THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE ISHIKAWA AMBA, ACCUSED-APPELLANT.

G.R. No. 140898. September 20, 2001

Ponente: GONZAGA-REYES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-140898/

GONZAGA-REYES, J.:

Accused-appellant Jose Amba (hereafter accused-appellant) seeks the reversal of the Decision[1] dated August 19, 1999 of the Regional Trial Court, Branch 272 of Marikina City in Criminal Case No. 98-2363-MK entitled "People of the Philippines vs. Jose Amba, et. al." that found him guilty of the complex crime of attempted robbery with homicide.

Originally, accused-appellant and his co-accused Pastor Zamora (hereafter Zamora), who was acquitted by the trial court, were charged with the complex crime of robbery with homicide in an Information that reads:

> "The undersigned 3[rd] Asst. Prov'l Prosecutor accuses JOSE AMBA @ AHMED and PASTOR ZAMORA @ JERRY OBALDO of the crime of Robbery with Homicide, committed as follows:
>
> That on or about the 10[th] day of February, 1998 in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a fan knife, conspiring and confederating together and they mutually helping and aiding one another, with intent to gain and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously rob and divest one (1) gold necklace belonging to one Stephanie Sy, to the damage and prejudice of (sic) heirs of Stephanie Sy, that on the occasion and by reason of said robbery one of the accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Stepanie Sy, thereby inflicting upon the latter stab wounds which directly caused her death.
>
> CONTRARY TO LAW."[2]

The undisputed facts show that:

On February 10, 1998, around 8 p.m., the victim, Stephanie Sy (hereafter Stephanie), then a 21-year old student of the University of the Philippines, together with her friend and schoolmate, Jennifer Llamas (hereafter Llamas), were on their way home to Marikina City. Tired and hungry, Stephanie and Jennifer decided to have a snack at the Seven-Eleven, a convenience store in Concepcion, Marikina City. After alighting from a jeepney, Stephanie and Llamas proceeded to walk along J.P. Rizal Street towards Seven-Eleven. As they were about to enter the Seven-Eleven store, a man came out of nowhere and grabbed Stephanie's neck and hand. Stephanie struggled against her attacker and was able to kick him down, but he immediately got up and drew a knife, stabbing Stephanie on the right breast. The man then scampered away and disappeared from the crowd. Bloodied and gasping for breath, Stephanie managed to walk but after several steps, she fell to the ground. Recovering from shock, Llamas rushed to Stephanie's side to help her. Llamas then pleaded to the people around her to bring Stephanie to the hospital. It was at the nearby Amang Rodriguez Hospital that Stephanie was declared dead on arrival.

On March 5, 1998, the police arrested accused-appellant based on the claim of several witnesses that he was the assailant of Stephanie.

Upon arraignment, accused-appellant and Zamora pleaded not guilty. During trial, the prosecution presented documentary evidence and the following witnesses: SPO2 Jaime Gamueda (hereafter SPO2 Gamueda), the police investigator; eyewitnesses Llamas, Carlos Sian III (hereafter Sian), and Nelson Almuete (hereafter Almuete); Dr. Cristina Freyra, the Medico Legal Officer; and Amelita T. Sy, the mother of Stephanie. For the defense, the witnesses were: Brenda Buenaventura, a Marikina City employee detailed with the Public Attorney's Office; SPO2 Gamueda; Police Inspector Virgilio de Jesus, Chief of the Mobile Patrol Division, Marikina City; accused Zamora; Police Superintendent William Martinez Coronado; Jean Ishikawa Amba, sister of accused-appellant and wife of Almuete; accused-appellant, and Sian.

On August 19, 1999, the trial court rendered the assailed judgment, the dispositive portion of which states:

> "WHEREFORE, foregoing premises considered, JOSE ISHIKAWA AMBA having been found GUILTY beyond reasonable doubt of having committed the crime of Attempted Robbery with Homicide is hereby sentenced to suffer a penalty of reclusion perpetua, the commission of the crime having been attended with the qualifying aggravating circumstances of treachery and abuse of superior strength and to pay the parents of the victim the amount of P75,000.00 as funeral expenses, the amount of P50,000.00 as indemnity for the death of the victim and P150,000.00 as moral and exemplary damages with cost. However, accused PASTOR ORO ZAMORA is ordered ACQUITTED for failure of the prosecution to present any evidence involving said Pastor Oro Zamora in the commission of the same criminal offense. The Bureau of Corrections, therefore is ordered to effect the immediate release of accused PASTOR ORO ZAMORA unless otherwise held for any other purpose.
>
> SO ORDERED."[3]

In this appeal, accused-appellant maintains his innocence and raises the following errors that the trial court allegedly committed:

> "I
>
> THE LOWER COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED AGAINST HIM BASED ON THE CONFLICTING AND INCREDIBLE TESTIMONIES OF THE ALLEGED EYEWITNESSES TO THE CRIME.
>
> II
> THE LOWER COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF ATTEMPTED ROBBERY WITH HOMICIDE AND APPRECIATING THE QUALIFYING CIRCUMSTANCES OF TREACHERY AND ABUSE OF SUPERIOR STRENGTH AGAINST HIM DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BY THE PROSECUTION BEYOND REASONABLE DOUBT."[4]

The appeal is without merit.

