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RISABEL DOMESTICO GENTILING III
Division Clerk of Court
Third Division

MAY 10 2021

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 219116
Plaintiff-Appellee,

Present:

-versus-

LEONEN, J., Chairperson,
GESMUNDO,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

RAYMARK DAGUMAN y
ASIERTO, alias "MARK,"
Accused-Appellant.

Promulgated:
August 26, 2020

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DECISION

LEONEN, J.:

Police officers are generally presumed to have regularly performed their duties and their testimonies in criminal cases are given credence. Their extensive training and the gravity of their sworn duty to protect the peace give weight to their observations in the field. The presumption, however, can be overturned when there is evidence to the contrary.

This Court resolves an appeal assailing the Decision¹ of the Court of Appeals, which affirmed the Regional Trial Court Decision² finding Raymark Daguman y Asierito alias "Mark" (Daguman) guilty beyond reasonable doubt

¹ Id. at 2-9. The August 26, 2014 Decision in CA-G.R. CR-HC No. 05643 was penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Normandie B. Pizarro and Agnes Reyes Carpio of the Seventeenth Division, Court of Appeals, Manila.

² CA rollo, pp. 21-25. The March 7, 2012 Decision in Crim. Case No. 10-0678 was penned by Judge Bonifacio Sanz Maceda of the Regional Trial Court, Las Piñas City, Branch 275.

of the crime of robbery with homicide.³

In an August 18, 2010 Information, Daguman was charged with the special complex crime of robbery with homicide:

That on or about the 16th day of August, 2010, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above named accused, armed with an unlicensed firearm and a bladed weapon, conspiring and confederating together with one DENISE SIGUA, and one (1) John Doe a.k.a. “NogNog” and one Peter Doe (1) a.k.a. Algie whose true identities and present whereabouts are still unk[n]own, and all of them mutually helping and aiding one another, with intent to gain and by means of force[,] violence[,] and intimidation, did then and there willfully, unlawfully, and feloniously rob and carry away cash money amounting to Php46,415.00, belonging to Starbucks Coffee, Pamplona 3, Las Piñas City, represented by Alexander A. Angeles II, to their damage and prejudice, and that during or on the occasion of the robbery, the accused, conspiring and confederating and mutually helping one another, with intent to kill, had a [“shootout”] with elements of the Philippine National Police (PNP), resulting in serious physical injuries which caused the death of said Denise Sigua.

That the crime was committed with the aggravating circumstances of use of an unlicensed firearm and commission by a band.

CONTRARY TO LAW.⁴

Daguman pleaded not guilty to the charge on his arraignment.⁵ Trial ensued at Branch 275 of the Las Piñas City Regional Trial Court.

As the trial court summarized, the prosecution alleged that Daguman and three others, including one Denise Sigua (Sigua), robbed a café in Las Piñas City on the early morning of August 16, 2010. In a police shootout that followed, Sigua was killed. The prosecution’s version of the facts was:

... on 16 August 2010 at around 7:45 in the morning, Alexander Angeles II, assistant store manager of Starbucks Café in Las Piñas City, arrived at the store and saw the security guard, Gharry Oquindo, waiting for him. Alexander opened the store and left Gharry outside. Alexander went straight to the back office to count the money in the vault. Gharry, on the other hand, placed his things inside. At this instance, accused Raymark Daguman poked a knife at Gharry declaring hold-up. Gharry raised his hands and Raymark took Gharry’s gun in his holster. Raymark passed the gun to his companion Denise Sigua whom Gharry recognized through his voice. Gharry knew Denise because the latter used to work at Starbucks as one of the reliever guards. When Raymark took the gun, Gharry glanced at him and saw his face. Raymark and Denise forced Gharry to walk inside

³ Id. at 25.

⁴ Id. at 21–22.

⁵ Id. at 22.

the store with Denise pointing a gun behind him. When the robbers saw Alexander counting the money, Denise again declared hold-up. Gharry and Alexander were told to lie down; they were tied and blindfolded. Alexander remembered Raymark as the one who tied him. While in this position, Gharry and Alexander heard Denise Sigua saying to Raymark to place his money inside a bag. Thereafter, the two (2) robbers left. Incidentally, SPO2 Ramil Palisoc and two (2) other police officers namely, PO3 Rizaldy dela Cruz and PO3 Noel Bunal were travelling along Zapote Road, Las Piñas City boarded inside a Toyota Revo when they chanced upon four (4) male individuals hurriedly leaving Starbucks Café. The first individual who was identified later as Denise Sigua was in blue maong pants and white T-Shirt, wearing a black cap and holding in his hand a firearm. He was followed by a second male individual identified as Raymark Daguman who wore a black jacket in yellow shirt and maong shorts, carrying a colored black and white laptop bag. Behind them were the third and fourth male individuals. When the police team saw that Denise was armed, they alighted from the vehicle and introduced themselves as officers. Denise however, responded by pointing his gun at the officers coupled with a shot coming from the third man. The officers fired back wounding Denise who fell on the ground. When Raymark tried to pull something out from the bag, the officers subdued him. The officers recovered from Raymark the following: 1) a kitchen knife measuring 12 inches long; and (2) a black and white laptop bag containing a homemade .38 caliber revolver, color nickel, with five (5) live ammunitions and undetermined cash in different peso denominations (Exhs. "I", "J" to "J-1"). The two (2) other culprits eluded arrest. The police officers eventually released Gharry and Alexander from being hogtied and took off their blindfolds.⁶

In contrast, the defense's version of the facts was:

On the early morning of August 16, 2010, Raymark Daguman was sitting outside their house located at No. 340 Basa Compound, Zapote I Las Piñas City, drinking coffee when Denise Sigua passed by. The latter approached him and they exchange[d] greetings. They have known each other for some time, having played basketball together in their place. Denise introduced his companion, Gharry Oquindo, a *tropa* and a co-worker at Starbucks. Thereafter, Raymark was invited for a treat since according to Denise, it was Gharry's payday. Raymark went inside their house to change clothes and went with them. They boarded a public utility jeepney and alighted in front of Red Ribbon. Gharry told Denise that he would just change and wear his uniform, while Denise and Raymark went to buy cigarettes. Then, Denise told Raymark that they will go to Gharry at Starbucks. Upon arrival thereat, Gharry opened the door for them. While inside, Raymark sat on a chair at about two (2) to three (3) meters away from Denise and Gharry who were then talking. He then saw Gharry handed (sic) his service firearm to Denise. The latter approached and told him, "*Pare pasensya ka na, makisama ka na lang para hindi ka madamay sa problema namin*".

Raymark was surprised and afraid since Denise was already holding a gun while telling them to go inside. In his fear, he just followed Denise'[s] orders and went inside with them. When inside, Denise declared a hold up,

⁶ Id.

approached Alex Angeles and poked a gun at the latter's nape. At this point, Raymark ran outside, but was blocked by three (3) vehicles when he was about to cross the street. Three (3) armed civilians alighted from the vehicle and forced him to lie face down, handcuffed him and boarded him to a vehicle. After sometime, he heard successive gun shots while still lying down on his stomach aboard the white vehicle. Several people including the media approached him on the vehicle, while Alex Angeles was asked if Raymark was one of those who held up the store. It took Alex some time before he pointed at Raymark, and then they closed the vehicle door.

Raymark denied having any knowledge of Denise and Gharry's plan to rob Starbucks or that he was caught in possession of a bladed weapon, a *paltik* revolver and the laptop bag which contained an unaccounted amount of money bills. He was carrying nothing when he was arrested. He also denied that it was him who hand tied Alex Angeles while inside the back office of Starbucks.⁷ (Citations omitted)

On March 7, 2012, the Regional Trial Court issued a Decision⁸ finding Daguman guilty beyond reasonable doubt of the special complex crime of robbery with homicide. Its dispositive portion reads:

WHEREFORE, judgment is hereby rendered finding the accused RAYMARK DAGUMAN Y ASIERTO @ "MARK" GUILTY beyond reasonable doubt of the special complex crime of robbery with homicide and is hereby sentenced to suffer the penalty of *reclusion perpetua*. Accused is further ordered to pay the heirs of Denise Sigua the amount of Php75,000.00 as civil indemnity and Php50,000.00 as moral damages.

SO ORDERED.⁹

According to the Regional Trial Court, the elements of robbery with homicide were proved, namely: (1) the taking of personal property belonging to another; (2) the taking was with intent to gain; (3) the taking was with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed.¹⁰

The Regional Trial Court gave credence to the testimonies of Alexander Angeles (Angeles), the store manager, and Gharry Oquindo (Oquindo), the security guard. To the trial court, both witnesses positively identified Daguman as the person who pointed the knife at Oquindo and took his firearm, and restrained and blindfolded Angeles. Daguman was also ascertained as the person from whom the police officers had recovered the stolen money. The trial court disregarded Daguman's denial, taking into account his presence at the crime scene and his admission that Sigua had informed him of the plan to

⁷ Id. at 42-43, accused-appellant's Brief before the Court of Appeals.

⁸ Id. at 21-25.

⁹ Id. at 25.

¹⁰ Id. at 23.

rob the café beforehand.¹¹

Further, the trial court cited *People v. De Jesus*¹² in finding that the crime committed was robbery with homicide. Sigua was found to have been killed by reason or on occasion of the robbery.¹³

However, the Regional Trial Court did not appreciate the aggravating circumstances of commission of robbery by a band and use of an unlicensed firearm. As to the robbery by a band, the trial court found no evidence to show that there were two other suspects who escaped after the robbery, and neither Angeles nor Oquindo testified to their presence. While these two suspects were implicated because the third man shot at police officers during the purported escape from the café, it was not shown how they were connected to the robbery. As to the use of an unlicensed firearm, no evidence was presented to show that Daguman had no license to carry the homemade revolver.¹⁴

Daguman appealed to the Court of Appeals, arguing that the Regional Trial Court gravely erred in convicting him despite the prosecution's failure to prove his guilt beyond reasonable doubt.¹⁵ He claimed that he was misidentified as a robber,¹⁶ and that he has shown that he was not privy to the plan¹⁷ hatched by Sigua and Oquindo, whom he insisted was part of the scheme. He added that he only followed Sigua's instructions to enter the café out of fear, since Sigua was pointing a gun at him.¹⁸

The prosecution countered that the Regional Trial Court correctly convicted Daguman. It pointed out that he was positively identified by two witnesses as one of the two persons who took money from the café, and that the money was found in his possession afterward.¹⁹

The Court of Appeals denied Daguman's appeal. The dispositive portion of its August 26, 2014 Decision²⁰ reads:

WHEREFORE, premises considered, the appeal is DENIED. The Decision of the Regional Trial Court, Branch 275, Las Piñas City is AFFIRMED.

SO ORDERED.²¹

¹¹ Id.

¹² 473 Phil. 405 (2004) [Per Curiam, En Banc].

¹³ CA *rollo*, pp. 23–24.

¹⁴ Id. at 24.

¹⁵ Id. at 39, accused-appellant's Brief.

¹⁶ Id. at 44–46.

¹⁷ Id. at 46–48.

¹⁸ Id. at 47.

¹⁹ Id. at 74–75, plaintiff-appellee's Brief.

²⁰ *Rollo*, pp. 2–9.

²¹ Id. at 8.

The Court of Appeals found that the prosecution presented sufficient evidence to prove Daguman's guilt. He was positively identified by both Angeles and Oquindo. Further, when Daguman was arrested, he was found in possession of the knife used in the robbery and the money taken from the café. The Court of Appeals noted that, despite Daguman's denial that he took part in the robbery, he was unable to satisfactorily explain why he was inside the café while the robbery was ongoing.²²

Daguman filed a Notice of Appeal.²³ On July 15, 2015, the Court of Appeals elevated the records of this case to this Court pursuant to its October 7, 2014 Resolution, which gave due course to the notice of appeal.²⁴

In its September 2, 2015 Resolution,²⁵ this Court noted the records of this case forwarded by the Court of Appeals and informed the parties that they may file their supplemental briefs.

Both plaintiff-appellee People of the Philippines,²⁶ through the Office of the Solicitor General, and accused-appellant²⁷ manifested that they would no longer be filing supplemental briefs, which were noted by this Court in its January 27, 2016 Resolution.²⁸

The issues to be resolved in this case are:

First, whether or not accused-appellant Raymark Daguman is guilty beyond reasonable doubt of the special complex crime of robbery with homicide; and

Second, whether or not he is liable to pay civil indemnity and damages to the heirs of Denise Sigua.

The special complex crime of robbery with homicide is punishable under Article 294(1) of the Revised Penal Code, which provides:

ARTICLE 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

²² Id. at 6–7.

²³ Id. at 10–12.

²⁴ Id. at 13.

²⁵ Id. at 15.

²⁶ Id. at 16–18.

²⁷ Id. at 19–23.

²⁸ Id. at 24.

by reason or on occasion of the robbery, the crime of homicide shall have been committed.

The elements of robbery with homicide are: “(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 *animo lucrandi*; and (4) on the occasion of the robbery or by reason thereof, homicide was committed.”²⁹

Here, the prosecution satisfactorily proved the first three elements of the crime. Accused-appellant and Sigua were established to have taken cash from the café by intimidating its manager and security guard. Angeles and Oquindo positively identified accused-appellant as one of the perpetrators. Angeles pointed to accused-appellant as the person who restrained and blindfolded him during the robbery. Meanwhile, Oquindo testified that accused-appellant pointed a knife at him and took his service weapon.³⁰

As the trial court correctly held, these testimonies belie accused-appellant’s denial. Even if his claim that Oquindo was the robber and not him were to be considered, he was still unable to explain why Angeles, seemingly the only person who was not identified by any party to be a perpetrator, did not testify on Oquindo’s alleged involvement.

But the last element, homicide being committed on the occasion or by reason of the robbery, must be reexamined. Each element of an offense must be proved beyond reasonable doubt.³¹

*People v. De Jesus*³² explains what is meant by “when by reason or occasion of the robbery, the crime of homicide shall have been committed” in Article 294(1) of the Revised Penal Code:

In robbery with homicide, the original criminal design of the malefactor is to commit robbery, with homicide perpetrated on the occasion or by reason of the robbery. The intent to commit robbery must precede the taking of human life. The homicide may take place before, during or after the robbery. It is only the result obtained, without reference or distinction as to the circumstances, causes or modes or persons intervening in the commission of the crime that has to be taken into consideration. There is no such felony of robbery with homicide through reckless imprudence or simple negligence. The constitutive elements of the crime, namely, robbery and homicide, must be consummated.

