



**Republic of the Philippines  
Supreme Court  
Manila**

**SECOND DIVISION**

**PEOPLE  
OF THE  
PHILIPPINES,**

**OF THE**  
Plaintiff-Appellee,

**G.R. No. 223103**

Present:

-versus-

PERLAS-BERNABE, J.,  
Chairperson,  
REYES, A. JR.,  
HERNANDO,  
INTING, and  
DELOS SANTOS, JJ.

**FLORENTINO LABUGUEN y  
FRANCISCO alias "Tinong," and  
ROMEO ZUÑIGA<sup>1</sup> y PILARTA,**  
Accused-Appellants.

Promulgated:

24 FEB 2020

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**DECISION**

**HERNANDO, J.:**

Assailed in this appeal is the March 25, 2015 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04999 which affirmed with modification the April 15, 2011 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Cabagan, Isabela, Branch 22 in Criminal Case No. 22-1647 finding appellants Florentino Labuguen y Francisco alias "Tinong" (Labuguen) and Romeo Zuñiga y Pilarta (Zuniga) guilty beyond reasonable doubt of the crime of Robbery with Homicide and Frustrated Homicide.

The accusatory portion of the Information<sup>4</sup> reads as follows:

That on or about the 3<sup>rd</sup> day of January, 2002, in the Municipality of Delfin Albano, Province of Isabela, Philippines and within the jurisdiction

<sup>1</sup> Also spelled as Zuniga in some parts of the records.

<sup>2</sup> CA *rollo*, pp. 109-121; penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Ramon R. Garcia and Melchor Quirino C. Sadang.

<sup>3</sup> Id. at 8-19; penned by Assisting Judge Conrado F. Manauis.

<sup>4</sup> Id. at 8-9.

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of this Honorable Court, the accused Florentino Labuguen y Francisco alias Tinong, Rodrigo Macalinao, and Romeo Zuñiga, together with John Doe and Peter Doe, whose [identities] are still to be determined, conspiring, confederating together and helping one another, armed with a firearm and pointed and bladed instrument, with intent to gain and by means of force, violence and intimidation against persons, did then and there willfully, unlawfully and feloniously, take[,] steal and bring away cash money in the amount of ₱500,000.00 belonging to spouses Manuel Padre and Nenita Padre, against their will and consent, to the damage and prejudice of the said owners, in the aforesaid amount of ₱500,000.00.

That during the commission and by reason of the said crime, the said accused, to enable them to take, steal and bring away the said amount of ₱500,000.00, with intent to kill and without any just motive, did then and there, willfully, unlawfully and feloniously, assault, attack and shoot with a firearm Rhoda Padre and stabbed for several times the person of Manuel Padre, Nenita Padre and Rachelle<sup>5</sup> Padre, inflicting upon the said Rhoda Padre, a gunshot wound on the chest which directly caused her death, upon the person of Manuel Padre, stab wound on the face and on the neck which directly caused his death, upon the person of Nenita Padre, a stab wound on the thoracic area which likewise caused her death and upon the person of Rachelle Padre, lacerated wounds on the right frontal area, on the right orbital area, on the right parieto occipital area, on the right neck and on the left chest, which injuries would ordinarily cause the death of the said Rachelle Padre, thus, performing all the acts of execution which could have produced the crime of Homicide as a consequence, but neve[r]theless, did not produce it by reason of causes independent of their will that is, by the timely and able medical assistance rendered to the said Rachelle Padre, which prevented her death.

That the said accused not being allowed [nor] authorized by law, to keep, possess and carry firearm and ammunitions, did then and there, willfully, unlawfully and feloniously, have in their possession and under their control and custody the said firearm with ammunitions which they used in robbing and shooting to death the said victims Manuel Padre, Nenita Padre and Rhoda Padre.<sup>6</sup>

During the arraignment, accused-appellant Labuguen pleaded not guilty. Accused-appellant Zuñiga, however, initially entered a guilty plea but later withdrew the same and accordingly pleaded not guilty. Accused Rodrigo Macalinao (Macalinao) remains at large.

After the termination of the pre-trial conference, trial on the merits ensued.

### **The Facts:**

The facts as summarized by the CA are as follows:

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<sup>5</sup> Also spelled as Rachel in some parts of the records.

<sup>6</sup> CA *rollo*, pp. 8-9.

On 3 January 2002 at about 7:30 in the evening, while spouses Manuel Padre and Nenita Padre and their two daughters, Rhoda and Rachel, were having dinner at their home at Villaruz, Delfin Albano, Isabela, five (5) men suddenly barged in, one holding a firearm and one with a bonnet with [a] hole showing the eyes only. Labuguen, [sic] entered first and pulled Rachel into the comfort room (CR), together with her mother Nenita and sister Rhoda, who in turn were pulled by Macalinao and by an unidentified man respectively. Manuel, on the other hand, was brought to the store by an unidentified man. Nenita was then brought to [the] Padre's store while Rhoda and Rachel were left in the comfort room. A few minutes later, Labuguen brought Rachel out of the comfort room and she saw Zuniga, standing by the door of the store and Macalinao, standing guard at the CR door and holding a gun. Upon reaching the dining area, Labuguen stabbed Rachel with a small knife on the left breast and then Macalinao hit her on the forehead with the butt of a gun, causing her to fall down. Then Labuguen strangled her and as she could not remove his hands off her neck, she played dead. As soon as Labuguen stood up and left, together with the other perpetrators, she immediately ran for help to their neighbor Patricio Respicio (Respicio), who[,] together with Alex Rodriguez, brought her to the hospital. At the hospital, she learned from her relatives that her parents and sister died on the night of 3 January 2002. Dr. Gambalan treated her serious injury on the left chest and less serious wounds on the head and abrasions on the neck.

Meanwhile, after Manuel closed the store and returned to the house, Zuniga, upon the instruction of Joel Albano (Albano), hit [Manuel hard] on the forehead, causing the latter to fall. Eric Madday, one of the five men and who also used to work for Manuel Padre, boxed Nenita on the abdomen and when Zuniga saw the chopping knife, he stabbed her at the back. On the other hand, Rudy Macalinao shot Rhoda when she tried to run away. On the belief that all members of the Padre family were dead, the group proceeded to Albano's house, where Zuniga learned that they got the money from the Padre family. He saw Albano [give] a bundle of money to Rudy Macalinao. He left Delfin Albano, [sic] in Isabela and went into hiding in Gerona, Tarlac on 7 January 2002.

Upon learning of the incident from Kagawad Alex Rodriguez, the police investigators went to the hospital on 4 January 2002 and interviewed Rachel, who identified two of the perpetrators – Labuguen, who happen[ed] to be Padre family's longtime neighbor and who used to work for them, and Macalinao, also one of the victims' helpers. At that time, she purposely withheld the name of Romeo Zuniga, one of Padre's longtime customers, as she wanted him to reveal his companions. From the hospital, the police proceeded to the crime scene, where they found Manuel's body near the store, Nenita's body was recovered inside the store while that of Rhoda was located inside the house. Rachel was released from the hospital on 12 January 2002.

Labuguen was apprehended by the police on 4 January 2002. The blood-stained jacket he was wearing during the custodial investigation was submitted for serological examination at the PNP Crime Laboratory at Camp Crame. The blood taken from Labuguen's jacket tested positive for *human blood group A*. As to Zuniga, Rachel decided to reveal his identity as one of the five men who robbed and killed her parents and sister Rhoda to Fiscal Dalpig and later to Fiscal Torio. He was arrested in Gerona,

Tarlac by the police operatives in 2006 and narrated to them the incident.<sup>7</sup>  
(Citations omitted)

### **Ruling of the Regional Trial Court:**

Based on the foregoing facts, the RTC<sup>8</sup> rendered its Decision<sup>9</sup> dated April 15, 2011 convicting the appellants as charged, *viz.*:

WHEREFORE, in the light of the foregoing ratiocination, the court finds accused, Romeo Zuniga and Florentino "Tinong" Labuguen "GUILTY" beyond reasonable doubt of the crime charged and sentences them:

1. [T]o suffer each the penalty of *reclusion perpetua*; and
2. [T]o pay solidarily Rachel Padre, the amount of ₱165,000.00 as actual damages, ₱50,000.00 as civil indemnity for the death of Manuel Padre; ₱50,000.00 as civil indemnity for the death of Nenita Padre[;] and ₱50,000.00 as civil indemnity for the death of Rhoda Padre.

Considering that Rody Macalinao was not arrested and is still-at-large, let an alias warrant of arrest be issued for his immediate apprehension.

Meanwhile, let the records of his case, and, that of Peter Doe and John Doe be sen[t] to the court's archive to be revived once he is arrested and Peter Doe and John Doe properly identified.

SO DECIDED.<sup>10</sup>

Aggrieved, appellants filed a Notice of Appeal<sup>11</sup> which was given due course by the RTC in its Order<sup>12</sup> dated May 4, 2011.

