

[CA-G.R. CR-HC NO. 00807, October 12, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEJANDRO SORILA, JR. Y SUPIDA AND JOSE BALAUSA Y
CANTOR, ACCUSED-APPELLANTS.**

D E C I S I O N

BATO, JR., J.:

Sorila, Jr.^[1] and Jose Balausa, from the decision of the Regional Trial Court of Pasig City, Branch 163, rendered on August 4, 2004, finding them both guilty beyond reasonable doubt of the crime of robbery with homicide.

At about 6:30 in the evening of October 12, 2001, six (6) heavily armed men, who arrived in a Maroon Tamaraw FX, robbed the Canscor Construction and Development Office located in front of the Santolan, Barangay Hall, Pasig City. During that time, the employees of Canscor, namely, Clara Bisnar, Evelyn Tario, Marlene Avellaneda, Nelia Panaga, and Engineer Bong de la Rosa, were busy preparing the company's payroll for the week. The robbers went off with the company's payroll money amounting to P250,000.00 plus the employees personal belongings such as cellular phones and pieces of jewelry. In the process of escaping, the attention of the Barangay Security Forces of Barangay Santolan, who were in the Barangay Hall fronting the Canscor office, were drawn to the commotion happening in the Canscor office. When the Barangay Security Forces rushed to the nearby Canscor office, they were fired upon by the fleeing suspects so they retaliated. As a result of the shoot out, Restituto Mariquit, Jr., a barangay utility man, was hit by a bullet on the head which eventually caused his death. The robbers on the other hand were able to escape. In a follow up operation, the police was able to capture herein appellant Alejandro Sorila, Jr. and when he was brought to the CID office for tactical questioning, he mentioned Antonio Quimno, Canscor's company driver, as the person who gave them information as to Canscor's operation. The follow up operation led also to the arrest of herein appellant Jose Balausa.

Accordingly, accused-appellants Alejandro Sorila, Jr. and Jose Balausa, together with Antonio Quimno, were charged with the crime of robbery with homicide in an information dated October 16, 2001, the pertinent part of which reads as follows:

"On or about October 12, 2001, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together with four unidentified male persons whose true identities and present whereabouts are still unknown, all of them mutually helping and aiding one another, with intent to gain and by means of force, violence or intimidation, did then and there willfully, unlawfully and feloniously take, steal and divest the following to wit: 1:35 PM 2/28/2007

a) cash money amounting to P250,000.00 belonging to Canscor Construction and Development Incorporation, represented by Engr. Armando Baler y Almario;

b) one (1) Citizen gold automatic watch valued at P2,500.00 belonging to Nelia Panaga;

c) one (1) Nokia 5110 cellphone valued at P4,500.00 belonging to Nelia Panaga;

d) one (1) 14k gold bracelet valued at P1,200.00 belonging to Nelia Panaga;

e) cash money amounting to P50.00 belonging to Clara Bisnar y Calasara;

f) one (1) Nokia 3210 cellphone valued at P6,900.00 belonging to Clara Bisnar y Calasara;

g) one (1) 18k gold ring with brilliantitos valued at P15,000.00 belonging to Clara Bisnar y Calasara;

h) one (1) 18k wedding ring valued at P5,000.00 belonging to Clara Bisnar y Calasara; and

i) one (1) Nokia 5110 cellphone valued at P4,500.00 belonging to Evelyn Tario;

to the damage and prejudice of the above-mentioned owners in their respective amounts, in the total amount of P289,650.00; that on the occasion of the aforesaid robbery, accused, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence and shot one Restituto Mariquit, thereby inflicting upon said Restituto Mariquit gunshot wounds on his head, which directly caused his death.

Contrary to law.”^[2]

The prosecution presented seven witnesses to prove its case. The relevant portions of their testimonies are as follows: Andres Saludsod, Jr., whose Tamaraw FX was carnapped in the morning of October 12, 2001, testified that the same vehicle was used to transport the robbers to Canscor and was also used as a getaway vehicle. Out of the three accused, he was only able to identify appellant Sorila, Jr. as one of those people who carnapped his vehicle and went to Canscor. Similarly, the employees of Canscor, namely, Clara Bisnar and Nelia Panaga, testified that they were positioned in such a way that they were clearly able to see appellant Sorila, Jr. holding a gun and a grenade inside their office. They however testified that they did not see appellant Balaus and accused Quimno during the robbery. Their co-employee, Evelyn Tario on the other hand was not able to see the holduppers faces, not even one. Romeo Santiago, a member of the Barangay Security Force, testified that he and his companion, Nomeriano Ramos, exchanged gunfire with the robbers during that fateful night. The same with Clara Bisnar and Nelia Panaga, he only pointed to appellant Sorila, Jr. as one of the robbers with whom they had a shoot

out. He was not able to notice the presence of appellant Balausa and accused Quimno in the crime scene. Jaime Fiatos, another Barangay Security Force, testified that during the shooting incident, he was inside the barangay hall standing beside the window. He noticed two men in front of the Barangay Hall, one big and one small, both of whom were firing at the other barangay security forces. He identified the big guy as appellant Jose Balausa who was sporting a mustache and had gray hair.

Anent to the civil liabilities claimed by the heirs of the victim, Restituto Mariquit, Jr., the testimony of Edgardo Mariquit, uncle of Restituto Mariquit, Jr., was dispensed with upon presentation of the receipts and documents to prove that they incurred hospitalization and funeral expenses amounting to P271,419.50. The testimony of Restituto Mariquit, Sr., the victim's father was also dispensed with upon stipulation that he is seeking P80,000.00 as moral damages.

For his part, Alejandro Sorila, Jr. interposed the defense of denial. He testified that at around 11:00 a.m. on October 12, 2001, he was in the house of his aunt at Barangay San Antonio, Angono, Rizal. At around 7:00 in the evening, he decided to go home to Marikina, hitching a ride with his cousin, Marvin Supinda, in a Tamaraw FX bound for Pasig City. When they reached Pasig City, his cousin told him to alight from the Tamaraw FX telling him that he can now easily get a ride to Marikina as he on the other hand was still going to his friend's house. But before taking a ride to Marikina, he went to a store in Pasig City to buy a cigarette and while in the store, he heard gunshots. Afraid, he hid himself at the back of a passenger jeepney where three policemen approached him and arrested him. He was brought to the Pasig Detention Center where he was tortured. Despite the fact that he denied any participation in the robbery that happened in Canscor, the police kept on asking him about the identity of the other robbers and the places that he had just recently visited. So the place that immediately came to his mind was Regalado Extension, Fairview, Quezon City, where he once attended a wake. The police then brought him to Regalado Extension, Fairview, Quezon City, which by then was in the early morning of October 13, 2001 where he pointed to a house which at that time, he did not know that it was Jose Balausa's residence. When the police dragged Jose Balausa out of his house, it was the first time that appellant Sorila, Jr. met him and the next time was during the inquest.

As for appellant Jose Balausa, he testified that he was at their "*carenderia*" on October 12, 2001 from 10 a.m. to 6 p.m. Thereafter, he and his wife went home, watched television for a while and slept. At around one o'clock in the morning of October 13, 2001, they were awakened by a commotion and he was suddenly handcuffed by the police. His testimony was corroborated by his wife who further testified that Jose Balausa could never be one of the robbers since he is suffering from hypertension. That contrary to the allegation of Jaime Fiatos, Jose Balausa did not sport a mustache nor had a graying or white hair when he was arrested.

Appellant Jose C. Balausa also presented Ramil Agcaoili and Romeo Santiago as hostile witnesses. Both testified that Jaime Fiatos was not in the barangay hall when the shoot out happened. Rather, Jaime Fiatos was outside the barangay hall when the shoot out happened.

After trial, the court *a quo* promulgated the assailed decision, the dispositive portion of which reads:

"WHEREFORE, Accused ALEJANDRO SORILA, JR., y SUPIDA and JOSE BALAUSA y CANTOR are hereby found GUILTY beyond reasonable doubt of the crime of Robbery with Homicide and, there being no aggravating circumstance alleged in the Information and no mitigating circumstance, are hereby sentenced to suffer the penalty of reclusion perpetua and to pay the costs.

On the civil liability of the two accused, they are ordered to pay the legal heirs of the victim, Restituto Mariquit Jr., actual damages in the amount of P98,968.00, moral damages in the sum of P50,000.00, civil indemnity for the death of Restituto Jr. also for P50,000.00 and temperate damages in the amount of P25,000.00; to pay Canscor Construction and Development Incorporation, Nelia Panaga, Clara Bisnar and Evelyn Tario actual damages in the respective sums of P250,000.00, P7,000.00, P26,950.00 and P4,000.00 respectively, all with interest thereon at the legal rate of 6% per annum from this date until fully paid.

Accused ANTONIO QUIMNO y SASOTONA is ACQUITTED on ground of reasonable doubt.

SO ORDERED."^[3]

From said decision, the two accused, each represented by his own counsel, interposed separate appeals. Accused-appellant Alejandro Sorila, Jr. imputes to the trial court the lone error, to wit:

"THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ROBBERY WITH HOMICIDE."^[4]

Accused-appellant Jose Balausa, for his part, faults the trial court as follows:

I

"THE LOWER COURT ERRED IN ITS FINDING THAT THE CRIME OF ROBBERY WITH HOMICIDE HAS BEEN COMMITTED WITH INSUFFICIENT OR WITHOUT ANY FACTUAL AND LEGAL BASES AT ALL."^[5]

II

"THE LOWER COURT ERRED IN ITS FINDING THAT ACCUSED-APPELLANT JOSE C. BALAUSA WAS GUILTY OF THE CRIME OF ROBBERY WITH HOMICIDE AS CHARGED IN THE INFORMATION ASSUMING, ARGUENDO, THAT SUCH CRIME WAS PROVEN, ABSENT ANY CREDIBLE EVIDENCE THAT HE PARTICIPATED IN THE COMMISSION OF SAID CRIME OR ANY EVIDENCE AT ALL THAT HE JOINED IN ANY CONSPIRACY TO COMMIT SUCH CRIME."^[6]

III

"THE LOWER COURT ERRED IN ORDERING ACCUSED-APPELLANT JOSE C. BALAUSA TO INDEMNIFY FOR DEATH OF RESTITUTO MARIQUIT, JR. IN THE ABSENCE OF PROOF AS TO WHO CAUSED HIS DEATH AND TO PAY FOR ACTUAL, MORAL AND TEMPERATE DAMAGES ABSENT ADEQUATE PROOF THAT HE PARTICIPATED OR CONSPIRED IN THE COMMISSION OF THE ROBBERY."^[7]