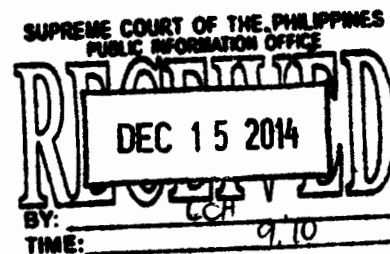


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Republic of the Philippines  
Supreme Court  
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 17, 2014** which reads as follows:*

**“G.R. No. 196350 (People of the Philippines v. Edgar Quirante, Reynaldo Lauga, and Allan Montalbo, accused; Edgar Quirante, accused-appellant).** – We resolve this appeal from the 28 October 2010 Decision<sup>1</sup> of the Court of Appeals (CA), Twenty-First (21<sup>st</sup>) Division, Cagayan de Oro City in CA-G.R. CR HC No. 00454-MIN.

**THE RTC RULING**

In its 15 June 2006 Decision<sup>2</sup>, the RTC Branch 32 in Surigao City found the accused-appellant guilty of Robbery with Homicide and Robbery in Criminal Case Nos. 826 and 827, respectively. The RTC relied on the testimonies of the victims Warlito Maribao and Pepe Obaob who identified positively the accused-appellant as the one who, together with Reynaldo Lauga and Allan Montalbo, both still at large, robbed them in two separate incidents on the night of 25 February 2000. Circumstantial evidence proved during trial also pointed to the appellant as the one who shot Genaro Maribao with the use of a garand rifle that led to the latter’s death. The trial court found the accused-appellant’s defense of denial and alibi as wanting in the face of the victims’ positive identification of him as the perpetrator of the crime. In Criminal Case No. 826, the RTC sentenced appellant to suffer the penalty of *reclusion perpetua* and ordered to pay to Warlito Maribao the amount of ₱400 (cost of wallet) and ₱4,600.00 (cash) as actual damages and ₱50,000.00 for the death of Genaro Maribao. In Criminal Case No. 827, the appellant was sentenced to suffer the penalty of four (4) years and two (2) months of *prision correccional* as minimum to ten (10) years of *prision mayor* as maximum and to pay Pepe Obaob the amount of Twelve Thousand Pesos (₱12,000.00) as actual damages.<sup>3</sup>

<sup>1</sup> *Rollo*, pp. 3-20; penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Romulo V. Borja and Edgardo T. Lloren.

<sup>2</sup> *CA rollo*, pp. 26-33; penned by Presiding Judge Louis P. Acosta.

<sup>3</sup> *Id.* at 32-33.



### THE CA RULING

In the intermediate appellate review, the CA affirmed the Decision of the RTC with modification as to the penalties to be imposed. Gleaning from the transcript of stenographic notes of the direct examination of Warlito Maribao and Pepe Obaob, the appellate court said that the two witnesses could not have been mistaken as to the identities of Quirante and Lauga. It reasoned out that jurisprudence recognizes that victims of violence, as a natural reaction, strive to see the appearance of the perpetrators of the crime and to observe the manner in which the crime was committed.<sup>4</sup> The CA considered negligible the fact that Maribao did not actually see the appellant shoot Genaro as circumstantial evidence indisputably points to him, and no other person, as the triggerman.<sup>5</sup> Finally, the CA ruled that the accused committed not just one crime of Robbery but two distinct offenses of Robbery with Homicide and Robbery. In concluding so, it pointed out that the crime against Genaro, Warlito Maribao, and Rene Omac had already been consummated when Obaob and Ernesto Tomaquin arrived. Thus, even though there was only a short time interval between the two incidents, the intervening period effectively gave rise to not one, but two distinct offenses abovementioned.<sup>6</sup>

The CA, however, modified the sentences imposed by the trial court for the two crimes. There being no aggravating or mitigating circumstance, it applied the Indeterminate Sentence Law in determining the appropriate penalty for the crime of Robbery. Therefore, the imposable penalty was modified to four (4) years and two (2) months of *prision correccional* as minimum to eight (8) years of *prision mayor* as maximum. As to the penalty for Robbery with Homicide, the CA found as proper the penalty of *reclusion perpetua* imposed by the RTC but rectified an omission in the trial court's sentence by including therein that appellant shall not be eligible for parole.<sup>7</sup>

### OUR RULING

#### **The appeal is denied.**

Appellant argues in his Brief that the positive identification made by the witnesses is weak and questionable because of inconsistencies in their testimonies pertaining to his residence and when exactly they have identified him during the incident. While, indeed, there were inconsistencies in the prior and subsequent testimonies of the witnesses as alleged by appellant, such were too trivial to affect their credibility and cast doubt as to their positive identification of the accused. The extent and the

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<sup>4</sup> *Rollo*, CA Decision, p. 16.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at p. 18.

<sup>7</sup> *Id.* at p. 19-20.

importance or lack of importance of inconsistencies on the overall testimony of witnesses must be considered in determining their credibility. What stands unperturbed despite the contradictions pointed out by appellant is that the two witnesses clearly and categorically identified appellant as one of their assailants. It is well-settled doctrine that findings of trial courts on the credibility of witnesses deserve a high degree of respect, absent a showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would affect the result of the case.<sup>8</sup> Having been able to observe the deportment of witnesses during trial, the trial judge is in a better position to determine the issue of their credibility.<sup>9</sup>

The trial court, thus, is correct in giving credence to the witnesses' positive identification of the accused, as affirmed likewise by the CA. Notably, this Court has underscored in many cases that positive identification, where categorical and consistent and not attended by any showing of ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial which, if not substantiated by clear and convincing evidence, are negative and self-serving evidence that do not deserve weight in law.<sup>10</sup>

Appellant also claims that there is no competent evidence to prove that he was responsible for the killing of Genaro Maribao because not one of the witnesses actually saw who shot Genaro and that circumstantial evidence is not enough to justify his conviction.

This Court believes otherwise.

Direct evidence is not the only basis upon which the guilt of an accused may be proved, as it may also be established through circumstantial evidence.<sup>11</sup> Resort to circumstantial evidence is essential when the lack of direct evidence would lead to setting a felon free.<sup>12</sup> Circumstantial evidence is that type of evidence that indirectly proves a fact in issue through an inference which the fact-finder draws from the evidence established.<sup>13</sup> To be sufficient for conviction, circumstantial evidence must comply with these essential requisites, viz.: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.<sup>14</sup>

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<sup>8</sup> *People v. Aliben*, 446 Phil. 349, 385 (2003).

<sup>9</sup> *Lascano v. People*, 559 Phil. 284, 291 (2007)

<sup>10</sup> *People v. Caisip*, 352 Phil. 1058, 1065 (1998).

<sup>11</sup> *People vs. Cagadas, Jr.*, 271 Phil. 222, 229 (1991).

<sup>12</sup> *People v. Ferdinand Matito*, 468 Phil. 14 (2004)

<sup>13</sup> *Id.*

<sup>14</sup> *People v. Matignas*, 428 Phil. 834, 869-870 (2002).

Though it was established in this case that the witness did not actually see appellant shoot Genaro, the record is replete with circumstances pointing to no other person but the appellant as the culprit, such as: (1) two firearms were used during the incident – one .38 caliber pistol and the other a garand rifle; (2) appellant was in possession of the garand rifle; (3) a gunshot was heard by witness Warlito while Lauga was pointing the .38 caliber pistol at him; (4) the sound was heard from where appellant and Genaro were at that time; (5) Genaro was heard crying for help; and (6) Genaro was later found dead with a gunshot wound. When taken collectively, the circumstantial evidence as proved by the prosecution points unerringly to the culpability of appellant as the person responsible for the killing of Genaro.

Finally, the appellant's contention that the trial court erred in holding him liable for two separate crimes of robbery with homicide and robbery is unmeritorious. Appellant maintains that there was only one continuing crime committed against the five victims because "there is unity of thought in the criminal purpose on one occasion" and "there are no two distinct appropriation nor two intentions that characterize two separate crimes."<sup>15</sup> He cites as basis the decision of the Court in *People v. de Leon*,<sup>16</sup> which referred to a Supreme Court of Spain ruling that there is only one crime of theft when the unlawful taking of various livestock belonging to different owners was committed on a single occasion.

Appellant is misguided in his argument.

The trial court and the Court of Appeals correctly held that the robbery committed by appellant is not a continuing crime but rather constitutes two separate crimes. A continuing crime envisages a single crime committed through a series of acts arising from one criminal intent or resolution.<sup>17</sup> Although the two acts committed were of the same type of offense, which is robbery, it cannot be held that there was only a single intent to perpetrate the same because there was an intervening period that broke the chain of events indicating the consummation of one and the commencement of the other. This is evident in the record which states that the appellant and his two companions left their first set of victims for good after divesting them of their money and shooting one to death and then proceeded shortly to rob another set that had the misfortune of passing by that same place at that time. Rightly so, the appellant was convicted of the special complex crime of robbery with homicide for the first offense and simple robbery for the second.

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<sup>15</sup> *CA rollo*, Appellant's Brief, p. 22.

<sup>16</sup> 49 Phil 437 (1926).

<sup>17</sup> *Santiago v. Garchitorea*, G.R. No. 109266, 2 December 1993, 228 SCRA 214, 224, citing *Padilla*, Criminal Law 53-54 (1988).

As regards the proper penalty to be imposed, there being no issue as to the crimes committed, the court a quo is correct in modifying the sentence for robbery applying the Indeterminate Sentence Law and in inserting an omission in the sentence for robbery with homicide, including therein appellant's ineligibility to be considered for parole under Act No. 4103.

With respect to the award of damages, the actual damages in both criminal cases are proper as they are fully supported by evidence on record. This Court, however, increases the amount of civil indemnity for the death of Genaro Maribao from ₱50,000.00 as pegged by the trial court<sup>18</sup> to ₱75,000.00. The increase in the amount of civil indemnity is called for as the special complex crime of robbery with homicide, like murder, involves a greater degree of criminal propensity than homicide alone where the civil indemnity awarded is ₱50,000.00.<sup>19</sup>

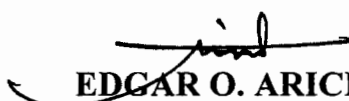
In conformity with recent jurisprudence, moral damages in the sum of ₱75,000.00 should also be awarded despite the absence of proof of mental and emotional suffering of the heirs of the deceased.<sup>20</sup>

Further, all the monetary awards for damages shall bear interest at the legal rate of 6% per annum from the date of finality of this Resolution until fully paid to likewise conform to current policy.<sup>21</sup>

**WHEREFORE**, the appealed Decision of the Court of Appeals, Twenty-First (21<sup>st</sup>) Division, Cagayan de Oro City dated 28 October 2010 in CA-G.R. CR-HC No. 00454-MIN affirming with modification the RTC Decision in Criminal Case Nos. 826 and 827 dated 15 June 2006 is hereby **AFFIRMED** with the following **MODIFICATIONS**: (1) the civil indemnity awarded to the heirs of Genaro Maribao is increased from ₱50,000.00 to ₱75,000.00; (2) moral damages of ₱75,000.00 shall be paid to the same heirs; and (3) all the monetary awards for damages in both cases shall earn interest at the rate of 6% per annum from the date of finality of this Resolution until fully paid.

**SO ORDERED.**” **BERSAMIN, J.**, on official travel; **VELASCO, JR., J.**, acting member per S.O. No. 1870 dated November 4, 2014.

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court <sup>11/27</sup>

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<sup>18</sup> *CA rollo*, Trial Court's Judgment, p. 32.

<sup>19</sup> *People vs. Aleman*, G.R. No. 181539, 24 July 2013.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

The Solicitor General (x)  
Makati City

Court of Appeals  
9000 Cagayan de Oro City  
(CA-G.R. CR H.C. No. 00454-MIN)

The Hon. Presiding Judge  
Regional Trial Court, Br. 32  
8600 Surigao City  
(Crim. Case Nos. 826 & 827)

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