

## THIRD DIVISION

**[ G.R. No. 104461, February 23, 1996 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO MENDOZA Y REYES AND JAIME REJALI Y LINA, DEFENDANTS-APPELLANTS.**

### DECISION

**PANGANIBAN, J.:**

The main question answered in this case is whether the accused should be convicted of highway robbery with homicide punishable under Presidential Decree No. 532, or of robbery with homicide under Article 294 of the Revised Penal Code.

Appellants Romeo Mendoza and Jaime Rejali were charged on June 17, 1991 before the Regional Trial Court in Pasig, Metro Manila (Branch 156) of the crime of "ROBBERY HOLD-UP (sic) with HOMICIDE (P.D. No. 532, Anti-Piracy and Anti-Highwat (sic) Robbery Law of 1974)"<sup>[1]</sup> in an Information which reads as follows:

"That on or about the 29th day of May 1991, in the municipality of San Juan, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court the above- named accused, armed with gun and knives, conspiring and confederating together with one alias Jack whose true identity and present whereabouts is still unknown, and mutually helping and aiding one another with intent to gain and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously take, rob and divest one Glory Oropeo of cash money amounting to P3 0.00, while the said victim was aboard a passenger jeep, cruising along Aurora Blvd., San Juan, Metro Manila, which is a Philippine Highway, to the damage and prejudice of the owner thereof, in the aforementioned amount of P30.00; that on the occasion of said robbery (hold-up) and for the purpose of enabling them to take, rob and carry away personal belongings of all passengers in pursuance of their criminal act said accused, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the passengers (sic) of said passenger jeep, one Ramilyn Zulueta by then and there hitting her head with a gun and kicked (sic) her out of the passenger jeep which caused her to fall in (sic) the pavement hitting her head on the ground, thereby inflicting upon the latter mortal injuries which directly caused her death, while Ma. Grace Zulueta, punching her face and hitting her head with a gun, as a result of which said Ma. Grace Zulueta sustained physical injuries which required medical attendance for a period of less than nine (9) days and incapacitated her from performing her customary labor for the same period of time.

"CONTRARY TO LAW."

The records show that both accused were assisted by their counsel *de officio*, Atty. Fernando Fernandez of the Public Attorney's Office (PAO), when they pleaded not guilty to the charge upon arraignment on August 9, 1991.

### **Evidence for the Prosecution**

The prosecution thereafter established that on May 29, 1991, at about 9:00 in the evening, 17-year-old Ma. Grace Zulueta and her elder sister, Ma. Ramilyn, were on their way home from their grandparents' house in Altura Ext., Sta. Mesa, Manila. They boarded a passenger jeepney bound for Cubao via Aurora Blvd. The jeepney was fully loaded with the driver, his wife and two children on the front seat and eight passengers on each of the two parallel back seats.<sup>[2]</sup>

The Zulueta sisters were seated near the rear entrance of the jeepney<sup>[3]</sup> with accused Romeo Mendoza seated beside Grace.<sup>[4]</sup> It was through Mendoza that Grace handed over their fare to the driver as the jeepney passed by the SM complex.<sup>[5]</sup> Glory Oropeo (or Lory Europeo<sup>[6]</sup>), who boarded the same jeepney near the Stop and Shop Supermarket, was seated behind the driver. Accused Jaime Rejali was beside Glory while their companion named Jack, who has remained at large, was seated across her.<sup>[7]</sup>

When the jeepney reached the dark portion of Aurora Blvd. in San Juan, Metro Manila, near St. Paul's College, just after the bridge and before Broadway Centrum, someone announced a hold-up<sup>[8]</sup> Both Mendoza and Rejali had guns while Jack was armed with a knife. It was Rejali who fired his gun.<sup>[9]</sup> Jack told the Zulueta sisters that they would "bring" the sisters along. As the accused appeared drunk, the sisters ignored them. However, a male passenger jumped off the jeepney and a commotion ensued. Perplexed ("naguluhan") by this turn of events, the accused held Ramilyn who started kicking, trying to extricate herself from their grasp. This prompted Mendoza to hit her on the head with his gun. He boxed and kicked her, causing Ramilyn to fall out of the jeepney into the street where she rolled. <sup>[10]</sup>

Mendoza then held Grace by her right arm. As she struggled, Grace shouted, "bitawan mo ako, bitawan mo ako," in an attempt to call the attention of the drivers of the other vehicles on the road. One of the accused hit Grace on the head with a gun causing her to lose consciousness.<sup>[11]</sup> (She finally came to at the St. Luke's Hospital; she was confined there up to June 7, 1991.<sup>[12]</sup>) While all this was happening, Rejali poked his gun at the other passengers.<sup>[13]</sup>

