

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICKY LADIANA Y DAVAO, (AT- LARGE), ACCUSED. ANTONIO MANUEL UY, ACCUSED-APPELLANT.

G.R. No. 174660. May 30, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

Before us is an appeal from the Decision[1] dated July 18, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00110 affirming with modification the Decision[2] of the Regional Trial Court (RTC), Branch 114, Pasay City, finding appellant Antonio Manuel Uy guilty beyond reasonable doubt of the crime of Robbery with Homicide.

In an Information[3] dated July 16, 2001, appellant, together with a co-accused merely identified as John Doe, was charged with the crime of Robbery with Homicide which reads:

That on or about the 27[th] day of June 2001, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Antonio Manuel Uy y Suangan and John Doe, conspiring and confederating together and mutually helping one another, with intent to gain, by means of force and intimidation, did then and there willfully, unlawfully and feloniously take and carry away the following jewelry, to wit:

QTY

DESCRIPTION

AMOUNT

3

Star ruby brooch 7 x 9 mm

P1,920.00

5

Star ruby pendant plain 8 x 10 mm

825.00

4

Star ruby pendant plain 10 x 14 mm

1,220.00

6

Star ruby pendant w/ zircon 12 x 16 mm

4,170.00

2

Star ruby pendant w/ zircon 10 x 14 mm

1,730.00

4

Star ruby pendant plain

3,020.00

3

Star ruby bracelet 12 x 16 mm

4,500.00

3

Star ruby bracelet w/ zircon 8 x 10 mm

2,025.00

2

Star ruby bracelet w/ zircon 6 x 8 mm

1,050.00

7

Star ruby bracelet plain 8 x 10 mm

4,375.00

2

Star ruby ring w/ zircon medium stone

1,760.00

2

Star ruby ring w/ zircon 10 x 12 mm

1,510.00

2

Star ruby ring w/ zircon large stone

2,010.00

1

Star ruby ring plain 10 x 15 mm

905.00

1

Star ruby ring plain 9 x 11 mm

680.00

9

Star ruby ring plain 10 x 14 mm

7,110.00

6

Star ruby ring plain yg

4,350.00

1

Star ruby ring plain wg

685.00

5

Star ruby ring plain 11 x 15 mm

5,200.00

8

Star ruby ring plain 10 x 12 mm

2,320.00

7

Star ruby ring plain 12 x 16 mm

2,800.00

1

Star ruby ring plain 8 x 10 mm

165.00

6

Star ruby pendant small stone

4,140.00

1

Star sapphire earring pierced 10 x 12 mm

830.00

3

Star sapphire brooch 6 x 8 mm

1,965.00

26

Star sapphire tie tack 8 x 10 mm

4,180.00

1

Star sapphire tie tack & cufflinks set 6 x 8 mm

525.00

1

Star sapphire pendant 12 x 16 mm

390.00

1

Star sapphire earring pierced 6 x 8 mm

165.00

1

Star sapphire earring plain 6 x 8 mm

445.00

1

Star sapphire bracelet

360.00

11

Star sapphire tie pin wg 8 x 10 mm

2,090.00

3

Star sapphire tie tack & cufflinks set

1,380.00

3

Star sapphire tie tack & cufflinks set

2,745.00

1

Emerald ring

1,260.00

1

Diamond earring

4,450.00

1

Diamond earring

10,285.00

1

Diamond earring

5,970.00

1

Diamond earring

7,700.00

1

Diamond earring

7,150.00

1

Diamond earring

9,970.00

1

Diamond earring

6,700.00

1

Diamond earring

8,700.00

1

Diamond ring

5,850.00

1

Diamond ring

4,800.00

1

Diamond ring

4,120.00

1

Diamond ring

4,020.00

1

Diamond ring

2,820.00

1

Diamond ring

3,500.00

1

Diamond ring

6,200.00

1

Diamond ring

4,250.00

1

Diamond ring

5,450.00

1

Diamond ring

5,000.00

1

Diamond ring

4,120.00

1

Diamond ring

5,450.00

1

Diamond ring

5,450.00

1

Diamond ring

2,950.00

1

Diamond pendant w/ china jade

31,200.00

2

Italian gold bangles

3,000.00

2

Italian gold bangles

2,700.00

1

Italian gold bangles

1,200.00

1

Italian gold bangles

1,200.00

1

Italian gold necklace

4,600.00

1

Italian gold bracelet

5,700.00

1

Italian gold bracelet

7,250.00

1

Italian gold bracelet

6,250.00

1

Italian gold bracelet

3,500.00

1

Italian gold bracelet

3,450.00

1

Italian gold bracelet

3,400.00

1

Italian gold bracelet

2,800.00

1

Italian gold bracelet

5,200.00

1

Italian gold bracelet

3,600.00

1

Italian gold bracelet

6,850.00

1

Diamond ring

3,100.00

1

Diamond ring

3,000.00

1

Gold pendant w/ topaz & onyx stone

3,400.00

1

Didien Lamarthe

11,000.00

1

Christian Dior

12,250.00

P 327,390.00

all belonging to JEEPNEY SHOPPING CENTER, represented by RICARDO M. SALVADOR and an ARMSCOR .38 caliber revolver with SERIAL No. 64517 amounting to P9,000.00, more or less, belonging to ENERGETIC SECURITY AGENCY represented by ROMEO SOLANO, to the damage and prejudice of Jeepney Shopping Center in the total amount of P327,390.00 and Energetic Security Agency in the total amount of P9,000.00 more or less; and on the occasion thereof, accused willfully, unlawfully and feloniously stabbed Gilbert V. Esmaquilan and hit on the head with a 2x2 wood Felix Arañez y Gida and Delfin Biniahan y Cahtong, Security Guard, Janitor and maintenance of Jeepney Shopping Center(,) respectively, thereby causing their death; and accused to facilitate their escape thereafter take, steal and drive away a (sic) one (1) Black Honda Civic with Plate No. WFD-891 registered in the name of OLIVER GATCHALIAN.

Contrary to law.[4]

During his arraignment on July 24, 2001, appellant, with the assistance of counsel, pleaded "not guilty" to the crime charged.[5]

The Information was subsequently amended to identify appellant's co- accused as Ricky Ladiana y Davao (Ricky), without changing the allegations of the original information.[6] However, accused Ricky remained at-large.

Trial on the merits thereafter ensued.

The evidence for the prosecution is aptly summarized by the Solicitor General in the appellee's brief as follows:

Appellant Antonio Manuel Uy was one of the maintenance crew of the Jeepney Shopping Center located at No. 1913, Taft Avenue, Pasay City, owned by Mr. Jerry Limpe.

Appellant used to be a stay-in employee of the Jeepney Shopping Center. However, appellant could not get along with his co-employees and usually engaged in quarrels with them. In their letter dated March 29, 2001 addressed to Michael Limpe, the son of Jerry Limpe, the co-employees of appellant requested that he be ordered to leave the employees' quarters. Resultantly, appellant was ordered by Michael Limpe to leave the quarters and transfer to another place. Appellant was forced to rent a house in Sandejas St., Pasay City.

When appellant was removed from the employees' quarters, Cecilio Aranez, also a member of the maintenance crew of the Jeepney Shopping Center, heard appellant made a threat, saying "Balang araw makagaganti ako."

Sometime in the first week of June 2001, the co-employees of appellant, including Neptali Tamayo, had a drinking spree at Juz Café along Taft Avenue, Pasay City. The drinking session lasted until 3:00 o'clock in the morning of the following day. On their way home, the group noticed two persons outside the guardhouse of the Jeepney Shopping Center peeping inside. One of these persons was appellant. When the group approached them, they hid themselves inside the guardhouse. Later on, appellant came out from where he hid himself and

uttered a joke. Thereafter, appellant and his companion left.

Around 9:00 o'clock in the morning of June 26, 2001, appellant, through a text message, informed Roger Tan, the Supervisor of the Maintenance Department of the Jeepney Shopping Center, that he (appellant) was not feeling well and would not be able to report for work.

Around 11:00 o'clock in the evening, Joel Adol, the security guard of Chang Juat Ltd. Company located at No. 1906, Taft Avenue, Pasay City, saw appellant with a companion standing at the gate of the Jeepney Shopping Center. The security guard had a clear and unobstructed view of the Jeepney Shopping Center as Chang Juat Ltd. Company was just adjacent to it and the Jeepney Shopping Center was brightly lighted. Joel Adol recognized appellant because he used to see him cleaning the premises of the Jeepney Shopping Center and directing traffic in the area. Joel Adol observed that appellant and his companion were looking at his post and were peeping inside the Jeepney Shopping Center. When Joel Adol went inside the building of Chang Juat Ltd. Company around 12:00 o'clock in the evening, he noticed that appellant and his companion were still at the gate of the Jeepney Shopping Center.

Around 5:30 in the morning of June 27, 2001, Carpio Bahatan, a stay-in employee of the Jeepney Shopping Center, discovered the lifeless bodies of Felix Aranez and Delfin Biniahan at the second floor and third floor, respectively, of the main building of the Jeepney Shopping Center. Another stay-in employee, Rico Victor Arbas, discovered the dead body of the security guard, Gilbert Esmaquilan, lying near the guardhouse which was inside the Jeepney Shopping Center compound.

A piece of wood with blood stains was found about three to five meters from the body of Gilbert Esmaquilan. Another blood-stained piece of wood was found in the locker room within the compound but outside the main building of the Jeepney Shopping Center.

At the opening leading to the comfort room in the ground floor of the main building, there were found pieces of jalousie slabs and frames scattered on the ground.

At the second floor, the lifeless body of Felix Aranez was found, lying face down and with feet and hands tied with yellow plastic straw. A piece of cloth was stuck in his mouth and his nape had an incise wound. A bunch of keys was found inside the display cabinet which was in disarray. It was discovered that some pieces of jewelry inside the display cabinet were missing.

At the third floor, the dead body of Delfin Biniahan was found lying on a folding bed between two glass cabinets. He sustained injuries on the upper part of his body. The glass cabinets were splattered with blood. The door of the Administrative Office had been destroyed and bore some traces of blood.

