

## THIRD DIVISION

[ G.R. No. 233334, July 23, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHN CARLO SALGA AND RUEL "TAWING" NAMALATA, ACCUSED-APPELLANTS.**

### DECISION

**BERSAMIN, J.:**

The mere fact that the accused were seen together immediately after the commission of a felony does not necessarily prove the existence of a conspiracy between them. The Prosecution must show that the accused performed overt acts showing unanimity of design or concert of action; otherwise, each is liable only for the consequences of his own acts.

#### The Case

Accused John Carlo Salga (John) and Ruel "Tawing" Namalata (Ruel) hereby challenge the decision promulgated on April 7, 2017 by the Court of Appeals (CA) in CA-G.R. CR-HC No. 01321-MIN<sup>[1]</sup> affirming their conviction for robbery with homicide handed down by the Regional Trial Court (RTC), Branch 11, in Manolo Fortich, Bukidnon through the judgment rendered in Criminal Case No. 10-07-4149 on May 27, 2014.<sup>[2]</sup>

#### Antecedents

John and Ruel, along with two others identified as John Does, were charged with robbery with homicide under the following information:

That on or about the 14<sup>th</sup> day of February 2010, in the afternoon, at Barangay Damilag, Municipality of Manolo Fortich, Province of Bukidnon, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, by means of force and violence, did then and there willfully, unlawfully and feloniously, with intent to gain and without the consent of the owner thereof enter the house of JOSEFINA ZULITA y EDRALIN and once inside entered the room of JOAN CAMILLE ZULITA y EDRALIN and rob, take, and carry away cash amounting to THIRTY-FOUR THOUSAND PESOS (P34,000.00), Philippine Currency from the vault and one (1) Samsung Cellphone E590 Model belonging to JOSEFINA ZULITA y EDRALIN;

That on the occasion of the said robbery and for the purpose of enabling them to take, rob and carry away the money above-mentioned, accused did then and there willfully, unlawfully, and feloniously, with intent to kill, with the use of a gun, attack, assault, strike the head and shoot the caretaker of the house of CATALINA ARCEGA, thereby inflicting upon the latter mortal injuries which [caused] her death.

CONTRARY to and in violation of Article 294(1) of the Revised Penal Code.<sup>[3]</sup>

The CA summarized the factual antecedents as follows:

On August 16, 2010, Namalata was arrested by the police and correspondingly detained. When arraigned on September 6, 2010, Namalata, assisted by counsel de parte, entered a plea of "not guilty" to the charge. On April 18, 2011, the pre-trial conference with respect to Namalata was terminated.

On July 11, 2011, Salga surrendered to the police authorities. After Salga was placed into custody, the criminal charge against him proceeded. Hence, on July 25, 2011, Salga, assisted by counsel de officio from the Public Attorney's Office, entered a plea of "not guilty" in Criminal Case No. 10-07-4149. The pre-trial conference with respect to Salga was concluded on August 3, 2011.

Thereafter, trial on the merits ensued. During trial, the prosecution presented in evidence the testimonies of Joan Camille Zulita, Julianio Bernas, Constancio Hinlo, Jr., Dr. Broxil Macabinlar, Patrick Fillarca, Flora Sencil and Josefina Zulita. The defense then presented the testimonies of Marcelo Abenaza, Keren Hope Vivares, Celso Baol, Allan Cahoy, Ruel Namalata, Angelita Salga, Cesar Pabillan and John Carlo Salga.

