

THIRD DIVISION

[G.R. No. 97913, October 12, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NORBERTO CARROZO * @ "BORBING", CLAVER CARROZO @
"CLAVER", DOMINADOR ** ANTOJADO @ "BADIC", DOMINGO
POLINGA *** @ "DOMING", WILFREDO MANTO @ "DOYDOY",
PRECILO MANTO @ "ONTOY", CARLOS CARROZO @
"DONGDONG" AND RODULFO REDUBLA **** @ "RUDY", ACCUSED.**

**CARLOS CARROZO @ "DONGDONG", PRECILO MANTO @
;"ONTOY", WILFREDO MANTO @ "DOYDOY", AND DOMINADOR
ANTOJADO @ "BADIC", ACCUSED-APPELLANTS.**

DECISION

PURISIMA, J.:

Appeal interposed from the Decision of Branch 10 of the Regional Trial Court, Abuyog, Leyte, finding appellants guilty of Robbery in Band with Multiple Murder in Criminal Case No. 446.

Filed on May 13, 1985 by the then Acting 4th Assistant Provincial Fiscal Nepomuceno P. Aparis, the Information indicting appellants alleged:

"That on or about the 14th day of March, 1985, in the Municipality of Javier, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, and armed with deadly weapons, did, then and there willfully, unlawfully and feloniously with intent of gain and by means of violence against person take, steal and carry away personal property in the form of cash money amounting to Five Thousand Pesos, (P5,000.00), Philippine Currency, belonging to Ramon Robin, Sr., to the damage and prejudiced (sic) of the latter in the aforementioned amount; and that by reason and on the same occasion, said accused, with intent to kill and with treachery, did then and there willfully, unlawfully and feloniously attack, assault and hack Ramon Robin, Sr. hitting the latter on the nape and almost severing the neck from the body which caused his death shortly thereafter; hold (sic) and choke (sic) to death Herminia Robin, wife of Ramon Robin, Sr., and likewise choke to death Ramon Robin, Jr., eight years old, Celso Robin, nine years old and Flocerfina Robin, five years old and thereafter, the aforementioned three children of Ramon Robin, Sr., were placed inside a sack and brought and buried along Bito River, Barangay Naliwatan, Javier, Leyte.

ACTS CONTRARY TO LAW."^[1]

With Dominador Antojado (Antojado, for short), Domingo Polinga, Alfredo Manto, Precilo Manto and Carlos Carrozo entering negative pleas on June 5, 1985, upon arraignment with the assistance of counsel, trial ensued.

The prosecution presented Dr. Ernesto C. Lajara, municipal health officer of Javier, Leyte, PFC. Diosdado Cerna, member of the Integrated National Police of Javier Police Station, and P/Sgt. Ignacio Rellin, member of INP of Javier Police Station. Rodulfo Redubla was discharged to become a state witness.

For the defense, Deodito Tibes,^[2] Carlos Carrozo, Dominador D. Antojado, Hilario Llorada, Pablo Robin and Reynaldo Robin took the witness stand.

Records disclose that Norberto Carrozo @ Borbing was shot dead in the course of arrest; Claver Carrozo @ Claver is at large, and Domingo Polinga @ Doming died of heart attack.

Testified on by the witnesses for the prosecution and summarized by the Solicitor General in the Appellee's Brief, the version of the People runs as follows:

"Rodulfo Redubla (Redubla) is a resident of Sitio Moyongboyong, Bgy. Malitbogay, Javier, Leyte (pp. 2-5, 14-15, TSN, July 8, 1987). He had long known appellants Salvador or Dominador Antojado alias `Badik', Wilfredo Manto alias `Alfredo' and/or `Doydoy', Precilo Manto alias `Ontoy' and Carlos Carrozo as they had previously worked like him (Redubla) as laborers in Javier, Leyte (pp. 2-5, 14-15, 30-32, TSN, July 8, 1987). However, he did not like them anymore, as they were stealing (p. 4, TSN, *ibid.*). Redubla also knew them because he and appellants were members of the `Walang Patawad Group' which engaged in robbery (Sworn Statement of Rodulfo Redubla dated March 18, 1985 during the preliminary examination conducted by the Municipal Circuit Trial Judge; pp. 12-13, *rec.*).

In the afternoon of March 14, 1985, Redubla was invited by appellant Salvador Antojado for a drinking spree at the house of Ramon Robin (pp. 4-5, 18-21, TSN, July 8, 1987; p. 3, TSN, November 17, 1987). At first, he declined but at about 9 o'clock in the evening, said appellant passed by Redubla's house and fetched him (pp. 3-4, TSN, Nov. 17, 1987; p. 13, *rec.*).

Ramon Robin, Sr.'s house which is located at Sitio Moyongboyong, Bgy. Malitbogay, Javier, Leyte is more than a kilometer from the house of the appellant Antojado while the house of Redubla is located half way to the house of Ramon Robin, Sr. (pp. 14-16, TSN, July 8, 1987). While Redubla and appellant Dominador Antojado were already proceeding on a side trail towards the house of Ramon Robin Sr., they saw the latter and his wife still on their way home. (pp. 6-7, 19-21, TSN, July 8, 1987).

