

FIRST DIVISION

[G.R. No. 178062, September 08, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ABDUL AMINOLA Y OMAR AND MIKE MAITIMBANG Y ABUBAKAR, ACCUSED-APPELLANTS.

D E C I S I O N

VELASCO JR., J.:

This is an appeal from the February 12, 2007 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01300 entitled *People of the Philippines v. Abdul Aminola y Omar and Mike Maitimbang y Abubakar*, which affirmed the January 21, 2004 Decision in Criminal Case Nos. 116595-H and 116596 of the Regional Trial Court (RTC), Branch 156 in Pasig City. The RTC found accused-appellants guilty of Robbery with Homicide and sentenced them to *reclusion perpetua*.

The Facts

In Criminal Case No. 116595-H, an Information charged accused-appellants as follows:

On or about August 31, 1999 in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and all of them mutually helping and aiding one another, armed with an unlicensed gun, with intent to gain, did then and there willfully, unlawfully and feloniously take, rob and divest one Nestor Aranas Gabuya cash amounting to P150,000.00, placed inside the bag of the said victim which was forcibly taken by the respondents, necklace worth P35,000.00, Timex watch worth P4,000.00 and a licensed 9 mm. Bernardelli gun with serial number 302617-50 worth P45,000.00; that by reason or on the occasion of the crime of robbery, accused, Datu Ban Ampatuan y Panaguilan, Abdul Aminola y Omar, a.k.a. "Roy," Alimudin Laminda y Macacua, a.k.a. "Modin," Abdulan Sandaton y Sangcopan, a.k.a. "Kulem" and Mike Batimbang y Abubakar, a.k.a. "Nuke" with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and shot Nestor Aranas Gabuya with the gun into the different parts of his body, thereby inflicting upon him mortal gunshot wounds which directly caused his death.^[1]

In Criminal Case No. 116596, an Information charged accused-appellant Abdul Aminola y Omar with illegal possession of firearms allegedly as follows:

On or about August 31, 1999 in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the accused, being then a private person, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one caliber (1) magazine loaded with two (2) live ammos, without first securing the necessary license or permit from the proper authorities.^[2]

During their arraignment, accused-appellants gave a negative plea. Thereafter, the two cases were jointly tried.

Version of the Prosecution

At the trial, the prosecution presented the following witnesses: Police Major Rolando Migano, Ballistician III Ireneo S. Ordiano, and Jesus Oliva, the eyewitness.

In the afternoon of August 31, 1999, at around five, Nestor Gabuya closed shop at his motorcycle and bicycle spare parts store located in Upper Bicutan, Taguig. He then headed home on his bike. Unbeknownst to him, accused-appellant Abdul Aminola and accused Alimudin Laminda were observing him from a nearby basketball court. Aminola proceeded to follow Gabuya. Upon catching up with Gabuya, Aminola put his arms around Gabuya and wrestled for the bag Gabuya was carrying. Gabuya refused to let go of his bag, whereupon Aminola pulled out a gun and shot him. Gabuya fell to the ground but still resisted, prompting Aminola to take another shot.^[3]

Accused-appellant Mike Maitimbang then approached and took something from the fallen Gabuya. Maitimbang shot Gabuya behind and fled towards the direction of eyewitness Oliva. Joel, Gabuya's caretaker, gave chase but was fired upon by Maitimbang.^[4] Oliva testified seeing the incident while he was on Genera Valdez St. in Purok V, Upper Bicutan.^[5]

Regina, Gabuya's wife, reported the incident that same afternoon. Based on her information, Major Migano formed a team to investigate the crime.^[6]

Later that evening, an informant known as "Abdul" told the police that he witnessed what had happened to Gabuya and could tell them where the suspects could be found. True enough, Abdul led Major Migano and his men. A blocking force was organized while Col. Bernido formed a team to make the arrests on the suspects.

In the evening of September 1, 1999, Major Migano's team once again went to the hideout, where Abdul identified four of Gabuya's assailants. One of them, Aminola, was found in possession of an unlicensed .45 caliber gun with one (1) magazine and two (2) ammunitions.^[7]

The four men arrested, identified as Aminola, Laminda, Datu Ban Ampatuan, and Abdul Sandaton, were then brought to the Criminal Investigation Division at Camp Crame, Quezon City for further investigation.^[8] On September 2, 1999, Maitimbang was also arrested.

The result of the post-mortem examination of Gabuya, conducted by Dr. David,

showed that he had four (4) gunshot wounds with three (3) entry wounds and one (1) exit wound.^[9] Two (2) slugs were recovered from the Gabuya's body, one from the brain and the other from his lungs.^[10]

Version of the Defense

The defense offered the testimonies of accused-appellant Maitimbang, Laminda, Sandaton, accused-appellant Aminola, and their witnesses Mymona Quirod and Senior Police Officer 2 (SPO2) Bero Saud Lukman.

Maitimbang testified that he was arrested on September 2, 1999 after arriving home from work due to a grenade found in his possession. At the police precinct, he was not informed that his arrest was made in connection with the death of Gabuya. It was only during the inquest, according to him, that he saw his fellow accused for the first time. He further averred that Gabuya's widow pinpointed him as one of the suspects when she learned he was a Muslim. He claimed his name was only included and superimposed on the list of suspects.^[11]

Laminda, for his part, narrated that he was nabbed together with his cousin Sandaton in the early morning of September 1, 1999 at their house on Rogan St., Maharlika Village, Taguig. He disavowed any knowledge of the reason for their arrest and claimed that the arresting police officers had neither a warrant of arrest nor a search warrant. He likewise denied acting as a lookout in the robbery resulting in the death of Gabuya. He attested that he was a tricycle driver, and that on August 31, 1999, he was ferrying passengers in his usual route of Maharlika-Triumph-Signal. He denied having fellow accused Ampatuan as a passenger and only came to know of Aminola because the latter was also a tricycle driver.^[12]

Mymona Quirod corroborated Laminda's story. On the witness stand, Quirod testified that she boarded Laminda's tricycle at around 5:10 in the afternoon of August 31, 1999 and got off at exactly six in the evening. She was in Davao when she heard that Laminda had been implicated in Gabuya's death and felt compelled to come back to help Laminda who she believed was innocent.^[13]

Sandaton, on the other hand, narrated that it was only during the inquest proceedings that he learned of the criminal charge against him. He denied knowing Oliva and being a lookout while Gabuya was being robbed and killed.^[14]

Aminola testified that he was at home on September 1, 1999 when policemen suddenly entered and arrested him and brought him to the police station in Maharlika Village, Taguig. He was brought there together with Ampatuan, Sandaton and Laminda. He denied knowing Oliva but admitted knowing Laminda and Ampatuan as acquaintances.^[15]

SPO2 Lukman was presented to establish Aminola's whereabouts at about the time of Gabuya's killing. According to SPO2 Lukman, at around half past five in the afternoon of August 31, 1999, he was talking to Aminola outside the latter's house until six in the evening.^[16]

Instead of testifying for his defense, Ampatuan filed a Demurrer to Evidence.

The Ruling of the Trial Court

Finding no proof of Ampatuan's involvement in the robbery with homicide, the trial court granted his Demurrer to Evidence.

After trial, the RTC found accused-appellants Aminola and Maitimbang guilty of robbery with homicide, but acquitted accused Sandaton and Laminda. The trial court, however, cleared Aminola of the crime charged in Criminal Case No. 116596.

The *fallo* of the RTC's Joint Decision dated January 21, 2004 reads:

WHEREFORE, premises considered, the Court find on [sic] Criminal Case No. 116595 accused Abdul Aminola y Omar and Mike Maitimbang y Abubakar GUILTY beyond reasonable doubt of the crime of "Robbery with Homicide" defined and punished under par. 1 of Article 294 of the Revised Penal Code with the aggravating circumstance of use of unlicensed firearm, applying Section 1 of Republic Act 8294 [July 6, 1997] they are hereby sentenced to suffer the penalty of Death while accused Alimudin Laminda y Macacua and Abdulan Sandaton y Sangcopan are hereby ACQUITTED of the charge for failure of the prosecution to present the quantum of proof mandated by law to establish conspiracy in the killing of Nestor Aranas Gabuya and are further ordered immediately released from confinement unless held for some other lawful cause/s.

The accused Abdul Aminola y Omar and Mike Maitimbang y Abubakar are likewise sentenced, separately:

- a) To indemnify the heirs of NESTOR ARANAS GABUYA in the amount of Fifty Thousand (P50,000.00) Pesos as death indemnity.
- b) The amount of Fifty Thousand (P50,000.00) Pesos each as moral damages.
- c) The amount of Thirty Thousand (P30,000.00) each as exemplary damages.

In Criminal Case No. 116596, accused Abdul Aminola y Omar is ACQUITTED.

SO ORDERED.^[17]

As before the RTC, accused-appellant Aminola on appeal put up the defense of alibi, maintaining that he could not have committed the crime for he was at home talking with SPO2 Lukman at the time of the incident. Aminola likewise questioned his warrantless arrest. On the other hand, accused-appellant Maitimbang reiterated his innocence, claiming that there was no reason for his arrest other than the fact that a grenade was found in his possession. He also asserted that he was merely included in the list of suspects with his name superimposed on the list.

The Ruling of the Appellate Court

The CA affirmed the trial court's decision but reduced the penalty imposed to *reclusion perpetua* in view of the abolition of the death penalty.^[18]

Disagreeing with the appellate court's decision, accused-appellants timely filed their Notice of Appeal with this Court.

On August 8, 2007 , the Court required the parties to submit supplemental briefs if they so desired. The People of the Philippines, thru the Office of the Solicitor General (OSG), informed the Court that it is submitting the case for decision based on records and pleadings previously filed. Accused-appellants, on the other hand, averred in their Supplemental Brief that they were erroneously convicted despite the existence of reasonable doubt.

The Issue

WHETHER THE COURT OF APPEALS ERRED IN FINDING ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT.

Insisting on his innocence, accused-appellant Maitimbang maintains that he should have been identified as a suspect at the onset of the investigation if he were really one of the perpetrators.

Accused-appellant Aminola, on the other hand, claims that the appellate court erroneously disregarded his alibi, a defense indisputably corroborated by SPO2 Lukman.

Accused-appellants question the legality of their warrantless arrest, arguing that there was no hot pursuit to speak of, since there was no indication that they were committing or attempting to commit an offense in the presence of the arresting officers or that they had just committed an offense. As claimed, a considerable period of time had elapsed between their arrest and the commission of the crime, thus necessitating a warrant of arrest.

The OSG counters that what transpired were hot pursuit arrests, for the arresting team's investigation and the data gathered from informant Abdul were sufficient reasonable grounds to believe that accused-appellants indeed robbed and killed Gabuya. The fact that Aminola was arrested a day after the incident while Maitimbang was arrested two days later would bring the arrests within the purview of hot pursuit arrests, made as they were within a brief interval between the actual commission of the crime and the arrests effected.

Our Ruling

We affirm accused-appellants' conviction.

Elements of the Crime

The following elements must be established for a conviction in the special complex