Joan Camille Zulita testified that on February 14, 2010, around 4:00 o'clock in the afternoon, she was watching television in their house at Barangay Damilag, Manolo Fortich, Bukidnon, when she noticed that three persons entered their gate. The two persons proceeded to the main door while the third one went to the garden where their helper Catalina Arcega was tending to the plants. Joan was shocked and could not move out of fear because the two persons who went towards her were armed. One of the two persons aimed a gun at her and ordered her to keep quiet. Out of fear, she maintained that she could not shout for help nor move as she didn't know what to do. Afterwards, the man who told her to keep quiet and who was later identified as appellant John Carlo Salga (Salga) asked her about the location of the vault. She alleged that when she could not open the vault, Salga told her to get the keys from her mother's room. She followed the robbers' order. While Salga was pointing his gun at her and the second accused was choking her neck, she tried to open the vault using the keys but failed to open it. Thus, she contended that Salga and his companion brought the vault to the sala where they

successfully opened it and took all the money inside. At that time, when the robbers left her inside the bedroom, she hurriedly hid under the bed. While hiding under the bed, she affirmed that she heard a gunshot from outside. When she sensed that the armed men had already left, she went out of her hiding place and went to the living room, where she saw the vault already emptied of its content. The armed men took cash amounting to P34,000.00 from the vault and her Samsung E590 cellphone worth P6,000.00. She declared that she immediately looked for her mother and saw the latter tending the plants in the garden unaware of the robbery inside. She shouted that they had been robbed which prompted her mother to run to her and embrace her. She and her mother looked for their househelp Catalina Arcega, but failed to find the latter. Thus, the two of them sought the help of their family driver who was then at Camp Phillips Terminal. They also found her brother Jackel, who accompanied them to the police station to report the incident. After which, accompanied by her mother and brother Jackel, they went home. Upon arriving at their house, a search for Catalina Arcega was again conducted, and it was her brother Jackel who found the househelp, who at that time was already seriously wounded.

Josefina Zulita professed that on February 14, 2010 at around 4:00 o'clock in the afternoon, she was at the back of their house. She expressed that while she was tending to her garden, she heard a gunshot. She saw her daughter Joan Camille, who shouted that they had been robbed. She rushed to her daughter and embraced the latter. Joan Camille appeared to be in a state of shock. She and Joan Camille went to look for their househelp Catalina Arcega, but could not find the latter. Thus, she and Joan Camille rode their van and went to search for their family driver who at that time was at Camp Phillips Terminal. Josephine further stated that when they found their driver and her son Jackel, they proceeded to the police station. When she and her children went back to their house, Jackel found Catalina Arcega in the garden, seriously injured with a wound on her head. Catalina Arcega was still conscious when she was brought to a nearby hospital. However, she was not operated on because the hospital demanded a downpayment before proceeding with the surgery, thus, Arcega was brought to a public hospital in Cagayan de Oro City for medical attention. Unfortunately, she died the following day.

Dr. Broxil Macabinlar averred that the proximate cause of Catalina Arcega's death was the hacking of her head which resulted to a depressed skull fracture.

Constancio Hinlo, Jr. claimed that he is a civilian volunteer of Damilag, Manolo Fortich. On February 14, 2010, he asserted that he was inside the office of the Civilian Volunteer Organization when he and his fellow civilian volunteers received a call informing them that the house of Josephine Zulita was robbed. He averred that he responded to the call and walked towards Zulita's house. While on his way, he saw a green motorcycle with three riders. He affirmed that he recognized the driver of the motorcycle as appellant Ruel Namalata (Namalata). He also recognized Salga, who was riding at the back of Namalata with a black backpack. A third rider was at the back of Salga, but he could not identify

him. He disclosed that he knew Namalata and Salga because they were his drinking buddies.

For Namalata, James Rio Namalata contended that on February 14, 2010, he was at the house of his parents at PCH 2, San Miguel, Manolo Fortich, Bukidnon. He avowed that he and his family spent the day watching the boxing bout of Nonito Donaire and Manuel Vargas, together with friends Marcelo Abenanza and Sherwin Pumatong. He alleged that after the third round, he decided to go to the cockpit in Libona, Bukidnon to bet on a cockfight. Thus, he borrowed his brother Namalata's green Honda motorcycle. He further maintained that he left the cockpit at around 4:20 in the afternoon, and dropped by at Camp Phillips to buy "lechon manok" and fruits. He arrived home at around 5:30 in the afternoon and found his brother Namalata having a drinking session with their friend.

Armando Cañete, an uncle of Namalata, declared that he saw James Rio Namalata at the cockpit in Libona, Bukidnon and that the latter was driving a green motorcycle.

Appellant Ruel Namalata asserted that on February 14, 2010, at around 11:00 o'clock in the morning, he came home to his parents house at PCH 2, San Miguel, Manolo Fortich, Bukidnon, after working as an assistant cook in his aunt's "carenderia" at Crossing, Libona, Bukidnon. When he arrived home, he saw his family and some friends watching the boxing bout of Donaire and Vargas in the television. He allegedly joined them. After the fight, his brother James Rio decided to go to a cockpit in Libona, Bukidnon and borrowed his green Honda motorcycle. He insisted that he spent his afternoon tending to their cockfighting roosters. Later, he averred that he had a drinking session with his friends. When his brother James Rio arrived home at around 5:30 in the afternoon, the latter also joined him and his friends. He maintained that on the said date, he never left the family home.

Marcelo Abenaza and Celso Baol, Jr. are friends of Namalata. They respectively testified that Namalata stayed at home on February 14, 2010. Both defense witnesses claimed that they had a drinking session with Namalata which started in the afternoon and lasted until the evening of February 14, 2010.

For his defense, appellant Salga maintained that on February 14, 2010, he was living with his paternal uncle Angelita Salga at Luyong Baybayon, Barangay Mintabon, Talisayan, Misamis Oriental. At the time, he was allegedly working as a casual laborer in a fish pond being constructed in Luyong Baybayon. As such, he declared that on that fateful day, he worked from 7:00 o'clock in the morning until 5:00 o'clock in the afternoon. He insisted that he was nowhere near Damilag, Bukidnon on February 14, 2010.

Appellant Salga's testimony was corroborated by Angelito Salga, his uncle, and Cesar Pabillan, who both testified that on February 14, 2010, Salga was working at a fish pond in Luyong Baybayon, Barangay Mintabon, Talisayan, Misamis Oriental.<sup>[4]</sup>

## Judgment of the RTC

After trial, the RTC convicted Ruel and John of robbery with homicide on the basis of the testimonies of Joan Zulita (Joan) and Constancio Hinlo, Jr. (Constancio). Joan had testified that John was one of the three persons who robbed the victims, and pointed his gun to her head, while Constancio attested that Ruel drove off on a green motorcycle with John and another person on board. Concluding that the four perpetrators had conspired in committing robbery with homicide, the RTC disposed:

PREMISES ABOVE CONSIDERED, the court finds the two accused John Carlo Salga and Ruel "Tawing" Namalata guilty beyond reasonable doubt of Robbery with Homicide and hereby sentence each of the accused to suffer the penalty of imprisonment of reclusion perpetua, which the two accused shall continue to serve at the Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte, as their preventive detention at Manolo Fortich, Bukidnon Jail, is credited to their penalty. In addition, the two accused, Salga and Namalata shall pay damages, in solidum, to the following, as follows:

P34,000.00	- Actual damages to Josefina Zulita
6,000.00	- Actual damages to Joan Zulita
75,000.00	- Actual damages. to the heirs of Catalina Arcega for loss of the latter's life
50,000.00	- Moral damages to the heirs of Catalina Arcega
50,000.00	- Moral damages to Josefina Zulita
50,000.00	- Moral damages to Joan Camille Zulita
25,000.00	- Exemplary damages to the heirs of Catalina Arcega
25,000.00	- Exemplary damages to Josefina Zulita and Joan Camille Zulita
25,000.00	-Temperate damages to Josefina Zulita

SO ORDERED. <sup>[5]</sup>

## Decision of the CA

As stated, the CA affirmed the conviction of Ruel and John because the witnesses of the Prosecution were credible and had no improper motives to testify falsely against the accused; that Joan's identification of John as one of the robbers was positive; that circumstantial evidence proved Ruel's participation in the crime; and that the trial court correctly found the existence of conspiracy amongst the four individuals, rendering the act of one the act of all. The *fallo* of the assailed decision of the CA