

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAUL GUIMBA Y RUBA, DENNIS ARGUELLES Y RAMOS AND DELFIN RODRIGO Y SENUBIO, ACCUSED-APPELLANTS.

G.R. No. 139472. November 27, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For automatic review is the Decision[1] of the Regional Trial Court of Quezon City, Branch 95, in Criminal Case No. Q-98-77765 finding accused-appellants Raul Guimba, Dennis Arguelles and Delfin Rodrigo guilty beyond reasonable doubt of the special complex crime of Robbery with Homicide and sentencing them to suffer the supreme penalty of death. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered finding the three (3) accused, Raul Guimba y Ruba, Dennis Arguelles y Ramos, and Delfin Rodrigo y Senubio, GUILTY beyond reasonable doubt of the special complex crime of Robbery with Homicide defined in and penalized by paragraph 1 of Article 294 of the Revised Penal Code, as amended by Republic Act No. 7659, and, there being one aggravating circumstance of “Band” (paragraph 6, Art. 14, Revised Penal Code) without any mitigating circumstance to offset the same, they are hereby sentenced to suffer the penalty of DEATH.

The three (3) accused are hereby ordered to indemnify the heirs of the late M/Sgt. Conrado Bautista y Diego the amount of P50,000.00, as death indemnity, P90,000.00 as actual damages. They are further ordered to return the amount of P7,800.00 to Rhine Transport with legal interest computed from July 16, 1998 until fully paid.

The three (3) accused are ordered to pay the costs.

IT IS SO ORDERED.[2]

Accused-appellants were charged in the following Information:

That on or about the 6[th] day of July 1998 in Quezon City, Philippines, the said accused conspiring and confederating with two (2) other persons whose true names, identities and other personal circumstances have not as yet been ascertained and mutually helping one another, did then and there willfully, unlawfully and feloniously with intent of gain, with force, violence and intimidation against persons rob Galo Estipona Jr. y Montecalbo, Master Sergeant Conrado Bautista y Diego and the other passengers of Rhine Transport passenger bus with plate no. PYE-724 in the manner as follows: while said passenger bus driven by Sabas Surio was traveling along Commonwealth Avenue, this City, accused posing themselves as passengers, armed with handguns, handgrenade, and bladed weapons, announced a holdup and thereafter robbed, divested and carried away the bus day’s collection of conductor Galo Estipona, Jr. y Montecalbo in the amount of P7,800.00 Philippine Currency, cash money and other valuables from its passengers to the damage and prejudice of said offended parties; that by reason or on the occasion of the robbery, accused with intent to kill, and taking advantage of superior strength did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon M/Sgt. Conrado Bautista y Diego, a passenger of said bus who fought it out

with the accused by then and there shooting him with firearms hitting him on the different parts of his body thereby inflicting upon him mortal gunshot wounds which was the direct and immediate cause of his death; that before leaving the scene accused took and carried away M/Sgt. Conrado Bautista y Diego's service firearm, one (1) .45 caliber pistol, to the damage and prejudice of the Heirs of said Conrado D. Bautista.

CONTRARY TO LAW.[3]

When arraigned on August 12, 1998, accused-appellants, duly assisted by their respective counsel, pleaded not guilty to the charge, whereupon trial on the merits ensued. The prosecution presented as witnesses Galo Estipona, Jr., the bus conductor, Sabas Surio, the bus driver, Dr. Jose Arnel Marquez, the medico-legal officer, and SPO1 Primo Borito, the investigating officer. The defense, on the other hand, presented the three accused-appellants and Marissa Balena.

The prosecution established the following facts:

In the evening of July 6, 1998, a Rhine Transport bus left its terminal in Lagro, Quezon City bound for Baclaran. At around 11:30 that evening, while cruising along Commonwealth Avenue and passing by Bitoon Circle, near Doña Carmen Subdivision, five men hailed the bus. The driver, Sabas Surio, opened the automatic door and allowed the men to board. The first to board went straight to the back of the bus, one went near the driver, and another one positioned himself near Galo Estipona, Jr., the bus conductor, and the other two guarded the passengers, who numbered more or less ten. Shortly thereafter, one of them shouted, "Holdup ito! Walang kikiilos ng masama!" The man near the driver poked a knife at him and ordered him to continue driving. The two persons guarding the passengers started divesting them of their valuables, while the one near the conductor poked a gun at him and grabbed the money folded in between his fingers, and those inside his pocket, and ordered him to lie down on the floor. Before Estipona was able to lie down, he saw a passenger and one of the robbers grappling on something. Thereafter, he heard several gunshots inside the bus. Five men scampered and left one of the passengers, M/Sgt. Conrado D. Bautista, lying on the floor. Surio and Estipona proceeded to the police station and reported that their day's collection, amounting to P7,800.00, and other valuables of the passengers were forcibly taken away by five men, that one person was killed and one woman was injured. A week later, the two were summoned to the police station at Camp Karingal to identify the robbers, after which they executed sworn statements.

Dr. Arnel Marquez conducted the autopsy on the body of M/Sgt. Conrado Bautista and found that he sustained six gunshot wounds on different parts of his body and two lacerated wounds on his left ear. He concluded that two of the wounds were fatal as the vital organs including the lungs, the artery of the left carotid, the left jugular vein, the thoracic aorta, the pericardial sac and the arch of the aorta were the ones hit.

SPO1 Primo Borito testified that one week after the incident, they arrested the accused-appellants and confiscated a .38 caliber revolver (paltik) from Raul Guimba and another .38 caliber revolver with ammunition from Delfin Rodrigo. They likewise confiscated a fragmentation grenade placed inside a black belt bag found inside the house.

Accused-appellants denied the accusation against them. Instead, accused-appellant Raul Guimba testified that he was a security guard of the ATU Security Agency. On July 6, 1998, at 7:00 p.m., after his duty ended, he went to Delfin Rodrigo's house at 101, Odigal St., Litex, Quezon City, for his karate lessons. He left at 10:00 p.m. and boarded an air-conditioned bus. While he was seated in the bus, somebody declared a "holdup" from the rear of the bus. When he stood up, he was hit by a gunshot on the stomach. Hurriedly, he alighted from the bus, boarded a taxi and proceeded to his cousin's house. While he was there recuperating from the gunshot wound, he was arrested by the police who, according to him, had no arrest or search warrant. He further testified that the passengers of the bus who reported the incident to the police failed to identify him during the police line-up as one

of the robbers.

For their part, accused-appellants Delfin Rodrigo and Dennis Arguelles testified that on July 6, 1998 at 10:00 in the evening, they were at the house of accused-appellant Delfin Rodrigo attending karate lessons. Rodrigo was the instructor while Guimba, Arguelles, Marissa Balena and a certain Ben were the students. Guimba left at 10:00 p.m. while the rest stayed behind. After the lesson, they decided to have a drinking spree. Balena sang while Rodrigo played the piano. They stayed there until midnight.

Accused-appellant Arguelles further testified that after his arrest, he was beaten up by the police officers which rendered him unconscious. Then he was dragged into a vehicle and slumped on the floor with his hands handcuffed. During the police line-up, the passengers of the bus failed to identify accused-appellants Rodrigo and Arguelles.

In their respective Briefs, accused-appellants raise the following errors:

I

THE COURT A QUO GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESS GALO ESTIPONA AND SABAS SURIO DESPITE THEIR FAILURE TO GIVE CARTOGRAPHIC SKETCHES OF THE PERPETRATORS OF THE CRIME IMMEDIATELY RIGHT AFTER THE INCIDENT OCCURRED.

II

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT THE ARRESTING OFFICER SPO1 PRIMO BORITO AND THE ALLEGED INFORMANT MIGHT HAVE MISTAKEN THE IDENTITIES OF ACCUSED RAUL GUIMBA, DELFIN RODRIGO AND DENNIS ARGUELLES.

