

## THIRD DIVISION

[ G.R. No. 178540, June 27, 2008 ]

**PEOPLE OF THE PHILIPPINES APPELLEE, VS. ALEJANDRO  
SORILA, JR. Y SUPIDA AND JOSE BALAUSA Y CANTOR,  
APPELLANTS.**

### D E C I S I O N

**YNARES-SATIAGO, J.:**

Alejandro Sorila, Jr., Jose Balausa and Antonio Quimno were charged with the complex crime of Robbery with Homicide in an Information<sup>[1]</sup> which reads:

On or about October 12, 2001, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together with four unidentified male persons whose true identities and present whereabouts are still unknown, and all of them mutually helping and aiding one another, with intent to gain and by means of force, violence or intimidation, did then and there willfully, unlawfully and feloniously take, steal and divest the following to wit:

- a) cash money amounting to P250,000.00 belonging to Canscor Construction and Development Incorporation, represented by Engr. Armando Baler y Almario;
- b) one (1) Citizen gold automatic watch valued at P2,500.00 belonging to Nelia Panaga;
- c) one (1) Nokia 5110 cellphone valued at P4,500.00 belonging to Nelia Panaga;
- d) one (1) 14k gold bracelet valued at P1,200.00 belonging to Nelia Panaga;
- e) cash money amounting to P50.00 belonging to Clara Bisnar y Calasara;
- f) one (1) Nokia 3210 cellphone valued at P6,900.00 belonging to Clara Bisnar y Calasara;
- g) one (1) 18k gold ring with *brilliantitos* valued at P15,000.00 belonging to Clara Bisnar y Calasara;
- h) one (1) 18k wedding ring valued at P5,000.00 belonging to Clara Bisnar y Calasara; and

i) one (1) Nokia 5110 cellphone valued at P4,500.00 belonging to Evelyn Tario;

to the damage and prejudice of the above-mentioned owners in their respective amounts, in the total amount of P289,650.00; that on the occasion of the aforesaid robbery, accused, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence and shot one Restituto Mariquit, thereby inflicting upon said Restituto Mariquit gunshot wounds on his head, which directly caused his death.

Contrary to law.

The three accused pleaded "not guilty." Thereafter, trial on the merits ensued. The facts as correctly summarized by the trial court:

Record shows that on October 12, 2001 at around 6:30 o'clock in the evening, about four men entered the office of Canscor Construction and Development Incorporation (Canscor), located at No. 29 Evangelista St., Santolan, Pasig City, and declared a hold up. At least two robbers remained outside to serve as look-outs. At that time, five Canscor employees, namely, Clara Bisnar, Evelyn Tario, Nelia Panaga, Marlene Avellaneda and Engineer Bong dela Rosa, were inside the office preparing the pay envelopes of the employees. Clara was then reviewing the vouchers and signing checks when one of the hold-uppers, who was holding a gun and a grenade, positioned himself beside her and ordered her: "*Ilabas mo ang pera.*" That man, whom she identified in open Court, turned out to be Accused Alejandro Sorila. The four men left after about five minutes, taking with them their loot consisting of cash and personal belongings.

Shortly after they gathered and locked themselves inside a room, the five employees heard gunshots outside the Canscor office. One Restituto Mariquit, Jr. was hit by a bullet and died.

Prosecution witness, Andres Saludsod, who, himself, was a complainant relative to the carnapping of his Tamaraw FX in the morning of October 12, 2001, identified Sorila as the same person who boarded his carnapped vehicle in Angono, Rizal and testified that the same vehicle was used to transport the robbers to Canscor and as a get-away vehicle.

Even under gruelling cross-examination, Clara was steadfast in her asseveration that she was so positioned that she was able to see clearly the face of Sorila and the gun and the grenade he was holding. She further testified that Sorila took her cell phone, wristwatch and two rings, amounting to P34,000.00 and 50.00 cash. As regards Accused Jose Balausa and Antonio Quimno, she testified that she did not know the former, while the latter left the Canscor office at 5:30 p.m., and that the next time she saw him again was the night after the hold-up.

Nelia Panaga testified that she was facing the entrance of their office and was categorical in stating that she saw Sorila enter. However, while she testified on what she witnessed happened inside the Canscor office, she admitted that she could not identify the other malefactors who held them

up. She testified, though, that the robbers were able to cart away company money in the amount of P260,000.00 and her wrist watch and bracelet with a total value of P7,000.00. Upon the other hand, Evelyn Tario testified that her cell phone, valued at P4,000.00, was taken by the thieves.

Jaime Fiatos, a member of the Barangay Security Force (BSF) of Santolan, Pasig City, testified that on October 12, 2001 at about 6:30 p.m., he was inside the Barangay office when he heard Restituto Mariquit, Jr. shout, "hold- up." He looked through the door and saw a shooting incident. Then, he transferred to a place near a window from where he saw two male persons, one big and one small, firing guns towards the direction of Canscor. The big one, whom he identified in open Court, turned out to be Accused Jose Balausa. According to Fiatos, the exchange of gunfire lasted about a minute and then he saw Balausa board an FX Tamaraw. Shortly thereafter, he saw Accused Quimno being arrested and brought by his companion. He further testified that Sorila was inside a pay loader when he was arrested; that prior to the shooting incident, he saw Balausa standing outside of Canscor as a look-out and that the next time he saw him, he was firing a gun; that at the time he saw Balausa and another man standing outside of Canscor, there was light about five meters away from where Balausa and his companion were.

