose true name and identity has not as yet been ascertained and mutually helping one another, with intent to gain and by means of violence upon person, did, then and there willfully, unlawfully and feloniously rob cash deposit of the Hi-Tops Supermart, located at Sgt. Esguerra Street, this City, in the manner as follows: on the date and place aforementioned, the said accused pursuant to their conspiracy while Ronald Himor and his Security escort EMMANUEL GARGACERAN were about to cross the street, two (2) men suddenly appeared, and thru force and violence, robbed, grabbed the duffle bag containing cash money amounting to P1,464,644.75 Philippine Currency, belonging to the Hi-Top Supermart, represented by RONALD HIMOR, and on the occasion of said robbery, the said accused pursuant to their conspiracy, armed with firearm, with intent to kill, did then and there attack, assault, and employ personal violence upon the person of EMMANUEL GARGACERAN y EDIS, a security guard of the United Coconut Planters Bank (UCPB), by then and there shoot (sic) him with a handgun, hitting him in his chest, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the Hi-Top Supermart in the amount of P1,464,644.75 Philippine Currency, and the heirs of Emmanuel Gargaceran y Edis.
>
> "CONTRARY TO LAW."[2]

Upon arraignment on July 13, 1993, accused Raymond Maxion entered a plea of "not guilty" to the offense charged.[3] Carlos Villacruz was arrested on September 5, 1993.[4] On January 12, 1994, Prosecutor Meynardo M. Bautista, Jr. filed with the trial court a motion to dismiss the case against accused Carlos Villacruz for lack of evidence.[5] On January 24, 1994, the trial court dismissed the case against Carlos Villacruz.[6] Trial ensued against accused Maxion.

On May 24, 1993, about 11:00 in the morning, Ronald Himor, a teller at the United Coconut Planters Bank (UCPB), Bohol Avenue Branch walked across the street towards the Hi-Top Supermarket, located at Sgt.

Esguerra Street, Quezon City to pick up the cash deposit of the supermarket amounting to P1,464,644.75. After issuing the deposit slip, he placed the money inside a duffle bag and padlocked the bag. Thereafter, he called the bank to send his security escort.

UCPB sent security escort Emmanuel Gargaceran. While Himor and Gargaceran were about to cross the street going back to the bank, two (2) armed men suddenly emerged and walked towards them. One of the men was in front of Gargaceran while the second stayed behind him. Both of them aimed their guns at Gargaceran. The man behind Gargaceran immediately took Gargaceran's handgun, and shortly thereafter, the man in front shot Gargaceran at close range hitting him on the chest. Himor attempted to run with the bag towards the bank but he was stopped by the armed men who ordered him to release the bag. With their guns pointed at him, Himor tossed the bag containing the money to them and ran back to the supermarket.

On May 24, 1993, Dr. Florante F. Baltazar, Chief Inspector of the PNP performed an autopsy on the body of the deceased Emmanuel Gargaceran and found that the cause of death was a penetrating gunshot wound, anterior left thorax.[7]

Ten (10) days after the incident, Himor went to the Criminal Investigation and Detection Group, PNP in Camp Crame, and assisted a cartographer to draw the face of the suspect. On June 18, 1993, he was investigated at the Criminal Investigation Division (CID), Sikatuna Village, Quezon City. On the same day, their security officer brought the cartographic picture of the suspect and presented it to the police investigators. The police investigator at CID presented Himor a group picture and asked him if he could identify the armed robbers. He immediately recognized a face and pointed to a man carrying a child as one of the armed men.

On June 21, 1993, accused was arrested at Binangonan, Rizal. On the following day, Himor positively identified the accused in a police line-up.

Accused Raymond Maxion denied any participation in the crime charged. He testified that during the alleged incident on May 24, 1993, he was at his residence at Block 60, Floodway, Taytay, Rizal celebrating the birthday of his wife. He didn't leave home on that particular day since his wife didn't allow him to do so.[8]

Alejandro Paralejos, a close neighbor, corroborated the testimony of the accused. He testified that he was one of the visitors who attended the birthday celebration of the wife of the accused on May 24, 1993, at their residence in Taytay, Rizal, and he even assisted in the cooking chores on that date.[9]

On June 9, 1998, the trial court rendered a decision, the dispositive portion of which provides:

> "WHEREFORE, the guilt of the accused having been proven beyond reasonable doubt, accused RAYMOND MAXION is hereby convicted of the crime charged and is hereby sentenced to suffer the penalty of reclusion perpetua. With costs against the accused.
>
> "The accused is likewise ordered to indemnify: (1) the owner of Hi-Top Supermarket for the stolen money amounting to P1,464,644.75, Philippine Currency; and (2) the heirs of Emmanuel Gargaceran for the death of said security guard in the sum of P50,000.00, Philippine Currency.
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> "He should also pay to the heirs of Emmanuel Gargaceran the sum of P20,000.00, Philippine Currency, by way of moral damages and the sum of P25,310.00, Philippine Currency, as reimbursement for burial expenses.
>
> "SO ORDERED."[10]

On August 18, 1998, accused Raymond Maxion filed a notice of appeal to this Court.[11]

On review of the case on writ of error, we find the appeal without merit.

