

## EN BANC

[ G.R. No. 136145, March 08, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN LOGALADA BOQUILA, ACCUSED-APPELLANT.**

### DECISION

**PUNO, J.:**

On October 8, 1996, around 3:30 in the morning at Don Gervacio Quijada St., Guadalupe, Cebu City, Cresencio Demol, a taxi driver was shot inside his taxicab. Allegedly, Demol's wristwatch was also stolen. Three days later, Ruben Logalada Boquila, a security guard, went to the police and confessed to the commission of the offense. Boquila was charged before the Regional Trial Court of Cebu City with the crime of robbery with homicide in an information that reads as follows:

"That on or about the 8<sup>th</sup> of October, 1996 at about 3:30 in the morning, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a cal. 38 revolver, with deliberate intent, with intent to kill and by means of violence and intimidation upon person, did then and there attack, assault and use personal violence upon one CRESENCIO DEMOL, by shooting him causing upon said Cresencio Demol, the following injuries, to wit:

'SHOCK, SECONDARY TO GUNSHOT WOUND (L) THORACO-ABDOMINAL AREA, ANTERIOR ASPECT.'

and as a consequence of which said Cresencio Demol died instantaneously and with intent of gain, without the knowledge and consent of said Cresencio Demol, did then and there take, steal and carry away one Seiko 5 black dial men's watch valued at P500.00 while the latter was driving his taxi cab along Upper Don Gervacio Quijada St., Brgy. Guadalupe, Cebu City, to the damage and prejudice of Shirley Demol, the wife of the victim, in the amount aforestated.

CONTRARY TO LAW."<sup>[1]</sup>

When Boquila was arraigned on October 29, 1996, he pleaded not guilty to the charge.<sup>[2]</sup> Trial ensued. On January 30, 1997, before the prosecution could complete the presentation of its evidence, Boquila was re-arraigned and changed his plea. The trial court thereafter ordered the prosecution to continue the presentation of its evidence to prove its case and to determine the culpability of the accused.<sup>[3]</sup>

On February 11, 1997, the trial court rendered a decision finding Boquila guilty beyond reasonable doubt of the crime of robbery with homicide. The trial court based its judgment on Boquila's extrajudicial confession made before SPO2 Mario Monilar of the Cebu City Police Department on October 11, 1996. Considering that

the commission of the crime was attended by the aggravating circumstance of nighttime, and there being no mitigating circumstance, the trial court imposed upon Boquila the supreme penalty of death. It also ordered him to indemnify the heirs of the victim in the sum of P50,000.00 and to restitute to them the sum of P500.00 representing the value of the watch allegedly robbed from the victim. The dispositive portion of the decision reads:

"WHEREFORE, in view of all the foregoing, accused RUBEN LOGALADA BOQUILA is found GUILTY beyond reasonable doubt of the crime of Robbery with Homicide and he is hereby sentenced to suffer the penalty of DEATH to be carried out in the manner prescribed by law. The accused is further directed to pay to the heirs of the victim the sum of P50,000.00 and to restitute to the heirs the sum of P500.00 representing the value of the Seiko 5 black dial men's watch being (sic) robbed and to pay the costs."

The case was elevated to this Court on automatic review.

We modify the decision of the trial court.

The evidence for the prosecution shows that on October 8, 1996, around 3:30 in the morning, Sechem Dagangan, a resident of Sambag II, Guadalupe, Cebu City, heard two successive gunfire and some people crying. The sound came from a taxicab outside his residence. He learned from his neighbor that the driver of the taxicab was robbed. He tried to rouse his neighbors to help the driver, but they were overcome by fear as none of them was armed. Dagangan later saw Boquila, who was also his neighbor, come out of the taxicab and walk toward the house of the latter's sister.<sup>[4]</sup>

Upon receipt of a dead person alarm, members of the Homicide Section of the Cebu City Police Department, SPO1 Solomon Gandiongco, SPO2 Edilberto Castaneda and PO3 Alex Dacua, immediately proceeded to the crime scene to conduct an investigation. They found the victim's lifeless body inside a CTC taxicab bearing plate number GVJ 566. He had a gunshot wound on the chest. They also recovered a .38 caliber Armscor revolver with serial number 50440,<sup>[5]</sup> four (4) empty shells<sup>[6]</sup> and one live bullet, and a plastic nameplate with the name RT Para-asi, SG.<sup>[7]</sup> They found out after a follow-up investigation that the revolver belonged to Samantha Security Agency. The nameplate, on the other hand, was owned by Raynel T. Para-asi, a security guard of Samantha Security Agency. Boquila, who was also connected with the same agency, carried the nameplate in his pocket at the time of the commission of the offense. The police submitted the firearm, as well as the empty shells and the bullet to the National Bureau of Investigation<sup>[8]</sup> for ballistic examination.<sup>[9]</sup>

Dr. Jesus P. Cerna, Police Medico-Legal Officer, autopsied the victim's cadaver on October 8, 1996 at 10:00 in the morning. The Necropsy Report<sup>[10]</sup> shows that the victim's cause of death was shock secondary to two gunshot wounds on the left thoraco-abdominal area.<sup>[11]</sup> Dr. Cerna recovered a bullet slug apparently from a .38 caliber revolver from the victim's cadaver. He indorsed said slug to the Homicide Section of the Cebu City Police Department which submitted the same to the NBI for ballistic examination.<sup>[12]</sup>

The ballistic examination<sup>[13]</sup> revealed that the live bullets found inside the .38 caliber revolver with serial number 50440 and the bullet extracted from the body of the victim match, meaning that the fatal bullet was fired from the same gun found at the scene of the crime.<sup>[14]</sup>

Three days after the incident, on October 11, 1996, Boquila went to the Cebu City Police Department and owned to the commission of the offense. He made an extrajudicial confession with the assistance of his lawyer, Atty. Charter Antonio L. Tayurang, and in the presence of his sisters, Anecita Boquila and Remedios Azucena, and his brother, Justiniano Boquila.<sup>[15]</sup> We quote his confession:

"x x x

x x x  
x x x

Question # 1. Will you please state your name and other personal circumstances to (*sic*) include you[r] educational attainment?

Answer # 1. I am Ruben Boquila y (L)ogalada, Fil., 20 years old, single, first year college of General Radio Operator, a native of Sitio Arba, Brgy. San Roque, Talibon, Bohol but at present I am connected with Samantha Security Agency in Juana Osmena St., Cebu City and presently residing at corner Mango Avenue and D. Jakosalem Sts., Cebu City.

Question # 2. Where were you in the dawn of October 8, 1996?

Answer # 2. That on or about 3:30 in the dawn/morning of October 8, 1996, I leave (*sic*) my post as security guard on duty of River Gate in General Maxilom Ave., Cebu City and boarded a PUJ to Robinson Fuente Osmena where I again boarded a PUJ to Guadalupe, Cebu City for me to ask money to (*sic*) my sister, Remedios Azucena who is living in Guadalajara Village, Brgy. Guadalupe and because the PUJ I was riding was up to only in the corner of Banawa and Guadalupe I boarded a Taxicab in going to the house of my sister and riding a taxicab it came to my mind that my said sister can not help me so I decided to announce to a driver that sorry, this is A HOLD UP because I need the money but then the driver quickly held and grappled the barrel of my firearm, Armscor Cal. 38 revolver with serial number 50440.

Question # 3. In what particular place when you announced that it was a HOLD UP and aimed your handgun to (*sic*) the driver?

Answer # 3. Near the Artesian well in Gervacio Quijada St., Brgy. Guadalupe, Cebu City.

Question # 4. What happened during the grappling of the handgun?

Answer # 4. Considering that the driver was holding the barrel of my gun I squeezed several times and in that first fire I think I was hit and in the continuing grapple, the driver was able to bite my chin and in that particular instance I continued squeezing the trigger of my firearm until