

SECOND DIVISION

[G.R. No. 189850, September 22, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO TORRES, JAY TORRES, BOBBY TORRES @ ROBERTO
TORRES Y NAVA, BRION, AND RONNIE TORRES, ACCUSED,**

**BOBBY TORRES @ ROBERTO TORRES Y NAVA, ACCUSED-
APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

This is an appeal from the July 23, 2009 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02925, which modified the December 5, 2006 Decision^[2] of the Regional Trial Court (RTC), Manila, Branch 27 in Criminal Case No. 02-200171. The RTC found appellant Bobby Torres @ Roberto Torres y Nava (appellant) guilty beyond reasonable doubt of the crime of murder but on appeal, the CA found appellant guilty of the special complex crime of robbery with homicide.

Factual Antecedents

On January 28, 2004, an Amended Information^[3] was filed before the RTC,

charging siblings Reynaldo Torres (Reynaldo), Jay Torres (Jay), Ronnie Torres (Ronnie) and appellant with the special complex crime of robbery with homicide committed against Jaime M. Espino (Espino). The Amended Information contained the following accusatory allegations:

That on or about September 21, 2001, in the City of Manila, Philippines, the said accused, armed with bladed weapons, conspiring and confederating together with one malefactor whose true name, real identity and present whereabouts [is] still unknown and helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of force, violence, and intimidation, to wit: while one JAIME M. ESPINO was on board his car and travelling along C.M. Recto Avenue corner Ylaya St., Tondo , this City, by blocking his path and forcibly grabbing from the latter his belt-bag; that on the occasion of the said robbery and by reason thereof, the herein accused, in pursuance of their conspiracy, did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault, use personal violence and abuse of superior strength upon the said JAIME M. ESPINO and that when the latter resisted, by then and there stabbing the latter with bladed weapons on x x x different parts of his body, thereby inflicting upon the latter multiple stab wounds which were the direct and

immediate cause of his death thereafter, and afterwhich, divest, take, rob and carry away a belt-bag, wallet, necklace, watch and ring of undetermined amount, belonging to said JAIME M. ESPINO.

Contrary to law.^[4]

Only appellant was arrested. Reynaldo, Jay and Ronnie remain at-large to date. During arraignment, appellant entered a plea of "not guilty".^[5] After the termination of the pre-trial conference, trial ensued.^[6]

Version of the Prosecution

The prosecution presented as eyewitnesses Eduardo Umali (Umali), a butcher, and Merlito Macapar (Macapar), a cigarette vendor. Also presented were Dr. Romeo T. Salen (Dr. Salen), who testified on the cause of death of Espino. From their testimonies,^[7] the following facts emerged:

At around 10:00 p.m. of September 21, 2001, Espino was driving his car along C.M. Recto Avenue in Divisoria, Manila when Ronnie suddenly blocked his path. Espino alighted from his vehicle and approached Ronnie, who tried to grab his belt-bag. Espino resisted and struggled with Ronnie for the possession of his belt-bag but the latter's brothers, Jay, Rey, appellant, and an unidentified companion suddenly appeared. With all of them brandishing bladed weapons, appellant and his brothers took turns in stabbing Espino in different parts of his body while the unidentified companion held him by the neck. When Espino was already sprawled on the ground, they took his belt-bag, wallet and jewelries and immediately fled.

Espino was rushed to the hospital but was pronounced dead on arrival. In his Medico-Legal Report No. W-658-2001,^[8] Dr. Salen concluded that Espino died of multiple stab wounds caused by sharp bladed instruments. The back portion of his head bore two stab wounds while his body suffered four stab wounds which proved fatal. Considering the number and varying measurements of the wounds, Dr. Salen opined that there were more than one assailant.

To prove the civil aspect of the case, Espino's daughter, Winnie Espino-Fajardo (Winnie) testified that the pieces of jewelry stolen from her father consisted of a necklace worth P35,000.00, bracelet worth P15,000.00, wristwatch worth P10,000.00 and two rings worth P10,000.00 each. As for their expenses, Winnie said that P25,000.00 was spent for the burial lot and P37,000.00 for the funeral services. She stated further that Espino was 51 years old at the time of his death and was earning P3,000.00 a day as a meat vendor.^[9]

Version of the Defense

Appellant denied any participation in the crime. He testified that at around 10:00 p.m. of September 21, 2001, he was with his girlfriend, Merlita Hilario (Merlita). They proceeded to the house of their friend, Marilou Garcia (Marilou), in Villaruel, Tayuman, Manila where they had a drinking session which lasted until they fell asleep. They did not leave their friend's house until the following morning when they went home. Thereupon, he was told that policemen were looking for him

because his brothers got involved in an altercation that resulted in the death of someone.^[10] Merlita and Marilou corroborated appellant's alibi in their respective testimonies.^[11]

From the testimony of another defense witness, Jorna Yabut-Torres (Jorna), wife of Ronnie, the defense's version of the incident emerged as follows:

In the evening of September 21, 2001, Jorna and Ronnie were sharing jokes with other vendors in Divisoria when a car stopped a few meters from their stall. The driver alighted and asked why they were laughing. Ronnie replied that it had nothing to do with him. The driver seemed drunk since he walked back to his vehicle in an unsteady manner. Moments later, the driver returned and stabbed Ronnie on the wrist with a knife. Jay saw the assault on his brother, Ronnie, and got a bolo which he used to hack the driver repeatedly. Thereafter, Ronnie and Jay fled.^[12]

Ditas Biescas-Mangilya, a vegetable vendor in Divisoria, corroborated Jorna's version of the incident in her testimony.^[13]

Ruling of the Regional Trial Court

In its December 5, 2006 Decision,^[14] the RTC held that appellant could not have committed robbery. It ratiocinated, viz:

Prosecution witness Merlito D. Macapar testified that Ronnie took the belt bag of the deceased while Bobby and the rest took his wristwatch, ring and necklace. However, on cross-examination, witness admitted that he did not see who took the ring, wristwatch and necklace because as soon as the deceased fell on the ground, accused and companions surrounded him. Merlito's testimony was contradicted by Eduardo Umali on a vital point. Thus, Merlito testified that there was an exchange of heated words. There was no intimation whatsoever what the altercation was about. He was ten meters away. No such altercation, however, took place according to Eduardo who was barely five meters away. This tainted the testimony of Merlito and Eduardo with suspicion. When material witnesses contradict themselves on vital points, the element of doubt is injected and cannot be lightly disregarded. That was not all though. Merlito testified [that] several people witnessed the incident. The stall of the victim's daughter was about ten meters from the crime scene, which was a few meters from the stall of Ronnie. They both had been in their respective stalls for quite sometime. The principal prosecution witnesses are familiar with the deceased and the accused except for the unidentified companion as they often see them at the vicinity. Thus, in all likelihood, accused and the victim are familiar if not know each other very well. The perpetration of robbery at the place was thus unlikely.

Even granting that the element of taking is present, still, accused cannot be held liable for the complex crime of robbery with homicide for the reason that it was not indubitably shown that the main purpose of the

accused was to rob the victim. To the mind of the Court, this is precisely the reason why the prosecution skipped the utterances made by the protagonist[s] during the attack. To sustain a [conviction] for the special complex crime of robbery with homicide, the original criminal design of the culprit must be robbery and the homicide is perpetrated with a view to the consummation of the robbery, or by reason or on the occasion of the robbery (People vs. Ponciano, 204 SCRA 627).

x x x x

The crime of robbery not having been indubitably established, the accused cannot be convicted of the special complex crime of robbery with homicide.^[15]

The RTC thus concluded that appellant can only be liable for the killing of Espino. It held him guilty of murder after it found the qualifying circumstance of abuse of superior strength, which was alleged in the Information and duly established by the prosecution. Moreover, the RTC ruled that conspiracy among the accused attended the crime.

Anent the civil aspect of the case, the RTC granted civil indemnity, actual and moral damages to the heirs of Espino, but denied the claim for loss of earning capacity for lack of documentary evidence.

The dispositive portion of the RTC Decision reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court finds accused Bobby Torres y Nava, "Guilty" beyond reasonable doubt of the crime of Murder as the qualifying circumstance of abuse of superior strength attended the commission of the crime and hereby sentences him to suffer the penalty of Reclusion Perpetua, to indemnify the heirs of the victim the sum of P50,000.00, the additional sum of P50,000.00 as moral damages, actual damages in the amount of P62,000.00 and to pay the costs.

Let alias warrant of arrest issue against accused Reynaldo Torres, Jay Torres and Ronnie Torres.

SO ORDERED.^[16]

Appellant filed a Motion for Reconsideration^[17] which was denied in an Order^[18] dated April 10, 2007.

Hence, appellant appealed to the CA.^[19]

Ruling of the Court of Appeals

In modifying the ruling of the RTC, *i.e.*, finding appellant guilty of robbery with homicide instead of murder, the CA found that the primary intention of appellant

and his co-accused was to rob Espino and his killing was only incidental to the robbery. The blocking of Espino's car and the struggle for possession of his belt-bag after he alighted are clear manifestations of the intent to commit robbery. The dispositive portion of the July 23, 2009 Decision^[20] of the CA reads as follows:

WHEREFORE, in view of foregoing, the appealed decision of the RTC Manila, Branch 27 dated December 5, 2006 is hereby MODIFIED in that appellant is found GUILTY beyond reasonable doubt of the crime of ROBBERY with HOMICIDE and he is hereby sentenced to suffer the penalty of *reclusion perpetua*. The trial court's award to the heirs of the victim, Jaime Espino, of civil indemnity in the amount of P50,000.00, moral damages in the amount of P50,000.00, and actual damages in the amount of P62,000.00 as well as its order to appellant to pay the costs of suit, are hereby AFFIRMED.

SO ORDERED.^[21]

Hence, this present appeal.

Assignment of Errors

Appellant imputes upon the CA the following errors in his Supplemental Brief.^[22]

The acquittal of the accused-appellant in the robbery charge should be left undisturbed as being final and executory which cannot be overturned without violating the proscription against double jeopardy.^[23]

The appellate court exceeded its jurisdiction when it reviewed the entire case despite the fact that the accused-appellant only appealed his conviction for murder.^[24]

It was an error to convict the accused-appellant of the crimes charged considering that his guilt was not proven beyond reasonable doubt.^[25]

Our Ruling

The appeal is unmeritorious.

In an appeal by an accused, he waives his right not to be subject to double jeopardy.

Appellant maintains that the CA erred in finding him liable for robbery with homicide as charged in the Amended Information. He argues that his appeal to the CA was limited to his conviction for murder and excluded his acquittal for robbery. And by appealing his conviction for murder, he does not waive his constitutional right not to be subject to double jeopardy for the crime of robbery. He claims that even assuming that the RTC erred in acquitting him of the robbery charge, such error can