Accused-appellant mainly contends that the testimonies of Llamas, Sian and Almuete, the three prosecution witnesses who positively identified him as the perpetrator of the crime, should not have been given credence by the trial court. Their testimonies on direct examination and cross-examination are allegedly not credible and convincing.

Accused-appellant claims that Llamas was not sure of her positive identification of accused-appellant until she was shown pictures of the accused-appellant and only after she saw him through a one-way mirror but with no other suspect in the police line-up. Accused-appellant interposes a similar objection to the accuracy of Sian's

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

identification of accused-appellant because Sian was allegedly only able to identify him after a police officer showed Sian several pictures of accused-appellant. As to Almuete, the brother-in-law of accused-appellant, accused-appellant calls our attention to the fact that when Almuete testified, he disowned a sworn statement which accused-appellant claims Almuete executed during the course of the investigation. Accused-appellant believes that Almuete's disavowal of that sworn statement indicates that he is hiding something or has an ulterior motive in testifying against him. The motive, accused-appellant theorizes, is for Almuete to exact revenge on his wife, the sister of accused-appellant. Accused-appellant bases this conclusion on the fact that Almuete testified that his wife separated from him because of this case, but his wife contradicted this claim when she testified that she had long been separated from Almuete even before this case came into existence. Almuete's ulterior motive, according to accused-appellant, must necessarily affect his credibility. Accused-appellant thus insists that since these witnesses are not credible, his defense of alibi should have been accorded greater weight.

The arguments do not persuade.

Accused-appellant anchors this appeal on the issue of credibility. Jurisprudence is clear on this matter, that the issue of credibility is best addressed to the trial court judge who observed first hand the demeanor and deportment of the witnesses. Appellate courts will not disturb the findings on the credibility, or lack of it, accorded by the trial court to the testimony of witnesses, unless it be clearly shown that the trial court had overlooked or disregarded arbitrarily certain facts and circumstances of significance in the case.[5]

We have carefully reviewed the records of this case, including the transcript of the testimonial evidence, and we agree with the trial court that the testimony of the prosecution witnesses deserve credence. The prosecution witnesses categorically placed accused-appellant at the scene of the crime and positively identified him as the assailant. As a rule, greater weight is accorded to the positive narration of prosecution witnesses than to the negative testimonies of the defense. More so when the positive and categorical testimony has a ring of truth to it,[6] as in the case at bar.

The most formidable evidence against accused-appellant is the unequivocal testimony of Llamas that it was accused-appellant who attacked her friend, Stephanie, while they were on their way to Seven-Eleven. During re-direct examination, Llamas reiterated that she was sure it was accused-appellant whom she saw, she testified in this manner:

> "Q:
>
> Miss witness, during the direct examination, you mentioned and you were asked by this counsel what was the lighting condition and you mentioned that it was not so dark because of the Meralco post. However, you answered in the cross-examination that it was dark, will you please explain what you mean by your answer?
>
> A:
>
> It was dimmed (sic) but not totally dark. I saw his left profile (sic) there was a lighted Meralco post several meters from us, sir.
>
> ATTY. CARREON
>
> Q:
>
> What made you very sure that the person whom you saw was Amba when you responded to the question of the defense counsel during cross-examination that you were not very sure, will you please explain Miss Witness?
>
> A:
>
> During the night itself (sic) I had seen his left side and semi-balding hair, that is enough for me to really

pinpoint him sir."[7]

As Llamas said, the scene of the crime was sufficiently lighted, enabling her to identify accused-appellant. Taking into account Llamas' entire testimony, we cannot sustain accused-appellant's insinuation that she was conditioned to incriminate him simply because he was the lone suspect in the police line-up. Llamas was consistent and unwavering in saying that accused-appellant was the author of the crime. At most, the photographs of accused-appellant shown to Llamas during investigation and the alleged questionable police line-up merely served to refresh Llamas' memory.

Likewise, we cannot sustain accused-appellant's contention that Sian was only able to identify him because the police officer showed Sian several pictures of accused-appellant. In very clear terms, Sian stated that he recognized the assailant's face[8] and that it was accused-appellant. Sian testified that he was waiting for a jeepney across J.P. Rizal Street when he saw accused-appellant stab a woman. Accused-appellant then passed by in front of him after the stabbing incident.[9] Sian's recognition of accused-appellant is credible considering: the place was well lighted;[10] he was more or less 10 to 15 meters away from crime scene;[11] and after accused-appellant stabbed the victim, he passed by in front of Sian at a distance of only three arms-length.[12]

The Court notes that Sian was also presented by the defense as its witness on June 21, 1999 for the purpose of recanting the testimony that he gave earlier as a witness for the prosecution. However, the record shows that the defense failed to achieve this objective. When the defense counsel asked Sian if he wanted to tell the court that it was not accused-appellant who stabbed Stephanie, Sian answered "No sir",[13] whereupon, the defense counsel asked Sian a series of leading questions, to which the prosecution properly objected and which objections the judge duly sustained.[14] What is established in this particular testimony of Sian as a defense witness is that he only wanted to get out of the case because he was having difficulty.[15] Sian explained the predicament that he was in--that after giving his testimony for the prosecution, he was jailed for another crime; that accused-appellant was detained in the same jail ahead of him; that his inmates believed that accused-appellant was not the one who stabbed Stephanie; and that the inmates "made sapak (punched) on him".[16] What is thus doubtful is Sian's motive for testifying for the defense.

Assuming arguendo that Sian's credibility is impaired because of his attempt to recant his testimony for the prosecution, the credible and straightforward eyewitness account of Llamas convincingly establishes accused appellant's guilt. Furthermore, another eyewitness, Almuete, provided equally convincing testimony that he also witnessed how his brother-in-law, accused-appellant, stabbed Stephanie.

Almuete recounted on the witness stand that on February 10, 1998, around 8:00 p.m., he was riding a jeepney together with his child and accused-appellant on their way home to Concepcion, Marikina City.[17] Accused-appellant alighted ahead of Almuete at the Seven-Eleven at J. P. Rizal Street, Marikina City.[18] Almuete then also alighted and when he was about to cross the street, he saw accused-appellant following two women and that accused-appellant pulled something from the woman's nape.[19] The woman then kicked accused-appellant and that accused-appellant thereafter stabbed the woman.[20]

Accused-appellant finds questionable Almuete's denial of a sworn statement that Almuete allegedly gave to the police. In that purported sworn statement, Almuete pointed to accused-appellant as the one that stabbed Stephanie after accused-appellant grabbed her necklace; that he came to know of this crime because accused-appellant confided to him; and that his conscience compelled him to identify accused-appellant as the one who committed the crime.[21] Accused-appellant makes much of Almuete's disavowal of that sworn statement, suggesting that Almuete had something to hide in denying the sworn statement.

We do not agree.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

It was on the witness stand that Almuete's credibility was put to a test. Under oath and subjected to a punishing examination, Almuete corroborated Llamas' version of what transpired that fateful night. It bears stressing that testimonial evidence is more exact and elaborate, it therefore carries more weight than sworn statements/affidavits.[22] More so in this case when the person who supposedly executed the sworn statement disowns it.

Accused-appellant's alibi that he was in his place of work in San Juan at the time that the crime occurred, a claim that is uncorroborated, cannot prevail over the credible and positive testimonies of the prosecution witnesses placing accused-appellant at the scene of the crime. For the defense of alibi to prosper, the accused must prove his presence in another place at the time of the perpetration of the offense and to demonstrate that it would thus be physically impossible for him to be at the scene of the crime.[23]

Accused-appellant claims that the trial court erred in convicting him when the testimonies of the eyewitnesses are conflicting. He however fails to specify or elaborate as to how the testimonies are in any in way in conflict so as to preclude a conviction. If at all, the witnesses were merely uncertain as to what personal item of Stephanie accused-appellant was interested in and whether accused-appellant was able to successfully abscond with it. Llamas initially believed that accused-appellant grabbed the watch of Stephanie while Almuete and Sian claimed that accused-appellant pulled a necklace from Stephanie's nape. It cannot be discerned with certainty if accused-appellant was able to consummate the crime of robbery since a police investigation report declared that all of the valuables of Stephanie were intact and the father of Stephanie, who claimed that the necklace of Stephanie was missing did not testify at all.[24] However, the prosecution witnesses were essentially one in saying that accused-appellant was grabbing and pulling something from Stephanie before she felled him with a kick and that accused-appellant retaliated by stabbing her.

To be liable for the special complex crime of robbery with homicide, the prosecution must establish that: "(a) the taking of the personal property with the use of violence or intimidation against a person; (b) the property thus taken belongs to another; (c) the taking is characterized by intent to gain or animus lucrandi; and (d) on the occasion of the robbery or by reason thereof, the crime of homicide, which therein used in a generic sense, was committed."[25] While it cannot be ascertained what particular item accused-appellant intended to pull or grab from Stephanie, and whether he was able to completely take it, what is evident in this case is that accused-appellant had every intention of robbing Stephanie. Accused-appellant through the overt acts of pulling and grabbing something from Stephanie had demonstrated his intention of carrying out the robbery and the robbery would have been completed were it not for the resistance put up by Stephanie. The trial court thus correctly ruled that accused-appellant is guilty of attempted robbery with homicide.

We however do not agree with the trial court that the qualifying circumstance of treachery attended the commission of the crime when no qualifying circumstance was alleged in the information and when the evidence at bar betrays this finding of the trial court. Treachery is present when the means, method or form of execution gives the person attacked no opportunity for self-defense or retaliation.[26] True, the stabbing was sudden, but the swiftness of the attack by itself does not mean that the attack was treacherous. To be considered treacherous, a sudden attack by the assailant, whether frontally or from behind, must be proven to have been a mode of attack deliberately adopted by him with the purpose of depriving the victim of a chance to either fight or retreat.[27] In this case, Stephanie who was five feet and eleven inches tall struggled against her assailant who only stands five feet and five inches; she even managed to fight him off with a kick. It was at that point that accused-appellant instantly got up and suddenly stabbed Stephanie. The stabbing cannot be characterized as one that is preconceived and deliberately adopted by accused-appellant since it immediately arose from a struggle.[28] Also, no aggravating circumstance of abuse of superior strength, a circumstance absorbed by treachery, can be appreciated

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

against accused-appellant considering that the victim was even able to fend off her attacker.

The special complex crime of attempted and frustrated robbery with homicide is penalized under Article 297 of the Revised Penal Code. This provision specifically provides that "the person guilty of this offense, shall be punished by reclusion temporal in its maximum period to reclusion perpetua, unless the homicide committed shall deserve a higher penalty under the provision of this Code." Considering that there are no mitigating or aggravating circumstances in this case, the penalty should be applied in its medium period. Applying the Indeterminate Sentence Law, we impose on accused-appellant the indeterminate penalty of 14 years and eight (8) months of prision mayor as minimum to 20 years of reclusion temporal as maximum.

We have to also correct the damages awarded by the trial court. The P50,000.00 indemnity for the death of the victim is proper and the award of P75,000.00 for funeral expenses is justified since the claim was duly supported by testimonial and documentary evidence, but the award of P150,000.00 as moral and exemplary damages must be deleted. In line with prevailing jurisprudence[29], the heirs of the victim are entitled to moral damages in the amount of P50,000.00. As to the award of exemplary damages, Article 2231 of the Civil Code provides that exemplary damages may be awarded if the crime was committed with one or more aggravating circumstances. We are therefore constrained not to award exemplary damages in this case since no aggravating circumstances attended the commission of the crime.

WHEREFORE, in light of the foregoing, accused-appellant JOSE ISHIKAWA AMBA is found GUILTY of attempted robbery with homicide in Criminal Case No. 98-2363-MK and is correspondingly sentenced to suffer the indeterminate penalty of fourteen (14) years and eight (8) months of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum. In addition, accused-appellant JOSE ISHIKAWA AMBA is ordered to pay the heirs of Stephanie Sy P50,000.00 as death indemnity, P50,000.00 as moral damages and P75,000.00 for funeral expenses. Costs against accused-appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

---

[1] Per Judge Reuben P. de la Cruz.

[2] Rollo, p. 5.

[3] Rollo, p. 45; Decision, p. 26.

[4] Rollo, p. 67; Brief for the Accused-Appellant, p. 1.

[5] People vs. Sagun, 303 SCRA 382 (1999), p. 391.

[6] People vs. Kulais, 292 SCRA 551 (1998), pp. 577-578.

[7] TSN, September 21, 1998, pp. 70-72.

[8] Ibid.,p.55.

[9] TSN, November 25, 1998, pp. 50-54.

[10] Ibid., p. 53.

[11] Ibid., p. 52.

[12] Ibid., p. 54.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

[13] TSN, June 21, 1999, p. 15.

[14] Ibid., pp. 13-16.

[15] Ibid., p. 14.

[16] Ibid., pp. 15-16.

[17] TSN, January 27, 1999, pp. 4-7.

[18] Ibid., p. 7.

[19] Ibid., pp. 10-11.

[20] Ibid., pp. 15-17.

[21] Main Folder, pp. 12-13; Sworn Statement of Nelson Almuete, February 13, 1998, pp. 1-2.

[22] People vs. Mangat, 310 SCRA 101 (1999), p. 111.

[23] People vs. Ravanes, 284 SCRA 634 (1998), p. 638.

[24] Rollo, pp. 44-45; Decision, pp. 24-25.

[25] People vs. Faco, 314 SCRA 505 (1999), p. 522.

[26] People vs. Cabareño, G.R. No. 138645, January 16, 2001.

[27] People vs. Academia, Jr., 307 SCRA 229 (1999), p. 234.

[28] See People vs. Cabareño, supra.

[29] People vs. Dizon, 320 SCRA 513 (1999), p. 527.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.