### **Ruling of the Court of Appeals:**

In a March 25, 2015 Decision,<sup>13</sup> the CA affirmed with modification the RTC ruling, as follows:

**WHEREFORE**, the Decision of the Regional Trial Court of Cabagan, Isabela, Branch 22 in Criminal Case No. 22-1647 finding the accused-appellants guilty beyond reasonable doubt of Robbery with Homicide and sentencing them to suffer the penalty of *reclusion perpetua* is **AFFIRMED** with **MODIFICATION**. The accused-appellants are

<sup>7</sup> CA rollo, pp. 112-114.

<sup>8</sup> Branch 22, Cabagan, Isabela; penned by Assisting Judge Conrado F. Manaus.

<sup>9</sup> CA rollo, pp. 8-19.

<sup>10</sup> Id. at 18-19.

<sup>11</sup> Id. at 20.

<sup>12</sup> Id. at 21.

<sup>13</sup> Id. at 109-121.

ordered, jointly and severally, to pay Rachel Padre the amount of ₱75,000.00 [for] each victim as civil indemnity.

SO ORDERED.<sup>14</sup>

Hence, this appeal.

This Court required the parties to file their respective supplemental briefs if they so desire.<sup>15</sup> However, both instead filed their respective Manifestations<sup>16</sup> stating that they will no longer file supplemental briefs since they already exhaustively argued all the relevant issues in their Briefs filed before the CA.

### Our Ruling

Appellants argue that the appellate court erred in not considering in favor of appellant Zuñiga the exempting circumstance of “irresistible force and/or uncontrollable fear of an equal or greater injury.”<sup>17</sup> Zuñiga posits that he “was compelled or forced at gun point by Joel Albano (Albano) to join them in robbing the house of Manuel Padre, and if he will resist, something bad will happen to him and his family.”<sup>18</sup>

The contention fails to persuade.

To avail of this exempting circumstance, the evidence must establish: (1) the existence of an uncontrollable fear; (2) that the fear must be real and imminent; and (3) the fear of an injury is greater than or at least equal to that committed. A threat of future injury is insufficient. The compulsion must be of such a character as to leave no opportunity for the accused to escape.<sup>19</sup>

As correctly found by the RTC and the CA, Zuñiga is not entitled to avail of this exempting circumstance. As noted by the CA, the malefactors had a well-hatched plan to commit the crime of robbery with homicide and that Zuñiga was not only well-aware of every detail thereof but likewise actively participated in its commission. As the CA found: “Verily, there was no genuine, imminent, and reasonable threat to his life and his family as he was an active participant in the commission of the crime charged. He acted on his own free will and was not under the impulse of an uncontrollable fear as he claims.”<sup>20</sup> Moreover, as correctly argued by the Office of the Solicitor General, Zuñiga had every opportunity to escape while they were passing through the cornfields on their way to the Padre’s house. However, he did

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<sup>14</sup> Id. at 120.

<sup>15</sup> *Rollo*, p. 19.

<sup>16</sup> Id. at 25-29 and 30-34.

<sup>17</sup> *CA rollo*, p. 49.

<sup>18</sup> Id. at 50.

<sup>19</sup> *People v. Baron*, 635 Phil. 608, 624 (2010).

<sup>20</sup> *CA rollo*, p. 118.

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not avail of the said chance.<sup>21</sup> He did not perform any overt act to dissociate or detach himself from the conspiracy to commit the felony and prevent the commission thereof.<sup>22</sup> While he refused to kill Rachel, he nonetheless delivered the fatal blow to Manuel's head and stabbed Nenita at her back using a chopping knife without any prodding or compulsion from his companions.<sup>23</sup>

Next, appellants aver that their identification by Rachel as the perpetrators of the crime should not be given credence. They narrate that Rachel did not immediately disclose their identities when she sought help from their neighbor and that she only revealed their identities upon being investigated by the police at the hospital. According to the appellants, considering that she was suffering from a fatal wound and supposedly aware of her impending death, it behooved upon Rachel to immediately disclose the names of her assailants.<sup>24</sup>

We are not convinced. As explained by Rachel, she did not immediately reveal the identities of the assailants because she did not know whom to trust after the harrowing experience.<sup>25</sup> She also averred that she was hoping to solicit the help of Zuñiga in divulging the names of his accomplices.<sup>26</sup>

Finally, this Court finds no merit in appellants' argument that the prosecution failed to prove the existence of conspiracy. As pointedly noted by the RTC and the CA, it was shown that the malefactors acted in concert in order to achieve their common purpose of robbing the victims. They met at the designated place; went together to the victims' house wearing bonnets and masks while armed with a gun. After the commission of the crime, they again met at Albano's house and divided the loot among themselves.

Robbery with homicide exists when a homicide is committed either by reason, or on occasion, of the robbery. To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in the generic sense, was committed. A conviction needs certainty that the robbery is the central 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 but the killing may occur before, during or after the robbery.<sup>27</sup>

Without doubt, all the elements of the crime of Robbery with Homicide were proved by the prosecution beyond reasonable doubt.

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<sup>21</sup> Id. at 90.

<sup>22</sup> Id. at 90-91.

<sup>23</sup> Id. at 91.

<sup>24</sup> Id. at 52.

<sup>25</sup> Id. at 92.

<sup>26</sup> Id. at 93.

<sup>27</sup> *People v. Baron*, supra note 19 at 617.

Incidentally, we note that the Information charged appellants with Robbery with Homicide and Frustrated Homicide. However, the Court ruled in *People v. Tidong*,<sup>28</sup> viz.:

There is no special complex crime of robbery with homicide and double frustrated homicide. The offense should have been designated as robbery with homicide alone, regardless of the number of homicides or injuries committed. These other felonies have, at the most and under appropriate circumstances, been considered merely as generic aggravating circumstances which can be offset by mitigating circumstances. The term "homicide" in paragraph 1 of Article 294 is used in its generic sense, that is, any act that results in death. Any other act producing injuries short of death is integrated in the "homicide" committed by reason or on the occasion of the robbery, assuming, of course, that the homicide is consummated. If no death supervenes, the accused should be held liable for separate crimes of robbery and frustrated or attempted homicide or murder (provided that there was intent to kill) if the latter offenses were not necessary for the commission of the robbery, or for a complex crime of robbery and frustrated or attempted homicide or murder under Article 48 of the Code if the latter offenses were the necessary means for the commission of robbery.

As regards the penalty imposed, we agree with the CA that the death penalty should have been imposed, if not for the proscription in Republic Act No. 9346, since the crime was committed by a band and with the use of an unlicensed firearm. Accordingly, appellants were correctly meted the penalty of *reclusion perpetua* but they are not eligible for parole. Moreover, pursuant to prevailing jurisprudence,<sup>29</sup> the damages awarded must be further modified as follows: The award of civil indemnity is increased to ₱100,000.00 for each victim. In addition, moral damages and exemplary damages of ₱100,000.00 each for each victim are awarded. Finally, all these damages shall earn interest at the rate of six percent (6%) per *annum* from date of finality of this judgment until full payment.<sup>30</sup>

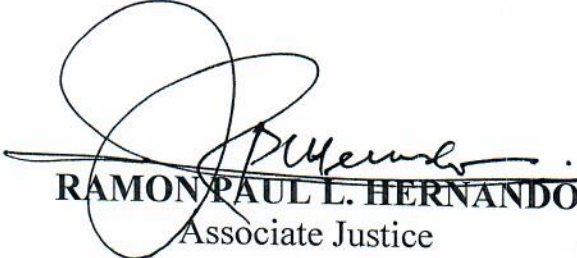
**WHEREFORE**, the appeal is **DISMISSED**. The assailed March 25, 2015 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04999 finding accused-appellants Florentino Labuguen y Francisco alias "Tinong" and Romeo Zuñiga y Pilarta **GUILTY** beyond reasonable doubt of the crime of Robbery with Homicide and sentencing them to suffer the penalty of *reclusion perpetua* is **AFFIRMED** with **MODIFICATION** in that appellants are not eligible for parole. Appellants are further ordered to **PAY** jointly and solidarily ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages to the heirs of each victim. Finally, the damages awarded shall earn interest at the rate of six percent (6%) per *annum* from the date of finality of this Decision until full payment.

<sup>28</sup> 296-A Phil. 323, 339 (1993).


<sup>29</sup> *People v. Jugueta*, 783 Phil. 806, 850 (2016).

<sup>30</sup> *Id.* at 854.


**SO ORDERED.**


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

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

  
**ANDRES B. REYES, JR.**  
Associate Justice


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

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice



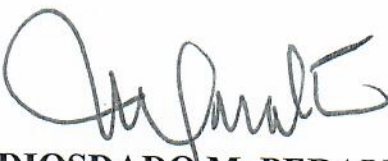
**ATTESTATION**

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

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby 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