



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **October 9, 2019**, which reads as follows:

“G.R. No. 231549 (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. LEO SADURAL y QUIJANO and RICHARD GABRIEL y DASONG, accused-appellants).—For this Court’s resolution is an appeal from the Decision¹ of the Court of Appeals, which affirmed the Regional Trial Court Decision² finding Leo Sadural y Quijano (Sadural) and Richard Gabriel y Dasong (Gabriel) guilty beyond reasonable doubt of the crime of robbery with homicide.

In a June 2, 2008 Information,³ Sadural and Gabriel were charged with the crime of robbery with homicide. The accusatory portion read:

That on or about the 29th day of May, 2008 in the City of Makati, Philippines a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun, conspiring, confederating and mutually helping and aiding with one another and with four others whose identities and whereabouts are still unknown, with intent to gain and by means of force, violence and intimidation, to wit: by accosting one Jaime Armando Cortez along Kamagong Street[,] San Antonio Village, Makati City, and shot him with a gun and hitting him on his chest, thereby inflicting upon said Jaime Armando Cortez mortal wounds on the chest which were the direct cause of his death and thereafter, take, steal and carry away cash money worth Php130,000.00, belonging to Ecolaser International to the damage and prejudice of said complainant in the aforesaid amount of Php130,000.00, Philippine currency.

CONTRARY TO LAW.⁴

¹ CA rollo, pp. 199–211. The Decision dated March 8, 2016 was penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion of the Sixth Division, Court of Appeals, Manila.

² Id. at 22–34. The Decision dated July 30, 2012 was penned by Presiding Judge Carlito B. Calpatura of Branch 145, Regional Trial Court, Makati City.

³ Id. at 21.

⁴ Id.

Upon arraignment, Sadural and Gabriel pleaded not guilty to the charge. Trial then ensued.⁵

The prosecution presented the following witnesses: (1) Henson Jurolan (Jurolan); (2) Police Chief Inspector Angelo Germinal (Police Chief Inspector Germinal); (3) Police Officer 3 (PO3) Rico Caramat; (4) PO1 Junard Payoyo (PO1 Payoyo); (5) the medico-legal officer, Dr. Voltaire P. Nulud; (6) Carlota Delos Santos, a representative of Ecolaser International Corporation (Ecolaser); and (7) Sheryl S. Galvez (Galvez), the company's treasury head.⁶ From their testimonies, the prosecution alleged the following:

Jaime Armando Cortez (Cortez) worked at Ecolaser. As instructed by Galvez, he withdrew ₱130,000.00 from her personal bank account on the morning of May 29, 2008.⁷ Carrying an attaché case holding the money, Cortez walked his way back to the office. However, as he was walking along Kamagong Street in San Antonio Village, Makati City, he was blocked by three (3) motorcycles, each with two (2) riders. Four (4) of them alighted and accosted him, forcibly taking his attaché case. The other two (2) riders, who were wearing helmets, acted as lookouts.⁸

When Cortez resisted, one (1) of the assailants exclaimed, "*barilin na ang taong yan* (Let's kill that person now)."⁹ Another pulled out a gun and shot Cortez in the chest. The assailants took the attaché case and fled, leaving Cortez on the ground. He was brought to a hospital, but was declared dead on arrival.¹⁰

Jurolan, a water delivery boy, witnessed the incident as he was allegedly one and a half arm's length from Cortez and the assailants. He claimed that he was about to deliver mineral water supply when he was blocked by the assailants on Tanguile corner Camiguin Streets, Barangay San Antonio, Makati City. The assailants even poked a gun at him, but later left.¹¹

When the police officers arrived at the crime scene, bystanders identified Jurolan as the eyewitness to the incident.¹² Jurolan was reluctant at first, but he was later persuaded to cooperate with the police. Police Chief

⁵ Id. at 24.

⁶ Id.

⁷ Id.

⁸ Id. at 22.

⁹ Id.

¹⁰ Id. at 22 and *rollo*, p. 4.

¹¹ Id. at 22.

¹² Id. at 22-23.

