



**Republic of the Philippines  
Supreme Court  
Manila**

**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**      **G.R. No. 198338**  
Plaintiff-Appellee,

Present:

-versus-

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.

**P/SUPT. ARTEMIO E. LAMSEN,**  
**PO2 ANTHONY D. ABULENCIA**  
**and SPO1 WILFREDO L. RAMOS,**  
Accused-Appellants.

Promulgated:

FEB 20 2013 *HW Cabalag Perfecto*

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**RESOLUTION**

**PERLAS-BERNABE, J.:**

Before the Court is an ordinary appeal assailing the February 28, 2011 Decision<sup>1</sup> and June 28, 2011 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03468 finding accused-appellants P/Supt. Artemio E. Lamsen (Lamsen), PO2 Anthony D. Abulencia (Abulencia), and SPO1 Wilfredo L. Ramos (Ramos) guilty beyond reasonable doubt of the felony of Robbery with Homicide.<sup>3</sup>

<sup>1</sup> Rollo, pp. 2-33. Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Andres B. Reyes, Jr. and Jane Aurora C. Lantion, concurring.

<sup>2</sup> Records, pp. 790-795.

<sup>3</sup> Rollo, p. 2-3.

### **The Facts**

On February 19, 2001, PCI Bank Manager Fernando Sy (Sy), together with his security guards, Arturo Mariado (Mariado) and Jolly Ferrer (Ferrer), went to Malasiqui, Pangasinan using Sy's owner-type jeep to collect cash deposits in the amount of ₱2,707,400.77 from their clients. On their way back to their office in San Carlos City, a white Toyota car overtook the jeep. The car's occupants then fired at Sy and his companions. Thereafter, a green Lancer car, which was coming from San Carlos City, made a U-turn, chased and sideswiped the jeep, with its passengers also firing at Sy and his companions. This resulted in the jeep going off the road and hitting two (2) concrete posts. Sy and Mariado succumbed to gunshot wounds, while Ferrer got away unscathed as he jumped out of the jeep during the shooting. The malefactors then took the bag containing the cash deposits and immediately fled towards the direction of San Carlos City.<sup>4</sup>

After investigation, Lamsen, Abulencia, Ramos, and four (4) John Does, were charged in an Information dated March 1, 2001 for the aforesaid crime.<sup>5</sup> Accused-appellants pleaded "not guilty" then, individually filed their respective petitions for bail.<sup>6</sup>

Opposing the petitions for bail, the prosecution presented four (4) eyewitnesses, namely John Delos Santos (Delos Santos), Arnel Reyes (Reyes), Esteban Mercado (Mercado), and Domingo Marcelo (Marcelo). The prosecution likewise presented two (2) investigators, namely P/Supt. Alejandro Valerio (Valerio) and NBI Agent Diogenes Gallang (Gallang).<sup>7</sup>

Delos Santos, Reyes, Mercado, and Marcelo gave their respective accounts as to what transpired, identifying Lamsen, Abulencia, and Ramos in the process.<sup>8</sup> For their part, Valerio testified, among others, that Abulencia admitted that he was driving the green car subjected to a flash alarm and that Lamsen was with him at the time.<sup>9</sup> On the other hand, Gallang testified that the dents and streaks of paint found on Sy's jeep matched the dents and scratches found on the green and white car, respectively owned by Abulencia and Ramos.<sup>10</sup>

In an Order<sup>11</sup> dated June 25, 2002, the Regional Trial Court (court *a quo*) granted Abulencia's petition for bail, while denying Lamsen's and

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<sup>4</sup> Id. at 6.

<sup>5</sup> Id. at 3-4.

<sup>6</sup> Id. at 4.

<sup>7</sup> Id.

<sup>8</sup> Id. at 12-19; records, pp. 167-172.

<sup>9</sup> Records, p. 164-165.

<sup>10</sup> Id. at 165-167.

<sup>11</sup> Id. at 450-456. Penned by Judge Salvador P. Vedaña.

