

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. WILLY VALLAR, HERACLEO VALLAR, JR. (A.K.A. ORACLEO VALLAR, JR.) DANNY VALLAR, AND EDGARDO MABELIN, ACCUSED, HERACLEO VALLAR, JR...

G.R. No. 196256. December 05, 2016

Ponente: SERENO, C.J.

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SERENO, C.J.:

This is an appeal from the Decision[1] of the Court of Appeals (CA) affirming the Decision[2] of the Regional Trial Court (RTC) of Gingoog City, Branch 27. The RTC found appellant Oracleo Vallar, Jr. (Oracleo) guilty of the crime of robbery with homicide, attended by the aggravating circumstance of employment of disguise and abuse of superior strength.

THE INFORMATION

Criminal Case No. 89-323

That on or about the 21st day of June 1989, at more or less 7:00 o'clock in the evening, at San Isidro, Malibud, Gingoog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, armed with high powered firearms and bladed weapon with which the accused were conveniently provided, did then and there wilfully, unlawfully and feloniously and by means of violence, with intent of gain and against the consent of the owner, take, steal and carry away cash money worth Fifteen Thousand (P15,000.00) Pesos belonging to Eugracia Bagabaldo, to the damage and prejudice of the said owner in the aforementioned sum of P15,000.00, Philippine currency, and that on the occasion of said robbery, the said accused in pursuance of their conspiracy, did then and there unlawfully and feloniously with treachery and evident premeditation, taking advantage of their superior number and strength, treacherously attack assault, shoot and stab the person of Cipriano Opiso, thereby wounding him on the epigastric area penetrating abdominal cavity and other parts of his body, and perform all acts of execution which would have killed said Cipriano Opiso as a consequence thereof, but nevertheless did not produce it by reason of causes independent of the will of the accused that is because of the timely and able medical attendance given to Opiso which prevented his death, and also the said accused in pursuance of their conspiracy, did then and there unlawfully and feloniously with treachery and evident premeditation, taking advantage of their superior number and strength, treacherously attack, shoot, assault and violate the person of Eutracio Bagabaldo, without giving Bagabaldo the chance to defend himself, inflicting upon Bagabaldo gunshot wounds on the left auxiliary region, left side of the face and other parts of his body resulting to the instantaneous death of Eutracio Bagabaldo. That the offense was committed with the aggravating circumstances of nighttime, band, evident premeditation, use of disguise, taking advantage of treachery and superior strength to facilitate the commission of the crime.

Contrary to and in violation of Article 293 in relation to Article 294 and Article 14, paragraphs 6, 13, 14, 15 and 16 of the Revised Penal Code.[3]

EVIDENCE PRESENTED

According to the prosecution, the robbery incident occurred around seven o'clock in the evening of 21 June 1989. At the time, Cipriano Opiso (Opiso) was sitting on a bench alongside the store of Eufracio Bagabaldo (Eufracio), when the following persons arrived, all wearing masks: Willy Vallar (Willy), Danny Vallar (Danny), Oracleo and Edgardo Mabelin (Edgardo).[4] Willy pointed his M14 rifle to the left side of the body of Opiso and said, "Don't move because this is a robbery." The latter managed to stand up, hold the muzzle of the gun and raise it upward, after which it exploded hitting the top of his head. Opiso continued to grapple for possession of the rifle and, in the process, unmasked Willy.[5] Suddenly, accused Oracleo moved toward Opiso and stabbed the latter in the stomach. Willy pushed Opiso, who fell to the bench, pleading "Do not kill me because I will die with this wound already." [6] Willy and Danny left Opiso and proceeded into the store. Edgardo and Oracleo remained on the roadside and served as lookouts.[7]

Once inside, Danny and Willy pointed their weapons at the spouses Eufracio and Pedrita Bagabaldo. Danny fired his pistol into the air and declared, "Money, this is a robbery." Unnoticed by the accused, Oscar Omac (Omac), the Bagabaldos' household helper, hid beside a table, from which he witnessed the entire incident. Meanwhile, Pedrita begged for their lives and placed P15,000 cash on the table upon which Danny put the cash inside a bag. Unsatisfied, he demanded for more money, but Pedrita explained that it was the only amount left.[8] Thereafter, he and Willy held Eufracio by his shirt collar and dragged him outside the store. Pedrita ran to the kitchen to hide.[9]