Inspector Germinal then showed him photos of wanted persons, but Jurolan did not identify any of them as Cortez's assailants.¹³

Jurolan was then brought to the Makati Police Headquarters where he was shown more than a hundred photos of suspected criminals.¹⁴ After going over the photos, he identified Sadural as the person who ordered Cortez's shooting and Gabriel as the motorcycle driver riding with him.¹⁵ The pictures shown to Jurolan were from a May 21, 2008 tactical interrogation conducted by the Makati Central Police Station's Intelligence Branch against Sadural and Gabriel, who had been accosted for acting suspiciously near a bank.¹⁶

Accordingly, the police arrested the two and had them lined up with other detainees for an out-of-court identification by Jurolan. Jurolan consistently pointed to Sadural and Gabriel as Cortez's assailants.¹⁷

Meanwhile, the defense presented Sadural, Gabriel, and one Isabelo Magquilat (Magquilat) as its witnesses.¹⁸

Sadural and Gabriel denied the allegations hurled against them. They claimed that on the day of the incident, they were in De La Costa and Valero area in Makati City, working as private investigators. They were allegedly surveilling a married woman who was involved in an extramarital affair.¹⁹

At around 10:00 a.m., Sadural and Gabriel went to their target's condominium at Avenion²⁰ Place in Makati City. After an hour, they followed the woman and headed to her office at Trafalgar Place on Valero Street corner De La Costa Street, Makati City. Magquilat, the head investigator, arrived at the area at around 11:30 a.m. He told Sadural and Gabriel to wait until 6:00 p.m. for any activity and if they found none, they could leave and go home.²¹ At around 6:30 p.m., upon Magquilat's instructions, the two left the area.²²

Sadural and Gabriel claimed that the surveillance was duly coordinated with the Makati Police, as evidenced by a letter coordination.²³

¹³ Id. at 23.

¹⁴ Id.

¹⁵ Id. at 25-26.

¹⁶ Id. at 23.

¹⁷ Id.

¹⁸ Id. at 25.

¹⁹ Id.

²⁰ To clarify, "Avenion" was how it was written in the *rollo*, though this could have been a mistaken spelling of Avignon.

²¹ CA *rollo*, p. 202.

²² Id. at 203.

²³ Id. at 25.

Aside from their denials, Sadural and Gabriel also assailed the reliability and regularity of the police line-up identification. They claimed that Police Chief Inspector Germinal forced and threatened a hesitant Jurolan to identify the assailants.²⁴ They also claimed that their photographs from the tactical interrogation were illegally obtained by the police. Moreover, they pointed out that there were glaring inconsistencies in Police Chief Inspector Germinal's and Jurolan's testimonies.²⁵

In its July 30, 2012 Decision,²⁶ the Regional Trial Court found Sadural and Gabriel guilty beyond reasonable doubt of robbery with homicide, thus:

WHEREFORE, finding both accused **LEO SADURAL y QUIJANO and RICHARD GABRIEL y DASONG**, GUILTY beyond reasonable doubt of the crime of Robbery with Homicide, they are sentenced to suffer a penalty of *reclusion perpetua* and with all the accessory penalties provided for by law. They are further ordered, *in solidum*, to:

(1) make restitution in favor of the private complainant Ecolaser International Corporation in the amount of Php. 130,000.00, in Philippine Currency;

(2) pay death indemnity in favor of the heirs of the deceased/victim JAIMEARMANDOCORTEZ in the amount of Php. 50,000.00, as well as Php. 50,000.00 as moral damages, and Php. 36,400.00, all in Philippine Currency, as actual damages.

Costs de off[ff]icio.

SO ORDERED.²⁷ (Emphasis in the original)

The trial court found that all the elements of the crime charged were proven. It held that the prosecution established that Sadural, Gabriel, and their co-conspirators accosted Cortez and forcibly took the attaché case containing ₱130,000.00. When Cortez refused to give in, he was shot upon Sadural's instruction.²⁸ Moreover, the trial court found that Cortez's killing was done to facilitate the robbery due to his resistance.²⁹

The trial court also found Jurolan's identification of the accused to be "reliable" for being "positive, straightforward[,] and categorical[.]"³⁰ It noted that Jurolan himself discredited the claim that he was coached or

²⁴ Id.
²⁵ Id. at 30.
²⁶ Id. at 22-34.
²⁷ Id. at 34.
²⁸ Id. at 32.
²⁹ Id. at 33.
³⁰ Id. at 27.

forced to identify Sadural and Gabriel, as his participation was borne out of his honest desire to help dispense justice for the victim.³¹

On the other hand, the trial court did not give credence to Sadural and Gabriel's defense of alibi because they failed to substantiate their story. It noted that they were only a few minutes away from Kamagong Street when the incident happened; thus, it was not impossible for them to be physically present at the crime scene.³²

As to the alibi that Sadural and Gabriel were conducting a surveillance operation allegedly coordinated with the Makati Police, the trial court found that they failed to establish that the Makati Police received any coordination letter. It also deemed as hearsay evidence the Certification Letter issued by Sadural and Gabriel's agency president, which would supposedly verify their operation, since the president was not presented during trial. The photos of the subject of their surveillance were likewise disregarded as there was no proof that the photos were taken at the time of the crime's commission.³³

Similarly untenable to the trial court was Sadural and Gabriel's contention that their photographs were illegally procured during the tactical interrogation. Both of them appeared to have voluntarily submitted themselves to the tactical interrogation and agreed to have their pictures and personal information taken by the police, the trial court noted.³⁴

Finally, the trial court dismissed as minor inconsistencies Jurolan's and Police Chief Inspector Germinal's conflicting claims as to how many photos were shown to Jurolan and where he identified them. It noted that these were trivial matters that did not affect the witnesses' credibility.³⁵

Sadural and Gabriel later appealed before the Court of Appeals. In their Appellants' Brief,³⁶ they argued that the prosecution failed to prove their guilt beyond reasonable doubt.³⁷ They claimed that they were deceptively profiled by the police to answer for a crime they did not commit.³⁸

Sadural and Gabriel clarified that on May 21, 2008, the day their photos were taken for the tactical interrogation, they were conducting

³¹ Id. at 25.

³² Id. at 27.

³³ Id. at 28.

³⁴ Id. at 30.

³⁵ Id.

³⁶ Id. at 91-131.

³⁷ Id. at 92.

³⁸ Id. at 98.

surveillance operations near a bank in Makati City for a marital case that they were working on. They encountered law enforcers who were then acting on a report of a suspicious activity near the bank. These officers asked them what they were doing, but when they presented a coordination letter, the officers apologized and left.³⁹

Sadural and Gabriel claimed that the officers later returned and asked them to go to the Makati Central Police Station to verify the coordination letter. There, their personal and work details and photos were taken for “record purposes.”⁴⁰ They pointed out that their profile was used later to falsely pin them as the suspects in the robbery-homicide case.⁴¹

Claiming that they had no prior criminal record, Sadural and Gabriel stated that, as admitted by PO1 Payoyo, profiling of persons who have no criminal records is not the police’s standard operating procedure.⁴² Sadural was an enlisted personnel of the Philippine Navy until he resigned in March 2008, while Gabriel had been a security guard for various government agencies.⁴³

Moreover, Sadural and Gabriel questioned Jurolan’s credibility, considering the inconsistencies in his testimony. Particularly, they pointed out that Jurolan claimed being “one and [a half] arm[’]s length” from the scene he witnessed, but later changed it to “one corner from the station.”⁴⁴

Sadural and Gabriel further insisted on the inconsistencies as to the number of photos shown to Jurolan. In the Regional Trial Court’s decision, there were more than a hundred photos shown to Jurolan, but during trial, Jurolan stated that only two (2) photos were shown to him. As to whom he first identified in the police line-up, and when he executed his sworn statement, Jurolan’s statements also varied.⁴⁵

Moreover, Sadural and Gabriel alleged that Jurolan was an “interested witness,” claiming that Ecolaser employed him as a premium for his testimony.⁴⁶

On the other hand, the Office of the Solicitor General argued in its Appellee’s Brief⁴⁷ that all the elements of robbery with homicide were proven.⁴⁸ It argued that Sadural and Gabriel’s defense of denial and alibi

³⁹ Id. at 94–95.

⁴⁰ Id. at 95.

⁴¹ Id.

⁴² Id. at 102.

⁴³ Id. at 94.

⁴⁴ Id. at 112–113.

⁴⁵ Id. at 99–101.

⁴⁶ Id. at 110.

⁴⁷ Id. at 159–171.

⁴⁸ Id. at 164.

would fail against Jurolan's positive and categorical narration.⁴⁹ It also maintained that the trial judge's evaluation of the witnesses' credibility gains "utmost respect in the absence of arbitrariness."⁵⁰

In a March 8, 2016 Decision,⁵¹ the Court of Appeals affirmed the conviction with modification, thus:

WE MODIFY the Decision dated 30 July 2012 of the Regional Trial Court, Branch 145, Makati City, thus:

1. we find accused-appellants Leo Sadural y Quijano and Richard Gabriel y Dasong **GUILTY** beyond reasonable doubt of the crime of robbery with homicide, and sentence the two accused-appellants to imprisonment of *reclusion perpetua*;
2. we order accused-appellants Leo Sadural y Quijano, and Richard Gabriel y Dasong, jointly and severally, to pay private-complainant Ecolaser International Corporation the sum of Php130,000.00, plus interest at the rate of six percent (6%) per annum, computed from the finality of this decision, until full payment;
3. we order accused-appellants Leo Sadural y Quijano, and Richard Gabriel y Dasong, jointly and severally, to indemnify the heirs of Jaime Armando Cortez the following sums: Php50,000.00 (as civil indemnity); Php50,000.00 (as moral damages); Php36,400.00 (as actual damages), plus interest at the rate of six percent (6%) per annum, computed from the finality of this decision, until full payment.

IT IS SO ORDERED.⁵² (Emphasis in the original)

The Court of Appeals held that the prosecution proved all the elements of robbery with homicide. It found that Sadural and Gabriel violently took the money from Cortez, and by reason or on occasion of the robbery, homicide was committed. Moreover, it held that intent to gain is presumed in the assailants' unlawful taking of the money from the victim.⁵³

Citing jurisprudence, the Court of Appeals ruled that the categorical statements of the prosecution's witnesses prevails over the accused's bare denial.⁵⁴ Accordingly, Jurolan positively identified Sadural and Gabriel as part of the group of assailants who robbed and killed Cortez. Sadural and Gabriel's alibi that they were on duty as private investigators was not given

⁴⁹ Id. at 165.

⁵⁰ Id. at 167.

⁵¹ Id. at 199-211.

⁵² Id. at 210-211.

⁵³ Id. at 205-206.

⁵⁴ Id. at 207 citing *People v. Ocdan*, 665 Phil. 268 (2011) [Per J. Leonardo-De Castro, First Division].

credence because they failed to prove that it was physically impossible for them to be at the scene when the crime was committed.⁵⁵

Sadural and Gabriel moved for reconsideration, but their Motion was denied in the Court of Appeals' May 27, 2016 Resolution.⁵⁶

Accused-appellants Sadural and Gabriel filed a Notice of Appeal,⁵⁷ which was given due course by the Court of Appeals.⁵⁸

In a July 26, 2017 Resolution,⁵⁹ this Court acknowledged receipt of the records forwarded by the Court of Appeals and ordered the parties to file their supplemental briefs.

The Office of the Solicitor General manifested that it would no longer file a supplemental brief considering that all matters and issues raised had been extensively discussed in its Brief before the Court of Appeals.⁶⁰

In their Memorandum,⁶¹ accused-appellants claim that they are innocent victims of the Philippine National Police's profiling. They allege that the police trumped up charges and fabricated evidence to justify their conviction.⁶²

Accused-appellants raise doubts on the credibility of Jurolan's testimony, pointing out inconsistencies and unbelievable points in his story. Accused-appellant Sadural's remark, "*barilin mo na ang taong yan[,]*"⁶³ and the assailants' lack of helmet in broad daylight,⁶⁴ per Jurolan's testimony, are supposedly contrary to human experience. First, they argue that the very command to shoot sounds "awkward"; it would have been more believable had the remark been "*tirahin mo na*" or "*birahin mo na[,]*"⁶⁵ Second, they question how a robber would commit a crime in broad daylight without concealing his or her identity.⁶⁶ On that note, they also argue that Jurolan could not even describe the assailants' physical appearance.⁶⁷

⁵⁵ Id. at 208.

⁵⁶ Id. at 226–227. The Resolution was penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion of the Sixth Division, Court of Appeals, Manila.

⁵⁷ Id. at 231–233.

⁵⁸ Id. at 235.

⁵⁹ *Rollo*, pp. 21–22.

⁶⁰ Id. at 30.

⁶¹ Id. at 43–82.

⁶² Id. at 50.

⁶³ Id. at 51.

⁶⁴ Id. at 66–67.

⁶⁵ Id. at 51.

⁶⁶ Id. at 67.

⁶⁷ Id. at 66.

Moreover, accused-appellants contend that the police line-up itself was highly irregular because the police profiled them and used Jurolan to frame them as the perpetrators of the crime.⁶⁸

Aside from these, accused-appellants also reiterate that Jurolan testified to being “one and a half arm’s length” away from the victim and the assailants, but later stated that he was “after one corner from the station” or one and a half blocks away from the crime scene.⁶⁹ Moreover, Jurolan’s answers varied as to who he identified first during the police line-up.⁷⁰

Accused-appellants further contend that the trial court presiding judge only assumed office when the case was nearing its end, which does not put him in the best position to observe the witnesses’ demeanor.⁷¹

In relation, accused-appellants fault the Regional Trial Court on many material points. Among others, they point out how the trial court noted that “six malefactors sped away on their motorcycles and [Cortez] was left slumped on the ground[.]”⁷² implying that all the assailants were riding separate motorcycles. This is contrary to the prosecution’s allegation that the assailants were riding in tandem.⁷³

Accused-appellants also claim that they were included in the first set of photos shown to Jurolan, but Jurolan was not able to identify any assailant then.⁷⁴ Later in the Decision, it was narrated that Jurolan was presented with hundreds of photos when he was brought to police headquarters, but during trial, Jurolan testified that only two (2) photos were shown to him.⁷⁵

Accused-appellants also fault the trial court for stating that Jurolan’s sworn statement was taken after the police line-up when, per his testimony, it was given the day before of the line-up.⁷⁶

Accused-appellants further contend that Jurolan’s testimony should not be taken at face value. This is because, they argue, he is an interested witness and was persuaded to testify after being employed by Ecolaser.⁷⁷

⁶⁸ Id. at 50.

