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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RICKY "TOTSIE" MARQUEZ, ROY BERNARDO, and JOMER MAGALONG,
Petitioners,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 181138

Present:

CARPIO, *Chairperson*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:
DEC 03 2012

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DECISION

DEL CASTILLO, *J.*:

"[T]he testimony of a co-conspirator, even if uncorroborated, will be considered sufficient if given in a straightforward manner and it contains details which could not have been the result of a deliberate afterthought."[1]

Factual Antecedents

For our review is the July 27, 2007 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR No. 28814 which affirmed the June 30, 2004 Decision[3] of the Regional Trial Court (RTC) of Caloocan City, Branch 121 in Criminal Case No. C-65837 finding herein petitioners Ricky "Totsie" Marquez (Marquez), Roy Bernardo (Bernardo), Jomer Magalong (Magalong) and accused Ryan Benzon (Benzon), guilty beyond reasonable doubt of the crime of Robbery With Force

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1 *People v. Sala*, 370 Phil. 323, 363 (1999).
2 CA *rollo*, pp. 90-105; penned by Associate Justice Monina Arevalo-Zenarosa and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Edgardo F. Sundiam.
3 Records, pp. 219-224; penned by Presiding Judge Adoracion G. Angeles.

Upon Things and sentencing them to imprisonment of six (6) years of *prision correccional* to nine (9) years of *prision mayor* and to pay the private complainant Sonia Valderosa (Valderosa) the amount of ₱42,000.00.

The Information[4] filed against petitioners and Benzon contained the following accusatory allegations:

> That on or about the 6th day of April, 2002 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused confederating together and mutually aiding each other, with intent of gain by means of force upon things, that is, by destroying the door lock of the stall of one SONIA VALDEROSA and passing/entering thru the same, once inside, did then and there willfully, unlawfully and feloniously take, rob and carry away the following items, to wit:
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> Two (2) pieces Rice Cooker (heavy duty)
> One (1) piece of [Teppanyaki] (big)
> 1,000 pieces of Boxes (printed)
> Kitchen Utensils
> Fresh Meat (48 kls)
> Three (3) boxes of Ter[i]yaki Sauce
> One (1) Heavy duty blender
> One (1) Programmer Calculator
> One (1) Transistor Radio
>
> all belonging to the said complainant, to the damage and prejudice of the latter in the total amount of ₱42,000.00.
>
> CONTRARY TO LAW.[5]

All of them pleaded "not guilty" during arraignment.[6] After the pre-trial conference was held and terminated,[7] trial ensued. In the course of the trial, however, Benzon failed to appear despite due notice.[8] The trial court therefore ordered the issuance of a warrant for his arrest and the cancellation of his bail bond.[9] Benzon was then tried *in absentia*.[10]

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4 Id. at 2.
5 Id.
6 Id. at 144.
7 Id. at 152.
8 Id. at 200.
9 Id.
10 Id.

Prosecution's Version

At around 2:30 a.m. of April 6, 2002, Marlon Mallari (Mallari) was with petitioners and Benzon in front of the University of the East (U.E.), Caloocan City. Marquez suggested that the group rob the Rice-in-a-Box store located at the corner of U.E.[11] Marquez then got a lead pipe and handed it to Magalong, which he and Bernardo used to destroy the padlock of the store.[12] Mallari was designated as the look-out while petitioners and Benzon entered the store and carried away all the items inside it which consisted of rice cookers, a blender and food items.[13] They then brought the stolen items to the house of Benzon's uncle.[14] Apprehensive that Mallari might squeal,[15] the group promised to give him a share if they could sell the stolen items.[16]

At 9:30 a.m. of the same day, Valderosa received information from the daughter of the owner of the premises where her Rice-in-a- Box franchise store was located, that her store had been forcibly opened and its padlock destroyed.[17] Upon her arrival thereat, she discovered that the contents of her freezer were missing along with other items inside the store, such as two rice cookers valued at ₱3,900.00 each, teppanyaki worth ₱2,700.00, a thousand pieces of rice boxes at ₱5.00 a piece, kitchen utensils valued at ₱4,500.00, an estimated 48 kilos of fresh meat at ₱250.00 per kilo, three boxes of teriyaki sauce worth ₱3,600.00, a blender costing ₱2,200.00, a programmer calculator valued at ₱3,500.00, and a transistor radio worth ₱1,500.00. The total value of these stolen items was approximately ₱42,000.00.[18] She reported the robbery to the police.[19]

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11 TSN, June 17, 2003, p. 4.
12 Id. at 5.
13 Id. at 5-6.
14 Id. at 6.
15 Id. at 6-7
16 Id. at 7.
17 TSN, March 5, 2003, p 3.
18 Id. at 3-4.
19 Id. at 4.

