

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLIAM PULOC Y OLA, EDDIE MORALES Y ALFREDO AND FRED DRUJA, ACCUSED. WILLIAM PULOC Y OLA, ACCUSED-APPELLANT.

G.R. No. 92631. September 30, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

In Criminal Case No. 5525-R filed on April 13, 1988 in the Regional Trial Court, Branch 5, of Baguio City, William Puloc, Eddie Morales and Fred Druja were charged with the crime of robbery with homicide in an information alleging:

“That on or about the 17[th] day of March, 1988, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously and by means of violence and intimidation, with intent of gain and against the consent of the owner thereof, take, rob and carry away cash money amounting to P495.00, One (1) Aristocrat/Crystal wrist watch, yellow in color, worth P1,500.00 and one (1) wedding ring worth not less than P5.00, all having a total value of P2,000.00 and belonging to RODOLFO NEBRIDA, to the damage and prejudice of the owner in the said total sum; that on the occasion of the said robbery and for the purpose of enabling them to take, steal, rob and carry away the sum of money and jewelries aforementioned, the herein accused, in pursuance of their conspiracy, did then and there willfully, unlawfully and feloniously and with intent to kill, being armed with a sharp and pointed instrument and taking advantage of their superior strength and with evident premeditation treacherously stab Rodolfo Nebrida with said knife, thereby inflicting upon the latter (Rodolfo Nebrida) a stabbed (sic) wound transecting both the external and internal carotid arteries (R) causing massive hemorrhage and hypovolemic shock, which injuries directly caused the death of said Rodolfo Nebrida.

“CONTRARY TO LAW.”[1]

Only William Puloc and Eddie Morales were arrested, arraigned and tried after entering a plea of not guilty. Fred Druja remains at large to this day. However, while trial on the merits was in progress, Eddie Morales was discharged from the information and utilized as a state witness.[2]

This appeal, which involves only accused-appellant William Puloc, questions the decision of the trial court in said case, dated December 13, 1989,[3] finding him guilty of robbery with homicide and sentencing him to suffer reclusion perpetua, to indemnify the heirs of Rodolfo Nebrida in the amounts of P30,000.00 for the victim’s death and P30,717.40 for the victim’s wake and burial expenses, and to pay his proportionate share in the costs.[4]

Feeling aggrieved by the said decision, appellant has assigned the following errors in this appeal:

“1. The lower court erred in convicting the accused William Puloc of the crime of robbery with homicide.

“2. The lower court erred in holding that there is a conspiracy in the case at bar.”[5]

The following facts of the case upon which the finding of guilt is based are scrupulously narrated in the People's brief, affirmed by the findings of the court a quo, and sustained by the records of the trial cited as documentation therein, which we have verified to be correct:

"At about 4:00 o'clock in the afternoon of March 17, 1988, Eddie Morales went to a billiard hall along Magsaysay Avenue, Baguio City, and there he saw his brother-in-law William Puloc and Fred Druja (Tsn. August 16, 1989, pp. 3-4; Tsn. November 27, 1989, p. 2). From there, they went to drink San Miguel gin at Fiera's liquor store (Tsn. August 16, 1989, p. 4; Tsn. November 27, 1989, pp. 2-3). After drinking four (4) round bottles of gin, they boarded a taxicab and went to City Camp, Baguio City, where Druja was to see an acquaintance who was, however, not around (Tsn. August 16, 1989, p. 5; Tsn. November 27, 1989, pp. 3-4). Consequently, the three (3) again hailed another taxicab with plate number AAA-812 (see Tsn. February 15, 1989, p. 21) driven by Rodolfo Nebrida, then directed the latter to bring them home to Engineer's Hill, passing through the Cabinet Hill route (Tsn. August 16, 1989, pp. 5-6; Tsn. November 27, 1989, p. 4).

"Morales occupied the front seat beside the driver Nebrida; Druja and Puloc sat at the back seat, with Druja directly behind Nebrida and Puloc behind Morales (Tsn. August 16, 1989, p. 5). While they were somewhere in Cabinet Hill, Druja asked Nebrida to stop the taxicab, and the latter did (Tsn. August 16, 1989, p. 6). Thereupon, Druja announced a hold-up and pointed his knife at the right side of Nebrida's neck, and stabbed the latter (Tsn. August 16, 1989, pp. 5-6; Tsn. November 26, 1989, p. 5). At the same time, Puloc reached for Nebrida's money bag containing the latter's collections for the day with his right hand (Tsn. August 16, 1989, pp. 6-7). Subsequently, Morales asked his companions (Druja and Puloc) what they were doing, but he received no answer (Ibid., p. 7). For his part, Nebrida stepped on the accelerator, and his taxicab darted forward until it bumped into a house (Id., p. 8; Tsn. February 15, 1989, pp. 12-13).

"Druja and Puloc ganged up on Nebrida, with Puloc holding Nebrida as Druja was stabbing him (Tsn. September 5, 1989, pp. 16-17). At the same time, Nebrida brought out his own knife and fought back (Ibid., p. 17). In the process, Nebrida wounded Puloc on the left leg (see Tsn. November 27, 1989, pp. 6-7; see Tsn. August 16, 1989, pp. 20-22) and Morales on the left upper arm (Tsn. August 16, 1989, p. 18).

"Meanwhile, Morales wanted to get out of the taxicab (Ibid., p. 8). Hence, he tried to open the door beside him but it could not be opened. So, he went out through the window (Id.). Puloc and Druja fled forthwith thereafter (see Tsn. February 15, 1989, pp. 14-15), leaving Nebrida bleeding profusely at the right portion of the neck and lying unconscious on his seat and on that of the passenger's seat beside him (Ibid., p. 18; Tsn. October 24, 1989, p. 10).

"As a result of the commotion, Dominador Vergonia, the owner of the house that the taxicab bumped into, went outside his house to investigate (Tsn. February 15, 1989, pp. 13-14). After seeing the bloodied Nebrida inside the taxicab, Vergonia shouted for help from his neighbors (Ibid., p. 16), and Oscar Lachica, a certain Bautista, Douglas Calasicas, and other neighbors heeded his call (Id., p. 17). Some of them ran after the taxi driver's assailants; while others looked for a vehicle to bring Nebrida to the hospital (Id.).

"After a jeep had been found, Nebrida was forthwith brought to the Montemayor Medical Center where he was pronounced 'dead on arrival' (Id., pp. 17 and 20).

"Meanwhile, Morales ran towards his residence at No. 42 Engineer's Hill about four hundred (400) meters away from the crime scene (Tsn. August 16, 1989, p. 18). On his way, he noticed that he had a stab wound on his left arm, and another wound on his left palm which was caused by the broken pieces of glass from the window of the taxicab (Ibid., pp. 18-19). By this time, Morales was feeling dizzy (Id., p. 18). However, when he noticed Druja following him, Morales asked Druja for help (Id., p. 19) but the latter did not heed his call (Id.).

"Eventually, Sonny Bugtong and Bernabe Aquino, close neighbors of Morales who heard his cries for help, assisted the latter, and brought him to the Montemayor Medical Center for treatment (Tsn. May 16, 1989, p. 4).

Howbeit, they were not able to inquire from him what happened since he passed out while on their way to the hospital (Tsn. May 17, 1989, p. 6).

“Meanwhile, Policemen Jose Buenavista and Tito Bagawe arrived at the crime scene (Tsn. October 24, 1989, p. 4). When they learned from those persons gathered around the taxicab that one of the culprits ran towards the interior of Cabinet Hill, they decided to follow him (Ibid., p. 4). About twenty five (25) meters away from the taxicab (Id., p. 12), they found a man lying on his back with blood oozing out of his left leg who turned out to be William Puloc (Id., p. 4). Scattered around the latter were assorted money bills in the total amount of Four Hundred Ninety Five Pesos (P495.00) (Id., p. 5). After picking up the money, they boarded Puloc in their patrol car and brought him to the Montemayor Medical Center (Id.). While on their way Buenavista asked Puloc: ‘Apay nga sinaksakyo diay driver?’ (Why did you stab the [taxi] driver?) to which Puloc replied: ‘Saan met, sir’ (No, sir) (Id.).

