

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. AL MADRELEJOS Y QUILILAN, ACCUSED-APPELLANT.

G.R. No. 225328. March 21, 2018

Ponente: TIJAM, J.

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TIJAM, J.:

For review is the Decision[1] of the Court of Appeals (CA) dated May 29, 2015 in CA-G.R. CR-H.C. No. 05913 affirming with modification the Decision[2] of the Regional Trial Court (RTC), Branch 128, Caloocan City, dated November 6, 2012.

The Antecedents

Together with one John Doe, herein accused-appellant Al Madrelejos was charged with the crime of robbery with homicide in an information which reads as follows:

That on or about the 22nd day of January 2008, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with a handgun with intent to gain, by means of force, threats, violence and intimidation employed upon the person of JOVEL FEDERESO JACABAN, did then and there wilfully, unlawfully and feloniously, take, rob and carry away, one (1) bag belonging to said Jovel Federeso Jacaban, and on the occasion of the said offense, said accused, with intent to kill, attack, assault and shot (sic) the said Joven (sic) Federeso Jacaban with the use of firearm, thereby inflicting upon him mortal wounds which were the direct cause of his death thereafter, to the damage and prejudice of the said Jovel Federeso Acaban (sic) with an undetermined amount.

CONTRARY TO LAW[3]

Accused-appellant was arraigned on February 22, 2010, where he pleaded not guilty to the charge.

The Version of the Prosecution

During the trial, the prosecution presented Marina Rubia (Rubia), Simeon Sidera, Jr. (Sidera), Anacleto Jacaban (Anacleto), Bonnie Chua, PO3 Julian Chavez as witnesses.

Their testimonies can be summarized as follows:

On the morning of January 22, 2008, Rubia, Sidera and the victim, Jovel Federeso Jacaban (Jovel) were in a jeepney cruising along Kanlaon St., Bagong Silang, Caloocan City, when two of the other passengers, one of which is accused-appellant, declared a hold-up. Accused-appellant ordered the other to get the passengers' belongings. Jovel refused to give his bag to accused-appellant's companion. Accused-appellant then shot Jovel. Thereafter, accused-appellant and his companion got out of the jeep, followed by the other passengers.[4]

Jovel was brought to the hospital where he eventually died.[5]

The Version of the Defense

Accused-appellant, testifying for the defense, denied that he robbed the passengers of the jeepney, and claimed that he shot Joven by accident. He admitted that he rode the same jeepney with the prosecution's witnesses and Jovel on January 22, 2008. He narrated that during the trip, he noticed that his enemy was seated in front of him. He claimed that he fought this person because the latter was rude to his wife, and that he did not know the name of the person.[6]

Accused-appellant claimed that when he was about to get off from the jeepney, his enemy pulled out a gun, saying, "Natiyempuhan din kita, " and aimed it at accused. They grappled for possession of the firearm and when accused got hold of the gun, he fired it, accidentally hitting Joven. Shocked by what happened, he got off the jeepney and went to Bulacan.[7]

The Ruling of the RTC

After trial, the RTC, found accused-appellant guilty of robbery with homicide. The fallo of the RTC's Decision, is as follows:

WHEREFORE, finding the accused [g]uilty for Robbery with Homicide, he is hereby sentenced to Reclusion Perpetua and all the accessory penalties attached thereto.

He is likewise directed to pay the heirs of Jovel Jacaban as follows:

1. Fifty Thousand Pesos (P50,000.00) as civil indemnity;
2. Seventy Five Thousand Pesos (P75,000.00) as moral damages; and
3. Seventy Five Thousand Pesos (P75,000.00) as exemplary damages

SO ORDERED.[8]

The Ruling of the CA

On May 29, 2015, the CA modified the RTC's Decision by convicting accused-appellant of the crime of attempted robbery with homicide. The dispositive portion of the CA decision reads:

WHEREFORE, the appeal is DENIED. The November 6, 2012 Decision of the Regional Trial Court, Branch 128, Caloocan City in Criminal Case No. C-83062 is AFFIRMED with MODIFICATION in that accused-appellant Al Madrolejos is instead found GUILTY beyond reasonable doubt of the crime of attempted robbery with homicide under Article 297 of the Revised Penal Code, as amended. Accordingly, he is sentenced to suffer the indeterminate penalty of twelve (12) years, five (5) months and eleven (11) days of reclusion temporal, as minimum, to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal, as maximum. The award of exemplary damages is deleted and the civil indemnity is increased to P75,000.00. All the awards for damages shall be subject to interest of 6% per annum from the date of finality of this Decision until fully paid.

SO ORDERED.[9]

The appellate court ruled that accused-appellant should only be held guilty of the crime of attempted robbery with homicide since there is no proof that the taking of the passengers' belongings was consummated.[10]

Unsatisfied with the appellate court's Decision, accused-appellant is now before Us through the instant appeal.

The Issues

Accused raised the following arguments in support of his appeal:

1. THE COURT A QUO GRAVELY ERRED IN NOT GIVING CREDENCE TO THE

ACCUSED-APPELLANT'S VERSION;

2. THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILTY BEYOND REASONABLE DOUBT.[11]

Summed up, the fundamental issue in the instant case boils down to the propriety of accused-appellant's conviction of the crime of attempted robbery.

The Ruling of the Court

Jurisprudence enumerates four elements in order to be convicted of robbery with homicide:

- the taking of personal property with the use of violence or intimidation against the person;
- the property taken belongs to another;
- the taking is characterized by intent to gain or animus lucrandi; and,
- on the occasion of the robbery or by reason thereof the crime of homicide was committed.[12]

It is necessary that the robbery itself be proved as conclusively as any other essential element of the crime. For there to be robbery, there must be taking of personal property belonging to another, with intent to gain, by means of violence against or intimidation of any person or by using force upon things.

In *People v. Ebet*[13], this Court explained the nature of the complex crime of robbery with homicide:

In robbery with homicide, the original criminal design of the malefactor is to commit robbery, with homicide perpetrated on the occasion or by reason of the robbery. The intent to commit robbery must precede the taking of human life. The homicide may take place before, during or after the robbery. It is only the result obtained, without reference or distinction as to the circumstances, causes or modes or persons intervening in the commission of the crime that has to be taken into consideration. There is no such felony of robbery with homicide through reckless imprudence or simple negligence. The constitutive elements of the crime, namely, robbery and homicide, must be consummated.

It is immaterial that the death would supervene by mere accident; or that the victim of homicide is other than the victim of robbery, or that two or more persons are killed or that aside from the homicide, rape, intentional mutilation, or usurpation of authority, is committed by reason or on the occasion of the crime. Likewise immaterial is the fact that the victim of homicide is one of the robbers; the felony would still be robbery with homicide. Once a homicide is committed by or on the occasion of the robbery, the felony committed is robbery with homicide. All the felonies committed by reason of or on the occasion of the robbery are integrated into one and indivisible felony of robbery with homicide. The word homicide is used in its generic sense. Homicide, thus, includes murder, parricide, and infanticide.

Intent to rob is an internal act but may be inferred from proof of violent unlawful taking of personal property. When the fact of asportation has been established beyond reasonable doubt, conviction of the accused is justified even if the property subject of the robbery is not presented in court. After all, the property stolen may have been abandoned or thrown away and destroyed by the robber or recovered by the owner. The prosecution is not burdened to prove the actual value of the property stolen or amount stolen from the victim. Whether the robber knew the actual amount in the possession of the victim is of no moment because the motive for robbery can exist regardless of the exact amount or value involved.

When homicide is committed by reason or on the occasion of robbery, all those who took part as principals in the robbery would also be held liable as principals of the single and indivisible felony of robbery with homicide although they did not actually take part in the killing, unless it clearly appears that they endeavored

to prevent the same.

If a robber tries to prevent the commission of homicide after the commission of the robbery, he is guilty only of robbery and not of robbery with homicide. All those who conspire to commit robbery with homicide are guilty as principals of such crime, although not all profited and gained from the robbery. One who joins a criminal conspiracy adopts the criminal designs of his co-conspirators and can no longer repudiate the conspiracy once it has materialized.

Homicide is said to have been committed by reason or on the occasion of robbery if, for instance, it was committed to (a) 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.[14]

In this case, intention to rob was revealed as soon as the robbers announced the hold up. This was fortified when the robbers, particularly accused-appellant's companion started to take the passengers' belongings.[15] It is likewise certain that Jovel was shot while he and accused-appellant's companion was struggling to get hold of Jovel's bag.

We do not agree with the appellate court that the fact of asportation was not proven. Evidently, while it seems unclear from the records that the robbers were able to take Jovel's bag, it was established that the belongings of the other passengers were taken. Thus, Marina Rubia testified:

Q

Was there an unusual occurrence while you were traversing in Kanlaon St., Bagong Silang?

A

Yes, sir.

Q

What was that?

A

There were two men who announced hold-up.

Q

When they announced hold-up, what happened next?

A

The other person instructed his companion to get our things, sir.

Q

Are any of those two persons who instructed the other to get your things in the courtroom?

A

Yes, sir.

Q

Can you point to that person?

A

(At this juncture, witness pointed to a person inside the courtroom and when asked of his name answered Al-Al Madr[e]lejos)

x x x

Q

How many passengers were there aside from the four of you?

A

The jeep was full of passengers.

Q

So after Al-Al Madr[e]lejos instructed the other one to get the things, what transpired next?

A

His companion proceeded to the end of the jeep taking the things and while taking the things of Kuya Jovel, his companion and Kuya Jovel were pulling/grabbing the bag.[16] (Emphasis ours)

Simeon Sidera, Jr.'s testimony corroborated Rubia's, to wit:

Q

Where was he positioned in the jeep when it was happening, if you saw?

A

When he declared the hold-up he poke the gun at the driver while his companion was taking the things of the passengers of the jeepney and when he turned his back it was then when we hear the gun shot, sir. (Emphasis ours).[17]

It is evident from the foregoing statements that the victim Jovel was shot while accused-appellant and his companion was robbing the passengers of a jeepney.

Hence, the RTC was correct that the crime of robbery with homicide was consummated. Even if this Court assumes that Jovel's bag was not taken, the same does not detract from the consistent assertion of the prosecution's witnesses that the belongings of the other passengers were successfully taken from them. As aforesaid, it is immaterial that the victim of homicide is other than the victim of robbery, as long as homicide occurs by reason of the robbery or on the occasion thereof, the special complex crime of robbery with homicide is deemed to have been committed.

However, the Court deems it appropriate to adjust the award of damages. In *People v. Jugueta*,^[18] the proper amounts of damages for the crime of robbery with homicide are: P75,000 as civil indemnity, P75,000 as moral damages, P75,000 as exemplary damages and P50,000 as temperate damages. Here, the CA deleted the RTC's award of exemplary damages and increased the award of civil indemnity to P75,000. Hence, the award of exemplary damages must be reinstated, and in addition, an award of temperate damages in the amount of P50,000 must likewise be ordered.

WHEREFORE, the appeal is DISMISSED. The Decision of the Court of Appeals dated May 29, 2015 is hereby AFFIRMED with MODIFICATION in that accused-appellant is held guilty of robbery with homicide and is hereby ordered to pay the heirs of Jovel Federeso Jacaban the following amounts: 1) P75,000 as civil indemnity; 2) P75,000 as moral damages; 3) P75,000 as exemplary damages; and 4) P50,000 as temperate damages and an interest at the rate of 6% per annum shall be imposed on all monetary awards from the time of finality of this decision until fully paid.

SO ORDERED.

Leonardo-De Castro[*] and Del Castillo, JJ., concur.

Sereno, C.J., (Chairperson), on leave.

Leonen,**] J., on official leave.

[*] Designated as Acting Chairperson pursuant to Special Order No. 2540 dated February 28, 2018.

[**] Designated as additional Member as per Raffle dated February 7, 2018; on official leave.

[1] Penned by Associate Justice Melchor Q.C. Sadang and concurred in by Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier, Rollo, pp. 2-11.

[2] Penned by Judge Eleanor R. Kwong, CA Rollo, pp. 26-31.

[3] Rollo, p. 2-3.

[4] CA rollo, p. 27.

[5] Id.

[6] Id. at 29-30.

[7] Id.

[8] Id. at 31.

[9] Rollo, p. 11.

[10] Id. at 10.

[11] CA rollo, p. 21-22.

[12] See *People v. Obedo*, 451 Phil. 529, 538 (2003).

[13] 649 Phil. 181 (2010).

[14] Id. at 189-190.

[15] See *People v. Quemeggen, et al.*, 611 Phil. 487 (2009).

[16] TSN dated August 10, 2010, pp. 5-7.

[17] TSN dated March 1, 2011, p. 7.

[18] *People v. Jugueta*, G.R. No. 202125, April 5, 2016, 788 SCRA 331.

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