

FIRST DIVISION

[G.R. No. 119696, August 18, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAZUL GUIAMIL Y ANGKAT AND MAGUID Y KONTIER, ACCUSED-APPELLANTS.

D E C I S I O N

BELLOSILLO, J.:

RASUL GUIAMIL y ANGKAT and ABEDIN MAGUID y KONTIER were convicted of robbery with homicide by the Regional Trial Court of Manila and sentenced to reclusion perpetua and to pay the heirs of their victim P50,000.00 as civil indemnity and another P50,000.00 for funeral expenses, plus costs ^[1]

On 31 May 1993, at about one-fifteen in the afternoon, appellants together with an unidentified person went in front of Lucky Jewelry Store located at 1043 Ongpin Street, Sta. Cruz, Manila. Appellant Abedin Maguid suddenly smashed the glass display window of the store and together with his companions took several rolls of jewelry worth P1,200,000. When Claude Masupil, one of the employees of the store, stood up to pursue the intruders, Maguid shot him to death.

The store employees immediately radioed for police assistance. SPO3 Benjamin Gonzales, SP03 Wilfredo Salinel, SPO1 Eduardo Reyes, SP01 Sorel and SPO3 Caoc responded. As the policemen approached, Arturo Mayo, employee of the store, met SPO3 Salinel and pointed to him the direction where the robbers went some 10 meters away. SPO3 Salinel told the culprits to stop but they started to run away instead, so the lawmen gave chase. Maguid fired at SPO3 Salinel. The latter fired back hitting Maguid at the right portion of his back and the right side of his face. When Maguid fell, one of his companions grabbed his gun and ran away. SPO3 Salinel got hold of Maguid, searched him and found a plastic bag containing jewelry. SPO1 Reyes, on his part, apprehended appellant Razul Guiamil at Rizal Avenue.

Dr. Manuel G. Lagonera conducted an autopsy on the body of Claude Masupil and certified that the cause of his death was "hypovolemic shock secondary to a gunshot wound, left antero lateral thorax."^[2]

Appellants contend that the lower court erred (a) in not acquitting them on reasonable doubt as the physical evidence tended to show that the prosecution witnesses lied and in fact made it appear that accused Abedin Maguid was frontally shot after he allegedly exchanged shots with the police; (b) in failing to note that the testimonies of the two policemen were contrary to human experience and that their statements were replete with inconsistencies seriously affecting the validity of their testimonies; (c) in failing to observe that there was no proper identification or that their identification was clearly doubtful, inconclusive, with badges of fabrication; and, (d) in failing to consider the explanation of both accused that they

were falsely implicated because the policemen feared they would be charged for having shot Abedin Maguid although accidentally.^[3]

The appellants claim that the evidence of the prosecution suffered from serious inconsistencies, e.g., (a) the testimony of SPO3 Salinel that appellant Maguid was facing him when he fired at the latter hitting him at his left eye,^[4] is contrary to medical findings that the bullet entered through his right ear and exited at his left eye; (b) the statement of SPO3 Benjamin Gonzales that he and the policemen chased the robbers up to Rizal Avenue near Raon where they found appellant Rasul Guiamil slumped on the ground near another police officer, is contradicted by SPO2 Reyes in his statement that the police caught appellant Guiamil at the corner of Ronquillo in front of Uniwide at Rizal Avenue; (c) the policemen testified that a plastic bag of jewelry was recovered from Maguid at the time he was apprehended but no jewelry were presented in court by the prosecution; (d) the testimony of Arturo Mayo that he, together with the policemen, chased the robbers after which appellant Guiamil was shot by one of the policemen, is contradicted by the evidence that it was appellant Abedin Maguid and not Guiamil who was shot.

Appellants also argue that they were not properly identified by prosecution witnesses Galileo Mayo and Arturo Mayo as the robbers, and the latter was not even listed as one of the witnesses in the information. The crucial issue then depends on the correctness of the factual findings of the court a quo. The rule is settled that in the absence of any fact or circumstance of weight and influence which has been overlooked or the significance of which has been misconstrued as to impeach the findings of the trial court, the appellate courts will not interfere with the trial court's findings on the credibility of witnesses or set aside its judgment considering that it is in a better position to decide the question having heard the witnesses themselves during the trial.

The matter of assigning values to declarations at the witness stand is best and most completely performed or carried out by a trial judge who, unlike appellate magistrates, can weigh such testimonies in the light of defendant's behavior, demeanor, conduct and attitude at the trial, and the conclusions of trial courts command great weight and respect. In weighing contradictory declarations and statements, greater weight must generally be given to the positive testimony of the prosecution witnesses than to the denials of the defendant.^[5]

A careful review of the records will show that the witnesses for the prosecution positively identified the appellants as the persons who robbed Lucky Jewelry Store and on the occasion thereof appellant Maguid shot to death Claude Masupil, an employee of the store. The testimonies of these prosecution witnesses, especially Arturo Mayo, SPO3 Wilfredo Salinel and Galileo Mayo, were found by the trial court to be clear and credible. Hereunder is the testimony of Arturo Mayo -

Q Mr. Witness, do you remember where you were last May 31, 1993 at about 1:00 in the afternoon?

A At about 1:15 p.m. I was at the Lucky Jewelry store working

Q Now, do you remember any unusual incident that occurred during that afternoon?

A At that same time, the holduppers suddenly entered by breaking the glass and my cousin was shot by the

holdupper.

Q How many holduppers x x x were there who entered the Lucky Jewelry Store?

A There were three (3), sir.

Q Did you see the faces of these holduppers?

A Yes, sir.

Q Now, will you please look around the courtroom and tell if any or all of those holduppers are around?

A They were (sic) here, sir, in this court.

Q Will you step down x x x of the witness stand and point to them?

(At this juncture, the witness is stepping down x x x the witness stand and pointed (sic) to the accused in this case who, when asked, answered by the name of Razul Guiamil and Abedin Maguid).

Q You said earlier that the accused whom you pointed earlier broke the glass window, after they broke the glass window, what happened next?

A After the breaking of glass window my cousin suddenly stood up and right then and there he was shot by one of the holduppers.

Q Who shot your cousin?

A The one with eye patch.

(At this juncture, the witness is pointing to the accused who, when asked his name, answered by the name of Abedin Maguid).

Q After accused Abedin Maguid shot your cousin, what happened next?

A My cousin stepped out of the store to see what happened outside, he was already wounded then ("pero may tama na siya") and I followed him and I saw the holduppers, after which I saw a policeman also chasing the holduppers and I also followed him and we caught first Razul Guiamil then there was a shoot out between the policeman and the holduppers after which one of the holduppers was shot by a certain policeman, and they got from him the jewelries.

Q Will you tell the Honorable Court what were inside the glass window that the accused broke?

A Pieces of jewelries (sic) like chain

Q When the accused scampered away as you and your cousin as well as a certain policeman, as you mentioned earlier, went after the accused, were those pieces of jewelries (sic) still there at the broken glass window?

A No more, sir, they brought it with them.

Q When you said "nila" whom are you referring to?

A The two of them.

(At this juncture, the witness is pointing to the two accused who were identified earlier as Razul Guamil and Abedin Maguid).^[6]

Policeman Wilfredo Salinel's testimony as to the circumstances leading to the arrest of the robbers was clear and straightforward -

Q Do you remember of any unusual incident that occurred during that day and time?

A I monitored from the radio that he asked for (an) assistance at the Lucky Jewelry Store.

Q And what was the emergency call all about?

A The call was "sir, sir, may hold-up."

Q x x x x what did you do next, if any?

A I ran towards the Lucky Jewelry Store.

Q Did you reach the Lucky Jewelry Store?

A Before I reach (sic) the Lucky Jewelry Store, I heard a sound of a gunshot.

Q And upon hearing this gunshot, how did you react?

A I still proceed(ed) to the store and "nakasalubong ko 'tong si Arturo Mayo" . . . I met Arturo Mayo x x x x

Q When Arturo Mayo pointed to you the robbers, where were the robbers?

A They were then walking, sir, as Arturo Mayo pointed the robbers.

Q And you could see them walking.

A Yes, sir, because they were still near.

Q How near if you can estimate, Mr. Witness?

A May be about ten (10) meters, sir.

Q How many robbers were walking?

A Three (3), sir.

Q Now what did you do next upon Arturo Mayo pointing to you the robbers?

A I shouted at them to stop or else I'll (sic) shoot them.

Q And how did the robbers react if any upon hearing your directive at them to stop?

A The one wearing (with) green shirt look (sic) back.

Q Now, is that person you are referring now the one look back (sic), is he inside the courtroom?

A Yes, sir.

Q Will you please point to him?

A That man, sir.