

## FIRST DIVISION

[ G.R. NO. 152481, April 15, 2005 ]

**RAMON PABLO Y BACUNGAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**QUISUMBING, J.:**

Assailed in this petition for review on certiorari are the **Decision**,<sup>[1]</sup> dated March 31, 1997, and **Resolution**,<sup>[2]</sup> dated September 25, 1998, of the Court of Appeals in CA-G.R. CR No. 16894, affirming the Decision<sup>[3]</sup> of the Regional Trial Court of Manila, Branch 19, in Criminal Case No. 92-108526.

The RTC convicted petitioner Ramon Pablo y Bacungan, Eduardo Garcia y Paderanga, and Ricardo Fortuna y Gragasín, of simple robbery and sentenced each to imprisonment for six (6) years and one (1) day to ten (10) years of *prisión mayor*, and to solidarily pay private complainants P5,000 as actual damages, P20,000 as moral damages, and P15,000 as attorney's fees.

On July 27, 1992, petitioner and his two co-accused were charged in an information which reads:

That on or about July 21, 1992, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another, did then and there wilfully, unlawfully and feloniously, with intent of gain and by means of threats and intimidation of person, to wit: by then and there demanding from Diosdada Montecillo y Olidan the sum of P5,000.00 and threatening to file charges against her brother, Mario Montecillo y Olidan and bring him to Bicutan should she refuse to give, take, rob and extort the amount of P5,000.00 belonging to Diosdada Montecillo y Olidan, against her will, to the damage and prejudice of the said Diosdada Montecillo y Olidan in the aforesaid amount of P5,000.00, Philippine currency.

Contrary to law.<sup>[4]</sup>

When arraigned, petitioner and his two co-accused pleaded not guilty. At the ensuing trial, the prosecution presented private complainants Diosdada Montecillo and Mario Montecillo as witnesses.

By way of antecedents, the instant case arose from the same incident as the case of *Fortuna v. People*,<sup>[5]</sup> hence we reproduce below the narration of facts in said case as decided by this Court:

On 21 July 1992 at about 5:00 o'clock in the afternoon, while Diosdada Montecillo and her brother Mario Montecillo were standing at the corner of Mabini and Harrison Streets waiting for a ride home, a mobile patrol car of the Western Police District with three (3) policemen on board stopped in front of them. The policeman seated on the right at the front seat alighted and without a word frisked Mario. He took Mario's belt, pointed to a supposedly blunt object in its buckle and uttered the word "evidence." Then he motioned to Mario to board the car. The terrified Mario obeyed and seated himself at the back together with another policeman. Diosdada instinctively followed suit and sat beside Mario.

They cruised towards Roxas Boulevard. The driver then asked Mario why he was carrying a "deadly weapon," to which Mario answered, "for self-defense since he was a polio victim." The driver and another policeman who were both seated in front grilled Mario. They frightened him by telling him that for carrying a deadly weapon outside his residence he would be brought to the Bicutan police station where he would be interrogated by the police, mauled by other prisoners and heckled by the press. As they approached *Ospital ng Maynila*, the mobile car pulled over and the two (2) policemen in front told the Montecillos that the bailbond for carrying a "deadly weapon" was P12,000.00. At this point, the driver asked how much money they had. Without answering, Mario gave his P1,000.00 to Diosdada who placed the money inside her wallet.

Diosdada was then made to alight from the car. She was followed by the driver and was told to go behind the vehicle. There, the driver forced her to take out her wallet and rummaged through its contents. He counted her money. She had P5,000.00 in her wallet. The driver took P1,500.00 and left her P3,500.00. He instructed her to tell his companions that all she had was P3,500.00. While going back to the car the driver demanded from her any piece of jewelry that could be pawned. Ruefully, she removed her wristwatch and offered it to him. The driver declined saying, "Never mind," and proceeded to board the car. Diosdada, still fearing for the safety of her brother, followed and sat beside him in the car.

Once in the car, Diosdada was directed by the policeman at the front passenger seat to place all her money on the console box near the gearshift. The car then proceeded to Harrison Plaza where the Montecillos were told to disembark. From there, their dreadful experience over, they went home to Imus, Cavite.

The following day Diosdada recounted her harrowing story to her employer Manuel Felix who readily accompanied her and her brother Mario to the office of General Diokno where they lodged their complaint. Gen. Diokno directed one of his men, a certain Lt. Ronas, to assist the complainants in looking for the erring policemen. They boarded the police patrol car and scoured the Mabini area for the culprits. They did not find them.

When they returned to the police station, a line-up of policemen was immediately assembled. Diosdada readily recognized one of them as the

policeman who was seated beside them in the back of the car. She trembled at the sight of him. She then rushed to Lt. Ronas and told him that she saw the policeman who sat beside them in the car. He was identified by Lt. Ronas as PO2 Ricardo Fortuna. A few minutes later, Gen. Diokno summoned the complainants. As they approached the General, they at once saw PO2 Eduardo Garcia whom they recognized as the policeman who frisked Mario. The following day, they met the last of their tormentors, the driver of the mobile car who played heavily on their nerves - PO3 Ramon Pablo.<sup>[6]</sup>

After hearing both parties, the trial court found the three (3) policemen guilty of the crime charged. The dispositive portion of its decision reads:

WHEREFORE, and in view of all the foregoing considerations, the accused Ramon Pablo y Bacungan, Eduardo Garcia y Paderanga and Ricardo Fortuna y Gragasín, are hereby found guilty beyond reasonable doubt of the crime of simple robbery, defined and penalized under paragraph 5, Article 294 of the Revised Penal Code, as amended, and hereby sentences all of them to suffer the penalty of imprisonment of SIX (6) YEARS and ONE (1) DAY to TEN (10) YEARS of *prisión mayor*, to jointly and severally restitute the sum of P5,000.00 to Diosdada Montecillo, which was the amount extorted from her, the sum of P20,000.00 as moral damages and the further sum of P15,000.00, for and as attorney's fees.

SO ORDERED.<sup>[7]</sup>

From the said decision, the three accused separately appealed to the Court of Appeals. On March 31, 1997, the appellate court affirmed the trial court's verdict. Herein petitioner and Ricardo Fortuna filed separate motions for reconsideration on April 28, 1997 and January 19, 1998, respectively. Both motions were denied for lack of merit.

Fortuna filed a petition for review on certiorari, which we denied in our decision dated December 15, 2000, to wit:

WHEREFORE, the Decision of the Court of Appeals which affirmed that of the trial court finding accused-appellant Ricardo Fortuna guilty of robbery and ordering him to pay complaining witnesses Diosdada Montecillo and Mario Montecillo P5,000.00 representing the money taken from them, P20,000.00 for moral damages and P15,000.00 for attorney's fees, is AFFIRMED with the modification that accused-appellant Ricardo Fortuna is SENTENCED to the indeterminate prison term of two (2) years four (4) months and twenty (20) days of the medium period of *arresto mayor* maximum to *prisión correccional* medium, as minimum, to eight (8) years two (2) months and ten (10) days of the maximum period of *prisión correccional* maximum to *prisión mayor* medium, as maximum.

Costs against accused-appellant Ricardo Fortuna.

SO ORDERED.<sup>[8]</sup>