

THIRD DIVISION

[G.R. No. 187152, July 22, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TEODULO VILLANUEVA, JR., ACCUSED-APPELLANT.**

DECISION

CHICO-NAZARIO, J.:

For Review under Rule 45 of the Revised Rules of Court is the Decision^[1] dated 30 September 2008 of the Court of Appeals in CA-G.R. CR-HC No. 02540, entitled *People of the Philippines v. Teodulo Villanueva, Jr. y Declaro*, affirming the Decision^[2] rendered by the Regional Trial Court (RTC) of Pasig City, Branch 159, in Criminal Case No. 124834-H (I.S. No. TGG 02-13384), finding accused-appellant Teodulo Villanueva, Jr. y Declaro guilty beyond reasonable doubt of the crime of Robbery with Homicide.

In an Amended Information^[3] filed with Branch 159 of the Regional Trial Court of Pasig City, appellant Teodulo Villanueva, Jr. y Declaro, accused Joel "Alog" Reyes alias "Puppet," Russel San Marcos Pasangco alias "Ortego," and Kokak San Marcos Pasangco were charged with Robbery with Homicide under Article 294, paragraph 1, of the Revised Penal Code as amended by Section 9 of Republic Act No. 7659, in relation to Section 5(A and J) of Republic Act No. 8369.

The Information charging accused-appellant reads:

AMENDED INFORMATION

That on or about the 6th day of December 2002 in the Municipality of XXX, XXX, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one John Doe @ "Abet" whose true name, identity and present whereabouts [sic] is still unknown, after effecting an unlawful entry into the dwelling of one AAA,^[4] with the use of deadly bladed weapons, with intent to gain and by means of force, violence, and intimidation, did then and there willfully, unlawfully and feloniously take, rob and divest the following items to wit:

Four (4) Gold Necklaces
Three (3) Women's Gold Necklaces
Three (3) Men's Gold Bracelets
Three (3) Assorted Gold Rings

all valued at Php 82,000.00, all belonging to said AAA and one (1) 5210

cellphone worth Php 8,000.00 belonging to one BBB, all in the total amount of Php 90,000.00, to the damage and prejudice of the owners thereof in the aforementioned amount of Php 90,000.00;

That by reason and on the occasion of the Robbery, the above-named accused, in conspiracy with each other, with intent to kill and with the use of said deadly weapons, did then and there willfully, unlawfully and feloniously attack, assault and stab with said deadly weapons CCC, eleven (11) years of age, BBB, sixteen (16) years of age, and DDD, fifteen (15) years of age, all minors at the time of the commission of the offense, hitting them on the different parts of their bodies, thereby inflicting upon the victim CCC mortal stab wounds which directly caused his death; and serious physical injuries to victims BBB and DDD, thus, the accused performed all the acts of execution which would have caused their deaths as a consequence, but did not produce it by reason of causes independent of the will of the accused, that is, due to the timely able medical assistance rendered to said BBB and DDD, which prevented their death, the said crimes having been attended by the qualifying circumstances of treachery, evident premeditation and superior strength, aggravated by the circumstances of unlawful entry and dwelling, to the damage and prejudice of the victims and their heirs;

That, further, by reason or on the occasion of the said Robbery, the above-named accused Joel Alog Reyes @ Puppet, in the presence and in conspiracy with his co-accused and of one another by means of force and intimidation and with lewd designs and intent to cause or gratify his sexual desire, abuse, humiliate and degrade BBB, sixteen (16) years of age, a minor, did then and there willfully, unlawfully and feloniously commit lascivious conduct, a form of sexual abuse, upon said BBB, by then and there, trying to remove her underwear, against her will and consent, thus constituting child abuse, which acts debase, degrade or demean her intrinsic worth and dignity as a human being, thus aggravating further the crime of robbery with homicide.^[5]

At the arraignment on 10 February 2003, both accused-appellant and his co-accused Joel Alog Reyes appeared in court, duly assisted by counsel *de officio*. After reading the Information in open court and translating the same into Tagalog, a dialect spoken and understood by the accused, and after having been apprised of the nature and consequences of the charge against them, accused-appellant pleaded NOT GUILTY. His co-accused Joel "Alog" Reyes pleaded GUILTY to the crime charged in the Information.^[6] In view of the plea of guilty of accused Joel Alog Reyes and the finding that he was guilty beyond reasonable doubt of the crime of Robbery with Homicide, said accused-appellant was sentenced to suffer *reclusion perpetua* and ordered to pay the sum of Fifty Thousand (P50,000.00) Pesos arising from the death of the victim, DDD.

The trial court issued a warrant of arrest against Kokak San Marcos and John Doe alias "Abet," and ordering the revival of the case against them upon arrest. Russel San Marcos Pasangco alias "Ortego," detained in the Bureau of Corrections in Muntinlupa since 28 June 2003, is now standing trial.

Pre-trial conference was held and terminated on 6 May 2003, where the parties narrowed down the issues to:

(a) Whether or not the accused Teodulo Villanueva, Jr. in conspiracy with the accused Joel Alog [Reyes], who had been previously convicted, committed the acts constituting robbery with homicide in relation to Section 5 (a & j) of Republic Act No. 8369; and

(b) Whether or not the private complainant is entitled to damages.^[7]

After pre-trial, trial on the merits ensued. The prosecution presented the following witnesses: BBB (17 years old), DDD (16 years old), Dr. Roberto Garcia (62 years old), Police Officer 2 Ehron Balauat (32 years old), Dr. Paul Ed dela Cruz Ortiz (35 years old, Medico-Legal Officer), and AAA (45 years old, mother of the victims). The Office of the Solicitor General summarized the version of the prosecution as follows:

Between the hours of 7:00 and 8:00 o'clock in the morning of 6 December 2002, AAA left their house at XXX St., XXX District, XXX City to buy bread at the nearby bakery. She left her children CCC (11 years old), BBB (16 years old) and DDD (15 years old), who were still sleeping.^[8] At around the same time, accused Joel Alog Reyes alias "Puppet," accused-appellant Teodulo Villanueva and three other male companions entered AAA's house, taking several pieces of jewelry with them, to wit: (a) four gold necklaces; (b) three women's gold necklaces; (c) three men's gold bracelets; and (d) three assorted gold rings. The group also took a Nokia 5210 cellular phone belonging to BBB. The valuables amounted to P90,000.00. A few minutes thereafter, BBB, who was sleeping in the living room with her brother CCC, was awakened when she felt a pillow pressed upon her face. Afterwards, somebody pulled down her shorts. BBB resisted. She was then stabbed at the back three times. BBB forced herself to stand up and saw Joel in front of her. BBB also saw accused-appellant standing near their dining table. BBB shouted. Thereafter, BBB saw accused-appellant holding his brother CCC.^[9] Upon hearing his sister's cries for help, DDD went out of his room to see what was happening. He saw CCC lying down bleeding with stab wounds. BBB then ran to DDD's room and opened the room's window and shouted for help. Meanwhile, DDD, who ran to the living room, was also stabbed by Joel Alog Reyes.^[10] BBB's cries for help were heard by her Uncle Boy, who immediately went to their house. Her grandmother and mother also arrived a little later. CCC was initially brought to the Erlinda Hospital, but was transferred to Rizal Medical Hospital, where he expired. The siblings DDD and BBB were taken to the Cruz-Rabe Hospital, moved to the Rizal Provincial Hospital, and thereafter transferred to Medical City.

Both BBB and DDD were given medical assistance by Dr. Roberto Garcia, who found that BBB suffered four stab wounds: first, at the left side at her back; second, at the right side at her back; third, at her elbow; and fourth, at her left forearm. According to Dr. Garcia, without the timely medical attention, the wounds would have caused her to bleed profusely leading to her death.^[11] With respect to DDD, Dr. Garcia found that he suffered two stab wounds: first, at the left side of his back; second, at his left thigh. Without timely medical attention, the same would have resulted in DDD's death due to bleeding.

Accused-appellant Teodulo Villanueva, Jr. denied the accusations against him, with the defense presenting him (24 years old), his co-accused Joel Alog Reyes, and Omar Villanueva (32 years old) as witnesses.

The defense witnesses narrated their version in this manner:

On 6 December 2002, around 7:30 o'clock in the morning, accused-appellant Teodulo Villanueva was at home sleeping when all of a sudden, his brother woke him up to tell him that their *barangay* officials wanted to see him. Accused-appellant was then invited to the *barangay* hall to answer some questions regarding the stabbing incident that occurred that morning. By 12:00 o'clock noon, he was sent home. After an hour, he was again invited to the *barangay* hall wherein his photographs were taken. He was thereafter brought to the municipal hall with another person for further investigation. Both were asked to sign a document, which purportedly evidenced their release. The next day, accused appellant was arrested while attending the wake of the victim of the stabbing incident. He was again taken to the municipal hall and incarcerated since then. Another suspect Joel Alog Reyes alias "Puppet" was brought to trial, during which he admitted to having committed the crime and stated that he was alone in committing said crime.^[12]

On 15 June 2006, the trial court convicted^[13] accused-appellant of Robbery with Homicide and sentenced him to suffer the penalty of *reclusion perpetua*, ruling in this wise:

WHEREFORE, in view of the foregoing, this Court finds the accused Teodulo Villanueva, Jr. y Declaro guilty beyond reasonable doubt of the crime of robbery with homicide and the accused is hereby sentenced to suffer the penalty of *reclusion perpetua* and to further indemnify the heirs of CCC the amount of P75,000 as civil indemnity, P50,000 as moral damages and P25,000 as exemplary damages. He is further ordered to return to AAA the items he and his co-accused had stolen from her or in restitution, to pay the amount of P90,000 representing the total value of the stolen items as charged in the information.

Let a warrant of arrest against Kokak San Marcos and John Doe alias "Abet" be issued. The case against them is hereby ARCHIVED to be revived upon their arrest. Upon the other hand, considering that Russel San Marcos Pasangco alias "Ortego" was already detained in the Bureau of Corrections, Muntinlupa City since June 28, 2003 as per certification issued by Juanito S. Leopando, PHD, Penal Superintendent IV dated January 17, 2006 the case against him is hereby REVIVED and ordered to re-raffle pursuant to A.M. No. 02-11-17-SC.^[14]

Accused-appellant filed a Notice of Appeal. In his appeal to the Court of Appeals, accused-appellant questioned the RTC conviction, claiming that the prosecution failed to establish his guilt as a conspirator beyond reasonable doubt. The defense argues that the inconsistencies in the testimonies of the victims BBB and of her brother DDD cast serious doubt on the credibility of their identification of accused-appellant.

On 30 September 2008, the Court of Appeals affirmed the RTC conviction, disposing as follows:

WHEREFORE, in the light of the foregoing premises, the instant appeal is hereby DISMISSED.^[15]

In his brief, accused-appellant ascribes to the trial court the lone error:

THE TRIAL COURT GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT AS A CONSPIRATOR BEYOND REASONABLE DOUBT.

The petition fails.

Accused-appellant is charged with Robbery with Homicide, defined and penalized under Article 294, paragraph 1 of the Revised Penal Code:

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;

Our criminal justice system takes the stand that the prosecution has the burden of proving the guilt of the accused beyond reasonable doubt. If the prosecution fails to discharge that burden, the accused need not present any evidence. From the foregoing, the prosecution must be able to establish the essential elements of robbery with homicide, to wit: (a) the taking of personal property with the use of violence or intimidation against a person; (b) the property belongs to another; (c) the taking is characterized by *animo lucrandi*; and (d) by reason of the robbery or on the occasion thereof, homicide (used in its generic sense) is committed.^[16]

The evidence on record shows that on 6 December 2002, at around 7:00 o'clock in the morning, Joel Alog Reyes, together with accused-appellant and other male companions, entered AAA's residence at xxx. BBB was awakened when she felt somebody covering her face with a pillow while her shorts were being pulled down. Upon resisting, she saw Joel Alog Reyes, who then stabbed her at the back. She stood up, shouted for help, and saw her brother CCC being held by accused-appellant. DDD, upon hearing his sister scream for help, went out of his room, but was then stabbed by Joel Alog Reyes. BBB went to her brother's room and shouted for help near the window. BBB's uncle and his companions arrived at the crime scene, but Joel Alog Reyes and the rest of his companions were already gone. The victims were robbed of the following: four gold necklaces; three women's gold