

## THIRD DIVISION

[ G.R. No. 111194, October 09, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
WILFREDO G. TEODORO, ACCUSED- APPELLANT.  
D E C I S I O N**

**PANGANIBAN, J.:**

A conviction for the special complex crime of robo con homicidio can be sustained only when robbery is proven as conclusively as the killing itself; otherwise, the offense is only homicide. Furthermore, the findings of a trial court on the credibility of witnesses and the weight it gave their testimonies are, as a rule, accorded respect, even finality, by appellate courts.

**Statement of the Case**

These doctrines are reiterated as we resolve this appeal from the June 29, 1993 Joint Decision<sup>[1]</sup> of the Regional Trial Court of Pasig, Metro Manila, Branch 156,<sup>[2]</sup> the Criminal Case Nos. 91327 and 91328 finding appellant guilty of frustrated homicide and robbery with homicide. The dispositive portion of the assailed Decision reads:

"IN VIEW OF THE FOREGOING, the Court finds the accused WILFREDO G. TEODORO guilty beyond reasonable doubt of the crime of "robbery with homicide" under Article 294 (1) of the Revised Penal Code and hereby sentences said accused to suffer the penalty of reclusion perpetua with all its accessory penalties, to indemnify the heirs of Eden M. Cabarubias in the amount of P50,000.00, to pay Margie M. Ganaban the sum of P20,000.00 as moral damages, to pay the heirs of Eden M. Cabarubias the further sum of P25,000.00 by way of reimbursement of the stolen cash money, all without subsidiary imprisonment in case of insolvency and to pay the costs.

In the service of his sentence, the accused shall be credited in full with the period of his preventive imprisonment.

Pursuant to the Resolution dated October 15, 1991 of the Supreme Court En Banc in G. R. No. 92560 entitled "People of the Philippines vs. Ricardo C. Cortez", the cash bail bond of the accused in Criminal Case No. 91327 entitled "People of the Philippines vs. Wilfredo G. Teodoro" is hereby ordered cancelled.

Let a Commitment Order be issued for the confinement of the accused at the New Bilibid Prisons at Muntinlupa, Metro Manila.

SO ORDERED."

Two Informations,<sup>[3]</sup> both dated February 11, 1992, were filed by 2nd Assistant Prosecutor Alberto A. Alforte against appellant. In Criminal Case No. 91327 the Information, accusing him of robbery with homicide, reads:

"That on or about the 3rd day of February, 1992 in the Municipality of Pasig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, conspiring and confederating with one Vic Naguit who is still at large and mutually helping and aiding one another, with intent of gain and by means of force, violence and intimidation, did then and there willfully and unlawfully and feloniously take, steal and carry away cash money amounting to P25,000.00 belonging to Eden M. Cabarubias, to the damage and prejudice of the owner thereof in the total amount of P25,000.00; and that by reason and on the occasion of the robbery, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously stab said Eden M. Cabarubias on the different parts of her body, thereby inflicting upon her mortal wounds which directly caused her death.

Contrary to law."

In Criminal Case No. 91328, he was charged with frustrated homicide allegedly committed as follows:

"That on or about the 3rd day of February, 1992 in the Municipality of Pasig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, conspiring and confederating with one Vic Naguit who is still at large and mutually helping and aiding one another, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Margie M. Ganaban on her chest, thereby performing all the acts of execution which would have produced the crime of homicide, as a consequence thereof but nevertheless did not produce it by reason of cause, independent of the will, that is, due to the timely and able medical attendance rendered to said Margie M. Ganaban which prevented her death.

Contrary to law."

Although the two informations alleged that Appellant Teodoro confederated with a certain Vic Naguit, the records do not show whether Naguit was formally charged. Hence, this case pertains only to Appellant Teodoro.

