

SECOND DIVISION

[G.R. No. 136829, June 06, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARCELO BOQUIRIN Y AYUBAN, ACCUSED-APPELLANT.**

DECISION

QUISUMBING, J.:

This is an appeal from the decision^[1] dated November 5, 1998 of the Regional Trial Court, Quezon City, Branch 219, in Crim. Case No. Q-97-74170 finding appellant Marcelo Boquirin guilty of robbery with homicide and sentencing him to suffer the penalty of *reclusion perpetua*.

The information against appellant alleged:

That on or about the 5th day of November 1997, in Quezon City, Philippines, the above-named accused, conspiring, confederating with and mutually helping with other persons whose true names and whereabouts have not as yet been ascertained, with intent to gain and by means of violence and intimidation upon persons, did then and there, wilfully, unlawfully and feloniously rob the person of CLARITA CHUA Y LEE of the following:

Cash money in the amount of P200,000.00
one (1) lady's reading glass – P4,000.00
one (1) unit of Truly calculator – P500.00
one (1) 24 K gold lady's necklace – P4,500.00
two (2) Solid Bank Commonwealth Branch checks containing amounts of P409.00 and P919.00

all valued more or less in the total amount of P209,000.00, Philippine Currency, belonging to CLARITA CHUA Y LEE, and that on the occasion of said robbery, the said accused, with intent to kill and without any justifiable cause, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of MARIO DELA CRUZ Y DIZON, driver of CLARITA CHUA Y LEE by shooting him on his head, causing him to sustain serious and grave wound which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of the victim and to CLARITA CHUA Y LEE in the aforesaid sum.

CONTRARY TO LAW.^[2]

On December 10, 1997 appellant pleaded not guilty to the charge, whereupon trial ensued.

The prosecution presented four witnesses, namely: CLARITA CHUA; DR. MA.

CRISTINA FREYRA, the medico-legal officer who conducted the autopsy on the body of the victim Mario dela Cruz; SPO1 ROGELIO YALONG, the investigating police officer from the Criminal Investigation Division, Camp Karingal, Sikatuna Village, Quezon City; and EVELYN DELA CRUZ, wife of the deceased Mario.

CLARITA CHUA testified that on November 5, 1997, she went to Freedom Park, Batasan Hills, Quezon City aboard her L-300 van with her driver, Mario dela Cruz, at the wheel. She was out to collect payments for dressed chickens from her customers. After coming from the house of a customer by the name of Aida Matira, she proceeded to her van parked several meters away. But before she could board it, a person who was standing at the passenger side of the van pointed a gun at her. She moved over to the driver's side to open the door and to ask help from Mario who was then sleeping. Before she could do this, however, she heard a gunshot. She then saw that Mario had been gunned down. As she opened the door and tried to prevent him from falling down, she threw her bag to her right side. One of the gunman's two companions picked up the bag. The malefactors then ran toward an alley.^[3]

Mario dela Cruz was brought to the hospital by bystanders while Clarita Chua stayed behind at the house of Aida Matira.^[4] The bag was not recovered. It contained a Truly Calculator worth P900; a 24K gold lady's necklace worth P4,500; cash in the amount of P200,000; two checks in the amounts of P409 and P919; and her reading glasses worth P2,000.^[5]

Assisted by a barangay captain, Clarita Chua immediately reported the incident to Police Station No. 6, Batasan Hills, Quezon City. She gave a description of the person who shot Mario. She was shown photographs of several persons but the gunman was not among those whose pictures were shown to her.

After several days, she was informed by Evelyn dela Cruz, Mario's widow, that one of the three suspects had been apprehended. Clarita and Evelyn went to Camp Karingal the following day and there Clarita recognized appellant. She identified him as the person who shot her driver and who robbed her of her valuables. She singled him out from among those who were locked up inside the cell because of his face, the clothes he was wearing, and his haircut. His clothes were the same ones he wore at the time of the incident. Moreover, appellant admitted to her what he did in the presence of her husband, her brother, and the police. After she had identified appellant, he was brought to the prosecutor for inquest. There he gave a sworn statement.

DR. MA. CRISTINA FREYRA, medical officer, testified that based on the autopsy she conducted on the body of the deceased, the immediate cause of death was intracranial hemorrhage resulting from a gunshot wound.^[6] She stated further that due to the absence of smudging and tattooing around the wound, the muzzle of the gun barrel must have been more than two feet from the point of contact. Because Mario was hit on the right side of his head, the assailant could have been at the victim's extreme right.^[7]

SPO1 ROGELIO YALONG, police investigator, testified that on November 26, 1997, private complainant Clarita Chua went to their station to report the hold-up and shooting incident. He advised her to come back on November 27 to give her

statement, which she did in the afternoon of that day. SPO1 Yalong investigated the case. He recalled that appellant was arrested for violation of City Ordinance No. 5900 (Anti-Tattooing) and that while detained at the Criminal Investigation Division (CID) jail in Camp Karingal, appellant was recognized by Clarita Chua as the one who held her up and shot Mario dela Cruz on the afternoon of November 5, 1997 in Quezon City. Yalong's full testimony was, however, dispensed with after the defense admitted the fact of investigation.

