



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 246580

-versus-

**Present:**  
PERALTA, C.J., Chairperson,  
CAGUIOA,  
REYES, J., JR.,  
LAZARO-JAVIER, and  
LOPEZ, JJ.

RONILEE CASABUENA y  
FRANCISCO and KEVIN  
FORMARAN Y GILERA,  
Accused-Appellants.

**Promulgated:**

JUN 23 2020

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DECISION

LAZARO-JAVIER, J.:

**Antecedents**

Accused-appellants Ronilee Casabuena y Francisco and Kevin Formaran y Gilera were charged with the complex crime of robbery with homicide punishable under Article 294, paragraph 1 of the Revised Penal Code, viz.:

That on or about the 11<sup>th</sup> day of October 2012, in the city of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one JIMMY ARIZALA, they mutually helping and aiding each other, armed with a gun and bladed weapons, with intent of gain and by means of force, violence and intimidation, did then and there willfully, unlawfully and

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feloniously rob and divest the following complainants of their personal belongings, *to wit*:

Ma. Aimee Senapilo y Agustin – pouch bag with medicine, headset and watch all worth ₱6,000.00;

Alfredo Burgos y Agapito – wallet and cellphone worth ₱1,300.00;

Jestony San Juan y Devera – Nokia N85 cellphone and ID worth ₱3,500.00;

Ciara Krite Abella y Valdez – bag with wallet, Nokia N71 worth ₱3,100.000;

Leslie Anne Fiona Bondocan y Paubsanon – wallet with ₱120.00 cash and UCPB ATM

while inside a passenger jeepney, by declaring hold-up, poking them with gun and bladed weapons and forcibly taking from them the foregoing items, and on the occasion of the said robbery and reason thereof, homicide was committed, as the above-named conspirator JIMMY ARIZALA, while struggling with the possession of his gun with the responding police, PO2 Ramilo de Pedro, the gun was fired which shot caused his instantaneous death, to the damage and prejudice of the owners thereof in the aforementioned amount.<sup>1</sup>

On arraignment, appellants pleaded not guilty.<sup>2</sup>

### ***Prosecution's Version***

On October 11, 2012, around 6:00 a.m., Ciara Kristle V. Abella was riding a jeepney headed to Montalban with other passengers. Abella, who fell asleep while she was seated on the front row of the jeepney beside the conductor, was suddenly awakened when three (3) passengers boarded and declared a hold-up. One of the hold-uppers was at the entrance of the jeepney and the other was near the driver and was holding a knife. The third hold-upper took Abella's belongings, *i.e.*, her cellular phone, wallet, and ATM card, which was approximately worth ₱5,000 and placed them inside his backpack. The other passengers likewise surrendered their belongings to one of the hold-uppers. After taking the belongings of the passengers, the hold-uppers alighted from the jeepney. One of the passengers saw a policeman nearby and asked for the latter's assistance.<sup>3</sup>

About 6:20 a.m., PO2 Ramilo P. De Pedro (PO2 De Pedro) and PO2 Michael Albania (PO2 Albania) were patrolling J. Molina corner E. Santos Streets in their patrol car when they noticed a commotion inside a jeepney headed to Montalban. PO2 De Pedro saw three (3) male passengers alight the

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<sup>1</sup> *Rollo*, pp. 4-5.

<sup>2</sup> *Id.* at 5.

<sup>3</sup> *Id.*



jeepney and heard one of the passengers shout “*Holdaper yan, tatlo yan, may baril sila!*” Upon seeing the two (2) police officers, one of the three (3) hold-uppers ran toward Bayan-bayanan Street and was chased by PO2 Albania, while the other two (2) were approached by PO2 De Pedro.<sup>4</sup>

PO2 De Pedro introduced himself as a police officer and frisked one of the two (2) hold-uppers. Suddenly, the other hold-upper took a pistol from his backpack, prompting PO2 De Pedro to let go of the M16 rifle he was carrying and wrestle for the possession of the pistol. PO2 De Pedro was able to grab possession of the pistol and fire twice – the second shot hit the hold-upper in the chest, as a result of which, he died. The other hold-upper then threw away the knife he was holding and was subsequently handcuffed by PO2 De Pedro. Thereafter, PO2 Albania returned with the third hold-upper and was able to recover the items taken from the passengers of the jeepney. The passengers of the jeepney were then brought to the precinct for interrogation by PO2 Albania, while PO2 De Pedro guarded the two (2) hold-uppers, who were later identified to be appellants, while the hold-upper who died was Jimmy Arizala. More, PO2 De Pedro and PO2 Albania executed a *Sinumpaang Salaysay sa Pag-aresto*.<sup>5</sup>

