



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
 PUBLIC INFORMATION OFFICE

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**SECOND DIVISION**

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

**G.R. No. 227022**

- versus -

Present:

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
 HERNANDO,  
 INTING,  
 GAERLAN, *and*  
 DIMAAMPAO, JJ.

**CRIS PERALTA y DE GUZMAN**  
 a.k.a. "ILE\*",  
*Accused-Appellant.*

Promulgated:  
**SEP 29 2021**

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**DECISION**

**GAERLAN, J.:**

This resolves the appeal filed by accused-appellant Cris Peralta y De Guzman (Cris) against the affirmance<sup>1</sup> by the Court of Appeals (CA) of his conviction<sup>2</sup> for robbery with homicide as defined in Article 294(1) of the Revised Penal Code.

In the wee hours of December 23, 2004, Police Officer 3 Florencio B. Antolin (PO3 Antolin), his sons Francisco J. Antolin (Francisco) and Fernando J. Antolin (Fernando), Allan N. Buaya (Allan), Meldi A. Chato (Meldi), and Lerma B. Villena (Lerma) were on board a passenger jeepney traversing along Pasig Boulevard, Pasig City. Also on board the jeep were four (4) other men,

\* Also spelled "Ele" in the records.

<sup>1</sup> Decision of the Court of Appeals in CA-G.R. CR HC No. 07123, dated March 2, 2016. Penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) and concurred in by Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba. *Rollo*, pp. 2-13.

<sup>2</sup> Decision dated September 30, 2013 in Criminal Case No. 129785. Rendered by Presiding Judge Rolando G. Mislano of the Regional Trial Court of Pasig City, Branch 167. *CA rollo*, pp. 67-72.

including accused-appellant Cris and his co-accused Jayson Abila y Amada (Jayson). At about 3:30 a.m., Cris, Jayson, and the two (2) other unnamed men declared a holdup. As the jeepney was approaching the intersection of Pasig Boulevard and Circumferential Road 5 (C-5), one of the suspects held up a gun to the jeepney driver, Willy L. Ballore (Ballore), and ordered him to turn right to C-5, while the other suspects divested the passengers of their belongings. In the midst of the commotion, the suspects shot PO3 Antolin twice and stabbed him. Thereafter, as the jeepney approached the stoplight near Kalayaan Avenue, Makati City, the four suspects alighted. At the intersection of C-5 and Kalayaan Avenue, Ballore executed a U-turn to bring back the jeepney to Pasig Boulevard. While he kept on driving, the other passengers pleaded with Ballore to stop. At the second time of asking, Ballore stopped the jeepney at the area of Bagong Ilog after he saw a barangay patroller nearby. The passengers sought help from the barangay patroller. The barangay authorities told Ballore to drive the passengers to a hospital. PO3 Antolin was taken to the Rizal Medical Center, where he was declared dead on arrival.<sup>3</sup> The hospital authorities notified the Pasig City police.

The Pasig City police conducted a crime scene examination and interviewed the passengers, who identified Cris and Jayson as two (2) of the four assailants.<sup>4</sup> In the subsequent follow-up operation, Cris was arrested during a stakeout along F. Soriano Street, Barangay Palatiw, Pasig City. Jayson remains at large.<sup>5</sup>

On February 8, 2005, Cris and Jayson were formally accused of robbery with homicide by the Office of the City Prosecutor of Pasig City in an Information which reads:

On or about December 23, 2004 in Pasig City, and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together with two (2) John Does, whose true identities and present whereabouts are still unknown, and all of them mutually helping and aiding one another, armed with a gun and deadly weapons, with intent to gain, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously take, steal and divest the personal belongings of the complainants, to wit:

- 1) PO3 Florencio B. Antolin - 9 MM caliber revolver and a 3310 cellphone worth P3,500.00;
- 2) Fernando J. Antolin - wallet containing P200.00, receipt of tuition fee, silver necklace and bracelet worth P730.00;
- 3) Willy L. Ballore - earnings worth P100.00;
- 4) Meldi A. Chato - wallet containing P250.00 and ID's;
- 5) Allan N. Buaya - cash amount of P400.00;

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<sup>3</sup> Records, pp. 10-20.

<sup>4</sup> Id. at 11, 13, 25.

<sup>5</sup> Id. at 15, 25.

6) Lerma B. Villena - a board walk black bag containing cash money worth ₱400.00, SSS I.D., Voters I.D, company I.D., 3410 cellphone worth ₱5,500.00, citizen wristwatch worth ₱2,500.00 and gold earring worth ₱1,500.00

to the damage and prejudice of the complainants, and by reason or on the occasion of the crime of robbery, accused with intent to kill, did then and there willfully, unlawfully and feloniously shot and stab PO3 Florencio B. Antolin, thereby causing fatal injuries upon the latter which directly caused his immediate death.