²⁹ *People v. Palema*, G.R. No. 228000, July 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65406>> [Per J. Leonen, Third Division] citing *People v. Domacyong*, 463 Phil. 447 (2003) [Per J. Puno, Second Division]

³⁰ CA rollo, p. 22.

³¹ See *People v. De Jesus*, 465 Phil. 771 (2004) [Per J. Quisumbing, Second Division]; and *People v. Padilla*, G.R. No. 234947, June 19, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65251>> [Per J. Caguioa, Second Division].

³² 473 Phil. 405 (2004) [Per Curiam, En Banc].

It is immaterial that the death would supervene 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 the homicide, rape, intentional mutilation, or usurpation of authority, is committed by reason or on the occasion of the crime. Likewise immaterial is the fact that the victim of homicide is one of the robbers; the felony would still be robbery with homicide. Once a homicide is committed by or on the occasion of the robbery, the felony committed is robbery with homicide. All the felonies committed by reason of or on the occasion of the robbery are integrated into one and indivisible felony of robbery with homicide. The word "homicide" is used in its generic sense. Homicide, thus, includes murder, parricide, and infanticide.

....

When homicide is committed by reason or on the occasion of 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.

If a robber tries to prevent the commission of homicide after the commission of the robbery, he is guilty only of robbery and not of robbery with homicide. All those who conspire to commit robbery with homicide are guilty as principals of such crime, although not all profited and gained from the robbery. One who joins a criminal conspiracy adopts the criminal designs of his co-conspirators and can no longer repudiate the conspiracy once it has materialized.

Homicide is said to have been committed by reason or on the occasion of robbery if, for instance, it was committed to (a) facilitate the robbery or the escape of the culprit; (b) to preserve the possession by the culprit of the loot; (c) to prevent discovery of the commission of the robbery; or, (d) to eliminate witnesses in the commission of the crime. As long as there is a nexus between the robbery and the homicide, the latter crime may be committed in a place other than the situs of the robbery.³³ (Citations omitted)

Thus, robbery with homicide is committed when the robbers kill their victims,³⁴ or bystanders who attempt to thwart the robbery,³⁵ or responding police officers.³⁶ In *People v. Barut*,³⁷ this Court found the assailants guilty of robbery with homicide when the shootout between them and a rescue party resulted in the deaths of one of the assailants and one of the rescue party

³³ Id. at 427-428.

³⁴ See *People v. Cabbab*, 554 Phil. 459 (2007) [Per J. Garcia, First Division]; *People v. Jabiniao*, 576 Phil. 696 (2008) [Per J. Chico-Nazario, Third Division]; and *People v. Palema*, G.R. No. 228000, July 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65406>> [Per J. Leonen, Third Division].

³⁵ See *People v. De Jesus*, 473 Phil. 405 (2004) [Per Curiam, En Banc]; *People v. Sorila*, 578 Phil. 931 (2008) [Per J. Ynares-Santiago, Third Division]; and *People v. Dela Cruz*, 595 Phil. 998 (2008) [Per J. Brion, En Banc].

³⁶ See *People v. Buyagan*, 681 Phil. 569 (2012) [Per J. Brion, Second Division]; and *People v. Comiling*, 468 Phil. 869 (2004) [Per J. Corona, En Banc].

³⁷ 178 Phil. 12 (1979) [Per J. Aquino, Second Division].

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members. This Court reasoned that, in robbery with homicide, the victim of the robbery did not need to be the victim of the homicide:

Although the killing of Evaristo Tuvera was perpetrated after the consummation of the robbery and after the robbers had left the victim's house, the homicide is still integrated with the robbery or is regarded as having been committed "by reason or on the occasion" thereof, as contemplated in article 294(1) of the Revised Penal Code.

In the controlling Spanish version of article 294, it is provided that there is robbery with homicide "*cuando con motivo o con ocasion del robo resultare homicidio*". "*Basta que entre aquel este exista una relacion meramente ocasional. No se requiere que el homicidio se cometa como medio de ejecucion del robo, ni que el culpable tenga intencion de matar, el delito existe segun constante jurisprudencia, aun cuando no concurra nimo homicida, incluso si la muerte sobreviniere por mero accidente, siempre que el homicidio se produzca con motivo o con ocasion del robo, siendo indiferente que la muerte sea anterior, coetanea o posterior a ste*" (2 Cuello Calon, Derecho Penal, 1975 14th Ed. p. 872).

There is *robo con homicidio* even if the victim killed was an innocent bystander and not the person robbed. The law does not require that the victim of the robbery be also the victim of the homicide (*People vs. Moro Disimban*, 88 Phil. 120; *People vs. Salamuddin No. 1*, 52 Phil. 670; *People vs. Gardon*, 104 Phil. 371).

In the instant case, the robbery spawned a fight between the robbers and the neighbors of Lazaro, the robbery victim. The killing of Evaristo Tuvera resulted from that fight. Hence, it was connected with the robbery.³⁸

One who participated in a robbery, by reason or on occasion of which a homicide occurs—even if the person did not take part in the killing—is guilty of robbery with homicide.³⁹ "[E]ach conspirator answers for all the acts of the others committed for this accomplishment of the common purpose."⁴⁰

Yet, not all deaths on the occasion of a robbery have been considered by this Court as one of robbery with homicide.

For one, if the robbery was committed by a band, and the accused was proven to have attempted to prevent the assaults committed by their co-robbers during the robbery, they shall not be punished as a principal in any of the assaults the band committed. Article 296 of the Revised Penal Code states:

ARTICLE 296. Definition of a Band and Penalty Incurred by the Members Thereof. — When more than three armed malefactors take part in

³⁸ Id. at 17.

³⁹ See *People v. Cabilto*, 414 Phil. 615 (2001) [Per J. Ynares-Santiago, First Division]; *People v. Vivas*, 302 Phil. 260 (1994) [Per J. Cruz, First Division]; and *People v. Lago*, 411 Phil. 52 (2001) [Per J. Panganiban, Third Division].

⁴⁰ *People v. Salamuddin No. 1*, 52 Phil. 670, 672 (1929) [Per J. Romualdez, En Banc].

the commission of a robbery, it shall be deemed to have been committed by a band (cuadrilla).

Any member of a band who is present at the commission of a robbery in an uninhabited place and by a band, shall be punished as principal of any of the assaults committed by the band, unless it be shown that he attempted to prevent the same.

Thus, if the accused who were members of a band could not have prevented the killing committed by their other members, depriving them of the benefit of Article 296, the crime for which they can be convicted is only robbery in band. In *People v. Doble*:⁴¹

It is however, not established by the evidence that in the meeting held in the house of Simeon Doble, the malefactors had agreed to kill, if necessary to carry out successfully the plan to rob. What appellants may be said to have joined is the criminal design to rob, which makes them accomplices. *Their complicity must, accordingly, be limited to the robbery, not with the killing. Having been left in the banca, they could not have tried to prevent the killing, as is required of one seeking relief from liability for assaults committed during the robbery (Art. 296, Revised Penal Code).*

The finding that appellants are liable as mere accomplices may appear too lenient considering the gravity and viciousness of the offense with which they were charged. The evidence, however, fails to establish their complicity by a previous conspiracy with the real malefactors who actually robbed the bank and killed and injured several persons, including peace officers. The failure to bring to justice the real and actual culprits of so heinous a crime should not bring the wrath of the victims nor of the outraged public, upon the heads of appellants whose participation has not been shown to be as abominable as those who had gone into hiding. The desire to bring extreme punishment to the real culprits should not blind Us in meting out a penalty to appellants more than what they justly deserve, and as the evidence warrants.⁴² (Emphasis supplied, citations omitted)

Likewise, when there is no proof of direct relation between the robbery and the killing, the crime is not robbery with homicide. In *People v. Quemeggen*,⁴³ an initial conviction for robbery with homicide was modified because there was no direct relation between the robbery of a passenger jeep and the subsequent killing of a police officer who had custody of some of the suspects. Only the accused who killed the police officer was convicted of the separate crimes of robbery and homicide, while the other accused was convicted of robbery only:

Given the circumstances surrounding the instant case, we agree with the CA that appellants cannot be convicted of Robbery with Homicide. Indeed, the killing may occur before, during, or after the robbery. And it is

⁴¹ 199 Phil. 343 (1982) [Per J. De Castro, En Banc].

⁴² Id. at 360-361.

⁴³ 611 Phil. 487 (2009) [Per J. Nachura, Third Division].

immaterial that death would supervene by mere accident, or that the victim of homicide is other than the victim of robbery, or that two or more persons are killed. *However, essential for conviction of robbery with homicide is proof of a direct relation, an intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes are committed at the same time.*

From the testimonies of the prosecution witnesses, we cannot see the connection between the robbery and the homicide. It must be recalled that after taking the passengers' personal belongings, appellants (and two other suspects) alighted from the jeepney. At that moment, robbery was consummated. Some of the passengers, however, decided to report the incident to the proper authorities; hence, they went to the nearest police station. There, they narrated what happened. The police eventually decided to go back to the place where the robbery took place. Initially, they saw no one; then finally, Kagalingan saw the suspects on board a pedicab. De Luna and two other suspects were caught and left under the care of Suing. It was then that Suing was killed. *Clearly, the killing was distinct from the robbery. There may be a connection between the two crimes, but surely, there was no "direct connection".*⁴⁴ (Emphasis supplied, citations omitted)

Certain facts in the records may also exonerate an accused from a homicide charge should their co-perpetrator die during their escape, notwithstanding the rule in *People v. De Jesus*.⁴⁵ In *People v. Concepcion*,⁴⁶ this Court downgraded a conviction for robbery with homicide to theft, because the two perpetrators did not employ violence, force, or intimidation in taking the victim's bag. As for the death of one of the perpetrators during their escape, this Court found:

Based on the RTC Decision's statement of facts which was affirmed by the CA, Concepcion's co-conspirator, Rosendo Ogardo, Jr. y Villegas (Ogardo), who was driving the motorcycle, died because he lost control of the motorcycle and crashed in front of de Felipe's taxi. *Since Concepcion, as passenger in the motorcycle, did not perform or execute any act that caused the death of Ogardo, Concepcion cannot be held liable for homicide.*⁴⁷ (Emphasis supplied)

There are also instances when, if the original criminal design was proven not to be the taking of the victim's personal property, but the victim's death, the perpetrator commits two separate crimes of murder and theft.⁴⁸

Here, a robbery was proved. It was also shown that, after the robbery took place, the robber Sigua died. But it bears noting that Sigua's death was at the hands of police officers, and accused-appellant, as the surviving co-perpetrator, had a radically different testimony of the events. For these

⁴⁴ Id. at 498.

⁴⁵ 473 Phil. 405 (2004) [Per Curiam, En Banc].

⁴⁶ 691 Phil. 542 (2012) [Per J. Carpio, Second Division].

⁴⁷ Id. at 550.

⁴⁸ *People v. Lara*, 535 Phil. 867, 889-890 (2006) [Per J. Chico-Nazario, En Banc].

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reasons, the Regional Trial Court should have closely scrutinized the circumstances surrounding Sigua's killing.

Republic Act No. 6975, otherwise known as the Department of the Interior and Local Government Act of 1990, empowers the police to enforce laws for the protection of lives and properties, take all necessary steps to ensure public safety, and bring criminal offenders to justice:

SECTION 24. Powers and Functions. — The [Philippine National Police] shall have the following powers and functions:

- (a) Enforce all laws and ordinances relative to the protection of lives and properties;
- (b) Maintain peace and order and take all necessary steps to ensure public safety;
- (c) Investigate and prevent crimes, effect the arrest of criminal offenders, bring offenders to justice and assist in their prosecution[.]

Armed by the government and given the authority to use firearms, police officers are taught “schemes, strategies and plans on how to approach danger.”⁴⁹ Depending on the situation, police officers may be authorized to use force to enforce laws, as long as the force used is necessary and not excessive.⁵⁰ When there is a confrontation between law enforcement and a suspect, the police's use of force should be reasonable and proportionate to the threat as perceived by the officers at that time. According to the Philippine National Police, reasonableness of the force employed depends on the following criteria:

7.6 Factors to Consider in the Reasonableness of the Force Employed

A police officer, however, is not required to afford offender/s attacking him the opportunity for a fair or equal struggle. The reasonableness of the force employed will depend upon the number of aggressors, nature and characteristic of the weapon used, physical condition, size and other circumstances to include the place and occasion of the assault. The police officer is given the sound discretion to consider these factors in employing reasonable force.⁵¹

⁴⁹ *People v. Salimbago*, 373 Phil. 56, 67 (1999) [Per J. Ynares-Santiago, First Division].

⁵⁰ REVISED PHILIPPINE NATIONAL POLICE OPERATIONAL PROCEDURES (2013), Rule 7.1, states: Rule 7.1. Use of Excessive Force Prohibited.

The excessive use of force during police operation is prohibited. However, in the lawful performance of duty, a police officer may use necessary force to accomplish his mandated tasks of enforcing the law and maintaining peace and order.

Available at <<https://www.pro5.pnp.gov.ph/sorsogonppo/index.php/downloads/send/3-manuals/7-revised-philippine-national-police-operational-procedures>> (last visited on August 26, 2020).

⁵¹ REVISED PHILIPPINE NATIONAL POLICE OPERATIONAL PROCEDURES (2013), available at <<https://www.pro5.pnp.gov.ph/sorsogonppo/index.php/downloads/send/3-manuals/7-revised-philippine-national-police-operational-procedures>> (last visited on August 26, 2020).

The use of firearms by police is more strictly regulated. The danger of death or injury to the police officer or other persons must be imminent to justify resort to firearms:

8.1. Use of Firearm When Justified

The use of firearm is justified if the offender poses imminent danger of causing death or injury to the police officer or other persons. The use of firearm is also justified under the doctrines of self-defense, defense of a relative, and defense of a stranger. However, one who resorts to self-defense must face a real threat on his life, and the peril sought to be avoided must be actual, imminent and real. Unlawful aggression should be present for self-defense to be considered as a justifying circumstance.⁵²

In *SPO2 Cabanlig v. Sandiganbayan*:⁵³

A policeman in the performance of duty is justified in using such force as is reasonably necessary to secure and detain the offender, overcome his resistance, prevent his escape, recapture him if he escapes, and protect himself from bodily harm. In case injury or death results from the policeman's exercise of such force, the policeman could be justified in inflicting the injury or causing the death of the offender if the policeman had used necessary force. Since a policeman's duty requires him to overcome the offender, the force exerted by the policeman may therefore differ from that which ordinarily may be offered in self-defense.⁵⁴ (Citations omitted)

However, this Court has also warned that a police officer "is never justified in using unnecessary force or in treating the offender with wanton violence, or in resorting to dangerous means when the arrest could be affected otherwise."⁵⁵ In *People v. Lagata*:⁵⁶

Even if appellant sincerely believed, although erroneously, that in firing the shots he acted in the performance of his official duty, the circumstances of the case show that there was no necessity for him to fire directly against the prisoners, so as to seriously wound one of them and kill instantaneously another. While custodians of prisoners should take all care to avoid the latter's escape, only absolute necessity would authorize them to fire against them. Theirs is the burden of proof as to such necessity. The summary liquidation of prisoners, under flimsy pretexts of attempts of escape, which has been and is being practiced in dictatorial systems of government, has

⁵² REVISED PHILIPPINE NATIONAL POLICE OPERATIONAL PROCEDURES (2013), available at <<https://www.pro5.pnp.gov.ph/sorsogonppo/index.php/downloads/send/3-manuals/7-revised-philippine-national-police-operational-procedures>> (last visited on August 26, 2020).

⁵³ 502 Phil. 564 (2005) [Per J. Carpio, First Division].

⁵⁴ Id. at 575-576.

⁵⁵ Id. at 576.

⁵⁶ 83 Phil. 150 (1949) [Per J. Perfecto, Second Division].

always been and is shocking to the universal conscience of humanity.⁵⁷

Police officers are generally presumed to have regularly performed their duties and their testimonies in criminal cases are given credence.⁵⁸ Their extensive training and the gravity of their sworn duty to protect the peace give weight to their observations in the field.⁵⁹ The presumption, however, can be overturned when there is evidence to the contrary.⁶⁰

This Court has affirmed the sequences of events of such armed confrontations when they are supported by testimonies from disinterested eyewitnesses—those who did not participate in the armed confrontation⁶¹—and pieces of object evidence, such as the weapons used or the presence of gunpowder residue, that correspond with particular versions of the facts.⁶² However, when the prosecution fails to satisfactorily prove the police's version of events, then doubt is cast on the correctness of the crime charged.

Here, the pieces of evidence presented do not prove beyond reasonable doubt the element of homicide as defined in Article 294(1) of the Revised Penal Code and as interpreted in our jurisprudence. The only witness who testified on the alleged shootout was PO2 Palisoc, one of the officers involved in the shootout.⁶³ This Court only has his version of events. PO3 dela Cruz and PO3 Bunal, the other police officers who could have corroborated his version, did not testify. Accused-appellant's testimony that he heard gunshots sometime after the robbery cannot be considered proof of a shootout. His statement, if true, could only prove that, at that time, at least one person fired a gun, but not who fired the gun, at whom, and why.

Notably, although PO2 Palisoc claimed that he saw four people flee the café, both Angeles and Oquindo only testified to two perpetrators: Sigua and accused-appellant. PO2 Palisoc's claim that there was a third person who instigated the shootout by firing first was unsupported by other evidence.

Based on the other witnesses' testimonies, as well as the object evidence recovered from accused-appellant, only two firearms figured in this case: Oquindo's service firearm, which accused-appellant took and gave

⁵⁷ Id.

⁵⁸ See *People v. Gamayon*, 206 Phil. 560 (1983) [Per J. Gutierrez, Jr., First Division]; *People v. Rosas*, 233 Phil. 481 (1987) [Per J. Gutierrez, Jr., Second Division]; and *People v. Boholst*, 236 Phil. 285 (1987) [Per J. Gutierrez, Jr., Third Division].

⁵⁹ Charles Goodwin, *Professional Vision*, 96(3) AMERICAN ANTHROPOLOGIST 606, 616–622 (1994).

⁶⁰ See *People v. Gamayon*, 206 Phil. 560 (1983) [Per J. Gutierrez, Jr., First Division]; *People v. Rosas*, 233 Phil. 481 (1987) [Per J. Gutierrez, Jr., Second Division]; and *People v. Boholst*, 236 Phil. 285 (1987) [Per J. Gutierrez, Jr., Third Division].