Police Senior Inspector Emmanuel Reyes, Medico-Legal Officer of the Philippine National Police Crime Laboratory, Southern Police District Crime Laboratory Office, conducted an autopsy on the bodies of the three victims. The examination on the body of Felix Aranez revealed that he sustained a hack wound on the nape, measuring 0.3 cm. x 0.7 cm., which could have been caused by a bladed weapon, and hematoma on the occipital region or on the right side of the head, measuring 8 cm. x 8 cm., and on the frontal region just above the right eye which may have been caused by a blunt object. Delfin Biniahan sustained five lacerated wounds on the frontal region, particularly on the forehead, which could have been caused by the application of a hard object, and his lower jaw was displaced toward the left side, which could have been caused by a hard blow. The cause of death of Felix Aranez and Delfin Biniahan was "intracranial hemorrhages secondary to traumatic injuries of the head." Gilbert Esmaquilan sustained multiple stab wounds on the left mammary region piercing the aorta near its attachment to the heart; the left subcostal region piercing the stomach; the vertebral region piercing the underlying soft tissues; the left posterior rib; the right infrascapular region piercing the 7th right posterior intercostal muscle and the lower and upper lobes of the right lung; and the right costal region piercing the posterior right 8th intercostal muscle and the lower and upper lobes of the right lung. The fatal wounds were those which pierced his heart and lungs. The cause of death of Gilbert Esmaquilan was "hemorrhage and

shock secondary to multiple stab wounds of the body."

Around 8:30 in the evening of June 28, 2001, appellant met with his girlfriend, Richlie Ladiana ("Richlie"), in the latter's workplace in Panorama Street, SSS Village, Marikina City and gave her P6,000.00. Appellant was with co-accused Ricky Ladiana ("Ricky"), Richlie's brother. Richlie noticed that at that time, appellant appeared to have a problem, while Ricky looked stern. After giving the money to Richlie, appellant and Ricky immediately left.

Around 8:30 in the morning, of the following day, June 29, 2001, appellant called up Richlie and asked her to drop by the house of Ricky in Cupang, Antipolo City where he was.

At 8:57 that same morning, appellant also sent a text message to their head supervisor, Roger Tan, which read, "Boss, Gud morning. Bukas na ako papasok o kaya Lunes ang sama talaga ng trangkaso nabasa K C ako ng ulan nong Martes pag diliver namin." At 9:57, appellant sent another text message to Roger Tan, which read, "Boss, balita daw na ako ang suspek sa nangyari dyan boss matagal na ako sa companya kahit alam kong inaapi ako nyo wala akong ginawa na masama sa trabaho ko."

When Richlie arrived at the house of Ricky, appellant gave her P500.00 and asked her to buy him some tee-shirts and shorts. Appellant also asked Richlie to return the P6,000.00 which he had earlier given to her because he was leaving for the province.

Around 2:30 in the afternoon, Richlie again dropped by the house of Ricky before going to school. Appellant requested her not to attend her classes anymore because he was leaving for the province. Richlie stayed with appellant in the house of Ricky until 7:00 o'clock in the evening. While appellant was putting on his clothes, Richlie noticed that appellant was wearing a cross pendant. Thereafter, appellant handed to her something wrapped in a newspaper. When she opened the newspaper to look what was inside, she saw 4 pairs of earrings, a pairless earring, and 5 ladies' rings.

Around 9:00 that same evening, appellant and Ricky went to the house of Eduardo dela Cruz ("Eduardo") in Cupang, Antipolo City. Eduardo was the second cousin of the mother of Richlie and Ricky. Ricky looked very nervous and his eyes were reddish, while appellant was very quiet. Ricky told Eduardo that they were in trouble and asked him to accompany appellant to the house of Panfilo dela Cruz, Eduardo's first cousin, in Sitio Tibol, Barangay Salasa, Palauig, Iba, Zambales. Ricky told Eduardo that appellant will be staying in Zambales for two to three days. Eduardo acceded to such request.

Eduardo and appellant proceeded to the bus terminal of Victory Liner in Cubao, Quezon City. When they arrived in Cubao around 11:30 that same evening, the last trip for Zambales had already left. Appellant told Eduardo that they will just get a taxi in going to Olongapo City. They were able to hire a taxi for P1,500.00. They arrived in Olongapo City around 1:00 o'clock in the morning of the following day, June 30, 2001. While waiting for a bus going to Zambales, they drank coffee in a nearby store. During their conversation, Eduardo asked appellant what happened. Appellant confessed to Eduardo that he and Ricky entered a place in Pasay City and they killed two persons and seriously wounded another whom they left fighting for his life. Appellant also told Eduardo about the vault which contained money and that if "he can open the vault, and even if they die their family will live comfortably." Further, appellant told Eduardo that nothing will be traced to him because his hands were wrapped such that no fingerprints would be recovered from the crime scene. They arrived at the house of Panfilo dela Cruz around 6:00 o'clock in the morning. Eduardo introduced appellant to Panfilo dela Cruz and told the latter that appellant will be staying there for about two (2) days. At noontime, Eduardo went back to Manila.

After a week, Eduardo went to SPO3 Rodrigo Urbina of the PNP Regional Mobile Patrol Group. Eduardo told SPO3 Urbina what was confessed to him by appellant and that he brought appellant to Zambales. SPO3 Urbano coordinated with the Pasay City Police Station, Crime Investigation Division, for appellant's arrest.

Around 5:00 o'clock in the morning of July 12, 2001, the joint team of the Regional Mobile Patrol Group, the Pasay City Police Station and the Palauig Police Station arrested appellant in the house of Panfilo dela Cruz. Appellant was frisked and a cross pendant was recovered from his pocket.

The inventory conducted by Cresilda Tigolo, the accounting clerk of Jeepney Shopping Center, revealed that 191 pieces of jewelry in the amount of P304,140.00 and 2 imported bags worth P23,250.00 were stolen. The stolen items had a total value of P327,390.00.

The gold pendant recovered from appellant was worth P3,400.00. Also recovered were a diamond earring worth [P]6,700.00 and a diamond ring worth P5,450.00 which Richlie had pawned through a friend Wilfredo Mazo. Said pawned items were recovered from Villarica Pawnshop, Inc., in Marikina City. Thus, the total amount of the pieces of jewelry recovered was P15,550.00.

The .38 Caliber Armscor revolver service weapon of victim Gilbert Esmaquilan, owned by the Energetic Security Specialist, was recovered by PO3 Edison Cabotaje in the house of Ricky Ladiana.

The Honda VTEC 1999 model car with plate no. WFD 891, owned by a certain Oliver Gatchalian, which had been used as the "getaway" car by appellant, was recovered somewhere in Quezon City.[7]

For his part, appellant denied having committed the crime charged against him. He testified that on June 26, 2001, he called up Jeepney Shopping Center to inform them that he was sick. He later decided to go to the house of his niece Lea Ezra Uy in Caloocan to have a massage. He was there from 8:30 p.m. until the following morning. At noontime of June 27, 2001, Richlie, his girlfriend and Ricky's sister, called him up asking for money to pay for her tuition fee. At around 7 p.m., he met with her in Marikina and gave her P6,000.00.[8]

On June 28, 2001, appellant went to Richlie's place and saw her and her brother Ricky arguing about an incident that happened at Jeepney Shopping Center. Richlie showed appellant a newspaper where his name appeared as a suspect. Ricky then put his arms around him saying "huwag ka na lang maingay." He then told Ricky that he could not keep quiet because he was afraid that he might be implicated since he knew that Ricky and his companions were the ones responsible for the incident. Ricky then gave him a package containing two pairs of earrings and three pieces of rings but declined to accept them as he already had many.[9]

After a while, Eduardo dela Cruz, Ricky's uncle, arrived and invited them to drink. Eduardo told him that he should be acquainted with Richlie's relatives in Zambales. Although appellant knew that he only had three days leave, he agreed to go with Eduardo to Zambales. Before he left for Zambales, he gave the pieces of jewelry which Ricky gave him to Richlie. Richlie gave him back the P6,000.00 he earlier gave her saying he might be needing the money for his trip.[10]

Around 9 p.m. of June 29, 2001, he and Eduardo rode a taxi going to Olongapo City. They were not able to talk to each other since he was asleep the whole trip. Then they boarded a bus going to Zambales. They reached the house of Panfilo dela Cruz, Eduardo's cousin, in Palauig, Zambales around 4 a.m. the following day, Eduardo introduced him to Panfilo as Richlie's fiancé. After breakfast, Eduardo told him that he was going back to Manila and would just fetch him after two or three days.[11]

On July 12, 2001, three policemen entered his room and arrested him. They boarded him in a van and brought him to the Zambales Police Station. PO3 Michael Manarang took a pendant from his pocket and told him that he already had an evidence against him. He was tortured to admit the crime.[12]

On September 30, 2003, the RTC rendered its Decision[13] convicting appellant of robbery with homicide and imposing upon him the penalty of death. The dispositive portion of the decision reads:

WHEREFORE, the Court, after considering the qualifying/aggravating circumstances attending the

commission of the crime, finds the accused Antonio Manuel Uy y Suangan GUILTY beyond reasonable doubt, as principal, of the Special Complex Crime of Robbery with Homicide in violation of paragraph 1, Article 294 of the Revised Penal Code, as amended by Republic Act 7659, and hereby sentences him to suffer the extreme penalty of DEATH by lethal injection. The accused is likewise ordered to indemnify the following:

- a) the legal heirs of the late Aranez the sum of P50,000.00 as death indemnity;
- b) the legal heirs of the late Biniahan the sum of P50,000.00 as death indemnity;
- c) the legal heirs of the late Esmaquilan the sum of P50,000.00 as death indemnity;
- d) the Jeepney Shopping Center the sum of P311,840.00 as reparation of the damage caused; and
- e) the Energetic Security Agency the sum of P49,784.75 for the funeral expenses of guard Esmaquilan.

Considering the penalty imposed, let the records of this case be forwarded for automatic review by the Honorable Supreme Court within twenty (20) days, but not earlier than fifteen days after promulgation of this judgment.

SO ORDERED.[14]

The case was elevated to Us on automatic review. In a Resolution[15] dated August 24, 2004, pursuant to our ruling in *People v. Mateo*,[16] we referred the case to the CA.

On July 18, 2006, the CA issued the assailed decision, the dispositive portion of which reads:

WHEREFORE, the court AFFIRMS the decision of the Trial Court in convicting Antonio Manuel Uy of the crime of Robbery with Homicide and MODIFIES the penalty imposed from death penalty to reclusion perpetua.

The accused is likewise ordered to indemnify the following:

- a) the legal heirs of the late Aranez the sum of P50,000.00 as death indemnity;
- b) the legal heirs of the late Biniahan the sum of P50,000.00 as death indemnity;
- c) the legal heirs of the late Esmaquilan the sum of P50,000.00 as death indemnity;
- d) the Jeepney Shopping Center the sum of P311,840.00 as reparation of the damage caused; and
- e) the Energetic Security Agency the sum of P49,784.75 for the funeral expenses of guard Esmaquilan.

SO ORDERED.[17]

In a Resolution[18] dated November 20, 2006, we accepted the appeal, the penalty imposed being reclusion perpetua. We required the parties to submit their respective supplemental briefs if they so desire.

Appellant filed a Manifestation[19] dated February 8, 2007 stating that he adopts his Appellant's Brief as Supplemental Brief.

The Office of the Solicitor General (OSG) filed its Manifestation and Motion[20] dated March 2, 2007, in lieu of the supplemental brief, stating that it will adopt its Appellee's Brief as its Supplemental Brief in order to avoid repetitious discussions of the issues that had been addressed in its appellee's brief and to prevent further delay.

In his Brief, appellant assigned the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II

ASSUMING ARGUENDO THAT THE ACCUSED-APPELLANT IS GUILTY, THE TRIAL COURT ERRED IN IMPOSING THE DEATH PENALTY.[21]

We find no merit in this appeal.

Robbery with homicide exists when a homicide is committed 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) the taking of personal property is committed with violence or intimidation against persons; (2) the property belongs to another; (3) the taking is *animo lucrandi* or with intent to gain; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in the generic sense, was committed.[22] A conviction needs certainty that the robbery is the central purpose and objective of the malefactor and the killing is merely incidental to the robbery.[23] The intent to rob must precede the taking of human life, but the killing may occur before, during or after the robbery.[24]

In this case, we find that the evidence presented by the prosecution had established beyond reasonable doubt that the crime of robbery with homicide was indeed committed. As the CA correctly observed:

x x x The removal of the jalousies in the restroom of the Jeepney Shopping Center to gain entrance, the destruction of the display cabinet where the items were kept, the destruction of the lock leading to the cashier's office on the third floor of the building; and the inventory of missing items makes the situation possess the first essential element as stated above. In robbery by the taking of the property through intimidation or violence, it is not necessary that the person unlawfully divested of the personal property be the owner thereof, robbery may be committed against a bailee or a person who himself stole it. As long as the taker of the personal property is not the owner, the second element exists. The third element is *animus lucrandi* or intent to gain which is defined by the Supreme Court as "an internal act which can be established through the overt acts of the offender, and it may be presumed from the furtive taking of useful property pertaining to another, unless special circumstance reveal a different intent on the part of the perpetrator." We agree with the finding of the trial court that: "the intent to steal was likewise proven from accused's statement to Eduardo dela Cruz to the effect that if they were able to open the vault, their families would have lived a good life even if they die in the process." On the other hand, the accused was proven to be a friend of, and was with, Ricky Ladiana right after the commission of the crime as testified to by Richlie Ladiana, his lover. Being so when the firearm of the fallen guard was found from the abandoned house of Ricky, the conclusion is that Ricky and Antonio Uy have been together at the shopping center and presumed the taker of a thing taken or doer in the doing of a recent wrongful act. In the instant case, no special circumstance was present to belie the presumption of the intent to gain of the accused-appellant. The existence of the fourth element is incontestable. The homicide preceded the robbery but committed on the occasion thereof, the purpose is to eliminate an obstacle to the commission of robbery. The grudge of the appellant against his former co-workers Felix Aranez and Delfin Biniahan is not sufficient to overcome the presumption and evidence of intent to gain, it is clear that the victims were killed on the occasion of robbery and to commit robbery. Essential in robbery with homicide is that there is a nexus, an intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes are committed at the same time.[25]

While there was no direct evidence to establish appellant's participation in the commission of the crime, direct evidence is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.[26] The rules of evidence allow a trial court to rely on circumstantial evidence to support its conclusion of guilt. Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference. At times, resort to circumstantial evidence is imperative since to insist on direct testimony would, in many cases, result in setting felons free and deny proper protection to the community.[27] Thus, Section 4, Rule 133 of the Revised Rules of Court on circumstantial evidence requires the concurrence of the following: (1) there

must be more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt of the guilt of the accused. A judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results to a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.[28]

We have carefully gone over the records of the case and we find that the circumstantial evidence presented by the prosecution established beyond reasonable doubt that appellant and his co-accused Ricky conspired to commit the crime of robbery with homicide. We find apropos the CA's ratiocination in this wise:

x x x We concord with the trial court that the success of the prosecution in discharging its duty to prove the guilt of the accused is anchored in the circumstantial evidence present and proven in this case, to wit:

- Possession of the stolen goods by the accused and his girlfriend was not satisfactorily explained;
- Intent to steal was evident in his confession to Eduardo dela Cruz who had no reason to lie as he even helped him to escape;
- Participation in the commission of the crime was proven by the tracing of the possession of the deceased's firearm at Ricky Ladiana's house, accused Antonio's friend and companion right after the killing;
- Antonio Manuel Uy was seen in person by a guard at the scene of the crime on the night of the robbery and killing;
- Suspicious presence at the place of robbery immediately before the incident;
- Antonio Manuel Uy's cellphone was established as the sender of text messages to at least two co-employees of his; [and]
- Confession/testimony of Richlie Ladiana, acknowledged sweetheart of accused Uy that the latter gave her the jewelries, part of the stolen jewelries from the shopping center.

Another circumstance is the unexplained impromptu vacation of Antonio Manuel Uy. It has been ruled that flight per se cannot prove the guilt of an accused. But if the same is considered in the light of other circumstances, it may be deemed a strong indication of guilt. Considering the surrounding circumstances when he left with Eduardo dela Cruz for Palauig, Zambales, We could draw a conclusion that he is trying to evade something in his work place. Settled is the rule that flight of an accused, when unexplained, is a circumstance from which an inference of guilt may be drawn. [29]

In his appeal with the CA and with Us, appellant contends that contrary to the RTC findings, he was able to satisfactorily explain the circumstance of his possession of the stolen pieces of jewelry. He claims that Ricky, Richlie's brother, insisted on giving him those pieces of jewelry, but since he was afraid he might be implicated in the commission of the crime which Ricky and his companion had committed, he decided to leave the pieces of jewelry to Richlie. As to the cross pendant which was also part of the stolen items allegedly recovered from him, appellant claims that the same was merely planted on him by PO3 Michael Manarang. He further contends that assuming there is truth to Richlie's allegation that the pieces of jewelry which she pawned came from him, the stolen items did not prove his culpability for robbery with homicide.

Appellant's explanations do not inspire belief.

Appellant testified that when Ricky gave him the valuable pieces of jewelry, he declined to receive them saying that he already had many jewelry,[30] yet he was still in possession of these items and he even admitted giving them to Richlie.[31] In fact, Richlie categorically declared that before they parted ways at around 7 p.m. of June

29, 2001, appellant gave her something wrapped in a newspaper.[32] Upon reaching her house, she opened the wrapped newspaper which contained 4 pairs of diamond earrings, a pairless diamond earring and 5 pieces of diamond rings.[33] Richlie testified that appellant called her up and instructed her to pawn the items as he needed money,[34] thus, Richlie asked her friend Wilfredo Mazo to pawn the diamond ring and a pair of earrings to Villarica pawnshop.[35] Later, Mazo, together with Richlie and SPO3 Rodrigo Urbina, went to the pawnshop and redeemed the items[36] which were proved to be part of the stolen items.

Appellant's claim that the cross pendant found on him at the time of his arrest was merely planted by PO3 Manarang was not proven at all. In fact, PO3 Manarang rebutted such claim by testifying that as member of the arresting team of the Pasay Police, he saw PO3 Ernie Cabrega searched appellant's body and recovered from him the cross pendant.[37] PO3 Cabrega, in his direct examination, positively declared that upon appellant's arrest, he searched the latter's body and found the cross pendant at the back of his pocket.[38] The presumption of regularity in the performance of official duties was not overcome as there was no evidence showing that the police officers were impelled by improper motive.

In fact, Richlie corroborated the testimonies of these two police officers when she declared that she saw appellant wearing the cross pendant for the first time on June 29, 2001,[39] thus, establishing appellant's possession of the cross pendant even before his arrest on July 12, 2001. The recovery of the stolen items which admittedly came from appellant gives rise to the legal presumption of guilt which he failed to overcome, thus, he must necessarily be considered the author of the robbery and the killings.[40]

Appellant argues that his alleged confession to Eduardo dela Cruz was not sufficient to convict him of the crime as the latter's testimony merely established that appellant admitted his intention to rob a vault at an unspecified place; that even if he (appellant) allegedly admitted the killings, Eduardo did not state who between him and his co-accused Ricky committed the killing.

Such argument deserves scant consideration.

Eduardo testified that appellant told him that the main purpose of appellant and his co-accused Ricky in entering the Jeepney Shopping Center was to open the vault to get everything in it, which cost millions of pesos that would make their families live comfortably;[41] that when they entered the establishment, they immediately looked for the vault and in the process killed three people.[42] It has been established that they were able to open the glass showcase containing the valuable pieces of jewelry.[43] Cresilda Tigolo, the shopping center's employee who is responsible for preparing the monthly inventory of the pieces of jewelry for sale, testified that pieces of jewelry and imported bags with a total amount of P327,390.00 were missing.[44] Moreover, it has also been proven that on the occasion of the robbery, two stay-in staff and the guard on duty in the Jeepney Shopping Center were killed.

Appellant's confession to Eduardo, who is not a police officer, is admissible in evidence.[45] The declaration of an accused acknowledging his guilt of the offense charged, or of any offense necessarily included therein, may be given in evidence against him.[46] Appellant's admissions are not covered by Sections 12 (1) and (3) of Article III of the Constitution,[47] because they were not extracted while he was under custodial investigation. The rule is that any person, otherwise competent as a witness, who heard the confession, is competent to testify as to the substance of what he heard and understood all of it. An oral confession need not be repeated verbatim, but in such case it must be given in its substance. [48] And case law has it that whenever homicide is committed by reason or on the occasion of robbery, all those who took part as principals in the robbery would also be held liable as principals of the single and indivisible felony of robbery with homicide, although they did not actually take part in the killing, unless it clearly appears that they endeavored to prevent the same.[49] There was no showing that

appellant attempted to prevent the killing.

Appellant argues that neither the text messages he sent to his supervisor, Roger Tan (Tan), nor to a co-worker, Bernardo Cruz (Cruz), would prove that he was responsible for the robbery with homicide.

We are not convinced.

At 8:57 a.m. of June 29, 2001, appellant texted Tan telling the latter that he will just report for work the following day, or Monday, because he had a fever.[50] At 9:57 a.m., appellant again texted Tan saying that he learned that he was a suspect in the incident that happened in the shopping center and that he did nothing wrong in his work.[51] On July 1, 2001, appellant texted Cruz asking why he was considered a suspect when he and his wife were on their honeymoon.[52] Appellant's excuses for not reporting for work since June 26, 2001 were contradictory showing their untruthfulness. Significantly, while appellant already knew that he was considered a suspect to a very serious crime, he did not report for work anymore. If he was really innocent of the crime as he professed to be, he should have immediately thought of clearing himself of any suspicion. Instead, on the night of June 29, 2001, appellant hurriedly left for Zambales and hid thereat until his arrest on July 12, 2001. Appellant's sudden and unexplained trip to Zambales at the time that he was considered a suspect and had a work to report to was undoubtedly flight from justice which is an indication of a guilty mind. "Indeed, the wicked man flees though no man pursueth, but the righteous are as bold as a lion." [53]

Appellant contends that the recovery of the service firearm of the slain security guard Esmaquilan at Ricky's house did not prove his participation in the commission of the crime. Appellant even pointed to Ricky and his companions as the ones responsible for the crime of robbery with homicide.

Such defense is far from convincing.

Joel Adol, the security guard on duty at Chong Hwat Company located adjacent the shopping center, testified that around 11 p.m. of June 26, 2001, he saw two persons, one of whom he identified as appellant peeping inside the compound of the Jeepney Shopping Center.[54] He was familiar with appellant, as he had seen him directing traffic in the area and cleaning the premises of the shopping center.[55] He clearly saw appellant as there was a light coming from the bank beside the shopping center, as well as the light coming from the guardhouse of the shopping center.[56] Notably, that was the night before the crime was discovered the following morning.

Also, Richlie testified that on June 28, 2001, i.e., the day after the crime was committed, appellant, together with her brother, co-accused Ricky, came to see her at her employer's house in Marikina.[57] She noticed that Ricky looked sterned while appellant looked bothered as if they have a problem[58] and then appellant gave her P6,000.00 and told her to study hard. On June 29, 2001, Richlie met again with appellant and her brother at the latter's house in Antipolo, where appellant asked her to return the money he gave her as he was leaving for the province.[59] They were together in Ricky's house until she left at 7 p.m.[60]

Moreover, Eduardo dela Cruz, Richlie and Ricky's uncle, testified that at 9 p.m. of June 29, 2001, Ricky, together with appellant, came to his place in Cupang, Antipolo.[61] Ricky asked him to bring appellant to the house of Panfilo dela Cruz, Eduardo's cousin and Ricky's uncle, in Zambales because Ricky and appellant were in trouble.[62] He was told that appellant would stay in Panfilo's house for only two to three days. Eduardo observed that Ricky's eyes were reddish and he was nervous, while appellant was quiet.[63] Eduardo obliged and brought appellant to Zambales and endorsed him to his cousin Panfilo. It was during their trip that appellant told him what they did in Jeepney Shopping Center. In the meantime, Ricky, together with his family, packed their things and left their house on June 30, 2001 and never returned.[64] The actuations of appellant and his co-accused Ricky are not the normal behavior of innocent men. Their flight without plausible explanation, coupled with the recovery of

the gun of the slain security guard in Ricky's house, establish that they were together in committing the crime.

Appellant's defense consisted merely of alibi. To prosper, alibi must meet strictly the requirements of time and place,[65] meaning that the accused was not at the scene of the crime at the time it was committed, and that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission.[66]

In this case, appellant claims that on June 26, 2001, he was at the house of his niece, Lea Ezra, in Caloocan from 8:30 p.m. until the following day. Notably, appellant failed to present corroborating witness to strengthen his alibi. Moreover, appellant failed to show that it was physically impossible for him to be present at the locus criminis, considering that at nighttime, Caloocan would only be more than an hour's travel to the crime scene in Pasay City. But most importantly, security guard Joel Adol positively declared that he saw appellant with a companion at the Jeepney Shopping Center around 11 p.m. of June 26, 2001. And it is only axiomatic that positive testimony prevails over negative testimony.[67]

The CA correctly modified the penalty imposed by the RTC. We agree with the CA that the RTC erred in appreciating the aggravating circumstances of nocturnity and treachery when they were not specifically alleged in the information. Sections 8 and 9 of Rule 110 of the 2000 Revised Rules on Criminal Procedure, which became effective on December 1, 2000, provides that aggravating circumstances must be alleged in the information, otherwise, they cannot be considered against the accused even if they are proven during the trial.

The special complex crime of robbery with homicide is punishable under Article 294, as amended by Republic Act No. 7659 of the Revised Penal Code, as amended, by reclusion perpetua to death. Article 63 of the Revised Penal Code, as amended, states that when the law prescribes a penalty consisting of two (2) indivisible penalties, and the crime is neither attended by mitigating nor aggravating circumstances, the lesser penalty shall be imposed. [68]Considering that there was no modifying circumstance which attended the commission of the crime, the CA correctly modified the penalty to reclusion perpetua.

In robbery with homicide, civil indemnity and moral damages in the amount of P50,000.00 each is granted automatically in the absence of any qualifying aggravating circumstances.[69] These awards are mandatory without need of allegation and evidence other than the death of the victim owing to the fact of the commission of the crime.[70] In this case, the RTC, as affirmed by the CA, properly awarded the amount of P50,000.00 as civil indemnity.

The heirs of the victims are also entitled to the award of moral damages in the amount of P50,000.00 each. 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.[71]

We likewise affirm the RTC's Order for appellant to indemnify the Jeepney Shopping Center the sum of P311,840.00 as reparation and the Energetic Security Agency the sum of P49,784.75 for the funeral expenses of security guard Esmaquilan.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00110 is AFFIRMED with MODIFICATION that petitioner is also ORDERED to pay the heirs of the victims the amount of P50,000.00 each as moral damages.

The police and other law enforcement agencies of the government are ORDERED to immediately implement the warrant of arrest issued against Ricky Ladiana y Davao, for him to stand trial.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro,[*] Abad, and Mendoza, JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per Raffle dated May 30, 2011.

[1] Penned by Associate Justice Enrico A. Lanzanas, with Associate Justices Bienvenido L. Reyes and Regalado E. Maambong, concurring; CA rollo, pp. 198-222.

[2] CA rollo, pp. 54-67.

[3] Id. at 10-13.

[4] Id. at 10-12.

[5] Records, p. 25.

[6] Id. at 43-46.

[7] CA rollo, pp. 157-168

[8][JTSN, December 12, 2002, pp. 6-13.

[9] Id. at 16-21.

[10] Id. at 23-32.

[11]Id. at 35-41.

[12] TSN, January 10, 2003, pp. 13-15.

[13] CA rollo, pp. 116-130; Per Judge Vicente L. Yap

[14] Id. at 129-130.

[15]Id. at 77.

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

[17] CA rollo, p. 221.

[18] Rollo, p. 28.

[19] Id. at 32-33.

[20] Id. at 35-37.

[21] CA rollo, p. 83.

[22] People v. Baron, G.R. No. 185209, June 28, 2010, 621 SCRA 646, 656; People v. De Jesus, 473 Phil. 405, 426-427 (2004), citing People v. Pedroso, 336 SCRA 163 (2000).

[23] Id.

[24] People v. Baron, supra note 22, citing People v. Dela Cruz, 575 SCRA 412, 436 (2008); People v. Musa, G.R. No. 170472, July 3, 2009, 591 SCRA 619, 641.

- [25] CA rollo, pp. 216-217.
- [26] *Salvador v. People*, G.R. No. 164266, July 23, 2008, 559 SCRA 461, 469-470; *People v. Almoguerra*, 461 Phil. 340, 356 (2003).
- [27] *Salvador v. People*, supra, at 469-470, citing *People v. Padua*, 516 SCRA 590, 600-601 (2007).
- [28] *Id.* at 470.
- [29] CA rollo, pp. 217-218.
- [30] TSN, December 12, 2002, p. 21.
- [31] *Id.* at 32.
- [32] TSN, April 10, 2002, p. 11
- [33] *Id.*
- [34] TSN, April 16, 2002, p. 5.
- [35] TSN, April 10, 2002, pp. 10-11.
- [36] TSN, April 16, 2002, p. 17; TSN, July 4, 2002, pp. 7-8.
- [37] TSN, March 25, 2003, p. 13.
- [38] TSN, June 11, 2002, pp. 11-12.
- [39] TSN, April 10, 2002, pp. 9, 14.
- [40] *People v. Escote, Jr.*, 448 Phil. 749, 782 (2003).
- [41] TSN, March 21, 2002, p. 17.
- [42] *Id.* at 17; TSN, March 12, 2002, p. 19.
- [43] TSN, November 29, 2001, pp. 4-24.
- [44] TSN, December 18, 2001, p. 41.
- [45] *People v. Suela*, 424 Phil. 196, 228 (2002), citing *People v. Aringue*, 263 SCRA 291 (1997), *People v. Andan*, 269 SCRA 95, (1997) and *People v. Tawat*, 129 SCRA 431, (1984).
- [46] *Id.* at 229, citing Rules of Court, Rule 130, Sec. 33.
- [47] *Id.*, citing *People v. Andan*, supra note 45.
- [48] *Id.*, citing *People v. Tawat*, supra note 45, at 436-437.
- [49] *People v. Escote*, supra, note 40, at 631, citing *People v. Cando*, 344 SCRA 330 (2000).
- [50] TSN, February 14, 2002, p. 18.
- [51] *Id.* at 20.
- [52] TSN, December 11, 2001, pp. 50, 53.
- [53] *People v. Dela Cruz*, 459 Phil. 130, 137 (2003).

[54] TSN, November 20, 2001, p. 11.

[55] Id. at 14.

[56] Id. at 13.

[57] TSN, April 3, 2002, p. 34.

[58] Id. at 36.

[59] TSN, April 10, 2002, p. 7.

[60] Id. at 9.

[61] TSN, March 12, 2002, p.

[62] Id. at 8.

[63] Id. at 9.

[64] TSN April 10, 2002, p. 16.

[65] *People v. Piandiong*, 335 Phil. 1028, 1042 (1997), citing *People v. Matildo*, 230 SCRA 635 (1994) and *People v. Dela Cruz*, 229 SCRA 754 (1994).

[66] Id., citing *People v. Saguban*, 231 SCRA 744 (1994) and *People v. Dolor*, 231 SCRA 414 (1994).

[67] *People v. Ebet*, G.R. No. 181635, November 15, 2010.

[68] *Crisostomo v. People*, G.R. No. 171526, September 1, 2010, 629 SCRA 590, 603, citing *People v. Musa*, 591 SCRA 619, 643-644 (2009).

[69] Id. at 603.

[70] *People v. Buduhan*, G.R. No. 178196, August 6, 2008, 561 SCRA 337, 367.

[71] *People v. Musa*, supra note 68, at 644; *People v. Piedad*, 441 Phil. 818, 839; (2002), cited in *People v. Rubiso*, 447 Phil. 374, 383 (2003).

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