

FIRST DIVISION

[G.R. No. 220761, October 03, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE
OLAZO, MIGUEL CORDIS, CHARITO FERNANDEZ AND ROGELIO
LASCONIA, ACCUSED,**

CHARITO FERNANDEZ, ACCUSED-APPELLANT.

D E C I S I O N

CAGUIOA, J:

This an Appeal^[1] filed under Section 13, Rule 124 of the Rules of Court from the Decision dated June 2, 2015^[2] (questioned Decision) of the Court of Appeals, Twentieth (20th) Division (CA), which affirmed the Decision dated June 14, 2011³ of the Regional Trial Court of Abuyog, Leyte, Branch 10 (RTC), in Criminal Case No. 2402, finding herein accused-appellant Charito Fernandez (Charito) guilty of the crime of Robbery with Homicide.

The facts, as summarized by the CA in the questioned Decision, are as follows:

On two several (sic) occasions in the months of July and August 2004, accused Rogelio Lasconia together with several others hatched a plan to rob the spouses Erlinda and Nicanor Vallecera inside their home in Barangay Bito, Abuyog, Leyte. It was agreed that accused Dionesia Lasconia, who was then employed as a stay-out house help of the spouses Vallecera would assist them by helping them get access inside the house undetected.

At the first meeting, accused Rogelio Lasconia and Rommel Escobio were present together with accused-appellant Miguel Corbis. On the second meeting, accused-appellant Miguel Corbis, as well as, Charito Fernandez attended the planning. During both meetings however, the plan did not push through due to the absence of some of the expected members and some superstitious omen.

Sometime on August 8, 2004, accused Dionesia Lasconia was informed by the group that they would push through with their plan that night. Thus, despite being a Sunday and her rest day, Dionesia returned to the house of the spouses Vallecera around five o'clock in the afternoon and awaited for the arrival of her cohorts.

Upon her arrival at the residence, Dionesia tended to her usual chores by feeding the chickens, sweeping the grounds and cooking for the supper of the spouses. She, however, left the back gate open to allow her co-

accused to enter the compound as agreed.

Around seven o'clock in the evening, Dionesia heard sounds near the back portion of the house. She then immediately opened the kitchen door and allowed accused Rogelio Lasconia, Rommel Escobio and Eddie Fernandez, all of whom were then wearing masks, to enter the house.

The three then waited near the kitchen area of the house while the spouses Vallecera were inside the master's bedroom. After almost an hour of waiting, Erlinda Vallecera opened the master's bedroom door and was immediately accosted by the three intruders. Accused Eddie Fernandez then pointed a gun at Erlinda Vallecera and grabbed her.

The three then covered her face, while Rogelio whispered at Erlinda not to make any noise as they were only there to get money. They then dragged her into the master's bedroom where they then hogtied Nicanor Vallecera.

The three then forced Erlinda to open the vault where they then took away at least one hundred thousand pesos in cash and several pieces of jewelry. They also raided the office of Erlinda in search for more valuables.

After they were able to grab all the valuable items they can easily cart away, accused Eddie Fernandez and Rommel Escobio then brought Erlinda into one of the comfort rooms inside the house. There Rommel Escobio slashed her throat with the use of a samurai that they found inside the office of Erlinda.

Subsequently, Rommel Escobio exited the comfort room and approached Rogelio Lasconia and intimated that Erlinda was still alive despite the wound. Rogelio then entered the comfort room and thereat stabbed Erlinda several times in the neck area with the use of a long knife.

Thereafter, the three accused then hogtied Dionesia Lasconia to make it appear that she had no part in the robbery and then exited the house.^[4]

On February 21, 2005, an Information was filed with the RTC against Eddie Olazo, Miguel Corbis and Charito, together with Rogelio Lasconia, Joseph Oronos (Joseph), Dionesia Lasconia, Rommel Escobio, and Eddie Fernandez, charging them with the crime of Robbery with Homicide, as follows:

That on or about the 8th day of August 8, 2004, in the Municipality of Abuyog, Province of Leyte, Philippines, and within the jurisdiction of this honorable court, the above named accused conspiring, confederating and mutually helping with one another and being armed with a gun and bladed weapons, did then and there willfully, unlawfully and feloniously with intent to gain by means of force, violence and intimidation, to wit: by pointing at one ERLINDA T. VALLECERA with the said gun and demanding money from her, hogtying NICANOR VALLECERA and

threatening to kill the above-named spouses, and thereafter take, steal and carry away cash amounting to more than Php 100,000.00 and undetermined amount of assorted jewelry owned by and belonging to the said spouses NICANOR VALLECERA, against their will and without their consent to the damage and prejudice to said owner in the said sum; that on the occasion of the said robbery, the above-named accused, with intent to kill, with evident premeditation and taking advantage of their superior strength, conspiring, confederating, and mutually helping with one another, and in pursuance of their conspiracy, did then and there willfully, unlawfully, and feloniously attack, assault, slash the throat, stab, hack and wound ERLINDA T. VALLECERA with the use of bladed weapon which the accused provided themselves for the purpose, thereby hitting and inflicting upon her fatal wounds on the different parts of her body which were the direct and proximate cause of her death.

ACTS CONTRARY TO LAW.^[5]

During arraignment, only Rommel Escobio pleaded guilty, while Eddie Fernandez remained at large.^[6]

Meanwhile, during trial, Joseph was discharged as state witness. On the other hand, Dionesia Lasconia was allowed to plead guilty to the lesser offense of Homicide on the condition that she would corroborate the testimony of Joseph, the alleged driver of the motorcycle used to transport the accused to and from the scene of the crime.

