

## THIRD DIVISION

[ G.R. No. 238457, September 18, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOJO BACYAAN Y SABANIYA, RONNIE FERNANDEZ Y GONZALES, AND RYAN GUEVARRA Y SIPRIA, ACCUSED-APPELLANTS.**

### DECISION

**INTING, J.:**

*We reiterate the doctrine that in the assessment of the credibility of witnesses and their testimonies, the findings of the trial courts deserve utmost respect. In this case, appellants invariably interposed alibi and denial as their defenses. Needless to say, these are inherently weak defenses as they constitute self-serving, negative evidence and may easily be fabricated. These cannot be accorded greater evidentiary weight than the declaration of the prosecution witnesses who testify on affirmative matters.*<sup>[1]</sup>

Brought to fore is an appeal from the Decision dated January 18, 2017 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 07670 which affirmed with modification the Decision<sup>[3]</sup> dated March 30, 2015 of Branch 215 of the Regional Trial Court of Quezon City (RTC), finding appellants Jojo Bacyaan y Sabaniya (Bacyaan), Ronnie Fernandez y Gonzales (Fernandez), and Ryan Guevarra y Sipria (Guevarra), guilty beyond reasonable doubt of the special complex crime of robbery with homicide as defined and penalized under Article 294, paragraph 1 of the Revised Penal Code (RPC).

Appellants were charged with the crimes of robbery with homicide and serious illegal detention under the following Informations:

*Criminal Case No. O-07-147516*

That on or about the 31<sup>st</sup> day of May, 2007, in Quezon City, Philippines, the above-named accused, conspiring and confederating with three others namely; RIC MENDOZA, ERWIN MASAN y MORENA and MANUEL SAGAYAP y ARIRIO, who were killed by policemen, and mutually helping each other, all armed with unlicensed firearm and constituting themselves as armed band, with intent to gain, by means of force, violence and intimidation against person, did then and there willfully, unlawfully and feloniously rob a JMK Bus with [Plate] No. TWH-291[,], driven by LAURO SANTOS and [traveling] on its route from Baclaran to Balintawak, Caloocan City[,], in the following manner, to wit: pretending to be passengers, above-named accused boarded the public utility bus, and when it reached EDSA [en route] to Quezon City, accused brought out their hidden firearms and announced a hold-up, and, thereafter, robbed and divested the passengers of the bus of their cash money, cellphones

and other personal belongings of undetermined amounts, to the damage and prejudice of said passengers, namely: MARGIE VILLATIMA^ AVILA, SHIENANEGRETE, NAOMI M. CRUZ, CECILLE P. MAMARIL, CHRISTIAN N. RUGAS, LIWILYN T. OPALALIC, JOEMAR M. PAULINO, BOBBY DAMO, SAMPAGUITA CORTUNA y TIBAYAN, ANNE MARIE P. BAMBALAN, MARIE P. BAMBALAN, MARINO BANTILAN, RICHMOND

D. TELEBANGCO, LLOYD S. BALAGTAS, GIOVANNI CUADRO y REYES and HERMAN MENDOZA.y JANDONERO;

That on the occasion or by reason of the robbery, accused[,] pursuant to their conspiracy, with intent to kill, evident premeditation, treachery[,] and abuse of superior strength, attack, assault and employ personal violence upon LAURO SANTOS, the driver of the bus, and upon RENATO JAMES VELOSO, a passenger, at Balintawak, Quezon City, by then and there shooting them with their (accused) firearms, thereby causing said LAURO SANTOS and RENATO JAMES serious and mortal wounds[,] which were the direct and immediate cause of their death. (Emphasis in the original.)

CONTRARY TO LAW.<sup>[4]</sup>

*Criminal Case No. O-07-147515*

That on or about the 31<sup>st</sup> day of May, 2007, in Quezon City, Philippines, the said accused, private individuals, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully[,] and feloniously and illegally seize, drag and detain the persons of SAMPAGUITA CORTUNA y TIBAYAN and MARGIE VILLATIMA, both female, and GIOVANNI CUADRO y REYES, in a Mitsubishi Adventure with plate number CSX-806, under threats to kill them, thereby depriving them of their liberty, to the damage and prejudice of the said offended parties.

CONTRARY TO LAW.<sup>[5]</sup> (Emphasis in the original.)

The two cases were consolidated before the RTC. On arraignment, appellants entered their respective pleas of not guilty.<sup>[6]</sup> Trial on the merits thereafter ensued.

The facts are as follows:

Giovanni Cuadro<sup>[7]</sup> (Cuadro) testified that on May 31, 2017, he boarded the JMK bus along Ayala Avenue, Makati City. When the bus reached the EDSA-Ayala Flyover, six men, armed with guns and a grenade, declared a hold-up. He identified appellant Bacyaan as the one who announced the hold-up, while appellants Guevarra and Fernandez were the ones who divested himself and the other passengers of their personal belongings including money. Meanwhile, policemen started pursuing the bus. When the bus reached the Muñoz Market in Caloocan City, the policemen flagged it down. As the passengers tried to escape by jumping off the bus, Bacyaan shot passenger Renato James Veloso in the back which resulted in his death. Bacyaan also shot Lauro Santos, the bus driver, in the head, causing his immediate death.<sup>[8]</sup>

Thereafter, appellants grabbed a passenger to be used as a shield. They also grabbed Cuadro and two female passengers outside the bus as they looked for a vehicle to commandeer. They saw a [Mitsubishi] Adventure van with the driver inside, boarded it, pointed a gun at the driver, and ordered him to take the vehicle to the North Luzon Expressway and look for an exit route. Appellants continued to exchange gunshots with the pursuing policemen until the vehicle finally ditched into a gutter and became immobile because of blown tires, just inside the Lawang Bato exit. According to Cuadro, he escaped through a broken windshield and saw appellants commandeering a dump truck to escape.<sup>[9]</sup>

Police Officer I Engracio Baluya also testified that a concerned citizen approached him and reported that appellants had boarded a dump truck with Plate No. PDL 127. Together with his team, they pursued appellants and another exchange of gunshots ensued until the driver of the dump truck jumped out causing the vehicle to stop. Three male persons, later identified as appellants, also jumped out and surrendered. The police officers searched the dump truck and recovered a bag containing several amounts of money, cellphones, and guns.<sup>[10]</sup>

In their defense, appellants denied that they were participants in the robbery incident. Guevarra, in particular, averred that he was an innocent passenger of the bus and was on his way home. He was wrongfully arrested and imputed of the crime charged. Meanwhile, Fernandez claimed that at the time of the incident, he was in the Balintawak Market waiting for a ride on his way home to Bulacan when he heard gunshots being fired. He ran towards a street corner and dropped to the ground. After the commotion subsided, he returned to where he was previously waiting for a ride to gather his things but a policeman grabbed him and implicated him as one of the hold-uppers. Lastly, Bacyaan narrated that on the day of the incident, at around 11:00 a.m., he was selling fruits in front of the Balintawak Market when policemen in civilian clothes approached and invited him for questioning at the Valenzuela Police Station. When they reached the station, they had his picture and fingerprints taken. He was then brought to Camp Karingal, where he was detained and informed that he was a suspect in the robbery incident.<sup>[11]</sup>

In its Decision<sup>[12]</sup> dated March 30, 2015, the trial court rendered a verdict of conviction, thus:

**WHEREFORE**, this Court finds the accused **Ryan Guevarra, Ronnie Fernandez** and **Jojo Bacyaan, GUILTY** of the crime lodged against them beyond reasonable doubt, they are hereby sentenced to suffer the following:

**1. For the crime of Serious Illegal Detention, without mitigating but aggravated by the used (sic) of unlicensed firearm, the maximum penalty of Reclusion Perpetua.**

**2. As to the crime of Robbery with Homicide with the used of Unlicensed Firearm, without mitigating but aggravated by the used of Unlicensed Firearm, the maximum penalty of Reclusion Perpetua.**

**3. All the accused are further ordered to [pay] the heirs of LAURO SANTOS and RENATO JAMES VELOSO, the amount of P75,000.00 as civil indemnity, P50,836.00 as actual damages supported with credible receipts, P50,000.00 as moral damages, and P30,000 as exemplary damages[,]** respectively.

**4. Costs against the accused.**

**SO ORDERED.**<sup>[13]</sup> (Emphasis in the original)

The RTC held that appellants' bare defenses of alibi and denial cannot be appreciated against the positive identification of appellants as well as the categorical and consistent testimonies of the prosecution witnesses.<sup>[14]</sup>

On appeal, the CA affirmed appellants' conviction for the crime of robbery with homicide but dismissed the criminal case for serious illegal detention. It held that the detention of the victims was only incidental to the main crime of robbery; hence, it was deemed absorbed.<sup>[15]</sup>

Thus, this appeal.

On June 25, 2018, the Court issued a Resolution<sup>[16]</sup> requiring the parties to file their respective supplemental briefs, if they so desired, within ten days from notice. On September 7, 2018, the Office of the Solicitor General (OSG) filed its Manifestation in lieu of Supplemental Brief,<sup>[17]</sup> adopting its arguments in its Appellee's Brief. On October 1, 2018, appellants also filed a Manifestation in lieu of Supplemental Brief,<sup>[18]</sup> stating that they will no longer file a supplemental brief as the filing thereof would only be a repetition of the arguments raised in their Appellants' Brief.

#### *Issues*

Appellants assigned the following errors in their Brief:<sup>[19]</sup>

1. THE RTC ERRED IN GIVING CREDENCE TO THE TESTIMONY OF GIOVANNI CUADRO DESPITE ITS INCONSISTENCIES;
2. THE RTC ERRED IN DISREGARDING THEIR DEFENSE AND CONVICTING THEM OF THE CRIMES CHARGED; AND
3. THE RTC ERRED IN APPRECIATING THE ALLEGED USE OF UNLICENSED FIREARMS AS AN AGGRAVATING CIRCUMSTANCE.<sup>[20]</sup>

#### *The Court's Ruling*

After due consideration, the Court affirms appellants' conviction for robbery with homicide but *modifies* the award of damages.

It is settled that "when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality,"<sup>[21]</sup> unless it appears that the lower courts had overlooked, misunderstood or misappreciated some fact or circumstance of weight, which, if properly considered, would alter the result of the case.<sup>[22]</sup>

Thus, we ruled in *People v. Dela Cruz*,<sup>[23]</sup> that:

x x x By and large, the instant case basically revolves around the question of credibility of witnesses. The well-entrenched rule in this jurisdiction, of course, is that the matter of assigning values to the testimonies of witnesses is best discharged by the trial court, and appellate courts will not *generally* disturb the findings of the trial court in this respect. The reason is quite simple: the trial judge is in a better position to determine the conflicting testimonies of witnesses after having heard them and observed their deportment and manner of testifying. xxx<sup>[24]</sup>

In this case, the Court finds no cogent reason to overturn the findings of the RTC, as affirmed by the CA, as it was not shown that the lower courts had *overlooked, misunderstood, or misappreciated* facts or circumstances of weight that could have altered the result of the case.

#### *The Elements of Robbery with Homicide.*

Article 294, paragraph 1 of the RPC, as amended by Republic Act No. (RA) 7659,<sup>[25]</sup> states:

Art. 294. *Robbery with violence against or intimidation of persons; Penalties.* - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

I. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed or when the robbery shall have been accompanied by rape or intentional mutilation or arson, x x x  
x

There is robbery with homicide under Article 294, paragraph 1 of the RPC when a homicide is committed by reason of or on occasion of a robbery. In order to sustain a conviction for robbery with homicide, the following elements must be proven by the prosecution: (1) the taking of personal property belonging to another; (2) with intent to gain or *animus lucrandi*; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed.<sup>[26]</sup>

"A conviction requires certitude that the robbery is the main purpose and objective of the malefactor, and the killing is merely incidental to the robbery."<sup>[27]</sup> Thus, it follows that "[t]he intent to rob must precede the taking of human life but the killing may occur before, during or after the robbery."<sup>[28]</sup> Elucidating on the nature of the