

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDUARDO CASTRO Y PERALTA AND RENERIO DELOS REYES Y BONUS, APPELLANTS.

G.R. No. 187073. March 14, 2012

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

On appeal is the August 28, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02928. The CA had affirmed the Decision[2] of the Regional Trial Court (RTC) Branch 128, of Caloocan City finding the appellants guilty of the crime of robbery with homicide.

Appellants, together with Larry San Felipe Perito (Perito) and one alias Leng-leng, were charged with the crime of robbery with homicide under the following Information:

That on or about the 9[th] day of September 2002[,] in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the said accused confederating together and mutually aiding each other, with intent of gain, and armed with guns, by means of force and violence upon one RICARDO PACHECO BENEDICTO, forcibly [took] and [carried] away the amount of more or less P100,000.00, and in the course of the commission of ROBBERY, [shot] and kill[ed] Ricardo Pacheco Benedi[c]to which caused the latter's immediate death.

CONTRARY TO LAW.[3]

On arraignment, both appellants, with the assistance of the Public Attorney's Office (PAO), entered a plea of not guilty. Trial ensued without the presence of the other two accused, Perito and alias Leng-leng who remained at large.

As summarized by the CA, the factual antecedents of the case are as follows:

On 9 September 2002, [around] seven o'clock in the evening, [the] victim Ricardo Pacheco Benedicto ("Benedicto"), a merchant and owner of a store selling bakery supplies and pastries in Bagong Silang, Caloocan City, was tending his store along with his helpers, one of whom was Emily Austria ("Austria"), when four (4) armed men entered the store and announced a hold-up. Two (2) of the armed men proceeded to the table of Benedicto asking the latter to bring out his gun. One (1) of the armed men stayed outside the store while the other one (1) guarded Austria. Since Benedicto resisted the assault, a commotion ensued prompting the armed man guarding Austria and the lookout stationed outside the store to join and help their other companions. Taking advantage of said commotion, Austria ran outside the store and crossed the street. Immediately after crossing the street, Austria heard three (3) gunshots and saw the four (4) assailants walking out of the store, one of them carrying Benedicto's belt bag.

Austria then returned to the store and saw Benedicto lying in a pool of blood. She immediately sought the help of their neighbors and the Barangay Captain, who responded to the scene, and summoned the police authorities. When the police officers arrived at the store, they checked the body of Benedicto. Sadly though, Benedicto was already dead.

Consequently, the police officers conducted an investigation... [and] gathered that one of the assailants was herein accused-appellant Eduardo Castro ("Appellant Castro"). Follow-up and surveillance operations were...conducted leading to the apprehension of appellant Castro at about 9:15 in the evening of 10 September 2002. Austria along with her co-helpers, May Villanueva and Aldryn Sartyn, identified appellant Castro from the line-up as one of the two (2) assailants who approached the table of Benedicto. On the other hand, accused-appellant Renerio Delos Reyes ("Appellant Delos Reyes") was likewise identified as one of the assailants, particularly as the one who guarded Austria during the incident. The other assailants were later identified as Larry San Felipe Perito ("Perito") and a certain alias Leng-leng ("Leng-leng").

x x x x

During the trial, the prosecution presented the testimonies of (1) Police Senior Inspector Filemon C. Porciuncula, Jr. ("Police Senior Inspector Porciuncula"), the Medico Legal of the Northern Police District (NPD) Crime Laboratory (Caloocan City Police Station), (2) Austria and (3) Virginia F. Benedicto, the surviving spouse of Benedicto.

Police Senior Inspector Porciuncula testified that upon written request, an autopsy was conducted on Benedicto's cadaver and that such examination showed two (2) gunshot wounds at the back of the victim's head and the neck region. The results also showed external injuries on the body, two (2) hematomas on the upper and lower lips and two (2) abrasions on the right thigh. He also confirmed that the cause of death of the victim was hemorrhagic shock secondary to said gunshot wounds.

Witness Austria, in her testimony, narrated the sequence of events that transpired during the incident. She confirmed that she had recognized the appellants as among the armed men who robbed the store and killed her employer and that she had later been informed by the policemen that their names were Eduardo Castro and Renerio Delos Reyes. She identified appellant Castro as the one who approached the table of the victim while appellant Delos Reyes was the one who guarded her. She testified that appellant Delos Reyes said, "HOLD UP ITO, DAPA", while holding a gun. Thereafter, they heard appellant Castro shouting that Benedicto was resisting. Appellant Delos Reyes and the other assailant then ran towards the table of the victim and at that juncture, she had run outside the store. Afterwards, she heard three (3) gun shots.

Continuing with her testimony, Austria testified that she saw the armed men walking outside the store and that she noticed appellant Delos Reyes carrying the belt bag belonging to Benedicto. She further testified that when she went back to the store, she saw the bloodied body of her employer on the floor. She sought help from the neighbors, and the barangay captain of their place responded.

Witness Virginia Benedicto, wife of the victim, testified on how she had learned of the events that transpired on the fateful day of 9 September 2002. She was only able to see her husband the following day when he was already inside the casket. She was invited to the police station for her to see appellant Castro, one of the suspects apprehended by the police officers. She further testified that the proceeds of the sale of the store on that day, which amounted to, more or less, One Hundred Thousand Pesos (P100,000.00) had been taken by the robbers.

The testimony of Police Officer 3 Leonilo Padulaga, who attested to the conduct of the investigation and the execution of affidavits by witnesses in connection with this case, was stipulated upon by the prosecution and the defense. The prosecution also offered the sworn statements of May Villanueva and Aldryn Sartyn, as well as the Police Transmittal as documentary evidence.

On the other hand, aside from the separate testimonies of the appellants, the defense also presented the testimonies of Alejo Castillo ("Castillo") and Francisco Beltran ("Beltran"), both neighbors of appellant Castro.

Witness Castillo testified that he was at their outpost on the day of the incident, at around 6:30 o'clock in the

evening, as he was a Purok leader at that time. He was preparing for their usual roving activities and was making entries in the blotter notebook when appellant Castro, known to him as Edong, approached them and conversed with them until 8:00 o'clock in the evening. During that time, he noticed that three (3) persons carrying bags walked past the outpost, who even told him that they would be having a long vacation. He recognized the accused Perito, the brother-in-law of appellant Castro, and Leng-leng as two (2) of the said three (3) persons. Thereafter, some persons arrived at the outpost and informed them that there was a killing incident in the market.

Witness Beltran, in his testimony, corroborated, in essence, the account given by witness Castillo on what transpired on the day of the crime. On cross-examination, he testified that he had found it unusual that appellant Castro did not utter a word when his brother-in-law Perito and co-accused Leng-leng walked past the outpost telling them that they were headed for a long vacation. He also stated that the distance between the barangay outpost and the scene of the crime would only take five (5) to seven (7) minutes commute if one takes a tricycle ride.

Denying any involvement or participation in the robbery and killing in this case, appellant Delos Reyes claimed that prior to the commission of said crime, he did not know appellant Castro, co-accused Perito or even the victim Benedicto. Posing an alibi as a defense, he claimed that on 9 September 2002, at around 6:30 in the evening, he was inside the house of his in-laws at Phase 8-B, Package 4, Lot 1416, Bagong Silang, Caloocan City, where he had been staying since July 2002. He admitted that he was a tricycle driver plying the route covering all phases of Bagong Silang and that from the scene of the crime, it would only take an eight (8) minute tricycle ride for him to reach his in-laws' house. He further admitted that he had been arrested in connection with this crime only after he had been arrested for another murder case.

Appellant Castro, in turn, testified that while co-accused Perito is his brother-in-law, he did not know appellant Delos Reyes and that he had only heard of the name Leng-leng since the latter is a friend of Perito. He also claimed that he did not know the victim Benedicto. He asserted that, as narrated by witnesses Castillo and Beltran, he was at the barangay outpost at the time of the commission of the crime. He arrived thereat before 6:00 o'clock in the evening and left at around 8:00 o'clock in the evening. He also testified that they had noticed Perito and three (3) or four (4) companions walk past the outpost and when asked, Perito had retorted, "DITO LANG PO PUROK, I will just have a vacation." After 15 minutes, a neighbor informed Castillo that there had been a killing incident in the market.

Appellant Castro further narrated that between 11:00 to 12:00 o'clock in the evening of the same day, while he was sleeping, he had heard a commotion outside his house as police officers arrived at the house of Perito, which was only two (2) houses away from his place. The following day, some police officers went to his house and inquired as to the whereabouts of Perito. Since he could not answer the inquiries of the police officers, he was brought to and detained at the police precinct. During his detention, the private complainant and the witnesses, including Austria, identified him as one of the armed men who had robbed the store of Benedicto. On cross-examination, he admitted that he also stands as a co-accused of appellant Delos Reyes in another pending robbery case.

x x x x[4]

The RTC found appellants guilty of the offense charged and imposed on them the penalty of reclusion perpetua. The RTC held that all the evidence pointed to the appellants as the perpetrators of the crime, and the existence of conspiracy was sufficiently alleged and proven during trial. The appellants acted in concert at the time of the robbery towards the same purpose or design. And the rule is that whenever a homicide is committed as a consequence or on the occasion of a robbery, all those who took part as principals in the robbery would also be held guilty as principals of the special complex crime of robbery with homicide. Therefore, it was of no moment that none of the prosecution witnesses saw who actually shot the victim to death.

As regards appellants' defense of alibi, the RTC held that their alibi cannot prosper since both admitted that they were just a few minutes away from the scene of the crime; thus, it was not physically impossible for them to be at the scene of the crime. Also, the RTC cited that Austria positively identified appellants as two of the four assailants. Such positive identification prevails over the negative and self-serving denials of the appellants, added the RTC.

On appeal, the CA affirmed the decision of the RTC. The CA did not give credence to appellants' attempt to assail Austria's testimony. The appellate court held that it is well settled that positive identification, where categorical, consistent and not attended by any showing of ill motive on the part of the eyewitnesses, prevails over alibi and denial, particularly where the appellant had not shown the physical impossibility of his access to the victim at the time and place of the crime, as in this case, where both appellants admitted being only five to eight minutes from the scene of the crime. The CA added that even if Austria did not know appellants' names prior to the incident, she was able to identify them by their faces during the police line-up and in open court. Appellants' denial therefore cannot prevail over the positive declaration of the prosecution's witness, the CA concluded.

Aggrieved, appellants elevated the case to this Court.[5]

We have carefully reviewed the evidence in this case and the parties' submissions and find no showing of any errors in law and in findings of fact by the courts a quo. It has been consistently held that in criminal cases the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge. The rule finds an even more stringent application where said findings are sustained by the CA.[6] Everything considered, there is no doubt in our mind that the positive identification of herein appellants by Austria is credible and sufficient for conviction.

Appellants and their co-accused killed the victim in the course of the robbery. As such, contrary to appellants' contentions, the exact identity of the one who actually shot Benedicto and took the bag from him is not material. The appellants are liable for the special complex crime of robbery with homicide since the existence of conspiracy among them in the commission of the robbery makes the act of one the act of all. All those who took part in the robbery are liable as principals even though they did not actually take part in the killing. Case law establishes that whenever homicide has been committed by reason of or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of robbery with homicide although they did not take part in the homicide, unless it appears that they sought to prevent the killing.[7]

Here, evidence shows that appellants and their two co-accused entered the store and declared a robbery. Austria positively identified appellant Castro as one of the two assailants who proceeded to Benedicto's table and asked him to give them his gun, while appellant Delos Reyes, who declared the robbery, guarded her and the other store helpers as the fourth assailant served as the lookout. Austria testified that she was able to escape and that she heard three gunshots immediately after crossing the street opposite the store. She also saw the assailants leaving the store with Benedicto's bag.