Contrary to law.<sup>6</sup>

Since Jayson remained at large, only Cris was arraigned. He pleaded not guilty. Trial ensued. The prosecution presented the testimonies of the following witnesses:

1) PO2 Norman Barcellano (PO2 Barcellano) — As the designated investigator on duty at the time of the incident, he received a call from the security guard of the Rizal Medical Center who said that there was a victim of a shooting incident being treated at said hospital. Acting on the tip, he went to the Rizal Medical Center to check on the status of PO3 Antolin, who was then in critical condition.<sup>7</sup> He also obtained statements from the other witnesses, including the driver Ballore.<sup>8</sup> His co-investigator PO3 Enrique Jimenez told him that Cris was identified by the witnesses as one of the suspects.<sup>9</sup> He saw Cris at the police station after the latter was arrested.<sup>10</sup>

2) Dr. Jose Arnel Marquez (Dr. Marquez) — He has been a medico-legal officer of the PNP Crime Laboratory since 1997.<sup>11</sup> He conducted the autopsy on PO3 Antolin at the request of the Pasig City Police.<sup>12</sup> Based on the autopsy he conducted, he found that PO3 Antolin sustained two (2) gunshot wounds, nine stab wounds, and two (2) incise wounds.<sup>13</sup> The gunshot wounds caused PO3 Antolin's death, while the stab wounds were superficial.<sup>14</sup> The first gunshot penetrated the upper rib and the left lung of PO3 Antolin, while the

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<sup>6</sup> Amended Information, *id.* at 39-40. The Information was amended after the conduct of preliminary investigation against Jayson which led to the finding that "there exists sufficient ground to engender a well-founded belief that the crime of Robbery with Homicide was committed by Jayson Abila y Amada in conspiracy with Cris Peralta y De Guzman." Motion to Amend Information and Admit Amended Information, *id.* at 36.

<sup>7</sup> TSN, March 22, 2006, p. 4.

<sup>8</sup> *Id.* at 6-7.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.*

<sup>11</sup> TSN, April 23, 2007, p. 5.

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.* at 10.

<sup>14</sup> *Id.* at 11-12.

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second gunshot entered the back, penetrated his right lower rib, and lacerated the right lobe of his liver and the lower right lobe of his lung and diaphragm.<sup>15</sup>

3) Francisco — PO3 Antolin fetched him and his brother Fernando from a bus terminal in Cubao, Quezon City.<sup>16</sup> At the time of the incident, they were riding a jeepney going to Pinagbuhatan, Pasig City.<sup>17</sup> With them were seven (7) other passengers. He was seated on the right side of the jeepney, two (2) persons away from PO3 Antolin;<sup>18</sup> while his brother Fernando was seated on the opposite side of the jeepney on the front end near where their father was seated. One of the passengers who was sitting beside PO3 Antolin declared a holdup and stabbed the latter in the stomach.<sup>19</sup> Immediately thereafter, Cris, who was seated at the end of the jeepney, told his co-assailant, “*Putang ina mo tama na yan dugo dugo na yang mukha mo,*”<sup>20</sup> and then shot PO3 Antolin twice.<sup>21</sup> One of the other suspects then took the bag of a female passenger.<sup>22</sup> The suspects also took PO3 Antolin’s firearm, cellphone, watch, and money.<sup>23</sup> Thereafter, the jeepney stopped and the four (4) assailants alighted, after which the vehicle moved again and the passengers were able to get help from a nearby police patrol.<sup>24</sup> His father was brought to the Rizal Medical Center for treatment but did not survive.<sup>25</sup> The police asked him to identify the suspects and he was able to describe the shooter’s face for cartography purposes.<sup>26</sup> He was likewise able to identify the faces of Cris and Jayson as matching two (2) of the assailants based on a gallery of suspects’ photographs.<sup>27</sup> Later on, Cris was personally shown to him after the former’s arrest, and he positively identified Cris as the one who shot PO3 Antolin.<sup>28</sup>

4) Fernando — He lives in Cagayan with his brother Francisco.<sup>29</sup> His father, PO3 Antolin, was assigned to Camp Bagong Diwa in Taguig.<sup>30</sup> On December 22, 2004, he travelled from Cagayan together with Francisco to spend Christmas with their father in Pasig City.<sup>31</sup> They arrived at the bus terminal in Quezon City at 2:00 a.m. the next day.<sup>32</sup> PO3 Antolin fetched them from the bus terminal; from Quezon City they traveled to EDSA Central Crossing where

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<sup>15</sup> Id.

<sup>16</sup> TSN, November 12, 2007, p. 4.

<sup>17</sup> Id. at 7.

<sup>18</sup> Id. at 25.

<sup>19</sup> Id. at 8, 11, 24.

<sup>20</sup> Id. at 28.

<sup>21</sup> Id. at 11, 27.

<sup>22</sup> Id. at 13, 23, 27.

<sup>23</sup> Id. at 13-14, 19, 27.

<sup>24</sup> Id. at 14-15.

<sup>25</sup> Id. at 15, 19, 29.

<sup>26</sup> Id. at 30.

<sup>27</sup> Id. at 34-35.

<sup>28</sup> Id. at 16-17.

<sup>29</sup> TSN, February 11, 2008, p. 4.

<sup>30</sup> Id.

<sup>31</sup> Id. at 2-4.

<sup>32</sup> TSN, February 20, 2008, pp. 2-3.

they boarded a jeepney bound for Pasig Palengke.<sup>33</sup> There were ten (10) passengers in the jeepney.<sup>34</sup> At about 3:30 a.m., as the jeepney was traversing the area of Bagong Ilog, four (4) of the passengers declared a holdup<sup>35</sup> and commanded the other passengers to stay still.<sup>36</sup> Two (2) of the suspects who were seated on either side of PO3 Antolin<sup>37</sup> held his hands.<sup>38</sup> While PO3 Antolin was resisting the apparent attempt to restrain him, Cris, who was seated at the back of the jeepney, shot PO3 Antolin.<sup>39</sup> Thereafter, the other three (3) suspects stabbed PO3 Antolin with knives.<sup>40</sup> The assailants then got off the jeepney, taking with them PO3 Antolin's gun.<sup>41</sup> Fernando brought PO3 Antolin to a hospital.<sup>42</sup> He then went to the police precinct, where the police took his statement.<sup>43</sup> Later, he returned to the police station to identify Cris from a gallery of suspects' photographs.<sup>44</sup> He also presented receipts for expenses incurred by his family in connection with PO3 Antolin's death, which amounted to ₱72,000.00.<sup>45</sup>

The prosecution likewise offered the following documentary exhibits:<sup>46</sup> 1) Death Certificate of Florencio Barcelona Antolin; 2) Medico Legal Report No. M-722-04; 3) witness statements executed by Cristina Antolin, Francisco Antolin, Fernando Antolin, and Willy Ballore; and 4) Investigation Report,<sup>47</sup> which were all admitted by the trial court.