⁶⁹ Id. at 64–65.

⁷⁰ Id. at 53.

⁷¹ Id. at 50–51.

⁷² Id. at 51.

⁷³ Id.

⁷⁴ Id. at 52.

⁷⁵ Id.

⁷⁶ Id. at 53–54.

⁷⁷ Id. at 76–77.

Accused-appellants maintain that they have proven that they were not at the crime scene on the day of the incident.⁷⁸ They assert that they identified and testified on the coordination letters they submitted during trial; thus, these cannot be deemed hearsay, and their agency's president need not appear in court to identify it. They also insist that the photos they submitted prove the surveillance project's veracity. Even if these photos had no dates, they insist that there is no law requiring a surveillance camera to show the date when a photo was taken.⁷⁹

The main issue for this Court's resolution is whether or not accused-appellants Leo Sadural y Quijano and Richard Gabriel y Dasong are guilty of robbery with homicide.

I

To sustain a conviction for the crime of robbery with homicide, the following elements must concur:

(1) the taking of personal property is committed with violence or intimidation against persons; (2) the property belongs to another; (3) the taking is *animo lucrandi* or with intent to gain; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in the generic sense, was committed.⁸⁰ (Citation omitted)

As held in *People v. De Jesus*,⁸¹ homicide is deemed committed by reason or on occasion of robbery if 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."⁸²

In robbery with homicide, the offender's original intent is to execute the robbery; homicide is committed only on occasion or by reason of it. In such cases, it is immaterial whether homicide was committed by mere accident; whether the person killed is not the victim of robbery; whether two (2) or more persons are killed; or whether other crimes were committed due to the robbery. All felonies committed by reason of or on occasion of robbery are integrated into one (1) and indivisible felony of robbery with homicide.⁸³

⁷⁸ Id. at 78.

⁷⁹ Id. at 79.

⁸⁰ *People v. Uy*, 664 Phil. 483, 498 (2011) [Per J. Peralta, Second Division].

⁸¹ 473 Phil. 405 (2004) [Per Curiam, En Banc].

⁸² Id. at 428.

⁸³ Id. at 427.

When robbery with homicide is committed, all those who acted as principals in the robbery would also be deemed as principals in the homicide. This is regardless of whether they participated in the killing, unless it is clearly shown that they endeavored to prevent it.⁸⁴

Here, as found by both the Regional Trial Court and the Court of Appeals, all the elements of robbery with homicide were proven.

First, the taking of personal property in the form of money was committed with violence against Cortez. The assailants, acting in concert, accosted Cortez and forcibly took the money. Second, the lower courts found that the stolen ₱130,000.00 belonged to Ecolaser. As Ecolaser's officers testified, Cortez was just instructed to withdraw the money.

Third, intent to gain—an internal act which may be “presumed from the unlawful taking of things”⁸⁵—was proven when accused-appellants were established to have unlawfully taken the money from Cortez. Fourth, by reason of robbery, homicide was committed. When Cortez resisted giving the attaché case, accused-appellant Sadural ordered to kill him. The killing was, therefore, committed to facilitate the robbery.

With all the elements of robbery with homicide proven, accused-appellants' convictions must be upheld.

II

Accused-appellants mainly contend that the eyewitness is unreliable and that their alibi has been sufficiently proven. They attack Jurolan's credibility by raising inconsistencies in his testimonies and claiming that he is an interested witness for being employed by Ecolaser. Moreover, they maintain that their alibi must be given weight, claiming that they have given a detailed testimony on their whereabouts on the day of the incident.

These arguments fail.

This Court has consistently deferred to the trial court's factual findings and evaluation of the witnesses' credibility, especially when affirmed by the Court of Appeals, unless the trial court is shown to have acted arbitrarily, or overlooked or misconstrued cogent facts that could alter its conclusion.⁸⁶ The trial court's unique opportunity to observe first-hand

⁸⁴ Id. at 428.

⁸⁵ *People v. Evangelio*, 672 Phil. 229, 246 (2011) [Per J. Peralta, Third Division].

⁸⁶ See *Medina, Jr. v. People*, 724 Phil. 226 (2014) [Per J. Bersamin, First Division] and *People v. Elizalde*, 801 Phil. 1008 (2016) [Per J. Peralta, Third Division].

the witnesses' demeanor on the stand puts it in the best position to assess their credibility, "truthfulness, honesty[,] and candor."⁸⁷

Accordingly, this Court will not disturb the trial courts' evaluation of the witnesses' credibility without any palpable error or grave abuse of discretion on the part of the trial court judge.⁸⁸

Moreover, minor inconsistencies in a testimony which do not pertain to material facts will not undermine a witness' credibility. After all, they only refer to "collateral matters which do not touch upon the commission of the crime itself."⁸⁹ In *People v. Dimapilit*,⁹⁰ this Court held:

A witness' inconsistency on minor details does not affect his or her credibility as long as there are no material contradictions in his or her absolute and clear narration on the central incident and positive identification of the accused as one (1) of the main assailants. Any inconsistency, which is not relevant to the elements of the crime, "is not a ground to reverse a conviction."⁹¹ (Citations omitted)

An errorless testimony is not the hallmark of an honest and credible testimony. By all means, there may be minor errors in a witnesses' narration especially when they relate to "details of a harrowing experience."⁹² More so, these inconsistencies demonstrate good faith and confirm that a testimony is not rehearsed. As held in *People v. De la Rosa*:⁹³

The contradictions in the declarations of a witness when trivial cannot be ascribed to an insidious attempt to distort the truth. It is a truism that the most candid witness oftentimes commits mistakes and incurs in inconsistencies in his declarations, but such honest lapses do not necessarily impair his intrinsic credibility. Far from being evidence of falsehood they could justifiably be regarded as a demonstration of good faith and a confirmation of the fact that the witness was not a rehearsed witness.⁹⁴

Thus, courts only need to look at a "sustained consistency in relating the principal elements of the crime and the positive and categorical identification of accused-appellants as the perpetrators of the crime."⁹⁵

⁸⁷ *People v. Layug*, 818 Phil. 1021, 1028–1029 (2017) [Per J. Peralta, Second Division].

⁸⁸ *People v. Umapas*, 807 Phil. 975, 990–991 (2017) [Per J. Peralta, Second Division].

⁸⁹ *People v. Canada*, 228 Phil. 121, 128 (1986) [Per J. Gutierrez, Jr., Second Division].

⁹⁰ 816 Phil. 523 (2017) [Per J. Leonen, Second Division].

⁹¹ *Id.* at 535.

⁹² *Id.*

⁹³ 207 Phil. 129 (1983) [Per J. Guerrero, En Banc].

⁹⁴ *Id.* at 173–174.

⁹⁵ *People v. Reyes*, 447 Phil. 668, 676 (2003) [Per J. Ynares-Santiago, First Division].

Here, accused-appellants claim the following discrepancies in Jurolan's testimony: (1) his distance from the scene; (2) the number of photos shown to him; (3) who he pointed at first; and (4) when his sworn statement was taken. These details, however, do not pertain to the crime's elements, and are inconsistencies too trivial to impair Jurolan's credibility. They do not change the fact that he witnessed and testified on the robbery and killing of Cortez.

As to their identification, accused-appellants contend that the police line-up and their identification was due to false profiling. They argue that the out-of-court identification is highly irregular because Jurolan was only shown their photos, and the police used Jurolan to pin them as the perpetrators of the crime.

In *People v. Timon*,⁹⁶ this Court has succinctly discussed the totality of circumstances test and its parameters to assess the validity of an out-of-court identification:

Out-of-court identification is conducted by the police in various ways. It is done thru *show-ups* where the suspect alone is brought face to face with the witness for identification. It is done thru *mug shots* where photographs are shown to the witness to identify the suspect. It is also done thru *line-ups* where a witness identifies the suspect from a group of persons lined up for the purpose. Since corruption of *out-of-court* identification contaminates the integrity of *in-court* identification during the trial of the case, courts have fashioned out rules to assure its fairness and its compliance with the requirements of constitutional due process. In resolving the admissibility of and relying on out-of-court identification of suspects, courts have adopted the *totality of circumstances test* where they consider the following factors, *viz*: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and (6) the suggestiveness of the identification procedure.⁹⁷ (Citation omitted)

In giving credence to Jurolan's out-of-court identification, the trial court found that it passed the totality of circumstances test:

[T]he court finds that Jurolan's out-[of]-court-identification of the accused as reliable, for reasons that, first, he was very near the place where the

⁹⁶ 346 Phil. 572 (1997) [Per J. Panganiban, Third Division].
⁹⁷ Id. at 585.

incident happened and thus had a good view of the perpetrators, not to mention that one of the robber (*sic*) with a gun directly approached him and pointed his gun at him; second, no competing event took place to draw his attention from the event; third, Jurolan immediately made identification on the pictures of the accused on the same day when the incident happened, while affirming he could possibly identify the others if he would see them again, and the entire happening that he witnessed; and finally, there was no evidence that the police had supplied or even suggested to Jurolan that accused were the suspects.⁹⁸

On the other hand, accused-appellants' allegation of suggestiveness during the out-of-court identification is unsubstantiated. They failed to show proof that the police forced, threatened, or influenced Jurolan to identify them. In contrast, accused-appellants admitted that there were other suspects and civilians who participated in the line-up, but Jurolan repeatedly pointed at them.⁹⁹

Even assuming that the out-of-court identification were attended with irregularity and arbitrariness, Jurolan identified and stated during trial that accused-appellants are Cortez's assailants. As this Court held, the "inadmissibility of a police line-up identification. . . should not necessarily foreclose the admissibility of an independent in-court identification."¹⁰⁰ Here, the trial court deemed Jurolan's straightforward and categorical in-court identification reliable.¹⁰¹

Accused-appellants further claim that Jurolan's testimony must be brushed aside because he is an interested witness. This is likewise untenable.

This Court has settled that a witness' relationship to a party does not by itself impair his or her credibility.¹⁰² It may not be taken as an indicium of bias.¹⁰³ In *People v. Uy*:¹⁰⁴

[M]ere relationship to the victim need not automatically tarnish the testimony of the witness. When there is no showing of improper motive on the part of the witnesses for testifying against the accused, the fact that they are related to the victim does not render their clear and positive testimony less worthy of full faith and credit. On the contrary, their natural interest in securing the conviction of the guilty would prevent them from implicating persons other than the culprits, for otherwise, the latter would thereby gain immunity.¹⁰⁵ (Citation omitted)

⁹⁸ CA rollo, pp. 26-27.

⁹⁹ Id. at 29.

¹⁰⁰ *People v. Timon*, 346 Phil. 572, 588 (1997) [Per J. Panganiban, Third Division].

¹⁰¹ CA rollo, p. 27.

¹⁰² *People v. Dominguez*, 291 Phil. 164, 170-171 (1993) [Per Curiam, Second Division].

¹⁰³ *People v. Pablo*, 415 Phil. 242, 254 (2001) [Per J. Pardo, First Division].

¹⁰⁴ 283 Phil. 175 (1992) [Per J. Paras, Second Division].

¹⁰⁵ Id. at 185-186.

In the absence of evidence as to the improper motive, courts must give full faith and credit to the witness' testimony. Falsely implicating an innocent person for the commission of a crime is highly implausible, especially for those who are interested in prosecuting the true perpetrators.¹⁰⁶ Without any showing of a compelling reason or motive, it is inconceivable why witnesses would falsely implicate innocent people and have them sent to jail.¹⁰⁷

In this case, Jurolan's subsequent employment with Ecolaser does not by itself mar his credibility. Accused-appellants failed to show any animosity or ill motive on his part that could have impelled him to falsely accuse them of the serious crime. With no proof of improper motive, his testimony is entitled to this Court's full faith.

Similarly untenable is accused-appellants' theory that the trial court erred in ruling on several points that were contrary to human experience, capitalizing on the supposedly "awkward" order to shoot Cortez and the assailants' lack of helmets. In no way do these affect their conviction. What is crucial in this case is that the prosecution was able to establish all the elements of the crime.

Further, accused-appellants anchor their innocence on their alibi that they were on duty as private investigators at the time the crime was committed.

It is doctrinally entrenched that alibi and denial are inherently weak defenses that must fail against positive identification. Positive testimony prevails over negative testimony¹⁰⁸ since denial and alibi are easy to fabricate and difficult to refute.¹⁰⁹ Positive and categorical identification, without any showing of ill motive on the eyewitness' part, prevails over an unsubstantiated denial, which is negative and self-serving evidence in the eyes of the law.¹¹⁰

For an alibi to prosper, the defense must meet the stringent requirements of time and place. Simply proving that the accused were somewhere else is insufficient; it must be convincingly shown that it was physically impossible for them to have been at the crime scene when the crime was committed.¹¹¹

¹⁰⁶ *People v. De Guzman*, 272 Phil. 450, 466-467 (1991) [Per J. Regalado, Second Division].

¹⁰⁷ *People v. Pablo*, 415 Phil. 242, 254 (2001) [Per J. Pardo, First Division].

¹⁰⁸ *People v. Ebet*, 649 Phil. 181, 198 (2010) [Per J. Peralta, Second Division].