EVELYN DELA CRUZ, widow of Mario dela Cruz, testified on the expenses which the family incurred in connection with her husband's death. She declared that her husband worked as a family driver for Clarita Chua and that they had three children, one of whom had to stop studying after her husband's death. According to her, she spent the amount of P45,000 for his wake, funeral, and burial.^[8]

The defense presented appellant MARCELO BOQUIRIN as its lone witness. He denied poking a gun at Clarita Chua and shooting Mario dela Cruz. According to him, he was standing at Litex in Quezon City when the police suddenly arrested him. He was brought to Camp Karingal and was implicated in a hold-up, of which he denied knowledge. He admitted that he saw Clarita Chua there and that he was brought before a prosecutor. However, he claimed that he did not understand what the prosecutor said to him.

On November 5, 1998, the trial court found appellant guilty of robbery with homicide, as follows:

WHEREFORE, finding MARCELO BOQUIRIN guilty beyond reasonable doubt of the special complex crime of Robbery with Homicide, the Court hereby sentences him: (1) to suffer the penalty of Reclusion Perpetua there being no aggravating circumstance attending the commission of the crime; (2) to pay Clarita Chua the amount of P210,328.00; (3) to pay Evelyn dela Cruz the amount of P145,000.00; and (4) to pay the costs.

SO ORDERED.^[9]

From that decision, appellant has interposed this appeal with a lone assignment of error, viz.:

THE LOWER COURT GRAVELY ERRED IN FINDING THAT THE IDENTITY OF THE ACCUSED-APPELLANT AS ONE OF THE AUTHORS OF THE CRIME CHARGED HAS BEEN ESTABLISHED BEYOND REASONABLE DOUBT.^[10]

Appellant argues that the prosecution failed to prove his guilt beyond reasonable doubt. According to him, the attendant circumstances at the time the alleged offense was committed made it impossible for him to be identified as one of the perpetrators of the crime.^[11] He cited supposed flaws and inconsistencies in the testimony of Clarita Chua. Specifically, according to him, the attack appeared so fleeting to enable Clarita to etch in her mind the appearance of the assailant. He also contends that when the assailant poked a gun at her, Clarita's immediate reaction apparently was to hide and seek cover behind the driver's seat of the vehicle. As she did so, it was not possible for her to have had a good glimpse of the malefactor.

For the appellee, the Office of the Solicitor General maintains that based on testimonies of witnesses, appellant was positively identified as one of the perpetrators of the crime.^[12]

Appellant raises, in our view, the issue of credibility. He essentially assails the assessment made by the trial court of the witnesses' testimonies in regard to his identification as perpetrator of the offense charged.

Once again we must stress that matters concerning the credibility of the witnesses are best addressed to the sound judgment of the trial court.^[13] It is well-settled that appellate courts will not interfere with the trial court's assessment in this regard, absent any indication or showing that the trial court has overlooked some material facts of substance or value or gravely abused its discretion.^[14] As often held, the matter of assigning values to declarations at the witness stand is best and most competently performed or carried out by a trial judge who, unlike appellate magistrates, can weigh such testimony in the light of accused's behavior, demeanor, conduct, and attitude at the trial.^[15]

In this connection, we note in particular the findings of fact of the trial court regarding the testimony of private complainant Clarita Chua on the identity of the malefactor:

As regards the defense of denial proffered by the accused, it is rather weak as there is no doubt that he was the one who perpetrated the acts complained of. He was positively identified by eyewitness Clarita Chua while he was still detained in Camp Karingal and then again inside the courtroom. According to her, [s]he remembered him because of his face, his clothes and his haircut. Her identification is entitled to great weight. The conditions of visibility were favorable. Although the accused was on the other side of the van and its windows were tinted, the sun, according to her, was shining bright at that time such that she could clearly see the person on the other side thereof. Moreover, the glass windows were not heavily tinted and it was accused who opened the door (TSN, February 24, 1998, pp. 47, 51 and 53). There was, therefore, every opportunity for her to see his face. ...^[16] (Emphasis supplied.)

The trial court rejected appellant's defense consisting mainly of denial. Clarita Chua placed him at the scene and time of the robbery and saw him shoot Mario dela Cruz. In convicting appellant, the trial court relied on the testimony of private complainant whose account of the incident it found to be "positive and categorical."^[17] Such positive testimony prevails over appellant's denial^[18] of any participation in the robbery with homicide. As established at the trial, Clarita had no ulterior motive to falsely testify against appellant whom she has never met prior to the robbery. Her testimony is thus entitled to full faith and credit.^[19]

Anent the alleged influence exerted by the police at Camp Karingal on Clarita Chua to point to appellant as the malefactor,^[20] this is a self-serving allegation which remains unsubstantiated. Nothing on record appears to show undue influence on private complainant to pin responsibility for this serious offense on appellant.

Furthermore, Clarita Chua's spontaneous and immediate reaction after the robbery