Arraigned alone on June 16, 1992, appellant, with the assistance of Counsel de Oficio Fernando Fernandez of the Public Attorney's Office, pleaded not guilty in both cases.<sup>[4]</sup> In due course, the two cases were tried jointly. Thereafter, the trial court rendered its now assailed Joint Decision. In view of the penalty imposed by the trial court, this appeal was filed directly with this Court.

## **The Facts**

### **Version the Prosecution**

The trial court summarized the testimonies of the witnesses for the prosecution, viz.:

"xxx Margie Ganaban, a housemaid of the deceased Eden Cabarubias, said that accused Teodoro and his companion, later identified as Vic Naguit, arrived at the house of Cabarubias in the morning of February 3, 1992. Upon seeing the accused at the door, she informed Cabarubias, who was then taking a bath, of the accused's presence and she was told to let him in and wait for her. Ganaban did as she was told and let the two (2) men into the house and waited with them in the sala for Cabarubias to finish her bath. When she was finished, Cabarubias went to the sala and talked with the accused while Ganaban took her turn in the bathroom. After she finished bathing, Ganaban went to the adjacent room with her clothes and it was at the door where she was met by Teodoro who told her not to shout as he covered her mouth with his left hand. Ganaban further stated that "sinandal ako sa pader" by Teodoro and she was asked to lie down on a small table where the accused stabbed her three (3) times on her upper right chest with a knife which he held with his right hand. After stabbing her, Teodoro then went to the garage from where she heard Cabarubias pleading "Willy, huwag, maawa ka sa akin." As she pretended to be dead, Ganaban was able to see Teodoro ransack the room of Cabarubias. Ganaban fainted from her wounds and after regaining consciousness, vomited before she was able to crawl out of the house and unto the street where the neighbors found her and brought her to the hospital. At the hospital, Ganaban was able to give a statement (Exh. "A") to Police Officer Matias about the incident.

Police Officer Gagawanan was monitoring traffic when he was approached by one Ferdinand Madjos who reported a stabbing incident that occurred at the house of Gregorio Advincula's neighbor. Proceeding to the scene, Gagawanan was able to talk to Ganaban who told him that her attacker was a certain "Willy". Gagawanan helped load Ganaban on a vehicle that took the latter to the hospital and then entered the house where he saw Cabarubias lying on the garage floor. Cabarubias was also loaded onto the vehicle so that she could be brought to the hospital. Gagawanan executed a statement (Exh. "B") as to the events he witnessed.

Police Officer Arcigal of the Pasig Police Station was tasked with the investigation of the crime and he learned of the identity of Teodoro when he talked with Ruel Cabarubias, father of Eden Cabarubias, about the incident. Afterwards, Arcigal proceeded to the house of Teodoro where he talked with the wife who promised to surrender the accused. The accused surrendered on February 7, 1992 and it was from him that the identity of his companion on the date in question, Vic Naguit, was disclosed to the authorities. Arcigal prepared a statement (Exh. "C") that narrated the facts with which he was acquainted.

Dr. Ruperto Sombilon, Jr. performed the autopsy on the cadaver of Cabarubias and his findings showed that of the six (6) stab wounds suffered by the deceased, number 2 proved to be fatal. The findings also revealed that it was very probable that the stab wounds were inflicted while the deceased and her attacker were facing each other. Dr. Sombilon, Jr. also testified as to the correctness of Autopsy Report No. N-92-312 (Exh. "C") and the Certification of Identification of Dead Body (Exh. "D") which were also given in evidence.

Dr. Agaton Manimtim examined Margie Ganaban and listed her wounds in a Medico-Legal Certificate (Exh. "E") that he prepared. He also testified to the fact that the wounds suffered by Ganaban would have probably taken two (2) weeks to heal at the time of examination and that she would have died had she not received timely medical attention by way of a tube that was inserted to aid her breathing.

### **Version of the Defense**

The version of the defense is summarized in the Appellant's Brief dated February 14, 1994, as follows:

"The defense presented two witnesses. They are the accused WILFREDO TEODORO and PETER BAGTAS.

WILFREDO TEODORO testified that he is engaged in buy and sell of scrap. There is no truth to the charges of robbery with homicide and frustrated homicide against him. On February 3, 1992 at about 7:30 a.m. he was with a friend named VIC NAGUIT and they proceeded to the house of EDEN CABARUBIAS at No. 113 Edinburg, Green Park, Manggahan, Pasig, Metro Manila. When they arrived at the house the maid named MARGIE GANABAN opened the gate for them. They were to claim the amount of P70,000.00 from EDEN CABARUBIAS a proceed in the buy and sell of used car transaction. He and EDEN CABARUBIAS have a transaction at that time that half of the P70,000.00 he will give it to VIC NAGUIT while the other half to EDEN CABARUBIAS. The three of them have (sic) a conversation at the sala and during the conversation, EDEN CABARUBIAS and VIC NUGUIT had a misunderstanding as to the model and price of the car they will buy. EDEN CABARUBIAS began uttering unsavory words to VIC NUGUIT by saying "mukhang pera". He tried to pacify the two and EDEN CABARUBIAS drove out VIC NUGUIT from the sala and followed him outside. He was left alone in the sala and stood up with the intention to pacify the two. Outside he saw VIC NAGUIT behind EDEN CABARUBIAS holding a knife with a black handle and saw EDEN CABARUBIAS bloodied. He was shocked of what he saw and lost consciousness. He regained consciousness when VIC NAGUIT pulled him out of the house. They took a tricycle and went home. During the stabbing incident, MARGIE GANABAN was inside the bathroom. She went to take a bath after serving them with softdrinks. At home, he asked money from his wife and told her that he is a suspect in the death of

EDEN CABARUBIAS being the person known to her household. He knows the father of EDEN CABARUBIAS named ROBERTO CABARUBIAS and were together engaged in scrap iron business in 1992. On February 7, 1992, he proceeded to the house of a policeman friend and a member of the Pasig Police Station and surrendered to him. To his knowledge VIC NAGUIT just arrived from Saudi Arabia and his family was a former taxi operator. (TSN, pp. 2-7, March 26, 1993).

PETER BAGTAS testified that he is a tricycle driver. On February 3, 1992 at about 7:30 a.m. he was driving a tricycle and has (sic) two passengers going to Edinburgh Street, Green Park, Pasig, Metro-Manila. His passengers are (sic) Willy Teodoro and Vikvok. On the way, he heard his passengers talking about the payment they would receive from the owner of the house. He does not know the owner of the house that his passengers were talking about. After arriving at the place, his passengers asked him to wait for them but he replied that he [had] to convey a student to school who is (sic) waiting for him. Vikvok handed him a P100.00 peso bill for their fare and having the P100.00 peso bill change(d) but there was none so he proceeded to a nearby gasoline station and have (sic) it change(d). He returned to the house where his two passengers alighted and he pushed the gate and saw Vikvok holding a woman by the neck and with a bladed weapon on one hand kept stabbing the woman. The woman was bloodied and he saw Willy Teodoro standing by the door in (a) state of shock just in front of a car. He was shocked of what he saw and immediately fled from the place.

On cross-examination, he testified that his two passengers came from San Gabriel Street, Santolan, Pasig, Metro-Manila. He did not report the incident to the police because he was scared of Vikvok who is a known tough guy in the place and does (sic) not want to be involved in the case because he has a family. (TSN, pp. 2-14, May 7, 1993)

### **Error Assigned**

Appellant assigns the following error:

"The court a quo gravely erred in finding accused-appellant Wilfredo Teodoro guilty beyond reasonable doubt of the crime of robbery with homicide despite the evidence to the contrary and the testimony of (an) eyewitness (in) his favor."<sup>[5]</sup>

### **The Court's Ruling**

**The appeal is partly meritorious.**

### **Credibility of Witnesses**

In reviewing the case at bar, the Court is guided by this well-settled rule:

"...[W]hen the question is raised as to whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as