

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO CAYANAN @ SOT, CANDONG CAYANAN @ DICK AND JOHN DOE @ JOHNNY DAU (AT LARGE), ACCUSED. S/SGT. ROMEO ANGELES Y LICUDINE,...

G.R. Nos. 73257-58. June 16, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Startled when what appeared as a routine vehicle inspection by military men turned out to be a robbery holdup, the family of Jeremias Sampang was in utter disbelief when four armed men dressed in fatigue uniforms divested them of their valuables and drove away with their car. Eliseo Sampang, Jeremias's brother, died as a result of the physical injuries inflicted upon him in the course of the robbery. Unfortunately, only one was arrested, S/SGT. ROMEO ANGELES Y LICUDINE, who turned out to be an officer of the Philippine Marines. Convicted of robbery with homicide and carnapping he is now before us on appeal.

The evidence for the prosecution shows that in the early afternoon of 16 December 1984, Engr. Jeremias Sampang went to the Manila International Airport to meet his sister-in-law Zenaida Sampang who was arriving from HongKong. Engr. Sampang was accompanied by his wife Teresita, their children Jerome and Jeremias, Jr., the older Jeremias' brother Eliseo (husband of Zenaida) and their niece Ella. After Zenaida arrived and her luggage was loaded in the car of Engr. Jeremias, they headed for Dinalupihan, Bataan, where Eliseo and Zenaida resided.[1]

At around four o'clock in the afternoon, while they were traveling along the Olongapo-Gapan highway in Bacolor, Pampanga, a Ford Laser with four persons in fatigue military uniforms on board cruised alongside. Jeremias who was driving heard a whistle and noticed that he was being flagged down by one of the men in the other car. Thinking that they would be subjected to a routine vehicle inspection, Jeremias slowly steered his vehicle to the side of the road. However, before he could even negotiate to a halt, the other vehicle blocked his path forcing him to stop abruptly.[2]

The driver of the Ford Laser, a certain Johnny Dau, and his three passengers later identified as Ricardo Cayanan, Candong Cayanan and S/Sgt. Romeo Angeles alighted. Ricardo asked for the driver's license of Jeremias and ordered him to open the trunk of his car. Jeremias did as he was told and allowed Johnny to inspect the pieces of luggage inside. Then Jeremias presented his driver's license to Ricardo who grabbed the same together with the former's wallet. Irrked by Ricardo's conduct, Jeremias told Ricardo that he had a brother at Camp Crame. Jeremias also asked why Ricardo had to take his wallet. Suddenly, Ricardo pistol-whipped Jeremias and announced a robbery holdup.[3]

S/Sgt. Angeles then dragged Jeremias and shoved him into the back seat of their Ford Laser. Simultaneously, Candong pulled out Eliseo from the Toyota Corona and hit him on the right side of his body with the butt of an armalite rifle when he refused to move out of the vehicle. Eliseo was then pushed into the back seat of the Ford

Laser after which Candong and S/Sgt. Angeles got in and the car sped off. Meanwhile, Ricardo and Johnny commandeered the Toyota Corona and followed the Ford Laser towards the direction of Olongapo City. After a while, the Toyota Corona now driven by Ricardo overtook the Ford Laser and sped out of sight.[4]

While inside the holduppers' vehicle, Jeremias pleaded for their lives and offered his car and all their belongings. But instead of yielding to the plea and accepting the offer, S/Sgt. Angeles started hitting Jeremias on the face with his pistol and ordered him to keep silent. The brothers Jeremias and Eliseo were then directed to bow their heads and sit in a crouching position, which they did.[5]

A few minutes later the Ford Laser hit an object on the road which caused it to overturn and plunge into a ditch. Realizing that this could be their only chance to escape, Jeremias and Eliseo quickly rushed out of the vehicle. However they were immediately pursued by S/Sgt. Angeles with his armalite rifle portentously pointed in their direction. Sensing they could be fired upon, the two brothers turned around and lunged at S/Sgt. Angeles and grappled with him for his firearm. While struggling with S/Sgt. Angeles, Jeremias noticed that people were already converging at the site of the overturned vehicle. He shouted for help. Luciano Sicat, a member of the CHDF of Bacolor, Pampanga, saw the scuffle and joined in the fray. He was able to gain possession of the rifle and helped the two brothers subdue S/Sgt. Angeles. Meanwhile, Candong was seen boarding an unidentified vehicle and escaped.[6]

S/Sgt. Angeles was arrested by Pfc. Manuel David and Sgt. Pampilo Santos of the Bacolor Police Force. They asked the Sampang brothers what actually transpired and advised them to go with them to their police station. However, while on their way, they noticed Eliseo to be very pale and starting to faint. So they rushed him to the Rodriguez Memorial Hospital in Bacolor where he later expired.[7] A postmortem examination conducted by Dr. Filomena M. Pineda showed that he died of shock due to hemorrhage of a ruptured liver.[8] She later explained in court that such injury could have been caused by an impact or strong force directed on the abdominal wall of the victim.[9]

The Toyota Corona now driven by Ricardo Cayanan was in the meantime proceeding towards Olongapo City. While on board Ricardo and Johnny threatened Teresita and Zenaida with their guns as they ordered them to hand over all their jewelry and other valuables. They obeyed for fear of their lives. When Ricardo and Johnny noted that the Ford Laser was no longer in sight behind them they became worried. They turned back and retraced their route. Before long they spotted a commotion on one side of the highway prompting them to turn around again and head for Sta. Rita where they ordered Teresita, Zenaida and the children to alight from the vehicle. Ricardo and Johnny drove off with all of the Sampang belongings. Teresita and her family then went immediately to the Guagua police station to report the incident. After a while they were reunited with Jeremias at the Bacolor police station.[10]

For his defense, accused S/Sgt. Angeles testified that he was merely accompanying Ricardo, Candong and Johnny to a friend's house and was himself appalled when the trio suddenly flagged down another vehicle and announced that they were staging a robbery holdup. He insisted that he never took part in any plan to conduct a robbery with his companions. He claimed that he was merely a victim of circumstances.

Accused-appellant narrated that at noon of 16 December 1984 Ricardo, Candong and Johnny arrived at his (appellant's) detachment in Tala, Orani, Bataan, to invite him to visit a friend in Bocaue, Bulacan. He agreed. He even had lunch with them before boarding the Ford Laser driven by Johnny. He brought along his M-16 service armalite rifle because he found the route from his detachment to Bulacan dangerous. While on the way he was taken aback when Ricardo took out a .45 cal. pistol and two .38 cal. revolvers from the glove compartment and distributed them among his companions. Although apprehensive of what was to come he kept his composure and

remained silent.[11]

Upon reaching Bocaue, Ricardo asked Johnny to drive him to a certain house where Ricardo alighted. He entered the house. When he returned he informed the group that his friend was not there and told Johnny to proceed to Manila.

While still in Balintawak, Caloocan City, on their way to Manila, S/Sgt. Angeles announced that he had to return to Bataan because he had not given full instruction to the person in charge of his detachment, so they all headed back for Bataan.[12]

Accused-appellant also claimed that when they reached the San Fernando interchange at the North Expressway he was stunned when Candong suddenly drew his gun and told him to remain silent as the former poked a gun at his right. While cruising along the Olongapo-Gapan Highway he noticed that they were already running abreast of a Blue Toyota Corona. He heard Ricardo whistle and watched him wave at the driver of the other car, signaling the latter to pull over. Johnny then blocked the path of the other vehicle after which he, Ricardo and Johnny alighted and approached the driver of the Toyota Corona. Accused-appellant insisted that he only went down because he was ordered at gunpoint by Candong.[13]

S/Sgt. Angeles further alleged that it was only Candong who forced both Jeremias and Eliseo to board their vehicle. Because of the continued threat to his life appellant had to follow the order of Ricardo to ride with Candong. Appellant maintained that once inside the car he entreated Candong to abandon their plan. But when his plea fell on deaf ears he grabbed the steering wheel of the car and struggled to gain control of the vehicle. In the process the car hit an object on the highway and fell into a ditch. He saw Jeremias and Eliseo crawl out of the car and move towards the outer pavement of the road. He chased the two with his armalite rifle but they suddenly lunged at him and tried to grab his rifle. They wrestled with him until they succeeded in disarming him with the help of several bystanders. Two policemen arrived and placed him under arrest. Candong escaped.[14]

On 7 May 1985 two (2) Informations were filed by the Acting Provincial Fiscal of Pampanga with the Regional Trial Court of San Fernando, Pampanga, against Ricardo Cayanan alias Sot, Candong Cayanan alias Dick, John Doe alias Johnny Dau and S/Sgt. Romeo Angeles y Licudine for violation of R.A. 6539 otherwise known as The Anti-Carnapping Act of 1972 involving a Toyota Corona 4-door sedan bearing Plate No. DCG-731, Model 1980, Motor No. 12RM-041182, Serial/Chassis No. RT131-909367, valued at P90,000.00,[15] and another Information for Robbery in Band with Homicide involving the following personalities: 1 Seiko men's watch worth P1,000.00, 1 men's wallet with pertinent papers and cash of P450.00 belonging to Jeremias Sampang; cash of P1,000.00, 1 lady's necklace (gold) worth P1,500.00, 1 lady's Seiko watch worth P680.00, 1 gold bracelet worth P600.00, 2 Ray Ban glasses worth P1,100.00, 3 bankbooks with deposit of P17,000.00 belonging to Teresita Gualberto-Sampang, and cash of P5,000.00 and US\$125.00, 1 envelope containing P2,000.00, 1 gold necklace worth P2,000.00, 6 lady's Seiko watch worth P3,000.00, 1 Sony colored TV set worth P10,000.00, 1 Olympia typewriter worth P1,000.00, 1 Sony radio cassette worth P1,000.00, 5 bags and 1 carton of assorted valuables worth P20,000.00, and 2 other cartons of valuables worth P4,000.00, or a total worth of P48,000.00 and US\$125.00, and on the occasion of the robbery, with evident premeditation and taking advantage of their superior strength, unlawfully assaulted Eliseo Sampang, inflicting upon him (a) lacerated wound, exterior lobe, liver exterior lobe, four (4) inches in length and three (3) cms. in width, clotted blood abdominal cavity with shock due to hemorrhage of ruptured liver directly causing the death of said Eliseo Sampang, aggravated by use of a motor vehicle.[16]

On 16 December 1985 the court a quo found S/Sgt. Romeo Angeles to have conspired with the other accused in divesting Jerimias Sampang of his Toyota Corona in violation of The Anti-Carnapping Act of 1972 (R.A. 6539)

and sentenced him to life imprisonment and to indemnify Engr. Jeremias Sampang P90,000.00, the fair market value of the stolen vehicle. The trial court also convicted accused-appellant of performing overt acts in furtherance of the conspiracy to commit robbery with homicide and sentenced him to death and to indemnify the victims P48,000.00 and US\$125.00, to pay the heirs of Eliseo Sampang P30,000.00 for the latter's death; and P100,000.00 for moral damages, plus costs.[17]

Accused-appellant insists in this appeal that he was an unwilling participant in the crimes imputed to him. Thus, the crux of his appeal is whether he acted in conspiracy with the other malefactors in committing the felonies charged.[18]

We defer to the decision of the court a quo. It is settled in our jurisprudence that questions of fact are best resolved by the trial court.[19] The factual findings of the trial court shall be upheld on appeal unless it is clearly shown that facts of substance had been overlooked or circumstances of significance have been disregarded.[20] In the case at bench, the factual findings of the lower court adequately established that S/Sgt. Romeo Angeles indeed acted in conspiracy with his co-accused. The positive declaration of Jeremias Sampang points to accused-appellant as one of those who directly participated in the robbery. Thus, on direct examination, he testified -

Q.

At the time Ricardo Cayanan told you to shut up and x x x that (it) was a hold-up, what was Romeo Angeles, the accused herein, doing, or where was he?

A.

He was the one, sir, who dragged me and put me inside the Ford Laser car.

x x x x

Q.

After this Candong Cayanan assaulted or beat by (with?) the back (butt) of an armalite at the side of the abdomen your brother Eliseo Sampang, what else did they do to you and to your brother?

A.

They grabbed and forcibly placed my brother in the rear seat of their car, while Romeo Angeles suddenly pushed me at the rear right seat of their Laser car, sir.

x x x x

Q.

x x x x what is (sic) now happening inside the Ford Laser car?

A.

I was talking and asking Romeo Angeles that our lives x x x be speared (spared?), me, my brother and our family, and we will (sic) give to them our car and all the things in the car, but each time I try (sic) to see his face, he always hit me with the back of the .45 rifle (sic) x x x may (be?) 5 to 6 times.

x x x x

Q.

x x x x when the car fell into a ditch, what happened then?

A.

As soon as the car fell into the ditch, I heard my brother shout "Come out" and I immediately found my way out of the car, followed by my brother and then Romeo Angeles, and then sensing the danger, the armalite rifle now is (sic) being pointed to us by Romeo Angeles, I jumped and grappled (for the possession of?) the armalite from him. When my brother and I subdued Romeo Angeles, I shouted for help from the bystanders and that we are (sic) victims of hold-up, and then timely CHDF Sicat arrived, took the rifle and was also instrumental in tying his hands at his back, sir.[21]

Teresita Gualberto-Sampang confirmed the testimony of her husband Jeremias that accused-appellant S/Sgt. Romeo Angeles was one of those who flagged down their vehicle and seized the license and wallet of her husband. She further asserted that S/Sgt. Angeles with the help of another companion forced her husband Jeremias and Eliseo to board the car of the holduppers.[22]

The prosecution also presented 1Lt. Victoriano Pimentel who testified that accused-appellant admitted to him that he committed the crimes imputed to them due to financial difficulties.[23]

From the testimonies of the prosecution witnesses it can be gleaned that S/Sgt. Angeles actively participated in the robbery and on the occasion of which Eliseo Sampang died. The acts of accused-appellant clearly and unmistakably demonstrated that they were done to accomplish a common design, i.e., to divest the victims of their car and their personal belongings by force. The confidence bestowed by the court a quo on the testimonies of the prosecution witnesses should not be disturbed because there is no cogent reason to do so. As we have often reiterated, an assessment of the credibility of witnesses is received by the appellate court with much respect in the absence of established exceptions calling for its reversal.[24] The findings of the trial court regarding the credibility of witnesses is a question best appraised by the trial court having observed their demeanor and deportment during trial.[25]

Furthermore, we find of seriously doubtful validity the allegations of accused-appellant. First, it is incredulous that the felons would allow themselves to be chaperoned by an armed military officer who allegedly was unaware of any plan to stage a robbery and who had to be threatened later at gunpoint by the highway bandits to get his cooperation towards their malevolent objective. Second, it is highly unlikely that accused-appellant struggled with Candong to gain control of the car without being noticed by Jeremias who was then seated at the back of the same vehicle. As we have held in previous cases, it is a most natural reaction for victims of criminal violence to have a lasting impression of the manner in which the crime was committed.[26] Finally, the positive and categorical assertions of the prosecution witnesses with regard to S/Sgt. Angeles' active participation in the robbery should prevail over the bare denials of the accused-appellant.[27]

Under the established facts of this case the allegation of accused-appellant that conspiracy was inadequately established becomes specious. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[28] Proof of prior agreement to commit a crime is not essential to establish conspiracy if by the overt acts of the accused it is clear that they acted in unison to pursue their criminal design.[29] In the case at bench, the connivance to carnapping and divest the victims of their belongings is conclusively demonstrated by the coordinated acts of the accused which began with what was made to appear as a routine vehicle inspection but culminating in the robbery-holdup, the carnapping of the vehicle of the victims, the death of Eliseo Sampang, and the dramatic arrest of accused-appellant.

Thus, the Regional Trial Court of Pampanga correctly sentenced accused-appellant to life imprisonment in Crim. Case No. 3091 for the unlawful taking of the motor vehicle belonging to Engr. Jeremias Sampang without the latter's consent, and the unlawful taking with intent to gain of the personalities of the victims herein with use of

force and intimidation resulting in the death of an occupant of the carnapped motor vehicle in violation of The Anti-Carnapping Act of 1972.[30]

While we find no reason to overturn the judgment of conviction in Crim. Case No. 3092 with regard to the robbery committed, it must be made clear that the proper designation of the felony should be robbery with homicide and not "robbery in band with homicide." The Revised Penal Code provides that the proper imposable penalty should be that for robbery with homicide under par. (1), Art. 294, even if the crime was committed by a band. In this instance band may only be considered an aggravating circumstance.[31]

Accused-appellant is guilty of robbery with homicide because whenever homicide is committed as a consequence or on the occasion of the robbery all those who took part as principals in the conspiracy are also guilty as principals in the special complex crime of robbery with homicide although they did not actually take part in the killing,[32] unless proof is presented that the accused tried to prevent the killing.[33] Eliseo succumbed to liver rupture a few hours after accused Candong Cayanán hit him on the right side of his body with the butt of an armalite rifle. The fatal injury was inflicted in the presence of accused-appellant in the course of the highway robbery. Therefore, accused-appellant was correctly held liable also for the death of Eliseo Sampang.

The court a quo properly appreciated the generic aggravating circumstance of band because more than three armed malefactors took part in the commission of the robbery. The aggravating circumstance of "by means of a motor vehicle" should also have been considered in this case because the robbery could not have been effected without the aid of a motor vehicle. As proven by the prosecution, the Ford Laser of the accused was used to block the path of the victims' car and facilitated the escape of the robbers.

Finally, the death penalty imposed by the trial court upon accused-appellant for robbery with homicide in Crim. Case No. 3092 should be reduced to reclusion perpetua pursuant to Sec. 19, par. (1), Art. III, of the 1987 Constitution which proscribed the death penalty. Although R.A. 7659 was subsequently enacted reimposing the death penalty for heinous crimes, the complex crime in the case at bench was committed prior to its enactment hence its inapplicability to accused-appellant.

WHEREFORE, the decision of the court a quo finding accused-appellant S/SGT. ROMEO ANGELES Y LICUDINE guilty of violating Sec. 14 of R.A. 6539 (The Anti-Carnapping Act of 1972) and sentencing him to life imprisonment (Crim. Case No. 3091), as well as of the special complex crime of robbery with homicide (Crim. Case No. 3092) is AFFIRMED, with the modification in Crim. Case No. 3092 that the penalty of death imposed on accused-appellant is reduced to reclusion perpetua, the actual damages awarded to the victims corrected from P48,000.00 and US\$125.00 to P54,330.00 and US\$125.00 to accurately represent the value of the stolen articles, and the civil indemnity for the death of Eliseo Sampang increased to P50,000.00 conformably with existing jurisprudence.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.
Quiason, J., on official leave.

[1] TSN, 23 July 1985, pp. 8-11.

[2] Id., pp. 13-14.

[3] Id., pp. 17-18.

- [4] Id., pp. 18-22.
- [5] Id., pp. 23-24.
- [6] Id., pp. 24-28.
- [7] Id., pp. 28-30.
- [8] Records of Crim. Case No. 3091, p.14.
- [9] TSN, 19 August 1985, p. 53.
- [10] Id., 19 August 1985, pp. 13-21.
- [11] Id., 21 August 1985, pp. 5-16.
- [12] Id., pp. 17-18.
- [13] Id., pp. 19-24.
- [14] Id., pp. 24-32.
- [15] Rollo, p.16.
- [16] Id., pp. 18-19.
- [17] Id., p. 44.
- [18] Id., p. 90.
- [19] People v. Ruelo, G.R. Nos. 104737-38, 26 October 1994, 237 SCRA 737.
- [20] People v. Utinas, G.R. No. 105832, 22 December 1994.
- [21] TSN, 23 July 1985, pp. 18-27.
- [22] Id., 19 August 1985, pp. 10-12.
- [23] Id., 20 August 1985, pp. 17-18.
- [24] See Note 20; People v. Gornes, G.R. No. 104869, 23 February 1994, 230 SCRA 270.
- [25] Ibid.
- [26] People v. Sartagoda, G.R. No. 97525, 7 April 1993, 221 SCRA 251, 257; People v. Selfaison, No. L-14732, 28 January 1961, 1 SCRA 235.
- [27] People v. Miranda, G.R. No. 92369, 10 August 1994, 235 SCRA 202.
- [28] Art. 8, The Revised Penal Code; People v. Taguba, G.R. Nos. 95207-17, 10 January 1994, 229 SCRA 188.
- [29] People v. Amaguin, G.R. Nos. 54344-45, 10 January 1994, 229 SCRA 166.
- [30] Sec. 14, R.A. No. 6539, as amended.
- [31] People v. Apduhan, Jr., No. L-19491, 30 August 1968, 24 SCRA 798.
- [32] People v. Calegan, G.R. No. 93846, 30 June 1994, 233 SCRA 537; People v. Lascuna, G.R. No. 90626, 18 August 1993, 225 SCRA 386.

[33] People v. Baello, G.R. No. 101314, 1 July 1993, 224 SCRA 218; People v. De la Cruz, G.R. No. 102063, 20 January 1993, 217 SCRA 283.

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