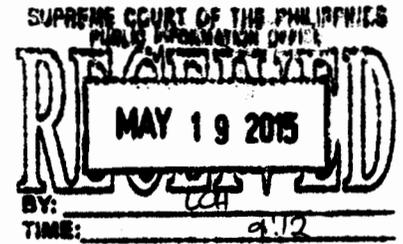




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **22 April 2015** which reads as follows:*

“G.R. No. 202126 – People of the Philippines, plaintiff-appellee v. Edwin Rivera and Benigno Aquino, defendants-appellants

An Information¹ for robbery with homicide was filed against appellants Edwin Rivera (Rivera) and Benigno Aquino (Aquino), the accusatory portion of which reads:

That at around 10:00 o'clock in the evening of April 18, 2007 along Damayan Road in Brgy. Longos Proper, San Fabian, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above named accused, with intent to gain and by means of violence against or intimidation of persons confederating together, acting jointly and helping one another, did then and there, willfully, unlawfully and criminally rob and divest ELMER J. LARGONIO of his money in the amount of Six Thousand Pesos (₱6,000.00) and cellphone and with intent to kill ELMER J. LARGONIO, attack, assault and use personal violence upon the latter mauling him, resulting to his death shortly thereafter, to the damage and prejudice of his heirs.

CONTRARY to Article 294, par. No.1, of the Revised Penal Code as amended by SEC. 9 R.A. 7659.

Appellants pleaded not guilty to the charge.² Trial on the merits ensued.

The trial court found the following facts to have been satisfactorily established:

x x x The two accused were positively identified by the victim Elmer Largonio to the prosecution witness Lynn Puno as the persons who attacked and assaulted him on that night of April 18, 2007 and who took his cellphone and money amounting to Six Thousand (₱6,000.00) Pesos. The said witness categorically and straightforwardly testified that after she was informed by Brgy. Kagawad Mario Baltazar that the victim Elmer Largonio is lying full of blood along Damayan Road in Longos, San Fabian, Pangasinan, she immediately went to the said place and there saw the victim lying full of blood, and lifting the head of the victim, she asked the latter who assaulted him, he identified the two accused Edwin Rivera and Benigno Aquino. The revelation by the victim to the witness were made immediately after he was attacked and causing on him injuries

¹Records, p. 1.

²Id. at 20.

in the head which the doctor who attended to him found to be serious and severe. Eventually, the victim died four (4) days thereafter due to x x x head injury.

Prosecution witness Lynn timer Puno, the first person with whom the victim talked to after the assault and to whom he revealed the identities of his assailants, executed her sworn-statement wherein she confirmed what has been revealed to her by the victim. The revelation of the victim to the witness immediately after the assault upon him is part of *res gestae* and admissible under the Rules.

x x x x

The testimony of the witness Lynn timer Puno is corroborated by another witness, Remigildo Limbuan, a tricycle driver and in whose tricycle the two accused rode on that very same night in looking for, and going to the, bus terminal where they rode going to Manila. The said witness testified that he noticed that the shirts of the two were with blood stains. The said witness is found by this court credible, and it found no ill or ulterior motive to fabricate a story and falsely testify against the two accused. Hence, his testimony is entitled to full weight and credit.³

Appellants denied the charges against them. They claimed that at around 7 o'clock in the evening of April 18, 2007, they were en route to Manila; that upon arrival in Manila, they proceeded to Sta. Rosa, Laguna; and thereafter, they boarded a ship going to Dumaguete. They stayed in Dumaguete for almost six months until their apprehension. However, the trial court did not lend credence to appellants' denial and alibi. Thus, in a Decision⁴ dated March 19, 2010, the Regional Trial Court (RTC) of Dagupan City, Branch 41, found appellants guilty as charged, *viz*:

WHEREFORE, premises considered, judgment is hereby rendered finding accused EDWIN RIVERA and BENIGNO AQUINO guilty beyond reasonable doubt of the crime of Robbery with Homicide defined and penalized under Article 294, par. 1 of the Revised Penal Code, as amended, and pursuant to law, each of them is sentenced to suffer the penalty of reclusion perpetua. They shall pay, proportionately, to Lynn timer Puno the amount of ₱53,127.60 as actual damages, and to the legal heirs of deceased Elmer Largonio ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages, and the costs of suit.

SO ORDERED.⁵

³Id. at 157-158.

⁴Id. at 153-160; penned by Judge Emma M. Torio.

⁵Id. at 160.

Appellants filed a Notice of Appeal.⁶ In their Brief,⁷ they claimed that the statements uttered by the victim to Lynn Puno (Puno) could not be considered as *res gestae* since "there is no evidence to support the conclusion that the victim pointed to the accused-appellants immediately after the incident and 'without any opportunity for formulation, devoid of self interest'".⁸ They argued that there was no proof that they robbed the victim or that they intended to kill him. They also assailed the ruling of trial court for disregarding their denial and alibi.