III

THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANTS RAUL GUIMBA, DELFIN RODRIGO AND DENNIS ARGUELLES GUILTY BEYOND REASONABLE DOUBT OF THE COMPLEX CRIME OF ROBBERY WITH HOMICIDE DEFINED AND PENALIZED UNDER PAR. 1 OF ARTICLE 294 OF THE REVISED PENAL CODE, AS AMENDED BY REPUBLIC ACT NO. 7659.

IV

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE CRIME OF ROBBERY WITH HOMICIDE WAS COMMITTED BY A BAND UNDER PAR. 6, ARTICLE 14 OF THE REVISED PENAL CODE, AS AMENDED.

Accused-appellants contend that the trial court erred in giving credence to the identification made by the two prosecution witnesses, Galo Estipona, Jr. and Surio Sabas. They argue that the witnesses were not sure of the perpetrators' identities because when they first reported the incident to the police they were not able to give any cartographic sketch of the alleged perpetrators of the crime. Moreover, the delay in the identification by the prosecution witnesses, which was made six days after the incident, shows that the witnesses had not identified them with exactness and certainty.

The contention is without merit.

Essentially, accused-appellants now attack the credibility of the prosecution witnesses, whom the trial court had characterized as bearing all the hallmarks of credible witnesses since they testified in a categorical, straightforward and candid manner. Additionally, the trial court did not find any indicium that the prosecution witnesses falsely testified against them or were prompted by any ill-motive to make such an accusation, their only

objective being to bring to justice those who were responsible therefor.

In view of the gravity of the crime and the penalty involved, we have meticulously reviewed the records and the transcript of stenographic notes, specifically the testimonies of the eyewitnesses, and we find no reason to set aside the trial court's conclusion that the prosecution witnesses identified accused-appellants as the perpetrators of the crime. Once again, we must stress that findings of the trial court on the credibility of witnesses deserve great weight, given the clear advantage of a trial judge in the appreciation of testimonial evidence. The trial court is in the best position to assess the credibility of witnesses because of their unique opportunity to observe the witnesses first hand and to note their demeanor, conduct and attitude under grueling examination. These are significant factors in evaluating the sincerity of witnesses. Save for compelling reasons, we are doctrinally bound by the trial court's assessment of credibility of witnesses.[4]

Prosecution witness Golo Estipona, Jr. testified thus:[5]

Q. You mentioned that five persons boarded the vehicle.... I will reform.

You mentioned that these five persons entered the bus and one person positioned himself at the rear of the bus, can you identify that person if he is in the courtroom?

A. Yes ma'am.

Q. Can you point him now if he is inside the courtroom?

A. Yes ma'am.

Q. Kindly point to that person?

A.

That person (witness pointing to a male person wearing light yellow shirt who when asked his name answered as Raul Guimba.

Q. What about the two persons who according to you divested the passengers of the valuables, can you identify them?

ATTY. CASTILLON:

There are five persons you were mentioning in your affidavit.

Q. Are they present in court?

A. Only one.

Q. Can you identify that person you are referring to as the one who divested the passengers of their valuables?

A.

That person sitted at the of the one who is dressed in a bright yellow (witness pointed to a person who when asked his name answered as Dennis Arguelles).

Q. What about the person who positioned himself near the driver, can you identify him?

A. No ma'am.

Q. Is he present in the courtroom?

A. He is not around.

Q. What about the holdupper who poked a gun at you and got your collections, is he present?

A. Yes ma'am.

Q. Is he present in the courtroom?

A. Yes ma'am.

Q. Will you kindly point to him?

A. Witness pointing to a male person wearing bright yellow shirt who when asked his name answered as Delfin Rodrigo).

On cross-examination, he further testified as follows:[6]

Q. And so when the bus stopped there were many passengers who boarded that bus?

A. Yes sir.

Q.

In fact you cannot determine as to who boarded the bus?

A. There were no other people who boarded the bus except the five persons.

Q. But the bus is full of passengers at that time?

A. There were only a few.

Q. So, there were many vacant seats?

A. Yes, sir.

x x x x x x x x

Q. And the light inside the bus was a little bit dim?

A. It was bright.

x x x x x x x x

Q. The one who divested you of your collection is he inside the courtroom?

A. Yes sir.

Q. Can you point to him now?

A. (Witness pointing to a person with bright yellow shirt who when asked his name answered as Delfin Rodrigo.)

Q. How did he happen to get your money?

A.

When I was already lying flat on the floor of the bus he first got the money that were placed between my fingers and after that he got the money from my pocket.

Q. So, you gave the money without facing him because you were lying down with your face downwards?

A.

(the witness answered the question by answering that he was leaning on his left side. Witness demonstrating by putting both of his ears and leaning on his left side with the right side of his body exposed).

Q.

Look at squarely the person who divested you. Is he the same appearance when he divested you as compared to his appearance now?

A. Yes sir.

Q. Look at his shirt is it the same shirt he wore during that day, time?

A. No sir.

Q. What was the color of his shirt at that time?

A. I cannot remember anymore.

x x x x x x x x

Q. Look again at this accused, was he wearing this shoes?

A. They were not wearing shoes.

Q. How about trousers?

A. All of them are wearing a pair of shorts.

x x x x x x x x

Q. I want to be very particular about the identification of Dennis Arguelles if you saw him, what was he doing?

A. He took part in divesting valuables from the passengers.

Q. How many of them were divesting valuables aside from the person who was allegedly poking a gun at him?

A. Two sir.

X X X X X X X X

Q. When did you see these people collecting the valuables, before you were ordered to lie down or after?

A. When I was already lying.

Q. And when you were lying your face is downward?

So, you mean your face was fronting towards the back of the bus?

A. No sir, at the right side. On the right side of my body, sir.

Q.

Also at the right side of the bus there were vacant seats. You mean you were free to see what is happening on the back. So, you were able to see the back side as to what people were doing?

A. I could not see.

Q. And you are not sure whether Dennis Arguelles and the other are near where you are leaning?

A.

I am sure that the two persons Dennis Arguelles and the other one who was not yet arrested they were the ones divesting the valuables in fact getting the bag of the mother and child.

Q. From your seat where you are leaning up to the portion where you saw Dennis Arguelles, how many seats apart?

A.

It is like this sir. I was positioned at the third seat from the driver. I was positioned on the third seat at the back of the driver and the mother and child were positioned in the second seat on the other side of the bus and I could see them clearly.

From the foregoing testimony it can be gleaned that the witness had every opportunity to identify some of the culprits considering that there were not many passengers on board and the cabin was adequately lighted. It is settled jurisprudence that victims of criminal violence have a penchant for remembering the faces and features of their attackers. The most natural reaction of victims of violence is to strive to see the appearance of the perpetrators of the crime and observe the manner in which the crime was committed.[7] Moreover, where conditions of visibility are favorable and the witnesses did not appear to be biased against the accused, their

assertions as to the identity of the malefactors should normally be accepted.[8]

In the case at bar, accused-appellants failed to show that the prosecution witnesses were prompted by any ill motive to falsely testify or wrongfully accuse them of so grave a crime of robbery with homicide. The Court adheres to the established rule that in the absence of any evidence to show that the witness was actuated by any improper motive, his identification of the accused as the assailant should be given full faith and credit.[9]

The fact that there was no cartographic sketch of the perpetrators made immediately after the incident does not in any way lessen the credibility of the prosecution's witnesses for it is neither an indispensable requirement in prosecuting the crime nor is it an element thereof. Neither would the delay in identifying the perpetrators render their testimony less plausible. We have consistently held that failure to immediately reveal the identity of the perpetrator of a felony will not necessarily impair the credibility of a witness[10] if such delay is satisfactorily explained.[11] True, in the case at bar, the identification of the accused-appellants took place when they were arrested after one week. However, as explained by the prosecution witnesses, they described accused-appellants immediately after the incident, which became the bases for their subsequent arrest.[12]

The prosecution was able to establish the essential elements of robbery with homicide, to wit: (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 with *animo lucrandi*, and (d) by reason of the robbery or on the occasion thereof, homicide (used in its generic sense) is committed.[13]

Although the prosecution witnesses did not see who among the culprits shot M/Sgt. Conrado D. Bautista, this, however, does not absolve accused-appellants from liability therefrom. The concerted manner by which accused-appellants perpetrated the crime showed beyond reasonable doubt the presence of conspiracy. Where conspiracy is established, it matters not who among the accused actually shot and killed the victim. The consistent doctrinal rule is that whenever a homicide has been committed as a consequence of or on the occasion of a robbery, all those who took part as principals in the robbery will also be held guilty as principals in the special complex crime of robbery with homicide, even if some of them did not actually take part in the homicide, unless it appears that those who did not do so endeavored to prevent the homicide.[14]

We cannot, however, sustain the trial court's finding that the crime was attended with the aggravating circumstance of band. A crime is deemed to have been committed by band whenever more than three armed malefactors shall have acted together in the commission of an offense.[15] In the case at bar, the prosecution failed to prove whether more than three of the culprits were armed. At most, only two were proved to be armed: the person who poked a knife on the driver and accused-appellant Delfin Rodrigo, who poked a gun at the conductor.[16]

The imposable penalty for robbery with homicide is reclusion perpetua to death. There being neither aggravating circumstance nor mitigating circumstance in the commission of the crime, the penalty should be reduced to reclusion perpetua.[17]

Anent the award of damages, the trial court ordered accused-appellant to pay the heirs of the victim the stipulated amount of P90,000.00 as actual damages[18] and P50,000.00 as death indemnity, and to return the amount of P7,800.00 to Rhine Transport with interest. Although receipts should ordinarily support claims for actual damages, as an exception, in *People v. Galvez*,[19] we sustained the award of actual damages in view of the defense's admission of the claim. However, the order of the trial court to return the amount of P7,800.00 with interest to Rhine Transport must be deleted for not being supported by evidence. Furthermore, in line with the current jurisprudence, an award of moral damages in the amount of P50,000.00 to the victim's heirs is likewise proper taking into consideration the pain and anguish of the victim's family brought about by his death.[20]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Quezon City, Branch 95, in Criminal Case No. Q-98-77765 finding accused-appellants Raul Guimba, Dennis Arguelles and Delfin Rodrigo guilty beyond reasonable doubt of the special complex crime of Robbery with Homicide is AFFRIMED with the MODIFICATION that accused-appellants are sentenced to suffer the penalty of Reclusion Perpetua and to pay the heirs of the victim the amounts of P90,000.00 as actual damages, P50,000.00 as death indemnity and the further sum of P50,000.00 as moral damages.

SO ORDERED.

Bellosillo, Vitug, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Davide, Jr., C.J., and Puno, J., on official leave.

[1] Penned by Judge Diosdado Madarang Peralta.

[2] Rollo, pp. 27-28.

[3] Rollo, pp. 5-6.

[4] People v. Cariño, G.R. No. 141737, March 20, 2002.

[5] TSN, September 1, 1998, pp. 6-12.

[6] Ibid., pp. 15-25.

[7] People v. Dinamling, G.R. No. 134605, March 12, 2002.

[8] People v. Bonifacio, G.R. No. 133799, February 5, 2002.

[9] People v. Baniega, G.R. No. 139578, February 15, 2002.

[10] People v. Hermosa, G.R. No. 131805, September 7, 2001.

[11] People v. Abendan, G.R. Nos. 132026-07, June 28, 2001.

[12] TSN, September 1, 1998, p. 28.

[13] People v. Boquilla, G.R. No. 136145, March 8, 2002.

[14] People v. Matic, G.R. No. 133650, February 19, 2002.

[15] Revised Penal Code, Art. 14, Sec. 6.

[16] TSN, September 12, 1998, pp. 12-13.

[17] Op. cit., note 4.

[18] TSN, November 5, 1998, p. 2.

[19] 355 SCRA 247, 265 (2001).

[20] People v. Taboga, G.R. Nos. 144086-87, February 6, 2002.

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