

## THIRD DIVISION

[ G.R. No. 212191, September 05, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RICHARD DILLATAN, SR. Y PAT AND DONATO GARCIA Y DUAZO,  
ACCUSED-APPELLANTS.**

### D E C I S I O N

**PERALTA, J.:**

Before the Court is an ordinary appeal filed by herein accused appellants Richard Dillatan, Sr. y Pat (*Dillatan*) and Donato Garcia y Duazo (*Garcia*) seeking the reversal and setting aside of the Decision<sup>[1]</sup> of the Court of Appeals (CA), dated August 30, 2013, in CA-G.R. CR-H.C. No. 05294, which denied their appeal and affirmed, with modification, the October 24, 2011 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Roxas, Isabela, Branch 23, finding herein accused-appellants guilty of the crime of robbery with homicide, imposing upon them the penalty of *reclusion perpetua* and ordering them to pay civil indemnity as well as moral and actual damages.

The facts, as established by the prosecution, are as follows:

Herein private complainants, the spouses Henry and Violeta Acob (*Spouses Acob*), were owners of a market stall at the public market of Sta. Rosa, Aurora, Isabela. Around 6 o'clock in the evening of February 7, 2010, the Spouses Acob, together with their son, Homer, closed their stall and proceeded home by riding together on their motorcycle. Homer was the driver, Violeta sat at the middle, while Henry sat behind her. They were approaching the entrance to their *barangay* around 6:30 p.m. when they noticed two persons, whom they later identified as herein accused-appellants, near a motorcycle. When they passed, accused-appellants rode the motorcycle and tailed them. Accused-appellants eventually caught up with them, whereupon, accused Dillatan forced them to stop and immediately declared a holdup. Violeta embraced Homer, while Dillatan grabbed her belt bag which contained P70,000.00 cash. Thereafter, Dillatan uttered, "*barilin mo na.*" Garcia then fired at the victims hitting, first, the left hand of Violeta. The bullet went through the left hand of Violeta and pierced Homer's chest causing the latter to fall down together with the motorcycle. Henry, on the other hand, was able to get off the motorcycle and tried to escape but Garcia also fired at him thereby hitting his right knee. Accused-appellants, thereafter, fled through their motorcycle. Several people then came to the aid of the private complainants and brought them to the hospital where Homer later expired by reason of his gunshot wound. Violeta and Henry were treated for their wounds. Accused-appellants were apprehended by police authorities later at night where they were subsequently identified by Violeta at the police station as the ones who grabbed her belt bag and shot them. A criminal complaint was subsequently filed against accused-appellants.

On February 8, 2010, an Information was filed against herein accused-appellants, the accusatory portion of which reads, thus:

That on or about the 7<sup>th</sup> day of February, 2010 in the Municipality of Aurora, Province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the accused RICHARD DILLATAN, SR. y PAT and DONATO GARCIA y DUAZO, conspiring, confederating together, and helping one another, with intent to gain and by means of force, violence and intimidation against persons, did then and there, willfully, unlawfully and feloniously, take, steal and carry away a belt bag containing cash money in the amount of SEVENTY THOUSAND PESOS (P70,000.00) and belonging to [complainants] against their will and consent to the damage and prejudice of the said owners, in the aforesaid amount of SEVENTY THOUSAND PESOS (P70,000.00).

That during the occasion and by reason of the said robbery, the said accused in pursuance of their conspiracy, and to enable them to take, [steal] and bring away the said amount of SEVENTY THOUSAND PESOS (P70,000.00), with intent to kill and without any just motive, did then and there willfully, unlawfully and feloniously assault, attack and shoot the [person] of Homer Acob on his chest which directly caused his death and the bullet penetrating Homer Acob's body and hitting Violeta Acob inflicting gunshot wound on [her] left hand and Henry Acob hitting him on his right knee, which injuries would ordinarily cause the death of said Violeta Acob and Henry Acob, thus, performing all the acts of execution which should have produced the crime of homicide, as a consequence, but nevertheless, did not produce it, by reason of causes independent of their will, that is by the timely and able medical assistance rendered to the said Violeta Acob and Henry Acob, which prevented their death.

