

THIRD DIVISION

[G.R. No. 91483, November 18, 1997]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SAMUEL MAHUSAY Y FLORES AND CRISTITUTO PASPOS @
"TOTO" Y CATARIG, ACCUSED-APPELLANTS.
D E C I S I O N**

ROMERO, J.:

Appellants Samuel Mahusay and Cristituto Paspos, along with Felomino Galo, Alfredo Mendio, Justiniano Velacsi (at large), and Tanciong Egloba (at large), were charged with the crime of robbery with rape and physical injuries in Criminal Case No. N-1283 before the Regional Trial Court of Naval, Subprovince of Biliran, Leyte, Branch 16, under an information^[1] dated July 19, 1988, which reads as follows:

"That on or about the 19th day of April, 1988, in the Municipality of San Isidro, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, armed with deadly weapons, with intent of gain and by means of force, violence and intimidation on the person, wilfully, unlawfully and feloniously rob, take and carry away:

1. Cash money	- P12,000.00
2. Wallclock	- 500.00 (Silclox Quartz brand)
3. Ring	- 250.00
4. Fighting cock	- 100.00
5. Long bolo	- 50.00
T o t a l	- P12,900.00

to the damage and prejudice to (sic) the said Troadio Bughao in the aforesaid amount; and on the occasion thereof, did, then and there box, maul and manhandle Troadio Bughao and Manuelito Brignas and through force, violence and intimidation wilfully, unlawfully and feloniously have carnal knowledge with Marilou Bughao against her will in their own dwelling to their damage and prejudice.

That aggravating circumstances of nighttime and by a band are attendant in the commission of this offense.

CONTRARY TO LAW."

The facts, as found by the trial court, are as follows:

On April 19, 1988, at around 6:45 o'clock p.m., six armed men barged into the Bughao residence and introduced themselves as members of the New People's Army.

After extinguishing the three oil lamps inside the house, they tied the arms and feet of Troadio Bughao, his wife and househelper Esmarlita Paspos, who is the sister of appellant Paspos. The group split in two, ransacked the cabinets, and cleaned out the premises of every valuable item they could carry.

Bughao's daughter Maria Luisa (a.k.a., Marilou) was brought upstairs by three men who successively ravished her. She recounted that when she was being violated, a flashlight was focused on her face, thus, giving her ample illumination and enabling her to look intently at one of her assailants. She, however, failed to identify the other two because she fainted in the course of the ordeal she underwent.

Esmarlita Paspos, on the other hand, testified that she immediately recognized one of the men as her brother Cristituto, the only malefactor wearing a mask, through his movements and physical features. She likewise identified Mahusay and Mendio as the persons who ordered her to serve food.

The following day, the incident was reported to the police. A police team^[2] from the Integrated National Police Station of San Isidro, Leyte led by Sgt. Manuel Bughao was promptly dispatched to Sitio Sumakab, Barangay Inangatan, Tabango, Leyte to arrest the suspects. The police were able to recover from them a wall clock, cash amounting to P1,445.00, a ring and two caliber .38 paltik revolvers.

During the investigation, appellants allegedly admitted responsibility for the crime charged. Considering, however, that the searching inquiry was done without the assistance of counsel, the trial court correctly disregarded the same.

Appellants, on the other hand, invoke alibi as their defense.

On April 17, 1988, Mahusay and Mendio, both drivers and residents of Navotas, Metro Manila, alleged that they went on a trip to Medellin, Cebu to visit the former's uncle, Elezer Cuyaco. Three days later, or on April 20, 1988, they departed for San Isidro, Leyte to attend a fiesta. With them on the pumpboat was Galo whom Mahusay came to know in a dance in his brief stay in Cebu. Galo was apparently instructed by his aunt to go to San Isidro to collect a P660.00 debt from Paspos.

Arriving in San Isidro at noon of April 20th, they repaired to the house of Paspos who served them steamed bananas. While resting and conversing with one another, four policemen suddenly pounced upon them and brought them to the police station where they were allegedly maltreated and illegally detained for two months.

After trial on the merits, Galo was acquitted of the crime charged while Mahusay, Paspos and Mendio were proven guilty beyond a reasonable doubt in a decision by the trial court,^[3] the dispositive portion of which reads:

"WHEREFORE, premises considered, the Court finds the accused Samuel Mahusay, Alfredo Mendio and Cristituto Paspos, GUILTY beyond reasonable doubt of the crime of Robbery with Rape defined and penalized under article 294 (2) of the Revised Penal Code and sentences them to suffer and undergo imprisonment of reclusion perpetua; to indemnify Maria Luisa Bughao P20,000.00 jointly and severally without subsidiary imprisonment in case of insolvency and each to pay one third of the costs.

They are credited with the full period of their preventive detention.

Accused Felomino Galo is ACQUITTED on reasonable doubt. He is ordered released immediately unless he has been convicted or stands charged of any other offense which would warrant his continued detention.

Exhibits 'D' the solclox (sic) quartz, 'F' and 'F-1' the rings and 'E' to 'E-18' the P1,445 cash are ordered returned to Troadio and Maria Luisa Bughao."^[4]

Of the three convicted felons, only Mahusay and Paspos filed a notice of appeal.

Appellants contend that the trial court erred in ruling that their apprehension was valid and that their guilt was proved beyond reasonable doubt.

At the outset, we note that the court a quo erroneously declared that appellants were apprehended in "hot pursuit," thus, negating the need for the issuance of warrants of arrest. In view thereof, it is imperative for the Court to once again explain the requisites of a valid warrantless arrest under Rule 113, Section 5(b) of the Rules on Criminal Procedure which provides:

"Section 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it;

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

Under Section 5(b) of the aforequoted rule, two conditions must concur for a warrantless arrest to be valid: first, the person to be arrested must have just committed an offense, and second, the arresting peace officer or private person must have personal knowledge of facts indicating that the person to be arrested is the one who committed the offense.^[5] It has been ruled that "personal knowledge of facts" in arrests without a warrant must be based upon probable cause, which means an actual belief or reasonable grounds of suspicion.^[6]

In the case at bar, appellants were arrested on the sole basis of Bughao's verbal report. The arresting officers were led to suspect that, indeed, appellants had committed a crime. Thus, the arrest was made in violation of their fundamental right against an unjustified warrantless arrest. This notwithstanding, appellants cannot find comfort solely in this error.

The Court has ruled on several occasions that "any objection involving a warrant of