

## SECOND DIVISION

[ G.R. No. 172869, July 28, 2008 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DONATO BULASAG  
Y ARELLANO ALIAS "DONG", APPELLANT.**

### D E C I S I O N

**QUISUMBING, J.:**

This is an appeal from the Decision<sup>[1]</sup> dated January 13, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00183, which had affirmed the Decision<sup>[2]</sup> dated May 10, 2004 of the Regional Trial Court (RTC), Branch 9, Balayan, Batangas. The trial court had found appellant Donato Bulasag y Arellano *alias* "Dong", guilty of the special complex crime of robbery with homicide in Criminal Case No. 4850.

The Information dated December 22, 2000, charging appellant and his co-accused with the special complex crime of robbery with homicide, defined and penalized under Article 294(1)<sup>[3]</sup> of the Revised Penal Code, as amended by Republic Act No. 7659,<sup>[4]</sup> reads as follows:

x x x x

That on or about the 27<sup>th</sup> day of July, 2000 at about 10:30 o'clock in the evening, at Barangay Caloocan, Municipality of Balayan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, accused, Donato Bulasag armed with an unlicensed firearm of unknown caliber together with one John Doe and one Peter Doe whose identities and whereabouts are still unknown, armed with knives (*kutsilyo*), conspiring and confederating together, acting in common accord and mutually helping one another, with intent to gain and without the knowledge and consent of the owner thereof did then and there willfully, unlawfully and feloniously enter the house owned by Estelita Bascuguin y Besas and by means of violence or intimidation against person, take, rob and carry away cash money amounting to more or less Twenty Thousand Pesos (P20,000.00), Philippine Currency and assorted pieces of jewelry, to the damage and prejudice of the said owner in the aforementioned amount of P20,000.00 and that on the occasion and by reason of the said robbery, the said accused with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault[,], stab and shoot with the said weapons one Estelita Bascuguin y Besas, thereby inflicting upon the latter gunshot wounds and stab wounds on her chest, which directly caused her death.

Contrary to law.<sup>[5]</sup>

Only appellant was arrested by the police authorities while the others remained at large. Upon arraignment, appellant pleaded not guilty.

The facts as found by the trial court and confirmed by the Court of Appeals, were gleaned from the testimonies of (1) Lydia B. Siervo, the sister of the victim Estelita B. Bascuguin; (2) Michael B. Bascuguin, the eight-year-old son of the victim; and (3) Dr. Antonio S. Vertido, Regional Medico-Legal Officer of the National Bureau of Investigation, Region 4, Batangas.

Lydia Siervo testified that one week before the incident, Estelita told her that she had an altercation with the appellant. Appellant tried to borrow P3,000 but Estelita refused to give him the money. As a result, appellant threatened Estelita that something bad will happen to her if she will not leave her house. Lydia added that Estelita had no misunderstanding with other people except the appellant.<sup>[6]</sup>

Michael Bascuguin testified that at around 10:30 p.m. of July 27, 2000, he was watching television inside their house with his mother and cousin, Luisito Besas. When his mother was about to close the door of their house, the lights suddenly went off and somebody kicked the door open. Three men wearing bonnets over their faces entered their house. One man, later identified as the appellant, had a gun while another carried a kitchen knife. Together they held Estelita. Although Michael tried to get out of the house, appellant chased and hogtied him. Appellant then demanded money from Estelita threatening to kill Michael if she refused. Estelita gave appellant an undetermined amount of money. Since appellant refused to release Michael, Estelita ran out of the house and told Michael to run also. Appellant shot Estelita while one of his companions stabbed her. Thereafter, appellant and his companions fled. Michael sought help from their neighbor, Jenneath, the appellant's wife, but she initially refused since there was no available vehicle. Later, they found a vehicle and went to the house of *Tatay* Pecto, Estelita's common-law husband, and informed him of what happened to Estelita. They then proceeded to the police station to report the incident.<sup>[7]</sup>

Dr. Antonio S. Vertido testified and confirmed his findings as stated in the Certificate of Post-Mortem Examination<sup>[8]</sup> that Estelita died of gunshot and stab wounds on the chest.<sup>[9]</sup>

Appellant Donato Bulasag denied the accusations against him. He testified that on the date of the incident, he attended the birthday celebration of his nephew, Jorge Bautista. They started drinking at 10:00 a.m. At 7:00 p.m., he and Hilario Arellano left his nephew's house and proceeded to the house of his uncle, Rolando Holgado, to continue drinking. They stayed there for 30 minutes until his wife, Jenneath, arrived to fetch him. Instead of going home, they went to his parents' house. Between 8:00 p.m. to 9:00 p.m., his brother Filomeno and his wife Anita brought them home. Upon arriving home, he slept.<sup>[10]</sup>

Jenneath Bulasag testified that at the time of the incident, appellant was at home sleeping. She said that appellant was drunk at that time after attending his nephew's birthday celebration. She claimed that she never lost sight of him that evening.<sup>[11]</sup>

On May 10, 2004, the trial court convicted appellant. The dispositive portion of the Decision reads:

**WHEREFORE, premises considered,** the Court finds the accused Donato Bulasag y Arellano alias "Dong" **GUILTY** beyond reasonable doubt of the special complex crime of Robbery with Homicide as defined and penalized under Article 294(1) of the Revised Penal Code, as amended by Republic Act [No.] 7659, and is hereby sentenced to suffer the indeterminate penalty of *reclusion perpetua*, with the accessory penalties and to pay the costs. He is also hereby ordered to pay the heirs of Estelita Bascuguin y Besas the amount of Fifty Thousand Pesos (P50,000.00) as moral damages and Fifty Thousand Pesos (P50,000.00) as indemnity in line with current jurisprudence.

**IT IS SO ORDERED.**<sup>[12]</sup>

Appellant filed a notice of appeal. On January 13, 2006, the Court of Appeals affirmed the Decision of the trial court. It observed that all the elements of the crime of robbery with homicide were present in the case. It noted that appellant's identity was duly established by Michael's positive identification, hence it disregarded appellant's denial and alibi.

Dissatisfied, appellant appealed to this Court. As appellant and the Office of the Solicitor General opted not to submit supplemental briefs, we shall now review the decision of the Court of Appeals, focusing on the following issues brought before it:

I.

THE TRIAL COURT A *QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH HOMICIDE.

II.

THE TRIAL COURT A *QUO* GRAVELY ERRED IN GIVING SCANT CONSIDERATION TO THE ACCUSED-APPELLANT'S ALIBI.

III.

THE TRIAL COURT A *QUO* GRAVELY ERRED IN FINDING THAT THE PROSECUTION HAD ESTABLISHED BEYOND REASONABLE DOUBT THE IDENTITY OF THE ACCUSED-APPELLANT AS THE AUTHOR OF THE CRIME CHARGED.<sup>[13]</sup>

Briefly stated, the principal issue is whether the guilt of appellant was proved by the prosecution beyond reasonable doubt. Subsidiarily, for our resolution are: (1) Did the prosecution sufficiently prove appellant's identity as the author of the crime? (2) Did the trial court err in disregarding appellant's denial and alibi?

Appellant contends that his identity was proven only by circumstantial evidence. Michael did not see the face of the man who chased him and shot his mother because the man wore a bonnet over his face. Thus, there was doubt whether the man was really appellant or somebody else. While Michael testified that he