CONTRARY TO LAW.<sup>[3]</sup>

Accused-appellants were arraigned on September 29, 2010 where both pleaded not guilty.<sup>[4]</sup>

In their defense, accused-appellants denied the allegations of the prosecution and also raised the defense of alibi. For his part, Garcia claimed that on February 7, 2010, he was at a tricycle terminal in Aurora, Isabela where he worked as a dispatcher until 7 o'clock in the evening. His allegation was corroborated by the testimony of another tricycle driver who claimed to have seen him during the night in question. On the part of Dillatan, he testified that he was in his bakery in Quezon, Isabela until 7 o'clock in the evening of February 7, 2010. His testimony was corroborated by his own witness.

Pre-trial was conducted on October 20, 2010.<sup>[5]</sup> Thereafter, trial ensued.

On October 24, 2011, the RTC rendered its Decision finding accused appellants guilty of the crime of robbery with homicide, the dispositive portion of which reads as follows:

WHEREFORE, finding them guilty beyond reasonable doubt, a JUDGMENT is hereby rendered convicting accused RICHARD DILLATAN y PAT and

DONATO GARCIA y DUAZO of the crime of Robbery with Homicide, defined and penalized under Article 294, par. 1 of the Revised Penal Code, thus, imposing upon them the penalty of *reclusion perpetua*.

The Accused are also ordered to jointly and severally pay the following:

- a. The amount of Fifty thousand pesos (P50,000) as civil indemnity, and another Fifty thousand pesos (P50,000) as moral damages to the Heirs of Homer A cob;
- b. The amount of seventy thousand pesos (P70,000) as actual damages to spouses Henry and Violeta Acob;
- c. The amount of Forty-eight thousand six hundred seventy-three and 75/100 pesos (P48,673.75) to Henry Acob as reimbursement of his medical expenses;
- d. The amount of Five thousand five hundred seventy-one pesos (P5,571) to Violeta Acob as reimbursement of her medical expenses.

SO ORDERED.<sup>[6]</sup>

The RTC held that: all the elements of the crime of robbery are present in the instant case; robbery was the main purpose of accused appellants; the killing of Homer and the infliction of injuries upon Violeta and Henry are only committed on the occasion or by reason of the robbery; hence, these crimes are merged into a special complex crime of robbery with homicide, as defined and penalized under Article 294 of the Revised Penal Code (*RPC*). The RTC further held that the prosecution was able to sufficiently establish that the accused-appellants are the perpetrators of the crime when they were positively identified by Violeta.

Accused-appellants appealed the RTC Decision to the CA.

On August 30, 2013, the CA promulgated its assailed Decision affirming the Decision of the RTC with modification by ordering accused-appellants to further pay temperate damages in the amount of P25,000.00.

The CA affirmed the ruling of the RTC that the prosecution was able to establish the presence of all the elements of robbery with homicide by proving that Dillatan declared a holdup and grabbed Violeta's belt bag, while Garcia fired at the private complainants in order to facilitate the taking of the bag and their escape from the crime scene. The CA sustained the RTC in giving credence to the testimony of Violeta who positively identified the accused-appellants in court, as well as in the police station, on the same night that the crime took place. The CA also gave credence to Henry's testimony identifying accused-appellants as the perpetrators of the crime. The CA held that accused-appellants' defenses of denial and alibi could not prevail over the positive testimony of Violeta and Henry who pointed to them as the ones who robbed and fired at them.

On September 11, 2013, accused-appellants, through counsel, filed a Notice of Appeal<sup>[7]</sup> manifesting their intention to appeal the CA Decision to this Court.

In its Resolution<sup>[8]</sup> dated October 29, 2013, the CA gave due course to accused-appellants Notice of Appeal and ordered the elevation of the records of the case to this Court.

Hence, this appeal was instituted.

In a Resolution<sup>[9]</sup> dated July 7, 2014, this Court, among others, notified the parties that they may file their respective Supplemental Briefs, if they so desire.

In its Manifestation and Motion<sup>[10]</sup> dated August 27, 2014, the Office of the Solicitor General (OSG) manifested that it will not be filing a Supplemental Brief because it had already adequately addressed in its Brief filed before the CA all the issues and arguments raised by accused-appellants in their Brief.

In the same manner, accused-appellants filed a Manifestation in Lieu of Supplemental Brief<sup>[11]</sup> dated September 2, 2014, indicating that they no longer intend to file a Supplemental Brief on the ground that the issues have been thoroughly discussed and applicable defenses and arguments were already raised in their Brief which was filed with the CA.

In their Brief, accused-appellants mainly contend that the RTC erred in convicting them of the crime charged, and the CA, in affirming their conviction, despite the incredibility of the testimonies of the prosecution witnesses, and the failure of the prosecution to establish the identity of the assailants.

The appeal lacks merit. The Court finds no cogent reason to reverse accused-appellants' conviction.

Essentially, accused-appellants question the credibility of the prosecution's key witnesses, Henry and Violeta Acob, who identified them as the malefactors.

*First*, accused-appellants argue that, since the alleged crime happened so fast and in a very short period of approximately two minutes, Violeta and Henry could not have clearly seen and remembered the faces of the perpetrators. *Second*, accused-appellants attempt to cast doubt on their identification by claiming that there was inadequate lighting at the *locus criminis*. They contend that the poor illumination at the crime scene made positive identification impossible; thus, the trial court should not have accepted the identification of accused-appellants as the malefactors.

The Court is not persuaded.

The basic issues raised by accused-appellants are mainly factual and it is a well settled rule that in criminal cases, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record.<sup>[12]</sup> It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that the Court will evaluate the factual findings of the court below.<sup>[13]</sup> More importantly, it is an established principle in appellate review that the trial court's assessment of the credibility of the witnesses and the probative weight of their testimonies are accorded great respect and even conclusive effect and that these

findings and conclusions assume greater weight if they are affirmed by the CA.<sup>[14]</sup> Guided by the foregoing principle, the Court finds no cogent reason to disturb the RTC's factual findings, as affirmed by the CA.

Robbery with homicide exists when a homicide is committed either by reason, or on occasion, of the robbery.<sup>[15]</sup> To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property belongs to another; (3) the taking is *animo lucrandi* or with intent to gain; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in the generic sense, was committed.<sup>[16]</sup> A conviction needs certainty that the robbery is the central purpose and objective of the malefactor and the killing is merely incidental to the robbery.<sup>[17]</sup> The intent to rob must precede the taking of human life, but the killing may occur before, during or after the robbery.<sup>[18]</sup>

Under the given facts, the Court finds no error in the findings of both the RTC and the CA that the prosecution was able to clearly establish that: (1) accused-appellants forced Homer, Henry and Violeta to stop their motorcycle; (2) Dillatan declared the holdup and grabbed the belt bag in Violeta's possession; and (3) thereafter, Garcia fired at the victims in order to preserve their possession of the stolen item and to facilitate their escape.

The Court, likewise, finds no cogent reason to disturb the rulings of both the RTC and the CA in giving credence to the testimonies of Henry and Violeta, especially, their positive and categorical identification of accused-appellants as the perpetrators of the crime.

Thus, pertinent portions of Violeta's testimony in open court are as follows:

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Q. In going home coming from your store, Madam Witness, can you recall what time did you leave the Public Market of Aurora, Isabela?

A. 6:00 o'clock in the evening, sir.

Q. Were you able to reach your home at Barangay Diamantina, Aurora, Isabela, Madam Witness?

A. No, sir.

Q. Can you please tell us why you were not able to reach your home at Barangay Diamantina, Aurora, Isabela, Madam Witness?

A. When we were about to enter our barangay a motorcycle came near us, sir.

Q. Do you know who are these persons riding on a motorcycle, Madam Witness?

A. No, sir.

Q. When these two (2) persons riding on a motorcycle went near you, what happened then, Madam Witness, if there was any?