

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOLI MANUZON, JESUS BAYAN, RICARDO DISIPULO AND CELESTINO RAMOS, JR., ACCUSED. RICARDO DISIPULO AND CLESTINO RAMOS, JR., ACCU...

G.R. Nos. 113245-47. August 18, 1997

Ponente: VITUG, J.

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VITUG, J.:

Celestino Ramos, Jr., Ricardo Disipulo, Noli Manuzon and Jesus Bayan were accused, in three separate informations, hereinafter quoted, of Robbery with Serious Physical Injuries (Criminal Case No. 451-M-91), Violation of Republic Act No. 6539 or the Anti-Carnapping Act of 1972 (Criminal Case No. 452-M-91), and Kidnapping with Serious Illegal Detention (Criminal Case No. 865-M-91); viz:

"Crim. Case No. 451-M-91

"The undersigned Provincial Prosecutor accuses Noli Manuzon, Jesus Bayan, Celestino Ramos, Jr. and Ricardo Disipulo alias Boy Tahoe of the crime of Robbery with Serious Physical Injuries, penalized under the provisions of Art. 294, paragraph 4 of the Revised Penal Code, committed as follows:

"That on or about the 12th day of January, 1991, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, armed with guns, a hand grenade and bladed instruments, conspiring, confederating together and helping one another, did then and there wilfully, unlawfully and feloniously, with intent of gain and with force and violence against and intimidation of person, take, rob and carry away with them a wrist watch and pieces of jewelry worth P11,000.00 and cash amounting to P18,000.00, belonging to one Fidel Manio, Jr., to the damage and prejudice of the latter in the total amount of P29,000.00; and that by reason or on the occasion of the said robbery, and in pursuance of their conspiracy, and in order to rob and carry away with them the cash and articles mentioned above, did then and there wilfully, unlawfully and feloniously attack, assault and stab with the said bladed instrument the said Fidel Manio, Jr. and Saturnina Boiser, hitting them on the different parts of their bodies and inflicting on them serious physical injuries which required medical attendance and incapacitated them from their customary labor for a period of more than thirty (30) days.

"Contrary to law.

"Crim. Case No. 452-M-91

"The undersigned Provincial Prosecutor accuses Noli Manuzon, Jesus Bayan, Celestino Ramos, Jr. and Ricardo Disipulo of the crime of violation of R.A. 6539 otherwise known as the Anti-Carnapping Act of 1972, committed as follows:

"That on or about the 12th day of January, 1991, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring, confederating together and helping one another, armed with guns, a hand grenade and bladed instruments, did

then and there wilfully, unlawfully and feloniously, by means of force and intimidation and with intent of gain, take, rob and carry away with them one Toyota-Tamaraw vehicle with Plate No. PHR-650 valued at P100,000.00, belonging to one Fidel Manio, Jr., to the damage and prejudice of the latter in the said sum of P100,000.00.

“Contrary to law.

“Crim. Case No. 865-M-91

"The undersigned Asst. Provincial Prosecutor accuses Noli Manuzon, Celestino Ramos, Jr., Jesus Bayan and Ricardo Disipulo of the crime of kidnapping with serious illegal detention defined and penalized under Art. 267 of the Revised Penal Code, committed as follows:

“That on or about the 12th day of January, 1991, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, being then private individuals, conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously kidnap, take away and detain one Mark Anthony Boiser, a minor, for a period of ten (10) hours, without authority of law or justifiable cause.

“Contrary to law.”[1]

The authorities took into custody Ramos and Disipulo; Manuzon and Bayan remained at large. When arraigned, Ramos and Disipulo pleaded not guilty to the charges.

The evidence for the prosecution. -

On 12 January 1991, Fidel Manio and Saturnina Boiser, with eight-year old Mark Anthony Malinao, were on board a "Toyota Tamaraw" on their way to Calumpit, Bulacan. When the vehicle momentarily stopped at the "Malolos crossing," Manuzon, a distant relative and former worker of Manio, approached the vehicle and asked Manio if he (Manuzon) and his three companions, namely, Bayan, Ramos and Disipulo, could be allowed to hitchhike. Manio acceded. The "hitchhikers" took the backseat of the vehicle. At the Alido Heights along MacArthur Highway, however, Disipulo abruptly pointed a gun at Manio while Bayan held a bladed weapon against Saturnina Boiser. Ramos showed that he was armed with a hand grenade. Disipulo directed Manio to proceed to Heritage Subdivision. Arriving at the place, Manuzon and Bayan demanded from Manio the payroll cash intended for his shop workers. Manio instructed posthaste Saturnina Boiser to hand over the money, amounting to P18,000.00, to the accused. Disipulo asked Manuzon, "Totodasin ko na ba?" Manuzon replied, "Todasin mo na." Bayan, after getting Manio's wallet, ring, wristwatch and other personal belongings, forthwith stabbed Manio. Saturnina Boiser attempted to grab the weapon from Bayan but Ramos held her. Struggling to get free, she fell to the ground. Instantly, Ramos delivered three stab blows on her. The four malefactors took the vehicle and sped away. Young Malinao was on board the vehicle. After some time, the group returned to the scene but they failed to find Manio and Saturnina Boiser. The two managed to hide from the group.

Manio and Saturnina Boiser were brought by good samaritans to the Calumpit District Hospital and, from there, to the Makati Medical Center.

The culprits tied and gagged Malinao and left him on board the vehicle which the malefactors abandoned at some deserted place. Malinao somehow succeeded in freeing himself and, later, reaching for help. He was taken to the police station, and later to the house of his Lola Conching.

The evidence for the defense. -

Disipulo and Ramos admitted that they, together with Bayan and Manuzon whom they only met at the Malolos

crossing, hitched a ride with Manio but denied knowing any preconceived plan of their companions. The accused claimed that they were merely forced by Bayan and Manuzon to join them and that they, in fact, saved the life of Malinao from Bayan and Manuzon who had intended to kill him. When they learned that they were implicated in the robbery incident, they immediately and voluntarily surrendered to the authorities.

The decision of the trial court. -

On 08 October 1993, after a joint trial, the Regional Trial Court (Branch 6) of Malolos, Bulacan[2] rendered a joint (partial) decision, thus:

"WHEREFORE, in view of all the foregoing, this Court finds accused Ricardo Disipulo and Celestino Ramos, Jr., GUILTY beyond reasonable doubt for the crime of Robbery with Serious Physical Injuries under Criminal Case No. 451-M-91 and the crime of Kidnapping with Serious Illegal Detention under Criminal Case No. 865-M-91.

"Accordingly, accused Ricardo Disipulo and Celestino Ramos, Jr. are hereby SENTENCED:

"(a) To suffer the penalty of imprisonment from TEN (10) YEARS and ONE (1) DAY of prison mayor in its maximum period to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of reclusion temporal in its medium period in Criminal Case No. 451-M-91;

"(b) To suffer the penalty of RECLUSION PERPETUA in Criminal Case No. 865-M-91;

"(c) To indemnify complaining witness Fidel Manio the amount of P42,476.50 as actual damages; and

"(d) To pay the costs of the suit.

"For insufficiency of evidence, this Court ACQUITS them of violation of R.A. 6539, otherwise known as the Anti-Carnapping Act of 1972 under Criminal Case No. 452-M-91.

"The preventive imprisonment of the two (2) accused starting from the time they were incarcerated shall be deducted from their sentence.

"As far as accused Noli Manuzon and Jesus Bayan are concerned, let the records of these cases be sent to the ARCHIVES, without prejudice to their revival at any time said accused are apprehended.

"SO ORDERED." [3]

The Appeal. -

Unsatisfied with the verdict, Disipulo and Ramos appealed their conviction, contending that -

"The lower court erred:

"I

IN HOLDING THAT CONSPIRACY EXISTED AMONG ALL THE ACCUSED IN THE COMMISSION OF THE CRIME;

"II

IN HOLDING THAT A SEPARATE CRIME OF KIDNAPPING AND SERIOUS ILLEGAL DETENTION WAS COMMITTED IN THE COMMISSION OF THE CRIME OF ROBBERY;

"III

IN HOLDING THAT THE AGGRAVATING CIRCUMSTANCES OF ABUSE OF STRENGTH, EVIDENT PREMEDITATION, CRAFT AND ABUSE OF CONFIDENCE ATTENDED THE COMMISSION OF THE

CRIME."[4]

The appeal cannot be sustained.

Unquestionably, established in evidence was the fact of robbery during which commission Manio and Saturnina Boiser were seriously injured. Apparent from the testimony of the victims, Fidel Manio and Saturnina Boiser, was that the malefactors acted in conspiracy with one another in the execution of an evidently well-planned robbery.

Manio narrated at the witness stand the incident; viz:

Q

Will you please tell this Honorable Court what happened?

A

When we were passing by Alido Heights, Boy Tahoe poked a gun at me, Sir.

"Atty. Kliatchko:

Q

You are referring to Ricardo Disipulo as the person who pointed a gun at you?

A

Yes, Sir.

Q

In what portion of your body was that gun pointed to?

A

At my nape, Sir.

