



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 241322

- versus -

Present:

CRISANTO PARAN y LARIOSA
 a.k.a. "Santo," and LEONARDO F.
 ROELAN @ "Boyax,"
 Accused,

PERALTA, C.J., Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER, and
 LOPEZ, JJ.

LEONARDO F. ROELAN @
 "Boyax,"
 Accused-Appellant.

Promulgated:

SEP 08 2020

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DECISION

PERALTA, C.J.:

Before the Court is an appeal from the March 28, 2018 Decision¹ of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 02084 which affirmed with modifications the May 27, 2015 Decision² of the Regional Trial Court, Branch 29, Toledo City (RTC), in Criminal Case No. TCS-6873, finding accused Crisanto Paran y Lariosa, now deceased, and accused-appellant Leonardo F. Roelan guilty beyond reasonable doubt of Robbery with Homicide.

The antecedent facts are as follows:

¹ Rollo, pp. 6-25. Penned by Associate Justice Gabriel T. Robeniol, with the concurrence of Associate Justice Gabriel T. Ingles and Associate Justice Marilyn B. Lagura-Yap.

² CA rollo, pp. 70-79. Penned by Presiding Judge Ruben F. Altubar.

Roelan, together with Paran, was indicted for the crime of Robbery with Homicide and Serious Physical Injuries in an Information³ dated July 26, 2010, the accusatory portion of which reads:

That on or about 23 J[uly] 2010, at around 4:00 o'clock dawn, more or less, at Brgy. Biga, Toledo City, and within the jurisdiction of this Honorable Court, said accused, conspiring and confederating together and mutually helping each other and by means of force and violence, did then and there, willfully, unlawfully, and feloniously, and with intent to kill and evident premeditation and with the use of pieces of wood beat[,] maul and strike the spouses COSME GEONSON and PAULA GEONSON inflicting upon COSME [GEONSON] tripod fracture, (L) 2 degrees to mauling, la[c]eration molar Region Linear 3 cm 2 degrees to mauling, multiple teeth lost, Le Fort 1 fracture and upon PAULA GEONSON MPI secondary to mauling, severe brain injury causing her death and thereafter did then and there willfully, unlawfully and feloniously take, steal and carry away with intent to gain and without the consent of the owners the Two Thousand Five Hundred Pesos (P2,500.00) cash belonging to said spouses to the damage and prejudice of the said spouses in the said sum.

CONTRARY TO LAW.⁴

Upon arraignment, Paran and Roelan pleaded not guilty to the charge.⁵ After the marking of exhibits, pre-trial was terminated. Trial on the merits ensued.

Version of the Prosecution

To substantiate its charge against Paran and Roelan, the prosecution presented Cosme Geonson, Hermilando Macaday, Gerardo Geonson and SPO3 Dante P. Talandron as its witnesses.

Private complainant/victim Cosme narrated that on July 23, 2010, he and his wife, Paula Geonson, left their house at around 4:00 a.m. and were on their way to their other house in *Sitio Ilaya, Barangay Biga*, Toledo City to pasture their animals, consisting of three (3) carabaos and four (4) cows. It was still dark then but he was with a flashlight. While they were walking along the road, he saw Paran and Roelan a.k.a. Boyax, from about three (3) meters away, approaching them. Paran suddenly struck Paula with a hard object causing her to fall on the ground. While Paula was lying on the ground, Paran hit her again. Meanwhile, Roelan clubbed him once in the mouth, knocking some of his front teeth. He fainted but regained consciousness as Roelan kept on searching his body, looking for money. Paran also searched the body of his wife and was able to find money from her in the amount of ₱2,500.00. Cosme

³ Records, pp. 1-2.

⁴ *Id.* at 1.

⁵ *Id.* at 28.

recalled that he gave Paula said cash before they left their house. Thereafter, Paran and Roelan threw him and his wife into a ravine. When his son-in-law, Macaday, arrived, Paran and Roelan ran away.⁶

He recognized the persons who mauled him and his wife as Paran and Roelan through the light coming from his flashlight and because they were very near them. He added that Paran and Roelan also had a flashlight with them. He knew Paran because the latter was his neighbor for a long time, while Roelan used to reside in their house for three (3) months before the incident. He did not see what Paran and Roelan used in attacking them because they hid their weapons behind their backs.⁷

Macaday testified that Cosme and Paula are his parents-in-law. He recalled that he woke up early in the morning of July 23, 2010 and started his work as a *habal-habal* driver. When he passed by *Sitio Danawan, Barangay Biga, Toledo City* at around 4:00 a.m., he saw Paran hitting Cosme, who was then bathed with his own blood, with a *go-od* or a bamboo pole. He saw Roelan, who was carrying a stick, emerge from the area where Paula was later found. When he pulled over to help Cosme, he heard Paran tell Roelan that they should escape. Instead of going after Paran and Roelan, he opted to seek help from Gerardo and his neighbors in bringing the victims to the hospital. Cosme survived the ordeal, but Paula died three (3) days later. He stressed that he recognized Paran and Roelan through the aid of the light coming from the headlight of his motorcycle. He added that he later learned that money was taken from the victims.⁸

Gerardo testified that he is the son of the victims. He recounted that Paula woke him up at around 4:00 a.m. of July 23, 2010, and requested him to cook food for his daughter since she and Cosme were going to their farm. About thirty (30) minutes after his parents left, Macaday came to his house and told him that his parents were assaulted. When he arrived at the place of incident, he saw Cosme with a bloodied mouth. While he was carrying Cosme, the latter told him that they were assaulted by Paran and Roelan, and that the two took their ₱2,500.00. After a while, he saw his mother who had a cracked forehead and could not talk. He initially brought his parents to the Toledo City Hospital, but they were later referred to the Vicente Sotto Memorial Medical Center, Cebu. While at the hospital, he again asked Cosme who waylaid him and Paula, and Cosme answered that Paran and Roelan attacked them. He contacted the Toledo City Police Substation for Cosme, and then the latter disclosed to a police officer the names of the culprits. The doctor who attended

⁶ CA rollo, p. 71.

⁷ TSN dated December 7, 2011, pp. 4-10.

⁸ TSN dated October 10, 2012, pp. 4-12.



to his mother's medical needs told him that Paula could not be saved anymore and true enough, she died three (3) days after the incident.⁹

SPO3 Talandron recalled that at around 10:30 a.m. of July 23, 2010, Macaday went to the Toledo City Police Substation to report that his parents-in-law were attacked and injured by unknown assailants at about 4:00 a.m. of that day. In the morning of July 24, 2010, Cosme called him up and told him that his neighbors Paran and Roelan assaulted and robbed him and his wife. Upon instruction of their Chief, he, together with PO2 Jordan Supatan and PO1 Emmanuel Aragon, proceeded to *Barangay Biga*, and arrested Paran and Roelan. PO2 Supatan recovered one (1) ₱1,000.00 bill and one (1) ₱500.00 bill from Paran, while PO1 Aragon recovered four (4) ₱100.00 bills from Roelan which they believe to be part of the loot.¹⁰

Version of the Defense

The defense presented Paran, Roelan and Maricris Paran to give their version of the incident in support of Paran's and Roelan's plea for exoneration of the charge.

Paran interposed the defense of denial, claiming that at about 4:00 a.m. of July 23, 2010, he and Roelan were sleeping at his house located in *Sitio Ilaya, Barangay Biga, Toledo City*. He explained that Roelan stayed in his house because the latter was then making a bench for his son. Macaday and a certain Alfred Predes woke them up and told them that Cosme and Paula were robbed. They all went together to the scene of the crime, situated about 100 meters, more or less, away from his house. There, he saw Cosme sitting at the side of the road and oozing with blood. He asked Cosme who mauled them and the latter replied, "I don't know." He went home after Cosme and Paula were brought to the hospital. He was arrested in his house at around 11:30 a.m. of July 24, 2010 by SPO3 Talandron, PO1 Aragon and another officer whose name he did not know.¹¹

Roelan also denied any involvement in the mauling and robbing of Cosme and Paula. He corroborated the testimony of Paran in its material points. He alleged that he asked Madacay as to who were the culprits, but Madacay said that they have no suspects. He claimed that although Cosme saw him and Paran at the place of incident, said victim never pointed to them as the authors of the crime. He added that they were not assisted by counsel during their one-hour investigation at the police station. After the

⁹ TSN dated November 21, 2012, pp. 3-8.

¹⁰ TSN dated May 15, 2013, pp. 4-12.

¹¹ TSN dated March 5, 2014, pp. 4-7.

investigation, they were brought to the hospital in Cebu City for identification by Cosme.¹²

Maricris confirmed that Roelan was residing at the house of Paran, her father-in-law, at the time of the incident. She recalled that while she was breastfeeding her baby at around 4:00 a.m. of July 23, 2010, she saw Macaday arrive at the house of Paran asking for help from the latter because his mother and father were robbed and somebody died. Paran did not go with Macaday just yet. After a while, Macaday returned with Alfred Predes and, this time, Paran and Roelan went out with them to the place of incident.¹³

The RTC's Ruling

On May 27, 2015, the RTC rendered its Decision finding Paran and Roelan guilty as charged. The *fallo* of which reads:

WHEREFORE, in the light of all the foregoing, judgment is hereby rendered finding accused Crisanto Paran y Lariosa alias "Santo" and Leonardo Roelan y Flores alias "Boyax" guilty beyond reasonable doubt of the special complex crime of Robbery with Homicide and Serious Physical Injuries and each of them is hereby sentenced to suffer the penalty of RECLUSION PERPETUA without being eligible for parole and to jointly and severally indemnify the heirs of deceased victim Paula Geonzon Fifty Thousand Pesos (P50,000.00) as civil indemnity; Fifty Thousand Pesos (P50,000.00) as moral damages; and Two Thousand Five Hundred Pesos (P2,500.00) which was the amount they robbed from the victims, all with interest at 6% per annum until fully paid.

The preventive imprisonment undergone by each of the two accused is fully credited in his favor.

With costs against accused.

SO ORDERED.¹⁴

According to the RTC, all the elements of the special complex crime of Robbery with Homicide and Serious Physical Injuries were satisfactorily proven by the prosecution. The RTC ruled that Paran and Roelan employed force and violence upon Cosme and Paula, and after disabling the victims from defending themselves, Paran and Roelan took Paula's cash in the amount of ₱2,500.00. It held that the primary intention of Paran and Roelan was to rob the victims of their money. Lastly, the RTC rejected the defense of denial proffered by Paran and Roelan for being self-serving and unsupported by any plausible proof.

¹² TSN dated November 5, 2014, pp. 3-15.

¹³ TSN dated March 25, 2015, pp. 4-8.

¹⁴ CA rollo, p. 79.

Not in conformity, Paran and Roelan appealed their conviction of Robbery with Homicide and Serious Physical Injuries before the CA.

On September 21, 2016, the counsel of Paran filed a Manifestation¹⁵ informing the CA of the fact of death of Paran while detained at the New Bilibid Prison in Muntinlupa City. A copy of Paran's Certificate of Death¹⁶ shows that he died on May 17, 2016. This prompted the CA to dismiss his appeal.

The CA's Ruling

On March 28, 2018, the CA rendered its assailed Decision affirming the conviction of Roelan. In view of the untimely demise of Paran, the CA declared his criminal and civil liabilities totally extinguished. The dispositive portion of which states:

WHEREFORE, the appeal is DENIED. The Decision dated May 27, 2015 of the Regional Trial Court, Branch 29, Toledo City, in Criminal Case No. TCS-6873, is AFFIRMED with the modifications that:

1. The designation of the felony committed by accused Crisanto Paran and accused-appellant Leonardo Roelan is corrected to be Robbery with Homicide;
2. The criminal and civil liabilities ex delicto of accused Crisanto Paran are declared EXTINGUISHED by reason of his death prior to final judgment; and
3. Accused-appellant Leonardo Roelan is ordered to pay the heirs of Paula Geonson civil indemnity of Php75,000.00, moral damages of Php75,000.00, and exemplary damages of Php75,000.00.

SO ORDERED.¹⁷

Preliminarily, the CA, citing the case of *People v. Vallar, et al.*,¹⁸ held that the proper designation of the offense of which Paran and Roelan were charged and subsequently convicted by the RTC should be Robbery with Homicide, and not Robbery with Homicide and Serious Physical Injuries, because the term homicide in Article 294, paragraph 1 of the Revised Penal Code (*RPC*) is to be used in its generic sense as to embrace not only acts that result in death, but all other acts producing any bodily injury short of death. The appellate court ruled that the prosecution witnesses unerringly established

¹⁵ *Id.* at 105-108.

¹⁶ *Id.* at 109-110.

¹⁷ *Rollo*, pp. 24-25.

¹⁸ 801 Phil. 870 (2016).

the commission of the crime of Robbery with Homicide and Roelan's criminal culpability thereof.

According to the CA, the noted inconsistency or contradiction between the testimonies of Cosme and Macaday, as to who struck who, would not dilute Cosme's credibility or the verity of his testimony because the discrepancy pertained to minor or trivial matters. It declared that the alleged illegality of Roelan's arrest would not merit his exoneration, holding that his failure to impugn the legitimacy of his arrest before his arraignment, through a motion to quash the Information, constitutes a waiver of objection on the legality of such arrest. The CA, however, modified the damages awarded by the RTC to conform with prevailing jurisprudence.

The Issue

Undaunted, Roelan filed the present appeal and posited the same lone assignment of error he previously raised before the CA, to wit:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE [ACCUSED-APPELLANT] OF THE CRIME OF ROBBERY WITH HOMICIDE DESPITE FAILURE OF THE PROSECUTION TO PROVE [HIS] GUILT BEYOND REASONABLE DOUBT.¹⁹

In the Resolution²⁰ dated September 26, 2018, the Court directed both parties to submit their supplemental briefs, if they so desired. On December 5, 2018, the Office of the Solicitor General filed its Manifestation In Lieu of Supplemental Brief,²¹ stating that it would no longer file a supplemental brief as its Appellee's Brief had sufficiently ventilated the issue raised. Later, on January 15, 2019, Roelan filed a Motion to Admit Manifestation (In Lieu of Supplemental Brief),²² averring that he would adopt all his arguments in his Appellant's Brief filed before the CA.

The Court's Ruling

Roelan contends before this Court that the RTC erred in giving credence to his identification by Cosme and Macaday as one of the perpetrators of the crime; in giving evidentiary weight to the unreliable and inconsistent, if not conflicting, testimonies of the said prosecution witnesses; in failing to give exculpatory weight to his denial and alibi which were

¹⁹ CA rollo, p. 55.

²⁰ Rollo, pp. 31-32.

²¹ *Id.* at 37-39.

²² *Id.* at 43-46.



supported by the testimony of Maricris; and in convicting him even if his guilt was not proven beyond reasonable doubt.

The Court finds Roelan's contentions to be flawed in fact. *En contra*, we are persuaded that the People's case merits acceptance in law. Essentially, Roelan assails the credibility of the prosecution's key witness, Cosme.

Worth reiterating herein is our ruling in *People v. Maxion*,²³ viz.:

[T]he issue raised by accused-appellant involves the credibility of [the] witness, which is best addressed by the trial court, it being in a better position to decide such question, having heard the witness and observed his demeanor, conduct, and attitude under grueling examination. These are the most significant factors in evaluating the sincerity of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. Through its observations during the entire proceedings, the trial court can be expected to determine, with reasonable discretion, whose testimony to accept and which witness to believe. Verily, findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case.²⁴

After a meticulous scrutiny and conscientious evaluation of the records of this case for those substantial and valuable facts, we find no oversight or omission on the part of the RTC in concluding that Roelan is truly guilty of the crime imputed to him. The RTC, affirmed by the CA, gave more weight and credence to the testimony of Cosme compared to those of Roelan and his witness. Roelan has not given us sufficient ground – and indeed we found none – to believe that the trial court overlooked or misappreciated any fact that might warrant his total exoneration. On the contrary, the evidence on record pointed and led to Roelan's complicity in the commission of the crime. Thus, there is no cogent reason for the Court to overturn the judgment of the trial and appellate courts on the matter.

Robo con homicidio or robbery with homicide is an indivisible offense, a special complex crime. It carries a severe penalty because the law sees in this crime that men place lucre above the value of human life, thus justifying the imposition of a harsher penalty than that for simple robbery or homicide.²⁵ Robbery with homicide exists when a homicide is committed either by reason or on occasion of the robbery. 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) preserve the possession

²³ 413 Phil. 740 (2001).

²⁴ *Id.* at 747-748; citation omitted

²⁵ *People v. Salazar*, 342 Phil. 745, 766 (1997).

by the culprit of the loot; (c) prevent discovery of the commission of the robbery; or (d) eliminate witnesses in the commission of the crime.²⁶

In order to sustain a conviction for robbery with homicide, the following elements must be proven by the prosecution: (1) the taking of personal property belonging to another; (2) with intent to gain or *animus lucrandi*; (3) 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.²⁷ A conviction requires certitude that the robbery is the main purpose and objective of the malefactor, and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life, but the killing may occur before, during or after the robbery.²⁸ Intent to gain, or *animus lucrandi*, is an internal act; hence, presumed from the unlawful taking of things.²⁹

In the case at bench, all the essential ingredients of robbery with homicide are present. The evidence on record shows that at around 4:00 a.m. of July 23, 2010, Cosme and Paula left their house and were on their way to their other house in *Sitio Ilaya, Barangay Biga, Toledo City* to pasture their animals. While they were walking along the road in *Sitio Danawan, Barangay Biga, Toledo City*, Paran and Roelan suddenly approached them. Thereafter, Paran immediately struck Paula with a hard object, causing her to fall on the ground and, while she was lying on the ground, he struck her again. On the other hand, Roelan clubbed Cosme once in the mouth, knocking some of the latter's front teeth which caused him to lose consciousness. Cosme regained consciousness because Roelan kept on searching his body. Paran also searched the body of Paula and was able to find money from her in the amount of ₱2,500.00, which cash Cosme earlier gave to Paula, before they left their house. Cosme heard Paran tell Roelan that the money was with Paula. When Macaday arrived, Paran and Roelan ran away, and took with them the money. Gerardo brought Cosme and Paula to a hospital. Paula expired three (3) days after the incident, while Cosme recovered.

From the foregoing, there is no mistaking from the actions of Roelan and Paran that their primordial intention was to rob Cosme and Paula. There was no showing that Roelan and Paran held a common grudge against the victims which provided enough reason to maul and seriously injure them. They disabled the couple by hitting them with hard objects precisely to facilitate the robbery, as well as their escape. While Paula was lying helplessly on the ground, Paran divested her of her cash worth ₱2,500.00. The killing

²⁶ *People v. Ditu, et al.*, 708 Phil. 218, 238 (2013).

²⁷ *People v. Jojo Bacayaan y Sabaniya, et al.*, G.R. No. 238457, September 18, 2019; citation omitted.

²⁸ *Crisostomo v. People*, 644 Phil. 53, 61 (2010); citation omitted.

²⁹ *People v. Obillo*, 411 Phil. 139, 150 (2001); citation omitted.

was, therefore, merely incidental, resulting by reason or on occasion of the robbery.

Roelan argues that it was improbable for Cosme to see and identify their assailants because it was still dark when the alleged incident happened. In addition, Roelan posits that Cosme could not have witnessed the fatal mauling of Paula since he too was clubbed and lost consciousness in the process. The defense concludes that the prosecution failed to establish with moral certainty the identities of the perpetrators as those of Paran and Roelan. The argument is unacceptable.

Visibility is indeed a vital factor in determining whether an eyewitness could have identified the perpetrator of a crime.³⁰ It is settled that where the conditions of visibility are favorable and the witness does not appear to harbor any ill motive against the malefactors, his testimony as to how the crime was committed and on the identities of the perpetrators must be accepted.³¹ In proper situations, illumination produced by a kerosene or wick lamp, a flashlight, even moonlight or starlight may be considered sufficient to allow identification of persons.³² Under such circumstance, any attack on the credibility of witnesses, based solely on the ground of insufficiency or absence of illumination, becomes unmeritorious.³³

While Roelan and Paran attempted to hide their identities in the blackness of the early dawn, their identities had been revealed and the darkness that was their cover has been dispelled by the credible testimony of Cosme that, while it was indeed dark in the place where the incident took place, there was, however, adequate light coming from the flashlight which he was then carrying that illuminated the area. This detail makes Cosme's testimony and positive identification of Roelan, as one of the culprits, more reliable. To be sure, Cosme had an unobstructed view of Roelan and Paran because of their proximity with each other. Given his familiarity with the faces and other physical features of Paran, who was his neighbor for a long time, and of Roelan, who had resided in his house for three (3) months prior to the incident, as well as the illumination provided by the flashlight, eliminated any possibility of mistaken identification. Also, contrary to Roelan's claim, Cosme was able to observe the fatal mauling of Paula before he lost consciousness due to the injury he sustained. Besides, jurisprudence teaches that the serious nature of a victim's injuries would not necessarily affect his or her credibility as a witness, if such injuries did not cause the immediate loss of his or her ability to perceive and identify the assailant.³⁴

³⁰ *People v. Ramirez*, 409 Phil. 238, 250 (2001).

³¹ *People v. Dela Cruz*, 452 Phil. 1080, 1093-1094 (2003).

³² *People v. Licayan*, 428 Phil. 332, 344 (2002).

³³ *People v. Biñas*, 377 Phil. 862, 897 (1999); citation omitted.

³⁴ *People v. Teodoro*, 345 Phil. 614, 628 (1997).

Cosme is more than just an eyewitness, he is a surviving victim of the crime. He testified in a categorical, forthright and sincere manner. Cosme was not fazed or rattled by the extensive cross-examination since all he had to do was to recall and relate the true facts. His testimony not only rings true but it is, likewise, clearly consistent with the physical evidence adduced during trial. Per the Medical Abstract³⁵ on victim Paula, it was stated that she suffered MPI secondary to mauling and severe brain injury. The Medical Abstract³⁶ on Cosme signed by a certain Dr. Mumar of the Vicente Sotto Memorial Medical Center, on the other hand, showed that he sustained tripod fracture, (L) secondary to mauling; laceration, molar region linear 3 cm secondary to mauling; multiple teeth lost; and Le Fort I fracture.

He positively identified Roelan and Paran, and detailed the specific role each played in the commission of the crime. He has no malevolent motive whatsoever to testify falsely against Roelan and Paran. When there is no evidence to indicate that the prosecution witnesses were actuated by improper motives, the presumption is that they were not so actuated and that their testimonies are entitled to full faith and credit.³⁷ Cosme's identification of Roelan and Paran as his and his wife's assailants can only be explained by his honest desire to have the real perpetrators, and not just anybody, apprehended and punished to give justice to the death of his wife Paula. The natural interest of a witness who is a relative of the victim in securing the conviction of the guilty would deter the witness from implicating a person other than the true culprit.³⁸ Verily, the eyewitness identification of Roelan virtually sealed his culpability.

Next, Roelan avers that the prosecution witnesses' identification of him as one of the robbers was not enough to hurdle the test of certainty. In an attempt to discredit the testimonies of prosecution witnesses Cosme and Macaday, Roelan points out their conflicting testimonies as to who between Paran and Roelan struck Cosme and Paula on the occasion of the robbery. He alleges that according to Cosme, Paran struck Paula while he was struck by Roelan once, but Macaday positively identified Paran as the one who struck Cosme many times and that it was Roelan who struck Paula. Roelan contends that such substantial contradiction casts serious doubt on the identity of the perpetrators, warranting the reversal of the finding of guilt against him.

Roelan is mistaken.

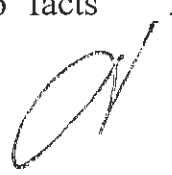
The Court finds the alleged contradiction too trivial to affect the prosecution's case. The testimonial imperfection hardly relates to facts

³⁵ Records, p. 13.

³⁶ *Id.* at 14.

³⁷ *People v. Tabaco*, 336 Phil. 771, 796 (1997); citation omitted.

³⁸ *People v. Pabillano*, 404 Phil. 43, 62 (2001); citation omitted.



material to the commission of the crime. Witnesses testifying on the same event do not have to be consistent in every detail, considering the inevitability of differences in their recollection, viewpoint or impression.³⁹ Truth-telling witnesses are not expected to give flawless testimonies, considering the lapse of time and the treachery of human memory. Total recall or perfect symmetry is not required as long as the witnesses concur on material points. In the present case, what is material is that Cosme and Macaday both pointed to Roelan as one of the malefactors. Truly, the inconsistency relates to a detail of peripheral significance which does not negate or dissolve the positive identification of Roelan as one of the culprits.

At any rate, in view of the presence of conspiracy, the matter as to who between Paran and Roelan struck Cosme and Paula becomes inconsequential since both Roelan and Paran shall bear equal criminal responsibility. The rule is well-established that whenever homicide has been committed as a consequence of or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special complex crime of robbery with homicide although they did not actually take part in the homicide, unless it clearly appears that they endeavored to prevent the homicide.⁴⁰

In the case at bench, the prosecution has proven beyond reasonable doubt that Roelan and Paran conspired in the commission of the crime. Conspiracy may be deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused themselves when these point to a joint purpose and design, concerted action and community of interest.⁴¹ The concerted action of Roelan and Paran shows their unity of purpose – to rob the victim, at all cost. These concerted acts manifestly disclose concurrence of wills, unity of action, joint purpose and common design. We note that it has not been shown that Roelan tried to prevent the fatal mauling of Paula.

Roelan's defense of denial and alibi collapses in the face of the positive identification by prosecution witnesses. Denials, as negative and self-serving evidence, do not deserve as much weight in law as positive and affirmative testimonies. Prevalently repeated is the rule that for alibi to countervail the evidence of the prosecution confirming the accused's guilt, he must prove that he was not at the *locus delicti* when the crime was committed and that it was also physically impossible for him to have been at the scene of the crime at the time it was perpetrated.⁴² Roelan's own evidence shows that he was in the house of Paran when the incident occurred, which is 100 meters from the

³⁹ *People v. Pulusan*, 352 Phil. 953, 974 (1998).

⁴⁰ *People v. Sabadao*, 398 Phil. 346, 366 (2000); citation omitted.

⁴¹ *People v. de la Rosa, Jr.*, 395 Phil. 643, 659 (2000); citation omitted.

⁴² *People v. Hernandez*, 476 Phil. 66, 84 (2004); citation omitted.

crime scene. Thus, it was not physically impossible for him to commit the crime charged on the date, place and time in question. His demeanor and the contents of his testimony, as found by the RTC, belied his protestations of innocence.

The fact that Roelan presented Maricris to corroborate his alibi deserves scant consideration. Maricris's testimony is viewed with skepticism due to the very nature of alibi she affirms. Roelan can easily fabricate an alibi and ask relatives and friends to corroborate it.⁴³ Besides, we find the testimony of Maricris less than convincing.

Anent Roelan's warrantless arrest, any irregularity that may have attended the same would be of no help to him in the present appeal. In voluntarily submitting himself to the RTC by entering a plea of not guilty, instead of filing a motion to quash the information for lack of jurisdiction over his person, Roelan is deemed to have waived his right to assail the legality of his arrest. Our pronouncements in *Rebellion v. People*⁴⁴ are instructive, thus:

Petitioner's claim that his warrantless arrest is illegal lacks merit. We note that nowhere in the records did we find any objection interposed by petitioner to the irregularity of his arrest prior to his arraignment. It has been consistently ruled that an accused is estopped from assailing any irregularity of his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before arraignment. Any objection involving a warrant of arrest or the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived. In this case, petitioner was duly arraigned, entered a negative plea and actively participated during the trial. Thus, he is deemed to have waived any perceived defect in his arrest and effectively submitted himself to the jurisdiction of the court trying his case. At any rate, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error. It will not even negate the validity of the conviction of the accused.⁴⁵

The Court notes that the courts *a quo* failed to rule on the aggravating circumstance of evident premeditation that allegedly attended the commission of the offense. In any event, evident premeditation cannot be appreciated as an aggravating circumstance in the crime of robbery with homicide because the elements of which are already inherent in the crime. Evident premeditation is inherent in crimes against property.⁴⁶

⁴³ *People v. Torres*, 743 Phil. 553, 567 (2014).

⁴⁴ 637 Phil. 339 (2010); citations omitted.

⁴⁵ *Id.* at 345; underscore supplied, citations omitted.

⁴⁶ *People v. Layug*, G.R. No. 223679, September 27, 2017; citation omitted.

Under Article 294, paragraph 1 of the RPC, as amended by Republic Act No. 7659,⁴⁷ the penalty for robbery with homicide is *reclusion perpetua* to death. Applying Article 63⁴⁸ of the same Code, the lesser penalty of *reclusion perpetua* should be imposed on Roelan, in view of the absence of any modifying circumstance in the present case. Hence, the penalty imposed by the courts *a quo* against Roelan is correct.

Consistent with the prevailing jurisprudence,⁴⁹ the Court affirms the award of Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity and Seventy-Five Thousand Pesos (₱75,000.00) as moral damages. Being corrective in nature, the award of Seventy-Five Thousand Pesos (₱75,000.00) as exemplary damages is proper for the reprehensible act committed against the victim.⁵⁰ In addition, the Court deems it appropriate to award temperate damages in the amount of Fifty Thousand Pesos (₱50,000.00), considering that no documentary evidence of burial or funeral expenses was submitted in court.⁵¹ Cosme, as a victim who sustained non-mortal or non-fatal wounds, shall also be entitled to the award of civil indemnity, moral damages and exemplary damages in the amount of Twenty-Five Thousand Pesos (₱25,000.00) each.⁵² Further, six percent (6%) interest *per annum* shall be imposed on all damages awarded, to be reckoned from the date of finality of this Decision until fully paid.⁵³

Finally, the Court directs Roelan to pay Two Thousand Five Hundred Pesos (₱2,500.00) as restitution for the cash taken from Paula. We note that the CA deleted this award in its questioned Decision.

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated March 28, 2018 in CA-G.R. CEB-CR HC No. 02084 is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant Leonardo F. Roelan is found **GUILTY** beyond reasonable doubt of Robbery with Homicide and is sentenced to suffer the penalty of *Reclusion Perpetua*. He is ordered to pay 1) the heirs of the victim, Paula Geonson, the amounts of Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (₱75,000.00) as moral damages, Seventy-Five Thousand Pesos (₱75,000.00) as exemplary damages, and Fifty Thousand Pesos

⁴⁷ An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes.

⁴⁸ Article 63. Rules for the application of indivisible penalties. – xxx.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

xxxx

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

⁴⁹ *People v. Jugueta*, 783 Phil. 806 (2016).

⁵⁰ *People v. Renato Cariño y Gocong, et al.*, G.R. No. 232624, July 9, 2018.

⁵¹ *People v. Jugueta*, 783 Phil. 806, 853 (2016).

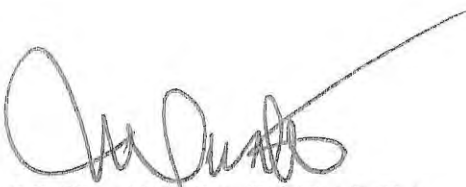
⁵²

⁵³ *People v. Romobio*, G.R. No. 227705, October 11, 2017, 842 SCRA 512, 538.

(₱50,000.00) by way of temperate damages; and 2) the victim, Cosme Geonson, the amounts of Twenty-Five Thousand Pesos (₱25,000.00) as civil indemnity, Twenty-Five Thousand Pesos (₱25,000.00) as moral damages, and Twenty-Five Thousand Pesos (₱25,000.00) as exemplary damages.

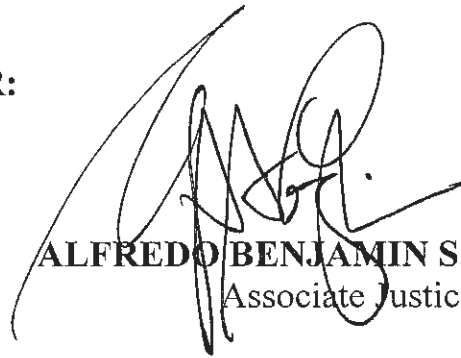
He is also **ORDERED to PAY** interest at the rate of six percent (6%) *per annum* from the time of finality of this Decision until fully paid, to be imposed on the civil indemnity, moral damages, exemplary damages and temperate damages. Lastly, he is ordered to pay the heirs of the victim, Paula Geonson, the amount of Two Thousand Five Hundred Pesos (₱2,500.00) as restitution for the cash taken during the robbery.

SO ORDERED.

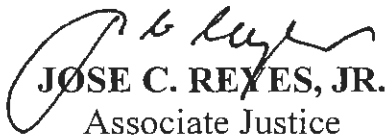


DIOSDADO M. PERALTA
Chief Justice

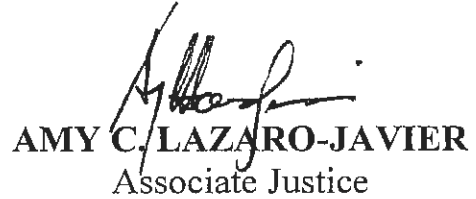
WE CONCUR:



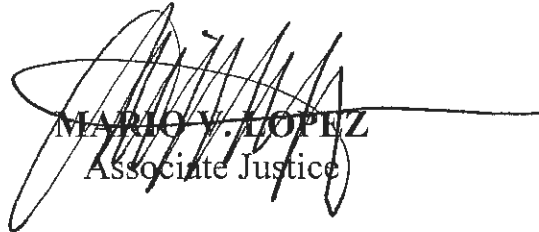
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



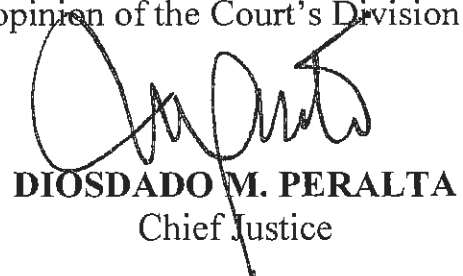
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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