

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GEORGE MANAOG Y CARIN, ALIAS "ONONG";
ACCUSED-APPELLANT.**

Ponente: SADANG, J.

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SADANG, J.:

This is an appeal from the Decision[1] dated December 1, 2009, of the Regional Trial Court (RTC) of Tabaco City, Albay, Branch 17, in Criminal Case No. T-4512, finding accused-appellant guilty of robbery under sub-paragraphs 1 and 2, paragraph (a) of Article 299 of the Revised Penal Code.

Records show that accused-appellant George "Onong" Manaog y Carin (hereafter, appellant) was charged in an Information[2] that reads thus:

That between the period at around 1:00 o' clock to 4:00 o' clock in the afternoon of December 25, 2005 at Cobo, Tabaco City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and by means of force upon things, did then and there willfully, unlawfully and feloniously detached the blades of the jalousie window of the house of herein complaining witness JACINTO DG. CRUZAT and through said window entered said house then once inside take, steal and carry away one (1) unit Celfone (sic) NOKIA valued at P7,000.00, and cash money in the amount of Forty-Three Thousand Pesos (P43,000.00), to the damage and prejudice of the herein complainant.

ACTS CONTRARY TO LAW.[3]

Arraigned[4] on August 2, 2007, appellant entered a not guilty plea with the assistance of counsel. Thereafter, pre-trial and trial ensued.

At the trial, the prosecution offered the testimonies[5] of private complainant Jacinto Cruzat and Alvinio C. Bobis, as well as documentary evidence.[6]

Alvinio Bobis testified that he learned that his friend, Jojo Cruzat, son of Jacinto Cruzat, was home for Christmas so he decided to visit him in his house. As he neared the Cruzat house at Purok 5 Cobo, Tabaco City, he saw appellant detaching the blades of the jalousie window. Bobis recognized appellant because he is his neighbor and appellant works as a helper in the Cruzat bakery and they belonged to the same fraternity. Bobis asked appellant what he was doing and the latter replied that the wife of Jacinto Cruzat asked him to fix the windows. Bobis did not suspect anything unusual because appellant worked in the Cruzat bakery. He left when he noticed that there was nobody in the house. Later, when Jojo was finally home, Bobis went to visit. It was then that Bobis learned that the Cruzats' house was robbed of cash and a cell phone. Bobis told Cruzat and his wife that he saw appellant detaching the blades of the jalousie window.

Jacinto Cruzat testified that on December 25, 2005, his family was in Tiwi, Albay and he was at the cockpit. On arriving home from the cockpit in the afternoon, he noticed that the blades of his jalousie window have been detached and piled below the window. He immediately went inside the house and discovered that the cash amount of P43,000.00 which was stashed in a drawer in their room and the Nokia cellphone that they left in the room

were gone. When his family members came home from Tiwi, Jacinto told them not to touch the drawer and the window. Unfortunately, the police were not able to lift fingerprints. Jacinto suspected that it was appellant who perpetrated the robbery because he earlier heard that appellant, who works for him, had been secretly taking eggs and other items from their bakery but he did not mind the reports as the items were negligible. He reported the robbery to the police. After the incident, appellant no longer returned to work.

The defense offered the testimonies[7] of appellant and his mother, Clarina Manaog, as well as documentary[8] evidence.

Appellant denied the accusation. He testified that at about 7 AM of December 25, 2005, he reported for work at the Cruzat bakery. He left at 12 noon and got home at 12:30 PM; he slept, woke up at 3 PM and stayed home. He further stated that: he had been working in the bakery since 2003, from 7 AM to 5 PM, Monday to Saturday; the bakery is one or two meters from the Cruzat house; on December 25, 2005, he worked only in the morning and did not eat lunch at the bakery as he usually does; he knew that Jacinto Cruzat would be going to the cockpit and the family members would be leaving for Tiwi; he does not know if there was someone in the house on that day but Sonia and Elmer, his co-workers, stay there; he reported back to work only in January because he wanted a long vacation; and Cruzat confronted him about the robbery and the police came to the house.

Clarina Manaog testified that: at around 12 noon of December 25, 2005, she, her husband and appellant were in their house at Purok 7, Cobo, Tabaco City; appellant had just arrived after working half-day; at about 2 PM she was resting while appellant was asleep; appellant woke up at 4 PM; in January 2006, she learned that appellant was being accused of a crime; she asked appellant about the accusation but he denied it.

