

SIXTH DIVISION

[CA-G.R. CR. NO. 29571, September 11, 2006]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, ALEX LOPEZ AND JOVITO "FEDERES" LAGANSON, ACCUSED-APPELLANTS.

D E C I S I O N

COSICO, J.:

Before us is an appeal from the judgment¹ of the Regional Trial Court, Branch 3 of Legazpi City in Criminal Case No. 9528 finding herein accused-appellants guilty beyond reasonable doubt of the crime of robbery with physical injuries.

The Facts

Herein accused-appellants were charged with the crime of robbery with physical injuries committed by a band via an amended information², the pertinent portions of which read—

"The undersigned, hereby accuses GLENN CONDES, FER BRITO, ALEX LOPEZ, JOVITO 'FEDERES' LAGANSON, and REYMAR NOLASCO, the first three accused, residents of Purok 5, Salvacion, Daraga, Albay, and the latter two accused, residents of Quirangay, Camalig, Albay, with the crime of ROBBERY WITH PHYSICAL INJURIES COMMITTED BY A BAND, committed as follows:

"That on or about August 3, 2001, at Daraga, Albay, Philippines, and within the jurisdiction of this Honorable Court, the said accused, acting in concert, all armed, with intent to gain, did then and there willfully, unlawfully and feloniously, by means of violence assault, attack, and hack ARNEL A. LOPO inflicting injuries to the latter which caused his incapacity for labor for thirty (30) to forty five (45) days after which the accused took, stole and carried away the following personal items belonging to Arnel A. Lopo, against his will and consent:

- 1) One Seiko 5 wristwatch valued at P3,000.00;
- 2) Nokia Cellphone worth P6,200.00;
- 3) One gold necklace worth P5,000.00;
- 4) Cash in the amount of P1,200.00;

With a total value of P15,700.00, to his damage and prejudice.

"ACTS CONTRARY TO LAW."

Upon arraignment, accused-appellants Alex Lopez and Jovito "Federes" Laganson pleaded "not guilty" to the offense charged. Accused Glenn Condes, Fer Brito and Reyamar Nolasco remained at-large.

After pre-trial, trial on the merits ensued.

The version of the prosecution is as follows:

In the evening of August 3, 2001, private complainant Arnel Lopo was at Purok 5, Salvacion, Daraga, Albay and was on his way home when accused-appellants Alex Lopez and Jovito "Federes" Laganson, together with their co-accused Glenn Condes, Fer Brito and Reyamar Nolasco, blocked his way. Condes then struck the victim's head with a pipe while the other accused mauled him (Lopo). Brito also hacked the victim with a bolo, hitting the victim's left arm and chin. After Lopo fell to the ground, his assailants took his personal belongings, namely, his cellular phone worth P6,200.00, gold bracelet worth P5,000.00, wallet and money worth P1,200.00, and wristwatch worth P3,300.00. He was able to recognize his five assailants because the place was lighted and these assailants used to be his friends. After the taking, somebody from the nearby house shouted, "*Tama na, pondo na* (That is enough, stop it)!" The group then ran away and left Lopo alone. Lopo stood up and, with the help of another person, went home. His sister and brother-in-law then brought him to the Bicol Regional Training & Teaching Hospital (BRTTH) for treatment. He stayed in the hospital for two weeks and incurred medical expenses in the amount of P3,633.00³.

The medico-legal certificate⁴ prepared by Dr. Je Sean Ciocson, Medical Officer III, indicates that victim Arnel Lopo sustained the following injuries: (1) hacked wound #2, 5 cm. and 7 cm. parietal right; (2) hacked wound 6 cm. w/ chip fracture lateral canthus left; (3) hacked wound 8 cm. forearm, post aspect left; and (4) avulsed wound chin. These injuries required medical attention for thirty (30) to forty-five (45) days, barring complications.

The accused-appellants did not testify during the trial. Only Allan Lopera Asilo, a barangay kagawad, testified for the defense. Asilo claimed that on August 3, 2001, at approximately 8:00 o'clock in the evening, he was about to enter a billiard hall in Purok 5, Barangay Salvacion, Daraga, Albay, when he heard victim Arnel Lopo utter to accused Glenn Condes, "Putangina ka (You're a whore)!" Condes then retorted, "*Niyanag pigono taka? Maoli na lang ako* (Why, what have I done to you? I will just go home)." Lopo still wanted to argue with Condes but when Condes turned around to go home, accused Fer Brito appeared and then hacked Lopo using a long bolo known as "ginunting." Thereafter, Reyamar Nolasco struck Lopo with a lead pipe. When Lopo fell to the ground, Condes took the bolo and then hacked again the victim. Following the advice of his mother, accused Brito left the crime scene. Accused-appellants Alex Lopez and Jovito "Federes" Laganson then arrived at the crime scene and found Nolasco and Condes still mauling Lopo. Lopez and Laganson then simultaneously kicked the victim. The brawl ended and the accused ran away after somebody shouted, "Stop!" Witness Asilo denied private complainant's claim that the accused took with them the personal belongings of Lopo.

The Ruling of the RTC

The RTC of Legazpi City, Branch 3, lent more credence to the testimonies of the prosecution witnesses. Thus, on August 8, 2005, it rendered its judgment finding herein accused-appellants Alex Lopez and Jovito "Federes" Laganson guilty beyond reasonable doubt of the special complex crime of robbery with physical injuries. The dispositive portion of the judgment reads—

"ACCORDINGLY, the court finds accused Alex Lopez and Jovito Laganson alias 'Federes' guilty beyond reasonable doubt of the crime of robbery defined in Sec. 4, Article 294, Revised Penal Code, in the course of the execution of which physical injuries defined in paragraph 4 of Article 263 were inflicted which have caused the illness or incapacity for labor of the victim for thirty (30) to forty-five (45) days. Applying the Indeterminate Sentence Law, the accused are sentenced to an indeterminate penalty of 8 yrs. and 20 days of *prision mayor* as minimum to 14 yrs., 10 mos. and 20 days of *reclusion temporal*, as maximum, and to pay *in solidum* Arnel Lopo: 1) the amount of Php 15, 700.00 for the value of the stolen personal items (Seiko watch, Nokia cellphone, gold necklace and wallet with cash); and 2) Php 3,633 for expenses for medicines. With costs *de officio*. Likewise, the accused shall be credited in the service of their sentence with the full time of their preventive imprisonment provided they have agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners; however, if they did not so abide, they shall therefore be credited only four-fifths of the time of preventive imprisonment.

"SO ORDERED."

The RTC rejected the allegation that the crime was committed by a band, considering that only two of the malefactors were armed with a bolo and a lead pipe.

Accused-appellants' motion for new trial/reconsideration was denied by the trial court via an Order⁵ dated August 15, 2005. Hence, the instant appeal.

The Instant Appeal

Accused-appellants make the following assignment of errors in their appeal brief:

- I. The lower court erred in convicting the accused-appellants of the crime of robbery with physical injuries defined in Section 4, Article 294 of the Revised Penal Code; and
- II. The lower court erred in ordering the accused-appellants to pay in solidum Arnel Lopo the amount of P15,700.00 for the value of the stolen items, and P3,633 for expenses for medicines.

This Court's Ruling

After due study, this Court finds no reversible error committed by the trial court in finding herein accused-appellants guilty beyond reasonable doubt of the crime of robbery with physical injuries.