

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JUAN ALCANTARA AND ONE ALIAS AYING, ACCUSED, JUAN ALCANTARA APPELLANT.*G.R. No. 157669. April 14, 2004*

Ponente: YNARES-SATIAGO, J.

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This is an appeal from the decision[1] dated September 26, 2002, of the Regional Trial Court of Davao City, Branch 15, convicting appellant Juan Alcantara of the crime of robbery with homicide, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay the parents of the victim, Liza Cabaral, P50,000.00 as civil indemnity and P57,000.00 for hospitalization, funeral and burial expenses.

Appellant, together with another individual known only as alias “Aying,” was charged with the crime of robbery with homicide under Article 294 of the Revised Penal Code, as amended by Republic Act No. 7659. The Information alleged:

That on or about March 7, 1998, in the City of Davao, Philippines, and within the jurisdiction of this honorable court, the above-mentioned accused Juan Alcantara armed with a bladed weapon, conspiring and confederating together with his co-accused one Alias Aying, with intent to gain and by means of force, violence and intimidation, willfully, unlawfully and feloniously took and carted away the waist bag containing cash of P5,450.00 belonging to one Liza Cabaral who was then asleep and willfully, unlawfully and feloniously stabbed the said victim, at which juncture Alias Aying divested Liza Cabaral of her wristwatch, which injuries consisted of:

“STAB WOUND OF THE CHEST”

which caused her death.

CONTRARY TO LAW.[2]

Only the appellant was arrested. The other suspect, alias Aying, remains at large. Upon arraignment, appellant pleaded not guilty. During the trial, the prosecution’s lone eyewitness, Leonila Quimada, testified as follows:

In the early morning of March 7, 1998, Leonila was by her fruit stand near the Mercury Drug store along Bankerohan market in Davao City when she heard noise coming from a nearby stand. From a distance of an arm’s length, Leonila saw appellant trying to take the waist bag of the victim Liza Cabaral. Liza resisted and grappled with appellant for possession of the waist bag which led appellant to stab Liza on her thigh. Thereafter, appellant again stabbed Liza on the chest, inflicting the fatal blow. Leonila shouted for help when she saw Liza slumped on the pavement. Appellant immediately fled, leaving Liza’s waist bag behind. Appellant’s companion, alias Aying, suddenly appeared and took Liza’s wristwatch before fleeing. Leonila, with the help of a certain Yoyong, rushed Liza to the Davao Doctor’s Hospital where Liza was pronounced dead on arrival.[3]

On cross-examination, Leonila testified that neither she nor her husband is related to the victim and her family. She had known appellant for about six years since he also worked at the Bankerohan market, although she was

unsure of his exact occupation. She visited appellant at Camp Domingo when she learned of his arrest. When asked whether it was true that she was surprised to see appellant as the person arrested for the crime, she replied "He was the one." [4] She executed a supplemental affidavit [5] dated April 17, 1998 wherein she implicated a certain Jun Panal in the crime. She saw Panal talking to appellant and alias Aying minutes before the incident happened. She failed to name him in her previous affidavit because she was then in a state of shock. [6]

Dr. Samuel Cruz, who conducted the autopsy of the victim on March 11, 1998, testified that Liza had three stab wounds: two stab wounds on the chest and one stab wound on the left thigh. He surmised that these wounds were inflicted by a sharp, pointed, double-sided instrument. However, he could not categorically determine the position of the victim at the time the wounds were inflicted.

The victim's mother, Diosdada Quimada Cabaral, testified that she and her family were overcome with sadness on the death of her daughter. They spent more than P53,000.00 in hospital and funeral expenses. She presented a receipt [7] issued by Patalinghug Funeral Homes evidencing the funeral expenses as well as an Estimate of Expenses [8] which included the hospital expenses [9] paid for in advance by Norma Quimada. [10]

The defense presented as its first witness PO3 Mindalito Salvar who testified that he was the officer on duty at the San Pedro Police Station on the early morning of March 7, 1998. Having received a report of a stabbing incident, he and two other policemen on duty proceeded to investigate the incident. At the Davao Doctor's Hospital, they questioned prosecution witness Leonila Quimada. PO3 Salvar testified that as per record of the incident in the police blotter, the perpetrator of the crime was stated to be "an unidentified male person aged 20 to 25 years old." [11]

Elmer Isonza, a former barangay captain of Piapi in Davao City, testified that in March 1998, he held a series of consultation meetings with friends and prospective supporters to assess his chances should he run for public office as a city councilor. On March 6, 1998, he had a meeting with several people, including appellant and his spouse, which lasted from 7:00 in the evening until 2:00 in the morning of March 7, 1998. After said meeting, Kagawad Antonio Lo invited the group which included the Alcantara spouses to eat barbeque at Magallanes Street where they stayed until around 3:00 in the morning. [12]

Atty. Dominador Sunga, Sr., counsel of record of appellant, testified on the circumstances surrounding his meeting with prosecution witness Leonila and the victim's mother Diosdada. He testified that when he was engaged by appellant's mother to handle the case, he immediately proceeded to investigate and review the records. During his visit to appellant, who was then detained at Camp Domingo Leonor in Davao City, the latter informed him that Leonila and the victim's mother Diosdada visited him. Appellant recounted to Atty. Sunga that during said visit Leonila appeared surprised at the sight of him, stepped back and without saying a word left the premises. This prompted Atty. Sunga to visit Leonila and Diosdada in Matan-ao in Davao del Sur where he was accompanied by appellant's mother Librada, uncle Cenon and aunt Aquilina. According to Atty. Sunga, when he met Leonila at the victim's family's house, he asked her about her visit to appellant. Leonila purportedly admitted that her surprise at seeing appellant was due to the fact that he was not the person she had in mind. Atty. Sunga offered to prepare a Supplemental Affidavit [13] stating these details and Leonila agreed to sign it before the City Prosecutor in Davao City. Atty. Sunga further added that the atmosphere during the meeting was very cordial and that the victim's family even prepared snacks and made them watch the video of the victim's burial. However, when the Supplemental Affidavit was ready, Leonila changed her mind about signing it and maintained the involvement of appellant in the crime. Leonila then filed cases of grave coercion and grave threats against Atty. Sunga and his companions to Matan-ao for allegedly forcing her to sign the affidavit and threatening to send her to prison if she does not do so. Atty. Sunga and his companions were subsequently acquitted by the trial court of the charges. [14]

Canon Amargo, uncle of appellant, corroborated the testimony of Atty. Sunga on what transpired when the latter met Leonila and the victim's mother Diosdada. He testified that he was present when Leonila confirmed that she was surprised when she went to visit appellant in jail since he was not the person she had in mind. He also testified as to the subsequent refusal of Leonila to sign the Supplemental Affidavit prepared by Atty. Sunga which excluded appellant.[15]

Appellant likewise testified and interposed the defense of alibi. According to him, on March 6, 1998, he and his wife attended a consultation meeting organized by then Barangay Captain Elmer Isonza. He attended the meeting since his wife's family were friends of Isonza. The meeting lasted until about 2:00 in the morning of March 7, 1998. After the meeting, Kagawad Antonio Lo, who was also present, invited their group to a barbeque place in Magallanes Street. Appellant and his wife accepted the invitation and they were able to go home at around 3:00 the same morning. Appellant also testified that he was arrested about a year later and detained at Camp Domingo Leonor. A few days after his arrest, prosecution witness Leonila and the victim's mother Diosdada, visited him in jail. Appellant said that Leonila was taken aback upon seeing him and when he asked her why he was included in the charge, Leonila allegedly replied "why is it that you are that way, after taking marijuana, you have tripping." Appellant stated that he knows Leonila by face only as she is a fruit vendor in Bankerohan though he has heard other people call her "Nanay Mila." Appellant also testified that his mother related to him the details regarding their trip to Matan-ao to talk to Leonila and Diosdada. He stated that according to his mother, Leonila initially agreed to go to Davao City to sign the affidavit before the prosecutor but later refused because she was advised by her lawyer that the case against appellant's co-accused will become weak if appellant was released.[16]

On cross-examination, appellant testified that he has worked in the area of Bankerohan for about eight years as a vendor of vegetables to different stalls. However, he did not know the victim personally and merely heard about the incident from other people. Neither did he know Leonila by name though he stated that he knew her by face and that it is possible that Leonila also knew him by face.[17]

On September 26, 2002, the Regional Trial Court rendered its decision, the dispositive portion of which states :

Wherefore, the prosecution having proven the guilt of the accused beyond reasonable doubt, Juan Alcantara is hereby sentenced to Reclusion Perpetua and shall pay Mr. and Mrs. Luminoso and Diosdada Quimada Cabaral the following sums:

- Fifty thousand pesos (P50,000.00) for the death of Liza Cabaral, the daughter, and
- Fifty-seven thousand pesos (P57,000.00) for the hospitalization, funeral and burial expenses.

SO ORDERED.[18]

Appellant filed a motion for reconsideration which was denied for lack of merit.

Hence this appeal raising the following errors:

I.

THE LOWER COURT ERRED IN ITS RULING THAT WITNESS FOR THE PROSECUTION, LEONILA QUIMADA, IS A CREDIBLE WITNESS.

II.

THE LOWER COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF ATTY. DOMINADOR G. SUNGA, SR.

The appeal lacks merit.

Appellant questions the credibility and the trial court's reliance upon the testimony of prosecution witness Leonila Quimada. Appellant points out that Leonila failed to identify the person who stabbed the victim and merely described him as being between 20 to 25 years old. Appellant also questions how Leonila came to name three persons as the perpetrators of the crime in the two affidavits she executed when initially, she identified no one during her interview with the police as shown by the entries in the police blotter. More importantly, appellant reiterates the alleged admission made by Leonila to his counsel Atty. Sunga that she made a mistake in naming appellant as the person who stabbed the victim Liza Cabaral.

It is true that Leonila was not able to name appellant when she was first asked by the police at the hospital regarding the identity of the assailant. This fact alone, however, does not erode Leonila's credibility considering the circumstances attending the inquiry. It must be noted that Leonila was questioned by the police just a few hours after she witnessed the killing of the victim who is her fellow vendor. Such a shocking experience can verily create confusion especially in the mind of a fifty-year old woman. We are aware that the workings of the human mind, under emotional stress, are unpredictable, such that people react differently to startling situations: some may shout, some may faint, others may be shocked into insensibility.[19] It is not improbable that Leonila was able to reconstruct the entire incident in her mind only after her initial shock has waned.

Moreover, whatever doubts that surrounded Leonila's credibility as an eyewitness were purged by her clear and straightforward testimony during the trial. While there might have been several minor inconsistencies in her testimony, Leonila was nonetheless able to give a candid narration of the crime which she claimed to have transpired in a well-lit area and at an arm's length distance from where she was. Her positive identification of appellant in open court as the person who stabbed the victim was unerring. A truth-telling witness is not always expected to give an error-free testimony, considering the lapse of time and treachery of human memory. Thus, we have followed the rule in accord with human nature and experience that honest inconsistencies on minor and trivial matters serve to strengthen, rather than destroy, the credibility of a witness, especially of witnesses to crimes shocking to conscience and numbing to senses.[20] Moreover, we have ruled time and again that where the prosecution eyewitness was familiar with both victim and accused, and where the locus criminis afforded good visibility, and where no improper motive can be attributed to the witness for testifying against the accused, then her version of the story deserves much weight.[21]

Appellant invokes the testimony of Atty. Sunga on the matter of Leonila's alleged admission that she committed a mistake in pointing to him as the perpetrator of the crime. Atty. Sunga testified that Leonila acknowledged that she must have given the wrong name since it was not appellant whom she saw on that fateful night. However, according to Atty. Sunga, Leonila reneged on her promise to sign the Supplemental Affidavit prepared by him which would have exonerated appellant.

We are reluctant to divert from the trial court's findings on this matter as the matter of assigning values to declarations at the witness stand is most competently carried out by the trial judge who, unlike appellate judges, can weigh such testimony in the light of the witness's behavior and attitude at the trial, and the conclusions of the trial judge command great weight and respect.[22] More importantly, we are not surprised that the trial court did not give much weight to the testimony of Atty. Sunga. It was palpably a self-serving statement, corroborated only by none other than the testimonies of appellant's uncle and appellant himself. We also find no evidence on record which would show any reason why an elderly fruit vendor would perjure herself and scheme to convict an innocent person. Absent evidence to show any reason or motive why a witness should testify falsely, the logical conclusion is that no such improper motive exists and [her] testimony is worthy of full faith and credit.[23]

The defense of alibi, as a rule, is considered with suspicion and is always received with caution, not only because it is inherently weak and unreliable but also because it can be easily fabricated.[24] Alibi can only prosper by

indubitably proving that the accused was somewhere else when the crime was committed, and that he could not have been physically present at the locus criminis or its immediate vicinity at the time of its commission; physical impossibility, in other words, of being in two places at the same time.[25]

In the case at bar, while it may be plausible that appellant was indeed at the consultation meeting on the night of March 6, 1998, the possibility of him leaving the meeting to consummate the crime and returning thereafter is not remote. The prosecution and the defense have stipulated that the distance of the place of the meeting from the scene of the crime is only about a kilometer and a half, more or less.[26] Considering the number of people in attendance at the meeting, the comings and goings of those present cannot be precisely monitored.

Article 293 of the Revised Penal Code defines robbery to be one committed by any “person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything . . .” Robbery may thus be committed two ways: (a) with violence against, or intimidation of persons and (b) by the use of force upon things.[27] This is distinguished from the crime of theft where the taking is accomplished without the use of violence or intimidation against persons or force upon things.[28]

The complex crime of robbery with homicide arises when, by reason of or on the occasion of a robbery, by means of violence against or intimidation of persons, a person is killed.[29] To sustain a conviction for this special complex crime, the original criminal design of the culprit must be robbery (originally, there must be intent to gain), and the homicide is perpetrated with a view to the consummation of the robbery (by reason or on the occasion of the robbery).[30]

In the case at bar, while violence was not present at the commencement of the felony, it was nonetheless employed by the appellant in order to completely take possession of the victim’s waist bag. The unlawful taking became robbery at such juncture when violence against the person of the victim was employed. The killing of the victim resulting from or on the occasion of such robbery gave rise to the special complex crime of robbery with homicide.

Hence, we affirm the trial court’s finding that appellant was guilty beyond reasonable doubt of robbery with homicide. Under Article 294(1) of the Revised Penal Code, any person guilty of robbery with the use of violence against persons shall suffer the penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed. Since there was neither mitigating nor aggravating circumstance, the lesser of the two indivisible penalties shall be imposed.[31] Hence, the trial court correctly imposed the penalty of reclusion perpetua.

We likewise affirm the award of P50,000.00 as civil indemnity to the heirs of Liza Cabaral. Concerning actual damages, the prosecution was able to prove hospital, funeral and burial expenses, including the hospital charges paid for by Norma Quimada in the amount of P53,552.00[32] which appears to be reasonable.

In addition, the award of P50,000.00 as moral damages is in order pursuant to Articles 2217 and 2219 paragraph (1) of the Civil Code. Moral damages which include physical suffering and mental anguish, may be recovered in criminal offenses resulting in physical injuries and the victim's death as in this case.[33] The mother of the victim testified on these damages.[34] Moreover, the award of moral damages is in accordance with our recent ruling.[35]

WHEREFORE, the decision of the Regional Trial Court of Davao City, Branch 15, finding appellant Juan Alcantara guilty beyond reasonable doubt of the crime of Robbery with Homicide, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay the heirs of Liza Cabaral the sum of P50,000.00 as civil

indemnity is AFFIRMED with MODIFICATIONS. Appellant is further ordered to pay the heirs of Liza Cabaral the sum of P53,552.00 as actual damages representing the hospital, funeral and burial expenses incurred and P50,000.00 as moral damages.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Rollo, p. 22; penned by Judge Jesus V. Quitain.

[2] Rollo, p. 9.

[3] TSN, June 30, 1999, pp. 8-15.

[4] TSN, June 30, 1999, pp. 16-35.

[5] Exhibit 2.

[6] TSN, July 1, 1999, pp. 40-49.

[7] Exhibit G.

[8] Exhibit H.

[9] Exhibit H-1.

[10] TSN, January 12, 2000, pp. 6-8.

[11] Exhibit 1, 1-H; TSN, August 25, 2000, pp. 78-85.

[12] TSN, September 21, 2000, pp. 87-95.

[13] Exhibit 6.

[14] TSN, March 13, 2002, pp. 173-194.

[15] TSN, September 22, 2000, pp. 119-138.

[16] TSN, November 23, 2000, pp. 139-159.

[17] *Id.*, pp. 160-169.

[18] Rollo, p. 3.

[19] *People v. Narca*, G.R. No. 129217, 25 August 2000.

[20] *People v. Paule*, G.R. Nos. 118168-70, 11 September 1996.

[21] *People v. Tolibas*, G.R. No. 103506, 15 February 2000, citing *People v. De la Paz, Jr.*, 299 SCRA 86, 92 (1998); see also *People v. Pablo*, G.R. Nos. 113822-23, 15 August 2001; *People v. Lovedovial*, G.R. No. 139340, 17 January 2001.

[22] *People v. Mansueto*, G.R. No. 135196, 31 July 2000.

[23] *People v. Dela Cruz*, G.R. No.111704, 17 March 1999.

[24] See *People v. Pantojal*, G.R. No. 142870, 14 November 2001; *People v. Pedres*, G.R. No. 129533, 30 April 1999.

[25] *People v. Virtucio, Jr.*, G.R. No. 130667, 22 February 2000.

[26] TSN, September 22, 2000, pp. 113-114.

[27] *People v. Gungon*, G.R. No. 119574, March 19, 1998.

[28] *Avecilla v. People*, G.R. No. 46370, June 2, 1992.

[29] *People v. Mantung*, G.R. No. 130372, July 20, 1999.

[30] *People v. Manalang*, G.R. No. 67662, February 9, 1989.

[31] Revised Penal Code, Art. 63(2).

[32] Exh. H.

[33] *People v. Sirad*, G.R. No. 130594, 5 July 2000.

[34] TSN, January 12, 2000, pp. 6-8.

[35] *People v. De Guzman*, G.R. No. 118670, 22 February 2000; see also *People v. Liad*, G.R. Nos. 133815-17, 22 March 2001.

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