The defense relied solely on Cris' testimony. He denied any participation in the holdup incident. He claimed that at about 11:00 p.m. of December 22, 2004, he was at home helping his wife with cooking when a certain PO1 Ambet Lipana (Lipana) fetched him and took him to the Pariancillo Headquarters on the pretext of Christmas gift-giving.<sup>48</sup> He did not resist because he had previously worked for Lipana as a charcoal carrier and car washer.<sup>49</sup> He was made to wait at the office of the Follow-Up Section.<sup>50</sup> Thereafter, six (6) men entered the office and handcuffed him.<sup>51</sup> He was then imprisoned.<sup>52</sup> Later, he

<sup>33</sup> TSN, February 11, 2008, p. 5; TSN, February 20, 2008, p. 9.

<sup>34</sup> TSN, February 11, 2008, p. 5.

<sup>35</sup> Id. at 3, 5.

<sup>36</sup> TSN, February 20, 2008, p. 8.

<sup>37</sup> TSN, February 11, 2008, p. 6.

<sup>38</sup> Id.

<sup>39</sup> Id. at 8-9.

<sup>40</sup> Id. at 9.

<sup>41</sup> Id.

<sup>42</sup> Id. at 10; TSN, February 20, 2008, p. 4.

<sup>43</sup> Id.

<sup>44</sup> Id. at 11; TSN, February 20, 2008, pp. 6-7.

<sup>45</sup> TSN, February 20, 2008, pp. 12-13.

<sup>46</sup> Id. at 288.

<sup>47</sup> Records, pp. 253-256.

<sup>48</sup> TSN, April 26, 2010, pp. 2-3.

<sup>49</sup> Id. at 4; TSN, May 18, 2010, pp. 2-3.

<sup>50</sup> TSN, May 18, 2010, pp. 5-6.

<sup>51</sup> TSN, April 26, 2010, p. 6.

<sup>52</sup> Id. at 7.

was brought to Camp Crame where he met the brothers Antolin, who pointed to him as the one who shot and killed PO3 Antolin.<sup>53</sup>

The trial court found Cris guilty as charged. It gave full credence to Francisco's and Fernando's testimonies, while rejecting Cris' defense of alibi as being unmeritorious. The trial court disposed of the case thus:

*WHEREFORE*, premises considered, judgment is hereby rendered finding the accused *Cris Peralta y De Guzman and Jayson Abila y Amada* **GUILTY** beyond reasonable doubt of the crime of Robbery with Homicide under Art. 294(1) of the Revised Penal Code and therefore they are hereby sentenced to and punished by *reclusion perpetua*; to jointly indemnify the complainants' family who are victims, in the amount of *Seventy Two Thousand Pesos (Php72,000.00)* representing actual damages, medical, burial, funeral and miscellaneous expenses and *Four Thousand Four Hundred Thirty Pesos (Php4,430.00)* for the lost cell phones, cash money and jewelries of the Antolins; to pay the amount of *Seventy Five Thousand Pesos (Php75,000.00)* as civil indemnity for the death of PO3 Florencio Antolin; and, to pay the amount of *Fifty Thousand Pesos (Php50,000.00)* as moral damages; and to suffer all the accessory penalties provided for by law and to pay the costs.

The period of detention of the accused Cris Peralta shall be credited in his favor.

Considering that Jayson Abila y Amada is still at large, his case is temporarily placed in the *ARCHIVES* to be revived upon his arrest.

SO ORDERED.<sup>54</sup>

On appeal, the defense argued that the evidence relied upon by the trial court to convict Cris did not rise to the level of proof beyond reasonable doubt, because: 1) Francisco and Fernando gave conflicting testimonies as to how PO3 Antolin was shot and killed;<sup>55</sup> 2) the brothers Antolin's assertion to the effect that of the four (4) assailants, only Cris was armed with a gun and that he was seated at the back of the jeepney near PO3 Antolin conflicts with Ballore's statement that one of the assailants, who was seated near the driver's seat, held up a gun to his side;<sup>56</sup> and 3) given their vantage points and the lack of illumination inside the jeepney, the brothers Antolin could not have identified Cris as the one who shot and killed PO3 Antolin.<sup>57</sup>

The CA rejected these contentions. It held that the testimonies of the brothers Antolin concurred on the material point that they both saw Cris shoot

<sup>53</sup> TSN, May 18, 2010, pp. 8-9.

<sup>54</sup> CA *rollo*, p. 72.

<sup>55</sup> Appellant's Brief, *id.* at 59-62.

<sup>56</sup> *Id.* at 62.

<sup>57</sup> *Id.* at 62-63.

PO3 Antolin. The inconsistencies raised by the defense pertain to immaterial points—such as whether PO3 Antolin was trying to reach for his service firearm—which only serve to strengthen, rather than weaken, the credibility of the brothers' testimonies.<sup>58</sup> Regarding the alleged improbability of the brothers identifying their father's killer, the CA ruled that the jeepney's solitary light bulb and the surrounding street lights sufficed to illuminate the scene of the crime for purposes of identification.<sup>59</sup> Furthermore, the CA held that the identification of Cris by the brothers was clear, categorical, and made in accordance with law.<sup>60</sup> Finally, the CA ruled that Cris failed to present any evidence to support his defense of alibi. Satisfied that the prosecution was able to provide proof beyond reasonable doubt of Cris' guilt, the appellate court affirmed the trial court's decision.<sup>61</sup>

Hence, the present appeal,<sup>62</sup> wherein Cris repleads his arguments before the CA.<sup>63</sup>

Robbery with homicide (*robo con homicidio*) is a distinct felony with a specific definition and corresponding penalty, as laid down in Article 294, paragraph 1 of the Revised Penal Code. It is a composite crime with four elements:

1. the taking of personal property with the use of violence or intimidation against the person;
2. the property taken belongs to another;
3. the taking is characterized by intent to gain or *animus lucrandi*; and,
4. on the occasion of the robbery or by reason thereof the crime of homicide was committed.<sup>64</sup>

In *robo con homicidio*, the original intent of the offender is forcible thievery; and the homicide is a mere incident or result thereof.<sup>65</sup> *Homicide* here is used in the general sense of *taking a human life*, and therefore includes murder, parricide, or infanticide. The precise moment of killing is immaterial; it may have happened before, during, or after the robbery.<sup>66</sup> What matters is that

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<sup>58</sup> CA Decision, *rollo*, pp. 9-10.

<sup>59</sup> *Id.* at 10.

<sup>60</sup> *Id.* at 10-11.

<sup>61</sup> *Id.* at 12.

<sup>62</sup> Notice of Appeal, *id.* at 14-15.

<sup>63</sup> Manifestation in Lieu of Supplemental Brief, *id.* at 35.

<sup>64</sup> *People v. Laguda*, G.R. No. 244843, October 7, 2020.

<sup>65</sup> III Ramon C. Aquino and Carolina C. Griño-Aquino, THE REVISED PENAL CODE 118, 125 (2008), citing *People v. Navales*, 334 Phil. 521 (1997); *People v. Laguda*, *supra*.

<sup>66</sup> *People v. Laguda*, *supra* note 64.

in the process of committing the crime of robbery, a life was taken as a result or incident thereof. Recent decisions of this Court further explain:

It is only the result obtained, without reference or distinction as to the circumstances, causes, modes or persons intervening in the commission of the crime, that has to be taken into consideration. It is immaterial that the death would supervene by mere accident; or that the victim of homicide is other than the victim of robbery, or that two or more persons are killed or that aside from the homicide, rape, intentional mutilation, or usurpation of authority, is committed by reason or, on the occasion of the crime. It is also of no moment that the victim of homicide is one of the robbers. x x x As such, the crime is robbery with homicide when the killing was committed to facilitate the taking of the property, or the escape of the culprit, to preserve the possession of the loot, to prevent the discovery of robbery, or, to eliminate witnesses in the commission of the crime.<sup>67</sup>

Intent to rob is an internal act but may be inferred from proof of violent unlawful taking of personal property. When the fact of asportation has been established beyond reasonable doubt, conviction of the accused is justified even if the property subject of the robbery is not presented in court. After all, the property stolen may have been abandoned or thrown away and destroyed by the robber or recovered by the owner. The prosecution is not burdened to prove the actual value of the property stolen or amount stolen from the victim. Whether the robber knew the actual amount in the possession of the victim is of no moment because the motive for robbery can exist regardless of the exact amount or value involved.<sup>68</sup>

The defense essentially argues that Cris cannot be convicted of robbery with homicide because the fourth element was not proven beyond reasonable doubt. The prosecution argues that the rulings of the courts *a quo* must be sustained.

The issues developed by the briefs pertain to questions of fact and the evaluation of the credibility of the witnesses. Well settled is the rule that “when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court’s observations and conclusions deserve great respect and are often accorded finality, unless it appears that the lower courts had overlooked, misunderstood or misappreciated some fact or circumstance of weight, which, if properly considered, would alter the result of the case.”<sup>69</sup>

Here, it was undisputedly proven that the incident at bar involved a robbery. Francisco and Fernando categorically testified that four (4) of their co-passengers declared a holdup while the jeepney was in the Bagong Ilog area. The brothers Antolin likewise clearly and categorically narrated how the

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<sup>67</sup> Id.

<sup>68</sup> *People v. Madrelejos*, 828 Phil. 732, 738 (2018), citing *People v. Ebet*, 649 Phil. 181, 189 (2010).

<sup>69</sup> *People v. Bacyaan*, G.R. No. 238457, September 18, 2019.

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suspects divested the passengers of their belongings through force and intimidation, viz.:

[Court:] When you were already inside the jeep what happened?

[Francisco:] One of the hold-upper announced "hold-up Ito" and one of the hold-upper held the hands of my father and he immediately stab my father on the stomach.

x x x x

[Court:] How about the other passengers, what did the hold upper do to them?

[Francisco:] They were also surprise ma'am.

[Court:] Were they also victim of hold upper?

[Francisco:] One of the hold upper took the bag of one of the passengers.

[Court:] How about you?

[Francisco:] None.

