



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

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

G.R. No. 198338

Present:

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

Promulgated:

NOV 13 2013

Handwritten signature: HON. CARLO G. DEL CASTILLO

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RESOLUTION

PERLAS-BERNABE, J.:

The Court hereby resolves the Motions for Reconsideration¹ filed by accused-appellants SPO1 Wilfredo L. Ramos and PO2 Anthony D. Abulencia and the Motion for New Trial Due to Newly Discovered Evidence and for Reconsideration of the February 20, 2013 Resolution² filed by accused-appellant P/Supt. Artemio E. Lamsen (Motions). The foregoing Motions assail the Court's Resolution³ dated February 20, 2013, which upheld the conviction of accused-appellants of the crime of robbery with homicide and sentenced them 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, and ₱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.⁴

In their respective Motions, accused-appellants state, *inter alia*, that they obtained affidavits from prosecution witnesses Arnel F. Reyes⁵ (Reyes)

¹ Rollo, pp. 135-139 (dated April 1, 2013) and pp. 166-178 (dated April 5, 2013), respectively.

² Id. at 141-152 (dated April 8, 2013).

³ Id. at 126-134. See *People v. Lamsen*, G.R. No. 198338, February 20, 2013, 691 SCRA 498.

⁴ Id. at 133. See *People v. Lamsen*, id. at 509.

⁵ Id. at 154-157.

and Domingo Marcelo⁶ (Marcelo) whose testimonies implicated accused-appellants of the crime of robbery with homicide. In their affidavits, the aforesaid prosecution witnesses claim that they made their testimonies under duress as they were forced by elements of the Philippine National Police, the National Bureau of Investigation, and the former mayor of San Carlos City, Pangasinan, Julian Resuello, to point at accused-appellants as perpetrators of the aforesaid crime. They equally claim that they did not actually see who committed the crime and that they only testified against accused-appellants out of fear of their own lives.⁷

The Court is not convinced.

Reyes' and Marcelo's affidavits partake of a recantation which is aimed to renounce their earlier testimonies and withdraw them formally and publicly.⁸ Verily, recantations are viewed with suspicion and reservation. The Court looks with disfavor upon retractions of testimonies previously given in court. It is settled that an affidavit of desistance made by a witness after conviction of the accused is not reliable, and deserves only scant attention. The rationale for the rule is obvious: affidavits of retraction can easily be secured from witnesses, usually through intimidation or for a monetary consideration.⁹ Recanted testimony is exceedingly unreliable.¹⁰ There is always the probability that it will later be repudiated.¹¹ Only when there exist special circumstances in the case which when coupled with the retraction raise doubts as to the truth of the testimony or statement given, can retractions be considered and upheld.¹² As aptly pointed out by the Court in *Firaza v. People*,¹³ viz.:

Indeed, it is a dangerous rule to set aside a testimony which has been solemnly taken before a court of justice in an open and free trial and under conditions precisely sought to discourage and forestall falsehood simply because one of the witnesses who had given the testimony later on changed his mind. Such a rule will make solemn trials a mockery and place the investigation of the truth at the mercy of unscrupulous witnesses.
x x x.

This Court has always looked with disfavor upon retraction of testimonies previously given in court. The asserted motives for the repudiation are commonly held suspect, and the veracity of the statements made in the affidavit of repudiation are frequently and deservedly subject to serious doubt.

⁶ Id. at 158-163.

⁷ Id. at 155-156 and 158-159.

⁸ See *People v. Ballabare*, 332 Phil. 384, 396 (1996).

⁹ *Regidor, Jr. v. People*, G.R. Nos. 166086-92, February 13, 2009, 579 SCRA 244, 268, citing *Balderama v. People*, G.R. Nos. 147578-85 and G.R. Nos. 147598-605, January 28, 2008, 542 SCRA 423, 432-433.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ 547 Phil. 573 (2007).

x x x. Especially when the affidavit of retraction is executed by a prosecution witness after the judgment of conviction has already been rendered, “it is too late in the day for his recantation without portraying himself as a liar.” At most, the retraction is an afterthought which should not be given probative value.

Mere retraction by a prosecution witness does not necessarily vitiate the original testimony if credible. The rule is settled that in cases where previous testimony is retracted and a subsequent different, if not contrary, testimony is made by the same witness, the test to decide which testimony to believe is one of comparison coupled with the application of the general rules of evidence. **A testimony solemnly given in court should not be set aside and disregarded lightly, and before this can be done, both the previous testimony and the subsequent one should be carefully compared and juxtaposed, the circumstances under which each was made, carefully and keenly scrutinized, and the reasons or motives for the change, discriminately analyzed.** The unreliable character of the affidavit of recantation executed by a complaining witness is also shown by the incredulity of the fact that after going through the burdensome process of reporting to and/or having the accused arrested by the law enforcers, executing a criminal complaint-affidavit against the accused, attending trial and testifying against the accused, the said complaining witness would later on declare that all the foregoing is actually a farce and the truth is now what he says it to be in his affidavit of recantation. And in situations, like the instant case, **where testimony is recanted by an affidavit subsequently executed by the recanting witness, we are properly guided by the well-settled rules that an affidavit is hearsay unless the affiant is presented on the witness stand and that affidavits taken ex-parte are generally considered inferior to the testimony given in open court.**¹⁴ (Emphases and underscoring supplied)

After a careful scrutiny of the records, the Court sees no sufficient reason to disturb its Resolution dated February 20, 2013. In the case at bar, the trial court gave great weight and credence to the collective statements of the four (4) prosecution witnesses, including those of Reyes and Marcelo, as their testimonies were candid, straightforward, and categorical. It is likewise worthy to mention that their respective testimonies were deemed credible as they withstood extensive cross-examination, and possibly, even re-direct and re-cross examinations. Absent any special circumstances attendant to this case, Reyes’ and Marcelo’s recantations fail to cast doubt to the truth and veracity of their earlier testimonies, and to the collective statements of all of the prosecution witnesses as a whole.

Moreover, it should be noted that Reyes and Marcelo only executed their respective affidavits of recantation after the Court issued its Resolution dated February 20, 2013 upholding accused-appellants’ conviction of the crime of robbery with homicide, or more than a decade after they gave their testimonies in open court. These affidavits should be seen as nothing but a last-minute attempt to save accused-appellants from punishment.¹⁵

¹⁴ Id. at 584-586. (Citation omitted)

¹⁵ See id. at 586. (Citation omitted)

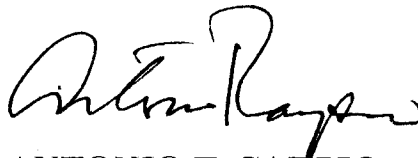
Finally, the Court need not discuss the other issues raised in the accused-appellants' Motions as they were already exhaustively passed upon in its Resolution dated February 20, 2013.

WHEREFORE, the Court hereby **DENIES** with **FINALITY** the Motions for Reconsideration filed by accused-appellants SPO1 Wilfredo L. Ramos and PO2 Anthony D. Abulencia and the Motion for New Trial Due to Newly Discovered Evidence and for Reconsideration of the February 20, 2013 Resolution filed by accused-appellant P/Supt. Artemio E. Lamsen. Accordingly, the Court's Resolution dated February 20, 2013 is **AFFIRMED**.


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