PEPITO CAPILA Y YRUMA, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 146161. July 17, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the Petition for Review on Certiorari of the Decision[1] dated November 10, 2000 of the Court of Appeals in CA-G.R. CR No. 18903, entitled "The People of the Philippines v. Pepito Capila y Yruma."

On August 24, 1993, an Information for robbery was filed with the Regional Trial Court, Branch 148, Makati City, against Pepito Capila y Yruma, herein petitioner, his brother Bonifacio Capila y Yruma, Deogenio Caparoso y Porfero, and Dimas dela Cruz y Lorena.

The Information, docketed as Criminal Case No. 93-7117, is quoted as follows:

> That on or about the 9th day of August 1993, in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with alias Jose and alias Gil, whose true identities and present whereabouts are still unknown and all of them 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 take, steal and carry away cash money amounting to P1.3 million and three (3) caliber paltik firearms in the total amount of P18,000.00, belonging to Pilipinas Bank represented by Juan Iglesia y Orgil and Lanting Security Agency represented by Edgar Lucero y Iribayen, respectively, to the damage and prejudice of the complainants in the aforementioned amount of P1.3 million and P18,000.00, respectively.

Upon being arraigned, all the accused, assisted by counsel, pleaded not guilty. Trial commenced thereafter.

The evidence for the prosecution, as culled from the testimonies of Edgardo Irigayen, Ariel Arellano, SPO2 Dioscorro Asinas, Jr., and SPO4 Romualdo Maximo, is summarized as follows:[2]

Petitioner Pepito Capila was a security guard of the Lanting Security and Watchman Agency assigned in the Meralco Collection Office on J.P. Rizal Street, Makati City.

On May 9, 1992, Ariel Arellano and Lani Imperio, both employees of the Pilipinas Bank, Libertad Branch in Pasay City, went to the Meralco Collection Office to receive and deposit cash collections from Meralco's 27 collectors. The total collection for that day amounted to P1,292,991.12. They then placed the money inside a duffle bag table and had it padlocked. Then they waited for the Pilipinas Bank's armored car to arrive. The security guard posted at the Meralco Collection Office at the time was Dimas dela Cruz, also from the Lanting Security and Watchman Agency.

Before the armored car could arrive, two armed men suddenly entered the Meralco Collection Office. They hit Dimas on the nape with a handgun. Then they ordered Ariel and Lani to lie on the floor face down and immediately took the duffle bag containing Meralco's cash collections. They also seized three .38 caliber

revolvers, valued at P6,000.00 each, owned by the Lanting Security and Watchman Agency, including the service handgun issued to Dimas.

After the malefactors fled, Dimas told Ariel that petitioner was one of those who robbed the office. Then Dimas called the Makati Police Sub-Station 9, the Meralco Security Division, and the Lanting Security and Watchman Agency to report the incident. The Makati Police dispatched SPO4 Romualdo Maximo to investigate the robbery, while the Lanting Security and Watchman Agency instructed its intelligence officer, Edgardo Irigayen, to talk to the guard on duty.

SPO4 Maximo, accompanied by a police photographer, a fingerprint technician, and another policeman, arrived within ten minutes at the Meralco Collection Office. He questioned Ariel and Lani, but they could not identify the robbers as they were lying face down on the floor. Upon inquiry by SPO4 Maximo, Dimas told him that one of the robbers is petitioner, also a security guard of the Lanting Security and Watchman Agency assigned in the Meralco Collection Office. Thereafter, SPO4 Maximo invited Dimas, Lani and Ariel to the police station for the purpose of taking their sworn statements.

Irigayen, the intelligence officer of the Lanting Security and Watchman Agency, also questioned Dimas. The latter reported that Pepito Capila is one of the robbers.

After the incident, petitioner fled to his hometown in Palapag, Northern Samar. The Lanting Security and Watchman Agency then requested SPO4 Maximo and his team to go to Northern Samar to apprehend Capila.

In Northern Samar, the police operatives, with the assistance of the Citizens Armed Forces Geographical Unit, arrested petitioner, his brother Bonifacio Capila, and Deogenio Caparoso. The police found P5,000.00 in possession of petitioner allegedly part of the loot. All the suspects were arrested without warrants.

SPO4 Maximo interrogated petitioner who admitted that he participated in the commission of the crime; that his share of the loot is P45,000.00; and that Dimas is the mastermind.

After the prosecution had rested its case, all the accused, through counsel, filed a Demurrer to Evidence but it was denied by the trial court.

When the case was called for the continuation of the hearing on November 15, 1994, the accused waived their right to present their evidence, opting to submit their respective memoranda instead.