Taken together, the appellants' actions proved beyond reasonable doubt that they acted in concert to attain a common purpose. The evidence does not show that any of the appellants sought to avert the killing of Benedicto. In *People v. Ebet*, [8] we ruled that once conspiracy is shown, the act of one is the act of all. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.

We concur with the trial and appellate courts in rejecting appellants' defenses of denial and alibi. Time and again this Court has ruled that alibi is the weakest of all defenses, for it is easy to fabricate and difficult to prove; it cannot prevail over the positive identification of the accused by the witnesses.[9] Moreover, for the defense of alibi to prosper, the requirements of time and place must be strictly met. It is not enough to prove that the accused

was somewhere else when the crime was committed, but he must also demonstrate by clear and convincing evidence that it was physically impossible for him to have been at the scene of the crime at the time the same was committed.[10] Such physical impossibility was not shown to have existed in this case where appellants' testimonies confirmed they were in the same locality (Bagong Silang) when the robbery-killing took place.

As to the award of damages, we sustain the award made by the CA as the amounts are correct and in accordance with law for in robbery with homicide, civil indemnity and moral damages in the amount of P50,000 each is granted automatically in the absence of any qualifying aggravating circumstances.[11] However, an award of P25,000 for temperate damages may be allowed under Article 2224[12] of the Civil Code, since the victim's family undeniably incurred expenses in his burial.[13]

WHEREFORE, the appeal is DISMISSED. The August 28, 2008 Court of Appeals' Decision in CA-G.R. CR-H.C. No. 02928 finding appellants Eduardo Castro y Peralta and Renerio Delos Reyes y Bonus guilty is AFFIRMED with MODIFICATION that appellants further pay the heirs of Ricardo Pacheco Benedicto P25,000 as temperate damages.

With costs against appellants.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Perlas-Bernabe,[*] JJ., concur.

[*] Designated additional member per Special Order No. 1207 dated February 23, 2012.

[1] Rollo, pp. 2-15. Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Magdangal M. De Leon and Ramon R. Garcia concurring. The dispositive portion reads:

WHEREFORE, the foregoing considered, the instant appeal is hereby DISMISSED and the assailed Decision AFFIRMED in toto. No costs.

SO ORDERED.

[2] CA rollo, pp. 41-51. Penned by Judge Eleanor R. Kwong. The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered, the accused EDUARDO CASTRO y PERALTA and RENERIO DELOS REYES y BONUS are hereby found GUILTY of the crime of ROBBERY WITH HOMICIDE as charged. They are hereby sentenced to suffer the imprisonment of Reclusion Perpetua.

Accused are likewise directed to pay the private complainant Virginia F. Benedicto as follows:

- Fifty Thousand pesos, as civil indemnity and
- Fifty Thousand pesos, as moral damages.

SO ORDERED.

[3] Records, p. 25.

[4] Rollo, pp. 3-9.

[5] Id. at 16-18.

[6] People v. Obina, G.R. No. 186540, April 14, 2010, 618 SCRA 276, 281; People v. Espino, Jr., G.R. No. 176742, June 17, 2008, 554 SCRA 682, 697, citing People v. Cabugatan, G.R. No. 172019, February 12, 2007,

515 SCRA 537, 547.

[7] *People v. Latam*, G.R. No. 192789, March 23, 2011, 646 SCRA 406, 410-411; *People v. Escote, Jr.*, G.R. No. 140756, April 4, 2003, 400 SCRA 603, 631.

[8] G.R. No. 181635, November 15, 2010, 634 SCRA 689, 706.

[9] *People v. Florida*, G.R. No. 90254, September 24, 1992, 214 SCRA 227, 239.

[10] *People v. Dela Cruz*, G.R. No. 108180, February 8, 1994, 229 SCRA 754, 765.

[11] *Crisostomo v. People*, G.R. No. 171526, September 1, 2010, 629 SCRA 590, 603.

[12] Art. 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount can not, from the nature of the case, be proved with certainty.

[13] See *People v. Lee*, G.R. No. 116326, April 30, 2003, 402 SCRA 124, 132-133.

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