



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BEN MANANGAN,
Petitioner,

G.R. No. 218570

Present:

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR.,* JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

22 NOV 2017

X-----X

DECISION

CARPIO, J.:

The Case

This petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeks to reverse the 20 May 2014 Decision² and the 1 June 2015 Resolution³ of the Court of Appeals in CA-G.R. CR No. 33280 which affirmed with modification the 22 January 2010 Decision⁴ of the Regional Trial Court (RTC) of Cagayan, Isabela, Branch 22.

The Charge

Criminal Case No. 22-1597, entitled *People of the Philippines v. Ben Manangan, John Doe, Peter Doe, Richard Doe, Paul Doe, and Albert Doe*, was filed against Ben Manangan (petitioner) for the crime of robbery by a band under Article 295 of the Revised Penal Code (RPC), committed as follows:

* On official leave.

¹ *Rollo*, pp. 3-16.

² *Id.* at 18-33. Penned by Associate Justice Michael P. Elbinias, with Associate Justices Isaias P. Dicdican and Victoria Isabel A. Paredes concurring.

³ *Id.* at 35-36.

⁴ *Id.* at 58-66. Penned by Judge Conrado F. Manauis.

That on or about the 5th day of February, 2001, in the [M]unicipality of Tumauni, [P]rovince of Isabela, Philippines and within the jurisdiction of this Honorable Court, the accused Ben Manangan, together with John Doe, Peter Doe, Richard Doe, Paul Doe and Albert Doe, whose identities are still to be determined, conspiring, confederating together and helping one another, all armed with assorted firearms, with intent to gain and by means of force and intimidation against person, that is: by poking their firearms towards the persons of Ocampo U. Denna and members of his family including one Felix Denna and at gun point, did then and there, willfully, unlawfully and feloniously, take, steal and bring away cash money in the amount of ₱50,000.00, belonging to the said Ocampo U. Denna, against his will and consent, to the damage and prejudice of the said owner, in the aforesaid amount of ₱50,000.00.

CONTRARY TO LAW.⁵

Upon arraignment, petitioner pleaded not guilty.⁶

Version of Facts of the Prosecution

The RTC Decision narrated the prosecution's version of the facts as culled from the testimonies of two eyewitnesses, Jolita Denna and Fortunata Denna:

Jolita Denna told the Court [that] Ben Manangan, the herein accused, is the nephew of her husband, Ben being married to her husband's niece. She knows Ben since the time the latter married his wife. She positively identified Ben Manangan in open court.

On February 5, 2001 in the evening, she together with her daughter Jesusa Denna, her brother-in-law Mariano Denna, and Mariano's daughter Fortunata Denna were inside their house [in] San Vicente, Tamauni, Isabela. At around 7:30 o'clock in the evening of said date, her husband arrived. When she and her husband were about to sleep and after [turning] off the light, she heard somebody [call], "Uncle Ampoy, Uncle Ampoy." Ampoy, according to her, is her husband Ocampo Denna. She responded by saying to the caller, "Please wait, I will just put on the light." She lighted an improvised gas lamp and thereafter opened the door and saw Ben Manangan's face. However, Ben who was in front of the door, put off the light by blowing it. Thereafter, the armed group of about six (6), wearing masks (bonnets), instructed her to cook. She obliged. After cooking, they ate. After eating, three (3) of the armed group went to the house of his brother-in-law while the other three (3) remained. Then, the remaining three (3) wearing masks (bonnets) ask[ed] for their money by saying, "Hold up, hold up, iyawa nu y kwartu" which means "Give me your money." She and her husband replied to them, [saying] they [did] not have money. They angrily reacted by saying, "You are lying," at the same time letting them choose "Give your money or be killed?" Threatened and afraid, she told her husband to just give their money. Her husband refused

⁵ Id. at 18-19.

⁶ Id. at 21.



but [Jolita] pleaded to him to give their money because of fear. Then, she told the armed men wearing mask[s] to wait. She went to get their money amounting to Fifty Thousand (₱50,000.00) Pesos of different denominations and gave it to them. Thereafter, the armed group left.

x x x x

Fortunata Denna narrated to the Court [that] she knows Ben Manangan. On February 5, 2001 in the evening, she was in the house of her uncle Ocampo "Ampoy" Denna married to Jolita Denna [in] San Vicente, Tumauni, Isabela. When she, her aunt Jolita Denna and Jesusa Denna were about to sleep, someone called for her Uncle Ampoy and heard her aunt [say] "Ben." Thereafter, her Aunt Jolita lighted a gas lamp. She saw what her aunt was doing because she was lying just opposite the door where her aunt was. Later, her Aunt Jolita opened the door and afterwhich, somebody put off the gas lamp. The distance between the place where she was lying and the door was only about a meter. Then, she heard [someone] in an [I]locano dialect [say], "Mabalin ti makipangan?" which means "Can we eat?" Her aunt responded by calling her child to bring the kettle. While her aunt Jolita and daughter Jesusa were cooking, and while the armed men were roaming around, she was able to identify Ben Manangan who was not wearing [a] mask while she [could not identify the others] because they were all wearing masks and jackets. Then, she went out to help her aunt cook. After the [food was] cooked, the armed [men] including Ben Manangan ate. After eating, one of the armed men announced, "Hold up, hold up." Ben Manangan was with them when the hold up was declared. With their announcement, she [cowered] in fear and was chilling. Later, she heard her Aunt Jolita [say], "We do not have money," which was seconded by her Uncle Ampoy. However, the armed men insisted that they have the money and told her uncle and aunt "Give your money or we will kill you all." Moments later, she heard her Aunt Jolita tell her husband Ampoy, "We should give now our money." Thereafter, her aunt went inside the house, took the money and gave it to the armed persons by saying "Here is the money." Then, the armed men after receiving the money left.

x x x x⁷

Version of Facts of the Defense

The RTC Decision also narrated the defense's version of the facts based on the testimony of petitioner, as follows:

Ben Manangan, the herein accused, narrated to the Court that he knows Jolita Denna, she being a neighbor. He [likewise knows] Fortunata Denna but [is] not too familiar [with her]. He denied [having] participated in robbing Jolita Denna on the night of February 5, 2001, he being inside his house [in] San Vicente, Tumauni, Isabela. Before 7:30 o'clock in the evening of said day, he was having a drinking session with his brother-in-law Johnny Mamauag. They stopped drinking at around 9:00 o'clock in the evening and slept. The following morning, he was taken by police

⁷ Id. at 59-60.



officers and brought to the Tumauni Police Station. At the police station, he saw his Uncle Ampoy and Aunt Jolita.

The proffered testimony of Johnny Mamauag, to wit:

“That Johnny Mamauag will corroborate the earlier testimony of the accused that on February 5, 2001 from 7:30 to 9:00 o’clock in the evening at the residence of the accused [in] San Vicente, Tumauni, Isabela, they were drinking together. That Johnny Mamauag left after drinking at about 9:00 o’clock in the evening.”

was admitted by the Public Prosecutor (Order dated November 20, 2009).

x x x x⁸

The Ruling of the RTC

In its Decision dated 22 January 2010, the RTC found petitioner guilty beyond reasonable doubt of the crime of robbery by a band and sentenced him to suffer the indeterminate prison term of six years of *prision correccional* as minimum to ten years of *prision mayor* as maximum period, and ordered petitioner to pay the private complainant the amount of Fifty Thousand Pesos (₱50,000.00).

Petitioner filed a Motion for New Trial⁹ dated 15 February 2010, reiterating his innocence and showing evidence which could not have been found by petitioner during the first trial. Attached to the Motion is the Affidavit of Maria Manangan,¹⁰ petitioner’s wife.

The RTC denied petitioner’s Motion for New Trial in its Resolution dated 26 February 2010.¹¹

Petitioner appealed to the Court of Appeals.¹²

The Ruling of the Court of Appeals

In its Decision dated 20 May 2014, the Court of Appeals affirmed with modification the RTC Decision by reducing the penalty imposed by the RTC to the indeterminate penalty of four years and two months of *prision correccional* as minimum to ten years of *prision mayor* as maximum period. The Court of Appeals also found that the RTC was correct in ordering petitioner to indemnify private complainant the amount of Fifty Thousand

⁸ Id. at 60-61.

⁹ Id. at 67-71.

¹⁰ Id. at 72-76.

¹¹ Id. at 84-85.

¹² Id. at 91-107.

Pesos (₱50,000.00) as the amount unlawfully taken from private complainant.

Petitioner sought reconsideration which the Court of Appeals denied in its Resolution¹³ dated 1 June 2015.

Hence, this petition.

The Issues

Petitioner presents the following issues:

1. Whether or not the Court of Appeals gravely erred in affirming the decision of the RTC in finding, based on its “honest belief,” that there was “implied conspiracy”;
2. Whether or not the *corpus delicti* was proven beyond reasonable doubt by the prosecution; and
3. Whether or not the denial of the *Motion for New Trial* by the RTC was proper.¹⁴

The Ruling of the Court

The petition has no merit.

The quantum of proof required to prove implied conspiracy is proof beyond reasonable doubt.

Petitioner questions whether the RTC and the Court of Appeals were correct in finding that there was implied conspiracy in the commission of the crime of robbery by a band based merely on the RTC’s “honest belief.”

In its Decision dated 22 January 2010, the RTC found, based on its honest belief, that implied conspiracy existed in the crime of robbery by a band. It held that:

Expressed conspiracy was not shown by the prosecution. It means that there is no evidence showing that the co-accused Does had an agreement with accused Ben Manangan to commit robbery and decided to commit it.

¹³ Id. at 35-36.

¹⁴ Id. at 6.



However, it is the honest belief of the Court that implied conspiracy exist[s].¹⁵ (Boldfacing and underscoring supplied)

However, in the same Decision, the RTC further held that it was convinced beyond moral certainty that conspiracy was shown. It held that:

This being the factual milieu of the case, **the Court is convinced beyond moral certainty that conspiracy was shown**, hence, Ben is equally guilty with the others as a co-conspirator to the crime of robbery.¹⁶ (Boldfacing and underscoring supplied)

“Honest belief” is a term rarely used in criminal cases. In *Philippine National Bank v. De Jesus*,¹⁷ “honest belief” was loosely defined as “the absence of malice and the absence of design to defraud or to seek an unconscionable advantage.”¹⁸

A trial court’s “honest belief” cannot be the basis of a finding of implied conspiracy because a finding of conspiracy must be supported by evidence constituting proof beyond reasonable doubt.¹⁹ In *People v. Bokingo*,²⁰ this Court ruled that “conspiracy must be established with the same quantum of proof as the crime itself and must be shown as clearly as the commission of the crime.”²¹

We hold that a finding of implied conspiracy must be proven beyond reasonable doubt, and must not be merely based on the trial court’s “honest belief.” The use of the term “honest belief” in the RTC’s Decision did not refer to the quantum of proof used to prove a finding of implied conspiracy. In fact, the RTC clarified in the next paragraph that it was “convinced beyond moral certainty that conspiracy was shown.”

The real issue now is whether the RTC and the Court of Appeals were correct in finding beyond reasonable doubt proof of implied conspiracy.

Petitioner argues that there is no implied conspiracy between him and the other accused. He points out that eyewitnesses Jolita and Fortunata Denna testified that petitioner did not do anything that may be considered conspiratorial since he merely stood outside the house and did not receive the amount of Fifty Thousand Pesos (₱50,000.00) himself. Petitioner further alleges that his mere presence at the scene of the crime does not imply conspiracy.

¹⁵ Id. at 65.

¹⁶ Id.

¹⁷ 458 Phil. 454 (2003).

¹⁸ Id. at 460.

¹⁹ *People v. Gabatin*, 280 Phil. 246, 253 (1991).

²⁰ 671 Phil. 71 (2011).

²¹ Id. at 89.



Petitioner's argument is unmeritorious.

An implied conspiracy exists when two or more persons are shown to have aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative. Their acts must indicate a closeness of personal association and a concurrence of sentiment.²² It is proved not by direct evidence or mere conjectures, but through the mode and manner of the commission of the offense, or from the acts of the accused before, during, and after the commission of the crime indubitably pointing to a joint purpose, a concert of action, and a community of interest.²³

When the RTC and the Court of Appeals found, through the testimonies of the two eyewitnesses, that the crime of robbery by a band was committed, it meant that implied conspiracy existed. In *People v. Peralta*,²⁴ this Court held that the law presumes the attendance of conspiracy in the crime of robbery by a band such that "any member of a band who is present at the commission of a robbery by the band, shall be punished as principal of any of the assaults committed by the band, unless it is shown that he attempted to prevent the same."²⁵ Thus, conspiracy need not even be proven as long as the existence of a band is clearly established.

The corpus delicti was proven beyond reasonable doubt by the prosecution.

Petitioner defines *corpus delicti* as the body or substance of the crime, and in its primary sense, refers to the fact that a crime has actually been committed. As applied to a particular offense, it means the actual commission by someone of the particular crime charged.²⁶

In the present case, petitioner alleges that the *corpus delicti* was not proven because "[petitioner's] participation in the supposed felonious act is based on lackadaisical application of '**circumstantial evidence.**'"²⁷ Petitioner claims that there was no concrete showing that the victims were in possession of the property or object-matter of the offense. Petitioner asserts that "it should have been x x x a cause for wonder how a lamp-lit house in a rural area could so casually hold such amount – huge even by middle-family standards."²⁸

²² *People v. De Leon*, 608 Phil. 701, 718 (2009).

²³ *People v. Del Castillo*, 679 Phil. 233, 254 (2012).

²⁴ 134 Phil. 701 (1968).

²⁵ *Id.* at 721.

²⁶ *Rollo*, p. 9.

²⁷ *Id.*

²⁸ *Id.* at 10.

We disagree with petitioner. Contrary to petitioner's contention that the *corpus delicti* was not proven, the prosecution sufficiently established through **direct evidence** that the crime of robbery by a band was committed.

Direct evidence is different from circumstantial evidence. Direct evidence is evidence which, if believed, proves the existence of a fact in issue without inference or presumption.²⁹ It is evidence from a witness who actually saw, heard, or touched the subject of questioning. On the other hand, circumstantial evidence is evidence that "indirectly proves a fact in issue through an inference which the factfinder draws from the evidence established."³⁰

In this case, the testimonies of the two eyewitnesses constitute direct evidence that proved the *corpus delicti* of the crime of robbery by a band because both were actually at the scene of the crime. They saw with their own eyes that a group of armed and masked men led by the unmasked petitioner entered their house, ate their food, robbed them of Fifty Thousand Pesos (₱50,000.00), and left.

The prosecution proved the *corpus delicti* because all of the elements of the crime of robbery by a band were proven beyond reasonable doubt. It was proven that petitioner, a member of the band, was liable for his acts because the following requisites concurred:³¹

First, petitioner was proven to be a member of the band. Article 296 of the Revised Penal Code defines a "band" as a group of more than three armed malefactors who take part in the commission of a robbery. In this case, petitioner was proven to have led in entering the complainant's house five other men who were all armed with long or short firearms when the robbery was committed.³²

Second, petitioner was proven to be present at the commission of the robbery by the band because of the positive identification by the two eyewitnesses. Petitioner cannot raise the defense of alibi that he was drinking in his house with his brother-in-law and was afterwards sleeping in his house beside his wife and child at the time the crime happened. Such alibi is not entitled to much weight, even if such alibi was corroborated by his brother-in-law and his wife, because the positive identification by the two eyewitnesses still prevails.

²⁹ *State v. Famber*, 358 Mo. 288, 214 S.W.2d 40, 43[3] (1948).

³⁰ *People v. Matito*, 468 Phil. 14, 26 (2004).

³¹ These requisites are based on the last paragraph of Article 296 of the Revised Penal Code which states that:

ART. 296. *Definition of a band and penalty incurred by the members thereof.* - x x x.

Any member of a band, who is present at the commission of a robbery by the band, shall be punished as principal of any of the assaults committed by the band, unless it be shown that he attempted to prevent the same.

³² *Rollo*, p. 66.



Well-settled is the rule that the defense of alibi is inherently weak and cannot prevail over the positive identification of the accused by the prosecution witnesses, unless the accused shows that it was physically impossible for him to have been at the scene of the crime.³³

In this case, it was physically possible for petitioner to be at the scene of the crime because petitioner and the spouses Denna were just neighbors, as alleged by the prosecution witnesses and petitioner himself. Petitioner's wife is also Ocampo's niece; thus, they are related by affinity.³⁴ The RTC and Court of Appeals aptly found that the eyewitnesses were familiar with him and knew him personally.³⁵

Third, the other members of the band committed an assault which is the use of force and threats against the victims to force them to part with their personal property, money amounting to Fifty Thousand Pesos (₱50,000.00). The RTC found, to wit:

Jolita Denna emphatically expressed to the Court that she handed their money to the group of the accused against her will and out of fear, due to the **actual and physical threat to them to be killed** because the armed men were then **poking their long and short firearms** at them.³⁶ (Emphasis supplied)

Last, the petitioner did not prevent the assault. It was clear from the allegations and testimonies of the eyewitnesses that petitioner did not do anything to stop the other armed and masked men from committing the robbery.

Petitioner is correct that to prove the *corpus delicti* of the crime of robbery by a band, the lawful possessor of the object-matter of the offense must be proven. However, petitioner cannot allege that the spouses Denna could not possibly be the lawful possessors of the Fifty Thousand Pesos (₱50,000.00) simply because of their living and economic conditions. They bear no legal relation to the *corpus delicti* of the crime of robbery by a band.

Furthermore, the RTC found that the personal property subject of the instant case belongs to the spouses Denna. It held:

x x x [T]he taking by the accused and his armed companions of the ₱50,000.00 belonging to the Dennas is unlawful. When the armed men of which accused Ben Manangan was a member announced a hold up and telling the Dennas to give their money, they did it to force them to hand **their money as [the armed men did] not have any color of authority to ask for that personal property – [that] money** x x x.³⁷ (Emphasis supplied)

³³ *People v. Feliciano, Jr.*, 734 Phil. 499, 532-533 (2014).

³⁴ *Rollo*, pp. 45-46, 48, 50, 93-94.

³⁵ *Id.* at 23, 64.

³⁶ *Id.* at 62.

³⁷ *Id.*

This Court has consistently held that the findings of the RTC are not generally disturbed by the appellate courts since the RTC is in a better position to pass on issues of credibility, having heard the witnesses themselves and observed their manner of testifying, unless it is shown that the RTC overlooked certain facts or circumstances that could affect the outcome of the case.³⁸

The RTC's denial of petitioner's Motion for New Trial was proper.

In its Resolution dated 26 February 2010, the RTC denied petitioner's Motion for New Trial. The RTC held that:

The motion asserts that there is a need to grant a new trial in order for the defense to present additional witnesses.

x x x x

It is the humble opinion of the court that witnesses desired to be presented by the defense are witness[es] [who] are available at the time of trial. In fact, these witnesses are living in the same Barangay as that of the accused. In short, the testimonies of said witnesses are not considered newly discovered evidence but forgotten evidence, hence, not a valid ground for the grant of a new trial.

Finally, even if these witnesses are allowed to testify, it will not materially affect the outcome of the judgement because the basis of the judgement is the positive identification and affirmative statements of two (2) eyewitnesses that accused was among the robbers who robbed the private complainant.

WHEREFORE, in view of the foregoing, the motion is denied for lack of merit.³⁹

We agree with the Resolution of the RTC.

Under paragraph 2, Section 2, Rule 121 of the Rules of Court, one ground for a Motion for New Trial is "that new and material evidence has been discovered which the accused would not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgement."

In *Velasco v. Ortiz*,⁴⁰ the Court summarized the requisites for a Motion for New Trial grounded on newly discovered evidence. These are: (a) the evidence had been discovered after trial; (b) the evidence could not have been discovered and produced during trial even with the exercise of

³⁸ *People v. Napalit*, 444 Phil. 793, 801-802 (2003).

³⁹ *Rollo*, pp. 84-85.

⁴⁰ 263 Phil. 210 (1990).



reasonable diligence; and (c) the evidence is material and not merely corroborative, cumulative or impeaching, and is of such weight that, if admitted, would probably alter the result. The Court further held:

In order that a particular piece of evidence may be properly regarded as “newly discovered” for purposes of a grant of new trial, what is essential is not so much the time when the evidence offered first sprang into existence nor the time when it first came to the knowledge of the party now submitting it; **what is essential is, rather, that the offering party had exercised diligence in seeking to locate such evidence before or during trial but nonetheless failed to secure it.** Thus a party who, prior to the trial, had no means of knowing that a specific piece of evidence existed and was in fact obtainable, can scarcely be charged with lack of diligence. It is commonplace to observe that the term “diligence” is a relative and variable one, not capable of exact definition and the contents of which must depend entirely on the particular configuration of facts obtaining in each case.⁴¹ (Emphasis supplied)

In this case, petitioner sought to present his wife, Maria Manangan, and six other persons.⁴² What these persons will testify to, as shown by the statements attached to petitioner’s Motion for New Trial, are mere reiterations of petitioner’s defense that no robbery was committed. The statements merely allege that there was no news in their barangay about the robbery “which is unusual in a place where when a visitor of a friend [or] a relative arrives, the whole place knows.”⁴³

Petitioner’s Motion for New Trial was correctly denied by the RTC because the statements sought to be presented by the six persons were already available before and during the trial. The statements merely corroborate petitioner’s alibi and defense, which will not alter the result of the trial. Most importantly, the statements of these six persons could have been discovered, accessed, and produced during the trial with the exercise of reasonable diligence because all six persons were living in the same barangay as petitioner. The offering party, petitioner in this case, failed to secure the statements of the additional six persons not because petitioner had no means of knowing that the pieces of evidence existed, but because petitioner was not diligent from the beginning.

⁴¹ Id. at 221-222, citing *Tumang v. Court of Appeals*, 254 Phil. 329, 335-336 (1989).

⁴² These are the six (6) other persons:

(a) Jesus Tuting Denna Magaru – nephew of Ocampo Denna

(b) Felix Denna – brother of Ocampo Denna

(c) Gloria Denna – wife of Felix Denna; sister-in-law of Ocampo Denna

(d) Feliciano Denna Tandayu – barangay tanod

(e) Ilu Guiyab – former Punong Barangay of San Vicente, Tumauini, Isabela

(f) Delfin Guiyab – retired Commander in charge of Pulis Ti Umili (PTU) in Brgy. Lanna, an adjacent barangay of San Vicente

⁴³ *Rollo*, pp. 69, 75.

WHEREFORE, we **DENY** the petition. We **AFFIRM** the 20 May 2014 Decision and the 1 June 2015 Resolution of the Court of Appeals in CA-G.R. CR No. 33280.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

(On official leave)
ANDRES B. REYES, 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.

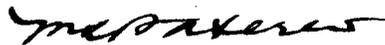
**ANTONIO T. CARPIO**

Associate Justice

Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

Chief Justice