

FIRST DIVISION

[G.R. No. 246580, June 23, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RONILEE CASABUENA Y FRANCISCO AND KEVIN FORMARAN Y GILERA, ACCUSED-APPELLANTS.

DECISION

LAZARO-JAVIER, J.:

Antecedents

Accused-appellants Ronilee Casabuena y Francisco and Kevin Formaran y Gilera were charged with the complex crime of robbery with homicide punishable under Article 294, paragraph 1 of the Revised Penal Code, *viz.*:

That on or about the 11th day of October 2012, in the city of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one JIMMY ARIZALA, they mutually helping and aiding each other, armed with a gun and bladed weapons, with intent of gain and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously rob and divest the following complainants of their personal belongings, *to wit*:

Ma. Aimee Senapilo y Agustin - pouch bag with medicine, headset and watch all worth P6,000.00;

Alfredo Burgos y Agapito - wallet and cellphone worth P1,300.00;

Jestony San Juan y Devera - Nokia N85 cellphone and ID worth P3,500.00;

Ciara Krite Abella y Valdez - bag with wallet, Nokia N71 worth P3,100.000;

Leslie Anne Fiona Bondocan y Paubsanon - wallet with P120.00 cash and UCPB ATM

while inside a passenger jeepney, by declaring hold-up, poking them with gun and bladed weapons and forcibly taking from them the foregoing items, and on the occasion of the said robbery and reason thereof, homicide was committed, as the above-named conspirator JIMMY ARIZALA, while struggling with the possession of his gun with the responding police, PO2 Ramilo de Pedro, the gun was fired which shot caused his instantaneous death, to the damage and prejudice of the owners thereof in the aforementioned amount.^[1]

On arraignment, appellants pleaded not guilty.^[2]

Prosecution's Version

On October 11, 2012, around 6:00 a.m., Ciara Kristle V. Abella was riding a jeepney headed to Montalban with other passengers. Abella, who fell asleep while she was seated on the front row of the jeepney beside the conductor, was suddenly awakened when three (3) passengers boarded and declared a hold-up. One of the hold-uppers was at the entrance of the jeepney and the other was near the driver and was holding a knife. The third hold upper took Abella's belongings, *i.e.*, her cellular phone, wallet, and ATM card, which was approximately worth P5,000 and placed them inside his backpack. The other passengers likewise surrendered their belongings to one of the hold-uppers. After taking the belongings of the passengers, the hold uppers alighted from the jeepney. One of the passengers saw a policeman nearby and asked for the latter's assistance.^[3]

About 6:20 a.m., PO2 Ramilo P. De Pedro (PO2 De Pedro) and PO2 Michael Albania (PO2 Albania) were patrolling J. Molina corner E. Santos Streets in their patrol car when they noticed a commotion inside a jeepney headed to Montalban. PO2 De Pedro saw three (3) male passengers alight the jeepney and heard one of the passengers shout "*Holdaper yan, tatlo yan, may baril sila!*" Upon seeing the two (2) police officers, one of the three (3) hold uppers ran toward Bayan-bayanan Street and was chased by PO2 Albania, while the other two (2) were approached by PO2 De Pedro.^[4]

PO2 De Pedro introduced himself as a police officer and frisked one of the two (2) hold-uppers. Suddenly, the other hold-upper took a pistol from his backpack, prompting PO2 De Pedro to let go of the M16 rifle he was carrying and wrestle for the possession of the pistol. PO2 De Pedro was able to grab possession of the pistol and fire twice - the second shot hit the hold-upper in the chest, as a result of which, he died. The other hold-upper then threw away the knife he was holding and was subsequently handcuffed by PO2 De Pedro. Thereafter, PO2 Albania returned with the third hold-upper and was able to recover the items taken from the passengers of the jeepney. The passengers of the jeepney were then brought to the precinct for interrogation by PO2 Albania, while PO2 De Pedro guarded the two (2) hold-uppers, who were later identified to be appellants, while the hold-upper who died was Jimmy Arizala. More, PO2 De Pedro and PO2 Albania executed a *Sinumpaang Salaysay sa Pag-aresto*.^[5]

