

Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

**PEOPLE OF THE PHILIPPINES**  
*Plaintiff-Appellee,*

**G.R. No. 245544**

*-versus-*

Present:

EDMUNDO GALLARDO and  
MARLON NATIVIDAD,  
*Accused-at-large.*

LEONEN, J. *Chairperson,*  
LAZARO-JAVIER,  
LOPEZ, M.  
LOPEZ, J. and  
KHO, JR., *JJ.*

Promulgated:

**RUSSEL BORINGOT,**  
*Accused-Appellant.*

**March 21, 2022**  
*Mis D C Batt*

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**D E C I S I O N**

**LOPEZ, J. J.:**

Before this Court is an Appeal<sup>1</sup> assailing the Decision<sup>2</sup> dated August 10, 2018 of the Court of Appeals (CA) in CA-GR. CR-HC No. 09569, which affirmed the Decision<sup>3</sup> dated October 25, 2016 of the Regional Trial Court (RTC) of Calamba City, Laguna, Branch 36, convicting accused-appellant Russel Boringot (*Russel*) of the special complex crime of Robbery with Homicide, penalized under Article 294 (1) of the Revised Penal Code (RPC), and sentencing him to suffer the penalty of *reclusion perpetua*, and to pay damages to the victim's heirs.

*Facts*

In an Information dated May 5, 2008, Russel was indicted for the crime of Robbery with Homicide, the accusatory portions of which state:

<sup>1</sup> CA Rollo, p. 202.

<sup>2</sup> *Id.* at 166-182. Penned by Associate Justice Franchito N. Diamante (now deceased), with Associate Justices Edwin D. Sorongon and Maria Elisa Sempio Diy, concurring.

<sup>3</sup> Records, pp. 295-310. Penned by Presiding Judge Glenda R. Mendoza-Ramos.

That on or about 19 October 2007 at Ceris III, Canlubang Calamba City, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating, with intent to gain, by means of violence against and intimidation of persons, did then and there willfully, unlawfully and feloniously take and steal the valuables of the victims Ronald Catindig, Raymond Hernandez, Christian Catindig and Joel Tenorio against the consent of the said victims and on the occasion and by reason of the robbery, with intent to kill, did then and there, willfully, unlawfully and feloniously stab to death Sheryl Catindig to the damage and prejudice of the said victims and heirs of the said Sheryl Catindig.

Contrary to law.

Calamba City, Laguna. 5 May 2008.<sup>4</sup>

Sometime in May 2008, Russel was arrested.<sup>5</sup> When arraigned, he pleaded “*not guilty*” to the charge.<sup>6</sup> After the pre-trial was concluded, trial on the merits then ensued.<sup>7</sup>

### *Version of the Prosecution*

The prosecution presented Ronald Catindig, Ponciana Catindig, Christian Catindig, Bealt Cesar Catindig, Raymond Hernandez, Michael Hernandez, and Dr. Roy Camarillo, whose combined testimonies as culled from the Brief for the Appellee,<sup>8</sup> filed by the Office of the Solicitor General (*OSG*), runs in this wise:

On October 19, 2007, between 6:40 and 7:00 o'clock in the evening, Ronald Catindig (Ronald) with his friends, namely, Joel Tenorio (Joel), Raymond Hernandez (Raymond), Michael Hernandez (Michael) and Christian Catindig (Christian), fetched his sister Sheryl Catindig from work and walked back together along the streets of Ceris III, Barangay Canlubang, Calamba City.

On their way home, Christian observed that there were five men following them. Despite the attempt to cover their faces by pulling their shirts up to their noses, he and Ronald were able to identify the five individuals as Edmund Gallardo (Edmund), Marlon Natividad (Marlon), Ronald Oña (Oña), Ruel Boringot (Ruel), and Russel.

While they were in the middle of the street, Edmund ran ahead of the group and prodded them with *sumpak*, an improvised gun, declaring “*mga pare walang kihilos may dala akong sumpak.*” Thereafter, Russel held Christian up and told him to bring out his things, while the rest were standing behind.

Shortly after, Marlon kicked Ronald from behind and poked a knife on his neck forcing him to bring his mobile phone out. Ronald complied and handed his phone. Then a tricycle passed by, which prompted Christian to shout for help and told Sheryl to run. But Sheryl did not budge, out of extreme fear, and the tricycle sped off after Edmund fired his *sumpak*.

Meanwhile, Ronald managed to free himself from Marlon when he saw Russel stabbing Christian. He tried to help Christian and was about to hit Russel but he was also stabbed by the Russel on his chest then swiftly shifted to Raymond.

<sup>4</sup> *Id.* at 1-2.

<sup>5</sup> *Id.* at 296.

<sup>6</sup> *Id.* at 61-62.

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

<sup>8</sup> *CA Rollo*, pp. 133-147.

While Ronald went back looking for his sister Sheryl, he saw Edmund stabbing Joel's left arm after the latter handed his phone. Edmund went after Raymond then to Sheryl. He witnessed how Edmund repeatedly stabbed Sheryl after she gave her phone. He tried to save Sheryl but as soon as he drew near, he too was stabbed by Edmund until he fell on his knees.

After Ronald fell down, Russel and his group left off. Another tricycle passed by and they asked the driver to bring them to the nearest hospital. Upon arrival at the San Jose Hospital and Trauma Center of Calamba, they were treated but Sheryl died. Ronald stayed at the same hospital for one month and one week.

Ponciana Catindig, Ronald and Sheryl's mother, said that their family incurred a total of ₱78,679.00 for Sheryl's hospital and funeral expenses and ₱141,222.00 for Ronald's hospitalization, all backed with receipts.

To prove the fact of Sheryl's death, Dr. Roy Camarillo examined the cadaver, issued Medico Legal Certificate, and explained that the cause of death was hemorrhage secondary to three stab wounds in her right face and chest.<sup>9</sup>

### *Version of the Defense*

In contrast, the defense presented Russel, Leony Boringot, Ruel Boringot, Ronaldo Oña, and Adriano Perez whose combined testimonies, as gathered from the Brief for the Accused-Appellant,<sup>10</sup> filed by the Public Attorney's Office (PAO), tended to establish the following:

On October 19, 2007, Russel was in the (*sic*) Barangay Parian, Calamba City, visiting his younger sister. When he returned home at around 7:00 o'clock in the evening, Russel rested and slept in his house. He had no clue as to why he was accused of Robbery with Homicide. It was when the policemen came to his house on October 21, 2007, that he was informed of the accusation against him. He did not even know the private complainants Joel, Ronald, Raymond, Christian and the deceased Sheryl. After the October 21, 2007 police visit, Russel did not leave his house. He was thereafter arrested on May 27, 2008.

ADRIANO PEREZ (Perez) testified that he saw Russel in Barangay Parian at around 6:00 o'clock to 7:00 o'clock p.m. on October 17, 2007. The sister of the accused LEONY BORINGOT (Leony), also testified that his brother, Russel and co-accused Ronald Oña, visited her in her house at around 6:00 o'clock p.m. on October 17, 2007[,] because she just delivered her baby. It was already dark, at past 6:00 o'clock that the Russel left, together with accused Oña.<sup>11</sup>

### *Ruling of the RTC*

After trial, the RTC in its Decision<sup>12</sup> dated October 25, 2016, held that the prosecution established all the elements of the crime, through the overwhelming testimonies of its witnesses who positively identified Russel, as having acted in conspiracy with Edmund and Marlon in robbing private complainants of their

<sup>9</sup> *Id.* at 138-139.

<sup>10</sup> *Id.* at 88-112.

<sup>11</sup> *Id.* at 95-96.

<sup>12</sup> *Supra* note 3.

cellphones.<sup>13</sup> Their primary intention was to divest private complainants of their personal belongings which they carried out by threatening to harm them with the use of knives and a *sumpak*, an improvised gun.<sup>14</sup> On the occasion of the robbery, Sheryl suffered stab wounds on her face and chest which led to her untimely demise.<sup>15</sup> Hence, the RTC found Russel guilty beyond reasonable doubt of the crime charged. The dispositive portion of the assailed Decision is quoted hereunder:

**WHEREFORE**, in view of the foregoing, the Court finds accused RUSSEL BORINGOT **GUILTY** beyond reasonable doubt of the crime of Robbery with Homicide and hereby sentences him to suffer the penalty of *reclusion perpetua*. Further, he is ordered to pay to the heirs of the victim, Sheryl Catindig the sum of ₱78,679.00 for hospital and funeral expenses, and ₱141,222.00 to Ronald Catindig for his hospital expenses and an additional ₱75,000.00 for civil indemnity, and ₱75,000.00 for moral damages.

X X X X

**SO ORDERED.**<sup>16</sup>

Undaunted, Russel appealed to the CA.<sup>17</sup>

### *Ruling of the CA*

In its Decision<sup>18</sup> dated August 10, 2018, the CA denied the appeal and affirmed Russel's conviction as borne by the fact that he was positively and categorically identified by the private complainants as one of the perpetrators of the crime.<sup>19</sup> The CA held that the prosecution witnesses were credible as borne by the following observations: a) the victims are familiar with the assailants as they live within the same barangay; b) the shirts covering the assailants' faces fell off during the melee; and c) the victim Raymond was able to explain that the light from the billboards was sufficient to illuminate the faces of the assailants.<sup>20</sup> The CA stressed that Russel's acquiescence when his co-accused Edmund declared that he has a *sumpak* and demanded for the victims' mobile phones suffices to make him a co-conspirator in the crime of Robbery with Homicide.<sup>21</sup> Therefore, the CA affirmed his conviction.

Aggrieved, Russel filed a Notice of Appeal.<sup>22</sup>

In a Resolution<sup>23</sup> dated October 4, 2018, the CA gave due course to the appeal and elevated the records of the case to this Court.

This Court noted the records of this case forwarded by the CA, through a

<sup>13</sup> *Id.* at 306.

<sup>14</sup> *Id.* at 307.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 309-310. (Emphasis in the original)

<sup>17</sup> *Id.* at 317.

<sup>18</sup> *Supra* note 2.

<sup>19</sup> *Id.* at 173.

<sup>20</sup> *Id.* at 178.

<sup>21</sup> *Id.* at 181.

<sup>22</sup> *Id.* at 200.

<sup>23</sup> *Id.* at 202.

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Resolution<sup>24</sup> dated April 8, 2019, and informed the parties that they may file their supplemental briefs.

Both the OSG, as counsel of the People of the Philippines,<sup>25</sup> and the PAO,<sup>26</sup> as Russel's counsel on record manifested that they would no longer be filing supplemental briefs, which were noted by this Court in its Resolution<sup>27</sup> dated September 16, 2019. However, Russel still filed a Supplemental Brief<sup>28</sup> on December 21, 2020 in his behalf, which this Court noted in its Resolution<sup>29</sup> dated June 23, 2021.

### *Issues*

- 1) Whether the CA erred in finding Russel guilty of the special complex crime of robbery with homicide; and
- 2) Whether he is liable to pay civil indemnity and damages to the heirs of Sheryl Catindig.

### *Our Ruling*

After due consideration, the Court affirms accused-appellant's conviction for robbery with homicide but *modifies* the award of damages.

I. *The prosecution proved all the elements of the crime beyond reasonable doubt.*

Robbery with homicide is a special complex crime penalized under Article 294 (1) of the RPC, which states:

ARTICLE 294. Robbery with Violence Against or Intimidation of Persons — Penalties. — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.

The crime carries a severe penalty because the law sees in this crime that men place lucre above the value of human life, thus justifying the imposition of a harsher penalty than that for simple robbery or homicide.<sup>30</sup>

<sup>24</sup> *Rollo*, pp. 23-24.

<sup>25</sup> *Id.* at 27-29.

<sup>26</sup> *Id.* at 37-39.

<sup>27</sup> *Id.* at 42.

<sup>28</sup> *Id.* at 47-53.

<sup>29</sup> *Id.* at 55.

<sup>30</sup> *People v. Roelan*, G.R. No. 241322, September 8, 2020, citing *People v. Salazar*, 342 Phil. 745, 766 (1997).

In *People v. Asierito*,<sup>31</sup> the Court held that “[t]he elements of robbery with homicide are: (1) the taking of personal property with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking was done with *animo lucrandi*; and (4) on the occasion of the robbery or by reason thereof, homicide was committed.”

To sustain a conviction, each element of an offense must be proved beyond reasonable doubt.<sup>32</sup>

All the elements are present in this case.

The *first* and *second* elements of the crime were established through the testimonies of the victims Ronald, Christian and Raymond who positively identified accused-appellant as one of the five men who declared a hold-up and stabbed them one after the other, despite surrendering their personal effects. During his direct examination, Ronald testified:

PROS. WAGAN

Q: After fetching your Ate Sheryl, what happened next?

A: While we were on our way home[,] Christian noticed five (5) persons who were following us then sir.

X X X X

Q: Do you know these people who are following you?

A: Yes sir.

Q: Would you name them?

A: Edmundo Gallardo, Marlon Natividad, Russel Boringot, Ruel Boringot, and Ronald Oña sir.

Q: Are they inside the courtroom?

A: Only Russel Boringot, sir.

Q: Would you kindly point him out to the Court.

INTERPRETER: Witness pointing to a man sitting on the bench who after inquiry gave his name as Russel Boringot.

Q: After the accused and his companion followed you, what happened next?

A: When those five (5) men who were following us approached us, this Edmund suddenly ran in front of us sir.

Q: After that what happened next?

A: **Edmund spoke to us and I quote: “MGA PARE WALANG KIKILOS, MAY HAWAK AKONG SUMPAK!”**

Q: After that fellow uttered those words, what happened next?

A: **The remaining four (4) men positioned themselves at our back sir.**

X X X X

<sup>31</sup> G.R. No. 219116, August 26, 2020, citing *People v. Palema*, G.R. No. 228000, July 10, 2019.

<sup>32</sup> *Id.*

Q: What else happened?

A: **After that Edmund told us to bring out our cellular phone sir.**

X X X X

Q: What happened next?

A: And after that Edmund fired his gun “sumpak” xxx

X X X X

**Q: After that shot fired out, what happened next?**

**A: I saw Russel stabbed Christian sir.**

**Q: After Russel stabbed Christian, what happened next?**

**A: I suddenly approached him and I was about to hit him when he stabbed me on my chest sir.**

X X X X

Q: And after your sister handed over her cellular phone, what happened next?

A: That’s the time when my sister was stabbed repeatedly by Edmund sir.

X X X X

Q: In the hospital, if you can remember, what happened there?

A: Upon arriving at the hospital[,] we were treated there and that’s the time my sister died sir.<sup>33</sup>

Christian also identified Russel as one of the perpetrators of the crime during his direct testimony:

Q: After fetching Sheryl[,] was there an unusual incident that happened that you can recall?

A: While we were on our way after fetching Sheryl we were being followed by several persons, sir.

Q: You said there were five (5) persons staring at you, what happened after that?

A: We were already at the middle of the street when one of them ran[,] a certain Edmund, sir.

Q: What happened after that?

A: A “sumpak” was poked on us and he said “mga pare walang kikilos may dala akong sumpak.”

**Q: Now, after Edmund poked the improvised gun and declared a hold-up, what happened?**

**A: Russel held me, sir.**

**Q: After Russel get hold of you[,] what happened?**

**A: He told me to bring out my things, sir.<sup>34</sup>**

When he was put on the stand, Raymond pinpointed Russel as one of the assailants and described his participation in this manner:

<sup>33</sup> TSN, September 4, 2008, pp. 3-7. (Emphases supplied)

<sup>34</sup> TSN, November 10, 2011, p. 3. (Emphases supplied)

Q: After fetching Sheryl Catindig, what happened?

A: While we were on our way home, Christian noticed a group following us, sir.

Q: Do you know this group who were following you?

A: Yes, sir.

Q: Would you name this people?

A: Ronald Oña, Russel Boringot, Marlon Natividad, Edmund Gallardo, Ruel Boringot, sir.<sup>35</sup>

Q: Could you please tell the court why are you familiar with this people?

A: Because they are all from Brgy. Mapagong, sir.

Q: After you noticed this people following you, what happened next?

A: Edmund said “mga pare walang kikilos may hawak akong sulpak.”

X X X X

Q: And what happened next?

A: I saw Edmund took the knife from Ronald Oña, sir.

**Q: After seeing that, what transpired next?**

**A: I saw Russel Boringot stabbing Ronald Catindig, sir.**

Q: And what happened next after seeing that event?

A: I immediately went after Russel Boringot, sir.

**Q: Then what happened next?**

**A: He stabbed me, sir.**

Q: Where did he stab you?

**A: On my chest, sir.**

Q: After stabbing you, what happened next?

A: After he stabbed me, he ran away, sir.<sup>36</sup>

Prosecution witnesses Ronald, Christian and Raymond recounted that accused-appellant was part of the group who declared a hold-up and detailed his participation in its commission. According to them, accused-appellant had a knife and he went behind them when his co-accused declared a hold-up. Out of fear, they surrendered their cellular phones to his co-accused. Appallingly, accused-appellant stabbed them one after the other, despite handing over their personal effects.

“There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.”<sup>37</sup> In *People v. Domingo*,<sup>38</sup> the Court stressed that “any active participation in the commission of the crime with a view to the furtherance of the common design and purpose,” constitutes conspiracy. In terms of proving its existence, “proof of conspiracy need not be based on direct evidence.”<sup>39</sup> In *People v. Casabuena*,<sup>40</sup> the Court explained that conspiracy “may also be inferred from the acts of the accused evincing a joint

<sup>35</sup> *Id.*

<sup>36</sup> TSN, September 9, 2008, pp. 4-5. (Emphases supplied)

<sup>37</sup> *People v. Fernandez*, 796 Phil. 258, 267-268 (2016).

<sup>38</sup> G.R. No. 241248, June 23, 2021, citing *Macapagal-Arroyo v. People, et al.*, 790 Phil. 367, 419 (2016).

<sup>39</sup> *People v. Casabuena*, G.R. No. 246580, June 23, 2020, citing *People v. Lago*, 411 Phil. 52, 59 (2001).

<sup>40</sup> *Id.*



or common purpose and design, concerted action, and community of interest.”

Bearing on these principles, accused-appellant’s conduct before, during and after the robbery showed that he had a “common understanding”<sup>41</sup> with his co-accused and he actively took part in its commission.

Moreover, the taking was accomplished with force and intimidation against persons, since the assailants were armed with a knife and an improvised gun, which compelled the victims to succumb to their demands. In *Casabuena*, the Court upheld the presence of violence and intimidation when the robbers, with the use of gun and knives, threatened the passengers of a jeepney, with physical violence and death to divest them of their personal belongings.<sup>42</sup>

It is well to note that the victims are familiar with accused-appellant since they all reside in the same *barangay*.<sup>43</sup> Further, they asserted that his shirt which he used to cover his face up to his nose fell off during the scuffle, which revealed his identity.<sup>44</sup> Moreover, there was adequate light emanating from the billboards in the area, which allowed them to see their assailants’ faces.<sup>45</sup>

Visibility is indeed a vital factor in determining whether an eyewitness could have identified the perpetrator of a crime.<sup>46</sup> Thus, where the conditions of visibility are favorable and the witnesses do not appear to harbor any ill motive against the malefactors, their testimonies as to how the crime was committed and on the identities of the perpetrators must be accepted.<sup>47</sup> In *People v. Roelan*,<sup>48</sup> the Court underscored that in proper situations, illumination produced by a kerosene or wick lamp, a flashlight, even moonlight or starlight may be considered sufficient to allow identification of persons.<sup>49</sup> Consequently, any attack on the credibility of witnesses, based solely on the ground of insufficiency or absence of illumination, becomes unmeritorious.<sup>50</sup>

At this juncture, it bears to stress that Ronald, Christian and Raymond are more than just an eyewitnesses<sup>51</sup> but also surviving victims of the crime.<sup>52</sup> Common human experience tells us that the most natural reaction of victims of criminal violence is to strive to see the features and faces of their assailants and observe the manner in which the crime is committed.<sup>53</sup> For this reason, the face of the assailant and body movements thereof, create a lasting impression which cannot be easily erased from a witness’ memory.<sup>54</sup> Hence, “eyewitnesses can remember with a high

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41 *Id.*

42 *Id.*

43 *Id.*

44 TSN dated November 10, 2011, p. 6.

45 *Rollo*, p. 14.

46 *People v. Roelan*, G.R. No. 241322, September 8, 2020, citing *People v. Ramirez*, 409 Phil. 238, 250 (2001).

47 *Id.*, citing *People v. Dela Cruz*, 452 Phil. 1080, 1093-1094 (2003).

48 *Id.*, citing *People v. Licayan*, 428 Phil. 332 (2002).

49 *Id.*

50 *People v. Roelan*, *supra* note 46, citing *People v. Biñas*, 377 Phil. 862, 897 (1999).

51 *Id.*

52 *Id.*

53 *People v. Dillatan, Sr.* G.R. No. 212191, September 5, 2018.

54 *Id.*, citing *People v. Pepino, et al.*, 777 Phil. 29, 55 (2016).

degree of reliability the identity of criminals at any given time.”<sup>55</sup>

Given the victims’ familiarity with accused-appellant, as well as with the sufficient illumination in the area, the prosecution proved that accused-appellant, conspired with his co-accused, and forcibly divested the victims of their cellular phones, which sufficiently established the first and second elements of the crime.

The *third* element of the crime is intent to gain. Intent to gain, or *animus lucrandi*, is an internal act which is presumed from the unlawful taking of things.<sup>56</sup> In other words, when unlawful taking is proved, intent to gain is presumed.<sup>57</sup> Here, the taking of the victims’ personal properties was evidently with intent to gain.

As regards the *last* element, in *Asierto*,<sup>58</sup> the Court explained the meaning of when by reason or occasion of the robbery, the crime of homicide shall have been committed,” in this manner:

In robbery with homicide, the original criminal design of the malefactor is to commit robbery, with homicide perpetrated on the occasion or by reason of the robbery. The intent to commit robbery must precede the taking of human life. The homicide may take place before, during or after the robbery. It is only the result obtained, without reference or distinction as to the circumstances, causes or modes or persons intervening in the commission of the crime that has to be taken into consideration. There is no such felony of robbery with homicide through reckless imprudence or simple negligence. The constitutive elements of the crime, namely, robbery and homicide, must be consummated.

It is immaterial that the death would supervene by mere accident; or that the victim of homicide is other than the victim of robbery, or that two or more persons are killed or that aside from the homicide, rape, intentional mutilation, or usurpation of authority, is committed by reason or on the occasion of the crime. Likewise, immaterial is the fact that the victim of homicide is one of the robbers; the felony would still be robbery with homicide. Once a homicide is committed by or on the occasion of the robbery, the felony committed is robbery with homicide. All the felonies committed by reason of or on the occasion of the robbery are integrated into one and indivisible felony of robbery with homicide. The word “homicide” is used in its generic sense. Homicide, thus, includes murder, parricide, and infanticide.

X X X X

When homicide is committed by reason or on the occasion of robbery, all those who took part as principals in the robbery would also be held liable as principals of the single and indivisible felony of robbery with homicide although they did not actually take part in the killing, unless it clearly appears that they endeavored to prevent the same.

If a robber tries to prevent the commission of homicide after the commission of the robbery, he is guilty only of robbery and not of robbery with homicide. All those

<sup>55</sup>

*Id.*

<sup>56</sup>

*People v. Roelan*, *supra* note 46, citing *People v. Obillo*, 411 Phil. 139, 150 (2001).

<sup>57</sup>

*People v. Coritana*, G.R. No. 209584, March 3, 2021, citing *People v. Reyes*, 447 Phil. 668, 676 (2003).

<sup>58</sup>

*People v. Asierto*, *supra* note 31, citing *People v. De Jesus*, 473 Phil. 405 (2004).

who conspire to commit robbery with homicide are guilty as principals of such crime, although not all profited and gained from the robbery. One who joins a criminal conspiracy adopts the criminal designs of his co-conspirators and can no longer repudiate the conspiracy once it has materialized.

Homicide is said to have been committed by reason or on the occasion of robbery if, for instance, it was committed to (a) facilitate the robbery or the escape of the culprit; (b) to preserve the possession by the culprit of the loot; (c) to prevent discovery of the commission of the robbery; or, (d) to eliminate witnesses in the commission of the crime. As long as there is a nexus between the robbery and the homicide, the latter crime may be committed in a place other than the situs of the robbery.<sup>59</sup>

To stress, a conviction for robbery with homicide requires certitude that the robbery is the main purpose and objective of the malefactor, and the killing is merely incidental to the robbery.<sup>60</sup> In *Casabuena*, the Court underscored that the intent to rob must precede the taking of human life. The killing, however, may occur before, during, or after the robbery.”<sup>61</sup> In the same manner, it is immaterial if the victim of homicide is other than the victim of robbery; or that two (2) or more persons are killed.<sup>62</sup> Consequently, “robbery with homicide is committed when the robbers kill their victims,<sup>63</sup> or bystanders who attempt to thwart the robbery,<sup>64</sup> or responding police officers,<sup>65</sup> or even “if the victim of the homicide is one of the robbers.<sup>66</sup> In such scenario, the felony would still be robbery with homicide.<sup>67</sup>

In the case at bench, Sheryl, one of the victims of the robbery, died on the occasion thereof, as a result of three stab wounds inflicted by accused-appellant’s co-accused on her right face and chest.<sup>68</sup> Clearly, the primary objective of accused-appellant and his co-accused was to rob the victims of their cellular phones. The killing of Sheryl was incidental to prevent their positive identification and facilitate their escape.

On account of Sheryl’s death, with all the more reason that Ronald’s positive identification of accused-appellant should be accorded more credence as borne by the fact that the natural interest of a witness who is a relative of the victim in securing the conviction of the guilty would deter the witness from implicating a person other than the true culprit.<sup>69</sup> Verily, the earnest desire to seek justice for a dead kin is not served should the witnesses abandon [their] conscience and prudence to blame one who is innocent of the crime.<sup>70</sup>

To the mind of the Court, Ronald was impelled solely by his desire to seek justice for the wrong done to him and the senseless death of his sister Sheryl. Absent

<sup>59</sup> *People v. Asierto, id.*, citing *People v. De Jesus, id.* at 427-428.

