

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN TEMANEL, EDITO PILLERA, ROMEO DEROMA, ROLANDO OSIS, EDDIE TEMANEL AND JOSE TEMANEL, ACCUSED,

G.R. Nos. 97138-39. September 28, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On November 7, 1986, Renato Sucilan, his wife Adelina, daughter Liezl, and brother Romeo were eating dinner in Renato's house. After dinner, Adelina prepared for bed while Renato played with Liezl. Romeo went home to his own hut situated five meters away.[1] Suddenly, a stone was hurled into Renato's house hitting the petromax lamp. Immediately, brothers Jose and Eddie Temanel entered the house.[2]

Jose poked Renato with a bladed weapon while Eddie ordered Adelina to take out their money and valuables. Later, cohorts of the Temanels entered the hut. Rolando Osis grabbed the two year-old child, Liezl, and held a knife against her.[3] Terrified, Adelina put the valuables in an empty milk can and placed the same outside the door. Efren Temanel, who was outside the hut, took the can. Adelina noticed that Efren's right hand and fingers were smeared with fresh blood.[4]

The intruders tied the couple up, then some of them left the hut. Meanwhile, Jose and Rolando Osis stayed behind with the couple till 3:00 a.m. of November 8, 1986.[5]

At around 6:00 a.m., Renato and Adelina were able to free themselves. When Renato stepped out of the house he was shocked to find his brother, Romeo, dead with several stab wounds in the neck and his intestines exposed. The pieces of jewelry he usually wore, a necklace valued at P2,500.00, three rings and a watch worth P1,000.00, were no longer on his body.[6]

A neighbor of the Sucilans, Denver Suzara, claimed to have witnessed the stabbing. He testified that it was Efren Temanel, and not Jose and Eddie Temanel, who stabbed Romeo.[7]

Eddie and Jose, together with Edito Pillera, Romeo Droma, Efren Temanel and Rolando Osis, were charged with robbery, docketed as Criminal Case No. 4613, committed as follows:[8]

That on or about 7:30 o'clock in the evening of November 7, 1986, at sitio Magsimalo, barangay Casalugan, municipality of Parcale, province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating together and mutually helping one another and armed with deadly weapons, did then and there willfully, unlawfully and feloniously, with intent of (sic) gain and by means of violence against or intimidation on persons, threaten spouses RENATO SUCILAN and ADELINA SUCILAN, that is, by poking bladed weapons to both of them and take hold their two year old daughter and pointed a bladed weapon to the throat of their child and demanded from them to give all their valuables, for fear of losing their lives, all the demands by the accused were complied by the spouses which amounted to P6,763.00 Philippine Currency, to their damage and prejudice in the aforementioned amount.

CONTRARY TO LAW.

Daet, Camarines Norte, January 19, 1987.

They were also charged with robbery with homicide, docketed as Criminal Case No. 4607, to wit:[9]

That on or about 7:30 o'clock in the evening, November 7, 1986 at sitio Magsimalo, barangay Casalugan, municipality of Parcale, province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, armed with deadly weapons, conspiring, confederating together and mutually helping one another for a common purpose, did then and there willfully, unlawfully and feloniously by means of violence and with intent of gain, take and rob from Romeo Sucilan and Adelina Sucilan gold, jewelry and cash money, all valued at P30,000.00 Philippine currency, to the damage and prejudice of the owner in the aforementioned amount; that on the occasion of said robbery and for the purpose of enabling them to take, steal and carry away the aforesaid items, in pursuance of their conspiracy and with evident premeditation and by means of treachery, and with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and stab one ROMEO SUCILAN with said deadly weapons, hitting the latter in the vital and fatal parts of his body which directly caused his instantaneous death, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.

Daet, Camarines Norte, January 21, 1987.

Only Eddie and Jose Temanel submitted their counter-affidavits. The others remained at large.[10]

10 On February 16, 1987 and March 13, 1987, respectively, they pleaded "not guilty" to both charges. The two criminal cases were consolidated and tried jointly.[11]

On January 9, 1989, the Regional Trial Court of Daet, Camarines Norte, rendered a decision, the dispositive portion of which reads:[12]

WHEREFORE, in view of all the foregoing considerations in Criminal Case No. 4607 the Court finds the accused Eddie (Eduardo) Temanel and Jose Temanel, guilty beyond reasonable doubt of the crime of Robbery with homicide and consequently, with no mitigating and aggravating circumstance present and applying the Indeterminate Sentence Law, each of said accused is hereby sentenced to suffer an imprisonment of not less than ten (10) years and one (1) day of prision mayor and not more than seventeen (17) years, four (4) months and one (1) day of reclusion temporal, to pay Estelita Sucilan, the further sum of P10,000.00 for funeral expenses, and P10,000.00 as moral damages; the additional sum of P3,300.00 representing the cash and jewelries taken from the deceased, but all without subsidiary imprisonment in case of insolvency, and to pay the proportionate share of the cost.

Likewise, in Criminal Case No. 4613, in view of all the foregoing, the Court finds the accused Eddie (Eduardo) Temanel and Jose Temanel guilty beyond reasonable doubt of the crime of Robbery charged in the Information in Criminal Case No. 4613, defined and penalized under par. 5, of Article 294 of the Revised Penal Code, and consequently, with neither mitigating nor aggravating circumstance present and applying the Indeterminate Sentence Law, each of said accused is hereby sentenced to suffer an imprisonment of not less than one (1) year, seven (7) months and eleven (11) days but not more than four (4) years, two (2) months and one (1) day both of prision correccional, to pay Renato and Adelina Sucilan the sum of P4,283.00 representing cash and other valuables taken by said accused, but without subsidiary imprisonment in case of insolvency, and to pay the proportionate share of the cost.

SO ORDERED.

Jose and Eddie appealed the Decision to the Court of Appeals, raising the following assignments of errors:[13]

(1)

The trial court erred in not holding that the evidence for the prosecution was insufficient to hold defendants-appellants guilty beyond reasonable doubt;

(2)

The trial court erred in not holding that the prosecution did not succeed in the proper and believable identification of the accused-perpetrators;

(3)

The trial court erred in not sustaining the defense of alibi.

The Court of Appeals affirmed the trial court's decision with modifications, to wit:[14]

WHEREFORE, accused-appellants Eddie Temanel and Jose Temanel are hereby adjudged guilty beyond reasonable doubt of the crimes of Robbery, and Robbery with Homicide, as charged in these cases.

In Criminal Case No. 4607, now CA-G.R. No. 07339, for Robbery with Homicide; the said accused-appellants are hereby sentenced to suffer the penalty of reclusion perpetua, and to pay the heirs of the deceased Romeo Sucilan, jointly and severally, the sum of P50,000.00; and to pay the costs. However, pursuant to Section 13, paragraph 2 of the 1985 Rules of Criminal Procedure, and as above rationalized, let the records of this case be elevated to the Honorable Supreme Court for review; and it is understood that entry of judgment shall only issue after that High Court shall have acted on the case, with finality; and

In Criminal Case No. 4613, now CA-G.R. No. 07340, for Robbery, defined and penalized under paragraph 5, Article 294, supra; the same accused-appellants are hereby sentenced to suffer an indeterminate penalty of TWO (2) YEARS, TEN (10) MONTHS, and TWENTY (20) DAYS of prision correccional, as minimum, to SEVEN (7) YEARS and TWENTY (20) DAYS of prision mayor as maximum, to pay the offended parties, spouses Renato Sucilan and Adelina Sucilan, jointly and severally, the sum of P4,283.00, representing the cash and other valuables involved; and to pay the costs.

SO ORDERED.

In this appeal, accused-appellants argue that inasmuch as they were the only ones apprehended and held for trial, their non-flight should have been considered as indicative of their innocence.[15] This cannot hold water for while flight indicates guilt, non-flight does not mean innocence.

Accused-appellants further point out some inconsistencies in the testimonies of prosecution witnesses which they alleged impair their credibility.[16] These inconsistencies, upon closer scrutiny, are inconsequential and insignificant. They do not touch on significant facts crucial to the guilt or innocence of accused-appellants. They are irrelevant to the elements of the crime and are thus not grounds for acquittal.[17] For instance, it is not relevant who threw the stone at the petromax,[18] or how many or which of the robbers actually entered, or first entered, the hut.[19] What mattered is that accused-appellants were positively identified and the elements of the crime were established.

The elements of the crimes of robbery and robbery with homicide are: (1) there is personal property; (2) the property belongs to another; (3) the taking must be with intent to gain;[20] (4) there is violence against or intimidation of any person, or force upon anything;[21] and (5) homicide is committed "by reason" or "on the

occasion of the robbery." [22]

All the elements concur in this case. The properties taken consisted of pieces of jewelry, a radio, rice, money and other valuables, all of which clearly belonged to the Sucilans. The properties were violently taken and intent to gain can be presumed from the unlawful taking. [23] In addition, Romeo Sucilan was killed by reason or on the occasion of the robbery.

Where homicide is perpetrated with a view to rob, the offense is robbery with homicide. But if robbery was an afterthought and a minor incident in the homicide, there are two distinct offenses. [24] Here, the killing was committed in the course of the robbery.

The fact that it was Efren Temanel and not accused-appellants who stabbed Romeo is of no moment. [25] In *People v. Mendoza*, [26] if all accused take part in a robbery resulting in death, all of them shall be held liable for robbery with homicide in the absence of proof that they prevented the killing.

The facts as found by the trial court show a clear-cut case of robbery and robbery with homicide. Great respect is accorded the factual conclusions of the trial court. The trial judge had the best opportunity to observe the behavior and demeanor of the witnesses. It formed first hand judgment as to whether particular witnesses were telling the truth or not. [27] Thus, absent misapprehension or misinterpretation of facts of weight and substance, [28] and absent any arbitrariness or irregularity, [29] the Court will not overturn its findings.

Article 294, paragraph 1 of the Revised Penal Code states:

Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

(1) 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;

x x x x x x x x.

Absent any mitigating or aggravating circumstance, reclusion perpetua was correctly imposed by the Court of Appeals. [30]

Further, the increase of compensatory damages from P30,000.00 to P50,000.00 is in order. [31] When death occurs as a result of a crime, an award of P50,000.00 is proper, without need of proof or evidence of damages. [32]

Anent the matter of actual and moral damages, the Civil Code provides that "one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved." [33] Romeo Sucilan's mother established by uncontroverted testimony that she spent P10,000.00 as funeral expenses for the untimely demise of her son. [34] Accordingly, she must be reimbursed.

As for moral damages, the award of P50,000.00 is proper. The Civil Code provides that "moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission." [35] Such may be recovered in a criminal offense resulting in physical injuries. [36] Romeo Sucilan's mother testified on the anguish she suffered for having lost her son, who supported her, and whom she loved. [37] She wept as she testified, and stated that because of her son's death, she too wanted to die. [38] She lost him to a senseless crime and should be compensated.

There being no aggravating circumstances pleaded or proved, there can be no award of exemplary damages. [39]

WHEREFORE, the Court of Appeals decision dated January 30, 1991 finding accused-appellants, Eddie Temanel and Jose Temanel GUILTY BEYOND REASONABLE DOUBT of the crimes of Robbery and Robbery with Homicide, and sentencing them to suffer the indeterminate penalty of two (2) years, ten (10) months and twenty

(20) days of prision correccional, as minimum, to seven (7) years and twenty (20) days of prision mayor, as maximum, for the crime of Robbery, and the penalty of reclusion perpetua for the crime of Robbery with Homicide, is AFFIRMED with the MODIFICATION that accused-appellants are hereby ordered to pay the heirs of Romeo Sucilan the amount of P10,000.00 as reimbursement for funeral expenses, P50,000.00 as moral damages and P4,283.00 representing the value of the items involved.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

- [1] TSN, May 26, 1987, pp. 4-5.
- [2] TSN, May 27, 1987, pp. 23-38.
- [3] TSN, May 26, 1987, pp. 4-9.
- [4] TSN, July 9, 1987, p. 9; TSN, July 13, 1986, p. 29.
- [5] TSN, July 22, 1987, pp. 24-27.
- [6] TSN, May 26, 1987, pp. 12-13.
- [7] TSN, September 2, 1987, pp. 5-10.
- [8] Rollo, p. 4.
- [9] Ibid.
- [10] Id., p. 15.
- [11] Id., p. 16.
- [12] Id., p. 22.
- [13] Id., p. 21.
- [14] Id., pp. 40-41.
- [15] Id., pp. 84-85.
- [16] Id., pp. 85-89.
- [17] People v. Maglente, G.R. Nos. 124559-66, April 30, 1999.
- [18] Rollo, pp. 85-86.
- [19] Ibid., pp. 87-93.
- [20] II Luis B. Reyes, The Revised Penal Code, Thirteenth Edition (1993), p. 545.
- [21] People v. Sandoval, 254 SCRA 491 (1996).
- [22] People v. Barut, 89 SCRA 14 (1975).
- [23] People v. Sia Teb Ban, 54 Phil. 52 (1929).

[24] *People v. Toleng*, 91 SCRA 382 (1979).

[25] *People v. Silan*, 254 SCRA 491 (1996).

[26] 254 SCRA 61 (1996).

[27] *People v. Botona*, G.R. No. 115693, March 17, 1999.

[28] *People v. Estapano*, G.R. No. 126283, May 28, 1999.

[29] *People v. Manggasin*, G.R. Nos. 130599-600, April 21, 1999.

[30] Revised Penal Code, Article 63 (2); *People v. Contado*, G.R. Nos. 127173-74, September 30, 1999.

[31] *People v. Elijorde*, G.R. No. 126531, April 21, 1999.

[32] *People v. Panida, Eclera and Hora*, G.R. Nos. 127125 and 138952, July 6, 1999.

[33] Civil Code, Article 2199.

[34] TSN, September 1, 1987, p. 10.

[35] Civil Code, Article 2217.

[36] Civil Code, Article 2219 (1).

[37] TSN, September 1, 1987, p. 9.

[38] *Id.*, p. 10.

[39] Civil Code, Article 2230; *People v. Quinagoran*, G.R. No. 105327, September 30, 1999.

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