

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO CORPUZ Y MINA, BAYANI SANTOS Y VIDAD, PETER DOE, RICHARD DOE AND JOHN DOE, ACCUSED, ROLANDO CORPUZ Y MINA AND BAYANI S...

G.R. No. 99865. March 28, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is an appeal from the decision of the Regional Trial Court, Branch 52, Tayug, Pangasinan, finding Rolando Corpuz y Mina and Bayani Santos y Vidad guilty of Robbery with Homicide in Criminal Case No. T-1036.

I

The Provincial Prosecutor of Pangasinan filed in Criminal Case No. T-1036 an information accusing appellants and three other accused, Peter Doe, Richard Doe and John Doe, of Robbery with Homicide and averring:

"That on or about the early dawn of October 15, 1989 at barangay Bolintaguan, Municipality of San Quintin, Province of Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and actually helping one another, with intent to gain and by means of violence and intimidation, armed with firearms, entered the house of Eustaquio P. Bautista, Sr. and once inside the house, did, then and there willfully, unlawfully and feloniously take, steal and carry away T.V. set (Sony), Betamax machine, Sansui Stereo Component, Seiko wrist watch, assorted clothes, jewelries, shoes, food-stuffs and other valuable personal belongings, cash money of undetermined amount and Yamaha 100 CC motorcycle, all belonging to Eustaquio P. Bautista, Sr. and are worth with (sic) a total approximate value of P150,000.00; and on the occasion of such robbery, they took with them Arsenio Bautista, and with intent to kill, did, then and there willfully, unlawfully and feloniously attack, assault and stab several times Arsenio Bautista with bladed instrument/s that resulted to his immediate death, to the prejudice of Eustaquio P. Bautista, Sr. and the heirs of his son Arsenio Bautista. Contrary to Article 294, par. 1, of the Revised Penal Code" (Rollo, pp. 18--19).

At their arraignment, appellants pleaded not guilty to the crime charged and waived their right to a pre-trial.

Thereafter, trial ensued.

On April 18, 1991, the trial court rendered judgment finding appellants guilty of the offense charged.

II

Like the trial court, we accept the version of the prosecution, which was summarized in the brief of the Solicitor General, as follows:

"At about 1:00 A.M. on October 15, 1989, Eustaquio Bautista, Jr. and his friend, Alberto Nacion, were on board Bautista's tricycle on their way home to Barangay Bolintaguan, San Quintin, Pangasinan, after attending

a funeral wake (sic) in Lumayao, a neighboring barangay. Near the boundary of Lumayao and Bolintaguen, they were blocked by armed men, some of whom were masked with bonnets. Eustaquio, Jr. was pulled out from the driver's seat and pushed inside the sidecar. Nacion was tied and left behind covered with hay and guarded by two men. One man without a mask drove the tricycle while another, also barefaced, sat beside Eustaquio. A masked man rode behind the driver and they proceeded to the Bautista's house which was less than a kilometer away (TSN, pp. 18--21, September 4, 1990).

They reached the house at about 1:30 A.M. and Eustaquio Bautista, Jr. was ordered to call for his parents. Eustaquio Bautista, Sr. was inside the house waiting for his son, together with his other son, Arsenio, who was asleep in another room, and granddaughter Daisy, who was sleeping in his room. Several lights in the house were on, including the lights in the kitchen, in his room and outside his room. When his son Eustaquio Jr. knocked on the door and called him, informing him that he has companions, he went to the door. As soon as Eustaquio, Sr. opened the door, two persons holding firearms, whom Eustaquio, Jr. later identified as appellants, rushed inside and warned him not to talk. His son and a masked person guarding him followed inside. Father and son were made to sit in the sala while the three intruders looted the house of valuables including a Sony T.V. with Betamax, Sansui Stereo Component, Camera, Seiko wristwatch, jewelry and an undetermined amount of money and they ordered Eustaquio, Jr. to help them load these items in the tricycle owned by the Bautistas (TSN, pp. 3-4, 7-12, July 10, 1990).

In the course of the looting, something dropped on the floor which awakened Arsenio. As he opened the door, the three robbers rushed to him and tied him with electric wire and pushed him inside the room. Eustaquio, Sr. and Jr. were also brought inside the room and tied. The robbers stayed in the house for about forty (40) minutes. When they left, they brought with them Arsenio. Eustaquio, Sr. pleaded with them not to take his son but they told him to get him and the tricycle in Laguna (Supra at pp. 19-23).

As soon as the robbers left, Eustaquio, Jr. told his father to come near so that he could bite the wires off his hands. After he was untied, Eustaquio, Sr. in turn untied his son and they sought help. Eustaquio Jr. went to the Barangay Captain while his father immediately began searching for Arsenio with the help of their neighbors. They found him in Lumayao, dead, covered with hay, with his face toward the ground and his hands tied at the back (Supra at pp. 24--26). The Autopsy Report of Dr. Rosalinda O. Victorio reveals that Arsenio suffered a total of 24 stab wounds, two of them most fatal for possibly perforating the heart and lungs. The cause of death was listed as "acute hemorrhage due to stab wounds possibly traversing the heart and lungs" (TSN, pp. 2-3, 6, September 19, 1990; Autopsy Report, Exhibit "D").

In the afternoon of the same day, the sidecar of the tricycle was recovered in Laoag upon information of one Jaime Aboy who noticed the sidecar abandoned along the road near the creek (TSN, p. 3, September 18, 1990, pp. 3-4, August 14, 1990).

About two weeks after the incident, Eustaquio, Jr. learned about two people who were arrested and jailed in Manaoag, Pangasinan. He and his father, together with some San Quintin policemen, proceeded to Manaoag to look at the prisoners. Eustaquio Sr. went inside first and he recognized the two appellants among the five people in the line-up inside the jail as the two unmasked robbers who looted his house. Next followed his son who also went inside and identified the two appellants as among those who accosted him and robbed their house. A complaint was thereafter filed by Eustaquio, Sr. against the appellants (TSN, pp. 6-10, 13-14, August 14, 1990, pp. 31-32, September 4, 1990)" (Rollo, pp. 107--110).

III

Appellants interposed the defense of alibi. They claimed that they were in Quezon City on October 15, 1989, the day Arsenio Bautista was killed, and that they went to Manaoag, Pangasinan, only on October 24, 1989.

The defense of alibi merits rejection where it is uncorroborated and where there is a positive identification of the

accused as the culprit (People v. Carpio, 191 SCRA 108 [1990]; People v. Heriro, 192 SCRA 655 [1990]).

Appellants did not present any witness to testify that they were in Quezon City on October 15, 1989. They could have presented the time records of their employment to show that they reported to work on that day. They did not even present Eddie Mariano, who allegedly invited them to go to Manaoag on October 24, 1989 or Joe Ilagan, the owner of the house where they stayed on said date.

Appellants' failure to present evidence which is vital to their defense of alibi is tantamount to a suppression thereof and which if presented would be adverse to said defense.

With regard to the testimony of Eustaquio Bautista, Sr. that the robbers conversed in the Ilocano dialect and that one of them did not speak the said dialect fluently, appellants claimed that being natives of Misamis Oriental, they did not know how to speak that dialect. As there were three robbers who entered the Bautista residence, it was probable that the masked companion of appellants was the one who spoke fluent Ilocano. When appellant Corpus admitted in cross-examination that he could understand Ilocano, he was in effect admitting that he can speak a few words of Ilocano.

Appellants were apprehended while they were about to commit another housebreaking. They also admitted during their investigation that they were the ones who ransacked the house of Ex-Mayor Artemio Saldivar in Laoac, Pangasinan (TSN, Oct. 9, 1990, pp. 23-24).

Settled is the rule that the findings of fact of the trial court are accorded great respect and are generally sustained by the appellate courts, unless some material facts have been overlooked or misconstrued (People v. Malonzo, 212 SCRA 85 [1992]). The rationale for the rule is that the trial court had all the opportunity to observe the demeanor of the witnesses when testifying (People v. Diaz, 212 SCRA 147 [1992]). We do not find any attendant circumstances that would justify a departure from said rule.

The trial court, after sentencing appellants to suffer the penalty of reclusion perpetua credited them the entire duration of their preventive imprisonment from November 14, 1989.

Under Article 29 of the Revised Penal Code, "offenders who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment, if the detention prisoner agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners" Otherwise, he shall only be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment (As amended by R.A. 6127 and B.P. Blg. 85).

This allowance should be made even in the case where the penalty imposed is reclusion perpetua because it does not make any distinction between temporal and perpetual penalties. Moreover, under Article 27 of the Revised Penal Code, the duration of reclusion perpetua is to be computed at 30 years (I Reyes, The Revised Penal Code, 1981 ed., p. 590; U.S. v. Ortencio, 38 Phil. 341 [1918]).

WHEREFORE, the decision appealed from is AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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