

THIRD DIVISION

[G.R. No. 209227, March 25, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHARLIE OROSCO, ACCUSED-APPELLANT.**

D E C I S I O N

VILLARAMA, JR., J.:

On appeal is the Decision^[1] dated March 22, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05171 which affirmed the Decision^[2] dated June 24, 2011 of the Regional Trial Court of Legazpi City, Branch 10 finding the accused-appellant Charlie Orosco guilty of the crime of Robbery with Homicide.

Appellant, along with Abner Astor, "John Doe" and "Peter Doe," were charged with Robbery with Homicide defined and penalized under Article 294 of the Revised Penal Code, as amended. The Information reads as follows:

That on or about the 16th day of May, 2006, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent of gain and by means of violence, did then and there [willfully], unlawfully, feloniously and forcibly enter the store owned by one Lourdes Yap situated at Purok 4, Barangay Rawis, Legazpi City, and once inside said store, take, steal and carry away cash money, to the damage and prejudice of said Lourdes Yap, and by reason of or on occasion of said robbery, and for the purpose of enabling them to take, steal and carry away the aforesaid cash money in pursuance of their conspiracy, did then and there [willfully], unlawfully and feloniously and taking advantage of their superior strength and with intent to kill, attack, assault and stab the aforesaid Lourdes Yap, thereby inflicting upon her injury which directly caused her untimely death, to the damage and prejudice of her legal heirs.

CONTRARY TO LAW.^[3]

The factual scenario presented by the prosecution is based on the eyewitness account of Albert M. Arca (Arca), the postmortem findings of Sr. Pol. Chief Insp. Dr. James Margallo Belgira who conducted the autopsy on the cadaver of the victim, and the victim's grandson, Ryan Francis Yap.

Arca testified that on May 16, 2006, about one o'clock in the afternoon, he went to the store of Lourdes Yap (Yap) at Purok 4, Barangay Rawis, Legazpi City. He was buying ice but it was not yet hardened (frozen) so he went home. At around two

o'clock, he was again sent on errand to buy ice at the same store. After purchasing the ice, he noticed there was a verbal tussle between Yap and two male customers. The men were arguing that they were given insufficient change and insisting they gave a P500 bill and not P100. When Yap opened the door, the two men entered the store. From outside the store and thru its open window grills, he saw one of the men placed his left arm around the neck of Yap and covered her mouth with his right hand while the other man was at her back restraining her hands. He recognized the man who was holding the hands of Yap as Charlie Orosco (appellant), while he described the man who covered her mouth as thin, with less hair and dark complexion. The latter stabbed Yap at the center of her chest. When they released her, she fell down on the floor. Appellant then took a thick wad of bills from the base of the religious icon or "*santo*" at the altar in front of the store's window, after which he and the man who stabbed Yap fled together with two other men outside who acted as lookouts. Arca went near the bloodied victim but also left and went home afraid because he was seen by one of the lookouts.^[4]

Yap was brought to the Aquinas University Hospital but she was declared dead on arrival. Later, at the National Bureau of Investigation (NBI) Legazpi City District office, Arca gave descriptions of the faces of appellant and the dark thin man who stabbed Yap ("John Doe"). From a surveillance digital photo and video clip shown to him, Arca positively identified Abner Astor (Astor) as one of the two men sitting beside the store as lookouts. Consequently, warrants of arrest were issued against appellant and Astor. But only appellant was arrested as Astor, John Doe and Peter Doe remained at large.

Dr. Belgira affirmed the findings in his Medico-Legal Report^[5] stating:

TRUNK:

- 1) Stab wound, left anterior costal region, measuring 2 x 0.5 cm, 5 cm from the anterior midline, 9 cm deep. The wound tract is directed posteriorwards, upwards and medialwards, cutting the sixth anterior thoracic rib and piercing the heart.

CONCLUSION:

The cause of death is hemorrhagic shock secondary to a stab wound of the trunk.

He explained that it was possible that the lone stab wound caused by a sharp object, such as a knife, was inflicted while the victim was standing, and found no other injuries such as defense wounds.^[6]

For his defense, appellant testified that on the date and time of the incident, he was at his house in Bigaa taking care of his three-year-old child while his wife was washing clothes. He stayed in the house until his wife finished the laundry at past 3:00 p.m. He denied knowing Yap and his co-accused Astor. While he admitted that he was a resident of Purok 4, Bgy. Rawis, his family transferred to their other house at Bigaa. He denied knowing Arca and he does not know of any motive for Arca to

testify against him. He worked in a copra company in Lidong but stopped reporting for work after May 16, 2006 as he was selling fish. He was arrested by the police at the rotunda in Legazpi when he was buying medicine for his sick child.^[7]

Appellant's wife, Teresa Magdaong-Orosco also testified to confirm that at the time of the incident he was at their house while she was doing the laundry just adjacent to their house. On cross-examination, she was asked the distance between their place and Bgy. Rawis and she replied that it will take less than one hour from Bigaa to Rawis.^[8]

On June 24, 2011, the trial court rendered judgment convicting appellant of the crime charged, thus:

WHEREFORE, above premises considered, the Court hereby finds accused Charlie Orosco GUILTY of the crime of robbery with homicide. He is hereby sentenced to suffer the penalty of *reclusion perpetua*, to pay the heirs of Lourdes Yap P75,000.00 as civil indemnity for the fact of death, P75,000.00 as moral damages and P30,000.00 as exemplary damages.

Insofar as the other accused is concerned, the case is hereby sent to the archives, pending their eventual arrest.

So Ordered.^[9]

Appellant went to the CA but his appeal was dismissed. The CA upheld his conviction as it found no compelling reason to deviate from the factual findings and conclusions of the trial court.

In this petition, appellant reiterates the arguments he raised before the CA that the trial court erred in giving credit to the uncorroborated eyewitness testimony of Arca who could not point to him during the trial, and that even granting that criminal charges may be imputed against him, it should only be robbery and not the complex crime of robbery with homicide considering the fact that it was not him who stabbed Yap.

The appeal lacks merit.

It is settled that witnesses are to be weighed not numbered, such that the testimony of a single, trustworthy and credible witness could be sufficient to convict an accused. The testimony of a sole witness, if found convincing and credible by the trial court, is sufficient to support a finding of guilt beyond reasonable doubt. Corroborative evidence is necessary only when there are reasons to warrant the suspicion that the witness falsified the truth or that his observation had been inaccurate.^[10]

In this case, both the trial and appellate courts found the testimony of the lone eyewitness, Arca, convincing notwithstanding that he was quite slow in narrating the incident to the court and that he initially desisted from physically pointing to appellant as the one who held Yap's hands from behind and took her money at the store after she was stabbed by appellant's cohort (John Doe).

In his direct examination, Arca named appellant as one of those who robbed and killed Yap but refused to pinpoint him in open court, thus:

ACP NUQUI

x x x x

Q. This person who was holding the hands of Lourdes Yap, were you able to identify him?

A. Yes, sir.

Q. Do you know the name of this person?

A. Yes, sir. He is Charlie.

Q. Do you know the family name?

A. Orosco, sir.

Q. If this Charlie Orosco whom you said was then holding the hands of Lourdes Yap, if he is in Court, would you please point to him?

WITNESS (answering)

A. Yes, sir.

Q. Please look around you and point at him.

A. He is here.

Q. If he is in Court, please point at him.

Q. Why can't you point at him?

COURT INTERPRETER

At this juncture, the witness is somewhat trembling.

ACP NUQUI

Oh, you see.

ATTY. BAÑARES

The witness can not answer.

ACP NUQUI

By the look of the witness, Your Honor, he is afraid. Perhaps....

x x x x

ACP NUQUI (continuing)

Q. Please point at him.

ATTY. BAÑARES

We have already foreseen the witness to pinpoint at anyone.

ACP NUQUI

No. He said that the....

ATTY. BAÑARES

Then, let him voluntarily do it.

ACP NUQUI

Okay.

ATTY. BAÑARES

Your Honor, I move that the prosecutor will transfer to another question because we keep on waiting already.

ACP NUQUI

Your Honor, it is understandable that even he is slow, he keeps on glancing at the person.

COURT

Observations are all noted.

x x x x

ACP NUQUI

At this point, Your Honor, I would like to make of record

that when it comes to the person of Charlie Orosco, Your Honor, he stopped and did not say ---- he did not nod or do anything of what he has been doing when the other persons were identified.

COURT

Okay. Noted.^[11]

Arca continued with his testimony on how Yap was stabbed by appellant's companion and appellant taking the thick wad of P1,000 bills before fleeing along with the two lookouts. When asked for the fourth time to pinpoint appellant, Arca was still hesitant:

Q. Now, is this Charlie Orosco here in Court?

A. Yes, sir, he is around.

Q. This person who took the money or Charlie Orosco you said "he is in Court," will you please look at him.

x x x x

ACP NUQUI (continuing)

Q. Is he now in Court?

A. Yes, sir.

Q. Please point at him.

ATTY BAÑARES

The same observation, Your Honor.

COURT

Oh, the same observation?

ACP NUQUI

Yes, Your Honor, he is hesitant. It is understandable because he is afraid.

x x x x

COURT (to the witness)

Q. **Why can you not point at Charlie Orosco who according to you he is inside the Court?**

WITNESS (answering)

A. **I can't afford to point at him.**

ACP NUQUI (to the witness)

Q. Why?

A. **I am afraid.**

COURT

He can not because he is afraid.^[12] (Emphasis supplied)

At the next hearing, Arca was recalled to the witness stand and this time he was able to pinpoint appellant as among those persons who robbed and killed Yap, thus:

PROSECUTOR NUQUI

Q- You mentioned that you saw two (2) persons talking to Lourdes Yap. Who are these persons you are referring to?

ATTY. CHAN

Your Honor please, we are again registering our objection.

COURT