

## SECOND DIVISION

[ G.R. No. 200922, July 18, 2012 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CESAR  
CONCEPCION Y BULANIO, APPELLANT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a criminal case filed against the accused Cesar Concepcion y Bulanio (Concepcion) for the crime of robbery with homicide under Article 294 of the Revised Penal Code (RPC), committed as follows:

That on or about the 25<sup>th</sup> day of May 2004, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with his co-accused ROSENDO OGARDO, JR. Y VILLEGAS, with intent to gain, by means of force, violence and intimidation of person, did then and there, willfully, unlawfully and feloniously rob one JENNIFER ACAMPADO Y QUIMPO, in the following manner, to wit: While complainant was walking along Panay Avenue corner Timog Avenue, Barangay Paligsahan, this City, accused suddenly appeared from behind riding in a Suzuki motorcycle with Plate no. RG-7037 and forcibly took, robbed and carried away complainant's shoulder bag containing wrist watch, earring, brochure, bracelet and wallet all valued at P3,000.00, Philippine Currency, and that on the occasion of the said robbery, accused ROSENDO OGARDO, JR. Y VILLEGAS died due to vehicular accident; to the damage and prejudice of the said offended party in the aforementioned amount.

Contrary to law.<sup>[1]</sup>

The Regional Trial Court (RTC) of Quezon City, Branch 81, in its Decision dated 1 August 2006 (RTC Decision),<sup>[2]</sup> found Concepcion guilty beyond reasonable doubt of the crime of robbery with homicide and sentenced him to suffer the penalty of reclusion perpetua with all accessory penalties provided by law, and to reimburse private complainant Jennifer Q. Acampado (Acampado) the amount of .3,000 representing the cash, jewelry and other personal items taken from her. On appeal, the Fourth Division of the Court of Appeals (CA) affirmed *in toto* the RTC Decision.

#### **Prosecution's Version of Facts**

The RTC Decision provided the prosecution's version of facts, as supported by the

records:

At around 11:00 o'clock a.m. of May 25, 2004, while private complainant Jennifer Acampado was at the corner of Mother Ignacia Street, Quezon City and at another street which she could not remember and seemed to be deserted at that time, a male person riding at the back of the driver of a motorcycle whom she later identified in open court as accused Cesar Concepcion, snatched her brown Avon bag with black strap which at that time, was placed on her left shoulder. The black motorcycle with white covering at the back side and with plate number which is not visible to the eye, came from behind her. As the motorcycle sped away, the accused even raised and waved the bag that he snatched from Jennifer who was unable to do anything but just cry and look at the snatcher so much so that she recognized him in the process.

Meanwhile, while prosecution witness Joemar de Felipe was driving his R & E Taxi, in the same vicinity, he witnessed the subject snatching incident. As the accused was waving the bag at Jennifer, he blew his horn. Ogardo drove faster so that de Felipe gave a chase and kept on blowing his horn. Eventually, Ogardo lost control of the motorcycle and it crashed in front of his taxi, sending its two occupants to the pavement. De Felipe immediately alighted from the taxi with the intention to arrest the snatchers. At that juncture, some policemen from the Kamuning Police Station 10, EDSA, Kamuning, Quezon City, arrived. Seeing that the snatchers were badly injured, the policemen brought them to the East Avenue Medical Center, Quezon City where Ogardo later expired.<sup>[3]</sup>

### **Defense's Version of Facts**

The RTC Decision likewise summarized the defense's version of facts, as follows:

For the defense, the accused testified. He denies participation in the snatching incident and contends that at around 11:00 a.m. of May 25, 2004, he and his companion, Rosendo Ogardo, were riding in a motorcycle when suddenly there was this chasing by another motorcycle. A taxi bumped their motorcycles and Rosendo was thrown to the gutter. Rosendo was severely injured. The police brought them to the East Avenue Medical Center where Rosendo died. Thereafter, he was brought to the police station where a woman pointed to him as snatcher. A case for robbery with homicide was filed against him on the same day.<sup>[4]</sup>

### **The Decision of the Regional Trial Court**

The RTC declared Concepcion guilty beyond reasonable doubt of the crime of robbery with homicide. The dispositive portion of the RTC Decision reads:

WHEREFORE, the Court finds accused CESAR CONCEPCION y BULANIO guilty beyond reasonable doubt of the crime of ROBBERY WITH HOMICIDE described and penalized under Article 294 of the Revised Penal Code as amended by R.A. 7659 in relation to Article 61 of the RPC and is hereby sentenced to suffer the penalty of Reclusion Perpetua with all the accessory penalties provided by law and to reimburse private complainant Jennifer Acampado the amount of P3,000 representing the cash, jewelry and other personal items taken from her.<sup>[5]</sup>

The RTC declared that all elements of the crime of robbery were duly proven. The prosecution sufficiently established the identity of Concepcion as the person who snatched Acampado's bag because Concepcion was positively identified by the victim Acampado and Joemar de Felipe (de Felipe), who both had no ill-motive to falsely testify against Concepcion.

### **The Decision of the Court of Appeals**

The CA affirmed the conviction of Concepcion. The dispositive portion of the CA Decision reads:

WHEREFORE, the appealed decision of Branch 81 of the RTC of Quezon City, dated August 1, 2006 is hereby AFFIRMED *IN TOTO*.<sup>[6]</sup>

The CA declared that robbery with homicide was committed. The CA held that, for as long as the homicide resulted during, or because of, the robbery, even if the killing was by mere accident, robbery with homicide was committed. It is immaterial that death supervened by mere accident or that the victim of homicide was a person other than the victim of robbery or that two or more persons were killed. What is essential is that there is a direct relation or intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes be committed at the same time.<sup>[7]</sup>

### **The Issues**

Concepcion, in his brief, raised the following issues:

- I. THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE HIGHLY INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.
- II. THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>[8]</sup>

Concepcion discussed the issues jointly, claiming that the CA erred because: (a) it gave credence to the inconsistent testimonies of the prosecution witnesses

regarding the date and manner of the commission of the crime; (b) even assuming that he snatched Acampado's shoulder bag, Concepcion should be held liable for simple theft only; and (c) the prosecution failed to establish that Ogardo's death was by reason or on the occasion of the alleged robbery.<sup>[9]</sup>

### **The Ruling of the Court**

#### **Inconsistent Testimonies of Prosecution Witnesses**

Concepcion claims that Acampado and de Felipe, both prosecution witnesses, made inconsistent testimonies. First, de Felipe testified that the snatching incident happened on 26 May 2004, when the information states that the alleged crime was committed on 25 May 2004.<sup>[10]</sup> Second, Acampado testified that Concepcion was on board the motorcycle, sitting at the back of Ogardo, when Concepcion snatched Acampado's shoulder bag from behind. In contrast, de Felipe testified that Concepcion alighted from the motorcycle and forcibly took Acampado's shoulder bag.<sup>[11]</sup> Lastly, de Felipe, on direct examination, claimed that the motorcycle slid and Ogardo and Concepcion fell on the street. On cross examination, however, de Felipe admitted that his taxi bumped the motorcycle, causing Concepcion and Ogardo to be thrown off the motorcycle.<sup>[12]</sup>

It is a general principle of law that factual findings of the trial court are not disturbed on appeal unless the court *a quo* is perceived to have overlooked, misunderstood or misinterpreted certain facts or circumstances of weight, which, if properly considered, would have materially affected the outcome of the case.<sup>[13]</sup> We find no compelling reason to disturb the factual findings of the RTC, as affirmed by the CA, in this case.

#### **Robbery vs. Theft**

On the second and third issues, Article 293 of the RPC defines robbery as a crime committed by "any person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything." Robbery with homicide occurs when, by reason or on occasion of the robbery, the crime of homicide shall have been committed.<sup>[14]</sup> In Article 249 of the RPC, any person who shall kill another shall be deemed guilty of homicide. Homicide, as used in robbery with homicide, is to be understood in its generic sense to include parricide and murder.<sup>[15]</sup> The penalty for the crime of robbery with homicide is *reclusion perpetua* to death.<sup>[16]</sup>

Theft, on the other hand, is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take the personal property of another without the latter's consent.<sup>[17]</sup> The penalty of *prision correccional* in its minimum and medium periods is imposed upon persons guilty of theft, if the value of the thing stolen is more than P200 but does not exceed P6,000.<sup>[18]</sup>

By definition in the RPC, robbery can be committed in three ways, by using: (a) violence against any person; (b) intimidation of any person; and/or (c) force upon anything. Robbery by use of force upon things is provided under Articles 299 to 305