

SECOND DIVISION

[G.R. No. 101188, October 12, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
APOLINAR RAGANAS AND RUEL DALEON, ACCUSED-
APPELLANTS.**

D E C I S I O N

QUISUMBING, J.:

This is an appeal from the April 24, 1991 decision of the Regional Trial Court of Cagayan De Oro City, Branch 18, in Criminal Case No. 90-850, finding Apolinar Raganas and Ruel Daleon guilty of the crime of Robbery with Homicide, and sentencing them to *reclusion perpetua* and to pay the heirs of the victim the amount of P30,000.00 as indemnity.

Both were charged on September 7, 1990, with the crime of Robbery with Homicide, allegedly committed as follows:

"On June 18, 1990, at about 9:30 o'clock in the evening, Daylight Saving Time, at Barangay Igpit, Opol, Misamis Oriental, which is within the jurisdiction of the Honorable Court, the afore-named accused, with intent to gain, conspiring and confederating with and mutually helping each other and with violence against a person did, then and there, willfully, unlawfully, and feloniously enter the guardhouse of the Yasay Compound and the office beside it and forthwith proceeded to attack, assault, and stab one Mamerto Lucion, the security guard thereat, who died instantaneously from multiple stab wounds, after which the above-named accused destroyed, cut off, and disconnected the electrical and communication facilities therein such as the radio power supply unit and an intercom set valued, respectively, at P1,500.00 and P1,000.00 and then took and carried away one (1) Sanyo cassette recorder valued at P600.00 belonging to Joseph Denosta.

The commission of the crime was attended by the aggravating circumstance of abuse of superior strength with respect to the killing of said Mamerto Lucion.

CONTRARY TO and in violation of Article 293, in relation with Article 294, paragraph 1, both of the Revised Penal Code." ^[1]

Assisted by counsel, both entered pleas of not guilty on arraignment. After trial, the court a quo rendered judgment which reads:

"**WHEREFORE**, the court finds the accused **APOLINAR RAGANAS** and **RUEL DALEON** guilty beyond reasonable doubt, as principals, as charged, of Robbery with Homicide (Article 294 (1)), Revised Penal Code, and hereby imposes upon each of them the penalty of **RECLUSION PERPETUA** and to indemnify the heirs of **MAMERTO**

LUCION THIRTY THOUSAND PESOS (P30,000.00) and to pay proportionate costs. The accused shall be credited with the full period of preventive period of preventive imprisonment.

SO ORDERED."^[2]

While confined in the Provincial Jail of Misamis Oriental, Cagayan De Oro City, accused Ruel Daleon escaped from prison on May 28, 1992, after stabbing his co-accused, Apolinar Raganas. Because of this incident the Court in a Resolution dated July 29, 1992, dismissed the appeal with respect to appellant Daleon.^[3] Entry of Judgment concerning him was made on August 28, 1992.^[4] **Hence, the present appeal involves appellant Raganas only.**

Appellant assigns for our consideration the lone error that:

THE TRIAL COURT ERRED IN DISCREDITING THE DEFENSE OF DENIAL OF ACCUSED-APPELLANT APOLINARIO (sic) RAGANAS AND IN FINDING HIM GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH HOMICIDE.

Appellant argues that though he was positively identified by prosecution witnesses as the one who fled from the Yasay compound with Daleon, this alone is not enough to prove that he inflicted the injuries on Mamerto Lucion. He contends that not one of the prosecution witnesses testified that they saw him stab the victim. He claims that these testimonies could not even support the finding of conspiracy as he did not have any idea what Daleon intended to do that fateful night of June 18, 1990.^[5]

Prescinding from appellant's lone assignment of error, we find that the crucial issues in this appeal involve credibility of the witnesses and sufficiency of the prosecution's evidence to establish beyond reasonable doubt, the guilt of appellant for the crime of robbery with homicide.

For the State, the Solicitor General, while agreeing with the basic finding of guilt by the trial court, nonetheless recommended the modification of the penalty to conform with Section 9 in relation to Section 21 of Republic Act 7659.^[6] He suggests that the penalty imposed should be modified from *Reclusion Perpetua* to twelve (12) years and one (1) day of *Reclusion Temporal*, as minimum, to twenty (20) years and one (1) day of *Reclusion Perpetua*, as maximum.

The records of the trial court reveal the following factual antecedents:

On June 18, 1990, at about 9:00 o'clock in the evening at Barangay Igpit, Opol, Misamis Oriental, two men with identical clothes alighted from a passenger jeepney.^[7] They were later on identified as the herein accused-appellants. On their way to the Yasay Compound, they passed by Isidra Daayata and Delia Caracho who were both standing on the left side of the national highway the same side the former were. The place was illuminated by a lamp post light near the guardhouse of the Yasay Compound, where Mamerto Lucion was the guard on duty.

According to prosecution witness Roque Obsioma, at around 9:30 p.m. (DST) of June 18, 1990, he heard a commotion in the direction of the guardhouse in the Yasay compound.^[8] He and his cousin, Edwin Obsioma, rushed towards the direction of the guardhouse and saw the security guard Mamerto Lucion grappling

with two persons inside the guardhouse.^[9] After a while, the small gate beside the guardhouse opened and the head of a man emerged. The gate re-opened and another head emerged. Apparently, noticing the presence of Roque and Edwin, the man slammed the gate close. A little later, a man with a cassette recorder tucked under his armpit, was seen coming out of the small gate. Roque chased the man and then gave up the chase. He later on identified the man as Apolinar Raganas.^[10] During the chase, the cassette recorder fell and Roque retrieved it. He brought the cassette recorder belonging to a certain Joseph Denosta, a resident of the Yasay compound, back to the guardhouse.

Isidra Daayata, another witness, also testified that about 9:00 in the evening on June 18, 1990, she and her neighbor Delia Caracho were whiling the time away seated along the national highway. A passenger jeepney coming from the east, going to the west, stopped in front of them. Two men alighted from that jeep, crossed the national highway, headed towards the Yasay compound, proceeded to a mango tree near the barangay social hall about 40 meters away from the Yasay compound, then went back to the Yasay compound, and headed to a caimito tree where the two disappeared from view.^[11]

At about 9:30 that same evening Isidra and Delia again saw Roque and Edwin standing along the highway about ten meters fronting the Yasay compound, looking towards the guardhouse.^[12] Their curiosity aroused, Isidra and Delia went to the gasoline station from where the Yasay compound was visible. Isidra then saw a man with something tucked under his armpit come out of the small gate of the Yasay compound, passing in front of Roque and Edwin. Roque chased the man but failed to catch up with him.^[13] While the pursuit was going on, a man jumped from the wall of the Yasay compound, and dropped something under his armpit as he fled. Roque picked the object up and returned to the guardhouse. Isidra and Delia then went to the guardhouse, with Ricardo Caracho, his wife, and other curious neighbors.^[14] When they entered the small gate, they came upon the dead Mamerto Lucion inside the guardhouse. He was in a kneeling position, his inert right hand extended forward. He was bloodied from several fresh wounds. There were also bloodstains on the wall and floor of the guardhouse. The guardhouse was in disarray. During the trial, Isidra pointed to Apolinar Raganas and Ruel Daleon as the two men she saw emerging from the Yasay compound that day.^[15]

Joseph Denosta, the owner of the cassette recorder, also testified. He said that he lent the recorder to Mamerto Lucion. He described the Yasay compound and the guardhouse where Mamerto Lucion was found dead. He also testified that he lost no time in rushing to the guardhouse where he saw the lifeless Mamerto in a kneeling position, slumped on a chair, bloodied, and wounded on several parts of his body.^[16]

Roland J. Ebonia, a photographer fetched by the Opol Police, testified for the prosecution. He declared that he took about sixteen (16) photographs of the incident which he identified in court and were marked Exhibit A, A-1 to A-15. These photographs showed the exterior of the guardhouse, the view through its door including the adjacent gate of the compound; the cassette-recorder (Exh. F in Exh. A-2); the bloodied body of Mamerto; the intercom system; the disarrayed guardhouse; the blood stains on the floor, walls and chair inside the guardhouse;

and the different angle shots of the dead Mamerto in blood-stained,^[17] striped, long-sleeved shirt.

Witness Reinerio Baba declared that he was resting in his house in Barra, Opol, Misamis Oriental with his wife and family when, at about 10:50 p.m. (DST) of June 18, 1990, he was awakened by the rapping at his door. A man was calling: "Sir, sir, open the door. I'm a good man".^[18] Baba peered thru the windows and saw a man who had bloodstains on his hands, pants, and shirt. Baba asked the man who he was and the man replied, "Sir, I am a good man," at the same time handing over his wallet which contained his identification card.^[19] Despite the restraint of his wife, Baba opened the door. The man raised his hands and said, "I'll not resist". The man then told Baba that they have "hit" somebody. The man asked Baba to allow him to stay for the night but Baba refused. Fearful that something might happen, Baba brought the man to Atty. Amado Mabulay, the barangay captain of Barra. That same night, Atty. Mabulay, in the company of Reinerio Baba, and several other residents, brought the man to the police station. Baba identified the man as Apolinar Raganas.

^[20] Appellant's defense as summarized by the trial court runs this wise:

"The defense of Apolinar Raganas is denial. He denied having inflicted any injury on the late Mamerto Lucion. According to him, he and Ruel Daleon known each other since 1986-87 as co-workers in a rubber plantation in Logitas, Malaybalay, Bukidnon, and had bunked together during their employment there as rubber tapper, but had separated ways in 1987 when Ruel Daleon left ahead to continue schooling.

"He admitted having gone together with Ruel Daleon to the Yasay compound at Igpit, Opol, Misamis Oriental at about 9:30 p.m. on June 18, 1990 to see security guard Mamerto Lucion, whom he had previously known through a certain Paeng Reyes, to inquire about the latter whom he learned to have lost his job and whom he wanted to help find another. His purpose fell through because Ruel Daleon suddenly boxed Mamerto Lucion, and later assaulted him, wounding Mamerto, despite his efforts to separate them, in the ensuing struggle inside the guardhouse. When he sensed that Mamerto Lucion had been wounded, he got scared, and rushed out through the small gate of the Yasay compound, to the chapel nearby and ran and walked part of the way towards Barra, Opol, passing along the highway, in the general direction towards Cagayan de Oro. At Barra he decided to seek help, just at a house which he could not enter because of snarling sentry dogs, and instead he found his way into the house of a man (who turned out to be Reinerio Baba who is one of the prosecution witnesses in this case) to whom he identified himself as a "good man". He informed Baba that somebody had been "hit" (gibirahan). Gibirahan is a colloquial jargon for "assaulting or attacking somebody". He was referring to the wounding of Mamerto Lucion at the guardhouse of the Yasay compound a little while back that same night, and from where he had gone. Baba asked why he was splashed with blood. He did not explain why, because, he told Baba, he only thought it was mere fistcuffs between Lucion and Daleon, whom he tried to separate by holding back Daleon. Baba forthwith brought him to barangay captain Amado Mabulay to whom he was turned over, and later that same night he was brought in a truck by Atty. Amado Mabulay, the