Meanwhile, Opiso was crawling towards the residence of Eufracio for safety when he heard two gunshots.[10] Pedrita,[11] Omac,[12] and a neighbour—Paterio Denoso (Denoso)—also heard the gunshots.[13] Denoso immediately went out to check what happened. On the way, he heard footsteps so he hid himself behind tall grasses. From his position, he recognized Willy and three other persons. After the four left, Denoso continued towards the Bagabaldo residence and found Eufracio lying on the ground dead.[14] The latter's remains were then brought inside the house, while Opiso was rushed to the hospital.[15]

The post-mortem report prepared by the medico-legal officer of Gingoog City revealed that Eufracio sustained a gunshot wound in the brain. Meanwhile, the medical examination of Opiso showed that the victim sustained a two-centimeter stab wound that penetrated his abdominal cavity and would have caused his death if not for the timely medical treatment.[16]

During trial, Opiso claimed that though the other accused wore masks, he was able to recognize their identity because he had known them personally for twenty years from the time that they were still students.[17] Omac testified that he clearly saw Willy's face; recognized Danny based on his stature, voice and mannerism; and was very familiar with the Vallar brothers, because they were residents of Malibud.[18] Meanwhile, Candelaria Solijon testified that on the day of the incident, at around six o'clock in the afternoon, she saw the four accused walking together.[19]

For his defense, Willy denied committing the crime and claimed that he was working as a farmer at the time of the incident.[20] Danny also denied any involvement, explaining that he was with his family inside their house at that time.[21] Meanwhile, Edgardo testified that during the date and time of the incident, he was in Cagayan de Oro City busy tending the farmland owned by one Oscar Ramos.[22]

Oracleo likewise invoked the defenses of denial and alibi, averring that he was at the Gingoog City Junior College attending his classes, at around 5:30 and 7:30p.m on the date of the incident. He further asserted that after his last class on that day, he accompanied his girlfriend-classmate to her residence in Recurro, Gingoog City, and even met another classmate named Cecilia Bitangcor (Bitangcor) on the way. He further alleged that after conducting

his girlfriend to her house, he proceeded to his residence at Lapak, Gingoog City. To corroborate his story, he presented his teacher Sheila Daapong (Daapong) who claimed that Oracleo attended both classes and even took the quizzes scheduled at 5:30 to 6:30 and at 6:30 to 7:30p.m. Bitangcor also testified that she met Oracleo and his girlfriend at around eight o'clock on the date of the incident on Motoomull Street, Gingoog City.[23]

THE RTC RULING

In a Decision dated 20 July 2002, the RTC found Willy, Danny, Oracleo, and Edgardo guilty of the crime of robbery with homicide and frustrated homicide attended by the aggravating circumstance of employment of disguise and commission of the crime by a band.[24] Appellants were sentenced to suffer the penalty of reclusion perpetua and to indemnify the offended parties—Pedrita in the amounts of P100,000 as moral damages and P50,000 as compensatory damages; and to Opiso the amount of P50,000 for actual expenses and P30,000 for moral damages.[25] With respect to Willy who had already died, his criminal liability was deemed extinguished pursuant to Article 89, par. 1 of the Revised Penal Code.[26]

The trial court gave no credence to the defenses of denial and alibi proffered by the accused. The RTC reiterated the time-honored principle that the defense of alibi cannot prevail over the positive declaration of witnesses who have convincingly identified the accused as the perpetrators of the crime charged.[27] In particular, with regard to Oracleo's defense, the RTC observed that the testimony of Daapong was vague, as she admitted that there were errors in her class record and that, at times, she did not check attendance in her classes. Furthermore, none of Oracleo's classmates were presented to prove his allegation, except Bitangcor who was absent from class that evening.[28] The RTC further noted that the accused Willy, Danny, Oracleo, and Edgar were charged with robbery in Criminal Case No. 89-395.[29] In sum, the trial court concluded that the prosecution was able to prove their guilt, and that the offense was attended by the aggravating circumstance of employment of disguise and commission of the crime by a band.[30] Thereafter, Edgar and Oracleo elevated their conviction to the CA.

THE CA RULING

The CA rendered a Decision[31] modifying that of the RTC. The appellate court found accused-appellants guilty of the crime of robbery with homicide only, attended by the aggravating circumstances of employment of disguise and abuse of superior strength. The award of P50,000 compensatory damages was deleted; and instead, both accused-appellants were ordered to pay each of the offended parties P25,000 as temperate damages. The moral damages awarded to Pedrita were reduced from P100,000 to P50,000. Accused-appellants were further ordered to pay civil indemnity to Pedrita in the amount of P50,000, as well as exemplary damages to each of the offended parties in the amount of P25,000, plus costs of the suit.[32]

The CA was convinced that the prosecution witnesses, specifically Opiso, had positively identified accused-appellants Oracleo and Edgardo as among the four perpetrators of the crime.[33] As for the defense, the CA ruled that the two accused-appellants had failed to prove that it was physically impossible for them to have been at or near the scene of the crime.[34]

Appellant perfected his appeal to this Court with the timely filing of a Notice of Appeal. He and the Solicitor General separately manifested that they would adopt their respective briefs filed before the CA as their supplemental briefs.

