

## EN BANC

[ G.R. No. 125784, November 19, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DINDO VALLEJO Y MASOLA, DARWIN LLARENAS Y OCENAR, ROMEO TIPASI Y QUIRAN & ARNOLD CAMO Y ACOI, APPELLANTS.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

For automatic review is the Decision<sup>[1]</sup> dated May 16, 1996 of the Regional Trial Court, Branch 15, Manila in Criminal Case No. 94-135584 finding Dindo M. Vallejo, Darwin O. Llarenas, Romeo Q. Tipasi, Jr. and Arnold A. Camo, appellants, guilty of robbery with homicide and imposing upon them the supreme penalty of death.

The Information<sup>[2]</sup> filed against appellants reads:

"That on or about April 3, 1994, in the City of Manila, Philippines, the said accused conspiring and confederating together with others whose true names, identities and present whereabouts are still unknown, and helping one another, did then and there willfully, unlawfully and feloniously with intent to gain and by means of force, violence and intimidation, to wit: by barging inside Bell All Sales Corporation while armed with firearms, and once inside, take, rob and carry away cash money amounting to approximately P63,000.00 and other personal properties, belonging to SANTOS DELOS SANTOS Y CHUA, to the damage and prejudice of the said owner in the aforesaid amount of P63,000.00, Philippine currency; that in the commission of the said offense, the said accused in pursuance of their conspiracy and by reason of the aforesaid robbery, did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and use personal violence upon said Santos delos Santos y Chua by shooting the latter on the left portion of his back with a .380 caliber, thereby inflicting upon him mortal gunshot wound which was the direct and immediate cause of his death thereafter.

"Contrary to law."

Upon arraignment on June 16, 1994, appellants, assisted by their respective counsel, pleaded "not guilty" <sup>[3]</sup> to the charge. Thereafter, trial ensued. The prosecution presented eight witnesses, namely: PO3 Ramon Torrefiel, Armando Opeña, Vilma Nobleza, Rita Delos Santos (the victim's wife), PO3 Erlindo Lomboy, Arthur Portalla, Chua Yu Chun, and Dr. Marcial Lagonera. Their testimonies established the following:

Santos Delos Santos Chua was the General Manager of Bell All Sales Corporation (BASC) located at 2867 Lamayan Street, Sta. Ana, Manila. Its compound has two

gates. The big gate is for incoming and outgoing vehicles and can be opened and closed manually. The small gate can be opened only by a remote electronic control situated inside the office of Chua.

On April 3, 1994 at around 2:00 o'clock in the afternoon, while Armando Opeña, driver of BASC, was cleaning a car in the garage situated two meters away from Chua's office, he overheard somebody talking through the intercom. Then the lock inside the small gate was released and he saw appellant Dindo Vallejo entering the compound through this gate. Vallejo was a former live-in employee of the corporation and oftentimes recommended to Chua applicants for employment. Vallejo then approached the big gate and tried to open it. Armando stopped him, instructing him to ask Chua's permission. So Armando accompanied Vallejo to Chua's office. Upon seeing Vallejo, Chua asked him about the person he was recommending for work. Vallejo replied that he was recommending a utility boy. Meanwhile, Armando left and resumed cleaning the car.<sup>[4]</sup>

Moments later, Vallejo rushed back to the big gate and opened it. Several persons entered. Appellants Romeo Tipasi and Arnold Camo poked their guns at Armando and ordered him to lie down on the back seat of the car.<sup>[5]</sup> Appellants Vallejo and Darwin Llarenas went inside Chua's office, while the other two proceeded to the adjacent room where Vilma Nobleza, a checker of the corporation, was supervising employees repacking sugar. Appellants' other companions stood as look-out while the heist was going on.

Armando, then being guarded by two persons, heard a commotion inside Chua's office. Chua was shouting. Shortly thereafter, Armando heard gun shots.