⁶¹ See *People v. Viñalon*, 434 Phil. 72 (2002) [Per J. Quisumbing, En Banc]; *People v. Guamil*, 343 Phil. 454 (1997) [Per J. Bellosillo, First Division]; and *People v. Cerbito*, 381 Phil. 315 (2000) [Per J. Gonzaga-Reyes, Third Division].

⁶² See *People v. Verchez*, 303 Phil. 185 (1994) [Per J. Quiason, First Division]; and *People v. Domacyong*, 463 Phil. 447 (2003) [Per J. Puno, Second Division].

⁶³ CA rollo, pp. 16–18.

Sigua; and the homemade revolver inside accused-appellant's laptop bag. The robbery victims were clear that they were intimidated by a knife, and not by a firearm. It cannot even be determined from the records what happened to the firearm in Sigua's possession after the robbery.

The perceived threat to the police officers was unsubstantiated. The robbery victims and accused-appellant could not corroborate the existence of the alleged third and fourth robbers who fled the crime scene with Sigua and accused-appellant, let alone that the alleged third robber was carrying a firearm that was neither the service firearm nor the homemade revolver. It cannot be concluded from the evidence that Sigua's killing was connected to the robbery, besides him being one of the robbers.

The "intimate connection"⁶⁴ essential for a robbery with homicide was ill-established. Even accused-appellant's alleged act of reaching into the laptop bag, which could be construed as a threat, occurred after Sigua had been shot—tending to show that he had not performed any act that directly led to or caused Sigua's death. The homicide on the occasion of this robbery, which would make the crime robbery with homicide, was not proved beyond reasonable doubt.

Thus, accused-appellant may only be convicted of simple robbery under Article 294(5) of the Revised Penal Code, with its corresponding penalty of *prision correccional* in its maximum period to *prision mayor* in its medium period. Applying the Indeterminate Sentence Law,⁶⁵ the minimum imposable penalty is *arresto mayor* in its maximum period to *prision correccional* in its medium period, or four months and one day to four years and two months. The maximum term shall be *prision correccional* in its maximum period to *prision mayor* in its medium period, or four years, two months, and one day to 10 years.⁶⁶ There being no modifying circumstances, the penalty to be imposed on accused-appellant is four years of *prision correccional*, as minimum, to eight years of *prision mayor*, as maximum.

Finally, accused-appellant is not liable to pay civil indemnity and moral damages to the heirs of Sigua. As discussed, no evidence was presented to show that he performed any act that caused or led to Sigua's death that should make him civilly liable.

WHEREFORE, this Court **AFFIRMS WITH MODIFICATION** the Court of Appeals' August 26, 2014 Decision in CA-G.R. CR-HC No. 05643. Accused-appellant Raymark Daguman y Asierto @ "Mark" is found **GUILTY** of the crime of robbery under Article 294(5) of the Revised Penal

⁶⁴ *People v. Quemeggen*, 611 Phil. 487, 498 (2009) [Per J. Nachura, Third Division].

⁶⁵ Act No. 4103 (1933), as amended.

⁶⁶ *See People v. Quemeggen*, 611 Phil. 487 (2009) [Per J. Nachura, Third Division]; and *Coscolla v. People*, 617 Phil. 661 (2009) [Per J. Chico-Nazario, Special Third Division].

Code and shall serve the indeterminate penalty of four years of *prision correccional*, as minimum, to eight years of *prision mayor*, as maximum. The order for him to pay the heirs of Denise Sigua the amounts of ₱75,000.00 as civil indemnity and ₱50,000.00 as moral damages is **DELETED**.

Considering that accused-appellant has been incarcerated for more than the maximum penalty for the crime of robbery he committed, the Director General of the Bureau of Corrections is **ORDERED** to **IMMEDIATELY RELEASE** him from confinement, unless further detention is justified by some other lawful cause, and inform this Court the action taken within five days from receipt hereof.

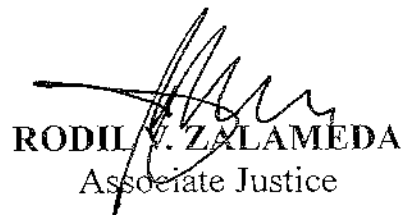
SO ORDERED.

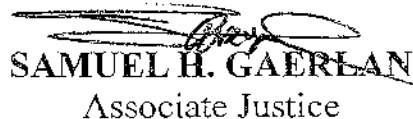

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Associate Justice

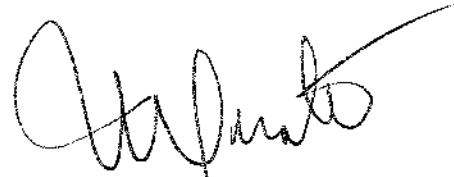

ROSMARI D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

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.



DIOSDADO M. PERALTA
Chief Justice

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LEAFY GONZALES, CLERK
Division Office of the Court
Manila

MAY 10 2021