

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO URQUIA, JR., ALIAS 'CARDOHAY', JUAN
PARAJES ALIAS 'JAIME SOLAPAS', VIRGILIO VALLEJO
ALIAS 'VIRGILIO ESPINOLA', LEO...**

G.R. No. 94787. November 19, 1991

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court, Branch 27, Tandag, Surigao del Sur, the dispositive portion of which reads:

"WHEREFORE, accused Ricardo Urquia, Jr. alias 'Cardohay' Virgilio Vallejo alias 'Virgilio Espinola', Leoncito Intoy alias 'Dodo' and Rolando Zambales are found GUILTY beyond reasonable doubt as principals of the crime of Robbery with Multiple Homicide. Each of them is sentenced to suffer the penalty of reclusion perpetua and to pay solidarily the heirs of their victims, Exuperancio Cosmiano, Sixta A. Cosmiano, Nonita A. Cosmiano and Cesario A. Cosmiano, civil indemnity in the sum of P30,000.00 for each of the deceased, or a total of P120,000.00, without subsidiary imprisonment in case of insolvency; and to pay the costs.

"For lack of sufficient evidence to convict him, accused Juan Parajes is acquitted." (Rollo, p. 47)

The amended information filed against the appellant and eight other accused states:

"That at approximately 10:00 o'clock in the evening, October 1, 1985, in barangay Tapi, municipality of Cantilan, province of Surigao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Ricardo Urquia, Jr., alias 'Cardohay', Juan Parajes alias 'Jaime Solapas', Virgilio Vallejo alias 'Virgilio Espinola', Leoncito Intoy alias 'Dodo', Roberto Parajes, Esteban Parajes, Bernardino Cuartero, Rudy Miranda and Rolando Zambales, armed with M-16 Armalite rifle, carbine rifle, .38 caliber revolver, small sharp pointed bolos and axe, conspiring, confederating and mutually helping one another, did, then and there, wilfully, unlawfully and feloniously enter the house of Barangay Captain and Mrs. Exuperancio O. Cosmiano by passing thru the window which is not intended for entrance or egress and while inside hogtied Sixta Azarcon Cosmiano, Nenita Azarcon Cosmiano, Cesario Azarcon Cosmiano and Barangay Captain Exuperancio Oletiz Cosmiano and while the said victims were defenseless, the above-named accused with intent to gain, rob, take, steal and carry away the following:

'Cash money of unestimated amount, Necklace, wrist watch, ring of undetermined value; and other personal properties of the victims',

and in the same occasion and by reason thereof, by means of violence with evident premeditation, treachery and abuse of superior strength, and with intent to kill, same accused with the use of small sharp pointed bolos, axe and other deadly weapons willfully, unlawfully and feloniously attack, assault and wound the following victims, with the following injuries:

EXUPERANCIO O. COSMIANO:

1. Clean cut wound 6.5 inches in length located across the neck exposing the tracheal tube and the esophagus.
2. Clean cut wound 3 inches in length located on the left chest immediately above the left sub-costal margin and penetrating the abdominal cavity.
3. Clean cut wound 1 centimeter in length located on right abdomen immediately to the right and above the umbilicus and penetrating the abdominal cavity.
4. Clean cut wound 2.5 inches in length located on the posterior surface of the left elbow.

SIXTA A. COSMIANO:

1. Clean cut wound 3 inches in length located on the middle 3rds of the right latero-posterior surface of the neck and 2 inches in depth.
2. Clean cut wound 3 inches in length located immediately below the above injury and 2 inches in depth.
3. Clean cut wound semi-V shaped 1.5 inches in length located on the right lateral surface of the abdomen along the right axillary line and the subcostal margin penetrating the abdominal cavity.

NONITA A. COSMIANO:

1. Clean cut wound 5 inches in length located across the right ear injuring the underlying bone tissue.
2. Slit wound 1 centimeter in length located on the left chest between the sternum and the left nipple along the fifth intercostal-space penetrating the chest by 4 inches depth.

CESARIO A. COSMIANO:

1. Clean cut wound 7 inches in length located across the base of the nape injuring the first cervical vertebrae.
2. Clean cut wound 3 inches in length located at the base left posterolateral surface of the neck.
3. Multiple clean cut wound, 4 in number from 1 centimeter to 1 inch in length located at the left interscapular area and located penetrating the thoracic cavity with about 3 inches in depth.