Q

When that gun was pointed at your nape, where was Noli Manuzon, Celestino Ramos and Jesus Bayan?

A

Celestino Ramos was seated near the back door of the vehicle and seated beside him was Noli Manuzon; while Jesus Bayan was immediately behind Saturnina Boiser.

Atty. Kliatchko:

Q

Now, when Ricardo Disipulo poked the gun at your nape, what happened?

A

They announced that it was a hold-up.

Q

You said they announced, who made the announcement?

A

Disipulo and Bayan, Sir.

Q

Now, then, if you said you were proceeding, with you driving your vehicle, what happened after that?

A

They told me to proceed to Heritage Subdivision, Sir.

Q

Who told you that?

A

Boy Taho, Sir.

Court:

Q

At what point did he release his gun and his hold of your hair?

A

When I gave my wallet, my ring and my watch, that was the time that Ricardo Disipulo let loose of my hair with his left hand.

Q

To whom did you give these personal belongings, your ring, watch and your wallet?

A

To Celestino Ramos, Your Honor.

Q

How did you give your personal belongings considering that Celestino Ramos was at the back of the vehicle and you were seated in front?

A

Celestino Ramos was already seated by the door of the driver's seat of the vehicle.

Q

Now, you have stated before this Honorable Court that Ricardo Disipulo was provided with a firearm and Jesus Bayan was with a balison or knife, were they the only persons provided with weapons?

A

Celestino Ramos was then carrying a grenade."^[5]

Saturnina Boiser corroborated the testimony of Manio. Bolstering the case for the prosecution, she also testified, thus:

Q

All right, when you were told to give the money, what happened?

A

When I gave the money to Noli Manuzon, ang tanong ni Ricardo Disipulo, 'Todasin ko na ba?' Ang sagot ni Manuzon, 'Todasin mo na.'

Q

Who was supposed to be killed or 'totodasin' when Disipulo asked that question to Noli Manuzon?

A

Mr. Mano, Sir.

Q

All right, when Mr. Mano was stabbed by Jesus Bayan on the chest, what happened after that?

A

After stabbing Mr. Mano at the chest, Jesus Bayan turned around and was about to stab Mr. Mano at the back.

Atty. Kliatchko:

Q

When Jesus Bayan turned around and went at the back of Mr. Fidel Mano, to stab him for the second time according to you, what happened?

A

I grabbed the weapon and hold the hand of Mr. Jesus Bayan and at this point Celestino Ramos embraced me forcing me to fall down and when I was down, Jesus Bayan stabbed me.

Q

How many times were you stabbed by Jesus Bayan?

A

Three (3) times, Sir.

Q

What was your position when you were stabbed 3 times?

A

I was lying face down because Celestino Ramos was stepping on me."[6]

Conspiracy exists when two or more persons come to an agreement on the commission of a felony and decide to commit it.[7] The plot need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during, and after the commission of the crime.[8] Once conspiracy has been established, evidence of participation by an accused in each and every aspect of the crime is not indispensable and all those who, in one manner or another, take part in the consummation of the offense are considered co-principals and accountable for the deed executed by the other or others in its perpetration.[9]

The conviction of accused-appellants for the crime of Robbery with Serious Physical Injuries penalized by Article 294, paragraph 4, of the Revised Penal Code

"ART. 294. Robbery with violence against or intimidation of persons - Penalties. - x x x

"4. The penalty of prision mayor in its maximum period to reclusion temporal in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by subdivisions 3 and 4 of said Article 23" -

by the trial court, considering the evidence introduced, can hardly be put to any doubt.

The trial court correctly rejected the claim of accused-appellants that no kidnapping or serious illegal detention had been committed. The detention of the victim, Mark Anthony Malinao, took place, not in the course of, but after, the robbery was perpetrated against Manio and Boiser. Malinao, then only eight years old (at the time of the incident), testified about his own ordeal; thus:

Atty. Villarama:

Q

When the vehicle finally left that place, you were still inside that vehicle?

A

Yes, Sir.

Q

What was Disipulo doing then?

A

I called my lola's name and Boy Taho slapped me at the back of the head (binatukan ako).

Q

That was done to you by Boy Taho?

A

Yes, Sir.

Q

Where did you go? Do you know the place where the vehicle went?

A

In a far away place, Sir.

Q

Do you know where Calumpit is?

A

I do not know, Sir.

Q

When the vehicle . . . Who was driving that vehicle when you left the Heritage Subdivision?

A

Noli Manuzon, Sir.

Q

And, was there anybody . . . And, who was seated beside Manuzon, if any?

A

Celestino Ramos and Jess Bayan, Sir.

Q

So, only you and Boy Taho were left at the back?

A

Yes, Sir.

Q

When the vehicle stopped at the place where you do not know; what did Manuzon do to you?

A

None, Sir.

Q

How about Ramos?

A

None, Sir.

Q

How about Bayan?

A

None, Sir.

Q

How about Boy Taho?

A

He also again slapped me at the back of my head.

Q

That was all that he did to you?

A

There was, Sir. He tied my hands and placed tape on my mouth.

Q

And, during . . . did you see where Boy Taho got the tape to be used in your mouth?

A

He got the tape at the back of the pick up.

Q

Do you remember what color is that tape?

A

Yes, Sir, white.

Q

How about when you were being tied, do you know from where he got the thing that he used in tying your hands?

A

Yes, Sir.

Q

Where?

A

From the front seat of the pick up, Sir.

Q

Now, did you notice at that time when you were being taped and your hands were being tied, if Boy Taho was carrying anything?

A

No, Sir.

Q

And, when you finally alighted, was there anyone who helped you since your hands were tied?

A

None, Sir.

Q

And you just jumped?

A

Yes, Sir.

Q

And, that was when the 4 had already left?

A

Yes, sir."[10]

Given the attendant circumstances, the kidnapping and serious illegal detention cannot be held absorbed by the crime of robbery. Article 267 of the Revised Penal Code[11] provides:

"ART. 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death:

"1. If the kidnapping or detention shall have lasted more than five days.

"2. If it shall have been committed simulating public authority.

"3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.

"4. If the person kidnapped or detained shall be a minor, female or a public officer.

"The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense."

Neither did the trial court err in appreciating abuse of confidence, evident premeditation and abuse of superior strength against accused-appellants.

Clearly, the victims had trusted the malefactors when the latter were allowed to hitchhike with the former. The accused were no strangers to Manio; Manuzon and Bayan were distant relatives, Ramos was his former worker and Disipulo was a "CAFGU" member in their place. Had he not been that confident and assured of safe company, Manio would not have allowed them to board the vehicle. Manio's misplaced trust enabled the accused to execute their criminal intent.

Evident premeditation is likewise present. The actions of the malefactors had obviously been all well-planned. The accused waited for the victims at the Malolos crossing, hitchhiked with them and then, at the right moment, proceeded to rob them. The group was well-armed. These circumstances, the trial court observed, were "clear indicia of outward acts of their criminal intent." Ordinarily, evident premeditation is inherent in robbery. When, however, there is evident premeditation not only to steal but also to kill, an aggravation of the penalty could be proper.[12] The Office of the Solicitor General correctly points out that the evident premeditation to kill the victims can reasonably be inferred from the fact that the latter knew the malefactors well, and the injuries inflicted on Manio and Boiser, as well as the abandonment of Malinao, were obviously designed to eliminate witnesses to the unlawful deeds.

Abuse of superior strength was also properly considered. The victims, all unarmed, one of whom was a woman and the other a child, were no match to the four well-armed malefactors. The notorious "inequality of forces" between the victims and the aggressors was adequately shown.[13]

The Court does not share the view of the Solicitor General that fraud, instead of craft, attended the commission of the offenses. Craft involves intellectual trickery and cunning on the part of the accused.[14] When there is a direct inducement by insidious words or machinations, fraud is present. In the case before us, however, the accused tricked the victims by pretending that they needed a ride.[15] Craft was used in order not to arouse the suspicion of the victims and thus made them vulnerable to the accused's criminal minds.

WHEREFORE, the decision of the trial court is AFFIRMED in toto.

Costs against accused-appellants.

SO ORDERED.

Padilla, Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

- [1] Rollo, pp. 42-44.
- [2] Through Judge Felipe C. Magat.
- [3] Rollo, pp. 53-54.
- [4] Rollo, p. 44.
- [5] TSN, Fidel Manio, 18 June 1992, pp. 13-31.
- [6] TSN, Saturnina Boiser, 04 December 1991, pp. 15-18.
- [7] Article 8, Revised Penal Code.
- [8] People vs. Manuel, 234 SCRA 532.
- [9] People vs. Miranda, 235 SCRA 202.
- [10] TSN, Mark Anthony Malinao, 07 May 1992, pp. 48-50.
- [11] The offense was committed before the effectivity of Republic Act No. 7659.
- [12] See People vs. Valeriano, 90 Phil. 15; People vs. Nabual, 28 SCRA 747.
- [13] People vs. Daquipil, 240 SCRA 314.
- [14] People vs. Juliano, 95 SCRA 511.
- [15] See People vs. Lee, 204 SCRA 900.

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