

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SATURNINO TUPPAL, ACCUSED-APPELLANT.

G.R. Nos. 137982-85. January 13, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the joint decision[1] of the Regional Trial Court (RTC) of Ilagan, Isabela, Branch 16, dated March 12, 1999, in Criminal Cases Nos. 1967-1970, finding appellant Saturnino Tuppal guilty of robbery with homicide and sentencing him to reclusion perpetua.

Appellant's conviction stemmed from charges filed on August 21, 1992, by the Provincial Prosecutor of Isabela, as follows:

Criminal Case No. 1967

For: MURDER

That on or about the 22[nd] day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously with intent to kill and without any just motive assault, attack and shoot with a firearm one Bartolo Atuan, inflicting upon him a gunshot wound at the back level of the lowest portion of the heart, which directly caused his death due to cardiac arrest.

CONTRARY TO LAW.[2]

Criminal Case No. 1968

For: FRUSTRATED MURDER

That on or about the 22[nd] day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, with intent to kill suddenly and unexpectedly and without giving [her] chance to defend [herself] and with utter disregard to the fairer sex, assault, attack and shoot for several times with a cal. 45 and a gauge 12 shotgun and short firearms, one FLORFINA SOLITO, inflicting upon her, multiple gunshot wounds on the different parts of her body and right arm, which injuries would ordinarily cause the death of the said FLORFINA SOLITO, thus, performing all the acts of execution which should have produced the crime of Murder as a consequence, but nevertheless, did not produce it by reason of causes, independent of their will, that is, by the timely and able medical assistance rendered to the aforesaid FLORFINA SOLITO, which prevented her death.

CONTRARY TO LAW.[3]

Criminal Case No. 1969

For: ATTEMPTED MURDER

That on or about the 22[nd] day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, with intent to kill suddenly and unexpectedly and without giving him chance to defend himself assault, attack, try and attempt to kill one BONIFACIO SOLITO, by then and there pointing towards him a gauge 12 shotgun and squeezing its trigger, thereby commencing the crime of Murder directly by overt acts, and that, if the accused did not accomplish their unlawful purpose, it was not of their own voluntary desistance but because the said shotgun which was pointed towards him, jammed and did not explode.

CONTRARY TO LAW.[4]

Criminal Case No. 1970

For: ROBBERY

That on or about the 22[nd] day of December, 1989, in the municipality of Reina Mercedes, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, with intent to gain and by means of violence and intimidation against the person of FLORFINA SOLITO that is, by shooting her for several times with a caliber .45 pistol and a gauge .12 shotgun and short firearms, did then and there willfully, unlawfully, and feloniously, take, steal and carry away cash money in the amount of P2,500.00 belonging to the latter, against her will and consent, to the damage and prejudice of the said FLORFINA SOLITO in the aforesaid amount of P2,500.00.

CONTRARY TO LAW.[5]

Appellant remained at large for almost nine (9) years after the filing of the aforesaid cases. It was only on March 5, 1998 that appellant was arrested in Cainta, Rizal and in connection with another case for robbery.

On July 29, 1998, appellant was arraigned. Assisted by counsel, he pleaded not guilty[6] to the charges. The cases were then consolidated and trial ensued.

The prosecution's evidence established that:

On the evening of December 22, 1989, the spouses Bonifacio and Florfina Solito and their four-year-old child, Efren, attended the wedding of Florfina's younger sister, Loida Atuan, at Barangay Banguro[7], Reina Mercedes, Isabela. At about 11:30 P.M., the Solitos accompanied by Bartolo Atuan, Jr., Florfina's 26-year-old brother, left the wedding reception. They had barely traveled some 300 meters away and were in front of the house of Felix Sacang, when they were waylaid by appellant and his four companions, now the co-accused, namely: Danilo, Pedro, Ben and Marcelo, all surnamed Tuppal. After Ben Tuppal announced a heist, Danilo Tuppal immediately ran off with Florfina's handbag containing P2,500.00 in cash. Appellant then shot Florfina with a short firearm, hitting her in the abdomen. Bartolo Atuan, Jr., tried to shield Florfina from further harm but Marcelo Tuppal then shot Bartolo, killing him on the spot.[8]

Florfina took advantage of the situation and scurried towards a nearby banana plantation. The malefactors gave pursuit and continued to fire at her hitting her further at the buttocks and in the arm.[9] She pretended to be dead and fell to the ground. The ploy worked because she heard accused Pedro Tuppal say, "Let us go, she is already dead." [10]

In the meantime, upon hearing the gunshots, Bonifacio Solito and his son Efren scampered towards the house of Felix Sacang. Co-accused Ben Tuppal ran after both father and son. He aimed the gun at them, but the gun

jammed and did not fire.[11]