¹⁰⁹ *People v. Gamba*, 814 Phil. 25, 30 (2017) [Per J. Del Castillo, First Division].

¹¹⁰ *People v. Gani*, 710 Phil. 467, 474 (2013) [Per J. Peralta, Third Division].

¹¹¹ *People v. Ebet*, 649 Phil. 181, 198 (2010) [Per J. Peralta, Second Division].

Here, accused-appellants failed to prove their alibi. There was no showing that it was physically impossible for them to be at the crime scene. In fact, they admitted to traversing the area that day.

Further, their claim that they were conducting surveillance was not duly proven. Both lower courts ruled that the evidence submitted by accused-appellants is insufficient to prove the surveillance project's existence and veracity. The defense failed to identify and testify on the confirmation letter and certification from their agency's president. Moreover, the photos produced on the day of the incident do not prove that they were taken exactly when the crime was being committed, and that they were taken by accused-appellants.

Nevertheless, even if this Court gives credence to the confirmation letter, certification, and photos given by accused-appellants, they still failed to prove that it was physically impossible for them to be at the scene when the crime was perpetrated.

Thus, against the prosecution's evidence, accused-appellants' alibi fails.

To reiterate, this Court accords great respect to the factual findings and conclusions of the trial court, especially when affirmed by the Court of Appeals.¹¹² Absent arbitrariness, irregularity, or misinterpretation of material facts, we will not overturn its findings.¹¹³ This case is no different. This Court finds no cogent reason to overturn the trial court's factual findings, as affirmed by the Court of Appeals.

Under Article 294(1)¹¹⁴ of the Revised Penal Code, as amended by Republic Act No. 7659, the special complex crime of robbery with homicide is punishable by *reclusion perpetua* to death. Article 63(2)¹¹⁵ of the Revised Penal Code states that when the law prescribes a penalty consisting of two (2)

¹¹² *People v. Chavez*, 743 Phil. 587, 599 (2014) [Per J. Leonen, Second Division].

¹¹³ *People v. Temanel*, 395 Phil. 414, 423 (2000) [Per J. Ynares-Santiago, First Division].

¹¹⁴ REV. PEN. CODE, art. 294(1) provides:

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.

¹¹⁵ REV. PEN. CODE, art. 63(2) provides:

ARTICLE 63. Rules for the application of indivisible penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

....

2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

indivisible penalties, and the crime is not attended by either mitigating or aggravating circumstances, the lesser penalty shall be imposed.

Since no modifying circumstances attended the crime's commission, the Regional Trial Court and the Court of Appeals correctly imposed the lower penalty of *reclusion perpetua*.

In accordance with *People v. Jugueta*,¹¹⁶ the awards of civil indemnity, moral damages, and exemplary damages in special complex crimes such as robbery with homicide are uniformly pegged at ₱75,000.00 each.

WHEREFORE, the appeal is **DISMISSED**. The Court of Appeals' March 8, 2016 Decision and May 27, 2016 Resolution in CA-G.R. CR-HC No. 05966 are **AFFIRMED WITH MODIFICATION**. Accused-appellants Leo Sadural y Quijano and Richard Gabriel y Dasong are declared **GUILTY** beyond reasonable doubt of the crime of robbery with homicide and are sentenced to suffer the penalty of *reclusion perpetua*.

Accused-appellants are **ORDERED** to jointly and severally pay the following: (1) ₱130,000.00 to private complainant Ecolaser International Corporation; (2) civil indemnity, moral damages, and exemplary damages in the amount of ₱75,000.00 each; and (3) actual damages in the amount of ₱36,400.00 to the heirs of Jaime Armando Cortez.

All damages awarded shall be subject to an interest at the rate of six percent (6%) per annum from the finality of this Resolution until fully paid.¹¹⁷

SO ORDERED." (Peralta, J., no part, as his spouse, Court of Appeals [CA] Justice Fernanda Lampas Peralta, concurred in the assailed CA decision and resolution; J.C. Reyes, Jr., J., designated additional Member per Raffle dated June 19, 2019; Inting, J., on official leave; Leonen, J., designated as Acting Chairperson.)

Very truly yours,

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
11/20/20

¹¹⁶ 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

¹¹⁷ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

Atty. Marwil Nacor Llasos
Counsel for Accused-Appellants
c/o INSTITUTE OF INTERNATIONAL LEGAL STUDIES
3/F Bocobo Hall, U.P. Law Center
University of the Philippines
Diliman, 1101 Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 05966
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

CSSupt. Gerardo F. Padilla
Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Messrs. Leo Sadural y Quijano &
Mr. Richard Gabriel y Dasong
c/o The Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 145, 1200 Makati City
(Criminal Case No. 08-860)

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