

## FIRST DIVISION

[ G.R. No. 134402, February 05, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
NARCISO BAYANG Y LEYPOS,<sup>[1]</sup> DANILO DOMDOM Y CONGOLO,  
AND PEDRO PENZA Y CANTILLA, ACCUSED-APPELLANTS.**

### D E C I S I O N

**PARDO, J.:**

The case before the Court is an appeal from the decision of the Regional Trial Court, Quezon City, Branch 86<sup>[2]</sup> finding accused Narciso Bayang y Leypos, Danilo Domdom y Congolo and Pedro Penza y Cantilla (hereafter "Bayang", "Domdom" and "Penza", respectively) guilty beyond reasonable doubt of robbery with homicide, sentencing each of them to *reclusion perpetua* and to jointly and severally indemnify the heirs of Edilberto Espiritu in the amount of fifty thousand pesos (P50,000.00) as compensatory damages, sixteen thousand five hundred and forty pesos (P16,540.00) as funeral expenses, and thirty thousand pesos (P30,000.00) as moral damages. The court acquitted accused of the charge of carnapping on the ground of reasonable doubt.

On August 15, 1995, at around eleven fifteen in the evening, prosecution witness Alexander Rodelas (hereafter "Alexander") was in his tricycle parked along Osias Street in Barangay Poblacion, Makati. Alexander noticed an Angeleah taxicab stop in front of him. The accused alighted from it.<sup>[3]</sup> The taxicab's plate number was TSJ-568.<sup>[4]</sup>

Since it was unusual for taxicabs to stop in that area, Alexander looked into it and noticed that there was blood on the front seat and near the door. Alexander also noticed that the taxicab's meter and radio were missing.<sup>[5]</sup>

Alexander immediately narrated what he saw to his friends who were drinking nearby. They reported the incident to the punong barangay.<sup>[6]</sup>

When Alexander found accused along P. Burgos St., he recognized them and asked if they were the ones who alighted from the taxicab. Upon being asked, accused cursed him. This prompted Alexander to shout, "holdupper, holdupper!"<sup>[7]</sup>

A man in civilian clothes<sup>[8]</sup> came to Alexander's assistance. At around this time, they were on Burgos St., in front of the Jool's International Club. The man turned out to be a police officer, Marvin Fajilan (hereafter "Marvin") who was on beat patrol.<sup>[9]</sup> Marvin pointed a gun at accused-appellants.<sup>[10]</sup>

Marvin ordered Bayang to open the black bag he was carrying. Marvin searched

accused-appellants and as a result, Marvin recovered a blaster stereo and taximeter from Bayang, a paltik revolver cal. 38 with five bullets and four spare bullets from Penza and the keys to the taxicab from Domdom.<sup>[11]</sup>

In that evening, a person was found dead along Sauyo Road, Novaliches, Quezon City. The person, who suffered a gunshot wound in the neck, was unidentified.<sup>[12]</sup>

In the early morning of August 16, 1995, the deceased was identified by his relatives as Edilberto Espiritu (hereafter, "Edilberto"), the driver of the taxicab that accused-appellants alighted from.<sup>[13]</sup>

On August 16, 1995, a certificate of death was issued reporting that Edilberto, forty (40) years old died of "Hemorrhage as a result of (a) gunshot wound" in the head.<sup>[14]</sup>

On August 18, 1995, Assistant City Prosecutor Benjamin P. Mayo of Quezon City filed with the Regional Trial Court, Quezon City an information charging accused-appellants with robbery with homicide.<sup>[15]</sup> We quote:

"That on or about the 15th day of August, 1995, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent of gain and with intent to kill by means of violence against and/or intimidation of person, did, then and there wilfully, unlawfully and feloniously rob EDILBERTO ESPIRITU-Quinilog in the following manner, to wit: on the date and place afore-mentioned while said EDILBERTO ESPIRITU-Quinilog was driving his taxi with plate No. TSJ-568 along Sauyo Road, Novaliches, this City, accused held and boarded said taxi, after which, accused pursuant to their conspiracy, shot to death said Edilberto Espiritu and divested him of his day's earnings in an undetermined amount, to the damage and prejudice of the heirs of said offended party.

"CONTRARY TO LAW."<sup>[16]</sup>

On the same day, Assistant City Prosecutor Mayo also filed with the same court an information for carnapping<sup>[17]</sup> against accused-appellants. We reproduce its contents thus:

"That on or about the 15th day of August, 1995, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent of gain, without the knowledge and consent of the owner, did, then and there wilfully, unlawfully and feloniously take, steal and carry away one (1) unit Angeleah Taxi bearing plate No. TSJO 568 valued at still undetermined amount, belonging to CORAZON ESPERITO-AYUBAN, to the damage and prejudice of the said offended party.

"CONTRARY TO LAW."<sup>[18]</sup>

On August 18, 1995, the prosecution moved that the two cases be consolidated and tried jointly.<sup>[19]</sup>

On August 28, 1996, the court ordered the arraignment of accused, assisted by counsel *de officio*. They each pleaded "not guilty" to both charges of robbery with homicide and carnapping.<sup>[20]</sup> Trial on the merits ensued.

On May 4, 1998, the trial court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered finding all the accused guilty beyond reasonable doubt of the crime of robbery with homicide and hereby sentence each of them to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of Edilberto Espiritu, jointly and severally, the amount of P50,000.00 as compensatory damages, and the amount of P16,540.00 for funeral expenses, plus moral damages in the amount of P30,000.00.

"On grounds of reasonable doubt the accused are acquitted of Criminal Case No. Q-95-62674 for violation of the Anti-Carnapping Act of 1972, as amended.

"SO ORDERED."<sup>[21]</sup>

On May 19, 1998, accused-appellants, through the Public Attorney's Office, filed their notice of appeal.<sup>[22]</sup>

On February 3, 1999, we resolved to accept the appeal.<sup>[23]</sup>

On December 17, 1999, Bayang filed a motion to withdraw his appeal on the ground that he is a pauper litigant, abandoned by his family and could no longer afford to pursue his appeal.<sup>[24]</sup>

On February 7, 2000, the Court granted Bayang's motion, considered Bayang's appeal as withdrawn and dismissed the appeal as far as he was concerned.<sup>[25]</sup>

On March 13, 2000, the decision of the trial court became final and executory as to Bayang and judgment was recorded in this Court's Book of Entry of Judgments.<sup>[26]</sup>

Hence, this appeal affects only Domdom and Penza.

Domdom and Penza argue that the circumstantial evidence relied on by the trial court is not sufficient to support a verdict of guilt beyond reasonable doubt.<sup>[27]</sup>

We do not agree. We resolve to affirm the convictions.

True, there were no eyewitnesses to the actual robbery with homicide. The only witness who could have testified as to the details of the gruesome crime is Edilberto. Death has silenced his lips forever. However, circumstantial evidence is available and sufficient to convict. We cannot allow felons to go free even without direct testimony.<sup>[28]</sup>