

## SECOND DIVISION

**[ G.R. No. 104145, November 17, 1997 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OSCAR  
DORO Y LAJAO AND RICKY ANDAG Y ABOGADO, ACCUSED-  
APPELLANTS.  
D E C I S I O N**

**MENDOZA, J.:**

This is an appeal from the decision rendered by the Regional Trial Court of Cavite City, Branch 16, finding the accused-appellants Ricky Andag and Oscar Doro guilty beyond reasonable doubt of the crime of Robbery with Homicide and sentencing each of them to suffer the penalty of *reclusion perpetua*.

The facts are as follows:

At around midnight of May 2, 1989, a watchman at the Paredes Furniture Store in Caridad, Cavite City was attacked by three men. Policemen who responded to the report of the crime found the security guard, Rex Ramos, lying on the floor of the furniture store profusely bleeding from stab wounds.<sup>[1]</sup> Ramos pointed Pfc. Alexander Calupe and Pat. Wilfredo Adam towards Padre Pio Street. He was then loaded on the tricycle and taken to the hospital while the two policemen went after the assailants on Padre Pio Street on board another tricycle. They spotted three men (later on identified as the accused) who fled upon seeing them. They exchanged gunfire and one of the three men, later identified as Renato Borja, was killed.<sup>[2]</sup> The other two, Ricky Andag and Oscar Doro, were caught. At the Citizens' Legal Assistance Office they gave separate confessions (Exhs. C and D) with the assistance of a CLAO lawyer.

Meanwhile, the security guard Rex Ramos died of multiple stab wounds upon arrival at the Bautista Hospital.<sup>[3]</sup> The .38 caliber revolver, issued to him by the Sherlock Investigation and Security Agency, had been taken by the assailants. It was later found near the body of Renato Borja, together with three empty shells and two live bullets.<sup>[4]</sup>

An information charging the three, Oscar Doro, Ricky Andag and Renato Borja, with the crime of Robbery with Homicide was filed on May 8, 1989. It was later amended to exclude the deceased Renato Borja.<sup>[5]</sup> Accused-appellants pleaded not guilty to the charge.<sup>[6]</sup>

At the pre-trial conference, the accused-appellants admitted that they had separately and individually executed extrajudicial confessions but claimed that the confessions had been given under duress.<sup>[7]</sup> Policemen and other witnesses were presented by the prosecution during the trial to refute accused-appellants' claim.

The prosecution also presented the arresting officers who were on duty at the time of the incident. These police officers, who had executed sworn statements, were:

Pfc. Alexander Calupe  
Pat. Wilfredo Adam  
Pfc. Rodrigo Dones  
Pat. Rejienaldo dela Cruz and  
Police Sgt. Crisanto Ebron

Pfc. Alexander Calupe testified that on May 2, 1989, he was on beat patrol from 9:00 p.m. to 5:00 a.m., together with Pat. Wilfredo Adam when Bgy. Captain Max Reyes arrived and reported that three men were ganging up on a security guard of the Paredes Furniture Store; that upon receipt of the report he and another policeman took a tricycle and proceeded to the place indicated to them. Upon their arrival, they found the security guard sprawled on the floor, who pointed them to the direction to which his assailants had fled.<sup>[8]</sup> They went after the three and saw them walking towards Padre Pio Street.<sup>[9]</sup> When Pat. Adam called out to them to stop, identifying themselves as policemen, the three ran towards P. Esteban Street. At the corner of Mabini and Barlan Streets, one of the three pulled a gun and fired at them<sup>[10]</sup> while his companions kept running. The policemen returned fire. The person who had a gun fell into a canal and then ran towards Mabini Street. The man, who turned out to be Renato Borja, was later found dead near the gate of a house to which he had fled. He was found by responding policemen who recovered a .38 caliber revolver from him. Two live bullets were found inside the revolver.<sup>[11]</sup> The other two men were caught at 4:00 in the morning of the following day. They were later identified as Oscar Doro and Ricky Andag. Pfc. Calupe said he recognized them as the ones they chased.<sup>[12]</sup>

Pat. Wilfredo Adam also testified. He was with Pfc. Calupe on the night of May 2, 1989 when Bgy. Captain Max Reyes reported the attack on the security guard at the Paredes Furniture Store. They immediately responded to the report and, at the scene of the crime, found the security guard lying on the floor bloodied. The guard could not talk but pointed to the direction where his assailants had gone. After asking the tricycle driver to take the wounded security guard to the hospital, they took another tricycle and drove toward Padre Pio Street where they caught up with the assailants. Despite their shout to stop, identifying themselves "Pulis Ito," the three did not heed their warning. He fired a warning shot but still the men did not stop. The policemen cornered the three but one of them turned around and fired at the policemen twice as the other two went inside a yard. Pat. Adam fired back and hit the man.<sup>[13]</sup> Although the man fell down, he was able to stand up and run. Adam sought cover until other policemen came and found that the man with whom he had traded shots was already dead.<sup>[14]</sup>

The prosecution's third witness, Pfc. Rodrigo Dones, testified that he was assigned at Ronquillo Outpost No. 2 on the night of May 2, 1989, when Sgt. Ebron ordered him to proceed to Del Pilar Street because of the reported killing of a security guard at the Paredes Furniture Store.<sup>[15]</sup> He and Pat. de la Cruz repaired to the place. They spotted two persons in the area. Their clothes, especially their pants, were bloodstained. They therefore frisked them. He found a knife ("balisong") in Oscar Doro's possession,<sup>[16]</sup> while Pat. de la Cruz recovered a knife from Renato Andag.

[17] They interrogated the two but the suspects refused to answer. They were therefore taken to the police station.[18]

Pfc. Dones corroborated Pat. De la Cruz's testimony that on the night of May 2, 1989, they were ordered by Sgt. Ebron to investigate a stabbing incident at the Paredes Furniture Store.[19] He said that they spotted two persons, who turned out to be accused-appellants Oscar Doro and Ricky Andag; that as they saw blood on the pants of Ricky Andag, they frisked them; that De la Cruz confiscated a fan knife or "balisong" from Ricky Andag and that they therefore arrested the accused-appellants.[20]

Recounting how the report of the incident was relayed to the police, Sgt. Ebron testified that he was on duty on the night of May 2, 1989; that he was informed by the desk officer that there was trouble at Paredes Furniture Store;[21] that he went to the place with Pfc. Patricio Reyes and Pat. Edwin Panaligan; that upon reaching the place, the victim had already been taken to the hospital;[22] that they proceeded to the corner of Mabini and Barlan Streets upon being informed that the assailants had gone to that place;[23] that he later found the body of one of the suspects sprawled on the ground with a gun on his upper left side; that they called Fiscal Medina and a police photographer so that pictures of the man could be taken; [24] that he gave the pictures to police investigator, Pfc. Venerando Estrella;[25] that he thereafter instructed Pfc. Dones and Pat. de la Cruz to stay behind until they got the other two suspects.

Investigator Pfc. Venerando Estrella, to whom the pictures had been given, testified that he was at the police headquarters when Bgy. Captain Max Reyes arrived to report the incident in question. Their patrol accordingly proceeded to the Paredes Furniture Store but learned that the security guard had been rushed to the hospital; that he joined the mobile patrol to the corner of Mabini and Barlan Streets; that the two policemen who had been there ahead of them had engaged the suspects in a gun battle; that he later called up the Bautista Hospital to inquire about the security guard and was told that the guard had died; that the .38 caliber revolver loaded with 5 live bullets found in a flower pot near the Paredes Furniture Store belonged to Renato Borja.[26] Pfc. Estrella further said that the accused-appellants gave their confessions with the assistance of counsel at the Citizens' Legal Assistance Office. [27]

Public Attorney Elpidia Itoc, who assisted accused-appellants Oscar Doro and Ricky Andag in giving their confessions at the Citizens' Legal Assistance Office, also testified. She told the court that the accused-appellants were apprised of their constitutional rights to remain silent and to have independent counsel of their choice; that she explained to them their rights twice, "when they first arrived in the office and within the hearing of the police officers and secondly, before the actual taking of the confession";[28] that accused-appellants, upon being asked, said that they were willing to give statements because of their involvement in the case and that they did not need counsel;[29] that the confessions were made in the presence of the police investigator[30] and that a policeman typed the extrajudicial confessions[31] and that the persons present when the accused made their confessions were a certain Atty. Orquieza, the latter's secretary Carmen, two (2)

other clients,<sup>[32]</sup> the police investigator,<sup>[33]</sup> and two other policemen who took down the extrajudicial confessions of accused-appellants.<sup>[34]</sup>

The last witness for the prosecution was the personnel officer of Sherlock Investigation and Protective Center, Feves Infante. She confirmed that security guard Rex Ramos had been assigned to the Paredes Furniture Store on May 2, 1989; that the security guard was not able to finish his tour of duty that day because he had been killed;<sup>[35]</sup> that a .38 caliber revolver, licensed in the agency's name, had been issued to Rex Ramos<sup>[36]</sup> and that the firearm cost P1,500.

The prosecution also presented NBI forensic chemist Edwin Purificando who testified that the fan knife, "maong" pants and white "sando" taken from accused-appellants were all stained with human blood, types B and AB.<sup>[37]</sup>

On November 19, 1990, after the prosecution had rested its case and before the defense had presented its evidence, Ricky Andag escaped from confinement. Nonetheless, trial proceeded against him and accused-appellant Oscar Doro in accordance with Rule 115, §1(c) of the Rules on Criminal Procedure.

Accused-appellant Oscar Doro testified in his behalf. In addition he presented as witness Dr. Danilo F. Borbon, resident physician of the Dr. Salamanca Memorial Hospital in Cavite City.

Oscar Doro denied involvement in the stabbing of Rex Ramos. He said that he and his accused-appellant Ricky Andag and deceased Renato Borja had a drinking spree at the Plaza Cafe Restaurant at 12:00 midnight;<sup>[38]</sup> that on their way home he was told to go ahead by his companions (Ricky and Renato) as the two wanted to look for a place where they could piss; that he waited for his companions at the tricycle station at Padre Pio Street; and that as it had taken them time to arrive, he asked them if anything had happened to them. He was told that they had trouble with the security guard at Paredes Furniture Store. Then Renato shouted "pulis" as a tricycle bearing policemen came. They ran towards the direction of Padre Pio Street even as one of the policemen fired warning shots. Doro claimed that after he and Andag had been arrested, they were taken to the Cavite City jail and there they were beaten up by Pfc. De la Cruz and Pfc. Dones;<sup>[39]</sup> that they were hit in the body and on the head with the butt of an armalite rifle as they came out of the compound where they had hidden;<sup>[40]</sup> that they were taken to the office of Atty. Itoc who, seeing the wounds and injuries on their bodies, asked the policemen to take them first to the hospital; that they were taken to Dr. Salamanca Memorial Hospital; that a doctor slapped them while the other one who gave the prescription kicked them;<sup>[41]</sup> that the doctor only gave them a prescription but did not treat their wounds;<sup>[42]</sup> that they were thereafter brought back to Atty. Itoc's office; and there were forced to give the extrajudicial statements;<sup>[43]</sup> that they had been roughed up and slapped.<sup>[44]</sup> Accused-appellant Doro denied stabbing security guard Rex Ramos.<sup>[45]</sup> He claimed that although he had told Fiscal Medina, before whom they were taken to swear to the truth of what they had stated, that he had not been coerced to make the confession, the truth was that he had been forced to by the policemen.<sup>[46]</sup> He also claimed that the knife allegedly taken from him was not actually taken from him but from a trash can<sup>[47]</sup> and that it belonged to Renato Borja. As for the

bloodstains found on his shoes, pants and socks, accused-appellant said he suffered injuries when he climbed a fence topped with broken glasses.<sup>[48]</sup>

On cross examination, accused-appellant Oscar Doro testified that Renato Borja and Ricky Andag were wounded after they had stabbed the security guard. Renato Borja handed to him the "balisong" and that is why he had it in his possession.<sup>[49]</sup> He said that the only part of his body that was injured was his thumb;<sup>[50]</sup> that there were certain matters in his statement which are true because only his answers to questions Nos. 9, 11, 18, 19, 20, 24 and 27 were not voluntarily given;<sup>[51]</sup> that he told Atty. Itoc that he had been forced to give the statements in question although he did not ask her to file a complaint against the policemen.<sup>[52]</sup>

The last witness for the defense was Dr. Danilo Borbon who testified that he treated accused-appellant Oscar Doro in the afternoon of May 3, 1989 for an abrasion on the right corner of his eyes and multiple contusions on his legs.<sup>[53]</sup>

Prosecution witness Pfc. Rodrigo Dones was recalled to the witness stand to refute accused-appellant's testimony. Dones told the court that it was not true that accused-appellant had been manhandled and coerced to give the confession he made.<sup>[54]</sup>

On October 28, 1991, the trial court rendered a decision, finding the accused-appellants Oscar Doro and Ricky Andag guilty beyond reasonable doubt of Robbery with Homicide and sentencing each of them to suffer the penalty of reclusion perpetua.<sup>[55]</sup> A notice of appeal was filed on behalf of both although Ricky Andag had escaped during trial. The appeal brief filed in their behalf contains the following assignment of errors:<sup>[56]</sup>

I. THE LOWER COURT IN ITS JUDGMENT OF CONVICTION ERRED IN GIVING CREDENCE TO CIRCUMSTANTIAL EVIDENCES [sic] WHICH ARE INCONCLUSIVE, IF NOT CAPABLE TO SUSTAIN ADJUDICATION OF CONVICTION OR INNOCENCE OF THE ACCUSED.

II. THE LOWER COURT ERRED IN ADMITTING THE EXTRA-JUDICIAL CONFESSION OF THE ACCUSED AS THE PRIMARY BASIS OF ITS JUDGMENT OF CONVICTION CONSIDERING THE CIRCUMSTANCES OF INVOLUNTARINESS WHICH ATTENDED ITS EXECUTION.

After due consideration of the evidence, the Court finds the appeal in this case to be without merit.

Under the Rules of Court, circumstantial evidence is sufficient for conviction, if the following are shown: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.<sup>[57]</sup>

In the case at bar, these elements are present. The following facts are undisputed and, considered together, they produce in an unbiased mind a conviction beyond peradventure of doubt that accused-appellants are guilty: