

SECOND DIVISION

[G.R. No. 123054, June 10, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FAUSTO OBEDO Y BORBAJO ALIAS "TITING", ACCUSED-
APPELLANT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

This is an appeal from the decision,^[1] dated February 1, 1995, of the Regional Trial Court (Branch 1), Tagum, Davao, insofar as it finds appellant Fausto Obedo guilty of robbery with homicide and sentences him to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victims the amount of P100,000.00 as civil indemnity for the deaths of spouses Wilfredo and Jinky Luayon, P40,000.00 as moral damages, and P100,000.00 as actual and compensatory damages, and to pay the costs.

On May 7, 1990, appellant was charged with Robbery with Homicide under Art. 294, par. 1, in relation to Arts. 293 and 249 of the Revised Penal Code, in an Information docketed as Criminal Case No. 7382, which reads:

That on or about February 21, 1990, in the Municipality of Kapalong, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with Arnold Ranalan Alias "Opong" and Alias "Tony" Villamor, who are now deceased, armed with a revolver, with intent of gain and by means of violence and intimidation of persons, did then and there willfully, unlawfully and feloniously take, steal and carry away cash money amounting to TEN THOUSAND (P10,000.00) PESOS, Philippine Currency, belonging to the spouses Wilfredo Luayon and Jinky Luayon, and on the occasion of the said robbery, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and shoot Wilfredo Luayon and Jinky Luayon, thereby inflicting upon them wounds which caused their death, and further causing actual, moral and compensatory damages to the heirs of the victims.

Contrary to law.^[2]

When arraigned on July 31, 1990, appellant pleaded not guilty to the crime charged; whereupon trial ensued.

The prosecution presented seven witnesses, namely: Dominador Luayon, Pat. Aguedo Ganiera, Jesus Saraga, Abundo Mahinay, Dionisio Luayon, Carolina Saraga, and Jerry Abando.

The gist of their testimonies is as follows:

The victims, spouses Wilfredo Luayon and Alice "Jinky" Luayon, are residents of Kapalong, Davao. Wilfredo was a farmer who tilled his own rice field and earned his income by selling *palay* (rice produce) after drying it.^[3] On February 19, 1990, after selling *palay*, he kept his earnings, amounting approximately to P20,000.00, in a *cavan* (wooden chest) inside his house.^[4]

On February 21, 1990, at around 7 o'clock in the evening, appellant together with Arnold Ranalan and Tony Villamor went to the house of Jesus Saraga and requested the latter to accompany them to the house of Wilfredo. Without asking any questions, Saraga agreed. On the way to the house of Wilfredo, Saraga saw Ranalan remove a gun tucked in his waist on the left side and held it. After escorting the three, Saraga went home.^[5] At around 7:30 o'clock in the evening, Dominador Luayon, the brother of Wilfredo, heard a commotion in the latter's house. Dominador was at the balcony of his house, 50 meters away from Wilfredo's house, when he heard bottles falling to the floor. Shortly thereafter, he heard his sister-in-law, Jinky, crying for help, so he hurriedly ran towards the house. He slowly walked to the door but, finding it locked, went to the yard instead. He heard his brother uttering the words, "Why are you doing this to us, Pong?", after which, he heard gunshots. Out of fear, Dominador laid on the ground, around four to five meters from one of the windows of the house, and waited. He then heard the window being destroyed, and after a while, saw two persons jump out from the window. Because the house was lighted by a kerosene lamp, he saw appellant Fausto Obedo, alias Titing,^[6] jump first, followed by Arnold Ranalan, alias Pong.^[7] Sensing that something happened, Dominador got up and shouted for help. His brother-in-law, Alvis Milla, arrived, and they both went inside the house through the broken window. He first saw Jinky upstairs, hardly breathing with her baby alive and playing with her bloodied breasts. He next saw Wilfredo, his head hanging in the crib.^[8]

Moments later, Dionisio Luayon, another brother of Wilfredo, arrived. He saw the wooden chest ajar with things and some loose coins scattered on the floor. He attended to Jinky who whispered to him that they were robbed by the appellant and Ranalan. Both victims died before they could be brought to the hospital.^[9] The Certificates of Death of the two victims reveal that they died of irreversible shock and gunshot wounds.^[10]

At around 10 o'clock in the evening, riding in a motorcycle, appellant, Ranalan and Villamor went to Abundio Mahinay's house to borrow a shirt from him as Ranalan's shirt was stained with blood.^[11]

Pat. Aguedo Ganiera, chief intelligence and member of the investigation section of the Integrated National Police (INP) in Kapalong, Davao, and his team conducted a follow-up investigation on the incident. According to his investigation report,^[12] on February 28, 1990, his team captured Arnold Ranalan who voluntarily confessed and admitted to have participated in robbing and killing the Luayon spouses in Kapalong, Davao. However, a few minutes after he was captured and handcuffed, Ranalan managed to escape and held a boy hostage. The PC/Alsa Masa Detachment, which assisted Pat. Ganiera's team, was prompted to subdue Ranalan by shooting him. Ranalan was rushed to the Davao Doctors Hospital and later on transferred to Davao

Medical Center where he was treated. Unfortunately, a few hours later, he died due to the gunshot wound he had sustained.

The team next made a follow-up on Antonio Villamor, alias "Tony," in Davao City. They learned that he was allegedly shot to death by unidentified persons at Claveria, Davao City.

As to appellant Obedo, the team was able to arrest him in Maniki, Kapalong, Davao on March 1, 1990 at around 7:00 o'clock in the evening and turned him over to the Station Commander for proper disposition.

On the other hand, the defense presented three witnesses, namely: Jose Rana, Vicente Gutierrez and appellant Fausto Obedo.

Appellant's defenses are denial and alibi. According to him, he is engaged in the business of buying and selling livestock. He lives in Kapalong, Davao but he frequents several barangays in order to buy pigs, carabaos and cows. He claims that on February 21, 1990, he went to Gabuyan, a neighboring barangay, at around 10:30 o'clock in the morning because he was informed that a resident is looking for a buyer of carabao. He headed home to Kapalong at around 11 o'clock in the morning and stayed home for the rest of the day to attend to his sand and gravel business. According to him, he was arrested without a warrant and detained on February 28, 1990 although no complaint or information against him has been filed yet. He admitted that he knew Wilfredo and Jinky Luayon personally, as he buys carabaos and pigs from them regularly, the last of which was about a month before the incident. However, he denies that he killed and robbed the victims. He instead intimated that Jesus Saraga, who is a known *tambay*, and the two others (Ranalan and Villamor) may have had a hand in the incident.^[13]

The defense presented Jose Rana and Vicente Gutierrez to prove the good moral character of the appellant. According to Rana, he has known the appellant for 15 years because the latter served as his agent in buying cows, carabaos and pigs. He knows accused to be a farmer and a contractor of sand and gravel.^[14] Gutierrez, on the other hand, testified that he has known the accused since childhood. According to him, the accused has no criminal record nor was he ever involved in any criminal incident except for the instant case.^[15]

On February 1, 1995, the trial court rendered its decision. It held that circumstantial evidence proved that accused is a co-conspirator of Ranalan and Villamor in the commission of the crime of robbery with homicide, surpassing direct evidence in weight and probative value. It gave weight to the affirmative testimonies of witnesses over the denial of the accused. The dispositive portion of the decision reads:

WHEREFORE, premises considered, this Court finds the accused FAUSTO OBEDO y Borbajo, 39 years of age, married to Fely C. Bitangga, alleged businessman/farmer, and resident of Maniki, Kapalong, Davao, guilty beyond reasonable doubt of the crime of Robbery with Homicide penalized under Article 293 and 249 of the Revised Penal Code, as charged in the information, and is hereby sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties provided by law,

and to indemnify the heirs of the victims — Wilfredo and Alice "Jinky" Cuerpo-Luayon — as follows:

1. — As indemnity for each death: FIFTY THOUSAND (P50,000.00) PESOS, or, a total of ONE HUNDRED THOUSAND (P100,000.00) PESOS for the two (2) deaths;