[Court:] The hold uppers got the cellphone, watch and money of your father?

[Francisco:] Yes ma'am.

[Court:] Is your father a police officer?

[Francisco:] Yes sir.

[Court:] What about the gun of your father?

[Francisco:] Kinuha ng mga hold upper ma'am.

x x x x

[Court:] How about your brother, what did the hold upper get from him?

[Francisco:] Necklace.

x x x x

[Prosec. Pio:] What were the items taken from your father by the hold uppers?

[Francisco:] Watch, Cellphone, gun and money.

x x x x

[Prosec. Pio:] How much money was taken from him?

[Francisco:] I don't know ma'am.

[Prosec. Pio:] Why did you say that there was money taken from your father?

[Francisco:] When we were together he said that he has money on his front pocket.

[Prosec. Pio:] What happened on the money, on his front pocket?

[Francisco:] They took the money.

[Prosec. Pio:] Who in particular?

[Francisco:] The one who [w]as holding a knife.

[Prosec. Pio:] Not the one who stabbed?  
[Francisco:] The one who poked a knife.

[Court:] But not the one who stabbed him?  
[Francisco:] Yes sir.

x x x x

[Court:] The stabbing incident happened after the hold upper, after they have guided their loot?  
[Francisco:] After the stabbing and shooting.

[Court:] Who particularly frisked him of his particular belongings?  
[Francisco:] The one who poked the knife, the 2.<sup>70</sup>

[Prosec. Pio:] So there was an announcement of hold-up when you were at Bagong Ilog?  
[Fernando:] Yes ma'am.

x x x x

[Prosec. Pio:] When you brought your father to the hospital, where was the hold upper?  
[Fernando:] They were already alighted from the jeep[.]

[Prosec. Pio:] How about the gun of your father?  
[Fernando:] They took the gun.

[Prosec. Pio:] Who among the hold-upper took the gun of your father the one seated on the right, or at the left side?  
[Fernando:] I cannot recall ma'am.<sup>71</sup>

Parenthetically, it must be noted that the existence of the first three elements of robbery with homicide is further corroborated by the statements of the other passengers, who all concurred in declaring that they were held up in a jeepney in the area of Bagong Ilog, Pasig City, in the early morning of December 23, 2004.<sup>72</sup> In their statements before the police investigators, Meldi, Allan, and Lerma all averred that the suspects declared a holdup, brandished weapons to intimidate them, and then divested them of their belongings.<sup>73</sup>

With the elements of robbery having been established beyond reasonable doubt, the appeal hinges on the sufficiency of proof as to whether it was Cris who actually shot and killed PO3 Antolin. As earlier mentioned, Cris impugns the sufficiency of the identification made by the brothers Antolin. The defense

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<sup>70</sup> TSN, November 12, 2007, pp. 8, 13-14, 19-20, 28.

<sup>71</sup> TSN, February 11, 2008, pp. 5, 9-10.

<sup>72</sup> Records, pp. 16-19.

<sup>73</sup> Malaya at Kusang Loob na Salaysay ni Meldi Chato y Arienza, records, p. 17; Malaya at Kusang Loob na Salaysay ni Allan Buaya y Nalogon, id. at 18. Malaya at Kusang Loob na Salaysay ni Lerma Villena y Bello, id. at 19.

argues that “[Cris], Francisco and PO3 Antolin were all seated at the right side of the jeepney. Two (2) passengers were seated between [Cris] and Francisco. Fernando, on the other hand, was at the far end of the opposite (left) side of the jeepney. Given the lighting condition and their relative positions, the Antolin brothers could not have had a full glimpse of the shooter’s facial features and could, thus, be mistaken in identifying” Cris as the shooter.<sup>74</sup>

As regards the alleged insufficiency of lighting sufficient to make out the face of the assailant, the Court has held that even the natural light from the stars or the moon alone suffices to identify a person.<sup>75</sup> *A fortiori*, it has been held that illumination from lampposts, signboards, oncoming vehicles, an oven, a wick lamp, or a gas lamp, can provide sufficient light to enable the identification or recognition of a person’s face.<sup>76</sup> Here, the crime scene was illuminated by a single light inside the jeepney<sup>77</sup> and by the surrounding street lights,<sup>78</sup> both of which suffice for purposes of illuminating a person’s facial features, as pointed out by Francisco himself:

[Atty. Lacap]: And considering it was 3:30 a.m you were not see clearly the faces of the passengers?

[Francisco:] There was a street light.

[Atty. Lacap]: Yes but inside the jeepney you said that there is no light and you confirmed that it is dark and therefore you cannot see the faces of the passengers of the jeepney very clearly.

[Francisco]: I can recognize them sir because of the light outside from the street.<sup>79</sup>

Furthermore, based on the witnesses’ testimonies and statements, the relative seating positions of the persons inside the jeepney can be deduced as follows: seated on the right side of the jeepney, from front to rear, were two (2) of the robbers (one [1] of whom was Jayson), PO3 Antolin (seated between the aforementioned two [2] robbers),<sup>80</sup> Francisco,<sup>81</sup> Lerma, and Allan,<sup>82</sup> and Cris;<sup>83</sup> while seated on the left side, from front to rear, were Fernando,<sup>84</sup> one (1) of the robbers, and Meldi. Notably, Fernando testified that he was seated at the central portion of the jeepney, opposite one of the robbers who allegedly restrained

<sup>74</sup> Appellant’s Brief, CA rollo, p. 62.

<sup>75</sup> *People v. Foncardas*, 466 Phil. 992, 1007 (2004).

