PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEODULO VILLANUEVA, JR., ACCUSED-APPELLANT.

G.R. No. 187152. July 22, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review under Rule 45 of the Revised Rules of Court is the Decision[1] dated 30 September 2008 of the Court of Appeals in CA-G.R. CR-HC No. 02540, entitled People of the Philippines v. Teodulo Villanueva, Jr. y Declaro, affirming the Decision[2] rendered by the Regional Trial Court (RTC) of Pasig City, Branch 159, in Criminal Case No. 124834-H (I.S. No. TGG 02-13384), finding accused-appellant Teodulo Villanueva, Jr. y Declaro guilty beyond reasonable doubt of the crime of Robbery with Homicide.

In an Amended Information[3] filed with Branch 159 of the Regional Trial Court of Pasig City, appellant Teodulo Villanueva, Jr. y Declaro, accused Joel "Alog" Reyes alias "Puppet," Russel San Marcos Pasangco alias "Ortego," and Kokak San Marcos Pasangco were charged with Robbery with Homicide under Article 294, paragraph 1, of the Revised Penal Code as amended by Section 9 of Republic Act No. 7659, in relation to Section 5(A and J) of Republic Act No. 8369.

The Information charging accused-appellant reads:

> AMENDED INFORMATION
>
> That on or about the 6[th] day of December 2002 in the Municipality of XXX, XXX, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one John Doe @ "Abet" whose true name, identity and present whereabout [sic] is still unknown, after effecting an unlawful entry into the dwelling of one AAA,[4] with the use of deadly bladed weapons, with intent to gain and by means of force, violence, and intimidation, did then and there willfully, unlawfully and feloniously take, rob and divest the following items to wit:
>
> Four (4) Gold Necklaces
> Three (3) Women's Gold Necklaces
> Three (3) Men's Gold Bracelets
> Three (3) Assorted Gold Rings

all valued at Php 82,000.00, all belonging to said AAA and one (1) 5210 cellphone worth Php 8,000.00 belonging to one BBB, all in the total amount of Php 90,000.00, to the damage and prejudice of the owners thereof in the aforementioned amount of Php 90,000.00;

That by reason and on the occasion of the Robbery, the above-named accused, in conspiracy with each other, with intent to kill and with the use of said deadly weapons, did then and there willfully, unlawfully and feloniously attack, assault and stab with said deadly weapons CCC, eleven (11) years of age, BBB, sixteen (16) years of age, and DDD, fifteen (15) years of age, all minors at the time of the commission of the offense, hitting them on the different parts of their bodies, thereby inflicting upon the victim CCC mortal stab wounds which directly caused

his death; and serious physical injuries to victims BBB and DDD, thus, the accused performed all the acts of execution which would have caused their deaths as a consequence, but did not produce it by reason of causes independent of the will of the accused, that is, due to the timely able medical assistance rendered to said BBB and DDD, which prevented their death, the said crimes having been attended by the qualifying circumstances of treachery, evident premeditation and superior strength, aggravated by the circumstances of unlawful entry and dwelling, to the damage and prejudice of the victims and their heirs;

That, further, by reason or on the occasion of the said Robbery, the above-named accused Joel Alog Reyes @ Puppet, in the presence and in conspiracy with his co-accused and of one another by means of force and intimidation and with lewd designs and intent to cause or gratify his sexual desire, abuse, humiliate and degrade BBB, sixteen (16) years of age, a minor, did then and there willfully, unlawfully and feloniously commit lascivious conduct, a form of sexual abuse, upon said BBB, by then and there, trying to remove her underwear, against her will and consent, thus constituting child abuse, which acts debase, degrade or demean her intrinsic worth and dignity as a human being, thus aggravating further the crime of robbery with homicide.[5]

At the arraignment on 10 February 2003, both accused-appellant and his co-accused Joel Alog Reyes appeared in court, duly assisted by counsel de oficio. After reading the Information in open court and translating the same into Tagalog, a dialect spoken and understood by the accused, and after having been apprised of the nature and consequences of the charge against them, accused-appellant pleaded NOT GUILTY. His co-accused Joel "Alog" Reyes pleaded GUILTY to the crime charged in the Information.[6] In view of the plea of guilty of accused Joel Alog Reyes and the finding that he was guilty beyond reasonable doubt of the crime of Robbery with Homicide, said accused-appellant was sentenced to suffer reclusion perpetua and ordered to pay the sum of Fifty Thousand (P50,000.00) Pesos arising from the death of the victim, DDD.

The trial court issued a warrant of arrest against Kokak San Marcos and John Doe alias "Abet," and ordering the revival of the case against them upon arrest. Russel San Marcos Pasangco alias "Ortego," detained in the Bureau of Corrections in Muntinlupa since 28 June 2003, is now standing trial.

Pre-trial conference was held and terminated on 6 May 2003, where the parties narrowed down the issues to:

> (a) Whether or not the accused Teodulo Villanueva, Jr. in conspiracy with the accused Joel Alog [Reyes], who had been previously convicted, committed the acts constituting robbery with homicide in relation to Section 5 (a & j) of Republic Act No. 8369; and
>
> (b) Whether or not the private complainant is entitled to damages.[7]

After pre-trial, trial on the merits ensued. The prosecution presented the following witnesses: BBB (17 years old), DDD (16 years old), Dr. Roberto Garcia (62 years old), Police Officer 2 Ehron Balauat (32 years old), Dr. Paul Ed dela Cruz Ortiz (35 years old, Medico-Legal Officer), and AAA (45 years old, mother of the victims). The Office of the Solicitor General summarized the version of the prosecution as follows:

Between the hours of 7:00 and 8:00 o'clock in the morning of 6 December 2002, AAA left their house at XXX St., XXX District, XXX City to buy bread at the nearby bakery. She left her children CCC (11 years old), BBB (16 years old) and DDD (15 years old), who were still sleeping.[8] At around the same time, accused Joel Alog Reyes alias "Puppet," accused-appellant Teodulo Villanueva and three other male companions entered AAA's house, taking several pieces of jewelry with them, to wit: (a) four gold necklaces; (b) three women's gold necklaces; (c) three men's gold bracelets; and (d) three assorted gold rings. The group also took a Nokia 5210 cellular phone belonging to BBB. The valuables amounted to P90,000.00. A few minutes thereafter, BBB, who was sleeping in the living room with her brother CCC, was awakened when she felt a pillow pressed upon her face. Afterwards, somebody pulled down her shorts. BBB resisted. She was then stabbed at the back three times.

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BBB forced herself to stand up and saw Joel in front of her. BBB also saw accused-appellant standing near their dining table. BBB shouted. Thereafter, BBB saw accused-appellant holding his brother CCC.[9] Upon hearing his sister's cries for help, DDD went out of his room to see what was happening. He saw CCC lying down bleeding with stab wounds. BBB then ran to DDD's room and opened the room's window and shouted for help. Meanwhile, DDD, who ran to the living room, was also stabbed by Joel Alog Reyes.[10] BBB's cries for help were heard by her Uncle Boy, who immediately went to their house. Her grandmother and mother also arrived a little later. CCC was initially brought to the Erlinda Hospital, but was transferred to Rizal Medical Hospital, where he expired. The siblings DDD and BBB were taken to the Cruz-Rabe Hospital, moved to the Rizal Provincial Hospital, and thereafter transferred to Medical City.

Both BBB and DDD were given medical assistance by Dr. Roberto Garcia, who found that BBB suffered four stab wounds: first, at the left side at her back; second, at the right side at her back; third, at her elbow; and fourth, at her left forearm. According to Dr. Garcia, without the timely medical attention, the wounds would have caused her to bleed profusely leading to her death.[11] With respect to DDD, Dr. Garcia found that he suffered two stab wounds: first, at the left side of his back; second, at his left thigh. Without timely medical attention, the same would have resulted in DDD's death due to bleeding.

Accused-appellant Teodulo Villanueva, Jr. denied the accusations against him, with the defense presenting him (24 years old), his co-accused Joel Alog Reyes, and Omar Villanueva (32 years old) as witnesses.

The defense witnesses narrated their version in this manner:

On 6 December 2002, around 7:30 o'clock in the morning, accused-appellant Teodulo Villanueva was at home sleeping when all of a sudden, his brother woke him up to tell him that their barangay officials wanted to see him. Accused-appellant was then invited to the barangay hall to answer some questions regarding the stabbing incident that occurred that morning. By 12:00 o'clock noon, he was sent home. After an hour, he was again invited to the barangay hall wherein his photographs were taken. He was thereafter brought to the municipal hall with another person for further investigation. Both were asked to sign a document, which purportedly evidenced their release. The next day, accused appellant was arrested while attending the wake of the victim of the stabbing incident. He was again taken to the municipal hall and incarcerated since then. Another suspect Joel Alog Reyes alias "Puppet" was brought to trial, during which he admitted to having committed the crime and stated that he was alone in committing said crime.[12]

On 15 June 2006, the trial court convicted[13] accused-appellant of Robbery with Homicide and sentenced him to suffer the penalty of reclusion perpetua, ruling in this wise:

> WHEREFORE, in view of the foregoing, this Court finds the accused Teodulo Villanueva, Jr. y Declaro guilty beyond reasonable doubt of the crime of robbery with homicide and the accused is hereby sentenced to suffer the penalty of reclusion perpetua and to further indemnify the heirs of CCC the amount of P75,000 as civil indemnity, P50,000 as moral damages and P25,000 as exemplary damages. He is further ordered to return to AAA the items he and his co-accused had stolen from her or in restitution, to pay the amount of P90,000 representing the total value of the stolen items as charged in the information.
>
> Let a warrant of arrest against Kokak San Marcos and John Doe alias "Abet" be issued. The case against them is hereby ARCHIVED to be revived upon their arrest. Upon the other hand, considering that Russel San Marcos Pasangco alias "Ortego" was already detained in the Bureau of Corrections, Muntinlupa City since June 28, 2003 as per certification issued by Juanito S. Leopando, PHD, Penal Superintendent IV dated January 17, 2006 the case against him is hereby REVIVED and ordered to re-raffle pursuant to A.M. No. 02-11-17-SC.[14]

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Accused-appellant filed a Notice of Appeal. In his appeal to the Court of Appeals, accused-appellant questioned the RTC conviction, claiming that the prosecution failed to establish his guilt as a conspirator beyond reasonable doubt. The defense argues that the inconsistencies in the testimonies of the victims BBB and of her brother DDD cast serious doubt on the credibility of their identification of accused-appellant.

On 30 September 2008, the Court of Appeals affirmed the RTC conviction, disposing as follows:

> WHEREFORE, in the light of the foregoing premises, the instant appeal is hereby DISMISSED.[15]

In his brief, accused-appellant ascribes to the trial court the lone error:

> THE TRIAL COURT GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT AS A CONSPIRATOR BEYOND REASONABLE DOUBT.

The petition fails.

Accused-appellant is charged with Robbery with Homicide, defined and penalized under Article 294, paragraph 1 of the Revised Penal Code:

> Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:
>
> - the penalty of, from reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed;

Our criminal justice system takes the stand that the prosecution has the burden of proving the guilt of the accused beyond reasonable doubt. If the prosecution fails to discharge that burden, the accused need not present any evidence. From the foregoing, the prosecution must be able to establish the essential elements of robbery with homicide, to wit: (a) the taking of personal property with the use of violence or intimidation against a person; (b) the property belongs to another; (c) the taking is characterized by animo lucrandi; and (d) by reason of the robbery or on the occasion thereof, homicide (used in its generic sense) is committed.[16]

The evidence on record shows that on 6 December 2002, at around 7:00 o'clock in the morning, Joel Alog Reyes, together with accused-appellant and other male companions, entered AAA's residence at xxx. BBB was awakened when she felt somebody covering her face with a pillow while her shorts were being pulled down. Upon resisting, she saw Joel Alog Reyes, who then stabbed her at the back. She stood up, shouted for help, and saw her brother CCC being held by accused-appellant. DDD, upon hearing his sister scream for help, went out of his room, but was then stabbed by Joel Alog Reyes. BBB went to her brother's room and shouted for help near the window. BBB's uncle and his companions arrived at the crime scene, but Joel Alog Reyes and the rest of his companions were already gone. The victims were robbed of the following: four gold necklaces; three women's gold necklaces; three men's gold bracelets; three assorted gold rings, all valued at P82,000.00; one Nokia 5210 cellphone worth P8,000.00, totaling P90,000.00.

The accounts of the witnesses indicate that the accused went to the victims' residence with robbery in mind. The robbery took place between 7:00 and 7:30 in the morning on 6 December 2002. The victims were all still asleep at that time, while AAA was out buying bread in a nearby bakery. BBB was awakened from her sleep upon realizing that somebody was covering her face with a pillow, and pulling down her shorts and attempting to defile her. She resisted and shouted for help, resulting in her being stabbed by Joel Alog Reyes. The succeeding commotion ensued with her brothers also being stabbed, resulting in the death of CCC. Thereafter, BBB ran inside her brother's bedroom to shout for help, upon which the criminals left their residence. Their house was in disarray, and some personal belongings were missing. It is only but logical to conclude that the main purpose of the

criminals was to rob the victims of their personal belongings. In committing the robbery, one of the criminals attempted to defile BBB, which triggered the commotions and resulted in the stabbing and death of CCC.

Accused-appellant raises the defense of alibi and maintains the absence of conspiracy. He denies being at the scene of the crime and asserts that he was sleeping at home at the time the crime happened. He further claims that presence at the crime scene is, per se, not a sufficient indicium of conspiracy, unless proved to have been motivated by a common design.

For alibi to prosper, it must strictly meet the requirements of time and place. It is not enough to prove that the accused was somewhere else when the crime was committed, but it must also be demonstrated that it was physically impossible for him to have been at the crime scene at the time the crime was committed.[17] In this case, the alibi of accused-appellant is not airtight. The distance between the house of accused-appellant and the house of the victims, where the crime occurred, can be negotiated in a few minutes' walk. Moreover, the crime happened between 7:00 and 7:30 in the morning. Accused-appellant claims to have been sleeping at his home in XXX at 7:30 in the morning of said day. The evidence reveals, however, that it was not physically impossible for accused-appellant to have been at the crime scene at the time the crime was committed considering that the distance (about 100 meters away) between accused-appellant's house and the crime scene could have been traversed in a span of a few minutes.

Accused-appellant attempts to impugn the credibility of the prosecution witnesses by accusing them of inconsistencies in their testimonies in court vis-a-vis their statements in the affidavits. Casting doubt on the credibility of the witnesses, the defense alleges that the affidavits of the prosecution's two primary witnesses, BBB and DDD, point to the presence of only one assailant, who was already positively identified by BBB as Joel Alog Reyes.

According to the defense, the court testimonies of BBB and DDD are inconsistent with their affidavits. In narrating the events, BBB testified:

> Q
>
> Now, when you saw Joel Alog Reyes alias Puppet inside the Sala, what did you do, if you did anything?
>
> A
>
> I shouted.
>
> Q
>
> Aside from Joel Alog Reyes and your brother, was there any other person inside the Sala other than them?
>
> A
>
> There was.
>
> Q
>
> And what was he doing at that time?
>
> A
>
> That person was standing near the dining table.
>
> Q
>
> Was that the first time you saw that person you saw standing near the dining table?

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A

Yes, ma'am.

Q

If you see him again, will you be able to identify him?

A

Yes, ma'am.

Court Interpreter -

Witness pointing to a man on the right side of the courtroom, seated on the middle of the two other persons wearing yellow t-shirt with marking Levis Jeans, who answered by the name of Teodulo Villanueva.

Pros. Sagun -

Q

What else did Joel Alog do with you, if he did anything?

A

No more because when I shouted, my brother RJ came out of his room.

Q

By the way, who stabbed you at the back?

A

It was Puppet, ma'am.

Q

And while you were being stabbed by Puppet, what was Teodulo Villanueva doing at that time?

A

I do not know what was he doing because there was a pillow covered on my face. When I stood up, that is the only time I saw him.

Q

And at that time you were not yet stabbed when you stood up and the pillow was removed from your face?

A

I was already.

Court -

The pillow was already on your face, when you were stabbed?

A

Even before I was stabbed, the pillow was already on my face.

Pros. Sagun -

Q

You said that you shouted and your brother came into the Sala, right?

A

Yes, ma'am.

Q

What happened after that?

A

I ran to the room.

Pros. Sagun -

Q

And what did you do inside the room?

A

I opened the window and begun shouting?

Q

And after that, after you shouted, what happened?

A

I saw my uncles coming to our house.

Q

And can you tell us the name of your uncle who went to your house?

A

Tito Boy and Mac-Mac, the spouse of my cousin.

Court -

What happened as you have said earlier your brother came out, what happened?

A

He was also stabbed by Puppet.

Pros. Sagun -

Q

And this Puppet is one of the accused here?

A

Yes, ma'am.

Q

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After he was stabbed, what happened next?

A

I did not know what happened anymore because I was already inside the room.

Q

And you said that this Teodulo Villanueva was also at the place or at the room where you were stabbed, right?

A

Yes, ma'am.

Q

What was he doing when your brother was stabbed by Joel Reyes?

A

He was holding one of my brothers.

Q

What is the name of your brother?

A

Jordan.

Q

And this brother of yours held by Teodulo Villanueva is the one at the time with you before your other brother came into the room, right?

A

No, ma'am, I was with him in the Sala.

Q

And who was sleeping with you, right?

A

Yes, ma'am.

Q

And what happened to Jordan that was being held by Teodulo Villanueva, do you know what happened to him?

A

I do not know what happened.

Q

Because you were already at that time entered the room and shouted for help?

A

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Yes, ma'am.[18]

Atty. Lim -

From the time the pillow was removed on your face, how long did it take you to get inside the room of your younger brother DDD? How long or how fast?

A

A minute.

Q

So, it took about one minute from the time you woke up knowing that there was somebody putting pillow or put a pillow on your face up to the time you enter the room and locked it, it took you about two minutes, more or less?

A

Siguro po.

Q

What do you mean by "siguro"?

A

Hindi ko naman po nao-orasan yun.

Q

But it could be approximately correct looking back?

A

Yes, sir.

Q

You lock the door and DDD and Jordan were left inside the sala?

A

Yes, sir.

Q

From the time you locked the door, you do not know what is happening?

A

Yes, sir.

Q

You don't know what happened to DDD and CCC?

A

Yes, sir.

Atty. Lim -

Q

You did not even see that they were stabbed, you only know that they were stabbed when you came out of the room and persons arriving thereat, is that correct?

A

Yes, sir.

Q

Could you please tell us, from the time you entered the room at about approximately what time did the first person to help you arrive in the house?

A

I do not know, sir.

Q

Who was the first person who arrived to give you help?

A

I do not know, sir, who arrived first.

Q

How long did you stay in the room before going out of the room?

A

About two minutes, sir.

Q

What happened when you went out after two minutes?

A

I saw DDD, my tita and Mac-Mac.

Q

A while ago you were asked by the Honorable Prosecutor regarding the fact of stabbing of DDD, your younger brother, you said that prior to your entering the room you said you saw Joel Alog stabbing him, isn't it?

A

Yes, sir.

Atty. Lim -

Q

But that is not correct, isn't it, because also upon my questioning, you said that you never saw the stabbing of DDD by Joel Alog, isn't it?[19]

Atty. Lim -

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I think there was a hanging question, Your Honor.

Q

"Q - A while ago you were asked by the Honorable Prosecutor regarding the fact of stabbing of DDD, your younger brother, you said that prior to your entering the room you said you saw Joel Along stabbing him, isn't it? Your answer was, "Yes, sir." "My question is but that is not correct, isn't it, because also upon my questioning, you said that you never saw the stabbing of DDD by Joel Alog, isn't it?

A

No, sir.

Q

You also stated that you saw accused Teodulo Villanueva near the table merely standing there during the direct-examination, isn't it?

A

Yes, sir.

Q

But the truth of the matter Miss Witness is, it is also not the truth because Teodulo Villanueva was never in the place or was never in that house of yours where the incident allegedly happened on December 2002, isn't it?

Prosec. Yson -

Already answered, Your Honor.

Court:

Already answered.

Atty. Lim -

I am confronting her with her testimony. To test her accuracy, Your Honor.

Court:

Already answered. She said that she was.

Atty. Lim -

That was on the direct-examination, Your Honor.

Prosec. Yson -

She answered again, yes.

Atty. Lim -

I never heard her answer.

Prosec. Yson -

It is on the record, she said yes.

A

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She was there, sir.

Atty. Lim -

Q

Do you know that if you tell a lie and you are caught lying you could be prosecuted?

Court:

That was not necessary. She knows.

Atty. Lim -

I am trying to find out conclusively whether she knows.

Court:

There is no basis for such manifestation.

Atty. Lim -

Your Honor, my client's life at least forty years will be wasted. I do not see any reason why I could not ask that.

Court:

Because there is no basis for making such a statement. She has been answering all the questions. Answer the question.

A

Yes, sir.[20]

BBB's statement in her affidavit states:

Tanong:

May iba ka pa bang taong nakita sa loob ng bahay ninyo na hindi nakatira sa inyo ng mangyari ang nasabi mong insidente?

Sagot:

Wala na po.[21]

The Court is aware of the general rule that if there is an inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits being taken ex parte are usually incomplete and inaccurate. The Court likewise subscribes to the doctrine that where the discrepancies are irreconcilable and unexplained and they dwell on material points, such inconsistencies necessarily discredit the veracity of the witness' claim.[22] Indeed, the certainty as to the presence of the accused in the crime scene and eyewitness identification are not just trivial matters but constitute vital evidence, which in most cases are determinative of the success or failure of the prosecution. The inconsistency concerned cannot simply be brushed aside. Although the general rule is that contradictions between a witness's statements in an affidavit and his testimony do not necessarily discredit him. Where the purported inconsistency concerns points of importance, the same cannot simply be ascribed to failure to remember, for which reason the witness's credibility becomes suspect.[23]

Corollary to this point, where any inconsistency has been sufficiently explained and stands the rigorous tests of

direct and cross-examination, such will not discredit the credibility of the witness, as in this case. Judicial notice can be taken of the fact that testimonies given during trial are much more exact and elaborate than those stated in sworn statements. When asked why she said "wala na po" to the question propounded above, BBB explained that she was in a confused state of mind at the time her affidavit was taken, and that she was worried about the condition of her two brothers who were stabbed. It is also clear that her statement was taken right after the incident, when she was undergoing treatment for her stabbing.

The alleged inconsistencies between the statements of DDD in his affidavit and those in court, however, are more imagined than real. In its maneuvering to engender doubt as to accused-appellant's presence at the crime scene, the defense harps on the fact that the witness never indicated in his affidavit that there were other male persons involved in the crime, as may be gleaned from the following:

> Q
>
> You never mentioned to the police investigator investigating the case and taking your statement that there were many other male persons who participated in this crime, isn't it?
>
> A
>
> Hindi po kasi gulong-gulo po ang isip ko noong panahon iyon.[24]

This statement is in no way inconsistent with DDD's testimony in identifying accused-appellant as one of the perpetrators of the crime; such statement does not exclude him as an assailant. Moreover, the failure to include him as a suspect in the affidavit was explained in the witness' answer to the query, saying that he was in a confused state of mind at that time. The alleged inconsistency, if at all, does not detract from his credibility. That DDD saw accused-appellant at the crime scene is clear.

Even if the testimony of BBB linking accused-appellant to the crime were to be disregarded, the testimony of a single witness, such as DDD, if found convincing and trustworthy by the trial court, is sufficient to support a finding of guilt beyond reasonable doubt. On this point, we see no reason to deviate from the trial court's observation that his testimony bore the attributes of truth and was delivered in a candid and straightforward manner, thus:

> Q
>
> You mentioned Mr. Witness that there were male persons who suddenly left after you were stabbed by alias Puppet. Please look around the courtroom and tell us if you can recall any of those male persons whom you saw inside your house that morning and who left after you were stabbed by alias Puppet?
>
> A
>
> There is, ma'am.
>
> Q
>
> How many are they in the courtroom whom you can recognize?
>
> A
>
> Only one, ma'am.
>
> Q
>
> Can you please point to that person?

Interpreter:

Witness pointing to a person on the edge of the bench at the right side of this courtroom wearing yellow t-shirt, blue denim pants and black slippers who answered by the name of Villanueva, Teodulo.

Prosec. Paulino:

Let it be placed on record that the witness has identified in open court accused Teodulo Villanueva.

Q

You said Mr. Witness that you recognized Teodulo Villanueva as one of the male persons whom you see inside your house that morning. Where was he when you saw him?

A

I saw him in the living room or sala, ma'am.

Q

Doing what Mr. Witness?

A

I cannot recall, ma'am.

Q

Can you please describe to us Mr. Witness the condition or the appearance of your living room that morning when you went out of the room, if you can recall?

A

It was in disarray, ma'am.

Q

And then you mentioned to me your siblings CCC, EEE and BBB. When you went out of your room, if you can recall, what was their condition and their appearance at that time Mr. Witness?

A

When I went out of the room, as I have said, I saw CCC bloodied; my Ate BBB went inside my room; and Ate EEE was upstairs.

Q

How did you know then Mr. Witness that Ate EEE was upstairs at that time?

A

Because she sleeps upstairs, ma'am.

Q

After these male persons left the house Mr. Witness, what happened?

A

My uncle arrived.[25]

Finally, findings of the trial court on the credibility of witnesses deserve great weight, given the clear advantage of a trial judge in the appreciation of testimonial evidence. And when his findings have been affirmed by the Court of Appeals, these are generally binding and conclusive upon this Court.[26] Significantly, accused-appellant has not imputed any ill motive to the prosecution witnesses for testifying against him. Absent any evidence to show a doubtful reason or an improper motive why a prosecution witness would testify against the accused or falsely implicate him in a crime, the said testimony is trustworthy and should be accorded full faith and credit.

In sum, the defense of alibi must fail, especially in light of the fact that two of the prosecution witnesses, BBB and DDD, positively identified accused-appellant as one of the malefactors of the crime. Positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial. These defenses, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law.[27]

As to accused-appellant's allegation that the prosecution failed to prove conspiracy, we find otherwise. Conspiracy may be inferred from the acts of the accused before, during and after the commission of the crime suggesting concerted action and unity of purpose among them. For this purpose, overt acts of the accused may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the time of the commission of the crime, or by exerting moral ascendancy over the other co-conspirators by moving them to execute or implement the conspiracy.

Indeed, 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, but it is enough that the malefactors acted in concert pursuant to the same objective.[28] Conspiracy is predominantly a state of mind as it involves the meeting of the minds and intent of the malefactors. The existence of the assent of minds of the co-conspirators may be inferred from proof of facts and circumstances which, taken together, indicate that they are parts of the complete plan to commit the crime.

Accused-appellant's presence inside the house of the victims does not appear to be a coincidence nor seems to be an innocent act. Being a stranger, he had no business in the house of the victims. To recall, one of the victims, BBB, testified to seeing him holding her younger brother before he was stabbed by co-accused Joel Alog Reyes. The other eyewitness, DDD, saw accused-appellant in the sala while everything was in disarray. The next instant, accused-appellant was no longer in the premises. In fact, even accused-appellant's behavior during and after the incident could hardly be described as innocent. If accused-appellant was not in conspiracy with the others in committing the robbery with homicide, he would not have fled the vicinity with the loot and leave the three minors knowing they were wounded and helpless from the stabbings. In fact, accused-appellant went straight home without giving any aid to the victims or calling for help for them.

Since conspiracy was established, it matters not who among the accused actually shot and killed the victim. The concerted manner in which accused-apellant and his companions perpetrated the crime showed beyond reasonable doubt the presence of conspiracy. When a homicide takes place by reason or on the occasion of the robbery, all those who took part shall be guilty of the special complex crime of robbery with homicide whether or not they actually participated in the killing, unless there is proof that they had endeavored to prevent the killing.[29] No proof was adduced that accused-appellant sought to avert the killing. Thus, regardless of the acts individually performed by accused-appellant and his co-accused, and applying the basic principle in conspiracy that the "act of one is the act of all," accused-appellant is guilty as a co-conspirator. Being co-conspirators, the criminal liabilities of the accused are one and the same.

The crime committed was Robbery with Homicide, a single indivisible crime punishable by Article 294, paragraph 1 of the Revised Penal Code. Under Article 294 of the Revised Penal Code, when homicide is committed by reason or on the occasion of the robbery, the penalty to be imposed is reclusion perpetua to death.

Treachery, as correctly found by the trial court, attended the killing of the victim CCC. Article 14(16) of the Revised Penal Code provides that there is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof that tend directly and specifically to insure its execution without risk to himself arising from the defense that the offended party might make. Anlayzing the events unfolding that day, the evidence on record points out that CCC was stabbed on his back and was unable to defend himself. The presence of alevosia, though, should not result in qualifying the offense to murder. The correct rule is that when it obtains in the special complex crime of robbery with homicide, treachery is to be regarded as a generic aggravating circumstance, robbery with homicide being a composite crime with its own definition and special penalty in the Revised Penal Code. The generic aggravating circumstance of treachery attending the killing of the victim qualifies the imposition of the death penalty on accused-appellant.

However, in the case at bar, the imposable penalty for accused-appellant is still reclusion perpetua, in view of Republic Act 9346,[30] enacted on 24 June 2006, prohibiting the death penalty.

As to the award of damages, we have held that if the robbery with homicide is perpetrated with any of the attending qualifying aggravating circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be P75,000.00.[31] The existence of one aggravating circumstance merits the award of exemplary damages under Article 2230 of the New Civil Code.[32] Thus, the award of exemplary damages to the heirs of CCC is proper. Consistent with recent rulings of this Court, however, the award of exemplary damages is increased from P25,000.00 to P30,000.00. In line with prevailing jurisprudence and the testimony of AAA, we modify the award of moral damages and increase the award from P50,000.00 to P75,000.00. Furthermore, accused-appellant is ordered to return to AAA and BBB the subject items stolen from them; or, if the return is no longer possible, the total amount of P90,000.00, which is the equivalent value of all the items taken by accused-appellant and his co-accused.

WHEREFORE, premises considered, the appeal is hereby DENIED and the assailed Decision AFFIRMED, with the following modifications: (1) the award of exemplary damages is increased from P25,000.00 to P30,000.00; and (2) the award of moral damages is likewise increased from P50,000.00 to P75,000.00. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

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[1] Penned by Associate Justice Bienvenido L. Reyes with Associate Justices Mariflor Punzalan Castillo and Apolinario D. Bruselas, Jr., concurring; rollo, pp. 2-9.

[2] Records, pp. 212-227.

[3] Id. at 48-50.

[4] AAA is the mother of the victims, BBB, CCC, and DDD, who were all minors at the time of the commission of the crime. In view of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Section 29 of Republic Act No. 7610, otherwise known as, Anti-Violence Against Women and Their Children Act of 2004; and Section 40 of A.M. No. 04-10-11-SC, known as, Rule on Violence Against Women and Their children effective November 15, 2004, the names of the minor victims should

appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

[5] Id. at 48-50.

[6] Id. at 28.

[7] Id. at 40.

[8] TSN, 17 May 2005, pp. 8, 20.

[9] TSN, 11 August 2003, pp. 3-8.

[10] TSN, 16 December 2003, pp. 4-5.

[11] TSN, 1 March 2005, p. 10-11.

[12] TSN, 10 February 2006, pp. 4-8.

[13] Records, pp. 212-227.

[14] Id. at 227.

[15] CA rollo, p. 107.

[16] People v. Guimba, 441 Phil. 362, 375 (2002).

[17] People v. Pagsanjan, 442 Phil. 667, 686 (2002).

[18] TSN, 11 August 2003, pp. 5-8.

[19] TSN, 11 August 2003, pp. 15-17.

[20] TSN, 4 November 2003, pp. 2-4.

[21] Records. p. 15.

[22] People v. Aniscal, G.R. No. 103395, 22 November 1993, 228 SCRA 101, 112; People v. Casim, G.R. No. 93634, 2 September 1992, 213 SCRA 390, 396.

[23] People v. Alvarado, 312 Phil. 552, 563 (1995).

[24] TSN, 16 December 2003, pp. 18-19.

[25] TSN, 16 December 2003, pp. 6-7.

[26] Salvatierra, Sr. v. People, 416 Phil. 544 (2001).

[27] People v. Arellano, 390 Phil. 273, 286 (2000).

[28] People v. Dural, G.R. No. 84921, 8 June 1993, 223 SCRA 201, 209.

[29] People v. Reyes, 369 Phil. 61, 80 (1999).

[30] An Act Prohibiting the Imposition of the Death Penalty in the Philippines.

[31] People v. Sambrano, 446 Phil. 145, 161 (2003).

[32] People v. Cando, 398 Phil. 225, 241 (2000).

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