WHICH INJURIES CAUSED THEIR instantaneous death, to the damage and prejudice of their heirs as follows:

P120,000.00 - as indemnity for the death of the four victims;

40,000.00 - as actual damages;

40,000.00 - as moral damages; and

20,000.00 - as exemplary damages

CONTRARY TO LAW. (Article 294 paragraph 1 of the Revised Penal Code) with the qualifying circumstance of evident premeditation and treachery, and with the following aggravating circumstances:

1. Abuse of Superior strength.
2. That the crime was committed with violence, treachery and intimidation
3. Cruelty; and
4. That the crime was committed in the nighttime purposely sought to facilitate the commission of the offense." (Rollo, p. 11-13)

All the accused except Roberto Parajes and Esteban Parajes who are still at large, pleaded not guilty. On August 22, 1989, the case against accused Rudy Miranda and Bernardino Cuartero was dismissed on the ground that evidence of the prosecution has failed to establish their participation in the crime. (Records, pp. 577-578)

The prosecution evidence upon which the trial court based its findings of guilt beyond reasonable doubt is as follows:

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"x x x At about 8:00 o'clock in the evening of October 1, 1985, the late Sixta A. Cosmiano was at the table in the kitchen of her house at Barangay Tapi, Cantilan, Surigao del Sur, peeling 'tuba-tuba' (a medicinal plant believed to relieve muscle pains). In front of and watching her was prosecution witness Maricor Coletto, who is the niece of her husband and living with, being sent to school by them. Her daughter, the late Nonita A. Cosmiano, was urinating in the comfort room which was adjacent to the kitchen. Her son, the late Cesario A. Cosmiano, was in his room resting, whereas her husband, the late Exuperancio Cosmiano, then the Barangay Captain of Tapi, had gone out about an hour earlier to attend the barangay community rosary. Suddenly, Nonita noticed strangers in the kitchen and shouted to her mother saying 'Nay, jari tawo'. Instinctively, Sixta and Maricor ran to the sala to alarm Cesario, who must have also heard the shout of his sister and went out of his room. Before he could verify, Nonita was brought in by two strangers, who then and there ordered them to drop to the floor, face against it. Cesario was immediately hogtied by the two, using rattan strips. One of the two then opened the sala door to let in their two companions. Ordered to turn over her money, Sixta went inside her bedroom and when she came back, she handed to them unspecified amount, which was the income of her tricycle that day. She was again ordered to drop to the floor, which she did. Thereafter, Nonita and Cesario were stripped of their wrist watches, after which one of the strangers asked food from Maricor, who helped them to the kitchen.

"While the four were eating with Maricor watching them, another fellow went up and warned the group that Exuperancio Cosmiano was coming. When the latter arrived, the group immediately hogtied him also and divested him of his money. The commotion in the Cosmiano residence attracted the attention of their nearest neighbor, a certain Beto, who came to inquire what was happening, but he was chased away by two members of the group of robbers.

"While in the hogtied position, together with his wife and two children, Exuperancio was stabbed by one of the robbers. Injured, he cried to his wife saying, 'Titay, mamatay na gajod ako' (Titay, I will die). At this point, Maricor fainted and when she regained consciousness, the robbers were gone and all her companions were butchered and lying motionless on the floor. She called their names one by one and when nobody answered, she ran to her Mano Beto's house and told his wife that the Cosmianos were robbed and murdered. Beto's wife in turn told her that Beto tried to verify what was happening but was chased by the group.

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"Maricor Coletto did not know the names of the robbers but swore that she would recognize them if ever she saw them again. On the witness stand she identified accused Ricardo Urquia, Jr. alias 'Cardohay' as one of them and was, in fact, the one who stabbed her Tatay Estoy (Exuperancio Cosmiano) after the latter was hogtied by the robbers. She also identified accused Virgilio Vallejo and Rolando Zambales as the two persons who came from the kitchen and who took her Auntie Nita (Nonita Cosmiano) to the sala, ordered her, her Auntie Nita, Eyo Sario (Cesario Cosmiano) and Nanay Titay (Sixta A. Cosmiano) to drop to the floor, face against it, and hogtied Cesario Cosmiano. Rolando Zambales was also the one who asked food from her. She likewise identified accused Leoncito Intoy as the one who went up the house to alarm his companions, the four Robbers, that Exuperancio Cosmiano was coming.

