PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOJO MUSA Y SANTOS, ROBERT CARIÑO Y FERRERAS, AUGUST DAYRIT Y HERNANDEZ, CESAR DOMONDON, JR. Y SACRIZ, AND MICHAEL GARCIA Y DE...

G.R. No. 170472. July 03, 2009

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-170472/

BRION, J.:

We review in this appeal the decision[1] of the Court of Appeals (CA) dated October 11, 2005 in CA-G.R. CR-HC No. 00735, which affirmed with modification the decision[2] of the Regional Trial Court (RTC), Branch 272, Marikina City, convicting Jojo Musa (Jojo), Robert Cariño (Robert), August Dayrit (August), Cesar Domondon, Jr. (Cesar), and Michael Garcia (Michael) - collectively referred to as the appellants - of robbery with homicide and imposing on them the penalty of reclusion perpetua.

ANTECEDENT FACTS

The prosecution charged the appellants and Roberto Barredo (Barredo) before the RTC with the special complex crime of robbery with homicide under an Information that states:

> x x x
>
> That on or about the 11[th] day of June 2001, in the city of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and they [sic] mutually helping and aiding one another, while armed with guns and knives, respectively, with intent to gain and by means of force, violence and intimidation, did then and there willfully, unlawfully, and feloniously rob and divest from one NANCY BONIFACIO y GALVO of her black wallet containing the following:
> ATM China Bank Card
> ATM Allied Bank Card
> Smart Money
> School I.D., School Registration Form
> S.S.S., TIN, Pag-ibig
> Cash money
> Video shop card
> Casio electronic organizer
> Cosmetics
> Office Uniform

in the amount of P700.00 belonging to said NANCY BONIFACIO y GALVO, to the damage and prejudice of the owner thereof, and that on the occasion and by reason of said robbery, accused ROBERTO BARREDO armed with a gun and with intent to kill, did then and there willfully, unlawfully, and feloniously attack, assault and shoot HAROLD HERRERA on his neck, thereby inflicting upon the latter mortal wound which directly caused his death.

CONTRARY TO LAW.[3]

On arraignment, the appellants pleaded not guilty to the charge. The prosecution presented the following witnesses during the trial on the merits that followed: Dr. Maria Cristina B. Freyra (Dr. Freyra); Nancy G. Bonifacio (Nancy); and Ryan Del Rosario (Ryan). The appellants took the witness stand for the defense.

The prosecution and the defense agreed at the pre-trial that the deceased accused Barredo would be excluded from the Information.[4]

Dr. Freyra, the Medico-Legal Officer of the Eastern Police District Crime Laboratory, declared on the witness stand that she conducted on June 22, 2001 a postmortem examination on the body of Harold Herrera (Harold) at the request of the Marikina City police, and made the following findings:

> POSTMORTEM FINDINGS
>
> Fairly developed, fairly nourished, male cadaver in rigor mortis with postmortem lividity at the dependent portions of the body. Conjunctiva, lips, nailbeds are pale. There is surgical incision at the right submandibular region, measuring 1.3 x 0.9 cm, 4 cm from the anterior midline, 145 cm from the heel, surgical incision at the right lateral neck region, measuring 11 cm long with 12 stitches applied, surgical incision at the right lateral neck region, measuring 1.4 x 1 cm, 7 cm right of the anterior midline, 143 cm from the heel and surgical incision at the umbilical region, measuring 5 cm long with 4 stitches applied, cutdown incision at the left arm and gastronomy incision at the abdomen, measuring 0.8 x 0.7 cm, 2.5 cm from the anterior midline.
>
> x x x
>
> CONCLUSION:
>
> Cause of death is cardio-respiratory arrest as a result of a gunshot wound, neck.
>
> S/P neck exploration, esophageal repair muscle flap of esophageal injury, gastrostomy tube insertion and tracheostomy. [5]

According to Dr. Freyra, the victim died from a gunshot wound on the right side of his neck which "fractured the 6[th] and 7[th] cervical vertebra, lacerating the spinal cord and esophagus." She added that a .38 caliber slug was recovered from the victim's left scapular region.[6]

Nancy narrated that around 1:00 a.m. of June 11, 2001, she and her boyfriend, Harold, boarded a jeepney bound for Montalban at the corner of EDSA and Aurora Boulevard. She noticed, as the jeepney was leaving the loading area, that one of the passengers, Michael, simply clung to the jeepney's rear end although some seats were still vacant. When the jeepney crossed EDSA, Michael ordered it to stop and other passengers, namely, Jojo, Robert, August, Cesar, and Barredo, boarded. Some of these new passengers clung at the jeepney's rear end; the others went inside.[7]

When the jeepney reached the flyover in Barangka, Barredo fired a gun and Jojo (who was seated inside the jeepney) declared a hold-up. Barredo pointed a gun at Harold as he tried to get the latter's wristwatch. Nancy heard a gunshot, but did not know that Harold had been hit. Barredo thereafter pointed the gun at Nancy and at the same time grabbed her handbag. Meanwhile, Jojo pointed a gun at the other passengers and grabbed their belongings. The other appellants, all carrying bladed weapons, also took part in divesting the passengers of their personal belongings. The appellants and Barredo alighted from the jeepney when it reached Marcos Highway. After the appellants had left, Harold leaned on Nancy who noticed blood oozing from Harold's neck. Nancy directed the driver to bring them to the nearest hospital.[8]

They arrived at 1:30 a.m. at the Sta. Monica Hospital where Harold's wound was cleaned. However, the Sta.

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

Monica Hospital's personnel advised them to transfer Harold to another hospital where his wound could better be attended to. They therefore brought Harold to the Amang Rodriguez Hospital, but the hospital was full and could not admit Harold. Thus, they again transferred Harold to another hospital, this time to the East Avenue Hospital, where he was confined until he died on June 22, 2001.[9]

On cross-examination, Nancy testified that she and Harold identified the six persons who held them up from among the many pictures shown to them in the hospital. She added that she went to the Marikina Police Station on June 16, 2001 after the police informed her that arrests had been made in connection with the hold-up. It took her some time to go to the police station because Harold would not allow her to leave his side. At the police station, she recognized her co-passengers who were then in a detention cell, and she identified them as the persons who had robbed them. Thereafter, she executed an affidavit before PO3 Manuel Ragay (PO3 Ragay). She likewise testified that she had given a description of the robbers to a police inspector prior to June 16, 2001.[10]

Ryan testified that he boarded a jeepney at around 12:30 a.m. of July 11, 2001 on Aurora Boulevard, and sat on the left side, third seat from the rear. As the jeepney was leaving the loading area at around 12:45 a.m., he noticed that Michael clung to the rear end of the jeepney. When the jeepney crossed EDSA near Uniwide, Michael told the driver to stop and five men boarded the jeepney, one of whom Ryan identified as Jojo. Two of the men went inside, while the other three clung to the rear end of the jeepney. As the jeepney approached Barangka, one of the men clinging to the rear end ordered the driver to stop and then fired a gun. At that point, Jojo announced a hold-up; the other appellants brought out bladed weapons and collected the passengers' belongings.[11]

Ryan saw Harold give his watch to one of the appellants who was pointing a gun at him (Harold). Ryan then heard a gunshot and claimed to have seen the "explosion from the gun." Soon after, the robbers got off the jeepney, but one of them again fired a gun while crossing the street. Nancy requested him to help bring Harold to the hospital after he (Harold) leaned on her shoulder. They went to the Sta. Monica Hospital, but were advised to bring Harold to another hospital. They proceeded to Amang Rodriguez Hospital, and eventually to East Avenue Hospital.[12]

On cross-examination, Ryan admitted executing a sworn statement before the police on June 16, 2001, five days after the robbery. He recalled that it was Nancy who informed him that the robbery suspects had been arrested by the police.[13]

On re-direct, he maintained that it was Michael who clung to the jeepney at the loading area and told the driver to stop along EDSA. On re-cross, he declared that a total of six persons committed the robbery.[14]

The testimony of Honesto A. Herrera, Harold's father, was dispensed with after the prosecution and the defense stipulated that he had spent P100,000.00 for the hospitalization, wake, and burial of his son.[15]

The defense presented a different version of events.

Jojo declared on the witness stand that he was asleep in their house on Pipino Street, Tumana, Concepcion, Marikina City at around 1:00 a.m. of June 11, 2001. He slept early because he would be selling basins, hangers, and pails the following morning.