### ***Defense’s Version***

Appellants denied the charges. They testified that, on October 11, 2012, around 6:30 a.m., they boarded a jeepney in Marikina headed towards Montalban. They alighted when they reached the road in Concepcion. Suddenly, a police mobile stopped them. Two (2) police officers arrived and told them there was a hold-up that happened recently. Appellants were frisked and brought to the police station. There, PO2 De Pedro took their statements. According to appellants, they were on their way to see Casabuena’s sister. They remained in the police station until 10 a.m.. Thereafter, they were brought to the Criminal Investigation and Detention Office at the Hall of Justice building where they were identified by six (6) persons as the hold-uppers.<sup>6</sup>

### **Trial Court’s Ruling**

By the Decision dated June 27, 2017, the RTC found appellants guilty of the complex crime of robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code and sentenced them to *reclusion perpetua*.<sup>7</sup>

There was nothing on record to discredit the testimony of Abella, one (1) of the prosecution’s eyewitnesses and one (1) of the victims. Abella testified that she and the other passengers of the jeepney were robbed and divested of their valuables by appellants and Arizala, and that Arizala was

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<sup>4</sup> *Id.* at 6.

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

<sup>6</sup> *Id.* at 7.

<sup>7</sup> *Id.* at 8.



shot by PO2 De Pedro. Her account of the incident in the morning of October 11, 2012 was simple, clear, and credible, especially because of her actual presence at the *locus criminis*. Her testimony was replete with details and consistent even on cross-examination. Her testimony, not being flawed by vicious inconsistencies or improper motive, was highly credible. Further, her testimony was conclusively validated by the testimony of PO2 De Pedro, the responding policeman. She testified clearly on what she witnessed after appellants and Arizala alighted from the jeepney up to the time of the shooting incident with Arizala and the arrest of appellants.<sup>8</sup>

Further, conspiracy was clearly manifested in the concerted efforts of appellants and Arizala, as testified by Abella. The precise degree of culpability of appellants, hence, was irrelevant. The act of one may be imputed to his co-conspirators. Consequently, even if Arizala was the one who was killed immediately after the robbery by PO2 De Pedro, appellants should equally be held accountable for the complex crime of robbery with homicide. It is settled that when homicide takes place by reason or on occasion of the robbery, all those who took part in the robbery shall be guilty of the complex crime of robbery with homicide, whether they actually participated in the killing, unless there is proof they endeavored to prevent the killing.<sup>9</sup>

### **Court of Appeals' Proceedings**

In their appeal, appellants contended that the trial court gravely erred when it ruled that they were liable for the complex crime of robbery with homicide. There was no direct relation and intimate connection between the robbery and the killing. It was PO2 De Pedro who fired Arizala's pistol. More, they averred that conspiracy was not duly proven.<sup>10</sup>

For its part, the Office of the Solicitor General (OSG) maintained that the trial court did not err in finding appellants guilty beyond reasonable doubt of committing robbery with homicide. All of the elements of the crime were present. More, conspiracy was sufficiently proven because the evidence showed that there was unity of purpose and unity in action between appellants and Arizala during the perpetration of the crime.<sup>11</sup>

### **Court of Appeals' Ruling**

Under the assailed Decision<sup>12</sup> dated July 25, 2018, the Court of Appeals affirmed the trial court.

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<sup>8</sup> CA rollo, p. 65.

<sup>9</sup> *Id.* at 70-71.

<sup>10</sup> Rollo, pp. 9-10.

<sup>11</sup> *Id.* at 10-11.

<sup>12</sup> *Id.* at 11-13.

### The Present Petition

Appellants now seek affirmative relief from the Court and pray anew for their acquittal. In compliance with the Resolution dated July 3, 2019 of the Court, the OSG and appellants manifested that in lieu of supplemental briefs, they were adopting their respective briefs submitted before the Court of Appeals.<sup>13</sup>

### Issue

Did appellants commit the complex crime of robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code?

### Ruling

Accused-appellants Ronilee Casabuena y Francisco and Kevin Formaran y Gilera fault the Court of Appeals for affirming the trial court's factual finding that the elements of the complex crime of robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code are all present. There was allegedly no direct relation and intimate connection between the robbery and the killing of Jimmy Arizala.<sup>14</sup>

The Court is not persuaded.

To sustain a conviction for robbery with homicide under Article 294, paragraph 1 of the Revised Penal Code, the prosecution must prove the following elements:

1. The taking of personal property is committed with violence or intimidation against persons;
2. The property taken belongs to another;
3. The taking is with the intent to gain or *animo lucrandi*; and
4. By reason or on occasion of the robbery, homicide is committed.<sup>15</sup>

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. The intent to rob must precede the taking of human life. The killing, however, may occur before, during, or after the robbery.<sup>16</sup> It is only the result obtained, without reference to the

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<sup>13</sup> *Id.* at 25-36.

<sup>14</sup> *Id.* at 9-10.

<sup>15</sup> *People v. Buenamer*, 794 Phil. 214, 223 (2016).

<sup>16</sup> *People v. Dela Cruz*, 595 Phil. 998, 1023-1024 (2008).



circumstances, causes, or modes or persons intervening in the commission of the crime, that has to be taken into consideration.<sup>17</sup>

Here, the elements of the complex crime of robbery with homicide are all present:

**First.** Appellants, through force and intimidation, threatening physical violence and death with the use of a gun and knives, took the personal properties of the passengers of the jeepney.

**Second.** The properties found in the person of appellants did not belong to them but to the passengers of the jeepney.

**Third.** The intent to gain or *animus lucrandi* is an internal act that is presumed from the unlawful taking by the offender of the thing subject of asportation. Appellants were caught in the possession of various small items that belonged to the passengers of the jeepney.

**Fourth.** A person died, *i.e.*, Arizala, on the occasion of the robbery.<sup>18</sup>

In robbery with homicide, it is essential that there be a direct relation and intimate connection between the robbery and the killing. It does not matter whether both crimes were committed at the same time.<sup>19</sup>

In the same manner, 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 (2) or more persons are killed; or that aside from the homicide, rape, intentional mutilation, or usurpation of authority is committed by reason or on occasion of the crime. **Further, it is irrelevant if the victim of homicide is one of the robbers. In such scenario, the felony would still be robbery with homicide. Verily, once a homicide is committed by reason or on occasion of the robbery, the felony committed is robbery with homicide.**<sup>20</sup> This is the reason why Article 294, paragraph 1 of the Revised Penal Code reads:

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 x x x (Emphasis supplied)

**“Any”** is all-inclusive, including anyone of the robbers themselves.

<sup>17</sup> *People v. Ebet*, 649 Phil. 181, 189 (2010); *People v. De Jesus*, 473 Phil. 405, 427 (2004).

<sup>18</sup> *Rollo*, pp. 10-11.

<sup>19</sup> *People v. Labagala*, G.R. No. 221427, July 30, 2018.

<sup>20</sup> *People v. Ebet* and *People v. De Jesus*, *Supra* note 17. (Emphasis supplied).

On this score, the Court distinguishes Article 294, paragraph 1 of the Revised Penal Code from Article 297 of the same Code which reads:

ARTICLE 297. *Attempted and frustrated robbery committed under certain circumstances.* — When by reason or on occasion of an attempted or frustrated robbery a **homicide** is committed, **the person guilty of such offenses** shall be punished by *reclusion temporal* in its maximum period to *reclusion perpetua*, unless the homicide committed shall deserve a higher penalty under the provisions of this Code. (Emphasis supplied)

Here, as clearly testified by PO2 De Pedro, he was on mobile patrol and tailing the jeepney that was being held-up by appellants and Arizala. He personally witnessed them alight from the jeepney. Hence, he immediately accosted them. Then, Arizala pulled out his gun. PO2 De Pedro grappled with Arizala for possession of the gun. In the process, Arizala got shot and died.<sup>21</sup> Applying Article 294, paragraph 1 of the Revised Penal Code and *People v. Ebet*<sup>22</sup> and *People v. De Jesus*,<sup>23</sup> appellants as two (2) of the robbers are guilty of the complex crime of robbery with homicide.

We quote with concurrence the opinion of Justice Mario V. Lopez during the deliberation:

x x x Article 294, paragraph 1 of the Revised Penal Code is plain and clear. The law only requires the crime of homicide be committed by reason of or on the occasion of robbery. It is not necessary that the person killed must be the victim of the robbery. It can be one of the robbers or an innocent bystander. Neither does it impose that the person who perpetrated the killing must be the same person who committed the robbery. There should be no distinction in the application of a statute where none is indicated. Fundamental is the principle in statutory construction that **where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit, nec nos distinguere debemus.***

x x x [D]issecting the paragraphs of Article 294 of the Revised Penal Code reveals that the legislature distinguished the treatment of the different accessory crimes. The first part of Article 294 (1) deals with the commission of homicide “**by reason or on occasion of the robbery**” without any qualification as to who committed the homicide or when the homicide was committed. However, the second part of paragraph 1 involves the commission of robbery “**accompanied by rape or intentional mutilation or arson.**” The use of the words “**accompanied by**” suggests that for the accessory crimes of rape, mutilation and arson, the robbers themselves must have committed such crimes. On the other hand, the use of the words “**by reason or on occasion of the robbery,**” evinces that the law merely requires that a homicide was committed by reason or occasion of the robbery. Notably, **the difference in phraseology within the same paragraph of the law is crucial.** Fundamental is the principle that

<sup>21</sup> CA rollo, p. 70.

<sup>22</sup> *People v. Ebet* and *People v. De Jesus*, Supra note 17.

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





qualifying words restrict or modify only the words or phrases to which they are immediately associated. The legislature would not have deliberately used different modifying phrases within the same paragraph if it intended similar treatment for the accessory crimes.

Further, in Article 294, paragraph 4, the legislature identified who the perpetrator and the victim must be in the special complex crime of robbery with serious physical injuries. It specified that in the course of the execution of robbery, "*the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries*" covered by subdivisions 3 and 4 of Article 263. The law explicitly used the term "*offender*" evincing that the physical injury must be committed by the same person who is guilty of robbery. Yet, no such import can be found in Article 294, paragraph 1.

x x x [T]he introductory sentence in Article 294 which provides "*Any person guilty of robbery with the use of violence against or intimidation of any person*" must be interpreted merely as a prelude to the enumeration of penalties to be imposed upon persons guilty of robbery. This is because the proper penalties hinge upon the presence or absence of the attending circumstances specified in Article 294, paragraphs 1 to 5, independent of who brought about such circumstances, unless otherwise qualified in the said paragraphs. To interpret that all the circumstances under Article 294 must be committed by the person guilty of the robbery will erase the distinctions among the five paragraphs that were deliberately put in place by the law.

In another vein, appellants aver that the Court of Appeals erred in affirming the trial court's factual finding of conspiracy. According to them, the prosecution failed to establish conspiracy between them and Arizala.<sup>24</sup>

The Court disagrees.

Significantly, 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. If a robber tries to prevent the commission of homicide after the commission of the robbery, however, he is guilty only of robbery. All those who conspire to commit robbery with homicide are guilty as principals of such crime, although not all profited and gained from the robbery. Evidently, 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.<sup>25</sup>

Under Article 8, paragraph 2 of the Revised Penal Code, the following are the elements of conspiracy: (1) two (2) or more persons came to an agreement; (2) the agreement concerned the commission of a felony; and (3) the execution of a felony was decided upon. Proof of conspiracy need not be based on direct evidence. It may be inferred from the parties' conduct

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<sup>24</sup> Rollo, pp. 9-10.

<sup>25</sup> *People v. Ebet* and *People v. De Jesus*, Supra note 17.



indicating a common understanding among themselves with respect to the commission of a crime. It is likewise not necessary to show that two (2) or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or objective to be carried out. Conspiracy may be deduced from the mode or manner in which the crime was perpetrated. It may also be inferred from the acts of the accused evincing a joint or common purpose and design, concerted action, and community of interest.<sup>26</sup>

Here, the trial court and the Court of Appeals correctly ruled that conspiracy exists between appellants and Arizala based on Ciara Kristle V. Abella's testimony that they were the persons who helped each other in robbing her and the other passengers of the jeepney. She testified that they boarded the jeepney and declared a hold-up. One of them was at the entrance of the jeepney, while the other was near the driver and holding a knife. The third hold-upper took the belongings of the passengers of the jeepney, including her own. After taking their belongings, the hold-uppers alighted from the jeepney.<sup>27</sup>

These acts of appellants and Arizala clearly show a joint or common purpose and design, concerted action, and community of interest. Notably, in conspiracy, the act of one is the act of all.<sup>28</sup>

**ACCORDINGLY**, the appeal is **DISMISSED**. The Decision dated July 25, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09582 is **AFFIRMED**.

**SO ORDERED.**

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


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<sup>26</sup> *People v. Lago*, 411 Phil. 52, 59 (2001); *People v. Fegidero*, 392 Phil. 36, 47-48 (2000); *People v. Francisco*, 388 Phil. 94, 122-123 (2000).

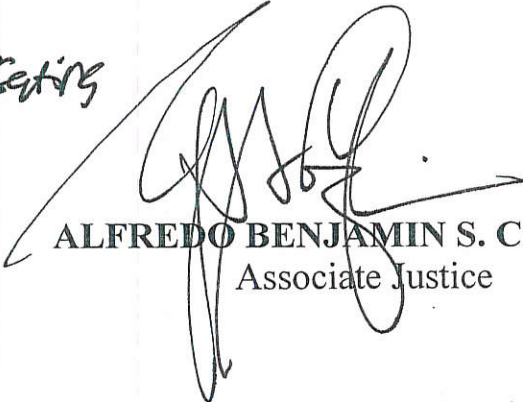
<sup>27</sup> *Rollo*, p. 13.

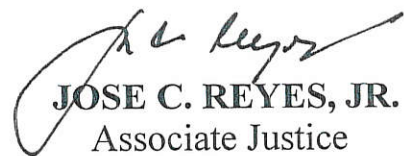
<sup>28</sup> *People v. Lago*, *People v. Fegidero*, and *People v. Francisco*, *Supra* note 26.

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
Chief Justice

*See Dissenting  
Opinion*

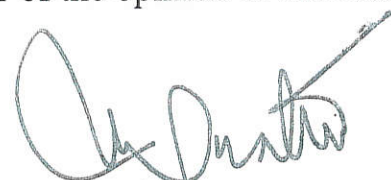
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**JOSE C. REYES, JR.**  
Associate Justice

  
**MARIO V. LOPEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.

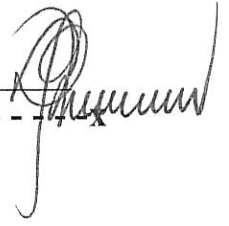
  
**DIOSDADO M. PERALTA**  
Chief Justice

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G.R. No. 246580 – PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*,  
*versus* RONILEE CASABUENA y FRANCISCO AND KEVIN  
FORMARAN y GILERA, *accused-appellants*.

Promulgated:

JUN 23 2020



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### DISSENTING OPINION

CAGUIOA, J.:

Accused-appellants here were charged with the special complex crime of Robbery with Homicide under paragraph 1, Article 294 of the Revised Penal Code (RPC) under an Information<sup>1</sup> which alleged that they, in conspiracy with one Jimmy Arizala (Arizala), armed with a gun and bladed weapons, with intent to gain and by means of force and violence and intimidation, robbed and divested some of the passengers inside a jeepney of their personal belongings, and on the occasion of said robbery, Arizala was killed while struggling with the possession of his gun with the responding police officer, PO2 Ramilo De Pedro (PO2 De Pedro).<sup>2</sup>

During trial, PO2 De Pedro testified that after announcing the arrest of herein accused-appellants, Arizala took a pistol from his backpack, which prompted PO2 De Pedro to let go of his M16 rifle and wrestle for the possession of the pistol. **PO2 De Pedro was able to grab possession of the pistol and fired twice – the second shot hitting Arizala in his chest, as a result of which, he died.**<sup>3</sup>

Thus, the trial court was faced with the issue of whether accused-appellants can be held guilty of the special complex crime of Robbery with Homicide, **when the person killed was one of the robbers and committed by a third person**, that is, PO2 De Pedro.

The Regional Trial Court, as well as the Court of Appeals, on appeal, convicted accused-appellants of the crime charged on the ground that the “homicide takes place x x x on [the] occasion of the robbery.”<sup>4</sup> The *ponencia*, in turn, affirms accused-appellants’ conviction ruling that all the elements of Robbery were established beyond reasonable doubt and that on the occasion of the robbery, a person did die, *i.e.*, Arizala, one of the robbers. The *ponencia* explains that it is irrelevant if the victim of the homicide is one of the robbers; once homicide is committed by reason or on occasion of the robbery, the felony committed is Robbery with Homicide. According to the *ponencia*, this

<sup>1</sup> *Ponencia*, pp. 1-2.

<sup>2</sup> *Id.*

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

<sup>4</sup> *Id.* at 4.





is the clear import of Article 294 because the word “any” is all inclusive, including anyone of the robbers themselves.<sup>5</sup> The *ponencia* also cites the cases of *People v. Ebet*<sup>6</sup> and *People v. De Jesus*<sup>7</sup> in support of its finding that the crime committed is Robbery with Homicide.

I agree with the *ponencia* that in the special complex crime of Robbery with Homicide, the victim of the homicide (*i.e.*, the person killed) may be any person, including the robbers themselves, as long as the killing was committed by reason of or on occasion of the robbery. **However, I submit that this is the rule only if the homicide is committed by any of the persons guilty of robbery. In other words, this ruling does *not* apply when the robber is killed by a third person, a responding police officer.** This is the clear and logical import of the language of Article 294 of the RPC, which reads:

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 *reclusión perpetua* to death, when by reason or on occasion of the robbery, **the crime of homicide shall have been committed.**
2. The penalty of *reclusión temporal* in its medium period to *reclusión perpetua*, when the robbery **shall have been accompanied by rape or intentional mutilation, or if by reason or on occasion of such robbery, any of the physical injuries** penalized in subdivision 1 of article 263 **shall have been inflicted,** or the person robbed **shall have been held for ransom or deprived of his liberty for more than one day.**
3. The penalty of *reclusión temporal*, when by reason or on occasion of the robbery, any of the **physical injuries** penalized in subdivision 2 of the article mentioned in the next preceding paragraph, **shall have been inflicted.**
4. The penalty of *prisión mayor* in its medium period to *reclusión temporal* in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, **the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries** covered by subdivisions 3 and 4 of said Article 263.
5. The penalty of *prisión correccional* to *prisión mayor* in its medium period in other cases. (Emphasis and underscoring supplied)

Paragraphs 1 to 5 of the foregoing provision modify the overarching statement of “*Any person guilty of robbery with the use of violence against or*

<sup>5</sup> Id. at 6.

<sup>6</sup> 649 Phil. 181 (2010).

<sup>7</sup> 473 Phil. 405 (2004).



*intimidation of any person,*<sup>8</sup> by providing specific penalties for other acts that have been committed in relation to the robbery. Consequently, the overt acts mentioned in each of the enumerated acts, which include the commission of the incidental crimes of homicide, rape, mutilation, kidnapping and physical injuries, refer to the “agent” or “actor” in the general overarching statement, *i.e.*, the person guilty of robbery.

In *People v. Madsali*,<sup>9</sup> the Court held that in a special complex crime, the prosecution must necessarily prove each of the component offenses with the same precision that would be necessary if they were made the subject of separate complaints.<sup>10</sup> Thus, to be convicted under paragraph 1 of Article 294, it must be alleged in the Information and proven during trial that the perpetrator of the robbery is the same person who did the killing, committed on occasion or by reason of the robbery. It is completely illogical for the law to hold a person liable for a crime he did not commit or accede to.

Associate Justice Mario V. Lopez, however, opines that the use of different modifying phrases in each of the enumeration means that the accessory crimes committed in relation to robbery must be treated differently. According to him, the phrase “*by reason or on occasion of*” in paragraph 1 does not qualify as to who committed the homicide, while the phrase “*accompanied by*” in paragraph 2 suggests that the robbers must have committed the accessory crimes of rape and intentional mutilation.<sup>11</sup>

**I disagree.** The phrases “*by reason or on occasion of*” and “*accompanied by*” are descriptive only of the time when the accessory crimes have been committed in relation to robbery, and not of the person who committed the said acts. It is settled in jurisprudence that the phrase “*by reason or on occasion of*” covers accessory crimes committed before, during or after the robbery;<sup>12</sup> while the phrase “*accompanied by*” means that the accessory crimes of rape and mutilation must be committed in the course of the robbery. Nonetheless, in both instances, these accessory crimes should have been committed or inflicted by the person or persons guilty of robbery.

To be sure, the words of paragraph 1 are very clear when they state: “The penalty of *reclusión perpetua* to death, when by reason or on occasion of the robbery, **the crime of homicide shall have been committed.**”<sup>13</sup> In simple terms, **it is not a question of whether or not someone died “by reason or on occasion of the robbery” — rather, the question is whether or not a “crime of homicide” was committed “by reason or on occasion of the robbery.”** Here, there can be no gainsaying that when PO2 De Pedro shot and killed one of the robbers, he did not, by that act, commit a “crime of homicide.” And since the accused also did not shoot and kill their co-accused,

<sup>8</sup> Italics supplied.

<sup>9</sup> 625 Phil. 431 (2010).

<sup>10</sup> Id. at 455.

<sup>11</sup> *Ponencia*, p. 7.

<sup>12</sup> *People v. Torres*, 412 Phil. 375, 385 (2001).

<sup>13</sup> Emphasis and italics supplied.





they too cannot also be said to have committed a “crime of homicide.” Accordingly, the applicable rule of statutory construction is not that relied upon by Justice Lopez,<sup>14</sup> but rather, that if the statute is plain and clear, it must be given its literal meaning and applied without attempted interpretation,<sup>15</sup> and when there is doubt in the interpretation of criminal laws, all doubts must be resolved in favor of the accused.<sup>16</sup>

Furthermore, robbery with homicide, as a special complex crime, falls under the category of plurality of crimes, where a single penalty is imposed by law,<sup>17</sup> even if the actor commits various delictual acts of the same or different kind.<sup>18</sup> Plurality of crimes also include (1) compound crimes, where a single act constitutes two or more grave or less grave offenses; and (2) complex crime proper, where one offense is a necessary means for committing another offense.<sup>19</sup> Similar to complex crime proper, the actor in special complex crimes commits two offenses but the accessory offense (*i.e.*, rape, homicide, mutilation, kidnapping or physical injury) is not necessary for the accomplishment of the other (*i.e.*, robbery).<sup>20</sup> The law treats special complex crimes as one single indivisible crime under a definition of its own and provided for by a special penalty in the RPC even if in reality they are composed of two distinct crimes.<sup>21</sup>

In *People v. Escote, Jr.*,<sup>22</sup> learned former Associate Justice Jose C. Vitug opined that in special complex crimes, like robbery with homicide, “the law effectively treats the offense as an individual felony in itself and then prescribes a specific penalty therefor.”<sup>23</sup> The law prescribes a distinct penalty **“in recognition of the primacy given to criminal intent over the overt acts that are done to achieve that intent.”**<sup>24</sup> Hence, as a singular crime with one criminal intent, the overt acts constituting its elements, which include the crime of homicide or the other accessory crimes incidental thereto, must be committed by the person or persons guilty of robbery.

Moreover, jurisprudence has established that homicide is committed by reason or on occasion of robbery when the killing was done for the following purposes: (a) to deprive the victim of his personal property which is sought to be accomplished by eliminating an obstacle or opposition; (b) to do away with a witness or to defend the possession of the stolen property;<sup>25</sup> (c) to facilitate the robbery or the escape of the culprit; (d) to preserve the possession by the culprit of the loot; and (e) to prevent discovery of the commission of the

<sup>14</sup> *Ponencia*, pp. 7-8.

<sup>15</sup> *Padua v. People*, 581 Phil. 489, 500-501 (2008).

<sup>16</sup> *People v. Valdez*, 774 Phil. 723, 747 (2015).

<sup>17</sup> See Leonor D. Boado, NOTES AND CASES ON THE REVISED PENAL CODE, 266 (2012 ed.).

<sup>18</sup> *Gamboa v. Court of Appeals*, 160-A Phil. 962, 969 (1975).

<sup>19</sup> See RPC, Art. 48.

<sup>20</sup> See *People v. Salazar*, 342 Phil. 745, 766 (1997).

<sup>21</sup> *United States v. Perez*, 32 Phil. 163 (1915).

<sup>22</sup> 448 Phil. 748 (2003).

<sup>23</sup> *Id.* at 801.

<sup>24</sup> *Id.* at 802; emphasis and underscoring supplied; italics omitted.

<sup>25</sup> *People v. Matic*, 427 Phil. 564, 573-574 (2002).





robbery.<sup>26</sup> In this case, it cannot therefore be said that the killing of a co-accused in the robbery by a responding police officer was committed by reason or on occasion of the robbery because none of the foregoing motives is attendant to the killing of one of the robbers by a responding police officer. During trial, PO2 De Pedro narrated that he “was able to grab possession of the pistol and fire twice — the second shot hit [Arizala] in the chest, as a result of which he died.”<sup>27</sup> In fact, it was not even shown in this case that accused-appellants fired any gun during the incident. Thus, affirming the conviction of accused-appellants for the special complex crime of Robbery with Homicide, when the killing was committed not by any of them but by a responding police officer, goes beyond the letter and logic of the law.

Indeed, in *People v. Salazar*,<sup>28</sup> this Court held:

*Robo con homicidio* is an indivisible offense, a special complex crime. The penalty for robbery with homicide is more severe because the law sees, in this crime, that men placed lucre above the value of human life, thus, justifying the imposition of a more severe penalty than that for simple homicide or robbery. **In view of said graver penalty, jurisprudence exacts a stricter requirement before convicting the accused of this crime. Where the homicide is not conclusively shown to have been committed for the purpose of robbing the victim**, or where the robbery was not proven, **there can be no conviction for *robo con homicidio***.<sup>29</sup> (Emphasis and underscoring supplied)

The *ponencia*’s interpretation of paragraph 1, Article 294 — that the crime is Robbery with Homicide even if the killing was not committed by the person guilty of the robbery — also violates the fundamental rules on the construction of penal statutes.

In *People v. Sullano*,<sup>30</sup> the Court explained that criminal law is rooted in the concept that there is no crime unless a law specifically calls for its punishment. Thus, courts *must not* bring cases within the provision of law that are not clearly embraced by it. The terms of the statute must clearly encompass the act committed by an accused for the latter to be held liable under the provision. Any ambiguity in the law will always be construed strictly against the state and in favor of the accused.<sup>31</sup>

Intimately related to this rule is the principle of lenity. This applies when the court is faced with two interpretations of a penal statute, one that is prejudicial to the accused and another that is favorable to him. Rule of lenity

<sup>26</sup> *People v. Al Madrolejos*, 828 Phil. 732, 738-739 (2018)

<sup>27</sup> *Ponencia*, p. 3.

<sup>28</sup> 342 Phil. 745 (1997).

<sup>29</sup> *Id.* at 766.

<sup>30</sup> G.R. No. 228373, March 12, 2018, 858 SCRA 274.

<sup>31</sup> *Id.* at 288.



dictates that the court should adopt the interpretation more favorable to the accused.<sup>32</sup>

In *Centeno v. Villalon-Pornillos*,<sup>33</sup> the Court held:

x x x [I]t is a well-entrenched rule that penal laws are to be construed strictly against the State and liberally in favor of the accused. They are not to be extended or enlarged by implications, intendments, analogies or equitable considerations. **They are not to be strained by construction to spell out a new offense, enlarge the field of crime or multiply felonies. Hence, in the interpretation of a penal statute, the tendency is to subject it to careful scrutiny and to construe it with such strictness as to safeguard the rights of the accused. If the statute is ambiguous and admits of two reasonable but contradictory constructions, that which operates in favor of a party accused under its provisions is to be preferred.** The principle is that acts in and of themselves innocent and lawful cannot be held to be criminal unless there is a clear and unequivocal expression of the legislative intent to make them such. **Whatever is not plainly within the provisions of a penal statute should be regarded as without its intendment.**

The purpose of strict construction is not to enable a guilty person to escape punishment through a technicality but to provide a precise definition of forbidden acts. x x x<sup>34</sup> (Emphasis, underscoring and italics supplied)

As to the cases cited by the *ponencia*, a close reading thereof reveals that they do not support the finding that the crime committed in this case is Robbery with Homicide. To the contrary, *Ebet* and *De Jesus* affirm that, to be convicted of Robbery with Homicide, the robbery and the killing must be perpetrated by the same person, whether the victim of the homicide is other than the victim of the robbery or one of the robbers themselves.

In *Ebet*, the victim of the homicide was one of the victims of the robbery, while in *De Jesus*, the person killed was a roving security guard who witnessed the robbery. In both cases, and in other cases decided by the Court<sup>35</sup> where conviction for Robbery with Homicide was affirmed, the killing was committed by the person who committed the robbery.

In contrast to the aforementioned cases cited in the *ponencia*, I find the Court's ruling in *People v. Manalili*<sup>36</sup> instructive and applicable to this case. In *Manalili*, the accused was charged, among others, with the special complex crime of Attempted Robbery with Homicide. He was convicted only of Robbery because the killing was committed by a third person, viz.:

<sup>32</sup> *Intestate Estate of Vda. de Carungcong v. People*, 626 Phil. 177, 200 (2010).

<sup>33</sup> 306 Phil. 219 (1994).

<sup>34</sup> Id. at 230-231, citing *Gaanon v. Intermediate Appellate Court*, et al., 229 Phil. 139, 148 (1986).

<sup>35</sup> See *People v. Pedroso*, 391 Phil. 43 (2000); *People v. Boquirin*, 432 Phil. 722 (2002); *People v. Escote, Jr.*, supra note 22; *People v. Comiling*, 468 Phil. 869 (2004); *People v. Barra*, 713 Phil. 698 (2013); *People v. Layug*, 818 Phil. 1021 (2017); *People v. Al Madrolejos*, supra note 26; *People v. Bacyaan*, G.R. No. 238457, September 18, 2019, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65665>>.

<sup>36</sup> 355 Phil. 652 (1998).

It is true that the Information for attempted robbery contained the allegation that one of the robbers was killed during such attempt. This, however, does not warrant a conviction for the special complex crime. Article 297 of the Revised Penal Code provides that the attempted robbery and the killing be perpetrated by the same person. Said article speaks of the same person. “being guilty of such offenses”; that is, robbery and homicide. In this case, it is clear that the dead robber was killed not by his cohorts but by one of the passengers.<sup>37</sup>

That the crime in *Manalili* was only attempted robbery covered by Article 297 of the RPC does not make *Manalili* inapplicable. There is no basis in logic to make a distinction because the law punishes the same criminal acts of robbery and homicide. To be sure, the difference in the stage of execution only affects the penalty prescribed by law.<sup>38</sup> Thus, in consummated Robbery with Homicide, the penalty is *reclusion perpetua* to death, while for attempted and frustrated Robbery with Homicide, the penalty is *reclusion temporal* in its maximum to *reclusion perpetua*.

Moreover, the different languages used in Articles 297 and 294 paragraph 1 of the RPC – that the phrase “person guilty of such offenses” does not appear in Article 294 paragraph 1 — is more imagined than real, as this difference in language cannot trump the logic of applying the same reasoning for both provisions. As already discussed, the accessory crimes mentioned in paragraph 1 and in the other enumerations in Article 294 refer to the overarching statement of “*any person guilty of robbery*.” Thus, it would only be redundant and superfluous to put in each paragraph in Article 294 the phrase “person guilty of such offenses.”

Again, it bears emphasis that in interpreting and applying criminal law, all doubts should be resolved in favor of the accused. *In dubio pro reo*. When in doubt, rule for the accused. This is in consonance with the constitutional guarantee that the accused shall be presumed innocent unless and until his guilt is established beyond reasonable doubt.<sup>39</sup>

Based on the foregoing, I submit that accused-appellants should be held guilty only of Robbery and not the special complex crime of Robbery with Homicide because it was proven during trial that the dead robber, Arizala, was killed not by accused-appellants but by the police officer who responded to the incident.



ALFREDO BENJAMIN S. CAGUIOA  
Associate Justice

<sup>37</sup> Id. at 685-686.

<sup>38</sup> See RPC, Chapter Four, Sec. One.

<sup>39</sup> *Intestate Estate of Vda. de Carungcong v. People*, supra note 32.