"Early the following morning, Cantilan Police led by Commander Lt. Mahilum investigated the incident. With them was Dr. Luciano Ortega, Rural Health Physician of Cantilan, who conducted the post mortem

examination of the four deceased-victims. He found them to have sustained the following injuries, which caused their instantaneous deaths:

EXUPERANCIO O. COSMIANO:

1. Clean cut wound 6.5 inches in length located across the neck exposing the tracheal tube and the esophagus.
2. Clean cut wound 3 inches in length located on the left chest immediately above the left subcostal margin and penetrating the abdominal cavity.
3. Clean cut wound 1 centimeter in length located on right abdomen immediately to the right and above the umbilicus and penetrating the abdominal cavity.
4. Clean cut wound 2.5 inches in length located on the posterior surface of the left elbow.

SIXTA A COSMIANO:

1. Clean cut wound 3 inches in length located on the middle 3rds of the right latero-posterior surface of neck and 2 inches in depth.
2. Clean cut wound 3 inches in length located immediately below the above injury and 2 inches in depth.
3. Clean cut wound semi-V shaped 1.5 inches in length located on the right lateral surface of the abdomen along the right axillary line and the subcostal margin penetrating the abdominal cavity.

NONITA A. COSMIANO:

1. Clean cut wound 5 inches in length located across the right ear injuring the underlying bone tissue.
2. Slit wound 1 centimeter in length located on the left chest between the sternum and the left nipple along the fifth intercostal space penetrating the chest by 4 inches depth.

CESARIO A. COSMIANO:

1. Clean cut wound 7 inches in length located across the base of the nape injuring the first cervical vertebrae.
2. Clean cut wound 3 inches in length located at the base left posterolateral surface of the neck.
3. Multiple clean cut wound, 4 in number from 1 centimeter to 1 inch in length located at the left interscapular area and both penetrating the thoracic cavity with about 3 inches in depth.

Recovered from the Crime Scene were a hatchet (Exhibit "J") and a small bolo (Exhibit "K"). While Lt. Mahilum was investigating the lone survivor of the massacre, Maricor Coletto, on his instruction, Pat. Roberto Tucong prepared a Sketch indicating, among other things, the relative positions and conditions of the victims and the locations of the hatchet and small bolo. Photographs were also taken (Exhibits "L", "M", "N", "O", and "P", and series)." (Rollo, pp. 31-35)

The appellant's defense on the other hand is as follows:

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"Accused Ricardo Urquia, Jr. claimed that on the time of the Robbery in question, he was in Surigao City and could not have participated in it. In fact, the day before, on September 30, 1985, he left Cantilan early in the morning bound for Surigao City to attend the hearing of the Piracy Case of his son-in-law, herein accused Juan Parajes, docketed as Criminal Case No. 1980 in the sala of Judge Rola, scheduled the following day, October 1, 1985. And early in the morning on this date, he was in the Provincial Jail visiting his son-in-law and, together, they went to Court, where they met defense counsel Atty. Deodiro Ravelo. The case was however not heard that day due to the absence of prosecution witnesses, consequently, ordered reset the following day,

October 2, 1985. He stayed in Surigao City until the Case of his son-in-law was tried. He stayed in the house of his father, Ricardo Urquia, Jr.. On being informed by his daughter Amalia that he was implicated in the Robbery, he secured Certifications from Atty. Deodiro Ravelo, Second Assistant Provincial Fiscal Pedro Azarcon, Atty. Oscar Pospia of CLAO and Provincial Jail Warden Antonio Morales on his presence in Court and/or in the Provincial Jail at Surigao City on October 1, 2, and 3, 1985. Atty. Ravelo, Atty. Pospia and Fiscal Azarcon took the witness stand and identified the respective Certifications they issued and testified on accused Ricardo Urquia's presence in Court. Antonio Morales identified the Record of Criminal Case No. 1980.

"Ricardo Urquia, Jr. further claimed that he did not know any of his co-accused, except his son-in-law Juan Parajes, before October 1, 1985. He knew them only after his arrest and when he was already in the Provincial Jail at Tandag, Surigao del Sur. But he knew the deceased-victim Exuperancio Cosmiano, the latter being the second cousin of his mother, whose mother is a Cosmiano.

"He suspected that the motive for implicating him in the robbery and slaughter of the Cosmianos was his having killed in self-defense the late Samuel Azarcon, who was the brother of the deceased-victim Sixta A. Cosmiano, and that the Cosmianos and the Azarcons were out to grab his fishpond, and even burned his house at Tapi, Cantilan, forcing him to flee to Manila for safety. It was in Manganan, Fairview, Quezon City, where he was arrested by four policemen, first taken to the City Jail and later brought to Surigao del Sur and detained in the Provincial Jail." (Rollo, pp. 36-37)

From the four accused who were convicted, only Urquia, Jr. and Intoy filed their notice of appeal. (Records, p. 730 and p. 732) Counsel for Intoy, however, failed to file the required appellant's brief. We are therefore, constrained to dismiss the appeal of Intoy.

Urquia, Jr. is then, the sole appellant in this case. He raises the following assignment of errors, to wit:

I

THE TRIAL COURT ERRED IN NOT SUSTAINING THE DEFENSE OF ALIBI BY ACCUSED-APPELLANT AND IN GIVING WEIGHT TO THE SUPPOSED POSITIVE IDENTIFICATION OF APPELLANT BY LONE EYEWITNESS TO THE CRIME.

II

THE TRIAL COURT ERRED IN ASSUMING THAT THE ROBBERY AND MASSACRE IN QUESTION WAS WELL PLANNED WITH VENDETTA AS A POSSIBLE MOTIVE.

III

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE OFFENSE CHARGED DESPITE THE ABSENCE OF PROOF BEYOND REASONABLE DOUBT. (Appellant's brief, p. 9)

The first and third assigned errors question the trial court's finding of guilt beyond reasonable doubt. The appellant contends that there was no positive identification made of him by Maricor Coletto, the sole prosecution eyewitness because of the following circumstances: first, despite having known the appellant to be a relative of the victim, Exuperancio, Coletto did not pinpoint him right away to the police. Coletto admitted that she knew the identity of the appellant even before the incident and she knew that the appellant was a relative of Exuperancio (TSN, June 30, 1988, p. 13) but she failed to mention the identity of the appellant in her affidavit and she denied knowing by name the appellant. She testified that she was able to identify him only due to his body build and white hair (TSN, June 29, 1988, p. 11) Second, Coletto mentioned in her affidavit only matters pertaining to the height, cap, shoes, and green jacket. She failed to mention the appellant's white hair when she gave the description of the appellant to the police citing the flimsy reason that this was not asked of her. (TSN, June 29, 1988, p. 45) It

is in fact, doubtful that Coletto even saw the appellant's white hair as she said that the appellant was wearing a cap.

Another thing allegedly that makes Coletto's identification of the appellant more doubtful is the fact that Coletto owed so much to the victims that she would do anything to avenge their death, even to the extent of testifying falsely against the appellant. The appellant alleges that Coletto may have been motivated to testify against him because of the long standing feud (started in 1963) with the Azarcons (family of Exuperancio's wife) over the appellant's fishpond. He states that in an attempt to get his fishpond and harvest his coconuts, he got into a fight with Samuel Azarcon, younger brother of Exuperancio's wife, whom he subsequently killed. (TSN, December 22, 1989, p. 24) However, he was found to have killed Samuel in self-defense (Exh. 12, Records, pp.668-679)

Aside from these circumstances that belie Coletto's positive identification of the appellant, the appellant also contends that Coletto's testimony in itself is not credible. Throughout her testimony, there was no indication that Exuperancio or any of the three victims gave a hint as to the identity of the appellant despite the fact that Exuperancio and the appellant knew each other as they were distant cousins. It is unnatural that the victim having known his killer did not even plead to the appellant to spare his life. Likewise, it is also not in keeping with normal behavior for the appellant to ask if Exuperancio was the barangay captain, as narrated by Coletto, since the appellant knew the victim already.

The guilt of the appellant has been established beyond reasonable doubt. The above-mentioned circumstances that negate the positive identification of the appellant by Coletto were all satisfactorily explained.

The failure of Coletto to mention appellant's identity in her affidavit despite having seen the appellant several times before the incident (TSN, June 30, 1988, p. 13) is attributed to the fact that she did not know the appellant's name at that time. She however, admitted in open court that although she does not know the name of the appellant, she can recognize him if she sees him again. (TSN, June 29, 1988, p. 11) It was not only the name of the appellant that Coletto could not remember but she demonstrated her facility not to remember names also with regards to the police investigators who talked to her after the incident. She said that she could not remember the names of the policemen who were investigating her. (TSN, June 29, 1988, pp. 27-28)

Likewise, the failure of Coletto to mention the white hair of the appellant in her affidavit is not fatal. It has been ruled that affidavits being taken ex parte usually are incomplete and often inaccurate, caused sometimes from partial suggestions, sometimes for want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that belongs to the subject (People v. Custodio, G.R. No. 96230, May 27, 1991 citing People v. Laredo, 185 SCRA 383, 392-393, [1990])

In fact, the description given by Coletto of the accused in her affidavit is very general. She just mentioned matters about height, cap, shoes and jacket. (Exhibit 5, Records, p. 60)

Coletto's identification of the appellant is not tainted with improper motive. Coletto herself admitted that she would do anything to help the Cosmianos (TSN, June 29, 1988, p. 29). It is then illogical for her to point to the appellant if he was not really one of the perpetrators since this would then stop the police from looking for the real killers. Coletto had only one motive, that is to seek justice for the killing of the Cosmianos.

The motive attributed to Coletto by the appellant is not substantiated. The feud started way back in 1963, and the killing of Samuel Azarcon happened in 1978, before Coletto even went to live with the Cosmianos. Coletto may not even have known of the feud as it was between the appellant and the Azarcons and not the Cosmianos. Also, between 1978 and 1985, there was no evident manifestation of the feud, so Coletto may still have been unaware of the situation. Coletto, young as she was, knew the gravity of the crime that she imputed to the appellant. It is hard

to believe that at her age, there would be hatred and vengeance in her heart towards the appellant as to falsely testify against him.

In *People v. Paco*, 170 SCRA 681, 688, (1989) we held:

"The motive imputed to the prosecution witness because of the facility by which the accused can fabricate the same must be proved by clear and sufficient evidence. x x x In the absence of convincing evidence that the principal prosecution witness acted because of improper motives, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit."

As to the contention of the appellant on the incredibility of the victims' not having pleaded with the appellant despite their knowing him and that of the appellant's having asked Exuperancio if he was the barangay captain, it has been held that there is no standard form of behavior when one is confronted by a shocking occurrence. The working of human minds, when placed under emotional stress, are unpredictable and people react differently. (*People v. Ponce*, G.R. No. 83694, May 31, 1991) Aside from this, the victims may not have seen the perpetrators as they were asked to lie face down on the floor. (TSN, June 29, 1988, p. 6) Exuperancio, on the other hand, even if he had the opportunity to recognize the perpetrators may not have seen the need to plead for his life as he may have thought that they were just out to rob them. With regards to the question to Exuperancio if he was the barangay captain, Coletto did not categorically state that it was the appellant who asked such question, she said that she could not remember anymore who asked that question. (TSN, June 30, 1988, pp. 18-19)

The appellant was positively identified by Coletto. The facts outlined in the case were conducive to proper identification. The sala where the stabbing took place was lighted by a moron lamp (TSN, June 29, 1988, p. 47) The kitchen where Coletto pointed out the food to the accused was also lighted by another moron lamp. The light given out by the moron lamps although not as bright as that given out by an electric light is sufficient to light an area. These moron lamps are self improvised lamps, where a bottle, such as that of a San Miguel beer bottle, is filled with kerosene with a cloth serving as a wick. (TSN, June 30, 1988, p. 8) Moreover, Coletto had the opportunity to see the accused more closely as she did not leave the kitchen right away after pointing out the food to the accused but remained standing in the kitchen for a while (TSN, June 29, 1988, p. 48)

In view of the positive identification of the appellant by Coletto, his defense of alibi will then, have to fail. The defense of alibi being inherently weak cannot prevail against the prosecution's positive identification of the appellant. (*People v. Sabellano*, G.R. Nos. 93932-33, June 5, 1991; *People v. Toribio*, G.R. No. 88098, June 26, 1991) We agree with the trial court's rejection of the appellant's alibi. We quote:

"Accused Ricardo Urquia, Jr. claims that he was in Surigao City at the time the offense charged was committed. He produced Certifications issued by 2nd Assistant Provincial Fiscal Pedro Azarcon (Exhibit "6"), CLAO lawyer Atty. Oscar Pospia (Exhibit "7") and his own counsel, Atty. Deodiro Ravelo (Exhibit "8") to the effect that he was seen in the sala of Judge Rola, RTC, Branch 30, Surigao City, in the morning of October 1, 2 and 3, 1985, in connection with the scheduled hearing of the Piracy with Murder and Frustrated Murder Case of his son-in-law Juan Parajes. It is claimed that the case was called but not tried on said dates due to the absence of prosecution witnesses. Assuming this to be true, it did not discount the possibility of said Accused's presence at the scene of the crime in Tapi, Cantilan, Surigao del Sur, precisely at the time it was committed in the evening of October 1, 1985. Cantilan is not really far from Surigao City - at least, not far enough to prevent accused from being there to commit the crime. According to Leoncito Intoy on cross-examination, he left Cantilan on board a passenger jeep at 6:45 in the morning on October 1, 1985 and arrived in Surigao City at 10:00 o'clock that same morning. He thus negotiated the distance in three (3) hours and fifteen (15) minutes riding on a passenger jeep. Had he taken a service vehicle he could have reached Surigao City very much earlier. By nature and rules and regulations, passenger jeeps travel much slower than a service pick-up for instance, not to mention the fact that, normally, they pick up and unload passengers along the way, which

considerably delays arrival at destination. Actually, the distance between Cantilan, Surigao del Sur, and Surigao City is only about 120 kilometers, which private service vehicle negotiates in 2 hours or less, and passenger jeeps, 3 hours or less. Besides, Surigao City is also accessible by sea from Cantilan and vice versa, and the usual sea craft is a motorized banca locally known as "pamboat" or "pumpboat", which travels fast. x x x The whole day and evening of October 1, 1985, accused Ricardo Urquia, Jr. was free to go to Cantilan, where he was residing, assuming he really went to Surigao City the day before, and be back in Surigao City early in the morning of October 2, to create the impression that he did not leave the City on October 1. It is not therefore altogether improbable or impossible for him to commit, as he did, this ghastly crime." (Rollo, pp. 42-43)

For the defense of alibi to prosper, it is not enough to prove that the appellant was somewhere when the crime was committed but that he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime (People v. Arenas, G.R. No. 92068, June 5, 1991; People v. Carcedo, G.R. No. L-48085, June 26, 1991) In the case at bar, although the appellant may prove that he was somewhere else when the crime was committed, he could not prove that it was physically impossible for him to be at the crime scene or at the vicinity thereof at the approximate time the crime was committed.

The testimonies of Villaluz Azarcon and Maximo Sual, stating that they saw the appellant at the river of Lankogue, Tapi, Cantilan at 4:00 in the afternoon of October 1, 1985 (TSN, May 19, 1988, p. 14) and at 1:00 in the morning of October 2, 1985 (TSN, May 19, 1988, pp. 27-28) respectively, are dismissed by the appellant as having no probative value in the second assigned error.

Suffice it to say that even without Villaluz and Maximo's testimonies, Coleto's testimony standing alone is enough to convict the appellant. It is well-settled that the testimony of a single eyewitness, if found convincing and trustworthy by the trial court, is sufficient to support a finding of guilt beyond reasonable doubt. (People v. Catubig, G.R. No. 71626, March 22, 1991) In the instant case, the trial court found the testimony of Maricor Coleto to be credible. The trial court observed:

x x x x x x x x

"About her clear and positive identification of accused Ricardo Urquia, Jr., Virgilio Vallejo, Rolando Zambales and Leoncito Intoy as among the Robbers who robbed and massacred the deceased-victims, the Court has no doubt. She stood firm and was unshaken by the long and grueling cross-examinations of the three defense counsel, delivering a straight forward and natural style of testimonies, which appealed to the Court as a sign of sincerity, let alone the fact that her story is logical, probable and very credible." (Rollo, p. 41)

The trial court designated the crime as robbery with multiple homicide. However, in the case of People v. Nunag, G.R. No. 92570, April 22, 1991, we held that:

"The offense is denominated as robbery with homicide regardless of the number of homicides or injuries committed."

The appellant therefore, is found guilty beyond reasonable doubt of the crime of robbery with homicide. The indemnity to the heirs of the victims is raised to P50,000.00 for each deceased or a total of P200,000.00.

WHEREFORE, the appealed decision is hereby **AFFIRMED** with the aforesaid modification. The appeal of Leoncito Intoy is **DISMISSED**.

SO ORDERED.

Fernan, C.J., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

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