

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELICIANO ANABE Y CAPILLAN & FELICITA GENERALAO Y IRGULASTION, ACCUSED, FELICIANO ANABE Y CAPILLAN, ACCUSED-APPELLANT.

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal[*] from the Decision of the Regional Trial Court of Quezon City, Branch 86, in Criminal Cases Nos. Q-98-74865 and Q-98-74866, convicting appellant Feliciano Anabe with the crimes of robbery with homicide and destructive arson.

Appellant Feliciano Anabe, together with one Felicita Generalao, were indicted under the following informations:

Criminal Case No. Q-98-748865:

“That on or about the 31st day of December, 1997 in Quezon City, Philippines, the said accused household helpers of one Jose Chan y Tan at his residence located at No. 64 Tanggali Street, Barangay San Jose, Quezon City, conspiring and confederating with another person whose identity and other personal circumstances have not as yet been ascertained and mutually helping one another with intent of gain and by means of force violence against and intimidation of persons, to wit: by entering the sala of said house and for the purpose of enabling said accused to take, steal and carry away cash money and other valuables inside the house, the said accused with intent to kill and taking advantage of their superior strength did, then and there willfully, unlawfully and feloniously and treacherously attack, assault and use personal violence upon one Lam Tiong Uy, caretaker and brother in law of Jose Chan y Tan by then and there stabbing him with a bladed weapon hitting him on the different parts of his body thereby inflicting upon him mortal wounds which was the direct and immediate cause of his death and thereafter the said accused pursuant to their conspiracy with intent of gain did, then and there willfully, unlawfully and feloniously take, steal and carry away one (1) Wristwatch – “Tag huer”, One (1) Goldplated bracelet with undetermined value from Lam Tiong Uy and the following personal belongings, to wit:

Cash Money – P30,000.00Two (2) Bulova wristwatch – P24,000.00One (1) Michael Giorgio wristwatch – P8,000.00

One (1) diamond ring – P10,000.00Three (3) Jade ring – P45,000.00One (1) pair earring – P3,000.00Two (2) pair of gold earring P6,000.00One (1) pearl necklace – P10,000.00One (1) gold pendant – P6,000.00

belonging to one JOSE CHAN Y TAN and;

One (1) gold ring – P2,200.00One (1) gold bracelet – P1,500.00

belonging to Gemma Chan

all valued in the total amount of P145,700.00, Philippine Currency, to the damage (sic) and prejudice of said offended parties and to the heirs of Lam Tiong Uy represented by Rosita Uy.

CONTRARY TO LAW.”[1]

Criminal Case No. Q-98-748866:

“That on or about the 31st day of December, 1997 in Quezon City, Philippines, the above-named accused, conspiring and confederating with another person whose true name and real identity have not as yet been ascertained and mutually helping one another with intent to cause damage did, then and there willfully, unlawfully and maliciously set fire to the house of one JOSE CHAN Y TAN located at No. 64 Tanggali Street, Barangay San Jose, this city, thereby destroying said house including personal properties contained therein, said accused knowing fully well that the said house was owned and inhabited by herein offended party and as a result said Jose Chan y Tan suffered losses and damages in the amount of P10,000,000.00, Philippine Currency, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.”[2]

Feliciano Anabe and Felicita Generalao pleaded not guilty to the charges against them. The two cases were tried jointly. Before the prosecution could end the presentation of its evidence, it moved for the discharge of accused Felicita Generalao to be made as a state witness. The motion was granted by the trial court and accused Felicita Generalao was presented as the last witness for the prosecution.

The prosecution presented ten witnesses, namely, SPO2 Eduardo Taveso, SPO1 Carlos Villarin, SP01 Samuel Tadeo, Police Inspector Nazario Fernandez, Jr., Dr. Ma. Cristina Freyra, Rogelio Dagoc, Jose Chan, Gemma Chan, Rosita Uy and Felicita Generalao. Culled from their testimonies, the prosecution’s version of what transpired can be summed up as follows:

On December 30, 1997, Jose Chan with his wife and two children went to Singapore for a vacation. As what he had done in the past, he asked his brother-in-law, Lam Tiong Uy, a resident of Cebu City, to oversee his house located at 64 Tanggali Street, Barangay San Jose, Quezon City. The Chan family had three household helpers, herein appellant Feliciano Anabe, accused turned state witness Felicita Generalao and one Conrada Sanchez who remains to be at large.

At around ten o’clock in the evening of December 31, 1997, the two-story residential house of the Chan family and the bodega behind it, were razed by fire. Sixty to seventy percent of the house and bodega was damaged. Among the police investigators who arrived at the Chan’s residence were SPO2 Eduardo Taveso, SPO1 Carlos Villarin, SP01 Samuel Tadeo and Police Inspector Nazario Fernandez, Jr. The police immediately secured the place to prevent looting. After the fire was controlled, the police investigators found the lifeless body of Lam Tiong Uy wrapped in a carpet at the sala of the house near the refrigerator. Upon further investigation, the police discovered that Lam Tiong Uy had multiple stab wounds. A knife with bloodstains, believed to have been the weapon used in killing Lam Tiong Uy, was recovered from the kitchen. In one of the rooms, a plugged rice cooker loaded with clothes was discovered. The police concluded that the rice cooker was used by the culprits to start the fire. The police also discovered that the cabinets in the bedrooms were forcefully opened and apparently ransacked. The Chan family’s three household servants were nowhere to be found.

Dr. Ma. Cristina Freyra, the medico legal officer of the PNP Crime Laboratory who conducted the autopsy on Lam Tiong Uy, concluded that the victim sustained twenty-one (21) injuries, specifically, sixteen (16) stab wounds, four (4) incise wounds and one (1) contusion. The victim’s cause of death was hemorrhage as a result of multiple stab wounds on the trunk and incised wounds on the neck. The kitchen knife that was recovered from the crime scene was tested to be positive of the presence of human blood. However, no finger printing was conducted on the same because the handle thereof was irregular and had a rough surface.

On January 1, 1998, after they were informed of the incident, the Chan family returned to the Philippines and saw for themselves their partially burnt house, with their money and pieces of jewelry missing, i.e. cash money equivalent to thirty thousand pesos (P30,000.00), two (2) Bulova watches worth twenty-four thousand pesos (P24,000.00), one (1) Michael Giorgio watch worth eight thousand pesos (P8,000.00), two (2) diamond rings worth ten thousand pesos (P10,000.00), three (3) jade rings worth forty-five thousand pesos (P45,000), one (1) pair of earrings worth three thousand pesos (P3,000.00), two (2) sets of gold earrings worth six thousand pesos (P6,000.00), one (1) pearl necklace worth ten thousand pesos (P10,000.00) and one (1) gold pendant worth six thousand pesos (P6,000.00). Jose Chan testified that the damage to their house and bodega amounted to ten million pesos, of which, two million and eight hundred pesos had already been recovered from his insurance.

On January 11, 1998, SPO2 Eduardo Taveso and SPO1 Carlos Villarin were dispatched to the Butuan Police Regional Office-13 in Butuan City to fetch appellant Feliciano Anabe and accused Felicita Generalao, where they were being detained. On January 12, 1998, Feliciano Anabe and Felicita Generalao were brought back to Manila and detained at the La Loma Police Station I of the Central Police District. The La Loma police then notified the Chan family that Feliciano Anabe and Felicita Generalao were in their custody. At the police station, Rosita Uy, wife of the victim Lam Tiong Uy, claimed that the Tag Huer watch being worn by appellant Feliciano Anabe belonged to Lam Tiong Uy. Gemma Chan, daughter of Jose Chan, also claimed that the gold bracelet and the gold ring being worn by Felicita Generalao belonged to her.

Accused turned state witness Felicita Generalao testified that on December 31, 1997, she, Feliciano Anabe, Conrada Sanchez and Lam Tiong Uy were left in the house of Jose Chan who went abroad with his family. They had their dinner at around eight o'clock in the evening. Thereafter, appellant Feliciano Anabe instructed her and Conrada to enter their room. She asked appellant why she and Conrada should enter their room but appellant just reiterated his command for them to enter their room. Appellant on the other hand stayed with Lam Tiong Uy in the sala to watch television. After an hour, she and Conrada went out of their room and saw Feliciano holding a bloody knife. Felicita Generalao also saw the body of Lam Tiong Uy wrapped in a floor mat. She then asked appellant why he killed Lam Tiong Uy but appellant did not answer her. Appellant instead told them that if they will not go with him, they might be suspected of killing Lam Tiong Uy. When they were already out of the gate, Feliciano re-entered the house to burn it. The three of them then rode a taxi going to the pier to board a boat for Masbate, the hometown of appellant Feliciano. After staying in Masbate for one week, witness Felicita Generalao told appellant that she will go home to Butuan, her province. Accused accompanied Felicita to Butuan but Conrada did not go with them. When they arrived in Butuan, Felicita told her mother about the December 31, 1997 incident. So her mother brought her to Radio Bombo where she surrendered.

On the other hand, appellant denied the charges against him foisting the blame on Conrada Sanchez who remains to be at large. The gist of his testimony is as follows: At around eight o'clock in the evening of December 31, 1997, appellant Feliciano was at the back of the house of Jose Chan cleaning the venetian blinds and afterwards went to his room to rest. Thereafter, Conrada entered his room crying. She then told him that they have to leave the house. When he asked her why, she answered, "si kuya kasi". Without further questions, he agreed to go with Conrada and Felicita to Pier 14. Upon reaching Pier 14, they learned that there was no ship scheduled to sail for Masbate. Thus, they took a taxi to Lucena City and from there, took a boat to Masbate. The three of them then decided to proceed to Butuan City, the place of Conrada and Felicita. While in Butuan City, Felicita asked him to accompany her to the market. But instead of going to the market, Felicita brought him to the police precinct and had him arrested. On January 9, 1998, policemen from Quezon City fetched him and Felicita and brought them to Quezon City. On cross-examination, appellant Feliciano testified that he did not ask Conrada why they had to immediately leave the house of Jose Chan that fateful night. He however noticed blood on the hands of Conrada but he did not ask her about it. Conrada was already carrying her belongings, while he on the other hand left the

house without bringing anything, not even his personal belongings. Neither did it occur to him to inform Lam Tiong Uy that they were leaving. It was Conrada and Felicita who spent for their travel as he had no money when they left the house of Jose Chan. It was only when he was arraigned before the trial court that he came to know about the death of Lam Tiong Uy and the burning of the house of Jose Chan.

On April 2, 2001, the trial court rendered a decision, the dispositive portion of which reads:

“WHEREFORE, PREMISES CONSIDERED, JUDGMENT is hereby rendered finding the accused FELICIANO ANABE guilty beyond reasonable doubt of the crime of robbery with homicide and destructive arson and hereby sentences him to suffer the penalty of reclusion perpetua for each of the offense charged and to indemnify the private complainant Jose Chan the amount of Seven Million Two Hundred Thousand Pesos (P7,200,000.00) representing the damages suffered by (sic) his residential building, Thirty Thousand Pesos (P30,000.00) cash money and One Hundred Twelve Thousand Pesos (P112,00.00) representing the pieces of jewelry lost by said complainant less the value of the jewelry returned to Gemma Chan, plus moral damages in the amount of P50,000.00, with costs. The accused Anabe is also ordered to indemnify Rosita Uy the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity plus funeral expenses in the amount of P200,000.00 and moral damages in the amount of P50,000.00 plus costs. The wrist-watch belonging to Lam Tiong Uy is hereby ordered returned to his widow Rosita Uy, while the jewelry belonging to Gemma Chan is ordered returned to her.

SO ORDERED.”[3]

Hence this appeal wherein appellant assigns to the trial court the following errors:

“I

THE LOWER COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF THE ACCUSED-TURNED-STATE WITNESS, FELICITA GENERALAO.

II

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE WEAKNESS OF THE PROSECUTION’S EVIDENCE.”[4]

Appellant claims that Felicita Generalao should not have been made as a state witness. Also, the credibility of Felicita Generalao is put in issue. Appellant contends that Felicita Generalao did not render an honest account on the incident in question. Appellant also contends that the prosecution did not present any corroborative evidence to substantiate Felicita Generalao’s testimony.

Appellant’s contentions are bereft of merit.

The testimony of an accused turned state witness, coming as it does from a polluted source, must always be received with caution and subjected to close scrutiny.[5] Be that as it may, after reviewing the testimony of state witness Felicita Generalao, we accord credence to her testimony. As can be gleaned from the transcript of stenographic notes, Felicita Generalao testified in a categorical, straightforward, spontaneous and frank manner and remained consistent during the cross-examination. Moreover, there is no showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of this case. Thus, we adhere to the rule that findings of the trial court pertaining to the credibility of a witness is entitled to great respect since it had the opportunity to examine his demeanor as he testified on the witness stand and, therefore, can discern if such witness is telling the truth or not.[6]

Even though Felicita did not see the actual killing of Lam Tiong Uy and the burning of the house, it has been ruled the guilt may be established through circumstantial evidence provided that (1) there is more than one

circumstance; (2) the facts from which the inferences are derived are proven; and, (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.[7] Thus, in *People vs. Adriano*[8] it was ruled that there can be a conviction based on circumstantial evidence when the circumstances proven form an unbroken chain which leads to a fair and reasonable conclusion pinpointing the accused as the perpetrator of the crime.

The case at bench is another lucid illustration of a case where a conviction can be sustained on the basis of circumstantial evidence. First, appellant Feliciano ordered Felicita and Conrada to go inside their room while he on the other hand accompanied Lam Tiong Uy in the sala to watch television. Thus, appellant was the last person seen with Lam Tiong Uy before the latter was killed. Second, when Felicita and Conrada next saw appellant Feliciano, he was already holding a bloodstained knife and Lam Tiong Uy was already dead. Third, appellant Feliciano told them that they have to go with him or else they will be suspected of killing Lam Tiong Uy. It has long been settled that the flight of the accused is competent evidence against him as having the tendency to establish his guilt.[9] The guilty flee when no man pursueth but the innocent are as bold as a lion.[10] Fourth, the blood in the kitchen knife was tested and found to be positive for traces of human blood. Fifth, at the confrontation held at the La Loma police precinct, appellant was wearing the Tag Huer watch of Lam Tiong Uy. For sure, these circumstances form an unbroken chain which leads to a fair and reasonable conclusion pinpointing to appellant Feliciano as the person who killed the latter.

As for Felicita Generalao, this Court is convinced that she is not the most guilty. Felicita Generalao was not the one who inflicted the fatal wound that led to Lam Tiong Uy's death, nor did she take part in burning the house of Jose Chan, her only participation being was to profit and conceal the fruits of the crime as evidenced by the fact that the stolen bracelet and ring of Gemma Chan was recovered from her. Hence, the trial court lawfully discharged Felicita Generalao to be a state witness.

In sum, the prosecution was able to prove beyond reasonable doubt that appellant is guilty of the crime of robbery with homicide. Considering that appellant attempted to conceal the crime to robbery with homicide by setting the Chan's residence and bodega on fire, we uphold the trial court's pronouncement that appellant is also guilty of destructive arson under paragraph 5, Article 320 of the Revised Penal Code, as amended.

WHEREFORE, the Decision of the Regional Trial Court of Quezon City, Branch 86, in Criminal Cases Nos. Q-98-74865 and Q-98-74866, is hereby AFFIRMED in toto.

SO ORDERED.

Sabio, Jr., (Chairman) and Asuncion-Vicente, JJ., concur.

[*] Filed with the Supreme Court but transferred to this Court pursuant to the Resolution dated October 11, 2004 of the Supreme Court.

[1] Records, pp. 1-2.

[2] Records, p. 16.

[3] Rollo, pp. 22-36, 35-36.

[4] Appellant's Brief, Rollo, pp. 61-78, 61.

[5] *Escano vs. Sandiganbayan*, 160 SCRA 429, 439 [1988].

[6] *People vs. Ponce*, 197 SCRA 746, 754 [1991].

[7] People vs. Cedenio, 233 SCRA 356, 363 [1994].

[8] 226 SCRA 131, 135 [1993].

[9] People vs. Castor, 216 SCRA 410, 420 [1992].

[10] People vs. Alabaso, 204 SCRA 458, 463 [1991].

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