Ramos' respective petitions.<sup>12</sup> It found that the testimonies of eyewitnesses Delos Santos, Reyes and Mercado, aside from positively identifying Lamsen and Ramos, were candid, straightforward, and categorical.<sup>13</sup> However, it found that Marcelo's testimony, the one positively identifying Abulencia as one of the perpetrators, is incredible because it is absurd, inconsistent, unnatural, and has strong indication of fabrication and concoction.<sup>14</sup>

At the trial, the parties stipulated on the fact of Mariado's death, the sufferings of his widow, and moral damages in connection thereto, in the amount of ₱150,000.00.<sup>15</sup>

Aside from adopting the testimonies of its witnesses during the hearing of accused-appellants' respective petitions for bail, the prosecution presented additional witnesses, namely:<sup>16</sup> [a] Dr. Isaias Delos Santos (not related to eyewitness John Delos Santos), Rural Health Physician of San Carlos City, on the autopsy reports of Sy and Mariado;<sup>17</sup> [b] Veronica Ravancho, manager of Equitable PCI Bank, San Carlos City Branch, on the bank's losses due to the robbery;<sup>18</sup> and [c] Dolores Sy, widow of Sy, on the actual damages and loss of earning capacity arising from her husband's death.<sup>19</sup>

Accused-appellant Ramos interposed the defense of alibi,<sup>20</sup> presenting his testimony,<sup>21</sup> along with the testimonies of his co-workers at the Lingayen Traffic Management Office, namely Corazon Genuino,<sup>22</sup> Roberto Villanueva,<sup>23</sup> and PO2 Eduardo Mabutas,<sup>24</sup> to substantiate such defense.

On the other hand, both Lamsen and Abulencia raised the defense of denial.<sup>25</sup> In support of their defense, they presented their respective testimonies<sup>26</sup> as well as the testimonies of Cayetano dela Vega,<sup>27</sup> Atty. Salvador Imus,<sup>28</sup> Vilma Soriano,<sup>29</sup> and P/Sr. Inspector Jimmy Agtarap.<sup>30</sup>

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<sup>12</sup> Id. at 456.

<sup>13</sup> Id. at 452.

<sup>14</sup> Id. at 452-456.

<sup>15</sup> Id. at 174.

<sup>16</sup> *Rollo*, p. 5.

<sup>17</sup> Records, pp. 172-173.

<sup>18</sup> Id. at 173.

<sup>19</sup> Id. at 174.

<sup>20</sup> Id.

<sup>21</sup> Id. at 177-179.

<sup>22</sup> Id. at 175.

<sup>23</sup> Id. at 175-176.

<sup>24</sup> Id. at 176-177.

<sup>25</sup> Id. at 174-175.

<sup>26</sup> Id. at 181-186.

<sup>27</sup> Id. at 179-180.

<sup>28</sup> Id. at 180.

<sup>29</sup> Id. at 181.

<sup>30</sup> Id. at 186-187.

### **The RTC Ruling**

In its Decision<sup>31</sup> dated May 7, 2008, the court *a quo* found accused-appellants guilty beyond reasonable doubt of the crime of robbery with homicide, sentencing them to suffer the penalty of *reclusion perpetua*, and holding them jointly and severally liable to pay: [a] the heirs of victim Fernando Sy ₱267,500.00 as actual damages, ₱4,968,320.10 as loss of earning capacity, ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱25,000.00 as temperate damages, and ₱50,000.00 as attorney's fees; [b] the heirs of victim Arturo Mariado the amount of ₱150,000.00 as stipulated damages; [c] Equitable PCI Bank the amount of ₱2,707,400.77 as the amount taken during the robbery; and [d] costs of suit.<sup>32</sup>

In convicting accused-appellants, the court *a quo* found that the crime of robbery with homicide was indeed committed<sup>33</sup> and that the collective testimonies of four (4) eyewitnesses who gave almost identical accounts clearly pointed to accused-appellants as the perpetrators of the crime.<sup>34</sup> Since the accused-appellants did not present any evidence which may ascribe improper motive for the eyewitnesses to perjure themselves, the court *a quo* gave full faith and credit to their respective testimonies.<sup>35</sup>

Further, the court *a quo* found that the manner by which accused-appellants committed the crime reveals a community of criminal design; thus, conspiracy exists and there is no need to determine the individual participation of each of them.<sup>36</sup>

Aggrieved, accused-appellants filed their respective notices of appeal,<sup>37</sup> mainly challenging the finding that accused-appellants perpetrated the crime.<sup>38</sup>

### **The CA Ruling**

In its Decision<sup>39</sup> dated February 28, 2011, the CA affirmed the court *a quo*'s judgment of conviction, with modifications reducing the award of actual damages in favor of Fernando Sy's heirs to ₱100,000.00 and deleting the awards of temperate damages and attorney's fees.<sup>40</sup>

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<sup>31</sup> Id. at 162-197. Penned by Judge Anthony O. Sison.

