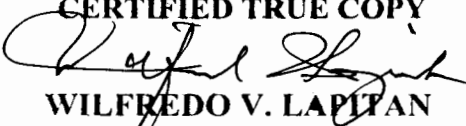




Republic of the Philippines  
**Supreme Court**  
 Manila

CERTIFIED TRUE COPY  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division  
 SEP 05 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff -Appellee,

**G.R. No. 213380**

Present:

- versus -

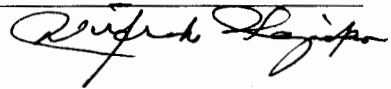
**VELASCO, JR., J.,**  
*Chairperson,*  
**PERALTA,**  
**PEREZ,**  
**REYES, and**  
**CAGUIOA,\* JJ.**

**ROMAN ESPIA,**  
 Accused-Appellant,

Promulgated:

**August 10, 2016**

**JESSIE MORANA,**  
**REX ALFARO,**  
**RODRIGO AZUCENA, JR., and**  
**RENANTE ABISADO**



Accused.

X ----- X

**DECISION**

**PEREZ, J.:**

Before the Court is an appeal from the Decision<sup>1</sup> of the Court of Appeals (CA) dated 13 December 2013 in CA-G.R. CR HC No. 00448, affirming the Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 25, 6<sup>th</sup> Judicial Region, Iloilo City, finding appellant Roman Espia guilty beyond reasonable doubt of the special complex crime of Robbery with Homicide as defined and penalized under Article 294, sub-paragraph (1) of the Revised Penal Code (RPC).

\* Additional Member per Raffle dated 1 August 2016.

<sup>1</sup> Rollo, pp. 4-14; Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Ramon Paul L. Hernando and Carmelita Salandanan-Manahan concurring.

<sup>2</sup> Records, pp. 326-341; Presided by Judge Evelyn E. Salao.



Appellant was charged with Robbery in Band with Homicide. The accusatory portion of the Information narrates:

That on or about February 21, 1991, in the Municipality of B[aro]tac Viejo, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and working together with Roman Espia and Renante Abisado, who are still at large, thereby forming themselves into a band, armed with short firearms, taking advantage of the nighttime, their superior strength and number, to better realize their purpose, by means of force and violence upon person, entered the house of the spouses Melberto and Estela Ganzon and once inside, did, then and there willfully, unlawfully and feloniously take, steal and carry away with intent to gain, the following:

Cash money amounting to Three Hundred Thousand  
₱300,000.00

Checks of different face value totaling to ₱210,000.00

Assorted pieces of jewelries valued at One Million  
₱1,000,000.00

all belonging to the spouses Melberto and Estela Ganzon, against their will and consent and to their damage and prejudice in the total amount of ONE MILLION FIVE HUNDRED TEN (₱1,510,000.00) THOUSAND PESOS, Philippine Currency; that on the occasion of said robbery, said accused, did then and there willfully, unlawfully and feloniously attack, assault and shoot Melberto Ganzon and Estela Ganzon, hitting and inflicting upon them gunshot wound on the vital parts of their body which caused their instantaneous death.<sup>3</sup>

On arraignment, appellant entered a plea of NOT GUILTY.<sup>4</sup> Trial on the merits ensued thereafter.

### *The Facts*

The antecedent facts culled from the Appellee's Brief<sup>5</sup> and the records of the case are summarized as follows:

On 21 February 1991, at around 7:00 in the evening, appellant, Jessie Morana (Jessie), Rex Alfaro (Rex), Rodrigo Azucena, Jr. (Rodrigo) and Renante Abisado (Renante) entered the Ganzon's residence and declared a

<sup>3</sup> Id. at 1-2.

<sup>4</sup> Id. at 68

<sup>5</sup> CA *rollo*, pp. 112-122.

hold-up after pointing their guns at Mrs. Estela Ganson (Mrs. Ganson) and house helper, Azucena Perez (Azucena). While appellant was standing by the door as a look out, the hands and feet of Mr. Melberto Ganson (Mr. Ganson), Azucena, and another house helper, Danilo Ballener (Danilo) were being tied by one of the co-accused. Later on, Danilo saw another co-accused bring Mrs. Ganson to the bedroom and overheard her say, "*Here are the jewelry and the cash we collected for the day.*" The men who entered the house also took the silverware, chinaware and other valuables of the spouses.<sup>6</sup>

After some time, the men locked Danilo and Azucena inside the bathroom and told them that they will just borrow the spouses. Thereafter, Danilo and Azucena heard the sound of the spouses' jeepney speeding away.

When the house helpers were able to free themselves from the ropes, they immediately reported the incident to Mrs. Ganson's father. When the latter came, it was learned that ₱300,000.00 amount of cash, ₱1,000,000.00 amount of jewelry, and ₱210,000.00 amount of checks were taken. Spouses Ganson were found dead due to gunshot wounds on their heads<sup>7</sup> in Gen. Luna, Barotac, Viejo the following morning.

When apprehended by the police and during the preliminary investigation, Rex<sup>8</sup> and Jessie<sup>9</sup> confessed their participation in the robbery. They also implicated appellant, Renante, and Rodrigo as their co-conspirators. Consequently, the police recovered from the houses of Rex and Jessie, cash and several pieces of jewelry.

Appellant vehemently denied the accusations.<sup>10</sup> According to him, even if he was a native of and a farm owner in Imbaulan, Lemery, Iloilo, a town adjacent to Barotac Viejo, Iloilo, he was residing in Dasmariñas, Cavite since 1990 and was a driver of the municipality's garbage collection truck from 1998 to 2000. He also said that he doesn't know his four (4) co-accused.

### ***Ruling of the Regional Trial Court***

On 11 May 2006, the RTC rendered a decision finding appellant

<sup>6</sup> TSN, 5 June 2003, pp. 3-8.

<sup>7</sup> Records, pp. 35-36.

<sup>8</sup> Id. at 17-19.

<sup>9</sup> Id. at 20-22.

<sup>10</sup> TSN, 1 April 2005, pp. 2-11.

guilty of Robbery with Homicide. The dispositive portion of the decision reads:

**WHEREFORE**, the accused Roman Espia having been found beyond reasonable doubt to be guilty of robbery with homicide, he is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA** and to pay the heirs of the victim[s] Melberto and Estela Ganson the following amount of P50,000.00 each for Melberto and Estela Ganson as death Indemnity; P20,000.00 as exemplary damages, P500,000.00 as actual damages and to return the jewelry and valuables to the heirs of spouses Ganson or to pay its value in the amount of P1,000,000.00.<sup>11</sup>

### ***Ruling of the Court of Appeals***

The Court of Appeals sustained the appellant's conviction. It was fully convinced that there is no ground to deviate from the findings of the RTC. The dispositive portion of the decision reads:

**WHEREFORE**, in light of the foregoing, the appeal is **DENIED**. The Decision of the Regional Trial Court, Branch 25, 6<sup>th</sup> Judicial Region, Iloilo City, dated May 11, 2006, in Criminal Case No. 36127 is hereby **AFFIRMED**.<sup>12</sup>

Appellant appealed the decision of the Court of Appeals. The Notice of Appeal was given due course and the records were ordered elevated to this Court for review. In a Resolution<sup>13</sup> dated 20 August 2004, this Court required the parties to submit their respective supplemental briefs. Both parties manifested that they are adopting all the arguments contained in their respective briefs in lieu of filing supplemental briefs.<sup>14</sup>

In his Brief,<sup>15</sup> appellant assigned the following errors:

- I. THE LOWER COURT ERRED IN FINDING THAT THE PROSECUTION HAS PROVEN BEYOND REASONABLE DOUBT ACCUSED-APPELLANT'S GUILT;
- II. THE LOWER COURT ERRED IN GIVING CREDENCE TO THE BIASED IDENTIFICATION OF ACCUSED-APPELLANT BY THE PROSECUTION WITNESSES;

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<sup>11</sup> Records, p. 341.

<sup>12</sup> *Rollo*, p. 13.

<sup>13</sup> *Id.* at 21-22.

<sup>14</sup> *Id.* at 23-24 and 28-29.

<sup>15</sup> *CA rollo*, pp. 70-82.

III. THE LOWER COURT ERRED IN HOLDING ACCUSED-APPELLANT LIABLE TO PAY DAMAGES.

***Our Ruling***

We find that the degree of proof required in criminal cases has been met in the case at bar. Accused-appellant's defenses of denial and alibi are bereft of merit.

***Elements of Robbery with Homicide  
Were established***

The trial and appellate courts committed no error in convicting appellant of Robbery with Homicide. Article 294, paragraph (1) of the RPC, as amended by R.A. No. 7659, reads:

*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; or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

To warrant a conviction for Robbery with Homicide, the prosecution must prove the confluence of the following elements: (1) the taking of personal property with the use of violence or intimidation against a person; (2) the property taken thus belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; and (4) on occasion of the robbery or by reason thereof, the crime of homicide, which is used in a generic sense, was committed.<sup>16</sup>

Furthermore, in *People v. Maneng*,<sup>17</sup> this Court held that homicide may precede the robbery or may occur after the robbery, as what is essential is that there is a direct relation, an intimate connection between the robbery and the killing. A conviction requires certitude that the robbery is the main

<sup>16</sup> *People v. Consejero*, 404 Phil. 914, 932 (2001) citing *People v. Nang*, G.R. No. 107799, 15 April 1998, 289 SCRA 16, 28.

<sup>17</sup> *People v. Maneng*, 397 Phil 98, 107 (2000).

purpose and objective of the malefactor, and the killing is merely incidental to the robbery.<sup>18</sup>

Furthermore, in the crime of robbery with homicide, what is essential is that there is a direct relation or intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes be committed at the same time.<sup>19</sup> When homicide is committed by reason or on the occasion of a robbery, all those who took part as principals in the robbery would also be held liable as principals of the single and indivisible felony of robbery with homicide, although they did not actually take part in the killing, unless it clearly appears that they endeavored to prevent the same.<sup>20</sup>

No doubt exists that all the foregoing elements are present in the case at bar. Appellant's co-accused admitted the taking of the cash, checks, and pieces of jewelry of Spouses Ganzon. In fact, some of which were even found in the houses of his co-accused. Furthermore, the testimonies of the eyewitnesses were strengthened by the admission of Rex and Jessie that they indeed used firearms in order to ensure the consummation of the robbery. Importantly, the contemporaneous acts of appellant and his co-accused in entering the Ganzon's residence; ordering its occupants to drop to the ground; asking where the money and other valuables were kept; and taking the cash and several personal belongings of the Spouses Ganzon prove that they were initially motivated by *animus lucrandi*. The testimony of co-accused Morana<sup>21</sup> regarding the robbery up to the events leading to the killing of the victims establishes that the crime of homicide was committed on the occasion or by reason of robbery.

***In Conspiracy, the act of one  
is the act of all***

According to Article 8 of the RPC, conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. When there is conspiracy, the act of one is the act of all. Conspiracy can be inferred from and established by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interests. There should be a proof establishing that the accused were animated by one and the same purpose.<sup>22</sup>

<sup>18</sup> *People v FOI dela Cruz*, 595 Phil. 998, 1023 (2008).

<sup>19</sup> *People v. Pajotal*, 420 Phil. 763, 777 (2001).

<sup>20</sup> *People v. Ebet*, 649 Phil. 181, 190 (2010).

<sup>21</sup> Records, p. 21.

<sup>22</sup> *Quidet v. People*, 632 Phil. 1, 11-12 (2010) citing *People v. De Jesus*, 473 Phil. 405, 928 (2004).

In the case at bar, Jessie and Rex also testified that appellant was present when they planned to rob the Ganzon's residence the day before the incident.<sup>23</sup> Furthermore, in robbing the Ganzon's residence, appellant served as a look out while the others were robbing and ransacking the house. Danilo even testified that it was appellant who forcibly brought Mr. Ganzon from the bedroom to the sala of the house before tying his hands and feet.<sup>24</sup> Thus, the foregoing circumstances prove beyond reasonable doubt that all of the accused acted in concert to commit the crime of Robbery with Homicide.

***The defense of denial cannot be given more weight over a witness' positive identification***

Appellant denies the accusations on the ground that he was residing in Dasmariñas, Cavite since 1990 and was a driver of the municipality's garbage collection truck from 1998 to 2000. He also claimed that he doesn't know the other co-accused. We are not convinced. Well-settled is the rule that alibi is always viewed with suspicion, because it is inherently weak and unreliable. The defense of alibi assumes significance or strength only when it is amply corroborated by a credible witness.<sup>25</sup> A categorical and consistent positive identification without any showing of ill motive on the part of the eyewitnesses testifying on the matter prevails over a denial.<sup>26</sup>

For alibi to prosper, the accused must be able to (a) prove his presence at another place at the time of the perpetration of the offense and (b) demonstrate that it was physically impossible for him at that time to have been at the scene of the crime.<sup>27</sup>

In *People v. Taboga*,<sup>28</sup> physical impossibility was defined as the distance and the facility of access between the *situs* of the crime and the location of the accused when the crime was committed. It must be demonstrated that he was so far away and could not have been physically present at the scene of the crime and its immediate vicinity when the crime was committed.<sup>29</sup>

In this case, appellant was not able to present any evidence that he

<sup>23</sup> Records, p. 20.

<sup>24</sup> TSN, June 5, 2003, p. 6.

<sup>25</sup> *People v. Domingo*, 432 Phil. 590, 608 (2002).

<sup>26</sup> *Anilao v. People*, 562 Phil. 93, 100 (2007).

<sup>27</sup> *People v. Domingo*, supra note 25.

<sup>28</sup> *People v. Taboga*, G.R. Nos. 144086-87 426 Phil. 908, 925 (2002).

<sup>29</sup> *People v. Amora*, G.R. No. 190322, 26 November 2014, 742 SCRA 667.

was in Cavite on the date the offense was committed. His claim that he was a garbage collection truck driver in Cavite deserves scant consideration as he was employed from 1998 to 2000 and not in 1991 – the year the crime was committed. Therefore, it is not physically impossible for appellant to be present at the scene of the crime at the time it was committed.

Such denial should all the more be discredited in light of the fact that the direct examination testimonies of Azucena and Danilo positively identified appellant as one of the men who robbed the Ganzon's residence:

Danilo's Testimony:

Q: Please look inside the courtroom and tell us if one of those persons you recognized is present?

A: Yes, he is there.

Q: Please point to him.

A: That person near the guard (Witness points to a person inside the courtroom who upon being asked, identified himself as Roman Espia).<sup>30</sup>

Azucena's Testimony:

Q: Please look inside the courtroom and see if you could see any of those persons whom you said entered the house of the spouses Melberto and Estela Ganzon?

A: Yes sir, I saw one here.

Q: Where is he?

A: The first person on that seat.

x x x x

INTERPRETER: Witness pointing to a person inside the courtroom who identifies himself as Roman Espia.<sup>31</sup>

This Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.<sup>32</sup>

It is doctrinally entrenched in jurisprudence<sup>33</sup> that the defense of

<sup>30</sup> TSN, 5 June 2003, p. 9-10.

<sup>31</sup> TSN, 1 August 2003, pp.11-12.

<sup>32</sup> *People v. Abat*, G.R. No. 202704, 2 April 2014, 720 SCRA 557, 564.

<sup>33</sup> *People v. Barde*, 645 Phil. 434, 457 (2010); *People v. Berdin*, 462 Phil. 290, 304 (2003); *People*



denial is inherently weak because it can easily be fabricated. Such defense becomes unworthy of merit if it is established only by the accused themselves and not by credible persons. Thus, this Court agrees with the lower courts in giving the positive identification of the eyewitnesses more weight than accused-appellant's defense of denial.

***The penalty, damages and civil liability***

We take this opportunity to elucidate and stress that if robbery with homicide is committed by a band, the indictable offense is still denominated as robbery with homicide under Article 294(1) of the RPC. The element of band would be appreciated as an ordinary aggravating circumstance.<sup>34</sup>

The presence of the element of band as a generic aggravating circumstance would have merited the imposition of death penalty. However, in view of R.A. No. 9346, we are mandated to impose on appellant the penalty of *reclusion perpetua*.

This Court resolves to modify the damages awarded by the appellate court. In line with recent jurisprudence,<sup>35</sup> appellant shall pay the heirs of the Spouses Ganzon ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages for the death of each victim. In addition, interest at the rate of six percent (6%) *per annum* shall be imposed on all monetary awards from date of finality of this Judgment until fully paid.

**WHEREFORE**, the 13 December 2013 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00448 is **AFFIRMED** with **MODIFICATION**. Appellant ROMAN ESPIA is found **GUILTY** beyond reasonable doubt of the crime of Robbery with Homicide and shall suffer a penalty of *Reclusion Perpetua* and shall pay the heirs of the Spouses Melberto and Estela Ganzon ₱500,000.00 as actual damages and to return the jewelry and valuables to the heirs of spouses Ganzon or to pay its value in the amount of ₱1,000,000.00. As modified, appellant shall be liable to the heirs of Spouses Ganzon in the following amounts: (1) ₱100,000.00 as civil indemnity; (2) ₱100,000.00 as moral damages; (3) ₱100,000.00 as exemplary damages for the death of each victim; and (4) all monetary awards for damages shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

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v. *Francisco*, 397 Phil. 973, 985 (2000).

<sup>34</sup> *People v. Ngano Sugan*, 661 Phil. 749, 756 (2011).

<sup>35</sup> *People v. Jugueta*, G.R. No. 202124, 5 April 2016.




**SO ORDERED.**

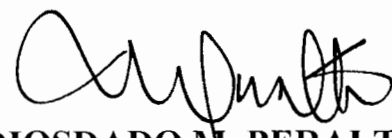


**JOSE PORTUGAL PEREZ**  
Associate Justice

**WE CONCUR:**



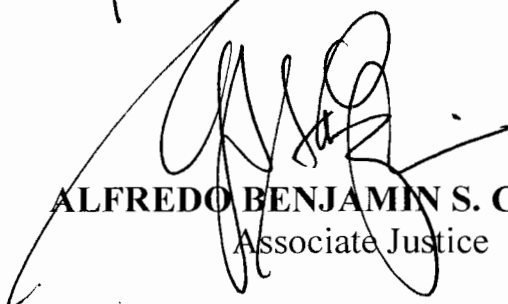
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**DIOSDADO M. PERALTA**  
Associate Justice




**BIENVENIDO L. REYES**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
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.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division


**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified 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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

**CERTIFIED TRUE COPY**



**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

SEP 17 2016