

THIRD DIVISION

[G.R. No. 178205, July 27, 2009]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEO QUEMEGGEN AND JANITO DE LUNA, ACCUSED-APPELLANTS.

NACHURA, J.:

For review is the Decision^[1] of the Court of Appeals (CA) dated December 28, 2006 in CA-G.R. CR-H.C. No. 01498 affirming with modification the Decision^[2] of the Regional Trial Court (RTC), Branch 72, Malabon, Metro Manila, dated August 8, 1997.

As established by the prosecution, the facts are as follows:

On October 31, 1996, at around 11:00 in the evening, Noel Tabernilla (Tabernilla) was driving his passenger jeep to Navotas, Metro Manila. Along Road 10 in Navotas, four of the passengers announced a hold-up. One of the robbers poked a *balisong* on Tabernilla's nape,^[3] while the other three divested the passengers of their valuables.^[4] Then, the hold-uppers alighted from the jeep in a place called "Putting Bato."^[5]

From there, Tabernilla and six or seven of his passengers went to the nearest police detachment to report the incident. Three policemen accompanied them to the scene of the crime. While there, the policemen chanced upon the robbers riding a pedicab. Socrates Kagalingan (Kagalingan), one of the passengers-victims, recognized the perpetrators, since one of them was still wearing the belt bag that was taken from him.^[6]

The policemen were able to arrest three suspects, including Janito de Luna (de Luna), but Leo Quemeggen (Quemeggen) was able to escape. The three suspects were left under the care of a police officer, Emelito Suing (Suing), while the other police officers pursued Quemeggen. Taking advantage of the situation, the three suspects ganged up on Suing; de Luna held his hand, while the other suspect known as "Weng-Weng" shot him on the head.^[7] The suspects thereafter escaped.

Upon the return of the two policemen who unsuccessfully pursued Quemeggen, Suing was brought to the hospital where he eventually died.^[8] Dr. Rosalyn Cosidon (Dr. Cosidon) of the Philippine National Police (PNP) Crime Laboratory conducted an autopsy on the cadaver of Suing.^[9] She concluded that the cause of the death of Suing was hemorrhage as a result of a gunshot wound in the head. The results of her examination were reflected in Medico-Legal Report No. M-1614-96.^[10]

Appellants Quemeggen and de Luna were eventually arrested through follow-up operations undertaken by the Navotas Police.^[11] On November 5, 1996, appellants

were charged in an Information for *Robbery with Homicide*, the pertinent portion of which reads:

That on or about the 31st day of October 1996, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, with intent to gain and by means of force, violence and intimidation employed upon the person of one SOCRATES KAGALINGAN Y ROXAS, did then and there willfully, unlawfully and feloniously take, rob and carry away the following articles to wit:

One (1) gold necklace worth -----	P1,800.00
One (1) men's wrist watch -----	2,000.00
Cash money amounting to -----	500.00_
Total -----	P4,300.00

belonging to said complainant, to the damage and prejudice of the latter in the total amount of P4,300.00; that on the occasion of the said Robbery one of the arrested suspect[s] dr[e]w a handgun and shot one PO2 SUING, thereby inflicting upon the said PO2 Suing, serious physical injuries, which directly caused his death.

CONTRARY TO LAW.^[12]

Upon arraignment, appellants pleaded "Not Guilty."^[13] As the appellants manifested^[14] that they were not availing of the pre-trial conference, trial on the merits ensued.

During the trial, Tabernilla and Kagalingan testified for the prosecution. Dr. Cosidon's testimony as an expert witness was dispensed with in view of the appellants' admission of her qualification and competence; the fact that she conducted the autopsy on the cadaver of the victim; that she prepared the sketches of a human body; that a slug was recovered from the head of the victim; and that the body of the victim was identified prior to the autopsy.^[15]

Appellants, on the other hand, interposed the defense of alibi. They maintained that they were elsewhere when the robbery and shooting incident took place. They claimed that they were in their respective houses: Quemeggen was helping his grandmother cut pieces of cloth used in making rugs, while de Luna was sleeping with his wife.^[16]

On August 8, 1997, the RTC rendered a Decision^[17] convicting the appellants of Robbery with Homicide, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Leo Quemeggen y Larawan and Janito de Luna y Rayo GUILTY beyond reasonable doubt of the crime of robbery with homicide defined

and penalized under Art. 294, par. 1, of the Revised Penal Code, as amended by RA 7659, for which they are both hereby sentenced to the prison term of RECLUSION PERPETUA.

Accused Quemeggen and accused de Luna are also ordered to pay (1) the heirs of the victim the amount of P50,000.00 as indemnification for the loss of the victim's life, and (2) P4,000.00 to Socrates Kagalingan by way of indemnification of the total value of the valuables taken from him during the hold-up.

Costs against the two (2) accused.

SO ORDERED.^[18]

The case was elevated to this Court for automatic review, but on February 9, 2005, pursuant to the decision of this Court in *People v. Mateo*,^[19] we transferred the case to the CA. ^[20]

On December 28, 2006, the CA modified the RTC Decision by convicting Quemeggen of Robbery, and de Luna of the separate crimes of Robbery and Homicide. The dispositive portion of the CA decision reads:

WHEREFORE, in view of the foregoing, the Decision of the Regional Trial Court of Malabon, Metro Manila, Branch 72, in Criminal Case No. 17287-MN dated 8 August 1997 is hereby MODIFIED as follows:

1. As to accused-appellant Leo Quemeggen: he is found guilty of the crime of Robbery and is hereby sentenced to suffer imprisonment ranging from four (4) years of *prision correc[c]ional* as minimum to eight (8) years of *prision mayor* as maximum with the accessories of said penalty; and
2. As to accused-appellant Janito de Luna: he is found guilty of the crime of Robbery and is sentenced to suffer imprisonment ranging from four (4) years of *prision correc[c]ional* as minimum to eight (8) years of *prision mayor* as maximum with the accessories of said penalty. He is likewise found guilty of the crime of Homicide and is sentence[d] to suffer imprisonment of eight (8) years and one (1) day of *prision mayor* as minimum to seventeen (17) years and four (4) months of *reclusion temporal* as maximum with the accessories of said penalty.
3. Both accused-appellants area (sic) also ordered to indemnify Socrates Kagalingan the amount of Four Thousand Pesos (P4,000.00) for the valuables taken from him during the robbery.

SO ORDERED.^[21]

The CA concluded that appellants could not be convicted of the special complex crime of Robbery with Homicide. It noted that Suing was not killed by reason or on the occasion of the robbery. Hence, two separate crimes of robbery and homicide were committed. As the appellants were in conspiracy to commit robbery, both were convicted of such offense. However, as to the death of Suing, considering that at the time of the killing, Quemeggen was being chased by the police officers and there was no evidence showing that there was conspiracy, only de Luna was convicted of homicide.^[22]

Hence, this appeal, based on the following arguments:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANTS.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

^[23]

In assailing their conviction, appellants argue that: 1) the testimonies of the prosecution witnesses are incredible, because it was unnatural for the robbers not to leave the crime scene immediately after the incident; 2) the prosecution failed to present a policeman to prove that appellants were arrested on board a pedicab, and that the loot from the robbery was confiscated from them; and 3) no expert testimony was presented to prove the fact of death of the victim.^[24]

We find no merit in the appeal.

Appellants fault the CA for relying on the improbable testimonies of the prosecution witnesses, who testified that they saw the former at the crime scene riding a pedicab. Appellants add that it was improbable for them not to leave the crime scene immediately after the robbery. It is well-settled that different people react differently to a given situation, and there is no standard form of human behavioral response when one is confronted with a strange event.^[25] Moreover, when it comes to credibility, the trial court's assessment deserves great weight and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.^[26]

Appellants' conviction is not negated by the failure of the prosecution to present any police officer to testify that appellants were arrested on board a pedicab, and that