

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. TEOFILO “REY” BUYAGAN, APPELLANT.

G.R. No. 187733. February 08, 2012

Ponente: BRION, J.

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BRION, J.:

We resolve the appeal, filed by Teofilo “Rey” Buyagan (appellant), from the decision[1] of the Court of Appeals (CA) dated December 19, 2008 in CA-G.R. CR-H.C. No. 01938. The CA decision[2] affirmed with modification the October 30, 2000 decision of the Regional Trial Court (RTC), Branch 6, Baguio City, finding the appellant guilty beyond reasonable doubt of the special complex crime of robbery with homicide, and sentencing him to suffer the death penalty.

The RTC Ruling

In its October 30, 2000 decision, the RTC found the appellant guilty beyond reasonable doubt of the special complex crime of robbery with homicide. It gave credence to the testimonies of witnesses Cristina Calixto and Melvyn Pastor that they saw the appellant shoot Jun Calixto after the latter grabbed the appellant’s companion (herein referred to as John Doe) who had robbed the WT Construction Supply store. The lower court likewise gave credence to the testimonies of witnesses Allan Santiago, Joel Caldito, Jeanie Tugad, Carlos Maniago and Orlando Viray that they saw the appellant shoot Police Officer 2 (PO2) Arsenio Osorio while the latter was chasing him. The lower court further added that the gun recovered from the appellant tested positive for the presence of gunpowder nitrates. In its dispositive portion, the RTC ordered the appellant to pay the heirs of Calixto the amounts of P50,000.00 as civil indemnity, P22,400.00 as actual damages, and P592,000.00 as unearned income; and to pay the heirs of PO2 Osorio P50,000.00 as civil indemnity, P200,000.00 as moral damages, P50,690.00 as actual damages, and P1,588,600.00 as unearned income.[3]

The CA Decision

On intermediate appellant review, the CA affirmed the RTC decision, but modified the penalty imposed on the appellant from death to reclusion perpetua. The CA held that the appellant acted in concert with John Doe in committing the crime; in fact, he shot Calixto to facilitate the escape of John Doe. It explained that in the special complex crime of robbery with homicide, as long as the intention of the felon is to rob, the killing may occur before, during or after the robbery. The appellate court also ruled that the appellant failed to impute any ill motive against the prosecution witnesses who positively identified him as the person who shot Calixto and PO2 Osorio. It also disregarded the appellant’s denial for being incredible.[4]

Our Ruling

In this final review, we deny the appeal, but further modify the penalty imposed and the awarded indemnities.

Sufficiency of Prosecution Evidence

Essential for conviction of robbery with homicide is proof of a direct relation, an intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes were committed at the same time.[5] In the present case, we find no compelling reason to disturb the findings of the RTC, as affirmed by the CA. The eyewitness accounts of the prosecution witnesses are worthy of belief as they were clear and straightforward and were consistent with the medical findings of Dr. Vladimir Villaseñor. Melvyn Pastor and Cristina Calixto positively identified the appellant as the person who shot Calixto at the back of his head as the latter was grappling with John Doe; Orlando Viray, Jeanie Tugad, Allan Santiago, and Joel Caldito all declared that the appellant shot PO2 Osorio at the market while the latter was chasing him. Significantly, the appellant never imputed any ill motive on the part of these witnesses to falsely testify against him.

The lower courts correctly ruled that the appellant and John Doe acted in conspiracy with one another. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy may be inferred from the acts of the accused before, during, and after the commission of the crime which indubitably point to and are indicative of a joint purpose, concert of action and community of interest. For conspiracy to exist, it is not required that there be an agreement for an appreciable period prior to the occurrence; it is sufficient that at the time of the commission of the offense, the malefactors had the same purpose and were united in its execution.[6]

The records show that after John Doe robbed the WT Construction Supply store, he casually walked away from the store but Calixto grabbed him. While John Doe and Calixto were grappling with each other, the appellant suddenly appeared from behind and shot Calixto on the head. Immediately after, both the appellant and John Doe ran towards the Hilltop Road going to the direction of the Hangar Market. Clearly, the two accused acted in concert to attain a common purpose. Their respective actions summed up to collective efforts to achieve a common criminal objective.

In *People v. Ebet*,[7] we explained that homicide is committed by reason or on the occasion of robbery if its commission was (a) to facilitate the robbery or the escape of the culprit; (b) to preserve the possession by the culprit of the loot; (c) to prevent discovery of the commission of the robbery; or, (d) to eliminate witnesses in the commission of the crime. As long as there is a nexus between the robbery and the homicide, the latter crime may be committed in a place other than the situs of the robbery.

Under the given facts, the appellant clearly shot Calixto to facilitate the escape of his robber-companion, John Doe, and to preserve the latter's possession of the stolen items.

The Proper Penalty

The special complex crime of robbery with homicide is penalized, under Article 294, paragraph 1 of the Revised Penal Code, with reclusion perpetua to death. Since the aggravating circumstance of the use of an unlicensed firearm had been alleged and proven during trial, the lower court correctly sentenced the appellant to suffer the death penalty pursuant to Article 63[8] of the Revised Penal Code, as amended. Nonetheless, we cannot impose the death penalty in view of Republic Act (R.A.) No. 9346, entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines." Pursuant to this law, we affirm the CA's reduction of the penalty from death to reclusion perpetua for each count, with the modification that the appellant shall not be eligible for parole.

Civil Liabilities

For the deaths of Calixto and PO2 Osorio, we increase the amounts of the awarded civil indemnities from P50,000.00 to P75,000.00, as the imposable penalty against the appellant would have been death were it not for the enactment of R.A. No. 9346.[9]

We affirm, to be duly supported by evidence, the award of P1,588,600.00 as indemnity for loss of earning capacity to PO2 Osorio's heirs. We, however, delete the award for loss of earning capacity to Calixto's heirs because the prosecution failed to establish this claim. As a rule, documentary evidence should be presented to substantiate a claim for loss of earning capacity. While there are exceptions to this rule, these exceptions do not apply to Calixto as he was a security guard when he died; he was not a worker earning less than the current minimum wage under current labor laws.

With respect to actual damages, established jurisprudence only allows expenses duly supported by receipts. Out of the P50,690.00 awarded by the RTC to PO2 Osorio's heirs, only P15,000.00 was supported by receipts. The difference consists of unreceipted amounts claimed by the victim's wife. Considering that the proven amount is less than P25,000.00, we award temperate damages in the amount of P25,000.00 in lieu of actual damages, pursuant to our ruling in *People v. Villanueva*.^[10] For the same reasons, we also award temperate damages in the amount of P25,000.00, in lieu of actual damages, to the heirs of Calixto since the proven actual damages amounted to only P22,400.00.

The existence of one aggravating circumstance also merits the grant of exemplary damages under Article 2230 of the New Civil Code. Pursuant to prevailing jurisprudence, we award exemplary damages of P30,000.00, respectively, to the heirs of PO2 Osorio and of Calixto.^[11]

Finally, we uphold the award of moral damages to the heirs of PO2 Osorio and to the heirs of Calixto, but reduce the amount awarded from P200,000.00 to P75,000.00 to conform to prevailing jurisprudence.^[12] However, we observed that the dispositive portion of the RTC decision, as affirmed by the CA, only awarded moral damages to the heirs of PO2 Osorio. "[W]hile the general rule is that the portion of a decision that becomes the subject of execution is that ordained or decreed in the dispositive part thereof, there are recognized exceptions to this rule: (a) where there is ambiguity or uncertainty, the body of the opinion may be referred to for purposes of construing the judgment, because the dispositive part of a decision must find support from the decision's ratio decidendi; and (b) where extensive and explicit discussion and settlement of the issue is found in the body of the decision."^[13]

We find that the second exception applies to the case. The omission to state in the dispositive portion the award of moral damages to the heirs of Calixto was through mere inadvertence. The body of the RTC decision shows the clear intent of the RTC to award moral damages to the heirs of Calixto.

WHEREFORE, the decision of the Court of Appeals dated December 19, 2008 in CA-G.R. CR-H.C. No. 01938 is **AFFIRMED** with **MODIFICATIONS**. Appellant Teofilo "Rey" Buyagan is hereby declared guilty beyond reasonable doubt of the crime of robbery with homicide and is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. For the death of Calixto, the appellant is ordered to pay the victim's heirs the following amounts: P75,000.00 as civil indemnity; P75,000.00 as moral damages; P30,000.00 as exemplary damages; and P25,000.00 as temperate damages, in lieu of actual damages. For the death of PO2 Osorio, the appellant is ordered to pay the victim's heirs the amounts of P75,000.00 as civil indemnity; P75,000.00 as moral damages; P30,000.00 as exemplary damages; P25,000.00 as temperate damages, in lieu of actual damages; and P1,588,600.00 as loss of earning capacity.

No costs.

SO ORDERED.

Carpio, (Chairperson), Perez, Sereno, and Reyes, JJ., concur.

[1] Rollo, pp. 3-21; penned by Associate Justice Romeo F. Barza, and concurred in by Associate Justice Mariano C. del Castillo and Associate Justice Arcangelita M. Romilla-Lontok.

[2] CA rollo, pp. 51-71.

[3] Ibid.

[4] Supra note 1.

[5] See *People v. Aminola*, G.R. No. 178062, September 8, 2010, 630 SCRA 384, 394.

[6] *People v. Dela Cruz*, G.R. No. 168173, December 24, 2008, 575 SCRA 412, 440.

[7] G.R. No. 181635, November 15, 2010, 634 SCRA 689, 698.

[8] Article 63. – Rules for the application of indivisible penalties.

[9] See *People v. Baron*, G.R. No. 185209, June 28, 2010, 621 SCRA 646, 665.

[10] 456 Phil. 14 (2003).

[11] See *People of the Philippines v. Ngano Sugan, et al.*, G.R. No. 192789, March 23, 2011; and *People v. Baron*, G.R. No. 185209, June 28, 2010, 621 SCRA 646, 666.

[12] See *People of the Philippines v. Ngano Sugan, et al.*, supra.

[13] *Insular Life Assurance Company, Ltd. v. Toyota Bel-Air, Inc.*, G.R. No. 137884, March 28, 2008, 550 SCRA 70, 85.

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