2. — As and for moral damages: TWENTY THOUSAND (P20,000.00) PESOS, or, a total of FORTY THOUSAND (P40,000.00) PESOS for the two (2) deaths;

3. — As and for actual and compensatory damages, which includes funeral expenses, burial and other necessary expenses: FIFTY THOUSAND (P50,000.00) PESOS, or, a total of ONE HUNDRED THOUSAND (P100,000.00) PESOS for the two (2) deaths;

and to restitute to the lawful heirs of the deceased-victims spouses, Wilfredo and Alice C. Luayon, the amount of TEN THOUSAND (P10,000.00) PESOS, Philippine Currency, which is the amount robbed from said victims and as reflected in the information, and to pay the costs.

In the service of this sentence, said accused Fausto Obedo y Borbajo, alias "Titing" shall immediately be turned over to the custody of The Director, Bureau of Corrections, National Bilibid Prisons, Muntinlupa, Metro Manila, pursuant to Supreme Court Circular No. 4-92-A dated April 20, 1992, amending SC Administrative Circular No. 4-92 dated January 14, 1992, and is therefore hereby ordered committed to the custody of the Provincial Warden of Davao Province preparatory to his remittance to the National Bilibid Prisons. As a consequence, the bail bond posted by said accused is hereby ordered cancelled. Let the corresponding mittimus or commitment order be issued forthwith.

IT IS SO ORDERED.^[16]

Hence, the present appeal. Appellant claims that there is no evidence to support his conviction and that the constitutional presumption of innocence remained untarnished and can be invoked in favor of the accused.^[17]

The Court finds that the trial court erred in finding the appellant guilty of robbery with homicide.

In order to be convicted of robbery with homicide, four (4) elements are necessary: (a) the taking of personal property with the use of violence or intimidation against the person; (b) the property taken belongs to another; (c) the taking is characterized by intent to gain or *animus lucrandi*; and, (d) on the occasion of the robbery or by reason thereof the crime of homicide was committed.^[18] It is necessary that the robbery itself be proved as conclusively as any other essential element of the crime.^[19] For there to be robbery, there must be taking of personal property belonging to another, with intent to gain, by means of violence against or intimidation of any person or by using force upon things.^[20]

In this case, aside from the fact that no inventory was conducted after the incident, as is usually done in robbery cases,^[21] the prosecution did not convincingly establish the *corpus delicti* of the crime of robbery. *Corpus delicti* has been defined as the body or substance of the crime and, in its primary sense, refers to the fact that a crime has actually been committed.^[22] As applied to a particular offense, it means the actual commission by someone of the particular crime charged.^[23] In this case, the element of taking as well as the existence of the money alleged to have been lost and stolen by appellant was not adequately established. We find that no sufficient evidence stands to show either the amount of money stolen from the victims' wooden chest or if any amount was in fact stolen from them at all. While the Information against appellant alleged that he, together with Rananan and Villamor, stole money amounting to P10,000.00 from the victims, Dionisio Luayon, Wilfredo's brother, who claim to have knowledge of his brother's earnings kept in the wooden chest, could not state with certainty the exact amount placed in the wooden chest four days before the incident as well as the amount of money that was left after payment of debts before the alleged robbery. He testified thus:

Q Will you please tell this Honorable Court what was the source of income of your brother during his lifetime?

A He was also a farmer, sir.

Q Now, tell us, please, Mr. Dionisio Luayon, if days before the incident of February 21, 1990 your brother told you that he has income from the farm?

A Yes.

Q Tell us what was the source of this income?

A Because he sold palay, sir.

Q Do you have a personal knowledge how many sacks of rice that was sold by your brother?

A About seventy (70) sacks.

Q Earlier you said that your occupation is a farmer. From that experience, can you tell this Honorable Court if we are to relate in terms of income, in money, how much these seventy (70) sacks of rice will produce?

A In my estimate, sir, about Fifty Thousand (P50,000.00). Pesos.

Q So, this money was kept by your brother in the house?

A Yes.

Q In what specific place of the house?

A In their cavan, sir.

Q Now, when you were inside the house on that evening of February 21, 1990 were you able to see this cavan you are referring now?