The defense of Sorila was that on October 12, 2001 at around 11:00 a.m., he was in the house of his aunt at Brgy. San Antonio, Angono, Rizal. According to him, he decided to go home at around 7:00 p.m. hitching a ride with his cousin, Marvin Supida, in a Tamaraw FX which was enroute to a house of a certain Antonio Tubio in Pasig City. When they reached Pasig, he was advised to alight [from] the FX and to get a ride to Marikina. But before taking a ride to Marikina, he went to a store to buy a cigarette. At that precise moment, he heard gunshots so he hid at the back of a passenger jeep. When it was already peaceful, three policemen approached him and he was ordered to lie face down. He was handcuffed and brought to a police mobile car and then to the Pasig detention cell.

As for Balausa, he claimed that on October 12, 2001, he was at their family eatery establishment from 10:00 A.M. to 6:00 P.M. and when they closed it at 7:30 P.M., he and his wife went straight home, watched T.V. and fell asleep. At about 1:00 A.M. the following day, they were awakened by a commotion and Jose was still sleeping in their room when he was grabbed, carried and handcuffed by gun-wielding men.<sup>[2]</sup>

On August 4, 2004, the Regional Trial Court of Pasig City, Branch 163, rendered a Decision,<sup>[3]</sup> the dispositive portion of which reads:

WHEREFORE, Accused ALEJANDRO SORILA JR. y SUPIDA and JOSE BALAUSA y CANTOR are hereby found GUILTY beyond reasonable doubt of the crime of Robbery with Homicide and, there being no aggravating circumstance alleged in the Information and no mitigating circumstance, are hereby sentenced to suffer the penalty of *reclusion perpetua* and to

pay the costs.

On the civil liability of the two accused, they are ordered to pay the legal heirs of the victim, Restituto Mariquit, Jr., actual damages in the amount of P98,968.00, moral damages in the sum of P50,000.00, civil indemnity for the death of Restituto [Mariquit], Jr. also for P50,000.00 and temperate damages in the amount of P25,000.00; to pay Canscor Construction and Development Incorporation, Nelia Panaga, Clara Bisnar and Evelyn Tario actual damages in the respective sums of P250,000.00, P7,000.00, P26,950.00 and P4,000.00, respectively, all with interest thereon at the legal rate of 6% per annum from this date until fully paid.

Accused ANTONIO QUIMNO y SASOTONA is ACQUITTED on [the] ground of reasonable doubt.

SO ORDERED.<sup>[4]</sup>

On appeal, the Court of Appeals affirmed the judgment of the trial court but deleted the award of temperate damages, thus:

WHEREFORE, with the MODIFICATION that the award of P25,000.00 for temperate damages is DELETED, the challenged Decision of the Regional Trial Court of Pasig City, Branch 163, finding appellants Alejandro Sorila, Jr. and Jose Balansa GUILTY of the crime of robbery with homicide in Criminal Case No. 121877 is hereby AFFIRMED in all other respects.

SO ORDERED.<sup>[5]</sup>

Hence, this appeal.

Appellant Sorila insists that the prosecution witnesses erred in identifying him as one of the malefactors. He claims that they were susceptible to any suggestion or influence because they were in a state of shock. Consequently, when they learned that a particular person was arrested, there were more chances that they would identify the person arrested as the perpetrator of the crime.

The contention lacks merit.

Factual findings of the trial courts, including their assessment of the witness' credibility are entitled to great weight and respect by the Supreme Court particularly when the Court of Appeals affirmed such findings.<sup>[6]</sup> The Court will not alter the findings of the trial court on the credibility of witnesses because of its unique opportunity to observe the manner and demeanor of witnesses while testifying. <sup>[7]</sup> We find no cogent reason to depart from this rule.

Although the employees of Canscor Construction and Development Corporation were taken by surprise when the robbery took place, they were able to get a good look at the robbers who went inside the office. The most natural reaction of victims of violence is to strive to see the looks and faces of the malefactors and to observe the manner in which the crime was committed.<sup>[8]</sup> Most often, the face and body movements of the assailants create a lasting impression on the victims' minds which

cannot be easily erased from their memory.<sup>[9]</sup> In fact, experience dictates that precisely because of the startling acts of violence committed in their presence, eyewitnesses can recall with a high degree of reliability the identities of the criminals and how at any given time, the crime has been committed by them. <sup>[10]</sup> Witnesses need not know the names of the malefactors as long as they recognize their faces. <sup>[11]</sup> What is imperative is that the witnesses are positive as to the perpetrators' physical identification from the witnesses' own personal knowledge, as is obtaining in this case.<sup>[12]</sup>

Prosecution witness Clara Bisnar testified on direct examination, to wit:

Q Do you recall of an unusual incident that happened at about that time, 6:30 on October 12, 2001?

A Yes, Ma'am.

Q What was that untoward incident?

A At that time, I was reviewing vouchers and signing checks when I saw somebody saying, "*Ilabas mo ang pera.*"

Q ***How far were you when you heard this "Ilabas mo ang pera"?***

A ***Very near.***

PROSEC. LEONARDO:

Q *How near ? About an arm's length?*

A Yes, Ma'am.

Q And were you able to recognize from where did that voice come from?

A Yes, Ma'am.

Q Was that a male or female?

A A male.

Q And upon hearing those words, what happened after that?

A I stopped working and turned at my left side.

Q Why did you turn to your left side?

A Because I heard a voice coming from my left side and because my place is near the side (*dulo*).

Q To whom were those words, "*Ilabas mo ang pera,*" directed to?

A I don't know to whom it was directed to because we were four at that time. We were just near each other.