On rebuttal, Jacinto Cruzat testified that: his sister-in-law, Sonia, had left the house in the morning of December 25 while Elmer left on December 24 and returned on December 27; his wife Cristina and Sonia came home at 5 PM on December 25 and it was then that they learned of the robbery.[9] On sur-rebuttal, appellant stated that on December 25, Sonia was wrapping bread with Elmer at the bakery and he saw Elmer inside the Cruzats' house.[10]

On December 1, 2009, the RTC found appellant guilty as charged in a Decision,[11] the fallo of which reads:

WHEREFORE, premises considered, accused GEORGE "ONONG" MANAOG is found GUILTY beyond reasonable doubt of the crime of Robbery under Article 299, "a" (1 & 2) in relation to par. 2 of the Revised Penal Code, he is hereby sentenced to suffer an indeterminate penalty of imprisonment of four years, two months, and one day of prision correccional as minimum, to eight years and one day of prision mayor as maximum. He is also ordered to indemnify Jacinto Cruzat, the private complainant, the amount of Fifty Thousand Pesos (P50,000) as actual damages.

SO ORDERED.[12]

Hence, this present appeal[13] with this assignment of error:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT. THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

RULING

We affirm the judgment of conviction.

The pertinent provision of the Revised Penal Code states:

Article. 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 –

(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.

xxx xxx xxx

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.

xxx xxx xxx

Thus, the elements of robbery with force upon things are: 1) the offender enters an inhabited house or public building or edifice devoted to religious worship; 2) the entry is made by any of these means: a) through an opening not intended for entrance or egress; b) by breaking any wall, roof, or floor or breaking any door or window; c) by using false keys, picklocks or similar tools; and d) by using any fictitious name or pretending the exercise of authority; and 3) once inside the house, building, or edifice, the offender takes personal property belonging to another with intent to gain.

There is no question that the house where the crime was committed is an inhabited house and that it was broken into on the day in question. The detached blades of the jalousie window were shown by competent evidence. It is also not disputed that private complainant lost P43,000.00 in cash and a cellphone worth P7,000.00.

The issue revolves on the identity of the offender. The RTC found that appellant was the offender on the basis of circumstantial evidence. That finding must be sustained.

It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind. While it is established that nothing less than proof beyond reasonable doubt is required for a conviction, this exacting standard does not preclude resort to circumstantial evidence when direct evidence is not available. Direct evidence is not a condition sine qua non to prove the guilt of an accused beyond reasonable doubt. For in the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden.[14]

Resort to circumstantial evidence is sanctioned under Section 4, Rule 133 of the Rules of Court thus:

Section 4. Circumstantial evidence, when sufficient. – Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

While no general rule can be laid down as to the quantity of circumstantial evidence which will suffice in a given case, all the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other

rational hypothesis except that of guilt. The circumstances proved should constitute an unbroken chain which leads to only one fair and reasonable conclusion that the accused, to the exclusion of all others, is the guilty person.[15] Proof beyond reasonable doubt does not mean the degree of proof excluding the possibility of error and producing absolute certainty. Only moral certainty or "that degree of proof which produces conviction in an unprejudiced mind" is required.[16] Circumstantial evidence is the evidence of collateral facts or circumstances from which an inference may be drawn as to the probability or improbability of the facts in dispute. Not only the prior and coetaneous actuations of the accused in relation to the crime but also his acts or conduct subsequent thereto can be considered as circumstantial evidence of guilt. To warrant conviction in criminal cases upon circumstantial evidence, such evidence must be more than one, derived from facts duly proven, and the combination of all of them must be such as to produce conviction beyond reasonable doubt.[17]

We are convinced that the circumstantial evidence in this case has established beyond reasonable doubt that appellant was the offender. As testified by appellant, he was in Cobo, Tabaco City on the day in question. In fact, the evidence shows that he was a worker in the Cruzat bakery and he reported for work on that day. The Cruzats' house was beside their bakery. Appellant also testified that he knew that on the day in question, the family of Jacinto would not be in the house as they would be going to Tiwi, Albay.[18] The evidence also shows that Bobis went to the Cruzats' house in the afternoon of that day to visit Jojo and he caught appellant in the act of detaching the blades of the jalousie window. When Bobis asked appellant why he was detaching the blades, appellant claimed that Cristina Cruzat, Jacinto's wife, requested him to fix the window. At that time, Bobis observed that there was no one inside the house so he left.[19] At about 5 PM, Jacinto Cruzat came home from the cockpit and he discovered that the blades of his jalousie window had been detached and stacked on the ground. He immediately went inside the house and discovered that their money and cell phone were missing. After the incident, appellant did not report to work for a while.[20]

