



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**JAYME LEDESMA** \* @ Jim,  
*Petitioner,*

**G.R. No. 238954**

Present:

- versus -

PERLAS-BERNABE, J.,  
 Chairperson,  
 HERNANDO,  
 INTING,  
 DELOS SANTOS, and  
 BALTAZAR-PADILLA, \*\* JJ.

**PEOPLE OF THE**  
**PHILIPPINES,**  
*Respondent.*

Promulgated:

**SEP 14 2020**

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**DECISION**

**DELOS SANTOS, J.:**

**The Case**

This Petition for Review under Rule 45 of the Rules of Court assails the Decision<sup>1</sup> dated September 28, 2017 and the Resolution<sup>2</sup> dated March 14, 2018 of the Court of Appeals (CA), Cebu City in CA-G.R. CEB CR. No. 02608 which affirmed the Regional Trial Court (RTC) of Talibon, Bohol, Branch 52's verdict of conviction against petitioner Jayme Ledesma @ Jim (Ledesma) for Robbery with Physical Injuries in Crim. Case No. 12-2707.

\* Also referred to as "Jaime Ledesma" in some parts of the *rollo*.

\*\* On leave.

<sup>1</sup> Penned by Associate Justice Gabriel T. Ingles, with Associate Justices Marilyn B. Lagura-Yap and Geraldine C. Fiel-Macaraig, concurring; *rollo*, pp. 79-90.

<sup>2</sup> Id. at 100-101-A.

### The Proceedings Before the Trial Court

Ledesma was charged with Robbery with Physical Injuries under the following Information:

That on or about the 27th day of November 2011, in the Municipality of Ubay, [P]rovince of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with an unlicensed firearm, with intent to gain, and by means of violence against or intimidation of persons, did then and there willfully, unlawfully, and feloniously enter the house of live-in partners FAUSTO BOYLES y ANGCO and EMILIANA PUREZA y ROSALES, and while thus inside the house, the above accused attacked, assaulted, shot and wounded Fausto Boyles y Angco and Emiliana Pureza y Rosales, with the use of a firearm which the said accused had then provided himself for the purpose, thereby inflicting upon the person of said Fausto Boyles y Angco “ruptured eyeball-left secondary to gunshot wound”, which required “evisceration, OS”, thereby resulting loss of an eye and permanent deformity, and Emiliana Pureza y Rosales “multiple gunshot wounds”, to wit:

“1. *Point of Entry: 0.5 x 0.5 centimeter anterior neck, lateral right; Point of Exit: None*

2. *Point of Entry: 0.5 x 0.5 centimeter deltoid, anterior right; Point of Exit: Deltoid posterior left*

3. *Point of Entry: 0.5 x 0.5 centimeter anterior axillary line 2nd ICS; Point of Exit: Deltoid posterior left*

4. *Point of Entry: suprasternal notch; Point of Exit: Infrascapular area, left,”* which injuries healed or required medical attendance or incapacitated her for thirty (30) days, and then and there, the aforesaid accused, who, with intent of gain, willfully, unlawfully and feloniously, took, stole and carried away their plastic jar and wallet containing money in the amount of TWENTY FIVE THOUSAND ([P]25,000.00), Philippine Currency, against their will and consent; to the damage and prejudice of Fausto Boyles and Emiliana Pureza in the said amount and of the People of the Philippines.

That the commission of the crime was attended by the aggravating circumstance of (sic) the crime was committed in the dwelling of the offended party and used of unlicensed firearm in the commission of the crime.

Acts committed contrary to the provisions of Article 293 in relation to 294 (3) of the Revised Penal Code, as amended and with the aggravating circumstance under Article 14 (3) of the same Code and Section 1 of [Republic Act No.] 8294.<sup>3</sup>

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<sup>3</sup> Id. at 80.

### ***Version of the Prosecution***

Private complainants Fausto Boyles (Fausto) and Emeliana<sup>4</sup> Pureza (Emeliana) are live-in partners who own a *sari-sari* store located at *Purok 4*, Calanggaman, Ubay, Bohol. Fausto knew Ledesma as he is a resident of an adjacent *barangay* since the latter was in elementary years.<sup>5</sup>

On November 27, 2011, Fausto and Emeliana were at their store. When Fausto was about to close their store at 8:00 in the evening of that day, Ledesma suddenly appeared and held the hand of Fausto from the outside. Ledesma's face was very apparent because he was not covering his face and the store was well-lit both inside and outside. Ledesma proceeded inside the store holding a gun and shot Fausto hitting the latter in his left eye. Not satisfied, Ledesma hit the head of Fausto using the gun's butt causing Fausto to fall to the floor.<sup>6</sup>

Ledesma announced robbery. Emeliana pleaded him to spare their lives. But just as when she was about to reach for the money from the cabinet, Ledesma shot her twice. Despite being shot twice, Emeliana was still able to get the money (₱25,000.00) and thereafter gave the same to Ledesma. Unexpectedly, Ledesma shot her again, this time causing her to fall to the ground. Fearful of being shot to death by Ledesma, Emeliana feigned dead.

Believing both Fausto and Emeliana were unconscious, Ledesma took several goods from the store. However, upon noticing Emeliana staring at him, whom he thought was already dead, he shot her for the fourth time. Thereafter, he immediately left riding his motorcycle.<sup>7</sup>

Both Fausto and Emeliana were brought to the hospital for immediate medication by their neighbors who heard the gunshots.<sup>8</sup> Fausto lost the use of his left eye and was confined for three weeks while Emeliana suffered four gunshot wounds and was confined for more than a month.<sup>9</sup>

### ***Version of the Defense***

Ledesma owns a motorcycle and worked as a *habal-habal* driver. He admitted that he knows Fausto and Emeliana and that the two owns a *sari-sari* store. He claims, however, that from around 7:00 in the evening of

<sup>4</sup> Also referred to as "Emiliana" in some parts of the *rollo*.

<sup>5</sup> *Rollo*, p. 33.

<sup>6</sup> *Id.* at 81.

<sup>7</sup> *Id.* at 82.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 34.

November 27, 2011 until 12:00 midnight, he was having a drinking spree with his friends, Florencio Pesay and Rafael Quilaton (Rafael), at the store of Marissa Pesay (Marissa) which was more or less just a kilometer away from Fausto and Emeliana's store. The fiesta of the place was forthcoming at that time.<sup>10</sup>

Ledesma's friend, Rafael, corroborated his alibi. Rafael testified that on November 27, 2011, he had a drinking spree with his friend Ledesma and some other people at the store of Marissa which, according to him was less than a kilometer away from Fausto and Emeliana's store. The drinking spree started from 7:00 in the evening and lasted until 1:00 in the morning of the following day.

### **The Trial Court's Ruling**

In a Decision<sup>11</sup> dated April 16, 2014, the RTC found Ledesma guilty beyond reasonable doubt of Robbery with Physical Injuries, *viz.*:

WHEREFORE, considering the foregoing, this court hereby finds accused Jaime or Jim Ledesma GUILTY beyond reasonable doubt for the crime of Robbery defined under Article 293 of the Revised Penal Code, in relation to Article 294 (3) of the same Code. In accordance with the penalty set forth under said provision of law, the court hereby sentences the accused to suffer the indeterminate sentence of six (6) years and one (1) day of [*prision mayor*] as minimum to fifteen (15) years of [*reclusion temporal*] as maximum.

Accused, by way of civil liability is likewise directed to give back the money taken in the sum Tweny Five Thousand Pesos (₱25,000.00), Philippine Currency to the private complainants.

As it appears on record that accused is now under detention at the BJMP in Ubay, he shall be credited the full term of his preventive detention subject to an evaluation by the BJMP Jail Warden thereof of his demeanor while detained thereat.

SO ORDERED.<sup>12</sup>

The RTC ruled that Ledesma's offer of denial and alibi as defenses are weak and cannot undermine the positive identification made of him by Fausto and Emeliana. Even if it were true that Ledesma was about a kilometer away having a drinking spree, still, Ledesma failed to show the impossibility of him going to Fausto and Emeliana's store at the time the robbery took place. More, he had a motorcycle which gave him ease in

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<sup>10</sup> Id. at 40-41.

<sup>11</sup> Penned by Acting Presiding Judge Marivic Trabajo Daray; id. at 31-45.

<sup>12</sup> Id. at 44-45.

travelling around.

### **The Proceedings Before the CA**

On appeal, Ledesma faulted the RTC for rendering a verdict of conviction against him despite the alleged failure of the prosecution to prove his identity as the culprit of the crime charged. He also argued that his alibi was materially corroborated.<sup>13</sup>

The Office of the Solicitor General defended the verdict of conviction. It maintained that all the elements of the crime charged are present in the case. Too, Ledesma was categorically identified by Fausto and Emeliana as the perpetrator.<sup>14</sup>

### **The CA's Ruling**

The CA affirmed with modification the RTC Decision, *viz.*:

WHEREFORE, the Decision dated April 16, 2014 of the Regional Trial Court, Branch 52, Talibon, Bohol is AFFIRMED. Consistent with the recent jurisprudence, the Court orders Jayme Ledesma a.k.a. Jim to pay Fausto Boyles and Emeliana Pureza the amount of P25,000.00 as civil indemnity, P25,000.00 as moral damages, and P25,000.00 as exemplary damages, all with interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.

SO ORDERED.<sup>15</sup>

The CA found that the prosecution was able to establish the presence of all the elements of the crime of Robbery with Physical Injuries. Fausto and Emeliana's testimonies were straightforward, unflawed by significant inconsistency, and unshaken by rigid cross-examination. They were not shown to have been impelled by ill motive to implicate and testify falsely against Ledesma. Likewise, the Medico-Legal Certificates of Fausto and Emeliana affirm the truth of their testimonies.

Lastly, the CA held that the aggravating circumstance of dwelling cannot be appreciated because of the prosecution's failure to prove that the *sari-sari* store was also the dwelling place of Fausto and Emeliana. Emeliana herself testified that their house is 38.80 meters away from their store.<sup>16</sup>

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<sup>13</sup> Id. at 48-63.

<sup>14</sup> Id. at 68, 73.

<sup>15</sup> Id. at 90.

<sup>16</sup> Id. at 89.

Ledesma moved for reconsideration, but the same was denied.<sup>17</sup>

### **The Present Petition**

Ledesma now seeks affirmative relief from this Court and pleads anew for his acquittal. He challenges the sufficiency of Fausto and Emeliana's testimonies identifying him as the perpetrator of the crime charged. He likewise contends that his defense of alibi was materially corroborated.

### **The Issue**

Did the CA err in affirming Ledesma's conviction for Robbery with Physical Injuries?

### **The Court's Ruling**

The Court resolves to deny the instant petition and affirm the CA's Decision dated September 28, 2017 and the Resolution dated March 14, 2018, with modification as to the award of damages.

For an accused to be convicted of Robbery with Physical Injuries, the prosecution must prove the following elements: (a) the taking of personal property; (b) the property taken belongs to another; (c) the taking is characterized by intent to gain or *animus lucrandi*; (d) the taking is with violence or intimidation against the person; and (e) on the occasion or by reason of the robbery, any of the physical injuries penalized in subdivisions 1 or 2, Article 263 of the Revised Penal Code shall have been inflicted.

As a general rule, the Court's jurisdiction in a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is limited to the review of pure questions of law. Otherwise stated, a Rule 45 petition does not allow the review of questions of fact because the Court is not a trier of facts.<sup>18</sup>

In the present case, Ledesma argues that his identity as the culprit was not proved beyond reasonable doubt. He essentially assails the credibility of witnesses, Fausto and Emeliana, as to their identification of him as the perpetrator of the crime, which essentially is a question of fact. It is settled that if the question raised requires a re-evaluation of the credibility of witnesses, the issue is factual, which unfortunately is beyond the scope of a Rule 45 petition. The Court, likewise, do not find the case to fall within any

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<sup>17</sup> Id. at 101-A.

<sup>18</sup> *Ablaza v. People*, G.R. No. 217722, September 26, 2018, 881 SCRA 94.

of the exceptions to the rule.<sup>19</sup>

At any rate, it has already been settled that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect. This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth. Wanting a showing that the trial court overlooked facts or circumstances of weight and substance that would affect the result of the case, this Court will not overturn the said trial court's factual findings. This is more so when the findings of the trial court are sustained by the CA.<sup>20</sup>

Here, both the RTC and the CA found the testimonies of Fausto and Emeliana identifying Ledesma as the perpetrator of the crime, to be straightforward, unflawed by significant inconsistency, and unshaken by rigid cross-examination. Too, the CA found that there was no shred of evidence to indicate that Fausto and Emeliana were impelled by improper motives to testify falsely against Ledesma.

Consequently, the Court will not depart from the findings of the RTC as affirmed by the CA on the matter of Fausto and Emeliana's credibility as witnesses and their testimony identifying Ledesma as the perpetrator of the crime.<sup>21</sup>

In a desperate attempt to exculpate himself, Ledesma further argues that his defense of alibi was materially corroborated by his friend Rafael. He claims that at the time the crime took place at the *sari-sari* store of Fausto and Emeliana, he was at the store of Marissa which is just about a kilometer away from Fausto and Emeliana's store, having a drinking spree with his friends, including Rafael who corroborated his claims.

The Court is not persuaded.

Alibi is viewed with suspicion and received with caution because it can easily be fabricated. For alibi to prosper, respondent must prove not only that he was at some other place when the crime was committed, but that it was physically impossible for him to be at the *locus criminis* at the time of its commission.<sup>22</sup>

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<sup>19</sup> Id.

<sup>20</sup> *People v. Dayaday*, 803 Phil. 370-371 (2017).

<sup>21</sup> *Ablaza v. People*, *supra*.

<sup>22</sup> *People v. Corpuz*, 714 Phil. 337, 346 (2013).

Here, Ledesma failed to establish the physical impossibility of him coming to Fausto and Emeliana's *sari-sari* store in time to execute the robbery and on the occasion or by reason thereof, inflict physical injuries upon Fausto and Emeliana, especially that Marissa's store, where he was allegedly present at, was just a kilometer away from Fausto and Emeliana's store and given also that Ledesma owns a motorcycle which made it easier for him to come around.

Ledesma's alibi, being corroborated mainly by his friend Rafael, is all the more taken by this Court with extreme suspicion. The Court have consistently assigned less probative weight to a defense of alibi when it is corroborated by friends and relatives since we have established in jurisprudence that, in order for corroboration to be credible, the same must be offered preferably by disinterested witnesses.<sup>23</sup> Clearly, due to his friendship with Ledesma, Rafael cannot be considered as a disinterested witness.

It is settled that positive identification, where categorical and consistent, and without any showing of ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi since the latter can easily be fabricated and is inherently unreliable. It is likewise settled that where there is nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit. In the instant case, no allegation was made nor proven to show that Fausto and Emeliana had any ill motive to falsely testify against Ledesma.<sup>24</sup>

Consequently, as between Ledesma's defense of denial and alibi which is inherently weak, and Fausto and Emeliana's positive identification of Ledesma as the perpetrator of the crime, the latter prevails.

As correctly found by the CA, all the requirements to sustain a conviction for the crime of Robbery with Physical Injuries are present in the instant case, to wit:

- a. Ledesma took the money in the amount of ₱25,000.00;
- b. The ₱25,000.00 taken by Ledesma belonged to Fausto and Emeliana;
- c. Ledesma is presumed to have the intent to gain when he unlawfully took the ₱25,000.00 from Fausto and Emeliana;

<sup>23</sup> *People v. Aquino*, 724 Phil. 739, 755 (2014).

<sup>24</sup> *Id.*; see also *People v. Patalin, Jr.*, 370 Phil. 200, 221 (1999).

- d. Ledesma's unlawful act of taking Fausto and Emeliana's money was attended by intimidation and violence by his act of pointing his gun to Fausto and Emeliana and shooting at them; and
- e. As a consequence of Ledesma's act of shooting at Fausto and Emeliana, Fausto lost the use of his left eye and was confined for three weeks while Emeliana suffered four gunshot wounds and was confined for more than a month making her incapacitated to tend their *sari-sari* store. All these were evidenced by the Medico-Legal Certificates of Fausto and Emeliana.

Hence, the CA committed no reversible error when it affirmed Ledesma's conviction for Robbery with Physical Injuries.

As to the award of damages, the RTC, as affirmed by the CA, correctly ordered the restitution of the cash taken from Fausto and Emeliana in the amount of ₱25,000.00. Further, the Court finds that since both Fausto and Emeliana have suffered serious physical injuries as a result of the crime, they should each be properly awarded civil indemnity, moral, and exemplary damages. In cases of Robbery with Physical Injuries, the amount of damages shall be dependent on the nature/severity of the wounds sustained, whether fatal or non-fatal.<sup>25</sup> Here, both Fausto and Emeliana's wounds do not appear to be fatal. Hence, they shall each be awarded ₱25,000.00 as civil indemnity, ₱25,000.00 as moral damages, and ₱25,000.00 as exemplary damages, in line with recent jurisprudence.

There is no doubt that Fausto and Emeliana incurred expenses for their medication and hospitalization. They, however, failed to prove the amount of their expenses with certainty. Nonetheless, it being undeniable that Fausto and Emeliana incurred medication and hospitalization expenses, the Court finds it proper to award them temperate damages in the amount of ₱50,000.00 each.

The aggravating circumstance of dwelling cannot be appreciated because it was admitted by Emeliana that their store was not actually their dwelling place. She testified that their house was located 38.80 meters away from their store.

The aggravating circumstance of the use of unlicensed firearm cannot, likewise, be appreciated because the prosecution failed to present in court or offer as evidence against Ledesma the alleged unlicensed firearm. Too, the prosecution failed to establish that Ledesma did not have the corresponding

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<sup>25</sup> *People v. Jugueta*, 783 Phil. 806 (2016).

license or permit to possess a firearm.<sup>26</sup>

**WHEREFORE**, the instant petition is **DENIED**. The Decision dated September 28, 2017 and the Resolution dated March 14, 2018 of the Court of Appeals, Cebu City in CA-G.R. CEB CR. No. 02608 finding petitioner Jayme Ledesma @ Jim guilty beyond reasonable doubt of the crime of Robbery with Physical Injuries are **AFFIRMED** with **MODIFICATION** in that Jayme Ledesma @ Jim is **ORDERED** to: (1) pay Fausto Boyles and Emeliana Pureza ₱25,000.00 as restitution for the cash taken from them; and (2) pay Fausto Boyles and Emeliana Pureza each, ₱25,000.00 as civil indemnity, ₱25,000.00 as moral damages, ₱25,000.00 as exemplary damages, and ₱50,000.00 as temperate damages. Interest at the rate of 6% per annum is imposed on all damages awarded from the date of finality of this Decision until full payment.

**SO ORDERED.**

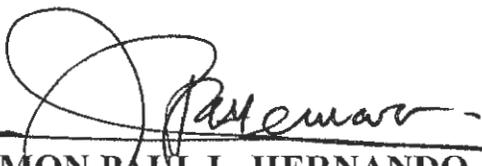
  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

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<sup>26</sup> See *People v. Castillo*, 382 Phil. 499, 507-508 (2000).

**WE CONCUR:**

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

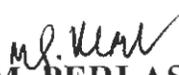
  
**RAMON PAUL L. HERNANDO**  
 Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

(On Leave)  
**PRISCILLA J. BALTAZAR-PADILLA**  
 Associate Justice

**ATTESTATION**

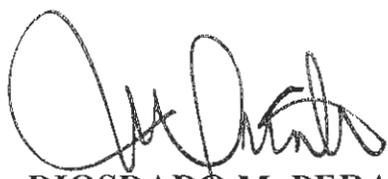
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ESTELA M. PERLAS-BERNABE**  
 Senior 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 Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**CERTIFIED TRUE COPY**  
  
**ATTY. MA. CONSOLACION G. CRUZADA**  
 Deputy Division Clerk of Court  
 OCC-Second Division

  
**DIOSDADO M. PERALTA**  
 Chief Justice