<sup>32</sup> Id. at 196-197.

<sup>33</sup> Id. at 187.

<sup>34</sup> Id. at 188-193.

<sup>35</sup> Id. at 194.

<sup>36</sup> Id. at 195.

<sup>37</sup> Id. at 42-45.

<sup>38</sup> *Rollo*, p. 12.

<sup>39</sup> Id. at 2-33.

<sup>40</sup> Id. at 33.

Although the CA conceded that there were inconsistencies in the eyewitnesses' testimonies, they jibe on material points and the slight clashing of statements neither affects the veracity nor the credibility of such testimonies as a whole. It even opined that such slight contradictions even serve to strengthen the eyewitnesses' testimonies.<sup>41</sup> As such, the eyewitnesses' testimonies positively asserting the active participation of Lamsen and Ramos to the crime were given credence.<sup>42</sup>

As for Abulencia, his participation in the commission of the crime may be proved by circumstantial evidence, considering the admission of Abulencia and Lamsen that they were together that fateful afternoon in the car owned and driven by Abulencia which was positively identified as the vehicle used in perpetuating the crime.<sup>43</sup>

Accused-appellants filed their respective motions for reconsideration<sup>44</sup> which were denied in the CA's Resolution<sup>45</sup> dated June 28, 2011. Hence, accused-appellants elevated the matter to the Court via their respective notices of appeal.<sup>46</sup>

### **The Issue**

The sole issue to be resolved is whether or not accused-appellants P/Supt. Artemio E. Lamsen, PO2 Anthony D. Abulencia, and SPO1 Wilfredo L. Ramos are guilty of the crime robbery with homicide.

### **Ruling of the Court**

The appeal is without merit.

#### ***A. The eyewitnesses positively identified accused-appellants Lamsen and Ramos as active participants to the crime.***

Well-settled is the rule that the trial court's assessment of the credibility of the witnesses is entitled to great weight, sometimes even with finality, considering that it was the trial judge who personally heard such witnesses, observed their demeanor, and the manner in which they testified during trial. Thus, where there is no showing that the trial judge overlooked or misinterpreted some material facts or that it gravely abused its discretion,

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<sup>41</sup> Id. at 20-26.

<sup>42</sup> Id. at 26.

<sup>43</sup> Id. at 26-27.

<sup>44</sup> Records, pp. 709-739 (Lamsen), 740-748 (Abulencia), 750-758 (Ramos).

<sup>45</sup> Id. at 790-795.

<sup>46</sup> Id. at 803-804 (Lamsen and Abulencia), 805-806 (Ramos).

then the Court shall not disturb the assessment of the facts and credibility of the witnesses by the trial court.<sup>47</sup>

Contrary to Lamsen's and Ramos' contentions in their respective briefs,<sup>48</sup> as early as the court *a quo*'s Order dated June 25, 2002<sup>49</sup> denying their respective petitions for bail, the trial judge already gave weight and credence to the testimonies of eyewitnesses Delos Santos, Reyes, and Mercado positively identifying Lamsen and Ramos as active participants to the crime as their testimonies were candid, straightforward, and categorical.<sup>50</sup> Moreover, the CA reiterated such findings when it decided on the matter on appeal,<sup>51</sup> explaining that while there were indeed inconsistencies in the eyewitnesses' testimonies, they are only with respect to minor, collateral or incidental matters which do not impair the weight of their unified testimony to the prominent facts.<sup>52</sup>

Considering the absence of either a mistake in the appreciation of material facts or grave abuse of discretion on the part of the trial judge who had the opportunity to directly observe the eyewitnesses and ascertain their credibility, there is no reason to disturb the court *a quo*'s findings, which the CA affirmed.

***B. There is enough circumstantial evidence to prove that accused-appellant Abulencia participated in the commission of the crime.***

Circumstantial evidence is defined as that evidence that indirectly proves a fact in issue through an inference which the fact-finder draws from the evidence established.<sup>53</sup> It is sufficient for conviction if: [a] there is more than one (1) 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>54</sup>

To uphold a conviction based on circumstantial evidence, it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of the others, as the guilty person. The test to determine whether or not the circumstantial evidence on record is sufficient

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<sup>47</sup> *People v. Bautista*, G.R. No. 191266, June 6, 2011, 650 SCRA 689, 700, citing *People v. Gabrino*, G.R. No. 189981, March 9, 2011, 645 SCRA 187, 193-195.

<sup>48</sup> *Rollo*, pp. 57-107 (Lamsen), 172-200 (Ramos).

<sup>49</sup> Records, p. 450-456.

<sup>50</sup> *Id.* at 452.

<sup>51</sup> *Rollo*, pp. 20-26.

<sup>52</sup> *Id.*

<sup>53</sup> *People v. Matito*, G.R. No. 144405, February 24, 2004, 423 SCRA 617, 626.

<sup>54</sup> Section 4, Rule 133, Rules of Court.

to convict the accused is that the series of circumstances duly proved must be consistent with each other and that each and every circumstance must be consistent with the accused's guilt and inconsistent with the accused's innocence.<sup>55</sup>

Contrary to Abulencia's contention in his brief,<sup>56</sup> there are numerous circumstances sufficient to prove his participation in the crime, *to wit*: [a] it was established that Lamsen was an active participant to the crime; [b] Lamsen and Abulencia both admitted they were together in the vicinity of the crime scene when it happened;<sup>57</sup> [c] his car with plate number PEW 781 was subjected to a flash alarm in connection with the crime;<sup>58</sup> [d] Abulencia admitted he was driving his car when the flash alarm was raised;<sup>59</sup> and [e] the dents and bluish green streaks of paint found on Sy's jeep matched the dents and scratches found on Abulencia's car.<sup>60</sup>

The combination of the aforementioned circumstances forms an unbroken chain which irrefragably points to Abulencia as among the perpetrators of the crime.

***C. The manner by which the crime was perpetrated shows conspiracy among the accused-appellants.***

It is settled that direct proof is not essential to establish conspiracy as it may be inferred from the collective acts of the accused before, during and after the commission of the crime. It can be presumed from and proven by acts of the accused themselves when the said acts point to a joint purpose, design, concerted action, and community of interests.<sup>61</sup>

As correctly found by the court *a quo*<sup>62</sup> and affirmed by the CA,<sup>63</sup> the events surrounding the commission of the crime would readily establish conspiracy among the accused-appellants in committing robbery with homicide. Thus, they were correctly convicted of the aforementioned crime.<sup>64</sup>

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<sup>55</sup> *People v. Lopez*, G.R. No. 176354, August 3, 2010, 676 SCRA 485, 496, citing *Aoas v. People*, G.R. No. 155339, March 3, 2008, 547 SCRA 311, 318.

<sup>56</sup> *Rollo*, pp. 125-171.

<sup>57</sup> *Records*, pp. 181-186.

<sup>58</sup> *Id.* at 164.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 165-167.

<sup>61</sup> *People v. Buntag*, G.R. No. 123070, April 14, 2004, 427 SCRA 180, 189.

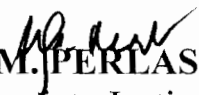
<sup>62</sup> *Records*, p. 195.

<sup>63</sup> *Rollo*, p. 31.


<sup>64</sup> *Crisostomo v. People*, G.R. No. 171526, September 1, 2010, 629 SCRA 590, 602-603.

**WHEREFORE**, the instant appeal is **DISMISSED**. Accordingly, the February 28, 2011 Decision and June 28, 2011 Resolution of the Court of Appeals in CA-G.R. CR-HC No. 03468 finding accused-appellants P/Supt. Artemio E. Lamsen, PO2 Anthony D. Abulencia, and SPO1 Wilfredo L. Ramos **GUILTY BEYOND REASONABLE DOUBT** of the crime of robbery with homicide are hereby **AFFIRMED** *in toto*. Accused-appellants are sentenced to suffer the penalty of *reclusion perpetua*, and to jointly and severally pay: [a] the heirs of victim Fernando Sy the amount of ₱100,000.00 as actual damages, ₱4,968,320.10 as loss of earning capacity, ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages; [b] the heirs of victim Arturo Mariado the amount of ₱150,000.00 as stipulated damages; [c] Equitable PCI Bank the amount of ₱2,707,400.77 as the amount taken during the robbery; and [d] costs of suit.

**SO ORDERED.**


  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice



**ATTESTATION**

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

Chief Justice