When Redubla and appellant Antojado arrived at the yard of Ramon Robin Sr., appellant Antojado told Redubla to stay there as he will be

ahead in going up the house of Ramon Robin Sr. (pp. 4-5, TSN, July 8, 1987). Redubla noticed that the main door and windows of Ramon Robin Sr.'s house were open (pp. 4-5, 16-17, TSN, July 8, 1987). He also noticed from where he stood that there were children lying down on the sala of the house (pp. 17-18, TSN, *ibid.*). Redubla also noticed that there was a light inside the house (pp. 16-17, TSN, July 8, 1987).

At past 10:00 o'clock in the evening, appellants Wilfredo alias 'Alfredo' Manto; Precilo alias 'Ontoy' Manto and Carlos Carrozo alias 'Dongdong', who arrived at the house before Redubla and appellant Antojado, called Redubla one at a time to make their presence known (pp. 5-7, 18-19, 21-23, TSN, July 8, 1987). At that time, appellants Wilfredo Manto, Precilo Manto and Carlos Carrozo were hiding in the porch of the house near the bedroom (pp. 6-7, 18-19, TSN, July 8, 1987). Accused Norberto Carrozo came out of his hiding near the kitchen and approached Redubla and greeted him saying 'Oh, you are here' to which Redubla replied that he came because he was invited by appellant Antojado (p. 23, TSN, July 8, 1987). Afterwards, accused Norberto Carrozo returned to the back of the house (p. 23, TSN, *ibid.*).

Thereafter, appellants Alfredo Manto, Carlos Carrozo, and Precilo Manto inquired from Redubla where was Ramon Robin Sr. Redubla, having seen the couple earlier, told them that Ramon Robin, Sr. was a little bit behind (pp. 5-6, TSN, July 8, 1987).

A few minutes later, Ramon Robin Sr. arrived carrying a lighted torch followed by his wife Herminia (pp. 7-8, 24-25, TSN, July 8, 1987; pp. 8-9, TSN, Nov. 17, 1987). As they were about to enter through the kitchen door, accused Norberto Carrozo, who was then staying behind the door, attacked Ramon Robin Sr. with his bolo. However, the bolo get embedded on the door jamb and Ramon Robin Sr. ran away from him towards the front door where appellant Antojado was posted (pp. 25-26, TSN, Nov. 17, 1987). Thereupon, appellant Antojado hacked Ramon Robin Sr. with a bolo hitting him on the nape and causing Ramon Robin Sr. to fall down still shouting for help (pp. 7, 25-26, TSN, July 8, 1987; pp. 13-14, TSN, Nov. 17, 1987). When Herminia saw what happened to her husband, she began shouting for help but accused Norberto Carrozo covered her mouth to stifle her shouts for help and started choking her (pp. 7-8, TSN, July 8, 1987). Consequently, Herminia Robin pleaded to appellant Antojado not to kill her telling him 'when (sic) you are going to kill me, I have still money amounting to P3,000.00' (pp. 7-8, TSN, July 1987; pp. 14-15, TSN, Nov. 17, 1987). Notwithstanding her pleas and giving of the money, appellant Antojado persisted in choking her with a rope used in tying a carabao and as she was gasping for breath, he placed a piece of cloth inside her mouth (pp. 7-8, TSN, July 8, 1987; pp. 14-17, TSN, November 17, 1987). At that moment, Herminia's young daughter, later identified to be 'Flocerfina Robin', awakened and began asking her mother for food. She eventually noticed the presence of appellant Antojado and remarked 'you are here Mano Badik' (p. 8, TSN, July 8, 1987; pp. 24-25, TSN, November 17, 1987). Thereupon, appellant Antojado struck her with a bolo causing her to fall down (p. 8, TSN, July 8, 1987). Accused Norberto Carrozo likewise stated: 'If we do not place this little child inside the

sack, she will betray us' (pp. 8-9, TSN, July 8, 1987). He then asked for his companions' help to place the children inside the sack (pp. 17-18, TSN, Nov. 17, 1987). Thereafter, appellants Wilfredo and Precilo Manto and Carlos Carrozo went up the house and put the little girl inside the sack (pp. 7-8, TSN, July 8, 1987). Domingo Polinga, Alfredo Manto and Precilo Manto struck the little girl's siblings (later identified to be Ramon Robin Jr. and Celso Robin) and brought them inside the house and similarly placed them inside the sack (pp. 8-9, TSN, July 8, 1987; pp. 21-22, TSN, Nov. 17, 1987).

Reynaldo Robin, a neighbor and relative of Ramon Robin Sr., who had seen the incident from a distance of about five (5) meters likewise heard Norberto Carrozo order his companions to search the house for money (pp. 2-5, TSN, March 7, 1991).