He recalled that on June 15, 2001, four policemen in civilian clothes came to his house and told him to go with them. Outside, he saw Cesar, August, Michael, and Robert already under police custody. They were all brought to the Criminal Investigation Division. A day after he was placed under custody and after seeing Nancy give her statement to the police, he learned that they were being accused of robbery with homicide. He claimed that the police urged Nancy to testify against him because he was the only one who was not arrested on June 14, 2001. He likewise maintained that Cesar was forced to name him as one of the robbers because the police mauled

Cesar.[16]

On cross-examination, he testified that the police did not interrogate him in the station. He also disclosed that Cesar, Michael, and August were also his co-accused in a separate robbery incident that allegedly happened on June 14, 2001.[17]

Michael testified that he was asleep with his older brother in their house at Stop Dragon, Zenia, Parola, Cainta, Rizal at 1:00 a.m. of June 11, 2001. He had sold fish balls in their area on June 10 to 13, 2001 from 3:00 to 8:00 p.m., but did not do so on June 14 because he did not feel well. Instead, he called his cousin Rosalinda Rostata (Rosalinda) to inform her that he wanted to work for her as a painter. On his way to Rosalinda's house, however, the vehicle he was riding on suffered a flat tire somewhere in Santolan; he thus alighted and simply walked towards Barangka. While inside a store in Barangka, he heard a gunshot; he saw a policeman pass by and soon after, people were pointing at him as one of the robbers. He first learned that he was a suspect in the June 11, 2001 robbery incident when he was arrested and detained on June 14, 2001. He denied any participation in the June 11, 2001 robbery.[18]

The prosecution and the defense dispensed with the presentation of Cesar as a witness, after stipulating that Ryan could not identify him.[19]

August testified that he and his wife and daughter were resting at their house at Modesta Village, San Mateo, Rizal at around 12:30 a.m. of June 11, 2001. From June 12 to 13, he operated his tricycle along his usual route until 9:00 p.m. On June 14, 2001, he went to Cubao to watch a movie, but could not recall its title. He was on his way home in a jeepney when two armed men boarded the vehicle; he immediately got off the jeepney upon seeing these armed men. Soon after, he learned that he was a suspect in two separate robbery incidents.[20]

Robert maintained that he was working at his aunt's auto air conditioning supply store at Jacky Lou Ville, BF Homes, Parañaque on June 11, 2001 between 12:30 a.m. and 1:00 a.m. On June 14, 2001, he was walking near Barangka when the police saw him and told him that they were running after robbers. When they asked him which direction the robbers took, he replied that he did not know. They then asked him to go with them to give his statement. He denied knowing any of the appellants before his arrest, and stated that it was only on June 14, 2001 that he came to know that he was a suspect in the June 11, 2001 robbery. He likewise denied having any knowledge of the crime.[21]

The RTC convicted the appellants in its decision of January 12, 2004. The dispositive portion of this decision reads:

> WHEREFORE, foregoing premises considered, the Court finds the accused JOJO MUSA y SANTOS, ROBERT CARIÑO y FERRERAS, AUGUST DAYRIT y HERNANDEZ, CESAR DOMONDON, JR. y SACRIZ and MICHAEL GARCIA y DELA CRUZ all GUILTY beyond reasonable doubt of having committed the crime of ROBBERY with HOMICIDE and each of the herein accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, there being no aggravating or mitigating circumstance present in the commission thereof, and: (1) to jointly and severally indemnify the parents of victim, Harold Herrera, of the amount of Php50,000.00; (2) to jointly and severally pay the amount of Php100,000.00 representing the stipulated amount of hospitalization and funeral expenses incurred; and (3) to jointly and severally pay the amount of P20,000.00 by way of moral damages.
>
> SO ORDERED.[22]

On appeal, we endorsed this case to the CA for appropriate action and disposition[23] pursuant to our ruling in People v. Mateo.[24] The CA, in its decision of October 11, 2005, affirmed the RTC decision with the modification that the awarded moral damages be increased to P50,000.00.

The CA ruled that the positive, clear, and categorical testimonies of witnesses Nancy and Ryan "deserve full merit in both probative weight and credibility over the mere alibi of the appellants." The CA added that Nancy vividly remembered the events that transpired prior to, during, and after the robbery. Moreover, Nancy's positive identification of the appellants was corroborated by Ryan.

The CA gave the appellants' alibi scant consideration, ruling that after positive identification by witnesses, they could no longer deny their participation in the robbery by claiming to be somewhere else.

Finally, the CA upheld the RTC's finding of conspiracy, as it had been proven that there was unity of purpose and design in the commission of the crime. Therefore, all those who participated in the robbery were held guilty of the special complex crime of robbery with homicide even if they did not take an active part in the homicide.

In their brief,[25] the appellants argue that the trial court gravely erred in:

(a) convicting them of the crime charged despite the failure of the prosecution to establish their guilt beyond reasonable doubt; and

(b) admitting the seriously flawed out-of-court identification by the witnesses.

The sole issue for our resolution is whether the prosecution proved the appellants' guilt beyond reasonable doubt.

THE COURT'S RULING
We resolve to deny the appeal for lack of merit.

Sufficiency of Prosecution Evidence

An established rule in appellate review is that the trial court's factual findings - including its assessment of the credibility of the witnesses, the probative weight of their testimonies, and the conclusions drawn from the factual findings - are accorded great respect and even conclusive effect if duly supported by evidence. These factual findings and conclusions assume greater weight if they are affirmed by the CA. This jurisprudential rule notwithstanding, we fully scrutinized the records of this case; the penalty of reclusion perpetua that the CA imposed on the appellants demands no less than this kind of careful consideration.[26]

A distinctive feature of this case is the presence of a witness, Nancy, who was inside the jeepney during the robbery, and who positively identified all the appellants in her March 18, 2003 testimony. To directly quote from the records:

> PROSECUTOR FLORIAN ABALAJON:
>
> Q:
>
> Madam witness, could you remember where were you in the early morning or at around 1:00 in the morning of June 11, 2001?
>
> NANCY BONIFACIO:
>
> A: We were at the loading area of vehicles going to Montalban at the corner of EDSA and Aurora Blvd.
>
> x x x
>
> Q:
>
> On that day, from the time that you took the jeepney, could you remember any incident that happened to the passengers of the jeep?
>
> A: The jeep left and there was somebody clinging to the jeep, sir.

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

Q: What happened next?

A:

Upon crossing EDSA, the person clinging to the jeepney flagged down the jeepney to allow four (4) other passengers to board the jeepney, sir.

x x x

Q:

After the other four passengers rode while clinging to the passenger jeepney, what happened, if any, on your way to Montalban?

A: When we were somewhere in Barangka, one of them fired a gun and declared a holdup, sir.

Q: Who, if you remember, declared the holdup?

A:

As far as I could remember, the one who declared the holdup was Jojo Musa, and the one who fired the gun was Robert Barredo.

x x x

Q:

Was Jojo Musa one of the passengers who rode on the jeepney after the passenger jeepney has crossed EDSA?

A: He was together with the person who clung to the vehicle before the jeepney crossed EDSA, sir.

Q:

Do you know the identity of the person who was clinging to the passenger jeepney and told the driver to stop upon crossing EDSA?

A: Yes, sir.

Q: Who was he?

A: I do not know his name, but I could recognize his face, sir.

x x x

Q: Could you kindly point to him?

(The witness pointed to the rightmost person on the bench at the last row. The person pointed to by the witness when requested to stand up identify his name as Michael Garcia y De la Cruz [sic])

x x x

Q:

From these five persons seated at the back, could you point or identify the person that you said is Musa?

(The witness pointed to the leftmost person seated at the last row. The person pointed to by the witness, when requested to stand, identified himself as Jojo Musa y Delos Santos)

x x x

Q: Now what happened after the declaration of the holdup?

A:

They gathered the personal belongings of the other passengers, and the person beside Harold pointed a gun at him and tried to get his wristwatch, sir.

Q: And could you remember who is the person who was pointing a gun at Harold?

A: Robert Barredo, sir.

x x x

Q: And why are you so sure that this Robert Barredo was the one who pointed a gun at Harold Herrera?

A:

While we were in the hospital we learned that the suspect was arrested, and they presented picture of Robert Barredo, and he was identified by the victim, sir.

Q: Now, let us go back to the incident when a gun was pointed at Harold. What happened at that time?

A:

Robert Barredo pointed a gun like this. (The witness raised her right hand with the index finger pointing towards her face) [A]nd the suspect tried to use his left hand to get the wristwatch of Harold, and after getting the wristwatch of Harold, I heard a gunshot, and I did not know that Harold was hit by that gunshot, and afterwards Robert Barredo pointed a gun at me (the witness pointed her right hand index finger into her forehead) and Robert Barredo tried to grab my handbag, sir.

x x x

Q: Were you divested your bag by Robert Barredo? [sic]

A: Yes, sir.

Q: What happened with Jojo Musa? Were you able to notice what Jojo Musa did during the incident?

A: He pointed to the passenger beside him and gathered their belongings, sir.

Q: What did he point to the other passengers?

A: Gun, sir.

Q: What about the three other passengers that you said there were four passengers? [sic]

A: They were carrying bladed weapon(s), sir.

x x x

Q: Could you remember the person who entered the jeepney?

A:

The two persons were able to enter, and one of them was Jojo Musa and the other one, I don't know his name, but I could recognize his face, sir.

Q: Could you identify him if you could see that person inside the courtroom?

A: Yes, sir.

Q: Please point to him.

(The witness pointed to the second person from the right seated on the last row, who, when requested to stand up, identified himself as Robert Cariño y Ferreras)

x x x

Q: Could you recall what Robert Cariño did while the holdup was going on?

A: He was at the other end collecting the belongings of the other passengers.

Q:

You said after they had divested you, Harold, and other passengers of their personal belongings they alighted upon reaching Marcos Highway, right? Now, could you tell us who were they or how many of them that alighted?

A: They were six (6), sir.

x x x

Q:

At the back there were five (5) persons sitting. Could you kindly go over the faces and tell us who you said alighted together with Jojo Musa, Robert Barredo and other accused that you just identified?

(The witness pointed to the second and third person from the last sitting on the last row, who, when requested to stand up, identified themselves as August Dayrit y Hernandez and Cesar Domondon, Jr. y Sacris)[27] [Emphasis ours]

Nancy's testimony was clear, detailed, and straightforward; she never wavered in pointing to the appellants as the persons who robbed her and her co-passengers in the early morning of June 11, 2001. She remained consistent and steadfast under the defense counsel's cross-examination. She was likewise firm in her identification of Barredo as the person who pointed a gun at Harold and divested him of his wristwatch. Although Barredo died before trial, Nancy testified that she and Harold had identified him (Barredo) and the other appellants as the perpetrators of the crime from the pictures shown to them at the hospital.

Nancy's testimony finds full support and corroboration from the testimony of another passenger, Ryan, on the events that transpired before, during, and after the June 11, 2001 robbery. Although Ryan could only identify Jojo and Michael, his narration of events coincided with Nancy's testimony on material points: (a) Michael clung to the jeepney as it left the loading station on Aurora Boulevard; (b) Michael ordered the driver to stop when the jeepney crossed EDSA to allow his companions to board; (c) Jojo declared a hold-up and another one (identified by Nancy as Barredo) fired a gun when the jeepney reached Barangka; (d) the person who fired a gun (Barredo) pointed it at Harold, took his wristwatch, and shot him in the neck; (e) the other robbers carried bladed weapons and divested the other passengers of their belongings; and (f) Harold was initially brought to the Sta. Monica Hospital, then transferred to Amang Rodriguez Hospital, and subsequently to the East Avenue Hospital where he died after 11 days. Furthermore, the testimonies of Nancy and Ryan matched on other details of the robbery, such as the seating arrangement of the passengers, the number of perpetrators and their relative positions in the jeepney, and the place where the robbers alighted.

These testimonies, when considered together, lead to no conclusion other than the appellants' direct participation in the robbery where Harold was shot and killed. Aside from their court testimonies, Nancy and Ryan executed separate sworn statements on June 16, 2001 before PO3 Ragay naming all the appellants as the persons who

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

robbed them and their co-passengers on June 11, 2001.[28] In her sworn statement, Nancy likewise named Barredo as the person who shot Harold. These sworn statements were formally offered in evidence; hence, they are integral parts of the prosecution's evidence.

In considering the testimonies of Nancy and Ryan, we find it significant that the defense failed to refute their testimonies through evidence of motive impelling them to falsely testify against the appellants. The absence of such evidence immeasurably enhances the worth and credit of their testimonies.[29]

Admissibility of Identification

The appellants assail the reliability and integrity of their out-of-court identification by Nancy and Ryan. They argue that when these witnesses went to the police station, their minds were ready to accept that the persons they would identify were the suspects in the June 11, 2001 robbery.

We find this argument misplaced.

We had the opportunity to explain the procedure for out-of-court identification and the test to determine their its in People v. Rivera[30] where we said:

> Out-of-court identification is conducted by the police in various ways. It is done thru show-ups where the suspect alone is brought face to face with the witness for identification. It is done thru mug shots where photographs are shown to the witness to identify the suspect. It is also done thru line-ups where a witness identifies the suspect from a group of persons lined up for the purpose x x x In resolving the admissibility of and relying on out-of-court identification of suspects, courts have adopted the totality of circumstances test where they consider the following factors, viz: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification procedure.

The totality test has been formulated precisely to assure fairness as well as compliance with constitutional due process requirements in out-of-court identification. Applying this test, we find Nancy's out-of-court identification to be reliable and, hence, admissible. First, Nancy testified that she was seated on the first seat of the jeepney's left rear side. From this vantage point, she had a good view of the faces of the four persons clinging to the jeepney as well as the two who were seated inside. Second, no competing event took place to draw her attention from the hold-up. Nothing in the records shows the presence of any distraction that could have disrupted her attention at the time of the robbery or that could have prevented her from having a clear view of the faces and appearances of the robbers. Third, the identification took place within five days after the robbery; she sufficiently explained why it took her five days to go to the police station. Fourth, she described the suspects to a police inspector prior to identifying them in the police station on June 16, 2001. Finally, nothing persuasive supports the appellants' contention that their identification at the police station was the result of an unduly suggestive procedure. When Nancy went to the Marikina Police Station, the police merely informed her of the date when the appellants were arrested. Afterwards, she went to the cell where the appellants were detained; she identified them as the persons who were her co-passengers and who participated in the robbery. The records are silent on whether other inmates were detained together with the appellants. Nonetheless, there was no evidence that the police either prodded Nancy to point to the appellants as the robbers, or suggested to her that the appellants were the suspects in the June 11, 2001 robbery. That she readily recognized them was not surprising as they were her fellow passengers before the hold-up took place.

If any identification should be critically examined at all, this should be Nancy's in-court identification, as she was shown photographs and made a previous out-of-court photographic identification in the hospital.

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

In People v. Pineda,[31] we laid down the proper procedure on photographic identification: first, a series of photographs must be shown and not merely that of the suspect; and second, when a witness is shown a group of pictures, their arrangement and display should in no way suggest which one of the pictures pertains to the suspect.

In the present case, Nancy significantly testified that "other" pictures, aside from the pictures of the five appellants and of Barredo, were shown to her and to Harold at the hospital. From these pictures, they were able to identify the six perpetrators of the crime, including Barredo. Nancy testified on this point, as follows:

> ATTY. RODAFLOR LARRACAS:
>
> Q:
>
> So the pictures of the six persons that you said a while ago no other pictures except the pictures of the six persons?
>
> NANCY BONIFACIO:
>
> A:
>
> There were other persons but we were not able to identify to [sic] them; only the pictures of the six persons were identified.[32]

The records are bereft of any evidence showing that Nancy's photographic identification was attended by an impermissible suggestion that singled out the appellants and Barredo as the robbers. More importantly, if there was one person among the perpetrators who would have caught her attention, it would have been Barredo because he was the one who pointed a gun at her and at Harold, who took their bag and watch, and who shot Harold. Thus, we uphold the integrity and reliability of Nancy's in-court identification of the appellants.

Ryan's identification of the appellants at the police station is not as reliable since he admitted having been told by the police that the persons detained were the suspects in the robbery before he identified them. Nevertheless, this irregular identification does not need to affect the admissibility of Nancy and Ryan's independent in-court identification.[33] We emphasize that in convicting the appellants of the crime charged, the RTC and CA did not rely on the identification made by Nancy and Ryan at the police station; they relied on Nancy's positive identification of the appellants during trial as well as the corroborative testimony of Ryan.

The Appellants' Defense

The appellants interposed the defense of alibi to support their claim of innocence.

Jojo and Michael maintained that they were sleeping in their respective houses in Marikina City and Cainta, respectively, at 1:00 a.m. of June 11, 2001. August, on the other hand, claimed that he was at his house in San Mateo, Rizal at 12:30 a.m. of the same date. Robert, for his part, alleged that he was working at his aunt's auto air conditioning supply in BF Homes, Parañaque City on the day of the robbery.

Alibi is generally viewed with suspicion because of its inherent weakness and unreliability. For this defense to prosper, jurisprudence demands the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.[34] Where the least chance exists for the accused to be present at the crime scene, the defense of alibi fails.[35]

In the present case, the appellants failed to demonstrate by clear and convincing evidence that they were so far away from the scene of the crime so that it was physically impossible for them to have been at the crime scene at the time of its commission. In other words, their alibi did not meet the requirements of "time" and "place." The places where they claimed to be at the time of the hold up were Cainta and San Mateo (both in Rizal), Marikina

City, and Parañaque City whose locations do not negate the possibility that they were in Barangka on June 11, 2001. Moreover, they failed to present any witness corroborating their claim that they were indeed in other places at the time of the robbery. Thus, their alibi cannot also stand in the face of their positive identification by credible witnesses as the perpetrators of the crime. The well-settled rule is that positive identification, when categorical, consistent, and not attended by any showing of ill-motive on the part of the witnesses, prevails over an alibi that is not substantiated by clear and convincing evidence; alibi, under these circumstances, becomes a negative and self-serving evidence undeserving of any weight in law.[36]

The Crime Committed

Article 294, paragraph 1 of the Revised Penal Code provides:

> Art. 294. - Robbery with violence against or intimidation of persons. - Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:
>
> - The penalty of reclusion perpetua to death, when by reason or on the occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

Robbery with homicide is committed when a person is killed, either by reason or on occasion of the robbery. To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed. A conviction requires certitude that the robbery is the malefactor's main purpose and objective, and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life, but the killing may occur before, during, or after the robbery.[37]

In the case before us, the prosecution proved that the appellants' original intention was to rob the passengers of the jeepney. A careful examination of the testimonies of Nancy and Ryan reveals the following facts clearly pointing to the appellants' intent: Michael clung to the jeepney as it left the loading station; he ordered its driver to stop when the jeepney crossed EDSA to allow his companions to board; Jojo announced a hold-up and Barredo fired a gun when the jeepney reached the Barangka flyover; in Barangka; Barredo pointed a gun at Harold, took his wristwatch, and shot him; Barredo pointed the gun at Nancy and grabbed her handbag; Jojo pointed a gun at the other passengers and grabbed their belongings; the other appellants divested the other passengers of their belongings.

From these established facts, the overriding intention of the appellants could not but be robbery; the death of Harold incidentally intervened in the course of the robbery. Admittedly, the reason for Harold's shooting was unclear, as the testimonies of the witnesses revealed that Barredo had already taken his watch when he shot Harold. Why Barredo still shot Harold, however, is immaterial as long as the killing is perpetrated as a consequence, or on the occasion of, the robbery. Thus we held in People v. Werba:[38]

> A conviction for robbery with homicide is proper even if the homicide is committed before, during or after the robbery. The homicide may be committed by the malefactor at the spur of the moment or by mere accident. x x x What is critical is the result obtained without reference or distinction as to circumstances, cause, modes or persons intervening in the commission of the crime. [Emphasis ours]

The Presence of Conspiracy

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy may be inferred from the acts of the accused before, during, and after the

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

commission of the crime which indubitably point to, and are indicative of, a joint purpose, concert of action, and community of interest.[39] Conspiracy does not require proof of an appreciable period of time for the perpetrators to come to an agreement, or for proof of an agreement prior to the criminal deed; conspiracy exists if evidence indicates that at the time of the commission of the offense, the malefactors had the same purpose and were united in its execution.[40]

In the present case, the appellants and Barredo clearly acted in conspiracy in committing the crimes charged. From the time Michael stopped the jeepney for the others to board, to the time they announced a robbery in Barangka, up to the time they commonly alighted near Marcos Highway, there can be no conclusion other than that they had a prior criminal scheme that led to their synchronized acts, unity of execution, and assistance to each other to consummate their plan.[41]

When conspiracy or action in concert to achieve a common criminal design is shown, the act of one is the act of all the other conspirators, and the precise extent or modality of participation of each of them becomes secondary.[42]

As a corollary rule, when homicide is committed as a consequence or on the occasion of a robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special complex crime of robbery with homicide, although they did not all actually take part in the homicide; only those who clearly endeavored to prevent the homicide are excluded. In the present case, none of the appellants has been shown to have tried to prevent Harold's shooting. In fact, they exhibited an indifferent and nonchalant attitude to the killing as shown by the fact that they continued robbing the other passengers even after they heard a shot from inside the jeepney. Hence, their cooperative acts toward their common criminal objective render them equally liable as conspirators.[43]

The Proper Penalty

The special complex crime of robbery with homicide is punished under Article 294 (as amended by Republic Act No. 7659) of the Revised Penal Code by reclusion perpetua to death. Article 63[44] of the Revised Penal Code states that when the law prescribes a penalty consisting of two indivisible penalties, and the crime is neither attended by mitigating nor aggravating circumstances, the lesser penalty shall be imposed. Considering that no modifying circumstance attended the commission of the crime, the RTC correctly sentenced the appellants to suffer the penalty of reclusion perpetua.

Civil Liability

For the death of Harold, we sustain the award of P50,000.00 as civil indemnity as ordered by the RTC and affirmed by the CA. Jurisprudence sets the amount of civil indemnity at P50,000.00 if the special complex crime of robbery with homicide was not qualified by any circumstance warranting the imposition of the death penalty. This award for civil indemnity is mandatory and is granted to the heirs of the victim without need of proof other than the commission of the crime.[45]

We likewise agree with the CA's grant of moral damages even in the absence of proof for the entitlement to the same. As borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family. It is inherently human to suffer sorrow, torment, pain, and anger when a loved one becomes the victim of a violent or brutal killing. The heirs of Harold are thus entitled to moral damages in the amount of P50,000.00.

Finally, we sustain the award of P100,000.00 representing the hospital and funeral expenses incurred, as this amount was based on the stipulation of the prosecution and defense.

WHEREFORE, in light of all the foregoing, we hereby AFFIRM the October 11, 2005 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00735 in toto. Costs against the appellants.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Chico-Nazario, and Leonardo-De Castro, JJ., concur.

** Designated additional Member of the Second Division effective June 3, 2009 per Special Order No. 658 dated June 3, 2009.

*** Designated additional Member of the Second Division effective May 11, 2009 per Special Order No. 635 dated May 7, 2009.

[1] Penned by Associate Justice Jose L. Sabio, Jr., and concurred in by Associate Justice Jose C. Mendoza and Associate Justice Arturo G. Tayag.

[2] Penned by Judge Reuben P. De la Cruz (now Deputy Court Administrator).

[3] Records, pp. 4-5.

[4] See Pre-Trial Order, id., pp. 68-69.

[5] Id., p. 64.

[6] TSN, February 26, 2003, pp. 17-26.

[7] TSN, March 18, 2003, pp. 5-7.

[8] Id., pp. 8-20.

[9] Id., pp. 21-26.

[10] Id., pp. 27-49.

[11] TSN, August 11, 2003, pp. 3-5.

[12] Id., pp. 6-10.

[13] Id., pp. 11-12.

[14] Id., pp. 13-15.

[15] Records, p. 94.

[16] TSN, August 27, 2003, pp. 4-15.

[17] Id., pp. 16-18.

[18] TSN, October 7, 2003, pp. 4-11.

[19] Records, p. 151.

[20] TSN, December 1, 2003, pp. 3-9.

[21] Id., pp. 11-17.

[22] RTC Decision, CA rollo, pp. 33-34.

[23] Per our Resolution dated October 20, 2004.

[24] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, 656.

[25] CA rollo, pp. 46-63.

[26] People v. Algarme, G.R. No. 175978, February 12, 2009, citing People v. Ballesteros, G.R. No. 172696, August 11, 2008 and People v. Garalde, 521 SCRA 327, 340 (2007).

[27] TSN, March 18, 2003, pp. 5-20.

[28] Records, pp. 10 and 13.

[29] See People v. Algarme, supra note 26, citing People v. Laurente, 255 SCRA 543 (1996).

[30] G.R. No. 139185, September 29, 2003, 412 SCRA 224, citing People v. Teehankee, Jr., 249 SCRA 54 (1995).

[31] G.R. No. 141644, May 17, 2004, 429 SCRA 478.

[32] TSN, March 18, 2003, p. 30.

[33] See People v. Almanzor, G.R. No. 124916, July 11, 2002, 384 SCRA 311.

[34] See People v. Navales, G.R. No. 135230, August 8, 2000, 337 SCRA 436.

[35] See People v. Werba, G.R. No. 144599, June 9, 2004, 431 SCRA 482.

[36] See People v. Dulay, G.R. No. 174775, October 11, 2007, 535 SCRA 656.

[37] People v. Dela Cruz, G.R. No. 168173, December 24, 2008.

[38] People v. Werba, supra, citing People v. Daniela, 401 SCRA 519 (2003).

[39] People v. Porras, G.R. Nos. 103550-51, July 17, 2001, 361 SCRA 246, 271.

[40] People v. Carrozo, G.R. No. 97913, October 12, 2000, 342 SCRA 600.

[41] See People v. Napalit, G.R. Nos. 142919 and 143876, February 4, 2003, 396 SCRA 687.

[42] People v. Punzalan, G.R. No. 78853, November 8, 1991, 203 SCRA 364.

[43] See People v. Sabadao, G.R. No. 126126, October 30, 2000, 344 SCRA 432.

[44] Rules for the Application of Indivisible Penalties.

[45] See People v. Buduhan, G.R. No. 178196, August 6, 2008.

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