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“Thereafter, the paper bills and other physical evidence recovered from the crime scene consisting of the empty money bag; one (1) leather scabbard; black leather jacket; Nebrida’s driver’s License; a camouflage cap; a dagger; a pair of low cut leather shoes; a Ten Peso (P10.00) bill; two (2) rupees; five (5) piastres; an identification card and some pictures were turned over to Corporal Restituto Calpito, the police investigator assigned to this case (Tsn. October 24, 1989, pp. 14-16).

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“Janet Balbosa Nebrida, wife of the deceased, testified that for the wake and burial of her late husband, she spent Thirty Thousand Seven Hundred Seventeen Pesos and Forty Centavos P30,717.40 (Exhibits ‘F’, ‘F-1’ to ‘F-6’) (Ibid., p. 26)

“On March 23, 1989, Morales, with the assistance of his counsel Atty. Jimmy Pablito, freely and voluntarily executed a sworn statement to Cpl. Calpito (Exhibit ‘H’) revealing, among other things that he, William Puloc and Fred Druja were the passengers of the taxicab driven by the deceased when the latter was stabbed by Druja as Puloc reached for his money bag containing his fare collection for the day (see Tsn. August 16, 1989, pp. 22-24).”[6]

For his part, appellant presents his version of the incident, thus:

“At about 1:00 o’clock in the afternoon of March 17, 1988, accused-appellant William Puloc went out from their residence to buy a gas range. But since the money with him in the amount of P630.00 was not enough as the price of the gas range was P800.00 to P900.00, he was not able to buy any. He then went to visit his elder sister at Happy Homes, Baguio City. At about 3:30 o’clock in the same afternoon, he left for the billiard hall on Dagohoy Street, Baguio City where he was seen by his brother-in-law, Eddie Morales and a friend, Fred Druja. He invited them to drink at the Fierra’s Liquor store where they drank four (4) bottles of San Miguel gin. After drinking, Fred Druja invited William Puloc and Eddie Morales to continue their drink at the residence of Druja’s friend at City Camp. However, Druja’s friend was not around and so they decided to go home to Engineer’s Hill.

“They rode in the taxicab driven by Rodolfo Nebrida. When the taxicab reached Lower Cabinet Hill, Fred Druja who sat at the back of the taxi driver suddenly stabbed the neck of the taxi driver.

The taxidriver, Rodolfo Nebrida stepped on the accelerator and the taxicab bumped a house. William Puloc and Eddie Morales passed through the window of the taxicab and ran away towards their house. Rodolfo Nebrida who was stabbed by Fred Druja was brought to the hospital by persons who came afterward, but he was pronounced dead on arrival.”[7]

Appellant contends that the lower court erred in convicting him of the crime of robbery with homicide. He lays

considerable emphasis on the failure of the police officers to submit as evidence the articles taken from the victim, such as the watch, ring, purse and money, among others. Accordingly, he insists that since there is no evidence that appellant has in his possession any of these items, the charge against him can be disproved by the disappearance of said articles and their non-presentation as exhibits during the trial.

To begin with, for proof of the guilt of a person charged with robbery, the law merely requires the presence of the following elements: (a) that there be personal property belonging to another; (b) that there is unlawful taking of that property; (c) that the taking is with intent to gain; and (d) that there is violence against or intimidation of persons or force upon things.[8] No more, no less.

The law does not require the production of the things stolen or robbed as a condition sine qua non for the conviction of a person accused of robbery. As early as *People vs. Patricio*,[9] the settled rule is that when the fact of asportation has been established beyond reasonable doubt, the conviction of the accused is justified even if, as in that case, the thing subject of the robbery was abandoned by the accused and recovered by the owner.

