

FIRST DIVISION

[G.R. No. 135682, March 26, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO REYES Y BATAK, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is an appeal from the Decision^[1] of the Regional Trial Court of Malabon, Metro Manila, Branch 72, in Criminal Case No. 18548-MN finding accused-appellant Danilo Reyes guilty beyond reasonable doubt of the crime of Robbery with Homicide, and sentencing him to suffer the penalty of *Reclusion Perpetua* with all the accessory penalties and to pay the father of the victim the amount of P50,000.00 as death indemnity, P50,000.00 as moral damages and P47,000.00 as actual damages.

The amended information charged accused-appellant and accused Arnel Cergantes y Hadejero with Robbery with Homicide committed as follows:

That on or about the 12th day of October 1997, in the Municipality of Navotas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to gain and by means of force, violence and intimidation employed upon the person of one DONALDO SALMORIN, JR. Y SOLIS did then and there willfully, unlawfully and feloniously take, rob and carry away one (1) gold necklace, one (1) gold ring, one wristwatch, all of an undetermined value, and a wallet containing unspecified amount of cash owned by and belonging to DONALDO SALMORIN, JR. Y SOLIS to the damage and prejudice of the latter, and that on the occasion of or by reason of the said robbery the said accused, conspiring with one another, did then and there willfully, unlawfully and feloniously, attack, assault, stab with a bladed weapon, the said DONALDO SALMORIN, JR. inflicting upon him serious physical injuries which directly caused his death.

CONTRARY TO LAW.^[2]

Accused-appellant was the only one arrested and, when arraigned, he entered a plea of not guilty. Thereafter, trial ensued.

The evidence for the prosecution established the following facts:

On October 12, 1997, at 2:00 a.m., PO1 Eduardo C. Molato of Station 4, Western Police District, Sampaloc, Manila was on his way home on board a passenger jeepney. When he alighted at the corner of Lapu-lapu Street and Northbay Boulevard South he saw the victim being held up by two persons. The one in front of

the victim forcibly took his wristwatch while the other one stabbed him at the back. He fired one warning shot which caused the three to run towards Phase I, Lapu-lapu Avenue. He chased them but when he saw the victim, he hailed a tricycle and asked the driver to bring the victim to the nearest hospital. He continued chasing the suspects up to Phase II until he reached Agora, but the suspects were gone. The incident happened swiftly but PO1 Molato had a good look at the face of the one who stabbed the victim as he was about 8 to 10 meters away from them.

Accused-appellant denies the charge against him and insists that he was merely mistaken for accused Arnel Cergontes who had the same protruding lips as he had and with whom he shares a common alias as "Buboy Nguso." He recalled that on October 12, 1997, he was sleeping in his house. He left only at 7:30 in the morning and went to the house of his uncle Dabong to ask for money. On October 16, 1997 at around 7:30 in the morning, police authorities came to Antorium St. looking for "Buboy Nguso." To his surprise, the policemen, without saying anything, handcuffed him and brought him to the Lapu-lapu detachment. Thereafter he was brought to Navotas Police station for further investigation. He claims that he was arrested for possession of a deadly weapon in violation of B.P. Blg. 6 and not in connection with the robbery-homicide case.

After trial, the lower court rendered a judgment of conviction which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Danilo Reyes y Batac guilty beyond reasonable doubt of the crime of Robbery with Homicide defined and penalized under Article 294, Paragraph 1, of the Revised Penal Code, as amended by RA 7659. Considering that no mitigating nor aggravating circumstance attended the commission of the crime nor alleged in the amended information, said accused is hereby sentenced to the prison term of reclusion perpetua, together with all the accessory penalties thereof.

Accused Reyes is also condemned to pay the father of the victim the total amount of P147,000.00 broken as follows: 1) P50,000.00 for the loss of the victim's life, 2) P50,000.00 by way of moral damages for the pain and sorrow suffered by the victim's family, and 3) P47,000.00 by way of actual expenses incurred in connection with the death and burial of the victim. No pronouncement on the claim for lost valuables and income can be made in view of the failure to substantiate the same.

Let a copy of this Decision be furnished the PNP Director General and the Director of the WPD so that the superiors of PO1 Eduardo Molato will know that in connection with this case, said policeman while already off-duty responded to the commission of a crime, extended assistance to the victim thereof, tried to arrest the malefactors and cooperated with the authorities concerned in the prosecution of this case in a manner that can only be described as a laudable display of civic duty brought about by his orientation as a policeman and for which PO1 Molato is hereby commended.

SO ORDERED.^[3]

Hence, this appeal based on the following assigned errors:

I

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED NOTWITHSTANDING THE FACT THAT HIS GUILT HAD NOT BEEN ESTABLISHED BEYOND REASONABLE DOUBT.

II

THE COURT A QUO ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY AND IDENTIFICATION MADE BY PO1 EDUARDO C. MOLATO.

Accused-appellant argued that his guilt was not established beyond reasonable doubt for failure of the prosecution to prove the essential requisites of the crime charged. According to him, the vital element of *animus lucrandi* was not sufficiently established as the taking of the watch could have been a mere afterthought and the real intent of the malefactors was to inflict injuries upon the victim. Moreover, there was no evidence of ownership of the wristwatch, as it may have belonged to the two persons who attacked the victim. Lastly, there was no evidence of conspiracy.

The arguments fail to persuade us.

A conviction for robbery with homicide requires proof of the following elements: (a) the taking of personal property with violence or intimidation against persons or with force upon things; (b) the property taken belongs to another; (c) the taking be done with *animus lucrandi* (intent to gain); and (d) on the occasion of the robbery or by reason thereof, homicide in its generic sense was committed. The offense becomes a special complex crime of robbery with homicide under Article 294 (1) of Revised Penal Code if the victim is killed on the occasion or by reason of the robbery.^[4]

After reviewing the evidence on record of this case, we find that the facts established a clear-cut case of robbery with homicide. Great respect is accorded to the factual findings of the trial court. The trial judge had the best opportunity to observe the behavior and demeanor of the witnesses. It formed first-hand judgment as to whether particular witnesses were telling the truth or not. Thus, absent misapprehension or misinterpretation of facts of weight and substance, and absent any arbitrariness or irregularity, we will not overturn its findings.^[5]

Accused-appellant's contention that the *animus lucrandi* was not sufficiently established by the prosecution is devoid of merit. *Animus lucrandi* or intent to gain is an internal act which can be established through the overt acts of the offender. Although proof of motive for the crime is essential when the evidence of the robbery is circumstantial, intent to gain or *animus lucrandi* may be presumed from the furtive taking of useful property pertaining to another, unless special circumstances reveal a different intent on the part of the perpetrator. The intent to gain may be presumed from the proven unlawful taking.^[6] In the case at bar, the act of taking the victim's wristwatch by one of the accused Cergontes while accused-appellant Reyes poked a knife behind him sufficiently gave rise to the presumption.

Accused-appellant also contends that the ownership of the wristwatch was not proved by the prosecution. He argues that the attackers probably owned the wristwatch and the reason they attacked the victim was to retrieve it.