From Glory, the accused were able to get the amount of P30.00. She handed it to the holdupper seated in front of her. When the commotion took place, the driver slowed down the jeepney but the holduppers told him to keep on moving. One of them ordered the driver to proceed to J. Ruiz St. and make several turns until, when they reached Paterno, the culprits alighted and made their escape.<sup>[14]</sup>

Ramon Zulueta, the father of Grace and Ramilyn, learned about the incident from his other daughter, Joralyn, who was informed that Grace was at the St. Luke's Hospital. Grace, who was then a student employed at the Pizza Hut for P3,000.00 a month, was confined in said hospital from May 30 to June 7, 1991 for head trauma;

she had contusions and hematomas on the left temporal region and on the right occipito-parietal and anterior temporal regions, and abrasions on the supra orbital area as well as elbow.<sup>[15]</sup> Ramon Zulueta spent around P 19,000.00 for Grace's hospitalization.<sup>[16]</sup>

Upon learning from Grace that Ramilyn had been with her, Ramon Zulueta surmised that she might have been brought to the hospital nearer the place of the incident, the UERM hospital. When he got there, he learned that Ramilyn, 21 years old and a computer management student, had already died of severe, traumatic head injuries.<sup>[17]</sup> The Zulueta family spent around P 15,000.00 for her interment.<sup>[18]</sup>

Two days after the incident, Ramon Zulueta was informed that the jeepney driver and his wife had "surrendered" to the police station in San Juan. The following day, he went there but the driver was not around. He gave a statement to the police.<sup>[19]</sup>

By fluke of fate, it was Grace herself who brought about the apprehension of Mendoza. On the morning of June 12, 1991, Grace saw Mendoza selling ice cream along Altura St. She noticed Mendoza staring at her. When she stared back, Mendoza lowered his gaze and left immediately. That same afternoon, she saw him again. Considering her poor eyesight, she was instructed by her cousin to buy ice cream from Mendoza so that she could get near enough to be sure if he was indeed one of the holduppers. When she approached and asked Mendoza, "Mama, kilala kita?", he could not look her in the eyes and seemed confused. Certain now that he was one of the holduppers, Grace announced to her brother and the other people present that Mendoza was one of the holduppers. Mendoza tried to make a run for it, but the people gave chase and overtook him.<sup>[20]</sup>

Mendoza was brought to the police station where he was identified by Grace in a line-up.<sup>[21]</sup> Rejali was apprehended that same night by police operatives. According to SPO1 Dalmacio Luces, Lucia Salinas, the wife of jeepney driver Virgilio Salinas, described one of the suspects to the NBI cartographer who came out with a sketch of his face.<sup>[22]</sup> However, Luces failed to get a statement from Lucia.<sup>[23]</sup>

### **Evidence for the Defense**

Appellants interposed denial and alibi as defenses. Both of them admitted knowing each other as they were working as ice cream vendors at the Ana Maria Ice Cream Factory in 1045 Balic-balic, Sampaloc, Manila where they also lodged in rooms provided by their employer. Mendoza, 28 years old, swore that on that fateful day, he sold ice cream from 8:30 a.m. to about 4:00 p.m. From the factory, he went as far as V. Mapa St., passing under the bridge near the Stop and Shop Supermarket. By 5:30 in the afternoon, he was back at the factory. He spent the night of May 29, 1991 in his living quarters at the factory taking care of his child as his wife was pregnant. <sup>[24]</sup>

For his part, 27-year-old Rejali testified that he also sold ice cream on the date in question, from 7:30 a.m. to 4:00 p.m., along E. Tuazon St. near Balic-balic. He claimed that he had not gone to San Juan as he did not even know where San Juan was, being new in the vicinity. Once back in the factory, he prepared ice cream for

sale the next day. Then he rested in his room.<sup>[25]</sup>

Myrna Balderama, who also stayed in the living quarters within the same ice cream factory, corroborated the testimonies of the two accused. According to her, she saw Mendoza enter the compound in the afternoon of May 29, 1991. From outside her room, she could see Mendoza's room; on the night in question, she saw him taking care of his child. As to Rejali, she knew that he did not leave the premises that evening as she had a conversation with him up to 10:00 p.m. while he was preparing ice cream.<sup>[26]</sup>

On March 10, 1992, the trial court<sup>[27]</sup> rendered the Decision subject of this appeal. Its dispositive portion reads as follows:

**"WHEREFORE,** premises considered, the Court finds both accused **ROMEO MENDOZA y REYES** and **JAIME REJALI y LINA** guilty beyond reasonable doubt of the crime of Violation of Presidential Decree No. 532 (Anti-Piracy and Anti-Highway Robbery Law of 1974) and hereby sentences each of them to suffer the penalty of reclusion perpetua with all its accessory penalties, to indemnify the heirs of Ramilyn Zulueta in the amount of **FIFTY THOUSAND PESOS** (P50,000.00), to pay the sum of P23,673.35 by way of reimbursement of the hospitalization, burial and other related expenses for Ramilyn Zulueta and the further sum of P30,000.00 by way of moral and exemplary damages; to pay Glory Oropeo the sum of P30.00 by way of reparation of the stolen cash money; to pay Ma. Grace Zulueta the sum of P6,400.00 by way of reimbursement of her hospitalization expenses, all without subsidiary imprisonment in case of insolvency and to pay the costs.

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

"SO ORDERED."

In this appeal, appellants fault the trial court for giving credence to the "inconsistent, conflicting and contradictory testimonies" of prosecution witnesses Grace Zulueta and Glory Oropeo and for convicting them of the crime charged "despite the failure of the prosecution to prove their guilt beyond reasonable doubt."<sup>[28]</sup>

Although not directly raised by the appellants, we find, - upon a thorough scrutiny of the facts - that there is yet another question which is of concern to the bar and the bench: are the facts attendant to this case constitutive of the crime of highway robbery with homicide under Pres. Decree No. 532 or of the felony of robbery with homicide under Art. 294 of the Revised Penal Code?

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

This appeal hinges primarily on the issue of credibility of witnesses. As this Court has ruled in innumerable cases, the trial court is best equipped to make the assessment on said issue and therefore, its factual findings are generally not disturbed on appeal unless the court *a quo* is perceived to have overlooked, misunderstood or misinterpreted certain facts or circumstances of weight, which, if properly considered, would affect the result of the case and warrant a reversal of

the decision involved.<sup>[29]</sup> We do not find in the instant case any such reason to depart from said general principle. Nevertheless, in the interest of substantial justice, we shall confront the issues raised herein by the appellants.

Appellants allege the following "inconsistent" testimonies of the prosecution eyewitnesses: (a) Grace testified that it was Rejali who shouted "hold-up," pulled out a gun and fired, in contradiction to Glory's testimony that the man in front of her, referring to Jack, announced the hold-up, and (b) at the direct examination, Grace pointed out that she was struck behind her right ear but during cross-examination, she said that she was hit on the left ear.

The first inconsistency may be attributed to the difference in the relative positions of Grace and Glory inside the jeepney. Grace was seated near the rear entrance of the jeepney while Glory was behind the driver. Because Grace was far from both Jack and Rejali who were seated near Glory, this could have affected her perception of who announced the hold-up. At any rate, such disparity in their testimonies does not at all derail the sufficiently established fact that both appellants herein participated in the hold-up. As regards the injuries sustained by Grace, the certificate issued by her attending physician, Dr. Sosepatro Aguila, states that she sustained injuries on both sides of the head,<sup>[30]</sup> clearly showing no "contradictions" in her testimony with respect to where she was hit.

Be that as it may, these "inconsistencies" or "contradictions" are minor ones which do not have any material, bearing on the culpability of the appellants as they do not in any way refute their positive identification by the two eyewitnesses as the perpetrators of the hold-up.<sup>[31]</sup> On the contrary, they reflect the truthfulness of the testimonies of Grace and Glory. As this Court said in *People vs. Retuta*:<sup>[32]</sup>

"The discrepancy signifies that the two witnesses did not deliberately pervert the truth in their narrations. The discordance in their testimonies on minor matters heightens their credibility and shows that their testimonies were not coached or rehearsed (*People v. Doria*, 55 SCRA 425). As this Honorable Court held in *People v. Agudu*, 137 SCRA 516 to wit:

'However, the variance, if any, is on a minor detail which would not destroy the effectiveness of their testimony. We cannot expect absolute uniformity in every detail because witnesses react differently to what they see and hear, depending upon their situation and state of mind. Complete uniformity in details is a badge of untruthfulness. The light contradictions, on the other hand, strengthens the sincerity of the testimony of the witnesses.'

"Thus, far from evidence of falsehood, the minor inconsistency between the testimonies could justifiably be regarded as a demonstration of their good faith."

The strongest part of the defense arguments concerns the identification of the appellants as the perpetrators of the crime considering the lighting condition inside the jeepney. Appellants believed that they could not have been recognized because both Grace and Glory admitted that the place was dark, and so surmised that it