

## FIRST DIVISION

[ G.R. No. 103550, July 17, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. C2C ROMERICO PORRAS Y CALICTO, ACCUSED-APPELLANT.**

[G.R. No. 103551]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR TAJORES Y BOGUS ALIAS "BUDDY", ALFREDO DOCTOLERO Y JOSE ALIAS "FREDDIE", WENEFRIDO\* DE LA SERA ALIAS "BOY GOLDEN", BILLY VASQUEZ Y OLIVA ALIAS "BONG"\*\* AND RENATO SAMSON Y ESPANOLA,\*\* ACCUSED-APPELLANTS.**

### DECISION

#### **PUNO, J.:**

Before this Court is an appeal by accused-appellant Romerico Porras from his conviction in Criminal Case No. 90-83742-SCC by the Regional Trial Court of Manila, Branch 49,<sup>[1]</sup> for "Qualified Highway Robbery (special complex crime of highway robbery with homicide and physical injuries)." He was sentenced to suffer the penalty of reclusion perpetua.

In an Information<sup>[2]</sup> filed before the Regional Trial Court of Manila, Branch 49, Alfredo Doctolero, Salvador Tajores, Wenefrido de la Sera, Billy Vasquez and Renato Samson were charged with the crime of Qualified Highway Robbery (special complex crime of highway robbery with homicide and physical injuries) in conspiracy with herein accused-appellant Porras. The case was docketed as Criminal Case No. 89-78007. Doctolero, Tajores, de la Sera, Vasquez and Samson entered a "not guilty" plea when they were arraigned on October 13, 1989.

Originally, the case against Porras was filed before the Office of the Constabulary Judge Advocate. However, by virtue of a Presidential Waiver dated January 4, 1990, Court Martial Jurisdiction was waived by then President Corazon Aquino in favor of civilian courts. Hence, the information against Porras was only filed in the RTC of Manila on May 11, 1990 together with a motion to consolidate the case with Criminal Case No. 89-78007.

The Information<sup>[3]</sup> against C2C ROMERICO PORRAS avers:

"That on or about September 25, 1989, in the City of Manila, Philippines, the said accused conspiring and confederating with SALVADOR TAJORES Y BOGUS Alias "Buddy", ALFREDO DOCTOLERO Y JOSE Alias "Freddie", WENEFRIDO DE LA SERA Y BATERNA Alias "Boy Golden" and BILLY

VASQUEZ Y OLIVA Alias "Bong" who were already been (sic) charged with the same offense docketed as Crim. Case No. 89-78007 before the Regional Trial Court of Manila, Branch 49 and others whose true names, identities and present whereabouts are still unknown and helping one another, all armed with firearms of different calibers, and therefore in band, with intent to gain and by means of force, violence against and intimidation of person, that is, while along Arellano St., this City, a street used by persons or vehicles for the movement or circulation of persons or transportation of goods, articles or property or both, by then and there suddenly firing at the armored car of the Bank of Philippine Islands, a Toyota Land Cruiser with Plate No. NSG-152 containing P7,800,000.00, and in which vehicle were on board bank teller LAMBERTO JOSE, one EMILIANO LOPEZ Y GABRINO, UNIGUARD Security Guard SEGUNDO RAMOS, another security guard and a driver, thereby immobilizing the said armored car, ordering the said car occupants to get out therefrom otherwise they will be killed, and forcing them to lie face down on the ground, did then and there willfully, unlawfully and feloniously take, rob and carry away the said sum of P7,800,000.00 from the said armored car owned by the Bank of Philippine Islands, against the will of the said owner, to the damage and prejudice of the said Bank of Philippine Islands, Ayala Avenue, Makati, MM, in the same sum as aforesaid; that as a result or on the occasion of the said Robbery, two (2) members of the robbing group, namely Pfc. BEN A. BARTOLINI, PA and PVT. TONY J. BAZER, PC, were hit in a shootout that ensued thereby inflicting upon them fatal gunshot wounds which were the direct cause of their death immediately thereafter; and that as a further result thereof the persons of said LAMBERTO JOSE and SEGUNDO RAMOS, and SGT. APOLINARIO CASTRO, PC, a member of the raiding team, sustained physical injuries which will require medical attendance for a period of more than thirty (30) days and which will incapacitate them from performing their customary labor during the same period of time.

CONTRARY TO LAW."<sup>[4]</sup>

Porras was arraigned on June 22, 1990 and entered a plea of "not guilty." In an Order dated June 28, 1990, the trial court denied the consolidation of the cases. On October 23, 1990, Atty. Nicolas Catiil, who was then the counsel of Porras, manifested that he is adopting the proceedings in Criminal Case No. 89-78007 with reservation to recall four (4) prosecution witnesses for further cross-examination.<sup>[5]</sup> On January 23, 1991, based on the agreement of the parties, the trial court issued an order that it will render only one decision for both cases.<sup>[6]</sup>

The facts are as follows:

In the morning of September 25, 1989, the management of the Plaza Cervantes branch of the Bank of the Philippine Islands (BPI) decided to transfer the excess cash in its vault to the bank's head office in Makati, Metro Manila. Eduardo Alegre, Assistant Manager of the said branch, supervised the cash transfer. He prepared three (3) Debit and Credit Advice<sup>[7]</sup> (DCA) for the centralized cash servicing unit of their head office. The first DCA covered the amount of four million two hundred thousand pesos (P4,200,000.00) consisting of one hundred peso (P100.00) bills, the

second was for three million two hundred thousand pesos (P3,200,000.00) consisting of one hundred peso (P100.00) and fifty peso (P50.00) bills and the third was for four hundred seventy thousand pesos (P470,000.00) which consisted of fifty (P50.00), twenty (P20.00), ten (P10.00) and five (P5.00) peso bills. The total amount of seven million eight hundred thousand pesos (P7,800,000.00) was to be transferred. The money as stated in each DCA was placed inside three (3) duffel or canvass bags. Each bag was locked and sealed with a paper tape signed by Alegre. Two (2) copies of the DCA were sent to the head office with the money.

About 9:00 o'clock that morning, Alegre informed the post-in-charge of the security guards, Lorde Alutaya, that the excess cash would be transferred to the head office. The armored car of the bank, bearing Plate No. NSZ-152, was prepared together with a white Toyota crown car with Plate No. NRK-132 as a back-up car.<sup>[8]</sup> Alutaya assigned Leonardo Reyes and Segundo Ramos to ride in the armored car to be driven by Julian Carurucan. Leonardo Sinay and Melchor Sampaya were assigned to the back-up car to be driven by Ernesto Ignacio. Except for Sampaya who carried a .38 caliber handgun, the security guards were armed with shotguns<sup>[9]</sup> licensed to and owned by Uniguard Security Agency, Inc. Emiliano Lopez, a utility personnel designated by Alegre to carry the money, loaded the same inside the armored car. Lamberto Jose, a paymaster, also accompanied the armored car.

Both cars left the Plaza Cervantes branch of the BPI at about 9 a.m. They passed by Taft Avenue, turned left at Vito Cruz and made a right turn to Arellano Street, Singalong, Manila. The back-up car was about two vehicles away from the armored car. They were travelling slowly due to heavy traffic. Midway Arellano Street and at a distance of ten (10) to fifteen (15) meters, Carurucan saw about five (5) to six (6) persons alight from a red Ford Fiera vehicle. They wore long sleeved jackets and were carrying armalite rifles of the M14 or M16 type. Suddenly, the first man to alight from the Fiera fired his gun toward them. The windshield of the armored car was hit. Shattered pieces of glass flew inside injuring the passengers. Then came a hissing sound as the front tires of the armored car were flattened by gunshots. Carurucan was forced to stop the armored car.<sup>[10]</sup>

Leonardo Reyes who was seated in front, at the passenger seat, and Emiliano Lopez, who was seated at the back, also saw the armed men alight from the Ford Fiera. They were running side by side toward the armored car. Reyes recognized accused Wenefrido de la Sera who was slightly ahead of the pack. He particularly remembered de la Sera's mustache.<sup>[11]</sup>

The armed men continued firing at the immobilized armored car. Carurucan ducked at the steering wheel. Reyes stooped but he sustained abrasions which required at least nine (9) days to heal.<sup>[12]</sup> Lopez dived on the floor and cried "Diyos ko, iligtas mo po kami."<sup>[13]</sup> Ramos fell from his seat as he was hit in his shoulder and right lumbar area. He leaned against the wall of the armored car. His wounds required at least nine (9) days to heal.<sup>[14]</sup> Jose suffered from multiple metal fragment injuries on his neck and occipital region, right side of his ear, and posterior chest wall, requiring not less than one (1) day but not more than nine (9) days to heal.<sup>[15]</sup>

The assault lasted from three (3) to five (5) minutes.<sup>[16]</sup> Blood was splattered on the walls of the armored car. The windshield and other glass portions of the armored

car were shattered as they were riddled with bullet holes.<sup>[17]</sup> Not one of the security guards was able to fire back at the attackers.

When the firing stopped, the armed men approached the armored car. Accused Salvador Tajores ordered them to step out saying, "[B]aba kayo, kung hindi kayo bababa, babarilin kayo diyan."<sup>[18]</sup> Tajores poked his gun at Carurucan who opened the door beside him and stepped out of the armored car. Reyes followed him. Tajores ordered them to lie on the road face down.<sup>[19]</sup> Lopez, on the other hand, heard a person shout, "Lumabas! Bumaba kayo!"<sup>[20]</sup> He heard more gunshots and smelled gasoline. Jose, who was then bleeding, said, "Buksan ninyo na."<sup>[21]</sup> Lopez opened the rear door of the armored car. Jose, who was leaning on it, fell to the ground. Lopez stepped out and saw accused Wenefrido de la Sera, Alfredo Doctolero, Salvador Tajores and C2C Romerico Porras standing behind the armored car. They were all holding guns. Lopez, Jose and Ramos were then ordered to lie face down on the road.

A vehicle suddenly started its engine and sped away. It was their back-up vehicle. The malefactors used it as their get away car. After the car left, Carurucan stood up and saw that Jose and Ramos were bloodied. He shouted for help. A car approached them and the driver offered help. The injured were brought to the Philippine General Hospital while Lopez remained at the scene of the crime.

The head office of BPI informed the Plaza Cervantes branch about the robbery at 10:00 a.m. The robbery was also relayed to the Special Group No. 1, Special Operation Task Force, under the Capital Command of the Armed Forces of the Philippines in Camp Bagong Diwa, Taguig, Metro Manila.<sup>[22]</sup> They received information that the robbers were heading south. In response, Major Marcelino Franco, Deputy Commander of the task force, assembled a contingent of about thirty (30) men to pursue the robbers. The contingent in turn formed two (2) teams. One team took the south superhighway while the other proceeded to the service road that leads to Daanghari which is between Taguig and Parañaque, Metro Manila. A radio call made to the first team informed them that the suspects entered the Food Terminal Incorporated, about two (2) kilometers away from Camp Bagong Diwa. Members of the second team, who were already at Daanghari, spotted a white Toyota Crown coming out of a compound. It had two male passengers. Two cars chased the Toyota Crown which was already twenty (20) meters ahead of them. The rest of the team remained to investigate. They saw a group of persons with firearms hurrying to get inside a hut located inside the compound.<sup>[23]</sup>

Six members of the contingent, including Sgt. Eufemio Barcena, Sgt. George Raquindin and Sgt. Apolinario Castro, proceeded to a house inside the compound. They were met by a woman who turned out to be an aunt of accused-appellant Porras. They saw Porras and Tajores inside the compound. Tajores was standing near the front wall abutting Daanghari while Porras was near the gate. Both were unarmed. Suddenly, shots were fired. The shots came from the hut inside the compound.<sup>[24]</sup> People scampered. Sgt. Castro was hit in his left shoulder and fell to the ground.

At about 10:30 a.m., an exchange of fire ensued between the members of the task force and the persons inside the hut. The distance between them was about fifteen

(15) to twenty (20) meters. One of the persons inside the hut was able to jump over the fence into an adjoining compound covered with tall grasses. The other one escaped through a hole.<sup>[25]</sup> The task force radioed for reinforcement at Camp Bagong Diwa. A V-150 tank came. It strafed the area where the persons hid. The firing stopped at around 12:00 noon. The contingent then searched the compound and its vicinity.

The body of Pvt. Tony Bazar, a member of the Armed Forces of the Philippines, was found near the fence at the rear of the nipa hut. It bore eleven (11) gunshot wounds, seven of which were fatal.<sup>[26]</sup> Found near his body was an M-14 firearm<sup>[27]</sup> and a .45 caliber pistol<sup>[28]</sup> loaded with five bullets. A bandolero with bullets was tied around his waist.<sup>[29]</sup>

They also found the body of Pfc. Ben Bartolini of the Philippine Army in a grassy area outside the compound. He sustained a gunshot wound on the head. Recovered near his body were two long firearms loaded with bullets. They also recovered a Ford Cortina Ghia vehicle, the three shotguns of the security guards, two green colored car plates bearing Nos. NRK-131 (LTO 89) and CCG-517 (88 LTO) and a red colored car plate No. SCE-445 (85 BLT).

Three (3) duffel bags were retrieved. Tied to the first duffel bag was a piece of paper wherein Eduardo Alegre previously made the entries that it contains four million two hundred thousand pesos (P4,200,000.00) in P100.00 peso bills. Tied to the second duffel bag was a piece of paper wherein Alegre had written that it contains P470,000.00. The third duffel bag did not have a similar piece of paper. Also found at the scene were three bags containing bundles of P20.00, P10.00 and P5.00 peso bills.<sup>[30]</sup> The paper wrappers of the money indicated they were from the Family Bank and Trust Company, Plaza Cervantes and Caloocan branches. The paper wrappers were dated September 22, 1989.<sup>[31]</sup>

Sgt. Apolinario Castro, who was hit by the initial burst of gunfire, was taken to the V. Luna General Hospital. The injuries he sustained<sup>[32]</sup> could have caused his death if not promptly attended to. He was released from the hospital on October 30, 1989. His wounds could have been caused by a .56 or M-16 firearm.<sup>[33]</sup>

After the gun battle, Porras and Tajores were arrested. When the members of the task force were about to leave the compound, they saw Renato Samson running. They did not know where he came from. They arrested him.<sup>[34]</sup> Porras, Tajores and Samson, and all the items recovered from the compound and its vicinity, were taken to Camp Bagong Diwa.

In the afternoon of that same day, Emiliano Lopez, Segundo Ramos and Leonardo Reyes were brought to the Western Police District for their statements. They learned at the police station that the suspects in the robbery had been arrested.

Four<sup>[35]</sup> suspects were turned over to the investigating unit in Camp Bagong Diwa. Sgt. Armando Barrion, one of the investigators, alleged that during the investigation, Tajores admitted that he was involved in the robbery. Tajores declined the services of counsel after he was apprised of his constitutional rights.<sup>[36]</sup> Tajores said that he did not personally know the other members of the group who robbed