



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 200922

Present:

CARPIO, *J.*, Chairperson,
BRION,
PEREZ,
SERENO, and
REYES, *JJ.*

- versus -

CESAR CONCEPCION y BULANIO,
Appellant.

Promulgated:

JUL 10 2012

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DECISION

CARPIO, *J.*:

The Case

This is a criminal case filed against the accused Cesar Concepcion y Bulanio (Concepcion) for the crime of robbery with homicide under Article 294 of the Revised Penal Code (RPC), committed as follows:

That on or about the 25th day of May 2004, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with his co-accused ROSENDO OGARDO, JR. Y VILLEGAS, with intent to gain, by means of force, violence and intimidation of person, did then and there, willfully, unlawfully and feloniously rob one JENNIFER ACAMPADO Y QUIMPO, in the following manner, to wit: While complainant was walking along Panay Avenue corner Timog Avenue, Barangay Paligsahan, this City, accused suddenly appeared from behind riding in a Suzuki motorcycle with Plate no. RG-7037 and forcibly took, robbed and carried away complainant's shoulder bag containing wrist watch, earring, brochure, bracelet and wallet all valued at ₱3,000.00, Philippine Currency, and that on the occasion of the said robbery, accused

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ROSENDO OGARDO, JR. Y VILLEGAS died due to vehicular accident; to the damage and prejudice of the said offended party in the aforementioned amount.

Contrary to law.¹

The Regional Trial Court (RTC) of Quezon City, Branch 81, in its Decision dated 1 August 2006 (RTC Decision),² found Concepcion guilty beyond reasonable doubt of the crime of robbery with homicide and sentenced him to suffer the penalty of reclusion perpetua with all accessory penalties provided by law, and to reimburse private complainant Jennifer Q. Acampado (Acampado) the amount of ₱3,000 representing the cash, jewelry and other personal items taken from her. On appeal, the Fourth Division of the Court of Appeals (CA) affirmed *in toto* the RTC Decision.

Prosecution's Version of Facts

The RTC Decision provided the prosecution's version of facts, as supported by the records:

At around 11:00 o'clock a.m. of May 25, 2004, while private complainant Jennifer Acampado was at the corner of Mother Ignacia Street, Quezon City and at another street which she could not remember and seemed to be deserted at that time, a male person riding at the back of the driver of a motorcycle whom she later identified in open court as accused Cesar Concepcion, snatched her brown Avon bag with black strap which at that time, was placed on her left shoulder. The black motorcycle with white covering at the back side and with plate number which is not visible to the eye, came from behind her. As the motorcycle sped away, the accused even raised and waved the bag that he snatched from Jennifer who was unable to do anything but just cry and look at the snatcher so much so that she recognized him in the process.

Meanwhile, while prosecution witness Joemar de Felipe was driving his R & E Taxi, in the same vicinity, he witnessed the subject snatching incident. As the accused was waving the bag at Jennifer, he blew his horn. Ogardo drove faster so that de Felipe gave a chase and kept on blowing his horn. Eventually, Ogardo lost control of the motorcycle and it crashed in front of his taxi, sending its two occupants to the pavement. De Felipe immediately alighted from the taxi with the intention to arrest the snatchers. At that juncture, some policemen from the Kamuning Police Station 10,

¹ CA *rollo*, p. 11.

² Id. at 13-16.

EDSA, Kamuning, Quezon City, arrived. Seeing that the snatchers were badly injured, the policemen brought them to the East Avenue Medical Center, Quezon City where Ogardo later expired.³

Defense's Version of Facts

The RTC Decision likewise summarized the defense's version of facts, as follows:

For the defense, the accused testified. He denies participation in the snatching incident and contends that at around 11:00 a.m. of May 25, 2004, he and his companion, Rosendo Ogardo, were riding in a motorcycle when suddenly there was this chasing by another motorcycle. A taxi bumped their motorcycles and Rosendo was thrown to the gutter. Rosendo was severely injured. The police brought them to the East Avenue Medical Center where Rosendo died. Thereafter, he was brought to the police station where a woman pointed to him as snatcher. A case for robbery with homicide was filed against him on the same day.⁴

The Decision of the Regional Trial Court

The RTC declared Concepcion guilty beyond reasonable doubt of the crime of robbery with homicide. The dispositive portion of the RTC Decision reads:

WHEREFORE, the Court finds accused CESAR CONCEPCION y BULANIO guilty beyond reasonable doubt of the crime of ROBBERY WITH HOMICIDE described and penalized under Article 294 of the Revised Penal Code as amended by R.A. 7659 in relation to Article 61 of the RPC and is hereby sentenced to suffer the penalty of Reclusion Perpetua with all the accessory penalties provided by law and to reimburse private complainant Jennifer Acampado the amount of ₱3,000 representing the cash, jewelry and other personal items taken from her.⁵

The RTC declared that all elements of the crime of robbery were duly proven. The prosecution sufficiently established the identity of Concepcion as the person who snatched Acampado's bag because Concepcion was

³ Id. at 13-14.

⁴ Id. at 15.

⁵ Id. at 16.

positively identified by the victim Acampado and Joemar de Felipe (de Felipe), who both had no ill-motive to falsely testify against Concepcion.

The Decision of the Court of Appeals

The CA affirmed the conviction of Concepcion. The dispositive portion of the CA Decision reads:

WHEREFORE, the appealed decision of Branch 81 of the RTC of Quezon City, dated August 1, 2006 is hereby AFFIRMED *IN TOTO*.⁶

The CA declared that robbery with homicide was committed. The CA held that, for as long as the homicide resulted during, or because of, the robbery, even if the killing was by mere accident, robbery with homicide was committed. It is immaterial that death supervened by mere accident or that the victim of homicide was a person other than the victim of robbery or that two or more persons were killed. What is essential is that there is a direct relation or intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes be committed at the same time.⁷

The Issues

Concepcion, in his brief, raised the following issues:

- I. THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE HIGHLY INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.
- II. THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.⁸

⁶ *Rollo*, p. 11.

⁷ *Id.* at 10.

⁸ *CA rollo*, p. 41.

Concepcion discussed the issues jointly, claiming that the CA erred because: (a) it gave credence to the inconsistent testimonies of the prosecution witnesses regarding the date and manner of the commission of the crime; (b) even assuming that he snatched Acampado's shoulder bag, Concepcion should be held liable for simple theft only; and (c) the prosecution failed to establish that Ogardo's death was by reason or on the occasion of the alleged robbery.⁹

The Ruling of the Court

Inconsistent Testimonies of Prosecution Witnesses

Concepcion claims that Acampado and de Felipe, both prosecution witnesses, made inconsistent testimonies. First, de Felipe testified that the snatching incident happened on 26 May 2004, when the information states that the alleged crime was committed on 25 May 2004.¹⁰ Second, Acampado testified that Concepcion was on board the motorcycle, sitting at the back of Ogardo, when Concepcion snatched Acampado's shoulder bag from behind. In contrast, de Felipe testified that Concepcion alighted from the motorcycle and forcibly took Acampado's shoulder bag.¹¹ Lastly, de Felipe, on direct examination, claimed that the motorcycle slid and Ogardo and Concepcion fell on the street. On cross examination, however, de Felipe admitted that his taxi bumped the motorcycle, causing Concepcion and Ogardo to be thrown off the motorcycle.¹²

It is a general principle of law that factual findings of the trial court are not disturbed on appeal unless the court *a quo* is perceived to have overlooked, misunderstood or misinterpreted certain facts or circumstances of weight, which, if properly considered, would have materially affected the

⁹ Id. at 41-44.

¹⁰ Id. at 41.

¹¹ Id. at 42.

¹² Id.

outcome of the case.¹³ We find no compelling reason to disturb the factual findings of the RTC, as affirmed by the CA, in this case.

Robbery vs. Theft

On the second and third issues, Article 293 of the RPC defines robbery as a crime committed by “any person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything.” Robbery with homicide occurs when, by reason or on occasion of the robbery, the crime of homicide shall have been committed.¹⁴ In Article 249 of the RPC, any person who shall kill another shall be deemed guilty of homicide. Homicide, as used in robbery with homicide, is to be understood in its generic sense to include parricide and murder.¹⁵ The penalty for the crime of robbery with homicide is *reclusion perpetua* to death.¹⁶

Theft, on the other hand, is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take the personal property of another without the latter’s consent.¹⁷ The penalty of *prision correccional* in its minimum and medium periods is imposed upon persons guilty of theft, if the value of the thing stolen is more than ₱200 but does not exceed ₱6,000.¹⁸

By definition in the RPC, robbery can be committed in three ways, by using: (a) violence against any person; (b) intimidation of any person; and/or (c) force upon anything. Robbery by use of force upon things is provided under Articles 299 to 305 of the RPC.

¹³ *People v. Mendoza*, 324 Phil. 273, 285 (1996); *People v. Gallo*, G.R. No. 187730, 29 June 2010, 622 SCRA 439, 460.

¹⁴ Revised Penal Code, Art. 294(1).

¹⁵ *People v. Manalang*, 252 Phil. 147, 163 (1989).

¹⁶ Revised Penal Code, Art. 294(1).

¹⁷ Revised Penal Code, Art. 308.

