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SECOND DIVISION

[G.R. No. 181138, December 03, 2012]

RICKY "TOTSIE" MARQUEZ, ROY BERNARDO, AND JOMER MAGALONG, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

"[T]he testimony of a co-conspirator, even if uncorroborated, will be considered sufficient if given in a straightforward manner and it contains details which could not have been the result of a deliberate afterthought."[1]

Factual Antecedents

For our review is the July 27, 2007 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR No. 28814 which affirmed the June 30, 2004 Decision[3] of the Regional Trial Court (RTC) of Caloocan City, Branch 121 in Criminal Case No. C-65837 finding herein petitioners Ricky "Totsie" Marquez (Marquez), Roy Bernardo (Bernardo), Jomer Magalong (Magalong) and accused Ryan Benzon (Benzon), guilty beyond reasonable doubt of the crime of Robbery With Force Upon Things and sentencing them to imprisonment of six (6) years of prision correccional to nine (9) years of prision mayor and to pay the private complainant Sonia Valderosa (Valderosa) the amount of P42,000.00.

The Information[4] filed against petitioners and Benzon contained the following accusatory allegations:

> That on or about the 6th day of April, 2002 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused confederating together and mutually aiding each other, with intent of gain by means of force upon things, that is, by destroying the door lock of the stall of one SONIA VALDEROSA and passing/entering thru the same, once inside, did then and there willfully, unlawfully and feloniously take, rob and carry away the following items, to wit:
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> Two (2) pieces Rice Cooker (heavy duty)
> One (1) piece of [Teppanyaki] (big)
> 1,000 pieces of Boxes (printed)
> Kitchen Utensils
> Fresh Meat (48 kls)
> Three (3) boxes of Ter[i]yaki Sauce
> One (1) Heavy duty blender

One (1) Programmer Calculator
One (1) Transistor Radio

all belonging to the said complainant, to the damage and prejudice of the latter in the total amount of P42,000.00.

CONTRARY TO LAW.[5]

All of them pleaded "not guilty" during arraignment.[6] After the pre-trial conference was held and terminated,[7] trial ensued. In the course of the trial, however, Benzon failed to appear despite due notice.[8] The trial court therefore ordered the issuance of a warrant for his arrest and the cancellation of his bail bond.[9] Benzon was then tried *in absentia*.[10]

Prosecution's Version

At around 2:30 a.m. of April 6, 2002, Marlon Mallari (Mallari) was with petitioners and Benzon in front of the University of the East (U.E.), Caloocan City. Marquez suggested that the group rob the Rice-in-a-Box store located at the corner of U.E.[11] Marquez then got a lead pipe and handed it to Magalong, which he and Bernardo used to destroy the padlock of the store.[12] Mallari was designated as the look-out while petitioners and Benzon entered the store and carried away all the items inside it which consisted of rice cookers, a blender and food items.[13] They then brought the stolen items to the house of Benzon's uncle.[14] Apprehensive that Mallari might squeal,[15] the group promised to give him a share if they could sell the stolen items.[16]

At 9:30 a.m. of the same day, Valderosa received information from the daughter of the owner of the premises where her Rice-in-a- Box franchise store was located, that her store had been forcibly opened and its padlock destroyed.[17] Upon her arrival thereat, she discovered that the contents of her freezer were missing along with other items inside the store, such as two rice cookers valued at P3,900.00 each, teppanyaki worth P2,700.00, a thousand pieces of rice boxes at P5.00 a piece, kitchen utensils valued at P4,500.00, an estimated 48 kilos of fresh meat at P250.00 per kilo, three boxes of teriyaki sauce worth P3,600.00, a blender costing P2,200.00, a programmer calculator valued at P3,500.00, and a transistor radio worth P1,500.00. The total value of these stolen items was approximately P42,000.00.[18] She reported the robbery to the police.[19]

Meanwhile, on April 7, 2002, Mallari informed his older brother of his involvement in the said robbery.[20] At around 4:00 p.m. of the next day, he again confessed but this time to Valderosa.[21]

Petitioners' Version

From 11:00 p.m. of April 5, 2002 until 2:00 a.m. of April 6, 2002, petitioners and Ferdie Dela Cruz (Dela Cruz), Jay Maranan (Maranan) and Randy Badian, were enjoying a videoke session in the house of Gerard "Boy Payat" Santiago, which was

just near U.E.[22] Before going home, they decided to eat *lugaw* at a rolling eatery in the Monumento Circle, Caloocan City.[23] While on their way to the *lugawan*, they passed by Mallari, who was standing in front of the Rice-in-a-Box store.[24] They later went home aboard a jeepney.[25] Maranan alighted first while Benzon and Dela Cruz followed.[26] When it was petitioners' turn to get off the jeepney, they saw the Rice-in-a-Box store already opened.[27] However, they did not report the incident to the police or *barangay* authorities.[28]

The Regional Trial Court's Decision

On June 30, 2004, the trial court rendered a Decision[29] in favor of the prosecution. It ruled that Mallari's personal identification of petitioners and Benzon, and his narration of their individual participation in the robbery were sufficient to establish their guilt beyond reasonable doubt.[30] The trial court disregarded the petitioners' denial and alibi considering that it was not physically impossible for them to be in the crime scene or its vicinity at the time of the commission of the crime.[31] It stressed that the place petitioners claimed to be in was a mere walking distance from the site of the burglary.[32] Moreover, the RTC found Mallari's testimony more worthy of credence than that of petitioners since Bernardo and Magalong themselves admitted that Mallari had no motive to falsely testify against them.[33] The dispositive portion of the trial court's Decision reads:

> WHEREFORE, premises considered, this Court finds accused ***RICKY "TOTSIE" MARQUEZ, RYAN BENZON, ROY BERNARDO and JOMER MAGALONG GUILTY*** beyond reasonable doubt of the crime of ***Robbery With Force Upon Things*** and sentences each of them to suffer the penalty of imprisonment of **SIX (6) YEARS of Prision Correctional** [sic] to **NINE (9) YEARS Of Prision Mayor** and to indemnify private complainant Sonia Valderosa the amount of P42,000.00 representing the value of the stolen articles. With costs.
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> SO ORDERED.[34]

Petitioners filed a Notice of Appeal which was given due course by the trial court.[35]

The Court of Appeal's Decision

Before the CA, petitioners imputed error upon the trial court in finding them guilty beyond reasonable doubt of the crime charged. According to them, the trial court should not have given credence to Mallari's testimony because he is not a credible witness. They likewise contended that even assuming that they committed the crime, the trial court erred in ruling that there was conspiracy since the participation of Bernardo in the alleged robbery was vague.

In its assailed Decision of July 27, 2007,[36] the appellate court did not find merit in petitioners' appeal. Its review of the transcript of Mallari's testimony only resulted in the affirmation of the trial court's ruling that he was a credible witness. The CA

held that while Mallari was a co-conspirator and his testimony was uncorroborated, same was still sufficient to convict petitioners since it "carries the hallmarks of honesty and truth."[37] It clearly established Bernardo's participation in the conspiracy in that he, together with another petitioner, carried away from the store all the stolen items.[38]

The dispositive portion of the CA Decision reads:

> **WHEREFORE**, the decision appealed from finding all the accused guilty beyond reasonable doubt of the crime of robbery with force upon things is hereby **AFFIRMED**. Considering that Ryan Benson was tried in absentia, the trial court is directed to issue an alias warrant of arrest against him.
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> **SO ORDERED**.[39]

Hence, this Petition for Review on *Certiorari*.[40]

Issue

In their Memorandum, petitioners raised the sole issue of:

> WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT FINDING THE PETITIONERS, IN CONSPIRACY WITH EACH OTHER, GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.[41]

Petitioners argue that their defense of denial and alibi should not have been disregarded since the prosecution's case was based solely on the uncorroborated testimony of a co-conspirator, Mallari.[42] And while Mallari admitted to participating in the commission of the crime, he was not charged together with petitioners in the Information for robbery and was instead utilized as a state witness.[43] It is therefore in this light that petitioners assert that Mallari's testimony does not deserve any credence since he merely concocted his testimony in order to save himself and escape criminal liability.[44] Moreover, petitioners claim that the prosecution failed to prove conspiracy.[45]

The Office of the Solicitor General, on the other hand, insists through its Memorandum[46] that Mallari is a credible witness and that his testimony is sufficient to establish petitioners' guilt beyond reasonable doubt.[47] It explains that Mallari's confession to the crime immediately after its commission resulted in petitioners' arrests prior to the filing of the Information.[48] For the said reason, the former was not indicted and was merely utilized as a prosecution witness.[49] Be that as it may, Mallari's testimony, though uncorroborated, can stand by itself and also deserves credence since it was "given in a straightforward manner and contained details which could not have been the result of deliberate afterthought."

[50] Also, Mallari's positive identification of petitioners as the perpetrators of the crime, without evil motive on his part, prevails over the latter's defense of denial and alibi.[51]

Our Ruling

There is no merit in the petition.

Robbery with force upon things in an uninhabited place under Article 302 of the Revised Penal Code (RPC)

"Article 293 of the [RPC] defines robbery to be one 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 may thus be committed in two ways: (a) with violence against, or intimidation of persons and (b) by the use of force upon things."[52]

With respect to robbery by the use of force upon things, same is contained under Section Two, Chapter 1,[53] Title Ten[54] of the RPC. Falling under said section two, among others, are Article 299 which refers to *robbery in an inhabited house or public building or edifice devoted to worship* and Article 302, to *robbery in an uninhabited place or in a private building*. Said articles provide, to wit:

> ART. 299. *Robbery in an inhabited house or public building or edifice devoted to worship.* - Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by *reclusion temporal,* if the value of the property taken shall exceed 250 pesos, and if –
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> (a) The malefactors shall enter the house or building in which the robbery is committed, by any of the following means:
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> 1. Through an opening not intended for entrance or egress;
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> 2. By breaking any wall, roof, or floor or breaking any door or window;
>
> 3. By using false keys, picklocks, or similar tools;
>
> 4. By using any fictitious name or pretending the exercise of public authority.
>
> Or if –
>
> (b) The robbery be committed under any of the following circumstances:
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> 1. By breaking of doors, wardrobes, chests, or any other kind of locked or sealed furniture or receptacle;