

EN BANC

[G.R. No. 136094, April 20, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARNOLD RAMIREZ Y ESPLANA, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

For automatic review is the decision^[1] of the Regional Trial Court of Makati City, Branch 66, in Criminal Case No. 98-1541, convicting accused-appellant of the crime of robbery with homicide and sentencing him to suffer the supreme penalty of death.

The information against accused-appellant reads:

That on or about the 8th day of September, 1997 in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and violence and with intent of (*sic*) gain and without the consent of the owners thereof, did then and there wilfully, unlawfully and feloniously take, steal and divest from MYRA PASOBILLO, SONIA DAGDAGAN and another unknown female companion undetermined amount/value of cash money and jewelries (*sic*), to the damage and prejudice of said owners; and that on the occasion or by reason of said robbery the accused did then and there wilfully, unlawfully and feloniously shoot with a handgun said Myra Pasobillo in the back thereby causing serious wound on the latter which directly caused her death.

CONTRARY TO LAW.^[2]

Arraigned on July 9, 1998, accused-appellant, assisted by counsel de officio, entered a negative plea.^[3] At the trial, the prosecution presented Elmer Morales, PO2 Rio Sacliwan Bucalan, and Felicidad Manrique as witnesses.

The facts, as synthesized by the Solicitor General in the Appellee's Brief, are as follows:

On September 8, 1997, around 11:00 in the evening, Elmer Morales, Myra Pasobillo, Sonia Dagdagan and a certain Nida were walking along Guadalupe Bridge in Makati City. They came from Mandaluyong City and were on their way home to Makati City. As they were about to cross the bridge, appellant called them. Thinking that he was an acquaintance, Elmer and the group stopped. Appellant then casually walked and

approached them (TSN, August 6, 1998, pp. 6-7).

When only about an arm's length away, appellant suddenly pulled out his gun, leveled it towards the group and announced a hold-up. Stunned and trembling, everyone could do nothing but watch appellant search and divest them of their money and pieces of jewelry.

After ensuring that nothing of value was left, appellant told his victims to slowly and silently walk away from the bridge. And so they did (*Ibid.*, pp. 8-10).

But before the group could move any farther, Nida turned hysterical and repeatedly screamed for help. Irritated and alarmed, appellant fired upon the group and ran away immediately. The shot hit Myra on the back which sent her slumping to the ground (*Ibid.*, p. 11).

Hoping to save Myra, Elmer and Sonia rushed her to the Ospital ng Makati. However, she did not survive the gunshot wound. She was declared dead on arrival (*Ibid.*).

The incident was reported to SPO2 Rio Bucalan of the Makati Police who immediately proceeded to the hospital. There, Elmer Morales narrated what happened including appellant's description. As there were several warrants of arrest standing against appellant, he was immediately arrested. At the Makati City Hall, Elmer Morales positively identified appellant as the same person who robbed them and killed Myra Pasobillo (TSN, August 20, 1998, pp. 70-87).

Medico-legal findings disclosed that Myra died of a gunshot wound on the back (Record, p. 11).^[4]

Accused-appellant vehemently denied the charge against him, claiming that at around 11:00 o'clock in the evening of September 8, 1997, he was in their residence together with relatives at 8641 San Jose Street, Guadalupe, Makati City.

^[5] His story was corroborated by his mother, Normita Ramirez, his live-in partner, Imelda Taplacido and his sister Araceli Castro, who all claimed that in the evening of September 8, 1997, accused-appellant arrived from work at around 6:00 o'clock in the evening, went to bed at about 9:00 o'clock, and never left the house till the following morning.^[6] After trial, the court rendered a judgment of conviction, the dispositive portion of which states:

IN VIEW OF THE FOREGOING, the Court finds Arnold Ramirez y Esplana guilty beyond reasonable doubt of robbery with homicide and taking into consideration the aggravating circumstances of treachery and nighttime, hereby sentences Arnold Ramirez y Esplana to suffer the penalty of death and to pay the heirs of Myra Pasobillo the sum of P50,000.00 as moral damages, the sum of P67,742.30 as liquidated damages and the sum of One Peso (P1.00) to the heirs of Myra Pasobillo and Sonia Dagdagan.

Let the entire records of this case be forwarded to the Supreme Court for

review.

SO ORDERED.^[7]

In this automatic review, accused-appellant contends that:

I

THE COURT A *QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH HOMICIDE.

II

THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT ACCUSED-APPELLANT HAS BEEN POSITIVELY IDENTIFIED.

III

THE COURT A *QUO* GRAVELY ERRED IN AWARDING MORAL DAMAGES AND LIQUIDATED DAMAGES TO THE HEIRS OF MYRA PASOBILLO AND SONIA DAGDAGAN.^[8]

In sum, accused-appellant disputes his positive identification by defense witness Elmer Morales as the author of the malefaction sued upon. As consistently adhered to by this Court, the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various *indicia* available but not reflected on the record. The demeanor of the person on the stand can draw the line between fact and fancy. The forthright answer or the hesitant pause, the quivering voice or the angry tone, the flustered look or the sincere gaze, the modest blush or the guilty blanch - these can reveal if the witness is telling the truth or lying through his teeth.^[9] In the case at bar, the court *a quo*, which had the opportunity to observe the witnesses, gave full credence to the declarations of the prosecution eyewitness, Elmer Morales. Time and again, this Court has ruled that findings of the trial court on matters of credibility are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.^[10] As accused-appellant proffered no cogent facts or circumstances that would convince this Court to depart from this settled doctrine, affirmance of the findings of the trial court is in order.

The Court has carefully reviewed the testimony of Elmer Morales and found his positive identification of accused-appellant to be straightforward and worthy of belief. In fact, right after the incident when he was investigated by PO2 Bucalan at the Ospital ng Makati, Elmer Morales was able to describe accused-appellant as having "white complexion, good-looking, little curly hair."^[11] This description fitted accused-appellant, who happened to have several standing warrants of arrest for other offenses. When shown a picture of accused-appellant three days after the

incident, Morales readily identified him as the culprit.^[12] He affirmed said identification in a police line-up at the Makati City Jail where accused-appellant, together with nine others, were presented to him.^[13] On cross-examination, Morales remained steadfast and unyielding as to the surrounding circumstances that enabled him to remember the face of accused-appellant. Thus:

Atty. Odronia:

But you, you were not facing the holdupper when he allegedly pointed a gun to you, is that correct?

Witness:

No, sir, I was not facing him but I was on my side and I saw him.

Atty. Odronia:

So do you mean to tell this Honorable Court that the first time ... I withdraw that, Your Honor. You were ... your back ... you were not facing the holdupper allegedly pointing the gun at first to you?

Witness:

Yes, sir.

Atty. Odronia:

And that according to you he ordered you to move forward? Is that correct?

Witness:

He ordered me to step aside. "*Patagilid*."

Atty. Odronia:

Step aside. So when the holdupper allegedly ordered you to move in the vernacular, you mentioned "*Patagilid*," you were facing then the Pasig River, in the direction of Pasig?

Witness:

No sir, when I stepped aside I was facing the holdupper, sir.^[14] xxx
xxx xxx.

Atty. Odronia:

Where were your companions at that time? In what specific position of the bridge were your companions at that time?

Witness:

At the same place where we were held-up only that my companions were standing ahead of me.

Atty. Odronia:

Between your companions and you, who were nearest the place where the holdupper was?

Witness:

My three companions, sir.

xxx xxx xxx.

Atty. Odronia:

Who in particular among the three (3) was the nearest to the place where the holdupper was?

Witness:

Because they were standing side by side, it was Sonia...

Atty. Odronia:

My question is who were the nearest?

Witness:

It was Sonia Dagdagan. *Si Sonia ang tinapatan.*^[15]

xxx xxx xxx.

Atty. Odronia:

Who was beside Sonia?

Witness:

On her left side was Myra Pasobillo and on her right side was Nida.

Atty. Odronia:

How far was Sonia Dagdagan to the holdupper?

Witness:

Tutukan lang po, sir.

Atty. Odronia: