

EN BANC

[G.R. No. 148730, June 26, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE DELA CRUZ Y DACILLO, JAMES SALBORO Y JOROLAN, EDWIN "BUTCH" GENER Y CATEAN AND ARNEL SAN PEDRO Y TACOME, APPELLANT.

D E C I S I O N

BELLOSILLO, J.:

This is an automatic review of the Decision of the court *a quo* convicting accused-appellants JOSE DELA CRUZ y DACILLO, JAMES SALBORO y JOROLAN, EDWIN "BUTCH" GENER y CATEAN and ARNEL SAN PEDRO y TACOME of robbery with homicide and imposing upon them the supreme penalty of death.^[1]

On 13 July 1999, at around 1:15 in the morning, a passenger bus of the Chinese-Filipino Friendship Transport, Inc. (CFFTI), with Plate No. PXS 898, driven by Terry Edma with Antonio Dormitorio as conductor was on its way to its garage in Fairview, Quezon City. For both Edma and Dormitorio it was another grueling day as they had been plying their customary *Alabang-Monumento-Letre* route since 4:00 o'clock in the afternoon the day before.

Upon reaching EDSA-Guadalupe, they decided to pick up Quezon City-bound commuters on their homeward trip to maximize their income and earn extra for the day. Seven (7) new passengers boarded the bus, referring to the group of herein accused-appellants Jose dela Cruz, James Salboro, Edwin "Butch" Gener, Arnel San Pedro and three (3) unidentified companions. An eighth passenger, SPO1 Joven Avida Ebona of the Western Police District, who was in plain clothes as he was already off-duty and on his way home, likewise got into the bus after accused-appellants' group.

As the bus approached Riverside St., Barangay Camachile, Commonwealth Avenue, Quezon City, accused-appellant James Salboro pulled a .38 cal. revolver and announced a holdup. Accused-appellant Arnel San Pedro who was also armed with a gun commanded bus conductor Dormitorio to hand over his fare collections, which amounted to P3,000.00, and his Seiko 5 wristwatch which he readily surrendered. Accused-appellant Jose dela Cruz ordered Edma to pull over to the side of the street and turn off the interior lights of the vehicle. He poked his gun at Edma's head and took all his money amounting to P2,000.00. Thereafter, Jose dela Cruz aided by Edwin "Butch" Gener hurriedly divested the other passengers of their money and valuables.

Meanwhile, SPO1 Joven Avida Ebona, who was dozing off, was roused by the disturbance. He was unaware that the bus was being robbed. Visibly irritated, Ebona yelled "*ano yan?*" at accused-appellants. He did not realize the danger until he found himself surrounded by seven (7) men with drawn guns. Then hell broke

loose. A flurry of gunshots followed in the wake of which Ebona slumped dead on his seat, soaked in his own blood.^[2]

The holdup men took the service firearm of Ebona and fled on foot. They left him dead in the crime scene and the rest of the passengers in terror. As soon as the driver regained his composure, he drove his bus to the nearby Litex Police Detachment to report the incident.

Dr. Tomas D. Suguitan, Medico-Legal Officer of the PNP who conducted the post-mortem examination of SPO1 Joven Avida Ebona, found that the victim died of "hemorrhage as a result of gunshot wounds in the head and trunk."^[3]

On 14 July 1999 a team of detectives from the Criminal Investigation and Detection Group (CIDG) invited Edma and Dormitorio to the CIDG Field Office, Station 10, Edsa-Kamuning, Quezon City, for purposes of identifying the suspects in the robbery-homicide incident. Edma and Dormitorio positively identified three (3) of the suspects from among the photographs in the rogues' gallery: accused-appellants Jose dela Cruz, James Salboro and Arnel San Pedro. Driver Edma likewise identified a fourth suspect, Edwin "Butch" Gener, whom he described as a "fat man," although the suspect had no picture in the CIDG criminal portfolio.

The identified suspects fell one by one into the hands of the authorities following a brief manhunt. Dela Cruz and Gener were arrested on 15 July 1999, while Salboro and San Pedro were apprehended a day after or on 16 July 1999. Witnesses Edma and Dormitorio were with the CIDG operatives when they nabbed the suspects.

Accused-appellants raised the defense of denial and alibi. Primarily they denied complicity in the crime as in fact, according to them, they had not known each other individually prior to their arrest. Accused-appellant Jose dela Cruz claimed that at the time of the incident he and his wife were transferring their household belongings from their old house in Luzviminda St., Filinvest, Batasan Hills, Quezon City, to a newly rented room two (2) blocks away from Luzviminda St.

Accused-appellant James Salboro stated that from 1:00 o'clock to 6:00 o'clock in the morning of 13 July 1999 he was at home in Visayas St., Batasan Hills, Quezon City, taking care of his wife who was then pregnant and very sick.

Accused-appellant Arnel San Pedro similarly declared that in the evening of 12 July 1999 until the following morning he was at home with his wife and children in Barangay Holy Spirit, Batasan Hills, Quezon City.

Accused-appellant Edwin "Butch" Gener asserted that from 12 to 13 July 1999 he stayed home the entire time in Sauyo Road, Novaliches, Quezon City, as he was not feeling well and suffering from boils in both armpits.

After a thorough review of the evidence on record, we cannot find any reason to set aside the conviction of accused-appellants. 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. As we ruled in *People v. Cayabyab* — [4]

Having the advantage of directly observing the witnesses, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The records will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or a tremulous mutter of a reluctant answer or the forthright tone of a ready reply. The records will not show if the eyes darted in evasion or looked down in confession or gazed steadily with a serenity that has nothing to distort or conceal. The records will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. Only the judge trying the case can see all these and on the basis of these observations arrive at an informed and reasoned verdict.

It is incumbent upon accused-appellants to convince this Court that a departure from the basic rule is justified and warranted, and only upon a satisfactory showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which, if considered, would alter the outcome of the case. These, accused-appellants miserably failed to do.

Prosecution witnesses Terry Edma and Antonio Dormitorio, who were themselves victims of the holdup, positively identified accused-appellants as among those responsible for the bus robbery and the killing of police officer Ebona. In their *Sinumpaang Salaysay*, executed before the CIDG investigator, Edma and Dormitorio declared in no uncertain terms —

TERRY EDMA:

T: Sinabi mo na makikilala mo ang mga hold-upper kung makikita mo silang muli lalong lalo na sa mukha at sa hitsura nila, mayroon akong ipapakita na mga litrato sa iyo (at the same time this investigator showing a group of pictures of some of the suspects placed on a white folder), mayroon ka bang nakikilala sa mga ito, pagmasdan mong mabuti?

S: Opo sir, ito po sir, ito ang tumutok sa akin (affiant at the same time pointing to the picture of Jose dela Cruz y Dacillo, alias Bonjoe, as the one who poked a gun on his head and at the time affixing his signature below the picture number 7) sir ito po ang nagsabi ng "hold-up to" (affiant at the same time pointing to the picture of James Salboro y Jorolan, alias James, as the one who declared the hold-up and at the same time affixing his signature below the picture number 9), at ito sir (affiant pointing to the picture of Ariel San Pedro, who poked a gun to his conductor and forcibly got the collection money and same fixing his signature below the picture number 10).

- T: Paano mo nasabi at nakilala na ito si Jose dela Cruz y Dacillo, alias Bonjoe, James Salboro y Jorolan, alias James, at Ariel San Pedro, ay isa sa mga nangholdap sa inyo?
- S: Kasi sir, nakikita ko sila sa aking center mirror at maliwanag po sa loob ng bus ng mag-deklara sila ng holdap x x x x
- T: Bakit mo naman nasabi na itong sina Jose dela Cruz at James Salboro ay isa sa mga bumaril doon sa pasahero ninyong pulis?
- S: **Kasi sir, ng sumigaw yung pulis na "ano yan?" sabay tindig nitong si Jose dela Cruz at ibinaling na niya ang kanyang baril doon sa pulis at sabay putok, pati na rin itong si James Salboro at ang kanyang mga kasamahan at pagkatapos ay pilit na ipinapapatay sa akin ni Jose dela Cruz ang ilaw (ng bus) x x x x**

ANTONIO DORMITORIO:

- T: Mayroon akong ipapakita sa iyo na mga larawan ng mga suspects na mga holdaper, at ito ay pagmasdan mong mabuti, (at the same time this investigator showing to the affiant some pictures of suspects placed on a white folder with corresponding number), may nakikilala ka ba rito?
- S: Opo sir, ito sir ang nagsabi na "para at hold-up ito" at tumutok sa mga pasahero (at the same time affiant pointing to the picture of James Salboro y Jorolan, alias James, and affixing his signature below the picture number 9) ito sir ang tumutok naman sa akin at pilit kinuha yung collection namin at yung aking relo na Seiko 5 (affiant pointing to the picture of Ariel San Pedro and same affixing his signature below the picture number 10), at ito naman sir ang tumutok sa aking driver (at the same time affiant pointing to the picture of Jose dela Cruz Dacillo, alias, Bonjoe and same affixing his signature below the picture number 7).
- T: Paano mo nakilala itong sila Jose dela Cruz, James Salboro at Ariel San Pedro na siyang nangholdap sa inyo sa nasabing petsa, oras at lugar?
- S: Tandang-tanda ko po sir yung mga mukha at hitsura nila dahil maliwanag sa loob ng bus at kakaunti na lang yung pasahero namin x x x x
- T: Nasabi mo rin dito na pinagbabaril ng mga holdaper yung pasahero mong pulis, nakailaw pa ba sa loob ng bus?
- S: Opo sir.
- T: Nakita mo ba kung sino ang bumaril doon sa pulis?

S: **Nakita ko po na ang nagnangalan sa picture na si James Salboro ay siyang unang bumaril sa pulis, pagkatapos sinundan na nila Jose dela Cruz, Ariel San Pedro at iba pa nilang kasamahan x x x x**
(underscoring supplied foreemphasis).^[5]

Again, Edma and Dormitorio readily pointed to the same accused-appellants in open court and identified them during the trial. Both witnesses gave substantially the same accounts of the incident and the personalities involved, hence for brevity, we quote only the testimony of witness Edma —

FISCAL CEDILLO:

As far as you know and remember, how many persons [were] involved in that hold up incident, Mr. witness?

WITNESS:

There were seven of them sir x x x x

FISCAL CEDILLO:

Now look around this courtroom and tell us if you can identify some of them?

WITNESS:

There are persons here sir.

FISCAL CEDILLO:

Please point one by one.

WITNESS:

That man sir.

INTERPRETER:

Witness pointing to a man who identified himself as James Salboro.

FISCAL CEDILLO:

Now you pointed to James Salboro, could you please tell this Court what his participation was in that hold up, if any, Mr. witness?

WITNESS:

He was the one who shot sir.

FISCAL CEDILLO:

Next, Mr. witness.

WITNESS:

That one at the far end sir.

INTERPRETER:

Witness pointing to a man who identified himself as Jose dela Cruz your Honor.