

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO LABAGALA Y ABIGONIA, ALVIN LABAGALA Y JUAT, AND RICHARD ALLAN ALEJO Y SIGASIG, ACCUSED,

G.R. No. 184603. August 02, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

Before this Court on appeal is the Decision[1] dated 2 February 2007 of the Court of Appeals in CA-G.R. CR. No. 00215 affirming with modification the Decision[2] dated 4 November 2003 of the Regional Trial Court (RTC) of Tarlac City, Branch 64 in Criminal Case No. 12536. The RTC found the accused Romeo Labagala, Alvin Labagala and Richard Allan Alejo guilty beyond reasonable doubt of the special complex crime of robbery with homicide. The Court of Appeals modified the RTC's decision by acquitting the accused Richard Allan Alejo.

The facts are:

In an Information[3] dated 26 December 2002, Romeo Labagala, Alvin Labagala and Richard Allan Alejo were charged of the crime of robbery with homicide before the RTC of Tarlac City, as follows:

That on or about October 10, 2002 at around 11:45 o'clock in the morning at Brgy. Balanoy, Municipality of La Paz, Province of Tarlac and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and helping one another and with intent to gain did then and there willfully, unlawfully and feloniously by means of violence against person take, rob and carry away with them P300,000.00 in cash belonging to Estrelita Fonte;

That on the occasion or by reason of the said robbery and for the purpose of enabling them to take, rob and carry away the money, the herein accused pursuant to their conspiracy, did then and there willfully, unlawfully and feloniously attack, assault[,] wound and stab Estrelita Fonte thereby inflicting injuries which caused her death.[4]

After apprehension on 10 October 2002, the accused have been under detention.[5] During arraignment on 4 March 2003, they pleaded not guilty.[6] Thereafter, trial proceeded.

The prosecution presented as witnesses Raul Torres Arceo, the son of the victim Estrelita Torres Fonte; Dr. Orlando Baguinon, Municipal Health Officer of La Paz, Tarlac; and SPO4 Ernesto Javier, a member of the PNP Zaragoza Police Station of Zaragoza, Nueva Ecija, who apprehended the three accused on 10 October 2002 right after receiving a request for police assistance from the La Paz Police Station.

Raul Torres Arceo testified that on 10 October 2002, while he was on the way home with his brother after paying their electric bill, they met a tricycle. Inside the tricycle was his mother, Estrelita Fonte, who was bleeding. Immediately, they took her, boarded her inside their van and brought her to the Medicare Hospital of La Paz, Tarlac. His brother drove the van while he carried his mother on his lap. At the Medicare Hospital, they were advised to bring their mother to the Talon General Hospital. On the way to the Talon General Hospital, he could

see the wound of his mother on her chest. He asked her who stabbed her. His mother told him that two malefactors entered their store and she was able to hit one of them with a bottle on the head. She also mentioned they took the money meant for payment of the lot beside their store. Upon arrival at Talon Hospital, Estrelita was declared dead on arrival.[7]

Dr. Orlando Baguinon, who conducted an autopsy on the body of the victim, prepared a Medico-Legal Report[8] showing the wounds of the victim as follows:

- Stab wound about 2 cm. in size at the level of right 2nd intercostal space, parasternal line. On exposure of the right thoracic cavity, there were cut wounds at the lower portion of anterior segment of the superior lobe and the lower portion of the medial segment of the middle lobe, right lung. Pooling of blood was noted also at the thoracic cavity.
- Stab wound about 2 cm. in size at the level of left 3rd intercostal space, midclavicular line. Upon exposure of the left thoracic cavity, there was fracture of the 4th rib, mid-clavicular line, but not perforating the pleural cavity.
- Stab wound about 2 cm. left lower arm, upper 3rd, anterior aspect.
- Stab wound about 2 cm. left lower arm, middle 3rd, lateral aspect.
- Hematoma, anterior aspect of left thigh, lower 3rd.
- Incised wound, distal and middle phalanges of right index finger, palmar aspect, about 4-5 cm. in size.

Dr. Baguinon listed the victim's cause of death as hemothorax with massive blood loss, secondary to cut wounds of superior and middle lobes of the right lung and to stab wounds at the chest.[9] Dr. Baguinon testified that the wounds sustained by the victim were caused by a sharp-pointed object which may be a knife or an ice pick.[10]

SPO4 Ernesto Javier testified that on 10 October 2002, he reported for duty at the PNP Zaragoza Police Station in Nueva Ecija.[11] At around 12:10 p.m., he received a request for assistance from the La Paz Police Station in Tarlac in connection with a robbery committed in the latter's area of responsibility. Immediately, he formed a checkpoint at Brgy. Sto. Rozario, Zaragoza. A radio operator of the La Paz Station described the suspects as riding on a black motorcycle. Ten minutes after setting up the checkpoint at about 12:20 p.m., they spotted the three accused riding a black motorcycle in front of their cops Kababayan Center. They flagged down the motorcycle and requested them to alight.[12] When Alvin Labagala alighted, they saw a .38 caliber revolver tucked at his waist which they confiscated. After they requested the suspects to lie down, a Rambo-type knife was taken from Richard Allan Alejo and a hand grenade from Romeo Labagala.[13] The three were thereafter charged with illegal possession of firearms and explosives. The black motorcycle was turned over to the possession of the City Prosecutor of Cabanatuan City. The .38 caliber revolver and knife were turned over to the MTC of Zaragoza while they kept the hand grenade in their custody as requested by the City Prosecutor.[14] During direct examination, SPO4 Javier pointed to the three accused as the three suspects they apprehended.[15] During cross-examination, SPO4 Javier narrated that after apprehending the three accused, they were turned-over to police officers of the La Paz Police Station after the latter came over and identified the three as the suspects in the robbery committed in their jurisdiction. SPO4 Javier heard the police investigator from the La Paz Police Station ask a witness if the three accused were the persons who committed the robbery to which the witness answered in the affirmative.[16]

Despite ample time provided, the prosecution failed to present eyewitness Efren Cayanga, a gardener working for the victim. Cayanga allegedly suffered a nervous breakdown and thus was not able to testify in court.[17] Cayanga, however, executed a Sinumpaang Salaysay[18] dated 11 October 2002 where he narrated that on 11

October 2002, while he was watering the grass near the fishpond of his employer, Estrelita Fonte, he heard a bottle break and saw one of the men stab Estrelita Fonte. He then heard Estrelita scream after which the two men came out of the store and rode in a motorcycle driven by another man. Cayanga positively identified the three accused as the men involved in stabbing and killing Estrelita.

The defense presented as witnesses Alvin Labagala, Romeo Labagala, and Richard Allan Alejo.

Alvin Labagala testified that on 10 October 2002, while riding on a motorcycle coming from Malacampa, Camiling, Tarlac, he, together with his co-accused Romeo Labagala and Richard Allan Alejo, were bound for Talavera, Nueva Ecija when they were flagged down by police in Barangay Sto. Rosario, Zaragoza, Nueva Ecija. They were brought to the Zaragoza Police Station for interrogation. The investigator asked if they committed a crime in Barangay Balanoy, La Paz, Tarlac. They denied it. They were transferred to the Police Station in La Paz, Tarlac where a complaint against them was already prepared. Alvin Labagala stated that he never went to Barangay Balanoy. On cross-examination, Alvin Labagala admitted that he and his brother were renting a house at Malacampa, Camiling with their live-in partners. He claimed that he does not know who owns the motorcycle they rode on 10 October 2002 when they were intercepted at a checkpoint in Sto. Rosario, Zaragoza, Nueva Ecija. He denied that the police confiscated from them a Rambo-type knife, a .38 caliber pistol and a hand grenade, claiming that these were planted evidence. He admitted that one of his companions referring to Romeo Labagala sustained injuries on his head because he was beaten by the police. When he was asked why they did not take the shorter route going to Talavera coming from Camiling which is Tarlac via Paniqui-Gerona, Pura, Guimba, Sto. Domingo then to Talavera, he said he was not aware of such route. Alvin testified that the police took his money from his wallet amounting to P1,940.00 and the money of his brother Romeo amounting to P1,000.00. They also took his mobile phone. When asked what his job was or source of income, he replied he has none.[19]

Romeo Labagala corroborated the testimony of Alvin. He denied the charge of robbery with homicide leveled against him and claimed he has never been to Brgy. Balanoy, La Paz, Tarlac. On cross-examination, he denied having in his possession the hand grenade, .38 caliber pistol and Rambo-type knife which were confiscated from them.[20]

Richard Allan Alejo's testimony was cut short upon stipulation of the counsels of both parties that his testimony will be the same as his co-accused.[21]

In a Decision dated 4 November 2003, the RTC found all three accused guilty of the crime of robbery with homicide and sentenced them as follows:

WHEREFORE, this court finds the accused, Romeo Labagala y Abigonia, Alvin Labagala y Juat and Richard Allan Alejo y Sigasig guilty beyond the penumbra of doubt as principal[s] of the crime of Robbery with Homicide as defined and penalized by Articles 293 and 294, No. 1 of the Revised Penal Code and hereby sentences them to suffer the penalty of Reclusion Perpetua, indemnify the heir of Estrelita Fonte in the amount of P50,000.00 and to pay the cost of suit.

Considering that the accused are under detention, the Provincial Jail Warden of Tarlac Penal Colony, Dolores, Tarlac City is ordered to transmit the persons of the accused to the National Penitentiary at Muntinlupa, Rizal.[22]

The Court of Appeals, in a Decision dated 2 February 2007, affirmed with modification the RTC's verdict by acquitting Richard Allan Alejo. The dispositive portion of the decision states:

WHEREFORE, the assailed Decision dated November 4, 2003 of the Regional Trial Court, Branch 64, Tarlac City, in Criminal Case No. 12536, is hereby AFFIRMED with MODIFICATION in that We find appellants ROMEO LABAGALA and ALVIN LABAGALA guilty of the special complex crime of robbery with

homicide and hereby sentence them to suffer the penalty of RECLUSION PERPETUA and are ordered to pay the victim's heirs (a) P50,000.00 as civil indemnity; (b) P25,000.00 as temperate damages and (c) P50,000.00 as moral damages.

As to appellant RICHARD ALLAN ALEJO, the judgment of conviction is REVERSED and SET ASIDE and is hereby ACQUITTED on grounds (sic) of reasonable doubt.

Accordingly, the Director of the Bureau of Corrections is ordered to immediately release appellant RICHARD ALLAN ALEJO from confinement in the National Penitentiary unless he is lawfully held on some other (sic) charged.[23]

The Court of Appeals acquitted Richard Allan Alejo on the ground that the only act attributable to him was that he was with the appellants when they were apprehended. The Court of Appeals reasoned:

We cannot go along with findings of the trial court that appellant Richard Allan Alejo is guilty of the complex crime of robbery with homicide.

It is worth to note here that according to the dying declaration of the victim, two men entered her store and stole the money that would be used as payment for the lot they bought. When appellants were apprehended by the Zaragoza police it was confirmed that appellant Romeo Labagala sustained a wound on his head. Notably, the only act attributable to appellant Richard Allan Alejo was he was with the other appellants when they were apprehended.

To our mind, however, his act of being with the brothers Labagala taken as a whole, does not suffice to prove conspiracy in the case at bar. Neither does it render him liable for the special complex crime of robbery with homicide. Jurisprudence dictates that mere presence at the scene of the crime at the time of its commission is not, by itself, sufficient to establish conspiracy at the time of its commission. Without evidence - clear and convincing at that - as to how an accused participated in the perpetration of the crime, conspiracy cannot be appreciated against him. More so in this case where the evidence particularly the dying declaration of the victim specified that only two men entered the store.[24]

In the instant appeal, accused-appellants Romeo Labagala and Alvin Labagala seek a reversal of the Court of Appeals and RTC rulings. They manifested that they will no longer file supplemental briefs. Instead, they opted to adopt the arguments in the briefs they filed before the Court of Appeals.

Accused-appellants Romeo Labagala and Alvin Labagala argue that the trial court erred in:

I.

x x x FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE THE LACK OF POSITIVE IDENTIFICATION BY THE PROSECUTION WITNESSES.

II.

x x x FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.[25]

Simply, the issue boils down to whether or not the guilt of accused-appellants has been proven beyond reasonable doubt.

In their Brief,[26] accused-appellants allege that the evidence presented was merely circumstantial since no eyewitnesses testified in court. They argue that the circumstantial evidence presented was too weak to warrant the conviction of the accused.

On the other hand, the prosecution, thru the Office of the Solicitor General, in its Brief,[27] argues that the

circumstantial evidence undoubtedly point to appellants as the persons who robbed and killed Estrelita Fonte. It is also argued that temperate and moral damages should also be awarded in favor of the victim's heirs.

After review, we resolve to deny the petition.

We have consistently ruled that proof beyond reasonable doubt is indispensable to overcome the constitutional presumption of innocence and that in every criminal prosecution, what is needed is that degree of proof which produces conviction in an unprejudiced mind.[28]

It must be noted, however, that direct evidence of the commission of the crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt. Conviction can be had on the basis of circumstantial evidence if the established circumstances constitute an unbroken chain leading to one fair and reasonable conclusion proving that the appellant is the author of the crime to the exclusion of all others.[29]

In this case, the accused-appellants were found guilty based on circumstantial evidence leading to the conclusion that they in fact committed the crime. To justify conviction based on circumstantial evidence, the following requisites must be attendant: (a) there must be more than one circumstance to convict; (b) the facts on which the inference of guilt is based must be proved; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[30]

The following circumstances as established by the prosecution were, in combination, point towards the conviction of the accused, to wit: (1) they were present at the vicinity of the crime; (2) they were running away from the scene of the crime; (3) they were caught and apprehended shortly after the commission of the crime; and (4) the wound on the head of one of the accused coincides with the dying declaration of the victim that she was able to hit one of the malefactors on the head with a bottle.

Contrary to accused-appellant's contention, the tapestry of circumstances presented by the prosecution created an undeniable impression of their guilt sufficient to remove the mantle of presumptive innocence. Like direct evidence, these can, as correctly ruled below, convict the accused of the crime of which they are charged. As we have often said, insistence on direct testimony would, as in this case, result in setting felons free and denying proper protection to the community.[31]

Credence should be given to the dying declaration of the victim, Estrelita Fonte.

As a rule, a dying declaration is hearsay and is inadmissible as evidence. In order that a dying declaration may be admissible as evidence, four requisites must concur, namely: that the declaration must concern the cause and surrounding circumstances of the declarant's death; that at the time the declaration was made, the declarant was under a consciousness of an impending death; that the declarant is competent as a witness; and that the declaration is offered in a criminal case for homicide, murder or parricide, in which the declarant is a victim.[32]

All the above requisites are present in this case. At the time she narrated how the malefactors robbed and stabbed her, Estrelita was conscious and lying on the lap of her son, with gaping wounds on her chest.

The victim's statements also form part of the *res gestae*. For the admission of evidence as part of the *res gestae*, it is required that (a) the principal act, the *res gestae*, be a startling occurrence, (b) the statements forming part thereof were made before the declarant had the opportunity to contrive, and (c) the statements refer to the occurrence in question and its attending circumstances.[33]

Where the elements of both a dying declaration and a statement as part of the *res gestae* are present, as in the case at bar, the statement may be admitted as a dying declaration and at the same time as part of the *res gestae*. [34]

Having given credence to the dying declaration of the victim and the testimonies of the witnesses for the

prosecution, we find there is no doubt that accused-appellants are guilty of the special complex crime of robbery with homicide.

As for damages, in the absence of any aggravating circumstances, and as found by the Court of Appeals, the heirs of the victim are entitled to a civil indemnity of P50,000.00, without need of proof other than that death which occurred as a result of the crime. They are also entitled to moral damages in the sum of P50,000.00.[35] Temperate damages, as likewise determined by the Court of Appeals in the amount of P25,000.00 is also granted.

WHEREFORE, the Decision dated 2 February 2007 of the Court of Appeals in CA-G.R. CR. No. 00215 affirming with modification the Decision dated 4 November 2003 of the Regional Trial Court of Tarlac City, Branch 64 in Criminal Case No. 12536 is **AFFIRMED**. Appellants Romeo Labagala and Alvin Labagala are found guilty beyond reasonable doubt of robbery with homicide under Article 294 of the Revised Penal Code and sentences them to reclusion perpetua. They are further **ORDERED** to jointly and severally pay the heirs of Estrelita Fonte the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as temperate damages.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo De Castro, and Del Castillo, JJ., concur.

[1] Penned by Associate Justice Enrico A. Lanzas with Associate Justices Elvi John S. Asuncion and Rosalinda Asuncion Vicente, concurring. CA rollo, pp. 186-204.

[2] Penned by Judge Martonino R. Marcos. Records, pp. 58-68.

[3] Id. at 1.

[4] Id.

[5] Id. at 31.

[6] Id. at 14.

[7] TSN, 15 May 2003, pp. 3-5.

[8] Records, p. 10.

[9] Id.

[10] TSN, 3 April 2003, p. 11.

[11] TSN, 26 June 2003, p. 7.

[12] Id. at 9.

[13] Id. at 9-10.

[14] Id. at 11-12.

[15] Id. at 10.

[16] Id. at 15-16.

[17] Records, p. 47.

- [18] Id. at 8-9.
- [19] TSN, 25 September 2003, pp. 2-9.
- [20] TSN, 2 October 2003, pp. 2-4.
- [21] Id. at 2-3.
- [22] Records, p. 68.
- [23] CA rollo, pp. 202-203.
- [24] Id. at 192-193.
- [25] Id. at 84.
- [26] Id. at 82-95.
- [27] Id. at 141-163.
- [28] *People v. Guarin*, 375 Phil. 655, 662 (1999); *People v. Pascual*, G.R. No. 172326, 19 January 2009, 576 SCRA 242, 252.
- [29] *People v. Guarin*, id. at 662-663.
- [30] Id. at 663; *People v. Pascual Jr.*, 432 Phil. 224, 231 (2002).
- [31] *People v. Pascual Jr.*, id. at 232.
- [32] *People v. Gado*, 358 Phil. 956, 966 (1998) citing *People v. Israel*, G.R. No. 97027, 11 March 1994, 231 SCRA 155, 161-162 and *People v. Lazarte*, G.R. No. 89762, 7 August 1991, 200 SCRA 361, 367-368.
- [33] *People v. Gado*, id. at 966-967 citing *People v. Siscar*, 224 Phil. 453, 460 (1985).
- [34] *People v. Gado*, supra note 32 at 967 citing *People v. Balbas*, 207 Phil. 734, 742-743 (1983).
- [35] *People v. Esoy*, G.R. No. 185849, 7 April 2010.

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