<sup>60</sup> *People v. Casabuena, supra* note 39.

<sup>61</sup> *Id.*, citing *People v. FOI De la Cruz, et al.*, 595 Phil. 998, 1024 (2008).

<sup>62</sup> *Id.*

<sup>63</sup> *People v. Asierto, supra* note 31, citations omitted.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *People v. Casabuena, supra* note 39, citations omitted.

<sup>67</sup> *Id.*

<sup>68</sup> Autopsy Report, records, pp. 21-25.

<sup>69</sup> *People v. Roelan, supra* note 46, citing *People v. Pabillano*, 404 Phil. 43, 62 (2001).

<sup>70</sup> *People v. Juare*, G.R. No. 234579, June 22, 2020, citing *People v. Solar*, G.R. No. 225595, August 6, 2019.

any reason or motive for the prosecution witnesses to perjure, the logical conclusion is that no such motive exists and their testimonies are thus worthy of full faith and credit.<sup>71</sup>

Significantly, in view of the presence of conspiracy, accused-appellant shall equally bear the criminal responsibility of his co-accused who killed Sheryl. In *Roelan*, the Court held that the rule is well-established that whenever homicide has been committed as a consequence of or on the occasion of the robbery, all those who took part as principals in the robbery will also be held guilty as principals of the special complex crime of robbery with homicide<sup>72</sup> unless the conspirator performed an overt act to dissociate or detach himself from the conspiracy to commit the felony and prevented its commission.”<sup>73</sup> Lamentably, accused-appellant’s actuations belied that he endeavored to prevent the homicide to exempt him from any criminal liability.

As regards accused-appellant’s alibi, the Court remains unmoved.

To stress, for the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time the crime was committed, but that it was likewise impossible for him or her to be at the *locus criminis* at the time of the alleged crime.<sup>74</sup> In *People v. Dillatan, Sr.*,<sup>75</sup> the Court ruled that where there is the least possibility of accused-appellant’s presence at the crime scene, as in this case, the alibi will not hold water. Here, accused-appellant failed to prove such physical impossibility owing to his admission that he and the victims were all in Calamba City, at the time the crime was committed.<sup>76</sup>

Indeed, there is no reason to dispute the trial court’s appreciation of the credibility of the prosecution witnesses’ testimonies.<sup>77</sup> It is deeply entrenched in our jurisprudence that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial court judge, who has the unmatched opportunity to observe the witnesses and to assess their credibility by the various indicia available but not reflected on the record.<sup>78</sup> Owing to this unique vantage point, “this Court gives great weight and respect to the judge’s assessment of the witnesses’ credibility.”<sup>79</sup>

Accused-appellant likewise argued that the prosecution deliberately excluded the testimonies of Joel Tenorio, Michael Hernandez and Michael Catindig, in its formal offer of evidence, in an attempt to suppress exculpatory evidence.<sup>80</sup>

<sup>71</sup> *Angeles v. People*, 588 Phil. 335, 343-344 (2008).

<sup>72</sup> *People v. Roelan*, *supra* note 46.

<sup>73</sup> *People v. Ebet*, 649 Phil. 181, 197 (2010), citing *People v. De Jesus*, *supra* note 58 at 429.

<sup>74</sup> *People v. Bacyaan*, G.R. No. 238457, September 18, 2019, citing *People v. Butaslac*, G.R. No. 218274, March 13, 2019.

<sup>75</sup> G.R. No. 212191, September 5, 2018.

<sup>76</sup> *CA Rollo*, p. 53.

<sup>77</sup> *People v. Ebet*, *supra* note 73 at 196.

<sup>78</sup> *People v. Palema*, G.R. No. 228000, July 10, 2019, citing *People v. Dejillo, et al.*, 700 Phil. 643, 660-661 (2012).

<sup>79</sup> *Id.*

<sup>80</sup> *Rollo*, pp. 14-15.

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The Court disagrees.

At the outset, it is the prosecutor who has full control of the prosecution of criminal actions.<sup>81</sup> Consequently, the prosecutor has the exclusive prerogative to determine the witnesses to be presented for the prosecution.<sup>82</sup> Thus, if the prosecution has several eyewitnesses, as in the instant case, the prosecutor need not present all of them but only as many as may be needed establish the guilt of the accused beyond reasonable doubt.<sup>83</sup> Hence, the accused cannot dictate or control the prosecution on how it will prove its case.<sup>84</sup>

It bears to stress that, witnesses are to be weighed not numbered.<sup>85</sup> Corroborative evidence is necessary only when there are reasons to warrant the suspicion that the witnesses falsified the truth or that [their] observation had been inaccurate.<sup>86</sup> Here, the surviving victims Ronald, Christian and Raymond already positively identified accused-appellant and detailed his participation in the commission of the crime. Accordingly, the testimonies of Joel Tenorio, Michael Hernandez and Michael Catindig, would at best be corroborative.

Section 3(e), Rule 131 of the Revised Rules on Evidence provides that evidence willfully suppressed would be adverse if produced, unless contradicted and overcome by other evidence. In *Ritualo v. People*,<sup>87</sup> the Court clarified that the adverse presumption of suppression of evidence does not apply where the evidence suppressed is merely corroborative or cumulative in nature.