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In robbery with homicide cases, the prosecution need only to prove these elements: (a) the taking of personal property with violence or intimidation against persons or with force upon things; (b) the property taken belongs to another; (c) the taking be done with animo lucrandi; and, (d) on the occasion of the robbery or by reason thereof homicide in its generic sense was committed.[12]

There is no question that the original and principal intention of the two armed men was to get the money of Hi-Top Supermarket. This is evident from the testimony of teller Himor that as soon as the two men stopped him from running towards the bank, they shouted to release the bag containing the money. As the robbery resulted in the killing of the security guard Emmanuel Gargaceran, the offense committed by the malefactors is indubitably the special complex crime of robbery with homicide.

In robbery with homicide, what is essential is that there be "a direct relation, an intimate connection between robbery and the killing, whether the latter be prior or subsequent to the former or whether both crime be committed at the same time."[13]

Accused-appellant claimed that prosecution eyewitness Himor stated in his direct testimony that he had a clear view of the faces of the armed robbers, but on cross-examination, he declared that he had no time to look at their faces. Hence, accused-appellant claimed that the trial court erred in giving due weight and credence to the testimony of this eyewitness despite the material contradictions.[14] We do not agree. When the witness testified on cross-examination that he did not have time to look at the faces of the attackers, he was referring to the time that the armed robbers approached them and poked their guns at security guard Gargaceran. At the time the accused stopped bank teller Himor and ordered him to let go of the bag containing the money, eyewitness Himor and the accused were face to face.[15] There is nothing to show that eyewitness Himor was actuated by ill motive to implicate accused-appellant in the commission of the crime. The logical conclusion is that no such improper motive exists and the testimony of eyewitness Himor is worthy of full faith and credit.[16]

It must be observed that the issue raised by accused-appellant involves the credibility of witness, which is best addressed by the trial court, it being in a better position to decide such question, having heard the witness and observed his demeanor, conduct, and attitude under grueling examination. These are the most significant factors in evaluating the sincerity of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. Through its observations during the entire proceedings, the trial court can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to believe. Verily, findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case.[17] Accused-appellant relied heavily on denial to prove his innocence. Denial like alibi is a weak defense, and must be rejected when the identity of the accused is sufficiently and positively established by eyewitnesses to the offense.[18] Faced with the positive identification of accused-appellant as the perpetrator of the crime, his denial or alibi cannot prevail.

We affirm the award of P50,000.00 as death indemnity to the heirs of Emmanuel Gargaceran as this is in accord with current jurisprudence.[19] As for moral damages, the award of P50,000.00 is proper. The Civil Code provides that "moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission."[20] Luzviminda Gargaceran, the victim's wife, testified that on May 24, 1993, she saw her husband in the morgue, lying on bed with his left eye opened and his face full of blood. She also testified that the death of her husband left her with three children to support, thus, she did not know what to do.[21] She lost him due to a senseless crime. However, we cannot sustain the award of P25,310.00 as actual damages. The Court can only grant such amount for expenses if proper receipts support them.[22]

WHEREFORE, the decision of the Regional Trial Court, Branch 77, Quezon City, in Criminal Case No. Q-93-45754 is AFFIRMED with MODIFICATION. Accused-appellant Raymond Maxion y Gaspar is found guilty beyond reasonable doubt of robbery with homicide, and is hereby sentenced to reclusion perpetua with all its accessory penalties. He is ordered to reimburse the owner of Hi-Top Supermarket in the amount of P1,464,644.75, and to pay the heirs of Emmanuel Gargaceran in the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

With costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In Criminal Case No. Q-93-45754, Decision, dated June 9, 1998. Rollo, pp. 29-33. Judge Vivencio S. Baclig, presiding.

[2] Rollo, pp. 15-16.

[3] Order; RTC Original Record, p. 26.

[4] Notification and Return of Warrant of Arrest, Original Record, p. 46.

[5] Original Record, pp. 88-89.

[6] Original Record, p. 97.

[7] Certificate of Death, Original Record, p. 6.

[8] TSN, April 15, 1996, pp. 2-4.

[9] TSN, September 9, 1997, pp. 2-3.

[10] Rollo, pp. 29-33.

[11] Original Record, p. 306.

[12] People v. Salazar, 342 Phil. 745, 748 [1997].

[13] People v. Navales, 334 Phil. 521, 524 [1997].

[14] Appellant's Brief, pp. 68-69.

[15] TSN, August 18, 1993, pp. 7-8.

[16] People v. de Guzman, G. R. No. 132071, October 16, 2000.

[17] People v. Antonio, G. R. No. 128900, July 14, 2000, citing People v. Pili, 351 Phil. 1046 [1998].

[18] People v. Pabillano, G. R. No. 108618, February 6, 2001.

[19] People v. Silvano, G. R. No. 125923, January 31, 2001.

[20] Civil Code, Article 2217; People v. Temanel, G. R. Nos. 97138-39, September 28, 2000.

[21] TSN, October 13, 1993, pp. 6-10.

[22] People v. de la Cruz, G. R. No. 128362, January 16, 2001; People v. Robles, Jr., 305 SCRA 273, 283-284

[1999].

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