Besides, as the trial court acceptably observed:

“Although Morales conceded that he did not see if Puloc succeeded in getting Nebrida’s money bag even as he saw the latter reaching for it, still the Court holds it more logical that the paper bills in the total amount of P495.00 recovered by Pfc. Buenavista from the road where he found Puloc lying down were the earnings of Nebrida. Puloc’s yarn that the paper bills came from the P630.00 he was at the time carrying to buy a gas range is incredible. If he had that amount with him, he would not have uselessly spent part of it just for drinks and cigarettes with Druja and Morales, considering that he was jobless and only his wife was then employed. x x x”[10]

It is also significant that the amount of P495.00 in paper bills was found scattered around Puloc as he lay on his back along the road to Cabinet Hill about 25 meters away from the taxicab. If, as appellant contends, he already had said amount with him when he left his house that afternoon to buy a gas range, then the same would necessarily be on his person, inside a wallet or pocket as a measure of customary safekeeping. It could not have been scattered around on the road when he allegedly collapsed from loss of blood. The rational and irresistible deduction is that he had said paper bills in his hand when he ran away from the taxicab, that the same were the contents of the empty money bag of the victim inside the taxicab, and that appellant lost his hold on the money when he fell or lay down on the road. This is not to indulge in mere speculations. On the contrary, to hold otherwise would be a delusive error, especially when we consider the ease and facility with which appellant’s explanation as to his possession of the money in question could be concocted by him, that is, by merely claiming the money had been his all along.

The testimony of state witness Eddie Morales at the trial that he saw Puloc reaching for the victim’s money bag containing the latter’s collections for the day corroborates and was confirmed by the testimony of Pfc. Jose Buenavista that he actually recovered the cash money amounting to P495.00 beside Puloc. As found by the court below, the said amount, together with the other items recovered from the scene of the crime, were duly turned over to Cpl. Restituto Calpito, the investigator assigned to the case. However, the same were not presented in evidence at the trial because, according to Cpl. Mario Uson, evidence custodian of the investigation division of the Baguio City Police Station, they had been taken and receipted for by Cpl. Calpito who failed to return them before he left for Australia.[11] Appellant has not refuted the foregoing facts.

Nonetheless, appellant maintains that the testimony of Morales is unworthy of belief because of its inconsistency on material points. It is argued that appellant and Druja did not conspire to commit the crime charged, considering the conflicting testimony of Morales thereon. Appellant’s counsel enumerates some details which are alleged to

have undermined the veracity of the prosecution's evidence, to wit: (1) Morales testified that he saw Puloc taking the day's earnings of the victim which, according to said counsel, could not be possible due to the darkness inside the taxicab; (2) since Puloc was seated at the rear right seat of the cab, it is but logical that his left hand should be the one reaching for the money bag of the victim and not his right hand as testified to by Morales; and (3) Morales concocted such story to exculpate himself, and he attributed the liability to Puloc and Druja out of gratitude for his discharge from the information and for fear of being re-indicted for the crime charged.

These arguments of appellant are specious and untenable. Conspiracy need not be proved by direct evidence. Neither is it essential that there be shown a previous agreement to commit robbery, as the crime of robbery with homicide can be inferred from the acts of the accused such as the asportation of stolen items and the accompanying death of the victim. The circumstances of acts committed together or in common reveals that the accused helped each other during the commission of the crime. For instance, a method of attack or manner of killing may clearly indicate the indispensable cooperation and spontaneous coordination between the accused.[12]

In the case at bar, when Druja announced a hold-up and pointed his knife at Nebrida's neck, Puloc was almost simultaneously reaching for Nebrida's money bag. When Nebrida fought back, the duo ganged up on him, with Puloc holding Nebrida as Druja was stabbing him. Conspiracy arises on the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith to pursue it. Once the assent is established, each and everyone of the conspirators is made criminally liable for the crime actually committed by anyone of them.[13]

As we stated in a case with similar factual features, the act of one accused in holding the victim from behind when the latter was stabbed by his co-accused is a positive act towards the realization of a common criminal intent, although the intent can be classified as instantaneous. By immobilizing the two hands of the victim from behind and even though there was no anterior conspiracy, the two accused showed unity of criminal purpose and intent immediately before the actual stabbing.[14]

The mode of attack on the victim was confirmed by the post mortem examination report[15] which showed that the victim had sustained an abrasion on his forehead and stab wounds on the nape, left cheek, right submandibular area transecting the carotid arteries and the right neck. As interpreted and testified to by Dr. Emmanuel Fernandez, the fatal and other stab wounds could have been caused by a sharp bladed instrument with the assailant at the back on the left or right side of the victim.[16]

On the alleged inconsistent testimony of Morales, the Solicitor General appositely rejoins:

"It would not have been altogether impossible for Morales to have seen Puloc attempt to take the money bag of Nebrida for the records do not show that it was totally dark inside the taxicab at the time the hold-up occurred. Verily, it is safe to assume that there was sufficient light coming from the taxicab headlights and the taxi meter, enough for Morales to witness Puloc's evil deed especially since the former was seated beside the driver. Moreover, there is nothing illogical and improbable from Morales' testimony that Puloc used his right hand. In any event, whether appellant used his right or left hand is not material, all that is important is that he took Nebrida's money bag containing Nebrida's earnings for the day. Finally, Morales' testimony is not rendered inadmissible since he was not coerced into testifying against appellant. It must be remembered that Morales executed a sworn statement (Exhibit 'H') a few days after the incident where he identified appellant as one of those who perpetrated the hold-up on the deceased, and even before he (Morales) was discharged to be a state witness, the matters stated by him on his sworn statement (Exhibit 'H') were merely reiterated and expounded by him during his testimony in open court. Parenthetically, it must be stressed that Morales could not have testified against appellant had it not been true, it being an established fact that appellant is the brother-in-law of Morales." [17]

This is ramified in the discerning deduction of the lower court that "(c)onsidering Morales' close relation to

Puloc who is his brother-in-law, being the husband of his elder sister, the former would not have incriminated the latter if he is guiltless. And this is all the more so not only because of Puloc's wife's ascendancy in age over her brother Morales but also because Morales was living with the Pulocs at that time.”[18]

The Court is satisfied that the testimony of Morales against appellant is legally sufficient to establish the latter's guilt. What is of momentous consideration is the actual presence of Morales at the crime scene and not the minor lapses that appellant's counsel would like to amplify beyond their permissible dimensions. The averred inconsistency in the testimony of the prosecution witness on minor details reinforces rather than weakens his credibility for it is usual that witnesses to a stirring event should see differently some details of a startling occurrence. This has been taken judicial notice of by the Court.[19] Discrepancies in minor details are to be expected from an uncoached witness,[20] and will not impair the veracity of the evidence.[21]

Finally, since the assigned errors boil down to the basic issue of credibility, absent any substantial proof that the trial court's decision was grounded entirely on speculations, surmises or conjectures, the findings of the trial court regarding the credibility of the witnesses are to be given great weight and a high degree of respect by the appellate court.[22]

All told, we are convinced after a careful review of and due ratiocination on the facts, that the trial court acted correctly in finding appellant guilty of the crime of robbery with homicide.

WHEREFORE, the Court AFFIRMS the decision of the trial court, with the modification that the indemnity to the heirs of the victim is increased to P50,000.00 in accordance with the present case law thereon.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Original Record, 1.

[2] Ibid.,162.

[3] Penned by Judge Salvador J. Valdez, Jr.

[4] Original Record, 302.

[5] Rollo, 38.

[6] Brief for the Plaintiff-Appellee, 4-12; Rollo, 73.

[7] Brief for Accused-Appellant, 39-40; Rollo, 38.

[8] L. B. Reyes, The Revised Penal Code, Book II, 591 (12th ed., 1981).

[9] 79 Phil. 227 (1947).

[10] Original Record, 302.

[11] Ibid., 297-298.

[12] People vs. Palino, et al., 183 SCRA 680 (1990).

[13] People vs. Talla, et al., 181 SCRA 133 (1990).

[14] People vs. Arceo, 187 SCRA 265 (1990).

[15] Exhibits B, D, D-1 to D-5.

[16] TSN, February 15, 1989, 5-8, 12.

[17] Brief for the Plaintiff-Appellee, 18-19; Rollo, 73.

[18] Original Record, 301.

[19] People vs. Obando, et al., 182 SCRA 95 (1990).

[20] People vs. Noguerras, 181 SCRA 19 (1990).

[21] People vs. Manalansan, 189 SCRA 619 (1990).

[22] People vs. Martinada, et. al., G.R. Nos. 66401-03, Feb. 13, 1991; People vs. Adap, 189 SCRA 413 (1990).

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