

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MELCHOR DATINGGINOO Y BRIONES, ACCUSED-APPELLANT.

G.R. No. 95539. June 14, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

The night was still young and not at all dark. There were a hundred lights in the carnival nearby and in the houses and stores along the street. Yet all this did not deter the assailants from their wicked plan. When their prey arrived, they struck: they robbed and stabbed him, leaving him dying on the ground. And then they fled. It was over in minutes.

But the reckoning was yet to come, at least for one of them. He now comes before this Court in this appeal, to plead that he was not one of them.

On September 5, 1988, at about 8:15 in the evening, Mariano Aumentado was on his way home from his drug store at Larangay Street, Phase 3, Dagat-dagatan, Kalookan City. Three persons accosted him and forcibly took his wallet containing P4,100.00 and a wrist watch worth P750.00. He resisted but he was boxed in the stomach and stabbed several times in the chest. Rushed immediately thereafter to Tondo General Hospital, he was declared dead on arrival.

Investigation pointed to Melchor Datingginoo as one of the assailants. On January 7, 1989, an information for robbery with homicide was filed against him, together with his still unknown companions, in the Regional Trial Court of Kalookan City.[1]

At the trial, the prosecution presented Mariano's daughter, Anna Marie Aumentado, and Natividad Raulo vda. de Calayag, who both testified that they saw the incident from the drug store, which they were then tending. It was only six arms length away from the scene of the crime. Both witnesses identified the killer as Melchor Datingginoo, the herein appellant, who they said used to buy medicines from the drug store.[2]

The other witnesses for the prosecution were Dr. Valentin Bernales, the NBI medico-legal officer who declared that the victim died as a result of hemorrhage caused by five stab wounds,[3] and two CIS policemen, Alberto David and Manuel de Leon, who arrested Datingginoo and interviewed the witnesses.[4] Annie Aumentado Romantico, another daughter of the victim, testified on the amount of damages suffered by his heirs.[5]

The appellant denied the allegations of the prosecution and claimed that at the time of the incident he was in the house of his compadre, Antonio Esternon.[6] The latter corroborated his testimony and said they were having a drinking session when the stabbing occurred.[7] Ligaya Alcopra, who also claimed to have witnessed the attack on Aumentado, swore on the stand that the appellant was not among the assailants she saw.[8]

In his decision dated June 21, 1990, Judge Rene Victoriano found the accused guilty as charged and disposed as follows:

WHEREFORE, in view of the foregoing, this Court finds the accused MELCHOR DATINGGINOO y BRIONES GUILTY beyond reasonable doubt of robbery with homicide as described and penalized under paragraph 1 of Art. 294 of the Revised Penal Code and hereby sentences said accused to suffer imprisonment of Reclusion Perpetua, taking into consideration the presence of the aggravating circumstances of the use of superior strength and the absence of any mitigating circumstance. This Court directs the accused to return to the heirs of the victim the Seiko wrist watch and the wallet containing P4,100.00, and if unable to do so, to reimburse said heirs the total amount of P4,850.00. This Court likewise directs the accused to indemnify the heirs of the victim the amount of P13,600.00 representing the burial expenses and the expenses incurred during the wake of the victim and the additional amount of P100,000.00 representing the loss of income of the victim.

The accused is entitled to full credit of his preventive imprisonment pursuant to Art. 29 of the Revised Penal Code provided the conditions enumerated therein have been complied with.

SO ORDERED.[9]

The appellant now questions the veracity of the witnesses for the prosecution and says the trial court should have given more credence to the defense witness.

We have said time and again that when it comes to the assessment of the credibility of witnesses, the conclusions of the trial court are well nigh conclusive on appeal, absent a showing that they were reached arbitrarily or without substantial basis. The judge conducting the trial has the opportunity not available to the appellate court of observing the witnesses directly and detecting by their demeanor the tell-tale signs of fact or fabrication. We see no reason to disturb his findings in the case at bar.

The defense doubts Anna's narration of the attack, noting that while she described the appellant in detail, she hardly said anything about his alleged companions. This failure does not detract from the veracity of her testimony as it was natural for her - or any witness for that matter - to focus her attention on the principal perpetrator of the crime. This witness was positive that the person who boxed and killed her father was the appellant.

The three wounds on the chest of the victim positioned slightly downward and medially supported Calayag's testimony that Aumentado was stabbed three times on the chest with downward thrusts.

Significantly, Anna's testimony tallied in all material points with that of Natividad. They were not far from the scene of the crime and clearly saw its commission by the lights from the houses and the stores on the street as well as the carnival nearby.

While time may have blurred their recollection of the details, the basic facts of the slaying remained in their memory. The minor inconsistencies and contradictions in their declarations do not destroy their credibility but in fact even enhance it as they erase any suspicion of a perjured or rehearsed testimony. As we said in *People v. De Guzman*:^[10]

The inconsistencies pointed out by the defense in the testimonies of the prosecution witnesses do not detract from their essential veracity. The truth need not be narrated with perfect symmetry. Several persons remembering the same incident may vary in their recollections of some of the details but these differences do not necessarily make liars of them all. What is important is that they agree on the essential facts and that their respective versions corroborate and substantially coincide with each other to make a consistent and coherent whole.

Datingginoo's alibi is far from convincing. Although Esternon testified that he was drinking with him at the time of the incident, he admitted on cross-examination that he left the appellant several times for more than 15 minutes to mind his store. Moreover, the defense has not shown that it was physically impossible for the appellant to be at

the scene of the crime at the time it was committed. On the contrary, it was established that the house of Antonio is also located in Dagat-dagatan and not far from where the killing occurred.

On top of its inherent weakness, alibi becomes less plausible as a defense when it is corroborated only by a relative or a close friend of the accused, as in the case at bar. At any rate, it was for the trial judge, using his discretion and his observations at the trial, to determine whom to believe among the witnesses disputing the whereabouts of the appellant in the evening of September 5, 1988.

The appellant himself admitted that there was no grudge between him and the prosecution witnesses, including the victim's daughters. There was, therefore, no reason why they would falsely implicate him in the serious crime of robbery with homicide. We dismiss outright his feeble contention that he was falsely charged because he was the team leader in the barangay who kept track of drug peddlers. The connection is too tenuous.

To sustain a conviction for the special complex crime of robbery with homicide, it must be shown that the original criminal design of the culprit was robbery and the homicide was perpetrated with a view to the consummation of the robbery by reason or on the occasion of the robbery.[11] In the case before us, it is clear that the appellant and his companions acted in unison and cooperated with each other toward the accomplishment of a common felonious purpose, which was to rob and kill the victim.[12] We also agree that the crime was attended with abuse of superior strength, for the three men stabbed a defenseless victim who was then already 67 years old.

We sustain the findings of the trial court regarding the damages due to the victim's heirs as a result of his death. These findings are merely factual and appear to be based on the evidence of record. Conformably to existing policy, however, we shall increase the civil indemnity for his death to P50,000.00.

WHEREFORE, the appeal is DISMISSED and the appealed judgment is AFFIRMED with the modification that the civil indemnity is increased to P50,000.00. Costs against the appellant.

SO ORDERED.

Griño-Aquino, Bellosillo, and Quiason, JJ., concur.

[1] Records, p. 2.

[2] TSN, November 23, 1989, p. 7.

[3] TSN, November 29, 1989, p. 21.

[4] TSN, December 15, 1989, pp. 4, 7, 12, 13.

[5] TSN, December 20, 1989, pp. 4-8.

[6] TSN, January 24, 1990, pp. 7-8.

[7] TSN, February 1, 1990, pp. 4-5.

[8] TSN, January 4, 1990, pp. 19-20, 26-27.

[9] Rollo, pp. 8-9.

[10] 188 SCRA 407.

[11] *People v. Ponciano*, 204 SCRA 627.

[12] TSN, November 23, 1989, pp. 7-8, 10.

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