

## SECOND DIVISION

[ G.R. NO. 146161, July 17, 2006 ]

**PEPITO CAPILA Y YRUMA, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

For our resolution is the Petition for Review on Certiorari of the Decision<sup>[1]</sup> dated November 10, 2000 of the Court of Appeals in CA-G.R. CR No. 18903, entitled "*The People of the Philippines v. Pepito Capila y Yruma*."

On August 24, 1993, an Information for robbery was filed with the Regional Trial Court, Branch 148, Makati City, against Pepito Capila y Yruma, herein petitioner, his brother Bonifacio Capila y Yruma, Deogenio Caparoso y Porfero, and Dimas dela Cruz y Lorena.

The Information, docketed as Criminal Case No. 93-7117, is quoted as follows:

That on or about the 9th day of August 1993, in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with alias Jose and alias Gil, 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 and intimidation, did then and there willfully, unlawfully and feloniously take, steal and carry away cash money amounting to P1.3 million and three (3) caliber paltik firearms in the total amount of P18,000.00, belonging to Pilipinas Bank represented by Juan Iglesia y Orgil and Lanting Security Agency represented by Edgar Lucero y Iribayen, respectively, to the damage and prejudice of the complainants in the aforementioned amount of P1.3 million and P18,000.00, respectively.

Upon being arraigned, all the accused, assisted by counsel, pleaded not guilty. Trial commenced thereafter.

The evidence for the prosecution, as culled from the testimonies of Edgardo Irigayen, Ariel Arellano, SPO2 Dioscorro Asinas, Jr., and SPO4 Romualdo Maximo, is summarized as follows:<sup>[2]</sup>

Petitioner Pepito Capila was a security guard of the Lanting Security and Watchman Agency assigned in the Meralco Collection Office on J.P. Rizal Street, Makati City.

On May 9, 1992, Ariel Arellano and Lani Imperio, both employees of the Pilipinas

Bank, Libertad Branch in Pasay City, went to the Meralco Collection Office to receive and deposit cash collections from Meralco's 27 collectors. The total collection for that day amounted to P1,292,991.12. They then placed the money inside a duffle bag table and had it padlocked. Then they waited for the Pilipinas Bank's armored car to arrive. The security guard posted at the Meralco Collection Office at the time was Dimas dela Cruz, also from the Lanting Security and Watchman Agency.

Before the armored car could arrive, two armed men suddenly entered the Meralco Collection Office. They hit Dimas on the nape with a handgun. Then they ordered Ariel and Lani to lie on the floor face down and immediately took the duffle bag containing Meralco's cash collections. They also seized three .38 caliber revolvers, valued at P6,000.00 each, owned by the Lanting Security and Watchman Agency, including the service handgun issued to Dimas.

After the malefactors fled, Dimas told Ariel that petitioner was one of those who robbed the office. Then Dimas called the Makati Police Sub-Station 9, the Meralco Security Division, and the Lanting Security and Watchman Agency to report the incident. The Makati Police dispatched SPO4 Romualdo Maximo to investigate the robbery, while the Lanting Security and Watchman Agency instructed its intelligence officer, Edgardo Irigayen, to talk to the guard on duty.

SPO4 Maximo, accompanied by a police photographer, a fingerprint technician, and another policeman, arrived within ten minutes at the Meralco Collection Office. He questioned Ariel and Lani, but they could not identify the robbers as they were lying face down on the floor. Upon inquiry by SPO4 Maximo, Dimas told him that one of the robbers is petitioner, also a security guard of the Lanting Security and Watchman Agency assigned in the Meralco Collection Office. Thereafter, SPO4 Maximo invited Dimas, Lani and Ariel to the police station for the purpose of taking their sworn statements.

Irigayen, the intelligence officer of the Lanting Security and Watchman Agency, also questioned Dimas. The latter reported that Pepito Capila is one of the robbers.

After the incident, petitioner fled to his hometown in Palapag, Northern Samar. The Lanting Security and Watchman Agency then requested SPO4 Maximo and his team to go to Northern Samar to apprehend Capila.

In Northern Samar, the police operatives, with the assistance of the Citizens Armed Forces Geographical Unit, arrested petitioner, his brother Bonifacio Capila, and Deogenio Caparoso. The police found P5,000.00 in possession of petitioner allegedly part of the loot. All the suspects were arrested without warrants.

SPO4 Maximo interrogated petitioner who admitted that he participated in the commission of the crime; that his share of the loot is P45,000.00; and that Dimas is the mastermind.

After the prosecution had rested its case, all the accused, through counsel, filed a Demurrer to Evidence but it was denied by the trial court.

When the case was called for the continuation of the hearing on November 15, 1994, the accused waived their right to present their evidence, opting to submit their respective memoranda instead.

On January 3, 1995, the trial court rendered its Decision acquitting all the accused, except petitioner, thus:

WHEREFORE, premises considered:

1. And finding that the prosecution failed to prove the guilt of accused Bonifacio Capila, Deogenes Caparoso, and Dimas dela Cruz beyond reasonable doubt, they are hereby acquitted.

2. And finding Pepito Capila guilty beyond reasonable doubt of the crime of Robbery defined under Article 293 and penalized under Article 294 par. 5 of the Revised Penal Code, with the presence of the aggravating circumstance of abuse of confidence, use of a firearm, and betrayal of trust, he is hereby sentenced to an indeterminate prison term of from EIGHT (8) years as minimum to TEN (10) years as maximum.

Pepito Capila is also ordered to pay:

1. Lanting Security Agency the sum of P18,000 for the value of the three firearms not recovered and belonging to said agency;
2. The sum of P1,292,991.12 to Pilipinas Bank, the amount taken and not recovered.

With costs against accused Pepito Capila.

In his appeal to the Court of Appeals, petitioner alleged that the trial court erred in admitting in evidence the statement of Dimas that he (petitioner) is one of the robbers. He was denied due process because he was not able to cross-examine Dimas as the latter did not testify.

On November 10, 2000, the Court of Appeals promulgated its Decision affirming the assailed judgment of the trial court, thus:

WHEREFORE, premises considered, the appealed decision (dated January 3, 1995) of the Regional Trial Court (Branch 148) in Makati, Metro Manila in Criminal Case No. 93-7217 is hereby AFFIRMED with costs against the accused-appellant.

SO ORDERED.

Hence, the instant petition for Review on Certiorari.

The fundamental issue for our resolution is whether the prosecution was able to prove the guilt of herein petitioner beyond reasonable doubt.

A careful scrutiny of the records shows that the prosecution relied heavily on the testimony of SPO4 Maximo that immediately after the incident, Dimas reported to him that one of the robbers is petitioner. The Court of Appeals, in affirming the court a quo's judgment convicting petitioner, ruled that Dimas' statement is part of the *res gestae*.

In the appellee's brief, the Solicitor General reiterated the appellate court's ruling.