Armando, Vilma and Rita de los Santos (Chua's wife) saw the bloodied Chua being carried by three persons to the warehouse adjacent to the garage. While he was lying face down, appellant Darwin Llarenas shot him.<sup>[6]</sup> At that instance, Armando heard someone shouting "*takbo Na!*" All the assailants fled. Arthur Portalla, victim's neighbor, saw them escaped through a yellow taxi with Plate No. NYT 417 proceeding towards Panaderos Street.<sup>[7]</sup>

Immediately, Armando and Rita brought Chua to Our Lady of Lourdes Hospital in Sta. Mesa, Manila. He died three hours later. Armando returned to the compound and found Yu Chun taking pictures, identified and marked during the hearing as Exhibits "P" - "P-20".<sup>[8]</sup>

PO3 Torrefiel, SPO1 Efren Cruz and SPO1 Julius Bustamante, of the Western Police District (WPD), conducted an investigation. They proceeded to the crime scene at Sta. Ana, Manila and found the victim's office in complete disarray. All the drawers of the tables were forcibly opened. Broken bottles were scattered on the ground.<sup>[9]</sup> They recovered the following items: a ball cap with the markings "Toronto Blue Jays", marked as Exhibit "A"; a broken telephone receiver with blood stains, marked as Exhibit "B"; a broken Seiko watch with blood stains, marked as Exhibit "C"; two live bullets of a .380 caliber revolver with dot in the primer, marked as Exhibits "D" & "D-1"; an empty shell of the same caliber, marked as Exhibit "D-2"; and a gun holster marked as Exhibit "E".<sup>[10]</sup> Later, the police took Armando's sworn statement<sup>[11]</sup> identifying all the appellants as the malefactors.

On April 4, 1994, upon the order of the Chief of Homicide Division, WPD, PO3 Lomboy, SPO1 William Gondranios, SPO1 Eduardo Liwanagan and SPO1 Norberto Panlilio arrested the appellants in their respective houses<sup>[12]</sup> without warrants of arrest. They recovered from appellant Darwin Llenas an Omega wrist watch, marked as Exhibit "I"; from appellant Romeo Tipasi, a gold Cross ballpen with the engraved name of the victim, marked as Exhibit "H"; and a black wallet, marked as Exhibit "G".<sup>[13]</sup> All these items belonged to the victim. Then the appellants were placed in a police line-up and were identified by Armando.<sup>[14]</sup>

Vilma and Rita corroborated the testimony of Armando and positively identified the appellants as the perpetrators of the crime.

Rita testified that it was appellant Darwin Llenas who shot her husband. <sup>[15]</sup> He was 47 years old and was earning P50,000.00 a month when he died.<sup>[16]</sup> She enumerated some of his personal belongings taken by the appellants, such as: one Omega wrist watch valued at P70,000.00; one black wallet; one gold Cross ballpen worth P1,000.00; and P63,000.00 she placed in the drawer of her husband's office table intended for the salaries of the employees. She incurred P500,000.00 for his funeral expenses.<sup>[17]</sup>

Dr. Lagonera, Medico-Legal Officer of the WPD who conducted the post- mortem examination of Chua, submitted a Report with the following findings:

"External Findings:

1. Lacerated wound, left parietal region, measuring 1x0.3 cm.
2. Lacerated wound, stellate in shape, left frontal region, measuring 0.4x0.4 cm.
3. Contusso-abrasion, right forehead, measuring 9x3 cms.
4. Abrasion, right zygomatic region, measuring 2x2 cms.
5. Abrasion, bridge of the nose, measuring 6x2 cms.
6. Lacerated wound, left zygomatic region, measuring 1x0.2 cms.
7. Lacerated wound, left parietal region, measuring 3x0.4 cms.
8. Lacerated wound, mid-occipital region, measuring 0.5x0.2 cm
9. Abrasion, left infra-clavicular region, measuring 2x0.3 cms.
10. Abrasion, left posterior shoulder, measuring 2x1 cms.
11. Gunshot wound, with the point of entry at the left posterior lumbar region, 37 inches from heel, 9 cms. From posterior midline, measuring 0.5x0.6 cm. and contusion collar measures 1x0.9 cm.  
The bullet course was directed downwards, forwards crossing midline, lacerating the left kidney and renal blood vessels, and ileum and its mesentery.

A copper coated slug was extracted in the sub-cutaneous tissue in the right iliac region, 35 inches from heel and 8 cms. from anterior midline.

"Internal findings:

1. Injuries to organs and tissues as indicated in the internal extension of the gunshot wound, with massive bleeding in the pelvic cavity.
2. The rest of the internal organs were pale.
3. Small amount of partially digested rice meal with meaty materials and without alcoholic odor was recovered from the stomach."<sup>[18]</sup>

All the appellants raised the defenses of denial and *alibi*. They denied connivance in the commission of the crime. According to them, they did not know each other prior to their arrest.

Appellant Dindo Vallejo declared on the witness stand that at the time of the incident, he was in his brother's house at 65 V. Luna, Quezon City where he has been residing for about a year. He could not go out of the house as he was sick with pulmonary tuberculosis and was vomiting blood. In fact, he was hospitalized at the Quezon Institute from March 20-26, 1994.<sup>[19]</sup> His sister-in-law, Rose Vallejo, corroborated his testimony.<sup>[20]</sup>

Appellant Darwin Llarenas, a dried shrimps vendor, testified that on April 3, 1994, which was Easter Sunday, he and his wife and their two children attended mass at the Sta. Mesa Parish Church. They returned home at 392 Parcel Street, Sta. Mesa, Manila at around 10:00 o'clock in the morning. He cooked lunch as they were preparing a small gathering for his brother coming from the province.<sup>[21]</sup> Before lunchtime, he went to the house of Cristina Latine and invited her. After lunch, they had a drinking spree with the visitors. Meantime, he repacked dried shrimps and gave them to Adela Editha Jameliano. Both Editha and Cristina left late in the afternoon. The party ended at almost 7:00 o'clock in the evening and, thereafter, he went to bed. <sup>[22]</sup> Cristina and Editha, as well as his mother and wife, corroborated his testimony.

Appellant Arnold Camo, a barbeque vendor, testified that on April 3, 1994, he was in his house at 361 Parcel Street, Sta. Mesa, Manila because he was ill. Two weeks prior to that date, he was already sick and bedridden. <sup>[23]</sup> His left ear was swollen and he had fever. He could hardly move because of so much pain. Dr. Ramos attended to him. Several members of his family corroborated his testimony.

Appellant Romeo Tipasi gave the following version: On April 3, 1994, at 10:30 in the morning, spouses Valentin and Patrocinia Leyte fetched him from his house at 295 Parcel Street, Sta. Mesa, Manila to stand as sponsor in the christening of their child. They stayed in the church until past noon. Then he attended the reception held in the couple's house at 385 Parcel Street, Sta. Mesa, Manila until about past 6:00 o'clock in the evening. <sup>[24]</sup> Patrocinia Leyte corroborated his testimony. <sup>[25]</sup>

On May 16, 1996, the trial court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, this court finds all the accused guilty beyond reasonable doubt of the crime of Robbery with Homicide with the aggravating circumstances of abused of superior strength and craft, without any mitigating circumstance, this court hereby imposes the penalty of DEATH in accordance with Article 294 of the Revised Penal Code, as amended, in relation to Article 63 of the same code and for the accused to indemnify the heirs of the victim jointly and solidarily the following:

- (a) P50,000.00 for the death of the victim;
- (b) P156,000.00 as actual damages;
- (c) P6,072,000.00 as unrealized earnings of the victim;
- (d) P1,000.00 as moral damages;
- (e) P500,000.00 as exemplary damages; and
- (f) To pay the cost.

"SO ORDERED."<sup>[26]</sup>

Hence, this appeal. Quoted below are the assignments of error being ascribed to the trial court by the appellants:

By appellant Darwin Llarenas:

"I

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH HOMICIDE AND IN IMPOSING THE DEATH PENALTY.

"II

THE COURT A QUO ERRED IN ORDERING THE ACCUSED-APPELLANT TO INDEMNIFY THE HEIRS OF VICTIM SOLIDARILY, THE FOLLOWING AMOUNTS: P50,000.00 FOR THE DEATH OF VICTIM; P156,000.00 AS ACTUAL DAMAGES; P6,072,000.00 AS UNREALIZED EARNINGS OF THE VICTIM; P1,000.00 AS MORAL DAMAGES; P500,000.00 AS EXEMPLARY DAMAGES, AND; TO PAY THE COSTS."<sup>[27]</sup>

By appellants Arnold Camo and Romeo Tipasi:

"I

THE TRIAL COURT ERRED IN FINDING THAT ACCUSED-APPELLANTS ARNOLD CAMO AND ROMEO TIPASI, JR., ACTED IN CONSPIRACY WITH THE OTHER ACCUSED IN THE COMMISSION OF THE CRIME OF ROBBERY WITH HOMICIDE.

"II