

THIRD DIVISION

[G.R. No. 97841-42, November 12, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICTOR TIMON Y CASAS, JOSE SAMPITON Y SENTUS, JESUS
LAGARAS Y CORNELIO AND CLARO RAYA Y BERENO, ACCUSED-
APPELLANTS.**

D E C I S I O N

PANGANIBAN, J.:

In denying this appeal from a conviction of piracy, the Court reiterates some well-settled doctrines on identification of felons, waiver of objections to illegal arrest, and assessment of the credibility of witnesses.

The Case

Before us is an appeal from the Decision dated September 24, 1990 of the Regional Trial Court of Malabon, Metro Manila, Branch 72,^[1] convicting Appellants Victor Timon, Jose Sampiton, Claro Raya and Jesus Lagaras of piracy defined under Presidential Decree No. 532 and sentencing them to "life imprisonment or reclusion perpetua."

In Criminal Case No. 8492-MN, Asst. Fiscal Hannibal V. Santillan filed before the court a quo an Information dated October 5, 1989^[2] charging herein appellants with piracy in the high seas with homicide allegedly committed as follows:

"That on or about September 20, 1989, at the territorial water of Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together with four (4) John Does, whose true names are unknown and all of North Bay Blvd., Navotas, M.M., and who are still at large, mutually helping and aiding each other, not being a member of the complement nor a passenger, all armed with guns, with intent to gain, and with the use of force, violence and intimidation, did then and there willfully, unlawfully, and feloniously attack, seize the vessel named "M/B Kali" and board on the said vessel and poked their guns against the crew of the vessel and forcibly take, rob and carry away cash money worth P100,00.00, wristwatch, men's ring and two (2) telescope, all belonging to and owned by one PAQUITO RODRIGUEZ II, owner of the said M/B "Kali", to the damage and prejudice of the said Paquito Rodriguez II, that on the occasion of the aforesaid piracy and for the purpose of enabling them to rob the said M/B "Kali", in pursuance of their conspiracy and for the purpose of ensuring success of their criminal act, armed with a gun, with

intent to kill, willfully, unlawfully, and feloniously attack, assault and use personal violence upon the said Paquito Rodriguez II by then and there shooting the latter on the head, thereby inflicting upon the said Paquito Rodriguez II gun shot wounds, which immediately and directly caused his death.

Contrary to law.”

In Criminal Case No. 8493-MN, Appellant Timon was also charged by Asst. Fiscal Gil Savedia with illegal possession of firearms allegedly committed as follows:

“That on or about October 4, 1989, in the Municipality of Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously have in his possession, control and direct custody a firearm, to wit: one (1) Homemade Shot gun with one 12 gauge live ammunition and one (1) magazine, without first securing the necessary license and permit from a competent government authority.

Contrary to law.”^[3]

During the arraignment held on November 10, 1989, Appellants Victor Timon, Jose Tampiton, Jesus Lagaras and Claro Raya, all assisted by Counsel de Oficio Froilan C. Zapanta of the Public Attorney’s Office, pleaded not guilty in Criminal Case No. 8492-MN.^[4] Timon, assisted by the same counsel de oficio, also pleaded not guilty in Criminal Case No. 8493-MN. Thereafter, joint trial of the two criminal cases ensued in due course. On September 24, 1990, the trial court promulgated the assailed Joint Decision, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered finding all the accused in Crim. Case No. 8492-MN guilty beyond reasonable doubt of the offense of the crime (sic) charged against them. All of them are hereby sentenced to life imprisonment or RECLUSION PERPETUA. The penalty should have been death, but same has been abolished.

All the accused are also ordered to pay proportionately the heirs of their victim in the amount of P30,000.00 for the loss of the latter’s life, as well as the additional amount of P100,000.00 representing the cash money taken from the victim and another P70,000.00 for the expenses incurred by the family of the victim in connection with the latter’s death and burial and to pay the costs.

Accused Victor Timon y Casas is hereby acquitted for insufficiency of evidence in Crim. Case No. 8493-MN. His un rebutted testimony that the firearm subject matter of the said case was merely brought out by a policeman from a locker in the police station and the failure of the prosecution to present the “maong” jacket allegedly wrapping said firearm rendered doubtful the accusation against Timon in this case.

SO ORDERED.”

Hence, this appeal.^[5]

The Facts

Version of the Prosecution

The facts as viewed by the prosecution are narrated in the Appelle's Brief as follows:
^[6]

"At about 12:00 o'clock noon on September 20, 1989, the fishing boat, "M/B Kali" left Navotas, Metro Manila with its owner Modesto^[7] Rodriguez and seven (7) crew members to buy fresh fish in Palawan (pp. 4-7, tsn, January 19, 1990; pp 5-9, tsn, February 9, 1990; pp. 13-15, tsn, March 7, 1990).

The "M/B Kali" had not yet left the territorial waters of Navotas when it was intercepted by eight (8) armed pirates, six (6) of them including appellants boarded "M/B Kali" unnoticed, while the other two stayed behind in their pump boat (pp. 7-8, tsn, January 19, 1990; pp. 16-20, tsn, March 7, 1990; pp. 3-5, tsn, March 9, 1990).

Once on board, the six (6) pirates herded the owner and crew members of "M/B Kali" and ordered them to lie face down. Thereafter, three (3) of the pirates, including appellants Lagaras and Sampiton, accosted Rodriguez at the "fuente" and ordered him to take out the money which he had to buy fish worth about P100,000.00, after he was pointed to by the crew members as their boss (pp. 9-11, tsn, January 19, 1990; pp. 13-19, tsn, February 9, 1990; pp. 5-8, tsn, March 9, 1990).

After divesting Rodriguez of his P100,000.00 cash and other personal belongings, the pirates fatally shot him. Whereupon, the pirates left, after warning the crew members of "M/B Kali" not to move, accompanied by a warning shot (pp. 11-12, tsn, January 19, 1990; pp. 19-21, tsn, February 9, 1990; pp. 8-9, tsn, March 9, 1990).

As soon as the pirates left, the crew members of "M/B Kali" stood up, and learned that their boss, Modesto Rodriguez, was fatally shot at the back of his head. They also found out that the pirates divested their boss of his money and personal belongings, and took with them the two (2) telescopes used by the crew members (pp. 12-14, tsn, January 19, 1990; pp. 21-31, tsn, February 9, 1990; pp. 9-10, tsn, March 9, 1990).

That same afternoon, the incident was reported to the Navotas Police Force (p. 14, tsn, January 19, 1990), which immediately sent a team to conduct a "spot" investigation. When the policemen arrived at the Navotas Fish Port where "M/B Kali" was moored, they saw the lifeless body of the victim Modesto Rodriguez with a gunshot wound at the back of his head. From the crew members who did not know the identities of the pirates, albeit could recognize them if they saw them again, the policemen took down the description of the suspects (pp. 5-8, tsn,

January 5, 1990; pp. 23-27, tsn, February 28, 1990).

On the basis thereof, the Navotas Police Force continued to "follow-up" the case until they received information from the Philippine Coast Guard as to the identities and/or whereabouts of some of the suspects. Fortwith, the Philippine Coast Guard and the Navotas Police Force organized a team to the effect the arrest of the four (4) appellants, and the confiscation from appellant Timon of a shotgun which he eas allegedly carrying wrapped in a "maong" jacket at the time of his arrest (pp.9-25, tsn, January 5, 1990).

At the Navotas Police Headquarter[s] where the four (4) suspects were brought, they were positively identified by the crew members of "M/B Kali" as among those who boarded their boat, and at gun point forced them to lie face down (pp.38-44, tsn, February 28, 1990)."

Version of the Defense [8]

The defense posits denial and alibi. Appellant Sampiton, a fisherman, denied participation in the commission of the offense. In the morning of September 20, 1989, Sampiton mended fishing nets; in the afternoon, he stayed at his house in Davila St., Tabing Dagat, Navotas, which was thirty meters away from that of Appellant Raya. As he did not have a boat of his own, he usually went fishing with Timon. On that day, however, Sampiton averred that he did not go fishing with Timon because of strong waves at sea.[9]

Victor Timon claimed that on September 20, 1989 he was mending fishing nets with Sampiton and Raya in Davila St. Timon's boat was dry-docked even the day before. It was only about 6:00 p.m. of September 20, 1989 when they took down the boat to where it was usually moored in preparation for the next morning.[10] Timon's friend and neighbor, Rogelio Anieves, corroborated his story. Anieves testified that he worked on the fishing nets owned by Timon on said day.[11]

For his part, Appellant Jesus Lagaras claimed that from 11:00 a.m. to 3:00 p.m. of September 20, 1989, he was at Cesar Casoy's house in Davila St., merely a house away from his. He was playing a card game called cuajo with a certain Carding and a certain Deling. After the game, Appellant Lagaras went outside the house where he heard people discussing the M/L Kali's plunder. He joined the conversation and left about 7:00 p.m.[12]

When Lagaras reached home, his brother, Julito, alias Boy Muslim, admitted complicity in said crime which he allegedly committed with a certain Felix Duran, alias Rudy, and one known only as Toto. Julito informed Jesus that he was leaving the place to evade arrest and advised the latter to do the same. According to Jesus Lagaras, he looked like his brother Julito; thus, he posits that the authorities mistook him for the real culprit. Believing in his innocence, Appellant Lagaras did not heed his brother's advice to flee.[13]

Cesar Casoy, a fisherman and good friend of Jesus Lagaras, corroborated the latter's story. He added that after the card game, they went to a nearby place called bukid where they first heard of the crime.[14] Casoy, the team leader of the area's

barangay tanod, related that while he was cooking in the morning of September 27, 1989, Navotas policemen, including Patrolman Mabbun, came to his house. They were looking for "Rudy, Felix, Boy Muslim and the Chief Engineer" who were the suspects in a crime. Casoy accompanied the police to the house of Rudy but the latter was absent. Thereafter, the police left and he headed for home.^[15]

Casoy's assistance was again sought about 4:00 a.m. of October 4, 1989 by Yolanda Lagaras, the wife of Appellant Jesus. She apprised him of her husband's arrest. They went at once to the police station and told Policeman Mabbun that Jesus Lagaras "was not involved" but the policeman allegedly replied, "Just follow the case in court because Lagaras was being pointed to (as) Boy Muslim."^[16]

Yolanda Lagaras, on the other hand, testified that about 4:00 a.m. of October 4, 1989, she was awakened by the sound of "strong successive knocks" on their door, accompanied by voices identifying themselves as the police. She woke her husband and told him to open the door. As he did, a policeman immediately pointed a gun at her husband, saying, "Ikaw na nga si Boy Muslim." Her husband answered, "hindi po"; while she said, "Hindi iyan si Boy Muslim, kapatid iyon ng asawa ko." Another policeman, carrying a picture, arrived and said, "Pare, ito na nga ang hinahanap ko si Boy Muslim." The same policeman told her, "Misis, dadalhin ko ang asawa mo sa detensiyon."^[17]

Immediately after her husband's arrest, she asked the help of Cesar Casoy who accompanied her to the police station where her husband was detained. At 11:00 a.m., her husband was brought to a small room. She then heard him shout, "Hindi po ako si Boy Muslim kapatid ko po ang gumawa." She tried to report this to two policemen but they ignored her. It was 4:00 p.m. when her husband was brought back to the detention cell.^[18]

About 7:00 p.m., the policemen asked her "to point [Boy Muslim] to them" so that they could "set free" her husband. Acceding to them, she accompanied three policemen to the house of Julito Lagaras or Boy Muslim at North Bay Boulevard, but they did not find him. She returned to the police station two hours thereafter.^[19]

Finally, appellants alleged that they were arrested without a warrant, then maltreated and tortured. They also accused the police of attempting to extort money from them.

The Trial Court's Ruling

After "examining the testimony of prosecution witnesses" who "clearly identified all the accused," and "clearly narrated the participation" of Lagaras, Raya, Sampiton and Timon ^[20] vis-a-vis appellants' denial and alibi, the court a quo rendered its decision finding the four appellants guilty of the "crime charged" in Criminal Case No. 8492-MN but acquitting Timon in Criminal Case No. 8493-MN.

Errors Assigned

All four accused appealed to this Court. In their brief, Appellants Timon, Sampiton and Raya assigned the following "errors":