Defense's Version

Appellants denied the charges. They testified that, on October 11, 2012, around 6:30 a.m., they boarded a jeepney in Marikina headed towards Montalban. They alighted when they reached the road in Concepcion. Suddenly, a police mobile stopped them. Two (2) police officers arrived and told them there was a hold-up that happened recently. Appellants were frisked and brought to the police station. There, PO2 De Pedro took their statements. According to appellants, they were on their way to see Casabuena's sister. They remained in the police station until 10 a.m.. Thereafter, they were brought to the Criminal Investigation and Detention Office at the Hall of Justice building where they were identified by six (6) persons as the hold uppers.^[6]

Trial Court's Ruling

By the Decision dated June 27, 2017, the RTC found appellants guilty of the complex crime of robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code and sentenced them to *reclusion perpetua*.^[7]

There was nothing on record to discredit the testimony of Abella, one (1) of the prosecution's eyewitnesses and one (1) of the victims. Abella testified that she and the other passengers of the jeepney were robbed and divested of their valuables by appellants and Arizala, and that Arizala was shot by PO2 De Pedro. Her account of the incident in the morning of October 11, 2012 was simple, clear, and credible, especially because of her actual presence at the *locus criminis*. Her testimony was replete with details and consistent even on cross-examination. Her testimony, not being flawed by vicious inconsistencies or improper motive, was highly credible. Further, her testimony was conclusively validated by the testimony of PO2 De Pedro, the responding policeman. She testified clearly on what she witnessed after appellants and Arizala alighted from the jeepney up to the time of the shooting incident with Arizala and the arrest of appellants.^[8]

Further, conspiracy was clearly manifested in the concerted efforts of appellants and Arizala, as testified by Abella. The precise degree of culpability of appellants, hence, was irrelevant. The act of one may be imputed to his co-conspirators. Consequently, even if Arizala was the one who was killed immediately after the robbery by PO2 De Pedro, appellants should equally be held accountable for the complex crime of robbery with homicide. It is settled that when homicide takes place by reason or on occasion of the robbery, all those who took part in the robbery shall be guilty of the complex crime of robbery with homicide, whether they actually participated in the killing, unless there is proof they endeavored to prevent the killing.^[9]

Court of Appeals' Proceedings

In their appeal, appellants contended that the trial court gravely erred when it ruled that they were liable for the complex crime of robbery with homicide. There was no direct relation and intimate connection between the robbery and the killing. It was PO2 De Pedro who fired Arizala's pistol. More, they averred that conspiracy was not duly proven.^[10]

For its part, the Office of the Solicitor General (OSG) maintained that the trial court did not err in finding appellants guilty beyond reasonable doubt of committing robbery with homicide. All of the elements of the crime were present. More, conspiracy was sufficiently proven because the evidence showed that there was unity of purpose and unity in action between appellants and Arizala during the perpetration of the crime.^[11]

Court of Appeals' Ruling

Under the assailed Decision^[12] dated July 25, 2018, the Court of Appeals affirmed the trial court.

The Present Petition

Appellants now seek affirmative relief from the Court and pray anew for their acquittal. In compliance with the Resolution dated July 3, 2019 of the Court, the OSG and appellants manifested that in lieu of supplemental briefs, they were adopting their respective briefs submitted before the Court of Appeals.^[13]

Issue

Did appellants commit the complex crime of robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code?

Ruling

Accused-appellants Ronilee Casabuena y Francisco and Kevin Formaran y Gilera fault the Court of Appeals for affirming the trial court's factual finding that the elements of the complex crime of robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code are all present. There was allegedly no direct relation and intimate connection between the robbery and the killing of Jimmy Arizala.^[14]

The Court is not persuaded.

To sustain a conviction for robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code, the prosecution must prove the following elements:

1. The taking of personal property is committed with violence or intimidation against persons;
2. The property taken belongs to another;
3. The taking is with the intent to gain or *animo lucrandi*; and
4. By reason or on occasion of the robbery, homicide is committed.^[15]

A conviction for robbery with homicide requires certitude that the robbery is the main purpose and objective of the malefactor, and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life. The killing, however, may occur before, during, or after the robbery.^[16] It is only the result obtained, without reference to the circumstances, causes, or modes or persons intervening in the commission of the crime, that has to be taken into consideration.^[17]

Here, the elements of the complex crime of robbery with homicide are all present:

First. Appellants, through force and intimidation, threatening physical violence and death with the use of a gun and knives, took the personal properties of the passengers of the jeepney.

Second. The properties found in the person of appellants did not belong to them but to the passengers of the jeepney.

Third. The intent to gain or *animus lucrandi* is an internal act that is presumed from the unlawful taking by the offender of the thing subject of asportation. Appellants were caught in the possession of various small items that belonged to the passengers of the jeepney.

Fourth. A person died, *i.e.*, Arizala, on the occasion of the robbery.^[18]

In robbery with homicide, it is essential that there be a direct relation and intimate connection between the robbery and the killing. It does not matter whether both crimes were committed at the same time.^[19]

In the same manner, it is immaterial that the death would supervene by mere accident; or that the victim of homicide is other than the victim of robbery; or that two (2) or more persons are killed; or that aside from the homicide, rape, intentional mutilation, or usurpation of authority is committed by reason or on occasion of the crime. **Further, it is irrelevant if the victim of homicide is one of the robbers. In such scenario, the felony would still be robbery with homicide. Verily, once a homicide is committed by reason or on occasion of the robbery, the felony committed is robbery with homicide.**^[20] This is the reason why Article 294, paragraph 1 of the Revised Penal Code reads:

ARTICLE 294. *Robbery with violence against or intimidation of persons.- Penalties.* - Any person guilty of robbery with the use of violence against or intimidation of **any person** shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of **homicide** shall have been committed x x x (Emphasis supplied)

"Any" is all-inclusive, including anyone of the robbers themselves.

On this score, the Court distinguishes Article 294, paragraph 1 of the Revised Penal Code from Article 297 of the same Code which reads:

ARTICLE 297. *Attempted and frustrated robbery committed under certain circumstances.* — When by reason or on occasion of an attempted or frustrated robbery a **homicide** is committed, **the person guilty of such offenses** shall be punished by *reclusion temporal* in its maximum period to *reclusion perpetua*, unless the homicide committed shall deserve a higher penalty under the provisions of this Code. (Emphasis supplied)

Here, as clearly testified by PO2 De Pedro, he was on mobile patrol and tailing the jeepney that was being held-up by appellants and Arizala. He personally witnessed them alight from the jeepney. Hence, he immediately accosted them. Then, Arizala pulled out his gun. PO2 De Pedro grappled with Arizala for possession of the gun. In the process, Arizala got shot and died.^[21] Applying Article 294, paragraph 1 of the Revised Penal Code and *People v. Ebet*^[22] and *People v. De Jesus*,^[23] appellants as two (2) of the robbers are guilty of the complex crime of robbery with homicide.

We quote with concurrence the opinion of Justice Mario V. Lopez during the deliberation:

x x x Article 294, paragraph 1 of the Revised Penal Code is plain and clear. The law only requires the crime of homicide be committed by reason of or on the occasion of robbery. It is not necessary that the person killed must be the victim of the robbery. It can be one of the robbers or an innocent bystander. Neither does it impose that the person who perpetrated the killing must be the same person who committed the robbery. There should be no distinction in the application of a statute where none is indicated. Fundamental is the principle in statutory construction that **where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit, nec nos distinguere debemus.***