On January 3, 1995, the trial court rendered its Decision acquitting all the accused, except petitioner, thus:

> WHEREFORE, premises considered:
>
> 1. And finding that the prosecution failed to prove the guilt of accused Bonifacio Capila, Deogenes Caparoso, and Dimas dela Cruz beyond reasonable doubt, they are hereby acquitted.
>
> 2. And finding Pepito Capila guilty beyond reasonable doubt of the crime of Robbery defined under Article 293 and penalized under Article 294 par. 5 of the Revised Penal Code, with the presence of the aggravating circumstance of abuse of confidence, use of a firearm, and betrayal of trust, he is hereby sentenced to an indeterminate prision term of from EIGHT (8) years as minimum to TEN (10) years as maximum.
>
> Pepito Capila is also ordered to pay:
>
> 1. Lanting Security Agency the sum of P18,000 for the value of the three firearms not recovered and belonging to said agency;
> 2. The sum of P1,292,991.12 to Pilipinas Bank, the amount taken and not recovered.
> With costs against accused Pepito Capila.

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In his appeal to the Court of Appeals, petitioner alleged that the trial court erred in admitting in evidence the statement of Dimas that he (petitioner) is one of the robbers. He was denied due process because he was not able to cross-examine Dimas as the latter did not testify.

On November 10, 2000, the Court of Appeals promulgated its Decision affirming the assailed judgment of the trial court, thus:

> WHEREFORE, premises considered, the appealed decision (dated January 3, 1995) of the Regional Trial Court (Branch 148) in Makati, Metro Manila in Criminal Case No. 93-7217 is hereby AFFIRMED with costs against the accused-appellant.
>
> SO ORDERED.

Hence, the instant petition for Review on Certiorari.

The fundamental issue for our resolution is whether the prosecution was able to prove the guilt of herein petitioner beyond reasonable doubt.

A careful scrutiny of the records shows that the prosecution relied heavily on the testimony of SPO4 Maximo that immediately after the incident, Dimas reported to him that one of the robbers is petitioner. The Court of Appeals, in affirming the court a quo's judgment convicting petitioner, ruled that Dimas' statement is part of the res gestae.

In the appellee's brief, the Solicitor General reiterated the appellate court's ruling.

Res gestae is a Latin phrase which literally means "things done." As an exception to the hearsay rule, it refers to those exclamations and statements by either the participants, victims, or spectators to a crime immediately before, during or immediately after the commission of the crime, when the circumstances are such that the statements were made as spontaneous reactions or utterances inspired by the excitement of the occasion, and there was no opportunity for the declarant to deliberate and fabricate a false statement.[3] The reason for the rule is human experience. It has been shown that under certain external circumstances of physical or mental shock, the state of nervous excitement which occurs in a spectator may produce a spontaneous and sincere response to the actual sensations and perceptions produced by the external shock. As the statements or utterances are made under the immediate and uncontrolled domination of the senses, rather than reason and reflection, such statements or utterances may be taken as expressing the real belief of the speaker as to the facts he just observed. The spontaneity of the declaration is such that the declaration itself may be regarded as the event speaking through the declarant rather than the declarant speaking for himself.[4]

The rule on res gestae is provided under Section 42, Rule 130 of the Revised Rules of Court, thus:

> SEC. 42. Part of the res gestae. - Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the res gestae. So, also statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the res gestae.

For the admission of the res gestae in evidence, the following requisites must be met: (1) that the principal act or the res gestae be a startling occurrence; (2) the statement is spontaneous or was made before the declarant had time to contrive or devise, and the statement is made during the occurrence or immediately or subsequent thereto; and (3) the statement made must concern the occurrence in question and its immediately attending circumstances.[5]

The Court of Appeals found that all the above requisites are present, thus:

> First. The principal act is a startling occurrence which is the robbery in question.

> Second. Dimas Dela Cruz informed the investigating officers that it was appellant who robbed the Meralco office immediately after the incident occurred and before he had the time to contrive a story.
>
> The robbery happened at around eight o'clock in the evening of August 9, 1993 (p. 4, TSN, February 24, 1994). Immediately after the incident, dela Cruz called up the police station (p. 17, TSN, January 31, 1994). In ten minutes, SPO4 Maximo and his companion were in the Meralco office where they immediately conducted an investigation (pp. 3-9, TSN, February 24, 1994). During this investigation, DELA Cruz pointed to appellant as one of the perpetrators of the crime.
>
> Further, immediately after the robbers fled, dela Cruz informed Ariel Arellano (the bank representative detailed at the Meralco office) that appellant was one of those who robbed the office (pp. 15-17, TSN, January 31, 1994).
>
> In other words, statement of dela Cruz was spontaneous as correctly observed by the trial court.
>
> Third. The statement of dela Cruz refers to the robbery or incident subject matter of this case.

We are in accord with the Court of Appeals in its conclusion that all the requisites of the rule on res gestae are present. The principal act, which by any measure is undoubtedly a startling occurrence, is the robbery of which petitioner is being charged. Immediately after the robbery, Dimas dela Cruz, the security guard then on duty, informed Ariel that one of the perpetrators is herein petitioner. Dimas likewise reported at once the incident to the police and to the security agency. When questioned by SPO4 Maximo, Dimas, who was still shocked, named petitioner herein as one of the robbers. His statements to Ariel and SPO4 Maximo were made before he had the time and opportunity to concoct and contrive a false story. We note that Dimas personally knows petitioner considering that both worked in the same security agency and assigned in the same office.

Petitioner contends that since Dimas dela Cruz did not take the witness stand, he (petitioner) was deprived of his right to cross-examine him. Thus, the Court of Appeals should not have considered Dimas' statement as part of the res gestae. Our ruling in Ilocos Norte Electric Company v. Court of Appeals[6] is relevant.

In this case, it appears that in the evening of June 28 until the early morning of June 29, 1967, a strong typhoon (Gening) occurred in Ilocos Norte, bringing heavy rains and consequent flooding. While one Isabel Lao Juan was wading in waist-deep flood along Guerrero Street, Laoag City, suddenly she screamed, "Ay" and quickly sank into the water. Her two companions, Aida Bulong and Linda Estavillo, shouted for help. Ernesto dela Cruz arrived and tried to approach Isabel who was electrocuted. But at four meters away from her, Ernesto turned back shouting, "the water is grounded." This Court ruled that the Court of Appeals properly applied the principle of res gestae. The testimonies of Aida and Linda that Ernesto dela Cruz tried to approach the victim, but he turned back and shouted, "the water is grounded," are not hearsay although he (Ernesto) was not presented as a witness. His declaration is part of the res gestae.

Applying the above ruling on the instant case, we cannot consider the testimony of SPO4 Maximo as hearsay since the statement of Dimas that petitioner is one of the robbers is part of the res gestae.

Moreover, despite the damaging testimonies of the witnesses for the prosecution, petitioner did not testify to rebut them. Such posture is admission in silence.

Section 32, Rule 130 of the New Rules on Evidence provides:

> Sec. 32. Admission by silence . - An act or declaration made in the presence and within the hearing or observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, and when proper and possible for him to do so, may be given in evidence against him.

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Another factor that militates against petitioner's innocence is his flight to Samar after the commission of the crime. Obviously, such flight is an indication of guilt.

Verily, we hold that the prosecution, by its evidence, has established the guilt of petitioner beyond reasonable doubt.

WHEREFORE, we DENY the petition. The assailed Decision of the Court of Appeals in CA-G.R. CR No. 18903 finding petitioner PEPITO CAPILA y YRUMA guilty beyond reasonable doubt of the crime of robbery is AFFIRMED.

With costs de oficio.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Rollo, pp. 33-55. Penned by Associate Justice Ramon Mabutas, Jr.,(retired), and concurred in by Associate Justice Roberto A. Barrios and Associate Justice Eriberto U. Rosario, Jr. (retired).

[2] Based on the findings of the trial court and adopted by the Court of Appeals.

[3] People v. Sanchez, G.R. No. 74740, August 28, 1992, 213 SCRA 70, 78, citing Underhill's Criminal Evidence, 5th ed., Vol. I, Section 266, p. 664; Wharton's Criminal Evidence, 12th ed., Vol. I, Section 279, p. 624; Keefe v. State, 50 Ariz, 293, 72 Pac 2d ed. 425, cited in Wigmore on Evidence, 3rd ed., Vol. VI, Section 1745, pp. 132-133; Wharton, op. cit., Section 280, p. 632.

[4] People v. Sanchez, id., citing Wharton, op. cit., Section 280, p. 632.

[5] People v. Queliza, G.R. No. 124135, September 15, 1997, 279 SCRA 145, 158, citing People v. Equilona, 249 SCRA 139 (1995), Anciro v. People, 228 SCRA 629 (1993), Pantranco North Express, Inc. v. Court of Appeals, 224 SCRA 477 (1993), People v. Tolentino, 218 SCRA 337 (1993).

[6] G.R. No. 53401, November 6, 1989, 179 SCRA 5.

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