Meanwhile, on April 7, 2002, Mallari informed his older brother of his involvement in the said robbery.[20] At around 4:00 p.m. of the next day, he again confessed but this time to Valderosa.[21]

Petitioners' Version

From 11:00 p.m. of April 5, 2002 until 2:00 a.m. of April 6, 2002, petitioners and Ferdie Dela Cruz (Dela Cruz), Jay Maranan (Maranan) and Randy Badian, were enjoying a videoke session in the house of Gerard "Boy Payat" Santiago, which was just near U.E.[22] Before going home, they decided to eat *lugaw* at a rolling eatery in the Monumento Circle, Caloocan City.[23] While on their way to the *lugawan*, they passed by Mallari, who was standing in front of the Rice-in-a-Box store.[24] They later went home aboard a jeepney.[25] Maranan alighted first while Benzon and Dela Cruz followed.[26] When it was petitioners' turn to get off the jeepney, they saw the Rice-in-a-Box store already opened.[27] However, they did not report the incident to the police or *barangay* authorities.[28]

The Regional Trial Court's Decision

On June 30, 2004, the trial court rendered a Decision[29] in favor of the prosecution. It ruled that Mallari's personal identification of petitioners and Benzon, and his narration of their individual participation in the robbery were sufficient to establish their guilt beyond reasonable doubt.[30] The trial court disregarded the petitioners' denial and alibi considering that it was not physically impossible for them to be in the crime scene or its vicinity at the time of the

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20 TSN, June 17, 2003, p. 7.
21 Id. at 8.
22 TSN, September 8, 2003, pp. 2-3; TSN, February 4, 2004, p. 3; TSN, November 24, 2004, pp. 2-3.
23 Id. at 2; id. at 4; id. at 3.
24 Id. at 5; id. at 5; id. at 3.
25 TSN, February 4, 2004, p. 6.
26 Id. at 6-7.
27 Id.; TSN, November 24, 2004, p. 4
28 Id. at 7; id.
29 Records, pp. 219-224.
30 Id. at 223.

commission of the crime.[31] It stressed that the place petitioners claimed to be in was a mere walking distance from the site of the burglary.[32] Moreover, the RTC found Mallari's testimony more worthy of credence than that of petitioners since Bernardo and Magalong themselves admitted that Mallari had no motive to falsely testify against them.[33] The dispositive portion of the trial court's Decision reads:

> WHEREFORE, premises considered, this Court finds accused ***RICKY "TOTSIE" MARQUEZ, RYAN BENZON, ROY BERNARDO and JOMER MAGALONG GUILTY*** beyond reasonable doubt of the crime of ***Robbery With Force Upon Things*** and sentences each of them to suffer the penalty of imprisonment of **SIX (6) YEARS of Prision Correctional** [sic] to **NINE (9) YEARS Of Prision Mayor** and to indemnify private complainant Sonia Valderosa the amount of ₱42,000.00 representing the value of the stolen articles. With costs.
>
> SO ORDERED.[34]

Petitioners filed a Notice of Appeal which was given due course by the trial court.[35]

The Court of Appeal's Decision

Before the CA, petitioners imputed error upon the trial court in finding them guilty beyond reasonable doubt of the crime charged. According to them, the trial court should not have given credence to Mallari's testimony because he is not a credible witness. They likewise contended that even assuming that they committed the crime, the trial court erred in ruling that there was conspiracy since the participation of Bernardo in the alleged robbery was vague.

In its assailed Decision of July 27, 2007,[36] the appellate court did not find merit in petitioners' appeal. Its review of the transcript of Mallari's testimony only

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31 Id.
32 Id. at 223-224.
33 Id. at 224.
34 Id. Emphases in the original.
35 Id. at 229.
36 CA *rollo*, pp. 90-105.

resulted in the affirmation of the trial court's ruling that he was a credible witness. The CA held that while Mallari was a co-conspirator and his testimony was uncorroborated, same was still sufficient to convict petitioners since it "carries the hallmarks of honesty and truth."[37] It clearly established Bernardo's participation in the conspiracy in that he, together with another petitioner, carried away from the store all the stolen items.[38]

The dispositive portion of the CA Decision reads:

> **WHEREFORE,** the decision appealed from finding all the accused guilty beyond reasonable doubt of the crime of robbery with force upon things is hereby **AFFIRMED**. Considering that Ryan Benson was tried in absentia, the trial court is directed to issue an alias warrant of arrest against him.
>
> **SO ORDERED**.[39]

Hence, this Petition for Review on *Certiorari*.[40]

Issue

In their Memorandum, petitioners raised the sole issue of:

> WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT FINDING THE PETITIONERS, IN CONSPIRACY WITH EACH OTHER, GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.[41]

Petitioners argue that their defense of denial and alibi should not have been disregarded since the prosecution's case was based solely on the uncorroborated testimony of a co-conspirator, Mallari.[42] And while Mallari admitted to participating in the commission of the crime, he was not charged together with

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37 Id. at 102.
38 Id. at 100.
39 Id. at 105.
40 *Rollo*, pp. 17-37.
41 Id. at 159.
42 Id. at 161-162.

petitioners in the Information for robbery and was instead utilized as a state witness.[43] It is therefore in this light that petitioners assert that Mallari's testimony does not deserve any credence since he merely concocted his testimony in order to save himself and escape criminal liability.[44] Moreover, petitioners claim that the prosecution failed to prove conspiracy.[45]

The Office of the Solicitor General, on the other hand, insists through its Memorandum[46] that Mallari is a credible witness and that his testimony is sufficient to establish petitioners' guilt beyond reasonable doubt.[47] It explains that Mallari's confession to the crime immediately after its commission resulted in petitioners' arrests prior to the filing of the Information.[48] For the said reason, the former was not indicted and was merely utilized as a prosecution witness.[49] Be that as it may, Mallari's testimony, though uncorroborated, can stand by itself and also deserves credence since it was "given in a straightforward manner and contained details which could not have been the result of deliberate afterthought."[50] Also, Mallari's positive identification of petitioners as the perpetrators of the crime, without evil motive on his part, prevails over the latter's defense of denial and alibi.[51]

Our Ruling

There is no merit in the petition.

Robbery with force upon things in an uninhabited place under Article 302 of the Revised Penal Code (RPC)

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43 Id. at 163.
44 Id.
45 Id. at 164-165.
46 Id. at 171-182.
47 Id. at 176-179.
48 Id. at 177-178.
49 Id. at 178.
50 Id.
51 Id. at 179-180.

"Article 293 of the [RPC] defines robbery to be one committed by any 'person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything . . .' Robbery may thus be committed in two ways: (a) with violence against, or intimidation of persons and (b) by the use of force upon things."[52]

With respect to robbery by the use of force upon things, same is contained under Section Two, Chapter 1,[53] Title Ten[54] of the RPC. Falling under said section two, among others, are Article 299 which refers to *robbery in an inhabited house or public building or edifice devoted to worship* and Article 302, to *robbery in an uninhabited place or in a private building.* Said articles provide, to wit:

> ART. 299. *Robbery in an inhabited house or public building or edifice devoted to worship*. - Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by *reclusion temporal*, if the value of the property taken shall exceed 250 pesos, and if –
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> (a) The malefactors shall enter the house or building in which the robbery is committed, by any of the following means:
>
> 1. Through an opening not intended for entrance or egress;
>
> 2. By breaking any wall, roof, or floor or breaking any door or window;
>
> 3. By using false keys, picklocks, or similar tools;
>
> 4. By using any fictitious name or pretending the exercise of public authority.
>
> Or if –
>
> (b) The robbery be committed under any of the following circumstances:
>
> 1. By breaking of doors, wardrobes, chests, or any other kind of locked or sealed furniture or receptacle;
>
> 2. By taking such furniture or objects away to be broken or forced open outside the place of the robbery.

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52 *People v. Alcantara*, 471 Phil. 690, 702 (2004).
53 Robbery in General
54 Crimes Against Property

When the offenders do not carry arms, and the value of the property taken exceeds 250 pesos, the penalty next lower in degree shall be imposed.

The same rule shall be applied when the offenders are armed, but the value of the property taken does not exceed 250 pesos.

When the said offenders do not carry arms and the value of the property taken does not exceed 250 pesos, they shall suffer the penalty prescribed in the two next preceding paragraphs, in its minimum period.

If the robbery committed in one of the dependencies of an inhabited house, public building or building dedicated to religious worship, the penalties next lower in degree than those prescribed in this article shall be imposed.

ART. 302. *Robbery in an uninhabited place or in a private building.* - Any robbery committed **in an uninhabited place or in a building other than those mentioned in the first paragraph of Article 299**, if the value of the property taken exceeds 250 pesos shall be punished by *prision correccional* in its medium and maximum periods, provided that any of the following circumstances is present:

1. If the entrance has been effected through any opening not intended for entrance or egress;

2. **If any wall, roof, floor, or outside door or window has been broken**;

3. If the entrance has been effected through the use of false keys, picklocks, or other similar tools;

4. If any door, wardrobe, chest, or any sealed or closed furniture or receptacle has been broken;

5. If any closed or sealed receptacle, as mentioned in the preceding paragraph, has been removed, even if the same be broken open elsewhere.

When the value of the property taken does not exceed 250 pesos, the penalty next lower in degree shall be imposed.

x x x x (Emphasis supplied.)

Meanwhile, Article 301 of the RPC defines an inhabited house, public building, or building dedicated to religious worship and their dependencies as follows:

Inhabited house means any shelter, ship, or vessel constituting the dwelling of one or more persons, even though the inhabitants thereof shall temporarily be absent therefrom when the robbery is committed.

> All interior courts, corrals, warehouses, granaries, barns, coach-houses, stables, or other departments, or inclosed places contiguous to the building or edifice, having an interior entrance connected therewith and which form part of the whole, shall be deemed dependencies of an inhabited house, public building, or building dedicated to religious worship.
>
> Orchards and other lands used for cultivation or production are not included in the terms of the next preceding paragraph, even if closed, contiguous to the building, and having direct connection therewith.
>
> The term "public building" includes every building owned by the Government or belonging to a private person but used or rented by the Government, although temporarily unoccupied by the same.

Here, the Information did not specify whether the robbery with force upon things was committed in an inhabited house or uninhabited place. It merely stated that petitioners committed the robbery "*by means of force upon things, that is, by destroying the door lock of the stall of one of SONIA VALDEROSA and passing/entering thru the same, once inside, did then and there willfully, unlawfully and feloniously take, rob and carry away the [earlier mentioned] items x x x.*"[55]

Likewise, the trial court, in its judgment of conviction, did not discuss whether the robbery in this case was committed in an inhabited house or in an uninhabited place. It was different, though, when the case was decided by the CA. Unlike the trial court, the appellate court discussed about robbery in an inhabited house under the above-quoted Article 299 of the RPC in its assailed Decision.[56] Pursuant to the same provision, it then proceeded to affirm the penalty imposed by the trial court upon the petitioners after finding them guilty of the crime charged.[57]

The Court, however, notes at the outset that the CA erred in applying Article 299 of the RPC. The records show that the store alleged to have been robbed by petitioners is not an inhabited house, public building or building dedicated to religious worship and their dependencies under Article 299 and as

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55 Records, p. 2.
56 CA *rollo*, p. 97.
57 Id. at 104.

defined under Article 301. From Valderosa's testimony, it can be deduced that the establishment allegedly robbed was a store not used as a dwelling. In fact, after the robbery took place, there was a need to inform Valderosa of the same as she was obviously not residing in the store.[58] "If the store was not actually occupied at the time of the robbery and was not used as a dwelling, since the owner lived in a separate house, the robbery committed therein is punished under Article 302."[59] Neither was the place where the store is located owned by the government. It was actually just a stall rented by Valderosa from a private person.[60] Hence, the applicable provision in this case is Article 302 and not Article 299 of the RPC.

Petitioners committed the crime charged and acted in conspiracy

Under Article 293 of the RPC, robbery is committed by any person who, with intent to gain, shall take any personal property belonging to another by using force upon anything. When committed in an uninhabited place or a private building with the circumstance, among others, that any wall, roof, floor, or outside door or window has been broken, the same is penalized under Article 302.

As testified to by Valderosa, she rented the premises located at No. 269 corner Samson Road, Caloocan City and therein operated her Rice-in-a-Box store.[61] On April 6, 2002, burglars destroyed the store's padlock and broke into the store. The burglars then went inside the store through the broken door and took various items valued at ₱42,000.00. As she was not living therein and only utilized it as a store, Valderosa only learned of the burglary after being informed about it by the daughter of the owner of the building where her store was located.

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58 TSN, March 5, 2003, p. 3.

59 Reyes, Luis, B., THE REVISED PENAL CODE, Criminal Law, Book Two, Seventeenth Edition, 2008, p. 718.

60 TSN, March 5, 2003, p. 3.

61 Id.

Save from the identities of the perpetrators, Valderosa's testimony clearly indicates that a robbery under Article 293 in relation to Article 302 of the RPC was committed. Luckily for her, it was not long before a co-conspirator to the crime, Mallari, revealed the identities of his companions and the details of the crime to complete the picture.

Mallari testified that he participated in the commission of the crime after petitioners told him to be the look-out while they entered and burglarized the store. He first confessed to his brother his participation in the crime and later reported the incident to the store owner herself, Valderosa.

In clear and concise language, Mallari narrated the incident as follows:

Q: On April 6, 2002 at 2:30 in the morning, where were you?
A: In front of the University of the East, Caloocan City.

Q: Who were with you at that time?
A: Ryan Benzon, Ricky Marquez, Jomer Magalong and Roy Bernardo, ma'am.

Q: While you were with them, what happened?
A: Totsie invited us to stage a robbery in the rice box.

Q: You said Totsie, are you referring to accused Ricky Marquez?
A: Yes, ma'am.

Q: What is this rice box?
A: A store selling viands and rice, ma'am.

Q: [W]here is it located?
A: At the corner of University of the East.

Q: How far was this rice box from the place where you were standing with the four accused?
A: About 5 meters (as stipulated by counsel for both parties).

Q: When Totsie or Ricky Marquez invited you to stage a robbery in the rice box, what did you do together with the group?
A: Totsie got a lead pipe and handed it to Jomer.

Q: You are referring to [Jomer] Magalong, one of the accused in this case?
A: Yes, ma'am.

Q: After Totsie Marquez handed a lead pipe to Jomer Magalong, what happened?
A: The lock was removed, ma'am.

Q: Who destroyed the lock?
A: Roy and Jomer, ma'am.

Q: What happened when Ryan [sic] and Jomer were destroying the padlock of the rice box?
A: None sir, I was just looking and then afterwards, it was opened.

Q: After opening the store by destroying the padlock, what did you and your companions do?
A: I was instructed to be the look-out.

Q: What did the four accused do inside the store?
A: Ryan and Totsie entered x x x the store.

Q: What did you do inside the store?
A: They took all the things inside.

Q: What were the things taken inside the store?
A: Two (2) rice cookers, one (1) big as if a rice cooker, blender and foods.

Q: What did Roy and Jomer do after the padlock was destroyed and the door was already opened?
A: They carried all the things robbed.

Q: Where did they bring those items taken from the said store?
A: [To] the house of the uncle of Ryan in Marcela, ma'am.

Q: What happened after that?
A: They cooked foods but I remained [seated].

Q: What did the accused tell you if any while they were cooking in the house of the uncle of Ryan?
A: "Baka raw kumanta ako."

Q: What else did they tell you?
A: According to them, they will give me my share if they would be able to sell [them].[62]

To recall, Marquez was the one who proposed the robbery. When all acceded, he then provided Magalong with a lead pipe, who, together with Bernardo, smashed and destroyed the padlock of the store and which likewise caused the door to be broken. All petitioners and Benzon then entered the store and took things, with the intention to sell the items stolen and share among

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[62] TSN, June 17, 2003, pp. 4-7.

themselves the proceeds thereof. It is therefore clear from the testimony of Mallari that petitioners acted in conspiracy in the commission of the robbery. It must be stressed that what is important in conspiracy is that all conspirators "performed specific acts with such closeness and coordination as to indicate an unmistakably common purpose or design to commit the crime."[63] The responsibility of the conspirators is therefore collective rendering all of them equally liable regardless of the extent of their respective participations.[64]

Mallari's testimony deserves full weight and credence

Contrary to the petitioners' argument, Mallari's credibility was not adversely affected by his non-inclusion as an accused in the Information. This was not an attempt to escape criminal liability. Rather, the prosecution merely availed of its legal option to immediately utilize him as a state witness instead of undergoing the judicial procedure of charging him as a co-conspirator then moving for his discharge as a witness.

Besides, it is established that the assessment on the credibility of witnesses is a function best discharged by the trial court due to its position to observe the behavior and demeanor of the witness in court.[65] This rule is set aside only when the trial court's evaluation was reached arbitrarily, or when it "overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which could affect the result of the case."[66] Here, no such situation occurred.

Also, Mallari's positive identification of petitioners as the perpetrators of the robbery and the absence of any ill-motive on his part to testify falsely against them prevail over petitioners' denial and alibi. As repeatedly held, alibi is the

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63 *People v. Caraang*, 463 Phil. 715, 759 (2003).
64 *People v. Castro*, 434 Phil. 206, 221 (2002).
65 *People v. Macapal, Jr.*, 501 Phil. 675, 687 (2005).
66 Id.

weakest defense since it can easily be fabricated and difficult to disprove.[67] Hence as a rule, the defenses of denial and alibi can only prosper if there is evidence that the accused were not only in another place at the time of the commission of the crime, but also that it was physically impossible for them to be within the immediate vicinity.[68] Here, while petitioners denied being at the scene of the crime at the time of its commission, they failed to prove that it was physically impossible for them to be in the store at the time of the robbery. In fact, they testified that they were in a place only about 15 meters away from the scene of the crime.

Moreover, while the Court is well-aware of the general rule that "the testimony of a co-conspirator is not sufficient for the conviction of the accused unless such testimony is supported by evidence,"[69] there is, however, an exception. Thus, "the testimony of a co-conspirator, even if uncorroborated, will be considered sufficient if given in a straightforward manner and it contains details which could not have been the result of deliberate afterthought,"[70] as in this case. A review of the transcript of stenographic notes of the testimony of Mallari showed that same was sincere since it was given without hesitation and in a simple manner. His recollection of the events was detailed and candid such that it could not have been a concoction from a polluted mind. Thus, Mallari's testimony, even if uncorroborated, deserves full weight and credence and, therefore, sufficient to establish petitioners' commission of the crime charged.

Penalty

Article 302 of the RPC provides that when the robbery is committed in an uninhabited place or in a private building and the value of the property exceeds ₱250.00, the penalty shall be *prision correccional* in its medium and maximum periods provided that, among other circumstances, any wall, roof, floor, or the

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67 *People v. De Guzman*, G.R. No. 173477, February 4, 2009, 578 SCRA 54, 64-65.
68 *People v. Abundo*, 402 Phil. 616, 628, (2001).
69 *People v. Sala*, supra note 1.
70 Id.

outside door or window has been broken. Considering that petitioners burglarized the store of Valderosa which was not used as a dwelling, by breaking its door and stealing property therein with a total value of ₱42,000.00, the penalty that must be imposed is *prision correccional* in its medium and maximum periods, which has a prison term of two (2) years, four (4) months and one (1) day to six (6) years. There being no aggravating or mitigating circumstances, the range of the penalty that must be imposed as maximum penalty is three (3) years, six (6) months and twenty-one (21) days to four (4) years, nine (9) months and ten (10) days. Applying the Indeterminate Sentence Law, the minimum penalty that should be imposed upon petitioners is *arresto mayor* in its maximum period to *prision correccional* in its minimum period with a range of four (4) months and one (1) day to two (2) years and four (4) months. Consequently, there is a need to modify the prison term imposed by the trial court.

Anent the amount to be indemnified, the trial court and the CA correctly held that petitioners must indemnify Valderosa the sum of ₱42,000.00 representing the value of the goods taken.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The July 27, 2007 Decision of the Court of Appeals in CA-G.R. CR No. 28814, which affirmed the June 30, 2004 Decision of the Regional Trial Court of Caloocan City, Branch 121, in Criminal Case No. C-65837, is **AFFIRMED with the MODIFICATION** that petitioners are sentenced to an indeterminate prison term of one (1) year and eight (8) months to four (4) years, nine (9) months and ten (10) days of *prision correccional*.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice