

THIRD DIVISION

[G.R. No. 140347, August 09, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO OLITA Y GALO, ACCUSED-APPELLANT.**

D E C I S I O N

MELO, J.:

In an Information dated June 17, 1997, Rolando G. Olita was charged with the crime of Robbery with Homicide, thusly:

That on or about the 7th day of June, 1997, in Quezon City, Philippines, the said accused, conspiring, confederating with three (3) other persons whose true names, identities and whereabouts have not as yet been ascertained and mutually helping one another, armed with firearms with intent to gain and by means of force, violence and intimidation against persons, to wit: while said complainant Isagani Tongco and his security escort, Romeo A. Pacle, were waiting for a ride in front of Placido Del Mundo Elementary School located at Quirino Highway, Bgy. Talipapa, Quezon City, accused suddenly appeared and did then and there wilfully, unlawfully and feloniously take, steal and carry away cash money in the amount of P53,927.88, Philippine Currency, representing Meralco collections of Isagani Tongco against his will, and one .38 cal. Revolver with Serial Number 29945 worth P9,000.00, Philippine Currency, owned by the security agency where Romeo R. Pacle was employed, to the damage and prejudice of the said offended party in the amount aforementioned.

That on the occasion of the said offense of robbery for the purpose of enabling the said accused to take, steal and carry away the aforesaid cash money and firearm and in pursuant to their conspiracy, the said accused with intent to kill and taking advantage of their superior strength, did then and there treacherously attack, assault and employ personal violence upon security escort, Romeo R. Pacle, by then and there shooting the latter several times with a gun thereby inflicting upon said Romeo R. Pacle mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said victim.

CONTRARY TO LAW.

(p. 4, Rollo.)

Upon arraignment, accused-appellant entered a plea of not guilty. Trial, thereafter,

ensued.

The evidence for the prosecution was summarized by the trial court as follows:

Isagani Tongco, 27 years old, Meralco collector, and residing at 39 Libis, Pasing Tamo, Makati City, testified that he has been a collector of Meralco since November, 1995. On June 7, 1997, he was assigned at Talipapa, Quirino Highway, Quezon City. On that date, at about 11:30 in the morning, he was with civilian escort Romeo Pacle waiting for a ride after coming from Villa Sabina Subdivision where he collected about P57,000.00. While waiting for a ride at the Quirino Highway, after crossing the highway from the subdivision, a bus passed in front of the gate of the subdivision. After the bus left the area, two motorcycles with two passengers each came out from the subdivision. The motorcycles proceeded to their direction from across the street. They were then in front of the Placido del Mundo Elementary school. His escort warned him of the approaching motorcycles, but he could not run. He hid behind a plant box face down. The motorcycle riders fired shots at his escort. His escort fired back. He heard many gun shots. One of the motorcycle riders went down and took his belt bag containing his collection. When he looked at his escort after his bag was taken, he saw him lying on the ground. The robber who took his belt bag approached him while he was crouching behind a plant box and demanded that he surrender his belt bag. Fearing for his life, the robber being armed, he gave his belt bag containing his collection. He pointed to accused Olita during the trial as the person who took his belt bag. While the robbers were moving towards Mindanao Avenue, they passed by his escort. His escort fired at them. One of the robbers fell from the motorcycle. The driver went back towards his direction, but he was able to run away. He went to Solville Subdivision where he made a phone call to his office and reported the incident. He removed his uniform and returned to the place of the incident. He saw people boarding his escort to a tricycle. He was told that Olita was taken by his companions. His escort Romeo Pacle was taken to a hospital where he was declared dead on arrival. Accused Olita was taken to the East Avenue Medical Center where he identified said accused as one of the robbers.

(pp. 1-2, Decision; pp. 39-40, Rollo.)

Accused-appellant denied responsibility and offered his own recollection of the incident. Accused-appellant admitted having been at the scene of the crime but not as one of the robbers. He remembered coming from Villa Sabina Subdivision trying to look for work. While waiting for a ride home he heard a commotion and gunshots although he was not aware what was going on at that time. He just realized that he was hit by a stray bullet at the left side of his hip. Thereafter, he was brought to the hospital, then to the police station, but he knew nothing of any reason why he was brought there. Later, he was informed that a case for robbery with homicide was filed against him.

On September 17, 1999, the trial court promulgated its judgment of conviction and

accordingly disposed:

WHEREFORE, premises considered judgment is hereby rendered finding the accused Rolando Olita y Calo guilty beyond reasonable doubt of the crime of robbery with homicide and hereby sentences him to suffer the penalty of reclusion perpetua and to indemnify the complainant Isagani Tongco the amount of P53,927.88 as actual damages, plus legal interest from June 7, 1997 and moral damages in the amount of P20,000.00, plus costs.

Accused Rolando Olita is likewise ordered to indemnify the heirs of Romeo Pacle the amount of P50,000.00 as civil indemnity and P30,000.00 as moral damages, plus costs.

SO ORDERED.

(pp. 18-19, Rollo.)

Aggrieved, accused-appellant comes to this Court and pleads for acquittal. He posits that the trial court convicted him solely on the basis of the identification made by prosecution witness Isagani Tongco. On the contrary, accused-appellant asserts, there is no positive identification of him in view of the fact that Tongco testified he was able to look at the robber for only a second or two. Further, Tongco admitted that he had difficulty looking at accused-appellant because he was approached from behind when the belt bag containing his collections was taken from him.

The core issue raised by accused-appellant in his appeal is surely factual and involves nothing more than the credibility of prosecution witness Isagani Tongco. It is settled doctrine, however, that with respect to the issue of credibility of a witness, the Court has always accorded the highest degree of respect to the findings of the trial court (*People vs. Unarce*, 270 SCRA 756 [1997]), and absent strong reasons to the contrary, are not disturbed on appeal. Accused-appellant failed to show sufficient justification to warrant a reversal.

The main argument of accused-appellant hinges on his alleged doubtful identification by Tongco as one of the felons. Accused-appellant claims that he has not been positively identified considering that the testimony of Tongco contains so many inconsistencies rendering the identification uncertain and open to doubt. He claims that Tongco during the police investigation made reference to the shirt the assailant was wearing. But no such description was ever presented when Tongco gave his testimony in court. Accused-appellant, thus, believes that his conviction beyond reasonable doubt is unjustified, taking into account the unreliability of the evidence proffered by the prosecution.

Accused-appellant's bid for exoneration is for naught.

The credibility of a witness is not impaired where there is consistency in relating the principal occurrence and positive identification of accused-appellant (*People vs. Monfero*, 308 SCRA 396 [1999]). Inconsistency on minor details is insignificant. The probative value of testimonial evidence, particularly that which relates to the