In the same vein, in *Angeles v. People*,<sup>88</sup> the Court reiterated the rule that the adverse presumption from a suppression of evidence is not applicable in the following instances: (1) the suppression is not willful; (2) the evidence suppressed or withheld is merely corroborative or cumulative; (3) the evidence is at the disposal of both parties; and (4) the suppression is an exercise of a privilege.

In this regard, there is no showing that the said witnesses were not available to the accused.<sup>89</sup> One of the constitutional rights of the accused is to have compulsory process to secure the attendance of witnesses and the production of evidence in his or her behalf.<sup>90</sup>

If accused-appellant believed that the testimonies of the witnesses aforementioned would support his defense, what he could have done was to call them to the stand and have them testified as his own witnesses or as hostile witnesses.<sup>91</sup> Unfortunately, it is too late in the day for him to avail of this remedy.

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<sup>81</sup> *People v. Majingcar*, G.R. No. 249629, March 15, 2021.

<sup>82</sup> *Angeles v. People*, *supra* note 71 at 343.

<sup>83</sup> *Id.*

<sup>84</sup> *People v. Ang*, G.R. No. 231854, October 6, 2020.

<sup>85</sup> *People v. Orozco*, 757 Phil. 299, 305 (2015).

<sup>86</sup> *Id.*

<sup>87</sup> 608 Phil. 548, 570 (2009).

<sup>88</sup> *Supra* note 71 at 343.

<sup>89</sup> *Id.*

<sup>90</sup> *Ritualo v. People*, *supra* note 87.

<sup>91</sup> *Angeles v. People*, *supra* note 71.

Conformably with the foregoing doctrines, the prosecution's decision to exclude the testimonies of Joel Tenorio, Michael Hernandez and Michael Catindig, in its formal offer of evidence does not constitute suppression of evidence because *for one*, the nature of their testimonies is merely corroborative; and *for another*, the evidence was available at accused-appellant's disposal.

## II. *Penalty and civil liabilities.*

Accused-appellant was thus correctly held liable for the crime of robbery with homicide, which carries the penalty of *reclusion perpetua* to death.<sup>92</sup> In the absence of any aggravating circumstance, the CA and the RTC correctly imposed the penalty of *reclusion perpetua*.<sup>93</sup> "In robbery with homicide, civil indemnity and moral damages are awarded automatically without need of allegation and evidence other than the death of the victim owing to the crime."<sup>94</sup> Recent jurisprudence<sup>95</sup> provides that when the penalty to be imposed is *reclusion perpetua*, the civil indemnity and moral damages shall be awarded at ₱75,000.00 each. Hence, the award of civil indemnity and moral damages in the present case is in accord with law and prevailing jurisprudence.<sup>96</sup>

Apart from the award of civil indemnity and moral damages, jurisprudence<sup>97</sup> provides that being corrective in nature, the award of ₱75,000.00 as exemplary damages is proper for the reprehensible act committed against the victim,<sup>98</sup> and also to serve as a deterrent to others similarly inclined.<sup>99</sup> Along this line, the award of exemplary damages in the amount of ₱75,000.00 to the heirs of the victim has been upheld in the fairly recent cases of *People v. Palema, et al.*,<sup>100</sup> *People v. Laguda*,<sup>101</sup> and *People v. Campos*.<sup>102</sup> Hence, for the death of Sheryl, her heirs are likewise entitled to receive ₱75,000.00 as exemplary damages, in addition to the civil indemnity and moral damages accordingly adjudged by the RTC.

Moreover, the Court finds that the award of actual damages in the total amount of ₱78,679.00 for hospital and funeral expenses of Sheryl was duly substantiated. Sheryl's parents, Cesar<sup>103</sup> and Ponciana,<sup>104</sup> testified and presented receipts for hospital<sup>105</sup> and funeral<sup>106</sup> expenses which they incurred. Notably, the defense admitted all the receipts corresponding to the damages claimed.<sup>107</sup>

<sup>92</sup> Article 294, paragraph 1 of the RPC, as amended.  
<sup>93</sup> *People v. Campos*, G.R. No. 252212, July 14, 2021.  
<sup>94</sup> *People v. Bacyaan*, *supra* note 74.  
<sup>95</sup> *People v. Jugueta*, 783 Phil. 806 (2016).  
<sup>96</sup> *Id.*  
<sup>97</sup> *People v. Roelan*, *supra* note 46.  
<sup>98</sup> *Id.*  
<sup>99</sup> *People v. Bacyaan*, *supra* note 74.  
<sup>100</sup> G.R. No. 228000, July 10, 2019.  
<sup>101</sup> G.R. No. 244843, October 7, 2020.  
<sup>102</sup> *Supra* note 93.  
<sup>103</sup> TSN, November 11, 2013, p. 5.  
<sup>104</sup> TSN, March 31, 2011, pp. 2-3.  
<sup>105</sup> Records., pp. 70-75.  
<sup>106</sup> *Id.* at 71.  
<sup>107</sup> TSN, March 31, 2011, p. 3.