<sup>76</sup> *People v. Maron*, G.R. No. 232339, November 20, 2019, citing *Avelino v. People*, 714 Phil. 322, 331-332 (2013); *People v. Lee*, 450 Phil. 148, 158 (2003).

<sup>77</sup> TSN, February 20, 2008, p. 4.

<sup>78</sup> TSN, November 12, 2007, p. 22.

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

<sup>80</sup> TSN, February 11, 2008, pp. 7-8.

<sup>81</sup> TSN, November 12, 2007, pp. 10-11.

<sup>82</sup> *Id.* at 11; Malaya at Kusang Loob na Salaysay ni Lerma Villena y Bello, *supra* note 73. Lerma averred that she was travelling with Allan.

<sup>83</sup> *Id.* at 11; TSN, February 20, 2008, pp. 11-12.

<sup>84</sup> TSN, February 20, 2008, p. 10.

PO3 Antolin.<sup>85</sup> Given his location at the center of the left side of the jeepney, Fernando had a uniquely broad view of the whole right side of the jeepney, where both the victim and the accused were seated. Meanwhile, Francisco was seated just two (2) persons away from Cris. Given their relative locations, and considering that the jeepney was less than two (2) meters in length,<sup>86</sup> it is undeniable that the brothers were seated in close enough proximity to recognize Cris' facial features. As correctly pointed out by the CA:

Fernando and Francisco had all the opportunity to observe and remember [Cris'] face because the crime occurred in the close confines of the jeepney, which was running at moderate speed. Also, there was nothing [i]n the records that would show that something occurred from the time Cris shot PO3 Antolin until they alighted from the jeepney that could have diverted the attention of either Francisco or Fernando Antolin. On the contrary, none of the passengers moved right after the deceased was shot two times because [Cris] and his cohorts ordered them not to. With greater reason, Fernando Antolin had an unobstructive view of [Cris] because he was seated opposite him. It has been held that the best way to identify the person is by describing his face, viz.:

Experience shows that precisely because of the unusual acts of bestiality committed before their eyes, eyewitnesses, especially the victims to a crime, can remember with a high degree of reliability the identity of criminals. We have ruled that the natural reaction of victims of criminal violence is to strive to see the appearance of their assailants and observe the manner the crime was committed. Most often, the face and body movements of the assailant create an impression which cannot easily be erased from their memory.

Lastly, there was no considerable gap of time between the commission of the crime and Fernando and Francisco Antolin's identification of [Cris] that could have impaired the accuracy of their identification. For it has been held that in the absence of any compelling or rational explanation, a delay of at least forty-two days in the identification of the accused effectively destroys the credibility of the witness and renders his testimony unworthy of belief. Here, Fernando and Francisco positively identified [Cris] two (2) days after the commission of the crime. Accordingly, their identification of [Cris] deserves credence.<sup>87</sup>

The defense also cites certain inconsistencies in the prosecution's evidence, such as: 1) the number of suspects who restrained PO3 Antolin; 2) the number of suspects who stabbed PO3 Antolin; 3) whether PO3 Antolin struggled to free himself from the restraint; and 4) the number of suspects who were armed with guns. The defense argues that these inconsistencies render the prosecution's version incredible; hence, Cris must be acquitted.

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<sup>85</sup> Id.; TSN, November 12, 2007, p. 4.

<sup>86</sup> Id. at 11.

<sup>87</sup> CA Decision, *rollo*, pp. 10-11. Citations omitted.

Material matters are those which pertain to the main fact which is the subject of inquiry, or to any circumstance which tends to prove that fact, or to any fact or circumstance which tends to corroborate or strengthen the testimony relative to the subject of inquiry or which legitimately affects the credit of any witness who testifies.<sup>88</sup> A factual point is material if it relates directly to a fact in issue; or to a fact to which, by the process of logic, an inference may be made as to the existence or non-existence of a fact in issue.<sup>89</sup> To engender reasonable doubt in testimonial evidence, the inconsistencies therein must pertain to material matters. “*Inconsistencies and discrepancies referring to minor details and not upon the basic aspect of the crime do not diminish the witnesses’ credibility. If the cited inconsistency has nothing to do with the elements of a crime, it does not stand as a ground to reverse a conviction.*”<sup>90</sup> Inconsistencies in non-material points are even recognized as a sign of candor and truthfulness,<sup>91</sup> for it shows that the accounts are actually based on the witnesses’ recollection of the events and not a rehearsed attempt to wrongfully incriminate the accused.

As again correctly pointed out by the appellate court, the inconsistencies cited by the defense do not pertain to the material details of the charge. The details of how PO3 Antolin was restrained and stabbed and the issue as to whether PO3 Antolin resisted the suspects, do not pertain to any element of the crime of robbery with homicide. Even if this Court were to set aside the parts regarding PO3 Antolin’s struggle against the suspects around him before he was stabbed, the rest of the brothers Antolin’s testimonies, which were corroborated by the statements of their fellow passengers, would still clearly and categorically show how the suspects declared a holdup, brandished their weapons, and divested the passengers of their belongings.

Furthermore, the cited inconsistencies do not pertain to the very act which resulted in PO3 Antolin’s death. The Medico-Legal Report categorically indicates gunshot wounds as the cause of PO3 Antolin’s death.<sup>92</sup> Likewise, Dr. Marquez testified that the stab wounds sustained by PO3 Antolin were superficial<sup>93</sup> and therefore not fatal. Thus, the details of the struggle between PO3 Antolin and the other suspects, as well as the number and the identities of the suspects who stabbed PO3 Antolin, are not material since these do not pertain directly to the firing of the gun (or guns) which caused death. Notably, Francisco testified that Cris fired the fatal shots *shortly after* his co-assailants began restraining and stabbing PO3 Antolin, *viz.*:

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<sup>88</sup> *Agustin v. People*, 576 Phil. 188 (2008), citing *United States v. Estraña*, 16 Phil. 520, 529 (1910).

<sup>89</sup> *Id.* at 195-196.

<sup>90</sup> *People v. Clara*, 715 Phil. 259, 279 (2013).

<sup>91</sup> *People v. Lagbo*, 780 Phil. 834, 843-844 (2016); *People v. Veloso*, 386 Phil. 815, 823 (2000); *People v. Lugto*, 268 Phil. 822, 825 (1990).

<sup>92</sup> Records, p. 60.

<sup>93</sup> TSN, April 23, 2007, pp. 12, 17.

[Atty. Lacap:] **And the shooting incident after the stabbing took place very fast?**

[Francisco:] **Yes sir.**

COURT: How many time [sic] was your father stabbed?

[Francisco:] I don't know.

COURT: How many times was he shot?

[Francisco:] 2.

[Atty. Lacap:] Do you know why your father was attacked by these hold-uppers?

COURT: Incompetent.

[Atty. Lacap:] Was there any action by your father that provoked this hold upper?

[Francisco:] None.

[Atty. Lacap:] **The stabbing incident happened after the hold upper, after they have guided [sic] their loot?**

[Francisco:] **After the stabbing and shooting.**

COURT: Who particularly frisked him of his particular belongings?

[Francisco:] The one who poked the knife, the 2.

[COURT:] **Did the man say anything before he shot your father?**

[Francisco:] **“Putang ina mo tama na yan dugo dugo na yang mukha mo”?**

[COURT:] To whom did he say that?

[Francisco:] To the one who stabbed my father.

[COURT:] Was his companion in front at that time Mr. witness?

[Francisco:] Yes sir.

[COURT:] And that was the time he shot your father?

[Francisco:] Yes sir.

[COURT:] And so, did you see the face of the accused who shot your father?

[Francisco:] Yes sir.<sup>94</sup>

Clearly, whatever prior struggle between PO3 Antolin and the suspects around him ultimately did not matter, as Cris settled the matter definitively by killing PO3 Antolin.

Second, both brothers testified that the suspects took PO3 Antolin's gun and valuables *only after* he had been shot and stabbed:<sup>95</sup>

<sup>94</sup> TSN, November 12, 2007, pp. 27-28. Emphasis and underlining supplied.

<sup>95</sup> Id.

[Prosec. Pio:] After the accused Cris Peralta shot your father what did the other three (3) hold-uppers do?

[Fernando:] They were holding a knife.

[Prosec. Pio:] How many hold-uppers stabbed your father?

[Fernando:] They were three (3) ma'am.

[Prosec. Pio:] After your father was shot and afterward stabbed what happened if any?

[Fernando:] I don't know if he was dead but we brought to the hospital.

x x x x

[Prosec. Pio:] When you brought your father to the hospital, where was the hold upper?

[Fernando:] They were already alighted from the jeep[.]

[Prosec. Pio:] How about the gun of your father?

[Fernando:] They took the gun.

[Prosec. Pio:] Who among the hold-upper took the gun of your father the one seated on the right, or at the left side?

[Fernando:] I cannot recall ma'am.<sup>96</sup>

All told, the CA aptly observed:

Notably in cases where the prosecution's witnesses are relatives of the deceased victim, they cannot be expected to recall every minute detail. It is possible that their testimonies would differ on some points because they have different reflexes which may vary their reactions, impressions, perceptions and recollections. Likewise, their ability to recall the details of the incident may be affected by their physical, mental, emotional and psychological conditions.

Here, Fernando and Francisco Antolin categorically testified that they saw accused-appellant shot their father two times because it happened right before their eyes. The inconsistency regarding their father reaching for his service firearm is immaterial as it did not pertain to the killing itself. All the more, Fernando testified that he was seated across his father and brother. This can explain why he saw his father reached for his service gun while Francisco did not.<sup>97</sup>

The defense further raises the inconsistency in the testimonies of the brothers Antolin *vis-à-vis* Ballore's statement regarding the location and identity of the gunman. In his statement before the police investigator, Ballore claimed that one of the suspects who was seated near him poked a gun at his side<sup>98</sup> contrary to the brothers' assertions that Cris was the only suspect armed

<sup>96</sup> TSN, February 11, 2008, pp. 9-10.

<sup>97</sup> CA Decision, *rollo*, pp. 9-10.

<sup>98</sup> Malaya at Kusang Loob na Salaysay ni Willy Ballore y Lumame, records, p. 16.

with a gun and that he was seated at the rear of the jeepney. However, it must be noted that this argument is based solely on the statement of Ballore, who was not presented as a witness. Affidavits or signed statements are generally considered hearsay, when the affiant or maker did not take the witness stand to validate and elaborate on the contents of the affidavit or statement.<sup>99</sup> Furthermore, assuming without conceding that Ballore's statement may be admitted as part of the *res gestae*,<sup>100</sup> his assertions are nevertheless outweighed by the clear and categorical testimonies of Fernando and Francisco, who both stated that the shooter was seated at the rear end of the jeepney, near the entrance thereof, *viz.*:

[Prosec. Pio:] You have pointed already and you have identified the position of the 2 hold upper, what about the other 2 where were they seated?