ISSUE

Whether there is proof beyond reasonable doubt that appellant is guilty of the crime of robbery with homicide, attended by the aggravating circumstances of employment of disguise and abuse of superior strength.

OUR RULING

We deny the appeal.

There is no merit in the contentions that the testimonies on the exact participation of accused-appellant were inconclusive and unreliable.[35] A judicious review of the records shows that the testimonies of the prosecution witnesses—especially Opiso—were clear, categorical and straightforward. While it is true that none of the prosecution witnesses directly saw the face of accused-appellant, Opiso positively identified him because of the latter's utmost familiarity with appellant's physical build and bodily actions. Opiso had personally known the four accused for about 20 years, because they were residents of the same barangay, and they used to buy from the store.[36]

Further, there is no merit in the contention of appellant that the testimony of his teacher substantially corroborated his defense that he was attending class at the time of the incident.[37] We quote with approval the CA's conclusions:

Appellant Oracleo apparently failed to establish the requisite physical impossibility of his having been at the locus and tempus of the crime's commission. The locus criminis was merely five (5) kilometres away from Gingoog City proper—the place where appellant claims he was when the crime was committed. It must be noted that several public utility jeepneys and private motorcycles are plying the route. Besides, the Barangay of San Isidro, Malibud, Gingoog City could be reached in only about thirty (3) minutes from the City proper.

Furthermore, Sheila Daapong's testimony to the effect that appellant Oracleo continuously attended her classes on June 21, 1989 from 5:30 p.m. to 7:30 p.m. cannot be heavily relied upon inasmuch as she herself admitted that she was not checking the attendance of her students in class. And even assuming that Oracleo indeed took the quizzes she gave in her two classes, it was not concretely proven that appellant stayed in school for the whole period from 5:30 p.m. to 7:30 p.m. As a matter of fact, Ms. Daapong even declared that her students could very well finish the examinations in thirty (30) minutes. Given these circumstances, it is highly probable that appellant had finished the examinations in the second subject and left the class before 7:00p.m.

Similarly futile is the testimony of Ma. Cecilia Bitangcor that she met Oracleo and his girlfriend-classmate, Merlin Lupoy at J. Motoomull Street, Gingoog City, at around 8:00 o'clock in the evening of June 21, 1989. Ms. Bitangcor's testimony could not concretely support appellant's defense of alibi as the robbery-shooting incident happened at around 7:00 o'clock in the evening. Appellant failed to establish his physical impossibility of being at the crime scene an hour before his alleged meeting with Ms. Bitangcor at J. Motoomull Street, Gingoog City.[38]

Time and again, We have held that that the factual findings of the trial court involving the credibility of witnesses are accorded respect especially when affirmed by the CA.[39] This is clearly because the trial judge was the one who personally heard the accused and the witnesses and observed their demeanor, as well as the manner in which they testified during trial. Accordingly, the trial court is in a better position to assess and weigh the evidence presented during trial.[40] Here, the trial court and the CA gave full weight to the testimonies of the prosecution witnesses, and We find no compelling reason to disturb their assessment.

Appellants were properly convicted of robbery with homicide

We agree with the CA however, in its

modification of the crime to robbery with homicide:

Concerning the legal characterization of the crime, the Court finds that its proper designation is not robbery with homicide and frustrated homicide, as inaccurately labelled by the prosecution and unwittingly adopted by the trial court, but is simply one of robbery with homicide. It has been jurisprudentially settled that the term homicide in Article 294, paragraph 1, of the Revised Penal Code is to be used in its generic sense, to embrace not only acts that result in death, but all other acts producing any bodily injury short of death. It is thus characterized as such regardless of the number of homicides committed and the physical injuries inflicted.[41]

We also agree with the CA when it corrected the trial court's appreciation of the aggravating circumstances present at that time. While both lower courts properly appreciated the aggravating circumstance of employment of disguise, the commission of a crime by a band was not established because only Willy, Danny and Oracleo were proven to have carried arms.[42] Nevertheless, the CA properly appreciated the aggravating circumstance of superior strength, considering the number of malefactors and the kind of weapons used in facilitating the commission of the crime.

Because the crime was attended by two aggravating circumstances, the appropriate penalty should be reclusion perpetua[43] in lieu of death, pursuant to R.A. 9346.[44]

Civil Aspect of the Case

In robbery with homicide, civil indemnity and moral damages are awarded automatically without need of allegation and evidence other than the death of the victim owing to the crime.[45] The CA was correct in granting these awards, except that for Pedrita, the amount that should be granted is P100,000 in conformity with prevailing jurisprudence.[46] Opiso, as a victim who suffered mortal or fatal wounds and could have died if not for timely medical intervention, is also entitled to civil indemnity and moral damages in the amount of P75,000.[47]

The CA further awarded exemplary damages in view of the two aggravating circumstances of disguise and abuse of superior strength. We, however, modify the amount that should be awarded from P25,000 to P100,000 for Pedrita, and P25,000 to P75,000 for Opiso. As for temperate damages, the CA awarded Pedrita and Opiso temperate damages in the amount of P25,000 in lieu of actual damages, it having been shown that she suffered some pecuniary losses, though its amount could not be proven with certainty. In line with prevailing jurisprudence, We increase Pedrita's award of temperate damages to P50,000.[48]

WHEREFORE, the Petition is DENIED. The CA Decision dated 9 December 2010 in CA-G.R. CR-H.C. No. 00158-MIN convicting appellant Heracleo Vallar, Jr. (a.k.a. Oracleo Vallar, Jr.) of the crime of robbery with homicide is AFFIRMED with MODIFICATIONS. For Pedrita Bagabaldo: (a) civil indemnity and moral damages are increased from P50,000 to P100,000, respectively; (b) exemplary damages are also increased from P25,000 to P100,000; and (c) temperate damages are likewise increased from P25,000 to P50,000. For Cipriano Opiso: (a) he is granted civil indemnity in the amount of P75,000; (b) moral damages are increased from P30,000 to P75,000; and (c) exemplary damages are increased from P25,000 to P75,000.

SO ORDERED.

Leonardo-De Castro, Bersamin, Perlas-Bernabe, and Caguioa, JJ., concur.

[1] Rollo, p. 5-23; the Decision dated 9 December 2010 issued by the Court of Appeals (Special) Twenty-Second Division in CA-G.R. CR-H.C. No. 00158-MIN was penned by Associate Justice Edgardo A. Camello, and concurred in by Associate Justices Edgardo T. Lloren and Leoncia R. Dimagiba.

[2] CA rollo, pp. 39-69; the Decision dated 30 July 2002 issued by of Regional Trial Court of Gingoog City, Branch 27, in Criminal Cases No. 89-323 for robbery with homicide and frustrated homicide was penned by Presiding Judge Editho Lucagbo.

[3] Id. at 39-40.

[4] Id. at 41.

[5] Rollo, p. 7.

[6] Id.

[7] Id.

[8] Id.

[9] Id. at 8.

[10] CA rollo, p. 42.

[11] Rollo, p. 8.

[12] CA rollo, p. 47.

[13] Id. at 43.

[14] Id. at 43-44.

[15] Rollo, p. 8.

[16] Id.

[17] CA rollo, p. 42.

[18] Id. at 63-64.

[19] Id. at 42-43.

[20] Id. at 51.

[21] Id.

[22] Rollo, p. 9.

[23] Id. at 8-9.

[24] CA rollo, p. 68.

[25] Id. at 69.

[26] Id.

[27] Id. at 67.

[28] Id. at 65-66.

[29] Id. at 67.

[30] Id. at 68.

[31] Supra note 1.

[32] Id. at 22-23.

[33] Id. at 11.

[34] Id. at 17-19.

[35] CA rollo, p. 166.

[36] TSN, dated 4 December 1989, pp. 20-21; rollo, p. 12.

[37] CA rollo, p. 165.

[38] Rollo, pp. 17-18.

[39] *People v. Ramos*, 715 Phil. 193-210 (2013).

[40] *People v. Maningding*, 673 Phil. 443-459 (2011), citing *People v. Gabrino*, 660 Phil. 485-504 (2011).

[41] Rollo, pp. 19-20.

[42] REVISED PENAL CODE, Article 296. Definition of a band and penalty incurred by members thereof. - When more than three armed malefactors take part in the commission of the robbery, it shall be deemed to have been committed by a band. xxx

[43] REVISED PENAL CODE, Articles 294 (1) and 63.

[44] Also known as, "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

[45] *People v. Villamor*, G.R. No. 202705, 13 January 2016.

[46] *People v. Jugueta*, G.R. No. 202124, 5 April 2016.

[47] Id.

[48] Id.

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