On December 9, 2011, the Court of Appeals (CA) rendered its Decision⁹ affirming in full the Decision of the RTC, thus:

In the case at bar, all the elements of *res gestae* were sufficiently established insofar as the spontaneous utterance of Largonio is concerned: first, the principal act (*res gestae*), i.e., the mauling and taking of his cellphone and money, were startling occurrences; second, the statements he gave to Puno about being robbed and attacked by accused-appellants were made before Largonio had time to contrive or devise, that is, within minutes after he was mauled and divested of his properties; and third, the statement he gave concerns the occurrence in question and its immediately attending circumstances, that is, his cellphone and ₱6,000.00 cash were stolen by accused-appellants while he was being mauled by them. Glaringly, the testimony of Largonio is an exception to the hearsay rule and considered as part of *res gestae* for being uttered in a spontaneous manner in reaction to a startling occurrence ruling out the possibility that the same was contrived. Hence, the trial court did not err in admitting the same.¹⁰

The CA noted that Puno's testimony was corroborated by the testimony of Remigildo Limbuan (Limbuan), the tricycle driver who drove appellants to the bus terminal on the night of the incident. Limbuan testified that when appellants asked him to bring them to the bus terminal, he noted blood stains in their shirts. Appellants also informed Limbuan to look for the victim in front of the house of Boy Sta. Maria.

In fine, the CA found that the prosecution established beyond reasonable doubt the guilt of appellants for the crime of robbery with homicide.

Undeterred, appellants filed this appeal. In a Resolution¹¹ dated July 25, 2012, we required the parties to file their respective supplemental briefs.

⁶CA rollo, p. 21.

⁷Id. at 33-46.

⁸Id. at 42.

⁹Id. at 83-96; penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Jose C. Reyes, Jr. and Agnes Reyes-Carpio.

¹⁰Id. at 88.

¹¹Rollo, pp. 21-22.

19/12/12

In their Supplemental Brief,¹² appellants argue that their names were not mentioned in the police blotter and that it took Puno more than two weeks before executing a written statement implicating them to the crime.

The appeal lacks merit. The arguments raised by appellants in this appeal have already been exhaustively discussed by the CA which we quote herein with approval, to wit:

Bereft of merit is accused-appellants' contention that Puno's delay in identifying them as the culprits coupled with the fact that the police blotter is silent as to who the assailants are, casts doubt on the credibility and truthfulness of her statements.

In her testimony in open court, prosecution witness, Lynn Puno, categorically stated that it was Barangay Kagawad Mario Baltazar who caused the incident to be blotted at the police station. She did not immediately proceed to the police station to give her statement because the police officers were already at the scene of the crime and she gave them her account of what had happened in the said place. x x x

x x x x

It is clear from the foregoing that Puno immediately relayed to the barangay kagawad what the victim told her regarding the identity of his attackers. It was the barangay kagawad whom she expected to enter the same in the police blotter. If the police blotter did not mention about the victim's disclosure of the names of the robbers/assailants, it was not because Puno failed to state so to the police officers. From the scene of the crime, Puno rushed Largonio to the hospital.¹³

Incidentally, appellants did not give a satisfactory explanation as to why they immediately left Pangasinan which coincided with the mauling and robbery of the victim. We also find as lame appellants' justification that they proceeded to Dumaguete because appellant Rivera's mother was bound for Australia. In any case, they did not present evidence to show that Rivera's mother indeed left for Australia. Moreover, Aquino's explanation that he went with Rivera to Dumaguete to attend a *fiesta* does not inspire belief. A *fiesta* normally lasts one to two days; but in his case, Aquino stayed in Dumaguete, together with Rivera, for six months. He was only able to return to Pangasinan when they were both apprehended by the police officers.

In fine, we find the RTC and the CA to have correctly found appellants Rivera and Aquino guilty beyond reasonable doubt of the crime of robbery with homicide. Under Article 294 (1) of the Revised Penal Code,

¹²Id. at 48-53.

¹³CA rollo, pp. 90-91.

the penalty for robbery with homicide is *reclusion perpetua* to death. There being no aggravating circumstance, both courts accordingly sentenced them to suffer the penalty of *reclusion perpetua*. However, they are without eligibility for parole pursuant to Section 3 of Republic Act No. 9346 or the Act Prohibiting the Imposition of Death Penalty in the Philippines. The award of actual damages in the amount ₱53,127.60 is proper as they were properly supported by receipts. The award of moral damages in the amount of ₱50,000.00 is likewise proper. However, the award of civil indemnity in the amount of ₱50,000.00 must be increased to ₱75,000.00 in line with prevailing jurisprudence. The heirs of the deceased is also entitled to exemplary damages in the amount of ₱30,000.00. In addition, all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of Resolution until fully paid.

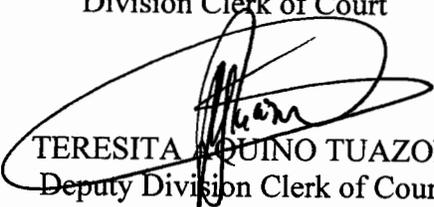
WHEREFORE, the assailed December 9, 2011 Decision of the Court of Appeals in CA-G.R.-CR-HC. No. 04448 finding appellants Edwin Rivera and Benigno Aquino guilty beyond reasonable doubt of the crime of robbery with homicide and sentencing them to suffer the penalty of *reclusion perpetua* is **AFFIRMED** with **MODIFICATIONS** that appellants are not eligible for parole; they are ordered to pay the heirs of Elmer J. Largonio ₱30,000.00 as exemplary damages; and, the award of civil indemnity is increased to ₱75,000.00. Finally, all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of judgment until full payment.

SO ORDERED. »

Very truly yours,

MA. LOURDES C. PERFECTO
Division Clerk of Court

By:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 41
Dagupan City, 2400 Pangasinan
Crim Case No. 2007-0504-D

EDWIN RIVERA AND BENIGNO AQUINO (reg)
Accused-Appellants
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
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