[Francisco:] One seated beside my brother and the other beside near the Estribo near the entrance.

x x x x

[Prosec. Pio:] How many minutes after, you said that your father was stabbed, after the stabbing how many minutes after when the accused Cris Peralta make a move of shooting?

[Francisco:] After stabbing Cris Peralta immediately shot my father while the accused is at the back.<sup>101</sup>

[Prosec. Pio:] How about the two (2) other hold uppers?

[Fernando:] When the two (2) hold-uppers held the hands of my father he was resisting and while he was resisting one of the hold-upper shot my father.

[Prosec. Pio:] And where was these hold-uppers shot your father seated?

[Fernando:] At the back portion of the jeep.

[Prosec. Pio:] Do you know who shot your father?

[Fernando:] The police officer showed me a picture.

[Prosec. Pio:] Now do you know who shot your father?

[Fernando:] Cris Peralta ma'am.<sup>102</sup>

Crucially, the brothers Antolin never categorically stated that Cris was the only one among the suspects who was armed with a gun. While Francisco did testify that the three other assailants were holding knives,<sup>103</sup> the conclusion

<sup>99</sup> *Dantis v. Maghinang, Jr.*, 708 Phil. 575, 589 (2013).

<sup>100</sup> This is, admittedly, a very generous assumption, since Rule 130, Section 44 (formerly Section 42) contemplates only "[s]tatements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto, under the stress of excitement caused by the occurrence with respect to the circumstances thereof". Here, Ballore was testifying on a non-verbal gesture based on the physical condition or physical state of a person (that one of the suspects other than Cris had a gun which he poked at Ballore's side); and not about any statement or utterance by said person.

<sup>101</sup> TSN, November 12, 2007, pp. 10, 12.

<sup>102</sup> TSN, February 11, 2008, pp. 8-9.

<sup>103</sup> TSN, November 12, 2007, pp. 14.



that Cris is the only one in the group with a gun does not necessarily follow from such statement. Most importantly, such circumstance does not detract from the clear, concurrent, and categorical testimony of the brothers that the gunshots directed at PO3 Antolin were fired from the rear end of the jeepney, where Cris was seated.

On the other hand, Cris' defenses of alibi and denial, which are in themselves already treated with judicial suspicion,<sup>104</sup> are further weakened by a glaring inconsistency in his testimony. When initially asked about his reason for coming to the police station, he claimed that he was just getting a Christmas gift from Lipana;<sup>105</sup> but later on he changed tack and said that he was fetched from his house to clean Lipana's car.<sup>106</sup> Either way, his bare, uncorroborated<sup>107</sup> testimony fails to establish the physical impossibility of his presence at the crime scene, especially considering that he was arrested during a stakeout in Palatiw, Pasig City, which is less than three (3) kilometers from the scene of the crime, and less than five kilometers from the area where the suspects disembarked from the jeepney after committing the robbery.

Finally, we modify the award of damages. In line with prevailing jurisprudence,<sup>108</sup> we increase the award of moral damages to ₱75,000.00; and award an additional amount of ₱75,000.00 as exemplary damages to the heirs of PO3 Antolin.

**WHEREFORE**, the present appeal is **DISMISSED**. The March 2, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 07123 is hereby **AFFIRMED** with **MODIFICATION**. Appellant Cris Peralta y De Guzman is **ORDERED to PAY** the heirs of PO3 Florencio B. Antolin the following amounts: ₱72,000.00, representing actual damages, medical, burial, funeral, and miscellaneous expenses; ₱4,430.00, representing the value of the items stolen from the Antolins; ₱75,000.00, as civil indemnity for the death of PO3 Florencio B. Antolin; ₱75,000.00, as moral damages; ₱75,000.00, as exemplary damages; with interest at the legal rate of six percent (6%) *per annum* on all the foregoing amounts, reckoned from the finality of this Decision until fully paid.

<sup>104</sup> *Ledesma v. People*, G.R. No. 238954, September 14, 2020.


<sup>105</sup> TSN, April 26, 2010, p. 6.

<sup>106</sup> TSN, May 18, 2010, pp. 3-4.


<sup>107</sup> The defense did not present any other evidence, testimonial or otherwise, apart from Cris' testimony. RTC Decision, CA rollo, p. 71.

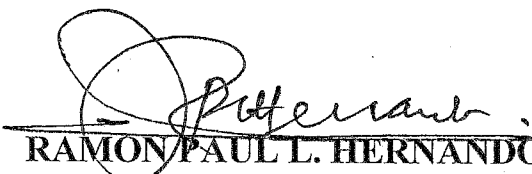
<sup>108</sup> *People v. Jugueta*, 783 Phil. 806 (2016).

**SO ORDERED.**

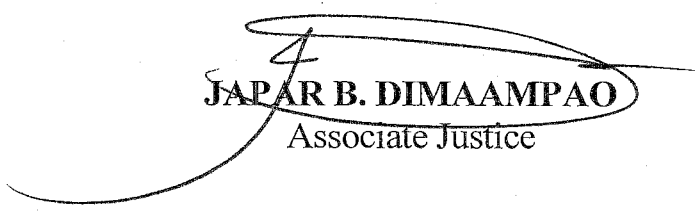
  
**SAMUEL H. GAERLAN**  
Associate Justice

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
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.

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson, Second Division

## 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.

  
ALEXANDER G. GESMUNDO  
Chief Justice