After the three (3) children of Ramon Robin Sr. and his wife Herminia were placed inside a sack, accused Norberto Carrozo ordered his companions to load the bodies of Ramon Robin Sr. and Herminia Robin on a sled (pp. 7-9, TSN, July 8, 1987). Afterwards, accused Domingo Polinga and Claver Carrozo also went up the house to gather the dead bodies of Ramon Robin, Sr. and Herminia Robin as well as the sack where their three (3) children were placed for loading in a sled which was hitched to a carabao (pp. 8-9, TSN, July 8, 1987). Redubla stood watching the proceeding feeling helpless to do anything for fear that he could become another victim (pp. 27-28, TSN, July 8, 1987). xxx

xxx xxx xxx

Subsequently, Pat. Cayunda accompanied Redubla to the house of his colleague PFC Diosdado Cerna, a relative of Herminia Robin, at the poblacion of Javier, Leyte (pp. 25-26, TSN, Nov. 17, 1987). PFC Diosdado Cerna then received the report of Redubla about the robbing and killing of Ramon Robin Sr. and his wife and three (3) children at about 10:30 in the evening of March 14, 1985 by accused Norberto Carrozo, Domingo Polinga and appellants Dominador Antojado, Precilo Manto, Wilfredo Manto and Carlos Carrozo (p. 26, TSN, Nov. 17, 1987; pp. 3-5, TSN, April 22, 1988). Afterwards, Pat. Jovencio Cayunda and Pfc. Diosdado Cerna, together with Redubla, proceeded to the police station in the municipal building of Javier, Leyte for further investigation and to inform the chief of the Javier INP about the reported crime (p. 26, TSN, Nov. 17, 1987).

In the morning of March 15, 1985, P/Sgt. Ignacio Rellin, Chief of the Javier INP, received information on the killing and robbing of Ramon Robin Sr. and his family (pp. 4-5, TSN, April 22, 1988). Thereupon, he ordered PFC Cerna and his companions to follow up the case (pp. 5-6, TSN, April 22, 1988).

At about 8:30 in the morning, the Javier police station received further information from one Mrs. Marticio, Bgy. Capt. of Bgy. Naliwatan, Javier, Leyte that dead persons were found buried in the banks of the Bito River at the outskirts of Bgy. Naliwatan and a carabao was tied near the place where the bodies were buried (pp. 2-3, TSN, Oct. 7, 1988).

Accordingly, the group of PFC Diosdado Cerna, PFC Juan Papalid, Pat. Albino Dagohoy and Pat. Arturo Lazarte, accompanied by Mario Marticio, proceeded to the outskirts of Bgy. Naliwatan, Javier, Leyte to verify the report on the discovered bodies (pp. 6-7, 21-22, TSN, April 22, 1988). There, Marticio led them to the riverbank where the bodies of Ramon Robin Sr. and his wife Herminia and three (3) children were buried (pp. 13-14, 16, TSN, April 22, 1988). They dug up the bodies and found Ramon Robin Sr. and his family members buried in only one place (pp. 9-14, TSN, April 14, 1988).

Afterwards, the bodies of Ramon Robin Sr., his wife Herminia, his children Flocerfina, Ramon Robin Jr. and Celso Robin were loaded on a sled and brought to the municipal building by Pablo Robin and Nilo Robin, Ramon Robin Sr.'s surviving sons, Pablo Novio and Deodito Teves for post-mortem examination (pp. 9-12, TSN, April 22, 1988; pp. 14-15, TSN, May 25, 1989).

Immediately thereafter, the group of PFC Cerna, PFC Juan Papalid, Pat. Albino Dagohoy and Pat. Arturo Lazarte proceeded towards the house of Ramon Robin Sr. at Sitio Moyongboyong, Bgy. Malitbogay, Javier, Leyte to conduct further investigation. When they arrived there, they noticed blood stains and sled tracks from the riverbanks which led to the house and yard (pp. 14-16, TSN, April 22, 1988). They also found bloodstains in the porch and in the yard (pp. 6-7, 13-18, TSN, April 22, 1988).

Based on the report of Redubla that the victims were killed by accused Norberto Carrozo alias Norbing, Salvador Antojado alias Badic, Domingo Polinga @ Doming, Wilfredo Manto @ Doydoy, Carlos Carrozo @ Dongdong, Precilo Manto @ Ontoy and Claver Carrozo @ Claver, P/Sgt. Rellin directed his subordinates to apprehend the suspects but they were unable to get them (pp. 4-6, TSN, Oct. 7, 1988; pp. 11, 23, TSN, April 22, 1988).

On the same date, Dr. Ernesto Lajara, Municipal Health Officer of Javier, Leyte conducted a post mortem (sic) examination on the bodies of Ramon Robin Sr. and his wife. xxx "

Dr. Ernesto Lajara, who conducted post-mortem examination on the bodies of the victims, submitted the following findings:

"Post Mortem Examination Report"

RAMON ROBIN, SR.

Findings

1. Hack wound at the nape almost severing his neck.

CAUSE OF DEATH: Hemorrhage^[3]

HERMINIA CERNA ROBIN

"Post Mortem Examination Report"

FINDINGS

1. Ligature mark around the neck.

2. Face swollen and ashen gray.