Ruling of the RTC

After trial on the merits, in its Decision dated June 14, 2011,^[7] the RTC convicted Charito, together with Rogelio Lasconia, Eddie Olazo, and Miguel Corbis, of the crime charged. The dispositive portion of the said Decision reads:

WHEREFORE, finding the Prosecution to have successfully proven the guilt of the Accused Rogelio Lasconia alias "Teting", Eddie Olazo, Miguel Corbis, alias "Blackie" and Charito Fernandez, guilty beyond reasonable doubt of the crime as charge (sic), this Court hereby sentences the aforesaid accused to suffer the penalty of RECLUSION PERPETUA, ordering the aforesaid to indemnify the Heirs of the Offended Party in the amount of Php.1 00,000.00 jointly and severally and to pay the cost.

SO ORDERED.^[8]

Aggrieved, Charito appealed before the CA, along with Eddie Olazo and Miguel Corbis (Accused-appellants). Accordingly, Accused-appellants filed their Brief dated August 8, 2012,^[9] while the Appellee, through the OSG, filed its Brief on January 22, 2013.^[10]

Ruling of the CA

In the questioned Decision, the CA affirmed the RTC insofar as it convicted Charito of the crime charged. Notably, however, the CA acquitted Eddie Olazo and Miguel Corbis on the ground that there was a lack of evidence in the records to sustain their conviction. Quoted hereunder are the pertinent portions of the questioned Decision:

Simply put, while accused-appellant Miguel Corbis had participated in conspiring to commit robbery against the spouses Vallecera, ***sans any showing of his actual aid or presence during its commission, or any overt act indicative of common design, he cannot be held criminally culpable for such felony.***

Moreover, as to the complicity of accused-appellant Eddie Olazo, We also find a total bankruptcy in the records of the case that could even remotely exhibit his complicity and culpability to the crime charged. The totality of the testimonies of the prosecution is bare of any participation of Eddie *Olazo*. ***As tersely testified by state witness Joseph Oronos, Eddie Olazo was never present during the planning of the commission of the crime nor during the actual commission thereof.***

x x x x

In the case at bench, such unity in purpose by accused-appellant Charito Fernandez to the acts committed by his co-accused Rogelio Lasconia, Eddie Fernandez and Rommel Escobio has been duly and clearly established by his ***act of planning with the other accused the conduct of robbery, by accompanying them during its commission and hasty getaway, as well as providing payment for their getaway vehicle and even threatening their driver with mortal harm should be reveal what they had committed.*** This (sic) established acts of accused-appellant Charito Fernandez evinces beyond cavil his complicity and agreement of the unlawful criminal design of Rogelio Lasconia, Eddie Fernandez and Rommel Escobio.^[11] (Emphasis supplied)

On June 10, 2015, Charito filed a Notice of Appeal of even date with the CA, elevating the case to this Court.^[12]

In a Resolution dated November 11, 2015,^[13] the Court instructed the parties to file their respective Supplemental Briefs, if they so desired. In lieu of filing Supplemental Briefs, however, the parties filed Manifestations respectively dated February 4, 2016^[14] and February 19, 2016,^[15] informing the Court that they were merely adopting their previous Briefs submitted with the CA.

Issue

Proceeding from the foregoing, for resolution of this Court is the issue of whether or not the RTC, as affirmed by the CA, erred in finding Charito guilty of the crime of

The Court's Ruling

In the instant Appeal, Charito claims that the prosecution was unable to prove his guilt beyond reasonable doubt. Specifically, Charito argues that the evidence showing his participation in the planning stages of the crime was insufficient to sustain his conviction and the finding of conspiracy between him and his co-accused.

We disagree.

To begin with, this Court has repeatedly recognized that the trial court is in the best position to assess the credibility of witnesses and their testimonies given its unique position to observe the elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts.^[16] Hence, the trial court's assessment of the credibility of witnesses is accorded great weight and respect and is binding on this Court, especially when affirmed by the CA.^[17]

We see no reason to doubt the positive testimony of Joseph, especially when weighed against the bare allegations of Charito, *i.e.*, that he was elsewhere having a drinking spree during the time of the commission of the crime.^[18]

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.^[19] Conspiracy is present when one concurs with the criminal design of another, indicated by the performance of an overt act which produces the crime.^[20] In proving conspiracy, direct evidence is not indispensable as its existence may be inferred from the conduct of the accused before, during, and after the commission of the crime.^[21]

In the instant case, the candid testimony of state witness Joseph unmistakably produces a conviction beyond reasonable doubt. That Charito was present before, during, and after the commission of the crime and that there was conspiracy between the malefactors are findings fully supported by the evidence on record:

2nd prosecution witness JOSEPH ORONOS, who turned state witness was presented on the witness stand on January 23, 2008 to testify that on the month of July 2004, Rogelio Lasconia or "TESING" together with his Auntie Dionesia Lasconia, **Charito** and Miguel **hired him to ferry them to Brgy. Barayong, to where Dionesia Lasconia was living for the plan out of the proposed robbery** and in the course of their conversation, he overheard "ONING" or DIONESIA LASCONIA giving all the details laying on the plan of robbery on the house of Atty. Vallecera **with instruction to KILL her master so that it will not be known that it was she who planned everything.** (TSN January 23, 2008, pp. 27-28, Crim. Case No. 2402, 2nd prosecution witness, JOSEPH ORONOS, Guarda).

Witness also admitted that in another instance he was hired by the same