After the malefactors fled, Florfina was brought to the Isabela Provincial Hospital where Dr. Leonides Melendres administered emergency treatment. At the trial, Dr. Melendres testified that Florfina sustained three gunshot wounds, two of which could have been fatal had there been no medical treatment.[12]

Dr. Antonio Salvador, who autopsied the cadaver of Bartolo Atuan, Jr., recovered a metallic slug from the victim's heart.[13]

Florfina Solito, on direct examination, testified that appellant's brother and co-accused, Pedro Tuppal and another brother, Cornelio, had previously robbed her store. This robbery is the subject of a separate case still pending in the trial court of Reina Mercedes.[14]

In the present cases, appellant raised the defense of denial and alibi. He claimed that at the time of the incident, he was residing in Taytay, Rizal working as a passenger jeepney driver, plying the Vito Cruz Street to España Blvd. route in Metro Manila. Appellant further testified that he had been a passenger jeepney driver for the last three (3) years, staying permanently in Metro Manila. According to him, the only instance he went to Banguro, Reina Mercedes, Isabela, was during his brother Cornelio's wake in 1989. To corroborate his defense of alibi, appellant presented his friend and employer, Vicente Garcia, Jr., in court.[15]

On March 12, 1999, the trial court found the appellant guilty. The dispositive portion of its decision reads:

WHEREFORE, the prosecution having established the guilt of accused SATURNINO TUPPAL beyond reasonable doubt as principal of the proper offense of Robbery with Homicide, all the other charges having been merged in said offense, defined and penalized under par. 1 of Article 294, Revised Penal Code, with one aggravating circumstance, that of nocturnity, without any mitigating circumstance to offset the same, the court hereby sentences the accused to suffer the penalty of Reclusion Perpetua, with all the accessory penalties provided for by law; to indemnify the heirs of Bartolo Atuan, Jr. the sum of Ph 50,000.00 following prevailing jurisprudence and an additional sum of Ph 20,000.00 as actual and compensatory damages plus moral damages in the sum of Ph 200,000.00 and exemplary damage[s] in the sum of Ph 50,000.00; to pay to Florfina Solito the sum of Ph 2,500.00 which the accused forcibly took from her and Ph 60,000.00 for actual and compensatory damage; and, to pay the costs.

SO ORDERED.[16]

Hence, this appeal. Before us, appellant prays for the reversal of the trial court's judgment. He imputes to the court a quo the following errors:

I.

THE LOWER COURT, REGIONAL TRIAL COURT, BRANCH 16, SECOND JUDICIAL REGION, ILAGAN, ISABELA, ERRED IN CONVICTING THE ACCUSED OF THE ABOVE-ENTITLED CASES ON MARCH 12, 1999 OF THE PENALTY OF RECLUSION PERPETUA WITH THE ACCESSORY PENALTIES PROVIDED BY LAW, TO INDEMNIFY THE HEIRS OF BARTOLO ATUAN, JR. THE SUM OF PH. 50,000.00 FOLLOWING PREVAILING JURISPRUDENCE AND AN ADDITIONAL SUM OF PH. 20,000.00 AS ACTUAL AND COMPENSATORY DAMAGES PLUS MORAL DAMAGES IN THE SUM OF PH. 200,000 AND EXEMPLARY DAMAGES IN THE SUM OF PH. 50,000; TO PAY FLORFINA SOLITO THE SUM OF PH. 2,500.00 WHICH THE ACCUSED FORCIBLY TOOK FROM HER AND PH. 60,000.00 FOR ACTUAL AND EXEMPLARY DAMAGES; AND TO PAY THE COSTS.

II

THE COURT ERRED IN STATING THAT THERE WAS CONSPIRACY BY THE MALEFACTORS IN

THEIR INTENTION TO ROB FLORFINA SOLITO.[17]

This appeal hinges on the issue of whether the evidence now on record is sufficient to hold appellant Saturnino Tuppal guilty beyond reasonable doubt of the crime of robbery with homicide under Article 294 (1) of the Revised Penal Code.[18]

Appellant challenges the credibility of the prosecution witnesses. Appellant contends that the conflicting testimonies of the spouses Florfina and Bonifacio Solito cast reasonable doubt as to his complicity in the crime charged.

For the appellee, the Office of the Solicitor General states that the trial court committed no error in giving full faith and credence to the testimonies of prosecution witnesses who positively identified Saturnino Tuppal as one of the perpetrators of the crime.[19]

The well established rule is that in matters concerning the credibility of witnesses, appellate courts will generally not disturb the findings of trial courts, unless they neglected, ignored, or misappreciated material and substantial facts, which could materially affect the results of the case. For it is the trial court that is in the better position to assess credibility of witnesses, as it had the first-hand opportunity to observe them when they testified.[20]

The court a quo found the prosecution's evidence credible. It disbelieved appellant's bare denials. Eyewitness Florfina Solito's testimony on the hold-up incident was replete with material details. She testified that after being shot in the abdomen, she grappled with appellant for possession of the gun. Meanwhile, co-accused Danilo Tuppal dashed off with her bag and its contents, according to her. She also described the firearm used in shooting her and killing her brother. These details could not have sprung from her imagination, but only from her vivid recollection of the fatal incident implicating the appellant and his brothers as the malefactors.

Appellant's defense of alibi is untenable. Courts view the defense of alibi with suspicion and caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily.[21] Here, the trial court roundly rejected appellant's denial and alibi. It found that the testimony of appellant's friend and alleged employer could not prevail over the positive identification of the accused by the eyewitness who had no ill motive to testify falsely against him.

Florfina's account of the incident was corroborated by her husband's testimony on material points. But appellant argues that inconsistency marked the statements of Florfina and Bonifacio as lacking in credibility. This inconsistency refers to the degree of visibility in the area at the time of the incident. However, the disparity in their testimony concerns only a trivial matter, which may be attributed to the different vantage points from which the witnesses observed the event. It pertains to a minute detail, and should not affect the truthfulness of the account by the eyewitnesses. Not all inconsistencies of a witness would render his or her testimony unworthy of credence. Inconsistencies on minor details reinforce rather than weaken credibility.[22] In the present cases, what is material is that the Solito spouses both positively identified appellant Saturnino Tuppal as one of the individuals who shot at them during the course of a robbery.

Florfina positively identified appellant by his voice.[23] The sound of the voice of a person is an acceptable means of identification where it is established that the witness and the accused knew each other personally and closely for a number of years. Once a person has gained familiarity with another, identification becomes quite an easy task even from a considerable distance.[24] This is especially true in the rural areas, where people have the luxury of time to observe and get to know their neighbors fully. We note that appellant did not deny that he and Florfina had known each other since childhood. Since Florfina was familiar with appellant's voice, she could identify him by that means.

Appellant also contends that since the trial court had held during the bail hearing that the prosecution evidence was weak, it is estopped from rendering a contrary ruling after the trial.

The Office of the Solicitor General counters that findings of the trial court during the bail hearing were but a preliminary appraisal of the strength of the prosecution's evidence for the limited purpose of determining whether appellant is entitled to be released on bail during the pendency of the trial.[25] Hence, we agree with the OSG that said findings should not be construed as an immutable evaluation of the prosecution's evidence. It is settled that the assessment of the prosecution evidence presented during bail hearings in capital offenses is preliminary and intended only for the purpose of granting or denying applications for the provisional release of the accused.[26]

Appellant further contends that conspiracy among the accused was not established beyond reasonable doubt. But the evidence on record reveals the contrary. After accused Ben Tuppal announced the hold-up, co-accused Danilo Tuppal took Florfina's handbag containing P2,500.00. Appellant Saturnino Tuppal then shot Florfina with a handgun, hitting her on the left side of her abdomen.[27] Their concerted action shows their unity of purpose – to rob the victim, at all cost. These concerted acts of appellant and his co-accused manifestly disclose concurrence of wills, unity of action, joint purpose and common design. Hence, although appellant did not himself shoot Bartolo Atuan, Jr., he is still liable for Bartolo's death as principal because the existence of conspiracy makes the act of one the act of all.[28]

But was the trial court correct in finding appellant liable only for one crime, that is, robbery with homicide? In our view, the trial court did not err in so holding. The charges against appellant and his co-accused, constitute only one special indivisible or composite crime as defined in Article 294 (1) of the Revised Penal Code.[29]

In this case, Bartolo Atuan, Jr., was killed when appellant and his co-accused robbed Florfina of her bag with its cash. Robbery accompanied by a killing, or homicide on the occasion of a robbery, is robo con homicidio. Thus, the prosecution amply established the following elements of robbery with homicide: (a) the taking of personal property is perpetrated by means of violence or intimidation against a person, (b) the property taken belongs to another, (c) the taking is characterized by intent to gain or animus lucrandi, and (d) on the occasion of the robbery or by reason thereof, the crime of homicide, in its generic sense, is committed.[30]

Anent the nearly fatal injuries of Florfina Solito, the trial court found that she was shot after she offered resistance to the robbers. The prosecution duly established that her wounds would have been fatal had not timely medical assistance been given her. The near-fatal shooting of Florfina took place on the occasion of the robbery. The injuries she suffered could be merged in the composite crime of robbery with homicide, and for purposes of reckoning the appropriate penalty, could be characterized as an aggravating circumstance to emphasize that the crime resulted not only in one victim killed but also in life-threatening injuries on another victim.

Now for the penalties. In convicting appellant of robo con homicidio, the trial court imposed the penalty of reclusion perpetua. The Revised Penal Code prescribes the penalty of reclusion perpetua to death for crime of robbery with homicide. But the crime in this case was committed on December 22, 1989, when the imposition of the death penalty was still suspended. Hence, the trial court did not err in imposing the only proper penalty, which is reclusion perpetua.

As to the award of damages, however, modifications are in order. First, with respect to the death of Bartolo Atuan, Jr., we find that the trial court awarded exemplary damages in the amount of Fifty Thousand Pesos (P50,000.00). Article 2230 of the Civil Code provides that in criminal offenses, exemplary damages as a part of the civil liability may be imposed only when the crime was committed with one or more aggravating circumstances. With the aggravating circumstance of nocturnity in the commission of the crime, as found the court below, as well as considering the near-fatal injuries inflicted on the lady victim, the award of exemplary damages is called for. But

based on current jurisprudence, it should only be P10,000.00.[31] The award of P200,000.00 as moral damages should also be reduced to P50,000.00, pursuant to prevailing jurisprudence.[32] The victim's heirs are entitled to civil indemnity in the amount of P50,000.00 without proof other than the fact of the victim's death. But the award of P20,000.00 in actual and compensatory damages must be deleted because no evidence to support the award was presented.

Anent damages in favor of Florfina Solito, the trial court awarded her P60,000.00 in actual and compensatory damages. But they were not supported by receipts or otherwise substantiated properly, and therefore must be deleted. However, Florfina did incur expenses for the treatment of her near-fatal wounds and accordingly, we find an award of P20,000.00 as temperate damages in order. Further, she should be awarded P10,000.00 as exemplary damages. Finally, the amount of P2,500.00 taken by the robbers must also be properly restituted in her favor.

WHEREFORE, the joint decision of the Regional Trial Court of Ilagan, Isabela, Branch 16, in Criminal Cases Nos. 1967-1970 is MODIFIED accordingly. Appellant SATURNINO TUPPAL is found GUILTY beyond reasonable doubt of robbery with homicide and is hereby sentenced to reclusion perpetua and to pay the heirs of the deceased victim, Bartolo Atuan, Jr., the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P10,000.00 as exemplary damages. He is likewise ordered to pay the surviving victim, Florfina Solito, the sum of P2,500.00 as restitution for the amount taken by the robbers, P20,000.00 as temperate damages, and P10,000.00 as exemplary damages.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 19-24.

[2] Id. at 4.

[3] Id. at 5.

[4] Id. at 7.

[5] Id. at 8.

[6] Id. at 21.

[7] Also referred as Banquero elsewhere in the records.

[8] Rollo, pp. 79-80.

[9] Id. at 80; TSN, August 18, 1998, pp. 15-16.

[10] Id. at 80.

[11] Ibid.

[12] Id. at 81.

[13] Ibid.

[14] TSN, August 18, 1998, pp. 21-24.

[15] Rollo, p. 50.

- [16] Records, Crim. Case No. 1970, p. 123.
- [17] Rollo, p. 49.
- [18] Before its amendment by R.A. No. 7659 on December 31, 1993.
- [19] Rollo, p. 81.
- [20] People vs. Fernandez, 275 SCRA 49, 58-59 (1997).
- [21] People vs. Batidor, 303 SCRA 335, 350 (1999).
- [22] People vs. Emoy, 341 SCRA 178, 189 (2000).
- [23] TSN, August 18, 1998, pp. 34-35.
- [24] People vs. Nuevo, G.R. No. 132169, October 26, 2001, p. 6.
- [25] Rollo, p. 83.
- [26] People v. Baldoz, G.R. No. 140032, November 20, 2001, p. 1.
- [27] TSN, August 18, 1998, pp. 13-14.
- [28] See People vs. Suela, G.R. Nos. 133570-71, January 15, 2002, pp. 36-37.
- [29] ART. 294. Robbery with violence against or intimidation of persons. – Penalties. – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:
- The penalty of from reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed; or when the robbery shall have been accompanied by rape or intentional mutilation or arson.
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- [30] People vs. Matic, G.R. No. 133650, February 19, 2002, p. 10. See also composite crime, People vs. Abdul, 310 SCRA 246, 269 (1999).
- [31] See People vs. Faco, 314 SCRA 505, 524 (1999).
- [32] People vs. Yatco, G.R. No. 138388, March 19, 2002, p. 19.

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