III. *In robbery with homicide, the victims who sustained injuries, but were not killed, shall also be indemnified.*<sup>108</sup>

In *People v. Dillatan, Sr.*,<sup>109</sup> the Court ruled that victims of robbery with homicide who were injured but were not killed, should also be awarded civil indemnity, moral damages and exemplary damages based on the nature and severity of the injuries they suffered. In *Dillatan, Sr.*, the Court elaborated that robbery with homicide is a special complex crime which has “no attempted or frustrated stages because the intention of the offender/s is to commit the principal crime, which is to rob but in the process of committing the said crime, another crime is committed.”<sup>110</sup> For this reason, when on the occasion of the robbery, other victims sustained injuries regardless of the severity, as in the present case, all the resulting injuries are integrated into one indivisible felony, and, thus, become part and parcel of the special complex crime of robbery with homicide. In the said case, the Court ruled in this wise:

Nonetheless, it is also settled that in robbery with homicide, the victims who sustained injuries, but were not killed, shall also be indemnified. Hence, **the nature and severity of the injuries sustained by these victims must still be determined for the purpose of awarding civil indemnity and damages.**

It is settled that **if a victim suffered mortal wounds** and could have died if not for a timely medical intervention, the victim should be awarded civil indemnity, moral damages, and exemplary damages **equivalent to the damages awarded in a frustrated stage**, and **if a victim suffered injuries that are not fatal**, an award of civil indemnity, moral damages and exemplary damages should likewise be awarded **equivalent to the damages awarded in an attempted stage.** (Emphasis supplied)

Worthy of note is the fact that the prosecution must first prove the nature and the severity of the injuries suffered by the victim before the court may award civil indemnity and damages. In *Dillatan, Sr.*, the surviving victims of the robbery with homicide sustained gunshot wounds on the right knee and left hand. Unfortunately, the prosecution failed to present sufficient evidence to prove that the said injuries were fatal. Thus, the surviving victims were only indemnified amounts that are equivalent to those awarded in an attempted stage.<sup>111</sup>

In the same vein, in *Roelan*, the Court awarded civil indemnity, moral damages and exemplary damages in the amount of ₱ 25,000.00 each, to a surviving victim of robbery with homicide who sustained non-mortal or non-fatal wounds.<sup>112</sup>

After scouring over the records of the case, the Court finds that among the surviving victims, only Ronald was able to testify on the extent of the injuries he

<sup>108</sup> *People v. Dillatan, Sr.*, *supra* note 53.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *People v. Roelan*, *supra* note 46.

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sustained on the occasion of the robbery with homicide. He narrated that he was stabbed on his chest which required hospitalization for more than one month<sup>113</sup> and presented medical bills<sup>114</sup> from the hospital where he was confined. Nonetheless, as the prosecution failed to prove that Ronald could have died from said injury were it not for the timely medical assistance rendered to him, the Court deems it prudent to award Ronald civil indemnity, moral damages and exemplary damages equivalent to the damages awarded in an attempted stage, which is ₱25,000.00 for each of the aforementioned damages.

All told, the Court affirms the actual damages in the amount of ₱141,222.00 awarded by the RTC to Ronald for his hospital fees as the same were properly backed up by receipts. Likewise, it bears to stress that the defense admitted all the receipts presented corresponding to the damages incurred.<sup>115</sup> In sum, Ronald is entitled to actual damages, plus civil indemnity, moral damages and exemplary damages, conformably with law and prevailing jurisprudence.

**WHEREFORE**, premises considered, the appeal is **DENIED**. The Decision dated August 10, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09569 is hereby **AFFIRMED** with the following **MODIFICATIONS**:

- (1) Accused-appellant Russel Boringot is found **GUILTY** of Robbery with Homicide, and he is sentenced to suffer the penalty of *reclusion perpetua*;
- (2) Accused-appellant Russel Boringot is **ORDERED to PAY** the heirs of the victim Sheryl Catindig, the amounts of: a) ₱75,000.00 as civil indemnity; b) ₱75,000.00 as moral damages; c) ₱75,000.00 as exemplary damages; and d) actual damages adjudged by the trial court amounting to ₱78,679.00;
- (3) Accused-appellant Russel Boringot is **ORDERED to PAY** the victim Ronald Catindig, the following amounts: a) ₱141,222.00 as actual damages for hospital expenses; b) ₱25,000.00 as civil indemnity; c) ₱25,000.00 as moral damages; and d) ₱25,000.00 as exemplary damages; and
- (4) Six percent (6%) interest *per annum* is imposed on all the amounts awarded, reckoned from the date of finality of this Decision until fully paid.

**SO ORDERED.**

  
**JHOSEP Y. LOPEZ**  
*Associate Justice*

<sup>113</sup> TSN, September 4, 2008, pp. 6-7.

<sup>114</sup> Records, pp. 80-91.

<sup>115</sup> TSN, March 31, 2011, p. 3.



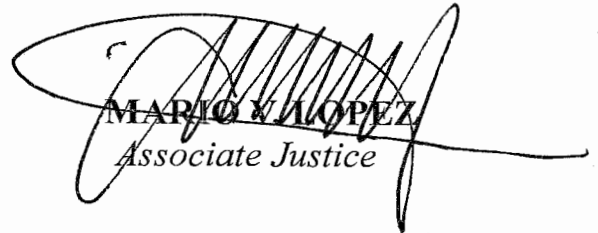
WE CONCUR:



**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*  
*Chairperson*



**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARIO V. LOPEZ**  
*Associate Justice*



**ANTONIO T. KHO, JR.**  
*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.



**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 14, 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.



**ALEXANDER G. GESMUNDO**  
*Chief Justice*