



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 252212
PHILIPPINES,

Plaintiff-Appellee,

Present:

PERLAS-BERNABE, S.A.J.,

Chairperson,

LAZARO-JAVIER,

M. LOPEZ,

ROSARIO, and

J. LOPEZ,* JJ.

– versus –

ROBERTO G. CAMPOS,
Accused-Appellant.

Promulgated:

JUL 14 2021

X-----X

DECISION

M. LOPEZ, J.:

The validity of the out-of-court identification made during a police lineup is the core issue in this appeal¹ assailing the Court of Appeals' (CA) Decision² dated August 5, 2019 in C.A. G.R. CR-HC No. 09642, which affirmed the judgment of conviction for the crime of Robbery with Homicide.

* Designated additional member per Special Order No. 2822 dated April 7, 2021.

¹ CA *rollo*, pp. 120-122.

² *Rollo*, pp. 3-15. Penned by Associate Justice Geraldine C. Fiel-Macaraig, with the concurrence of Associate Justices Celia C. Librea-Leagogo and Edwin D. Sorongon.

ANTECEDENTS

On April 20, 2003, at about 8:00 p.m., Emeliza P. Empon (Emeliza) was inside her house with her boyfriend Eric Sagun (Eric) and neighbor Marilou Zafranco-Rea (Marilou). At that time, Emeliza and Eric were having dinner while Marilou was about to use the telephone when an armed man suddenly barged into the house and took Emeliza's cellphone on top of the center table in the living room. Emeliza shouted to stop the man while Eric and Marilou froze upon seeing the incident. Thereafter, the man pointed a gun to Emeliza and shot her on the chest causing her death. The man quickly fled the scene.³

Immediately, Eric and Marilou reported the matter to the police station and described the suspect as “[m]edyo malaki katawan.”⁴ The police officers then received an information that the suspect was seen at Mangahan St. Pasig City. The authorities went to the target area and saw a man who matched the description. The police officers approached the man who tried to run. The authorities arrested the man and recovered from him a .38 caliber firearm. The man was identified as accused-appellant Roberto G. Campos (Roberto).⁵ At around 3:00 a.m. the following day, Eric and Marilou confirmed in a police lineup that Roberto was the one who robbed and killed Emeliza.⁶ Accordingly, Roberto was charged with the complex crime of Robbery with Homicide before the Regional Trial Court (RTC) of Antipolo City, Branch 73, docketed as Criminal Case No. 03-25467, to wit:

That on or about the 20th day of April 2003, in the City of Antipolo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a gun, by means of violence and intimidation, with intent to gain, did, then and there, willfully, unlawfully, and feloniously, take, rob and carted away a Nokia 3610 cellphone worth P8,000.00, of one EMELIZA P. EMPON and by reason [of] or on [the] occasion thereof, the said accused, did then and there willfully, unlawfully and feloniously attack, assault and shoot said Emeliza P. Empon, thereby inflicting upon the latter mortal gunshot wound on the chest, which directly caused her death.

CONTRARY TO LAW.⁷

Roberto pleaded not guilty. At the trial, Roberto denied the accusation and claimed that on the night of April 20, 2003, he was at his friend's house in Santolan, Pasig City. At 12:00 midnight, three (3) police officers arrested him, placed a plastic on his head, punched him, and forced him to confess that he committed a crime.⁸

³ TSN, June 20, 2007, pp. 4-6; and February 3, 2006, pp. 2-4.

⁴ TSN, October 10, 2012, p. 3.

⁵ TSN, July 12, 2012, pp. 4-5.

⁶ TSN, February 3, 2006, p. 6; and TSN, November 26, 2008, p. 4.

⁷ CA *rollo*, p. 54.

⁸ TSN, December 9, 2015, pp. 4-8.



In a Decision⁹ dated February 9, 2017, the RTC convicted Roberto of the crime charged. The RTC held that Roberto killed Emeliza after violently taking her personal property. The RTC gave credence to Eric and Marilou's narration of the incident, and the positive identification of Roberto as the perpetrator of the crime. The RTC rejected Roberto's self-serving and unsubstantiated alibi, thus:

WHEREFORE, in light of all the foregoing, accused Roberto G. Campos is hereby found **GUILTY** as charged beyond reasonable doubt and sentences him to suffer the penalty of *RECLUSION PERPETUA*.

In addition thereto, accused is further ordered to pay the heirs of the victim, the amount of Php 75,000.00 as civil indemnity; Php 50,000.00 as moral damages; Php 30,000.00 as exemplary damages; and Php 30,000.00 as temperate damages in lieu of actual damages, [with interest] all at the rate of 6% per annum from the finality of this Decision until fully paid.

SO ORDERED.¹⁰

Roberto elevated the case to the CA docketed as C.A. G.R. CR-HC No. 09642 assailing the credibility of the prosecution witnesses.¹¹ On August 5, 2019, the CA affirmed the RTC's findings that Roberto perpetrated the crime and explained that the eyewitnesses' positive identification prevails over the uncorroborated alibi of Roberto. The CA found no irregularity in the police lineup, and noted that the lack of specific description does not lead to erroneous identification. The CA maintained Roberto's conviction for Robbery with Homicide but increased the award of moral and exemplary damages, *viz.*:

FOR THESE REASONS, the appeal is **DENIED**. The 9 February 2017 Decision of the *court a quo* is **AFFIRMED WITH MODIFICATION**. Roberto is guilty beyond reasonable doubt of Robbery with Homicide, and sentenced to suffer the penalty of *reclusion perpetua*. Roberto is ordered to pay the heirs of Emeliza the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P75,000.00 as exemplary damages, and P30,000.00 as temperate damages. All monetary awards for damages shall earn interest at the rate of 6% per annum from the date of the finality of this judgment until fully paid.

SO ORDERED.¹²

Hence, this appeal. Roberto questions Eric and Marilou's out-of-court identification absent sufficient description of the suspect. Roberto also points out Eric's failure to respond to the situation which is inconsistent with his being a member of the Philippine Marine Corps. Roberto likewise argues that reasonable doubt, as to his guilt, exists when the prosecution did not present the paraffin test result. Lastly, Roberto insists that the CA and the

⁹ CA *rollo*, pp. 54-62. Penned by Acting Presiding Judge Leili Cruz Suarez.

¹⁰ Id. at 62.

¹¹ Id. at 42-43.

¹² *Rollo*, p. 14.

RTC erred in not giving credit to his alibi.

RULING

The appeal is unmeritorious.

Witnesses, during criminal investigations, assist law enforcers in narrowing their list of suspects. In many instances, the perpetrator is not personally known to a witness but can be reasonably identified. One mode of out-of-court identification is the police lineup where the witness selects a suspect from a group of persons.¹³ It is undisputed that Eric and Marilou identified Roberto through a lineup at the police station. In determining the admissibility and reliability of their out-of-court identification, the Court must look at the totality of the circumstances and consider the following factors, namely: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the length of time between the crime and the identification; (5) the level of certainty demonstrated by the witness at the identification; and (6) the suggestiveness of the identification procedure.¹⁴ These rules assure fairness as well as compliance with the constitutional requirements of due process in regard to out-of-court identification, and prevent the contamination of the integrity of in-court identification.¹⁵ Here, the eyewitnesses' out-of-court identification of Roberto, satisfied the totality of the circumstances test.

First, the Court recognizes that Eric and Marilou had a good view of the gunman. There was close proximity between the witnesses and the perpetrator. They personally observed the incident and narrated how the assailant barged into the house, took personal property, and shot the victim. *Second*, Eric and Marilou's corroborating testimonies indicate a high degree of attention. They have total focus on the sole perpetrator of the crime and no competing event took place to draw their attention from the incident. The witnesses even froze because of the unusual acts of violence committed right before their eyes. Nothing in the records show the presence of any distraction that could have disrupted the witnesses' attention at the time of the shooting incident, or that could have prevented them from having a clear view of the face of the gunman.

Third, Eric and Marilou immediately described the assailant as "[m]edyo malaki katawan" before the authorities. The description admittedly is generic and referred to the perpetrator's built rather than his face. Yet, the Court has been lenient in testing the condition as to the accuracy of any prior description. In *Lumanog v. People*,¹⁶ the Court allowed discrepancies

¹³ See Dissenting Opinion of Associate Justice Marvic Mario Victor F. Leonen in *People v. Pepino*, 777 Phil. 29, 68 (2016).

¹⁴ *People v. Teehankee, Jr.*, 319 Phil. 128, 180 (1995).

¹⁵ *People v. Gamir*, 383 Phil. 557, 568-569 (2000).

¹⁶ 644 Phil. 296 (2010).

between the description provided by the prosecution witness in an affidavit executed immediately after the crime, and the actual appearance of the suspects.¹⁷ In this case, the description that Eric and Marilou gave to the police investigators matched the physique of the suspect during the lineup. Absent any inconsistency, there is no reason to doubt the reliability of the description as to the perpetrator's physiological feature. In *People v. Bacero*,¹⁸ the Court rejected the contention that the victim's description of the assailant as "a man having long hair" is wanting the highest degree of certainty. The Court ruled that "[t]he lack of a detailed description of the assailants should not lead to a conclusion that the identification was erroneous." The Court added that although the victim was unable to describe in detail the appearances of the assailants, she was able to immediately identify the appellant when she saw him two (2) days after the incident.¹⁹

Fourth, there is only a time lapse of seven hours between the commission of the crime and the out-of-court identification. The crime happened on April 20, 2003, at about 8:00 p.m., meanwhile, Eric and Marilou identified Roberto in a police lineup at around 3:00 a.m. the following day. The Court has considered an identification made two (2) days after the commission of a crime acceptable,²⁰ The present case, in comparison, involves a shorter passage of time. Hence, it can hardly be said that the length of time rendered the positive identification flawed. *Fifth*, Eric and Marilou vividly recalled the incident and were unyielding in their identification of the perpetrator. In their statements at the initial investigation, and testimonies during the trial, they exhibited a high level of certainty that Roberto was the one who robbed and killed Emeliza. *Sixth*, there was no evidence that the police officers had supplied, or even suggested to Eric and Marilou that Roberto was the suspected gunman. We quote from the records:

[Eric's Statement before the Investigators]

T: Tumingin ka dito sa ilang kalalakihan na nandito sa loob ng Investigation Room ng Antipolo CPS mayroon ka bang namumuk[h]aan dito sa mga narito na mayroong kaugnayan sa pagkakabaril sa girlfriend mong si EMELIZA EMPON?

S: Opo, siya po and bumaril sa girlfriend ko matapos niyang kunin and [ang] cellphone. (Affiant pointing to one ROBERTO CAMPOS y GALIT, 29 years old, married, construction worker, native of

¹⁷ Id. at 400-401. The Court stated that estimate of age cannot be made accurately. It was possible that the accused was exposed to sunlight due to his occupation, which was why he appeared to the witness older than his actual age. The majority also accepted the explanation of the prosecution that the reason why the other accused was fair-skinned, contrary to the initial description of the witness that he was dark-skinned, was because of the prolonged incarceration of the accused before trial.

¹⁸ 790 Phil. 745 (2016).

¹⁹ Id. at 762. The Court explained that "[v]ictims of violent crimes have varying reactions to shocking events. Juliet cannot be expected to immediately remember the detailed features of the assailants' faces as she was still in a state of shock."

²⁰ See *People v. Teehankee, Jr.*, *supra* note 13, at 146-149.

Palompon, Leyte and residing at Mangahan St., Bgy Mangahan, Pasig City[.]²¹

[Marilou's Testimony in Court]

Q: This Roberto Campos, were you able to see him again?

A: The following day, we were able to see him at the police station.

Q: Is he in Court right now?

A: Yes, sir, that one. (witness pointed to a person who gave his name as Roberto Campos.)²²

[Eric's Testimony in Court]

Q: Relate the same.

A: While we were eating, my girlfriend was on my right side when someone entered the house and got the cellphone from the center table at the sala.

x x x x

Q: And who was this person who entered your house?

A: Roberto Campos. x x x

x x x x

Q: After seeing this Roberto Campos enter your house and took the cellphone, what happened next?

A: He shot Emily.²³

[Marilou's Statement before the Investigators]

6. Na, ngayong ika-21 ng Abril 2003 sa ganap na ika-3:00 ng madaling araw ay n[a]gtungo kami ni Eric Sagun sa Himpilan ng Pulisya ng Antipolo City at dito ay muli kong nakita itong lalaki na nagnakaw ng cellphone ni Emeliza Sagun at bumaril din sa kaniya at ito ay nakilala ko na si ROBERTO CAMPOS y GALIT, 29 taong gulang, may-asawa, Const Worker at nakatira sa Mangahan St[.] Mangahan, Pasig City[.]²⁴

[Eric's Testimony in Court]

Q: Why did you positively say that Roberto Campos shot Emelita Empon?