Contrary to the contention of appellant, the foregoing circumstances, taken together, form an unbroken chain which leads to a fair and reasonable conclusion that appellant, to the exclusion of others, is the guilty party. Appellant was placed at the scene of the crime by an eyewitness, Bobis, who caught him in the act of detaching the window blades, an act that constitutes an element of the offense. While Bobis may not have seen appellant in the act of taking the cash and cellphone, there can be no question that appellant had the opportunity to commit the felony. Moreover, as an employee of the Cruzats, appellant knew that the members of said family would not be home on that day[21] and it is not difficult to imagine that appellant had taken advantage of the situation. Appellant's failure to report for work after the incident can be taken against him. While flight per se cannot prove the guilt of an accused, however, if considered in the light of other circumstances, notably, Bobis' having caught appellant in the act of detaching the window blades, it may be considered a strong indication of guilt. Settled is the rule that flight of accused, when unexplained, is a circumstance from which an inference of guilt may be drawn.[22]

Appellant's contention that there could have been some other persons in the house was belied by Bobis who observed otherwise. The RTC correctly gave more weight to the testimony of Bobis and in ruling that he is a credible witness because he testified against appellant even if the latter is a friend, a neighbor, and a co-member of a fraternity. In short, Bobis had no ulterior motives in testifying against appellant. It must be stated that on the issue of credibility of witnesses, the well-entrenched rule is that the assessment of the trial judge is accorded great respect and will not be disturbed on appeal inasmuch as he was in a unique position to observe the demeanor of the witnesses on the stand.[23]

Appellant contends that if Bobis had seen him detaching the window blades, it would have been highly unusual for him to continue with his plan. He further contends that it is highly illogical for one to rob an inhabited place

with many houses nearby and in broad daylight. The arguments do no persuade. A determined robber would not be deterred by time, place and circumstance. Crimes committed even in broad daylight are no longer extraordinary occurrences nowadays.[24] As early as 1968, in *People v. Ricaplaza*,[25] the Supreme Court had ruled on a similar argument thus:

It is argued that robbers do not usually commit robbery in a place where they are well known, and more so, when the place is well-lighted, and that robbers instinctively commit robbery with the highest precaution in order that nobody may recognize them. This theory does not hold true anymore. Time has changed a great deal. Now, robberies are committed left and right in broad daylight, in the midst of crowds, and under the very noses of police authorities. Even if their identities are known, the robbers can get away with the robbery; they hide in far away places where they are not known and with assumed names, they enjoy their loot. Before they are caught, if ever they can be discovered, they have pulled another robbery and disposed of their loot. Like in the case at bar, among the robbers who participated in the commission of the crime, only appellant was apprehended and brought to trial; the others, who presumably hold the stolen goods and money, have not yet been apprehended and are scot free.[26]

Appellant's defenses of denial and alibi cannot be sustained. These are inherently weak defenses that cannot prevail over the positive and credible testimonies of prosecution witnesses. For his defense of alibi to prosper, it is not enough that appellant proves that he was somewhere else when the crime was committed, he must also show that it was physically impossible for him to be at the locus criminis or its immediate vicinity when the crime was perpetrated. Further, the defense of alibi may not prosper if it is established mainly by the accused himself and his relatives and not by credible persons.[27] In fine, appellant failed to prove that it was physically impossible for him to be at the scene of the crime at the approximate time of its commission. The evidence shows that appellant's house is only about 100 meters from the house of the Cruzats.[28]

The award of P50,000.00 in favor of private complainant Jacinto as actual damages must be modified. Pursuant to recent jurisprudence, said award shall be subject to interest at six percent (6%) per annum from finality of the judgment of conviction until fully paid.[29]

WHEREFORE, the appeal is DENIED. The Decision, dated December 1, 2009, of the Regional Trial Court of Tabaco City, Albay, Branch 17, Tabaco City, in Criminal Case No. T-4512, is AFFIRMED with MODIFICATION in that the award of actual damages in the amount of P50,000.00 shall be subject to interest of six percent (6%) per annum from finality of the judgment of conviction until fully paid.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Penned by Presiding Judge Arnulfo B. Cabredo, rollo, pp. 18-30.

[2] RTC Records, p. 15-16.

[3] Id. at 15.

[4] Certificate of Arraignment, id. at 29.

[5] TSN (Alvinio Bobis), September 27, 2007, pp. 5-21; TSN (Jacinto Cruzat), November 29, 2007, pp. 3-31.

[6] Per Index of Exhibits (Rollo, p. 11), the following were the documentary evidence of the prosecution: Complaint-Affidavit of private complainant Jacinto Cruzat y De Guzman (Exh. A with submarkings Exh. A-1, A-2, and A-3, RTC Records, pp. 2-3); Affidavit of Alvino Bobis y Cao (Exh. B with submarking Exh. B-1, id. at

4); Pictures showing the occurrence of the robbery: Picture 1 (Exh. C, id. at 77), Picture 2 (Exh. D, id. at 77), Picture 3 (Exh. E, id. at 77), Picture 4 (Exh. F, id. at 78), Picture 5 (Exh. G, id. at 78), and Picture 6 (Exh. H, id. at 78); and Certification of Police Blotter Entry [B.E. # 016639, 12/26/05, 9:00 A.M.] by the Tabaco City Police Station (Exh. I, id. at 79); TSN (Pre-trial Conference), August 16, 2007, pp. 7-8; TSN (Trial), January 21, 2008, pp. 2-4.

[7] TSN (George Carin Manaog), April 3, 2008, pp. 4-20; TSN (Clarina Manaog), July 18, 2008, pp. 3-14.

[8] Per Index of Exhibits (Rollo, p. 11), the appellant submitted his Counter-Affidavit (Exh. 1 with submarkings Exh. 1-A and Exh. 1-B, RTC Records, p. 8-9); TSN (Pre-trial Conference), August 16, 2007, p. 8; TSN (Trial), August 28, 2008, p. 3.

[9] TSN (Jacinto Cruzat), November 27, 2008, pp. 3-5.

[10] TSN (George Manaog), February 5, 2009, pp. 3-5.

[11] Supra note 1.

[12] Rollo, pp. 29-30.

[13] Appellant filed a Notice of Appeal dated January 20, 2010, rollo, p. 31. The RTC Order, dated March 4, 2010, granted the appellant's Notice of Appeal and directed the entire records of the case forwarded to the Court of Appeals for further proceedings, id. at 32.

[14] People v. Sace, G.R. No. 178063, April 5, 2010. (Citation omitted.)

[15] People v. Calonge, G.R. No. 182793, July 5, 2010. (Citation omitted.)

[16] People v. Castillo, G.R. No. 172695, June 29, 2007. (Citation omitted.)

[17] People v. Liwag, G.R. No. 89112, August 3, 1993. (Citations omitted.)

[18] Affidavit of George Manaog dated April 5, 2006, RTC Records, pp. 8-9, at 8; TSN (George Manaog), April 3, 2008, pp. 5-6, 13-14, 16.

[19] Affidavit of Alvinio Bobis dated February 23, 2006, RTC Records, p. 4; TSN (Alvinio Bobis), September 27, 2007, pp. 10-13.

[20] TSN (Jacinto Cruzat), November 29, 2007, pp. 12-22, 26.

[21] Affidavit of Alvinio Bobis dated February 23, 2006, RTC Records, p. 4; TSN (Alvinio Bobis), September 27, 2007, pp. 10-15, 18-20.

[22] People v. Uy, G.R. No. 174660, May 30, 2011. (Citation omitted.)

[23] People v. Dela Cruz, G.R. No. 187683, February 11, 2010. (Citation omitted.)

[24] People v. Alterado, Jr. et al., G.R. Nos. 79039-41, October 27, 1989, 178 SCRA 722, 731.

[25] G.R. No. L-25856, April 29, 1968, 23 SCRA 374.

[26] Id. at 383.

[27] People v. Leonardo, G.R. No. 181036, July 6, 2010. (Citations omitted.)

[28] TSN (George Manaog y Carin), April 3, 2008, p. 16.

[29] Nacar v. Gallery Frames et al., G.R. No. 189871, August 13, 2013; People v. Dadao, et al., G.R. No. 201860, January 22, 2014; People v. Quisayas, G.R. No. 198022, April 7, 2014; People v. Lujeco, G.R. No. 198059, April 7, 2014.

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