¹⁸ Revised Penal Code, Art. 309(3).

The main issue is whether the snatching of the shoulder bag in this case is robbery or theft. Did Concepcion employ violence or intimidation upon persons, or force upon things, when he snatched Acampado's shoulder bag?

In *People v. Dela Cruz*,¹⁹ this Court found the accused guilty of theft for snatching a basket containing jewelry, money and clothing, and taking off with it, while the owners had their backs turned.

In *People v. Tapang*,²⁰ this Court affirmed the conviction of the accused for frustrated theft because he stole a white gold ring with diamond stones from the victim's pocket, which ring was immediately or subsequently recovered from the accused at or about the same time it was stolen.

In *People v. Omambong*,²¹ the Court distinguished robbery from theft. The Court held:

Had the appellant then run away, he would undoubtedly have been guilty of theft only, because the asportation was not effected against the owner's will, but only without his consent; although, of course, there was some sort of force used by the appellant in taking the money away from the owner.

x x x x

What the record does show is that when the offended party made an attempt to regain his money, the appellant's companions used violence to prevent his succeeding.

x x x x

The crime committed is therefore robbery and not theft, because personal violence was brought to bear upon the offended party before he was definitely deprived of his money.²²

¹⁹ 76 Phil. 601 (1946).

²⁰ 88 Phil. 721, 722 (1951).

²¹ 34 O.G. 1853 (1936).

²² Id. at 1853-1854.

The prosecution failed to establish that Concepcion used violence, intimidation or force in snatching Acampado's shoulder bag. Acampado herself merely testified that Concepcion snatched her shoulder bag which was hanging on her left shoulder. Acampado did not say that Concepcion used violence, intimidation or force in snatching her shoulder bag. Given the facts, Concepcion's snatching of Acampado's shoulder bag constitutes the crime of theft, not robbery. Concepcion's crime of theft was aggravated by his use of a motorcycle in committing the crime. Under Article 14(20) of the RPC, the use of a motor vehicle as a means of committing a crime is a generic aggravating circumstance. Thus, the maximum period of the penalty for the crime of theft shall be imposed upon Concepcion due to the presence of a generic aggravating circumstance and the absence of any mitigating circumstance.

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.

Indeterminate Sentence Law

Section 1 of Act No. 4103 (The Indeterminate Sentence Law) provides:

[I]n imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense x x x

x x x x

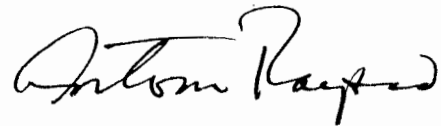
This Act shall not apply to persons convicted of offenses punished with death penalty or life-imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; to those whose maximum term of imprisonment does not exceed one year, not to those already sentenced by final judgment at the time of approval of this Act, except as provided in Section 5 hereof.

Since Concepcion is guilty of the crime of theft of property valued at ₱3,000, the penalty shall be the maximum period imposed by the RPC due to the presence of the generic aggravating circumstance of use of a motor vehicle in the commission of the crime. The maximum penalty to be imposed upon Concepcion is *prision correccional* in its medium period. However, applying the Indeterminate Sentence Law, the minimum period of Concepcion's penalty shall be within the range of the penalty next lower to that prescribed by the RPC for the offense, which is *arresto mayor* in its maximum period. For this reason, we impose upon Concepcion the penalty of *arresto mayor* in its maximum period, which is 6 months, to *prision correccional* in its medium period, which is 4 years and 2 months.

WHEREFORE, we **SET ASIDE** the 6 September 2011 Decision of the Court of Appeals in C.A.-G.R. CR-H.C. No. 04200 affirming the judgment of conviction of robbery with homicide of the Regional Trial Court, Branch 81 of Quezon City in Criminal Case No. 04-127163 dated 1 August 2006. We find appellant Cesar Concepcion y Bulanio **GUILTY** beyond reasonable doubt of the crime of **THEFT** with the presence of a generic aggravating circumstance of use of motor vehicle in the commission of the crime and impose upon him the indeterminate penalty of *arresto mayor* in its maximum period, or 6 months, to *prision correccional* in its medium period, or 4 years and 2 months.

We **DIRECT** the Director of the Bureau of Corrections to implement this Decision and to report to this Court the action taken within five (5) days from receipt of this Decision.

SO ORDERED.



ANTONIO T. CARPIO
Senior Associate Justice

WE CONCUR:



ARTURO D. BRION
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



MARIA LOURDES P. A. SERENO
Associate Justice



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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.

A handwritten signature in black ink, appearing to read "Antonio T. Carpio". The signature is fluid and cursive, with a large initial "A" and "C".

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)