A: Because I was there.

x x x x

²¹ Records, p. 5

²² TSN, February 3, 2006, p. 6.

²³ TSN, June 20, 2007, pp. 4-5.

²⁴ Records, p. 8.

Q: If Roberto Campos is in Court, can you identify him?

A: Yes, sir, that one. (witness pointing to a person who gave his name as Roberto Campos).²⁵

Q: Why were you not able to use the telephone?

A: Because Roberto Campos immediately entered the house of Emelisa and got her cellphone placed on the center table.

x x x x

Q: How did Roberto Campos enter the house?

A: It was very sudden, and he immediately grabbed the cellphone.

x x x x

Q: What happened after that?

A: The suspect was about to go out of the door, he again pointed the gun at Emelisa and shot her.

Q: You said the person grabbed the cellphone, was he able to get the cellphone?

A: Yes, ma'm. x x x²⁶

Taken together, there is no ground to discredit Eric and Marilou's out-of-court and in-court identifications. The Court fails to see any ground that would invalidate the eyewitnesses' positive identification of Roberto. On this point, we stress that the CA and the RTC's assessment on the credibility of the prosecution witnesses and the veracity of their testimonies are given the highest degree of respect,²⁷ especially if there is no fact or circumstance of weight or substance that was overlooked, misunderstood or misapplied, which could affect the result of the case.²⁸ To be sure, the prosecution witnesses harbored no ill motive to falsely testify against Roberto.²⁹ Corollarily, Roberto's uncorroborated denial and alibi cannot prevail over the positive declarations of the prosecution witnesses. These negative defenses are self-serving and undeserving of weight in law absent clear and convincing proof.³⁰ Notably, Roberto did not adduce evidence that he was somewhere else when the crime was committed, and that it was physically impossible for him to be present at the crime scene, or its immediate vicinity at the time of its commission.³¹

Similarly, Roberto cannot capitalize on Eric's failure to respond consistent with his being a member of the Philippine Marine Corps. As the CA aptly observed, human nature suggests that people react differently on a particular situation. There is no standard human behavioral response when one is confronted with an unusual, strange, or frightful experience. Thus,

²⁵ TSN, June 20, 2007, pp. 3-4

²⁶ CA rollo, pp. 58-60.

²⁷ *People v. Matignas*, 428 Phil. 834, 868-869 (2002).

²⁸ *People v. Orosco*, 757 Phil. 299, 310 (2015).

²⁹ See *People v. Abierra*, 833 Phil. 276, 290 (2018).

³⁰ *People v. Togahan*, 551 Phil. 997, 1013-1014 (2007).

³¹ *People v. Espina*, 383 Phil. 656, 668 (2000) *People v. Baniel*, 341 Phil. 471, 481 (1997); *People v. Patawaran*, 274 SCRA 130, 139 (1997); and *People v. Henson*, 337 Phil. 318, 324 (1997).

Eric's reaction is just natural and cannot be rendered incredible for the sole reason that he should not have acted the way he did in view of his occupation.³² Finally, the prosecution's non-presentation of the paraffin test result is already irrelevant considering the positive identification of Roberto by the witnesses. The procedure is even unreliable and serves to establish only the presence or absence of nitrates or nitrites but is inconclusive as to its source. In any event, a paraffin test is not indispensable in proving the guilt of the accused.³³

Anent Roberto's criminal liability, Robbery with Homicide is a composite crime with its own definition and special penalty. Apropos is Article 294, paragraph 1 of the Revised Penal Code, *viz.* :

ART. 294. *Robbery with violence against or intimidation of persons – Penalties.* – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed;
x x x.

In this kind of crime, the offender's original intent is to commit robbery and the homicide must only be incidental. The killing may occur before, during, or even after the robbery.³⁴ “[I]t is only the result obtained, without reference or distinction as to the circumstances, causes, modes, or persons intervening in the commission of the crime, that has to be taken into consideration.”³⁵ It is immaterial that the death would follow by mere accident; or that the victim of homicide is other than the victim of robbery; or that two or more persons are killed; or that aside from homicide, rape, intentional mutilation, or usurpation of authority, is committed by reason of, or on the occasion of the crime. It is also of no moment that the victim of homicide is one of the robbers. The word ‘homicide’ is used in its generic sense which includes murder, parricide, and infanticide.³⁶ As such, the crime is Robbery with Homicide when the killing was committed to facilitate the taking of the property, or the escape of the culprit; to preserve the possession of the loot to prevent the discovery of robbery; or to eliminate witnesses in the commission of the crime.³⁷ Specifically, the special complex crime of Robbery with Homicide has the following elements, to wit: (1) the taking of personal property with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking was done with *animus lucrandi*; and (4) on the occasion of the robbery, or by reason thereof,

³² See *Kummer v. People*, 717 Phil. 670, 682-683 (2013); see also *People v. Pablo*, 415 Phil. 242, 255 (2001); and *People v. Roncal*, 338 Phil. 749, 755 (1997).

³³ *People v. De Guzman*, 320 Phil. 158, 169 (1995), *Ilisan vs. People*, 649 Phil. 151, 161-162 (2010); and *People vs. Cajumocan*, 474 Phil. 349, 357 (2004).

³⁴ *People v. Palema*, G.R. No. 228000, July 10, 2019, citing *People v. De Jesus*, 473 Phil. 405, 427-428 (2004). See also *People v. Mancao*, G.R. No. 228951, July 17, 2019.

³⁵ *People v. Mungulabnan*, G.R. No. 1-8919, September 28, 1956.

³⁶ *People v. Ebet*, 649 Phil. 181, 189 (2010).

³⁷ *People v. [Ibanez]*, 710 Phil. 728, 744 (2013), citing *People v. De Leon*, 608 Phil. 701, 718 (2009).

homicide was committed.³⁸

All the elements are present in this case. Eric and Marilou were certain that it was Roberto, armed with a gun, who barged into the house and divested Emeliza of her cellphone. Evidently, the taking was with intent to gain, and was accomplished with intimidation against persons. Emeliza shouted to stop Roberto while Eric and Marilou froze upon seeing the incident. Thereafter, Roberto pointed his gun to Emeliza and shot her on the chest causing her death. Verily, the primary objective of Roberto was to rob, and the killing of the victim was only incidental to prevent his apprehension and facilitate his escape.

To conclude, the crime of Robbery with Homicide carries the penalty of *reclusion perpetua* to death. Absent any aggravating circumstance, the CA and the RTC appropriately imposed the penalty of *reclusion perpetua* in accordance with Article 63 of the Revised Penal Code. In line with current jurisprudence, the CA correctly increased the amount of moral and exemplary damages to ₱75,000.00 each. Also, the Court finds it proper to increase the award of temperate damages to ₱50,000.00 considering that no documentary evidence of burial or funeral expenses was submitted in court.³⁹ Finally, the Court directs Roberto to return the stolen item, or to pay its monetary value in the amount of ₱8,000.00, if restitution is no longer possible.⁴⁰

FOR THESE REASONS, the appeal is **DISMISSED**. The Court of Appeals' Decision dated August 5, 2019 in C.A. G.R. CR-HC No. 09642 is hereby **AFFIRMED**. Accused-appellant Roberto G. Campos is found **GUILTY** of Robbery with Homicide and is sentenced to suffer the penalty of *reclusion perpetua*. He is also **DIRECTED** to pay the heirs of Emeliza P. Empon the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages, and ₱50,000.00 as temperate damages, all with legal interest at the rate of 6% *per annum* from the finality of judgment until full payment.⁴¹ Lastly, Roberto G. Campos is **ORDERED** to pay the monetary value of the stolen item in the amount ₱8,000.00 if restitution is no longer possible.

SO ORDERED.


MARIO V. LOPEZ
Associate Justice

³⁸ *People v. Madrelejors*, 828 Phil. 732, 737 (2018).

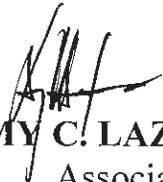
³⁹ See *People v. Jugueta*, 783 Phil. 806, 846-847 (2016).

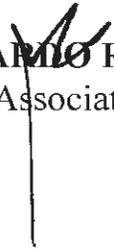
⁴⁰ *People v. Paran*, G.R. No. 241322, September 8, 2020; and *People v. Bacayaan*, G.R. No. 238457, September 18, 2019.

⁴¹ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


RICARINO R. ROSARIO
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice