

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME SOLIS, ARSENIO MANCHOS AND BERNARDITO KINTANAR, ACCUSED-APPELLANTS.

G.R. No. L-33957. March 15, 1984

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Before this Court on automatic review is the decision of the Court of First Instance (now the Regional Trial Court) of Sorsogon, imposing the supreme penalty of death on appellants Jaime Solis, Arsenio Manchos and Bernardito Kintanar, the dispositive portion of which reads as follows:

"WHEREFORE, the Court finds the accused Jaime Solis, Arsenio Manchos and Bernardito Kintanar GUILTY beyond reasonable doubt of the crime of Robbery with Homicide with the presence of the aggravating circumstances of nighttime, superior strength, disregard of the victim's age, 'morada' or the crime was committed in the victim's own dwelling, and that all the accused were armed at that time with bladed weapons; and the Court hereby (1) imposes upon all these three accused the supreme penalty of DEATH; (2) orders all of them to indemnify jointly and severally the legal heirs of Herminio Corsita in the amount of TWELVE THOUSAND PESOS (P12,000.00) Philippine Currency; and (3) to pay pro rata the costs of this suit."

At the trial, the prosecution failed to present an eye-witness to the crime. Thus, the facts established by the prosecution relate to the discovery of the crime; the investigation conducted by the police officers of Bulan, Sorsogon; the circumstances that led to the arrest of the accused; and the extra-judicial statements subsequently executed by them. As synthesized by the trial court, these facts are the following:

"In the early morning of July 28, 1968, one Matea Hona came upon the body of Herminio Corsita sprawled on the yard of the latter's house in Sitio Costanera, Barrio Namo, Bulan, Sorsogon. Matea lost no time in reporting her gory discovery to the barrio captain of Namo, a certain Maceda. This barrio official, along with Antonia Manallo who is a stepdaughter of the victim, and Beatriz de Joya who owns the land which the deceased was tenanted, hied to the poblacion to inform the police about the grisly incident.

"The unpleasant task of getting the body and bringing it to the poblacion was assigned to Patrolman Ignacio Gozarin of the Bulan Police force who left for Costanera at about 9 o'clock that same morning, presumably with Maceda, and arrived at the scene of the incident two hours later or at about 11:00 o'clock A.M. The policeman found the dead body of Herminio Corsita lying on his back near the fence of the yard some five meters from the house. An examination of the cadaver revealed a gaping wound at the back of Corsita's ear and some marks at the back of his body. Gozarin's roving eyes also caught sight of two pieces of blood-stained wood, some scattered clothing, a wooden trunk, and pillows at the scene of the crime, as well as a bolo at the back of the house. He even found a dead chicken inside the house. The peace officer then marked the pieces of wood for identification and after drawing circles on the ground where these pieces of evidence were lying, he cordoned the entire place. Then with the help of the barrio captain, he brought the cadaver to the poblacion and left it with the proper authority for autopsy.

"After Gozarin and Maceda had left for the town, Sergeant Romeo Guban, the Chief of the investigation section of the Bulan police force, arrived in Costanera with Patrolman Loreto Goboleo. Having been informed that the body of the victim had already been brought to town by their brother officer, Gubat and Goboleo conducted an inspection of the scene of the crime, including the victim's house and its premises. They found that the door appeared to have been forcibly opened and a window seemed to have been broken. They likewise came upon a locker in said house which was forcibly opened and six plundered pillows which were stained with blood. There was a dead chicken with a wrung neck in the kitchen. In the front yard and about three meters from the house those two policemen found a wooden trunk that was also forcibly opened (Exhibit "B"). They came upon a bloodstained bolo (Exhibit "C") some four meters behind the house as well as a fifteen-inch-long bloodstained piece of wood with a knot (Exhibit "D") under the main stairway. Another piece of wood some sixteen inches in length with bloodstains at both ends (Exhibit "E") was also found in the front yard about four meters from the house. The two police investigators likewise found signs of struggle both inside and outside the house of the victim.

"In the course of his testimony in Court, Patrolman Goboleo drew a rough sketch of the house and its premises (Exhibit "I", prosecution; Exhibit "1", defense) graphically indicating therein the bedroom where a bloodstained bed was located (Exhibit "I-1") and showing the position and direction of the stairs (Exhibit "I-2").

"The first suspects of the local police were Bartolome Readanga and Marcos Lovending, both of Barrio Recto, Bulan, Sorsogon which is about two kilometers away from the scene of the felony. Sgt. Guban's basis for suspecting them was the presence of chickens and bloodstains in their house. Both suspects, however, denied the imputation and apparently the authorities accepted their explanations.

"About two months after the commission of the crime, the local police authorities received the first of three anonymous letters about the robbery and the killing of Corsita. The first letter contained a threat against Sgt. Guban and other members of the Bulan police force. Some two weeks after receipt of the first letter, the second one arrived and this gave a tip to the police that the perpetrators of the crime were living in sitio Nasohi, barrio Inararan, Bulan, Sorsogon. Patrolman Gozarin maintained that while he was in the office of the Chief of Police on November 25, 1968 he learned that another anonymous letter about the incident was received. Because of these three letters, the investigation of the case was revived. Acting on the tip mentioned in the second letter, Sgt. Guban sent to Nasohi some police informers who reported to him sometime thereafter that the three accused were the authors of the dastardly crime. Guban was also informed that Jaime Solis had related to one Dominador Gatón, alias Vaquero, that he (Solis) was the one who killed Herminio Corsita. The police sergeant then went to Gatón's house in Nasohi where he found the latter's wife. This woman confirmed the information and told him the truth about the matter.

"Having learned from reliable sources that of the three suspects Kintanar is the least experienced in crime and concluding that as such this particular suspect is the most likely to break down easily and confess, Sgt. Guban decided to pick up Kintanar first. On February 6, 1969 Kintanar was taken into custody while he was in the house of his brother in Nasohi. Brought to the municipal hall in the poblacion and subjected to investigation, Kintanar confessed before long his participation in the commission of the crime and revealed that his companions at the time were Jaime Solis and Arsenio Manchos. The investigators took down his affidavit in question and answer form and Kintanar swore to the truth of his statements therein that same day before the Municipal Judge of Bulan (Exhibit "F"; English Translation, Exhibit "F-1"). x x x.

"With this successful break in the case, Sgt. Guban ordered that the two other accused be picked up for purposes of investigating them. On February 8, 1969 Jaime Solis was arrested in sitio Nasohi, while Arsenio Manchos was picked up by Patrolman Gozarin in Barrio Soma-gongsong, Bulan, Sorsogon, on the same date. With the help of Patrolman Goboleo, Sergeant Gubat conducted the investigation of Solis and Manchos and it did not take long for the two suspects to break down and confess their respective roles in the heinous crime. The investigating team also wrote down in question and answer form the sworn statements of these two

persons. Solis' affidavit was subscribed by him before the Municipal Judge of Bulan on February 10, 1969 (Exhibit "G"; English Translation, Exhibit "G-1"), while Manchos swore to the truth of his own affidavit (Exhibit "H"; English Translation, Exhibit "H-1") before said Municipal Judge on the same date it was taken or on February 8, 1969. x x x.

"Meanwhile, Corsita's cadaver which Patrolman Gozarin left in the municipal hall of Bulan was delivered to Dr. Runy P. Rebustillo who was then the Municipal Health Officer of said municipality. The good doctor stated in his autopsy report dated August 7, 1968 (Exhibit "A") that he performed the necropsy at about 3:15 PM on July 29, 1968. Accord-ing to his findings, the victim sustained a "fracture dislocation of the 1st cervical vertebrae of the spinal column connecting the base of the skull with contusions and hemorrhages." In the opinion of this physician, this particular injury was caused by a blow with a blunt instrument.

"The victim also suffered an incised wound about three inches in length and one and one-half inches in depth located above the base of the neck posteriorly, or at the nape. The good doctor considers this injury fatal because it cut the arterius veins on the right side of the neck. He opined that this wound was inflicted with a sharp instrument like a bolo. Dr. Rebustillo also found a lacerated wound in the region of the victim's right eye, abrasions in his right foot, and contusions as well as hematoma on the right shoulder, right occipitolateral region base of the skull, and on the postero-lateral portion of the neck, base of the neck. He said that Corsita died due to shock and hemorrhages, both internal and external, secondary to the basal fructure of the skull and the incised wound.

"According to the doctor, he learned from the relatives of the victim that the cadaver he had autopsied was that of Herminio Corsita, who in his opinion, died some forty-eight hours before the autopsy was performed The doctor based his opinion on the fact that at the time he was performing the autopsy there was already signs of decomposition."

Thus, appellants were charged with the crime of robbery with homicide, aggravated by the circums-tances of superior strength, nighttime and disregard of the age of the victim, the latter being 70 years of age at the time of the incident. The three accused, assisted by counsel de oficio, Atty. Odelon Ginete, pleaded not guilty to the information. At the initial hearing on June 19, 1969, Atty. Ginete moved for postponement of the trial on the ground that the accused were considering the possibility of changing their prior plea of "not guilty" to "guilty". The court granted the motion and the hear-ing was reset to July 24 and 25, 1969.

On July 24, 1969, Atty. Ginete failed to appear. However, accused Solis informed the court that Atty. Carranza, their counsel de parte, would appear on the next day to represent all the accused. On July 25, 1969, Atty. Carranza did not appear in court. Upon assurance by the accused that they had already contracted the services of Atty. Carranza, the court granted the withdrawal of Atty. Ginete as counsel de oficio, and transferred the trial to November 3, 1969. On said date, the accused manifested that they had not yet secured the services of counsel and that "their friends and families are trying to raise money to pay for the services of a counsel of their choice." Hence, the court again transferred the hearing to December 4 and 5, 1969; but in order to avoid further delay, the court appointed Attys. Ruben Paps, Antonio Dugan and Tedosio Diño, Jr. as attorneys de oficio for each of the accused.

On February 5, 1970, Atty. Paps informed the court that he and his co-attorneys de oficio had agreed among themselves that only Atty. Diño would handle the defense for all the accused. After the accused had expressed their conformity to such mani-festation, the court granted the withdrawal of Attys. Paps and Dugan as counsel de oficio. Whereupon trial was commenced.

Upon termination of the evidence for the pro-secution, Atty. Diño manifested that the accused were waiving their right to adduce evidence. Then he asked for dismissal of the charge on ground of gross inadequacy of the evidence to justify conviction. The court denied the motion and reset the continuation of hearing on June 26, 1970

in order to afford counsel sufficient time to study the record of the case and examine the exhibits presented by the prosecution. On the last mentioned date, Atty. Diño, manifested anew that the accused were waiving their right to adduce evidence, and that the case be considered submitted for decision. He likewise moved for dismissal of the information on ground of insufficiency of the prosecution's evidence. Acting on said manifestation and motion, the court declared the case submitted for judgment and ordered the parties to submit written memoranda.

On November 13, 1970, the trial court promulgated its decision imposing the death penalty on the three accused for the crime of robbery with homicide.

We find no reason to disturb the judgment of conviction.

There is no question that in the evening of July 27, 1968, Herminio Corsita was robbed of seven (7) chickens, one (1) bolo, two (2) pairs of pants, and two (2) shirts belonging to the victim with the total value of P19.20, and that on the occasion of said robbery, Herminio Corsita was killed. While it is true that the prosecution failed to produce an eye-witness to the crime, the three accused had executed their individual affidavits admitting their respective roles and participations therein.

The extrajudicial statements of the three accused (Exhibits F, F-1, G, G-1, H, H-1) disclose that at about 10:00 in the evening of July 27, 1968, the three accused agreed to rob Herminio Corsita, a man of 70 years; that pursuant to said agreement, the accused, all armed with bolos, proceeded to the house of Corsita in sitio Costa-nera, barrio Namo, Bulan, Sorsogon; that Kintanar stationed himself near the fence of the house, while Manchos and Solis, the latter holding a flashlight, went under the house and grabbed a chicken; that because of the cacklings of the chickens and the barkings of the dogs, Corsita went downstairs with a lamp; that while he was still at the stairway, Solis and Manchos suddenly pulled down and kicked the old man to the ground; that Solis gave him several fist blows, then brought him upstairs; that when the old man refused to reveal where he kept his money, Solis tied him up with a piece of rattan and hacked him on the nape with his bolo, while Manchos held him at the back; that having delivered the fatal blow, Solis went down the house and caught seven (7) chickens, while Manchos forcibly opened the victim's trunk; that after Manchos had taken the trunk to the yard, they got the shirts and trousers found therein and stuffed them inside a sack held by Kintanar; and that after the commission of the crime, they proceeded to the hut of Solis in sitio Nasuje, Bo. Inararan, where they cooked and ate the chickens.

It bears emphasis that none of the accused took the witness stand to repudiate their respective extra-judicial statements. The declarations must therefore be considered as having been given voluntarily and without compulsion or inducement. What is more, their affidavits show no sign of any suspicious circumstances which would cast doubt upon their veracity. Their answers to the questions propounded therein are fully informative and fraught with details that only the perpetrators themselves could have known.

We hold that defendants' confessions, corroborated as they are by evidence of corpus delicti, suffice to support the judgment of conviction. The fact of the robbery as well as the violent death of the victim constitute the corpus delicti. This Court has consistently ruled that the accused can be held liable under their own confessions even if no eyewitness had testified on having seen them committing the crime, or had seen them under the circumstances indicating their having committed the crime. (People vs. Narciso, 24 SCRA 844; People vs. Dorado, 30 SCRA 53).

The conduct displayed by the three accused before, during and after the commission of the crime reveals coordination of efforts and community of design to commit the crime charged. As correctly observed by the trial court -

"x x x The presence of conspiracy by the three accused in the case at bar is not open to doubt or quibbling because all of them admitted in their respective affidavits that while they were on their way to sitio Costanera,

they agreed to rob Corsita. This they accomplished without the least bit of resistance from their victim, but when they were recognized by Corsita, Solis did not hesitate to kill him with the futile hope in mind to seal their dastardly act in the silence of the tomb. x x x.

"Our appellate court have repeatedly held that 'it is a primary rule that if two or more persons combine to perform a criminal act, each is responsible for all the acts of the others done in furtherance of the common design'; and 'the result is the same if the act is divided into parts and each person proceeds with his part unaided' (People vs. Cabrera, 43 Phil. 64, 96; People vs. Tapalla, CA-G.R. No. 333-R, Jan. 26, 1948, 45 O.G. 3118).

"In the case of Kintanar, he agreed to the conspiracy and stayed near the fence. Apparently, he acted as a guard or look out for his co-conspirators. He contended in his confession that he ran away after hearing a noise coming from the house of Corsita followed by sounds of groaning. But this attempt to wash himself clean of the more serious crime of homicide was contradicted by Solis who asserted in his confession that Kintanar held the sack while he (Solis) was placing therein the stolen chickens as well as some clothes that were taken from the trunk of the old man which was forcibly opened by Manchos. And to cap the joint liability of Kintanar for the killing of Corsita, he did not even bother to deny the statements made by Solis and Manchos in their affidavits that he (Kintanar) also benefited from the proceeds of their abominable act by partaking of the stolen chickens which were cooked by them in Solis' small but in Nasohi.

"There were several reasons for finding and believing that Kintanar really conspired with his co-accused at least to rob their Victim of some things, if not altogether to kill him. These three conspirators went to the house of the deceased with the common design to commit the robbery and they cooperated with one another in perpetrating it, to the extent of taking the life of the robbery victim. So, all of them should be made jointly accountable for the cowardly murder of the old man.

"The evidence holding Manchos responsible for the killing of Corsita is even stronger for he actively participated in manhandling the poor victim by first kicking Corsita as he fell from the stairs upon being pulled by Solis and second, but worse, by holding Corsita's back when Solis hacked the old man at the nape with his bolo. Therefore, Manchos was physically present when the hacking took place, and yet he did not lift a finger to prevent the unnecessary slaying. He also brought out to the yard Corsita's trunk which he forcibly opened and ransacked. Like Kintanar, Manchos likewise profited from the crime by joining his conspirators in feasting on the chickens they had stolen from the widower."

The appellants contend that they were deprived of due process for failure of the trial court to afford them the right to be defended by a lawyer of their own choice. This contention is devoid of factual basis. Appellants were arraigned on April 11, 1969, but actual trial did not start until February 5, 1970, or ten (10) months later. This was due to frequent postponements caused by their failure to secure the services of a lawyer of their own choice. Their alleged counsel de parte, Atty. Carranza, never appeared in court. If they were indeed sincere in their desire to secure the services of a lawyer of their own choice, that period of ten months was more than sufficient for them to do so.

Besides, during the proceedings a quo, appellants never informed the trial court of their desire to be defended by a lawyer of their own choice; neither did they protest the appointment or the actuations of their counsel de oficio. It has been held that where a counsel has been assigned to a person on trial and such counsel has acted without objection from the accused, the latter's conviction cannot be set aside on the sole ground that said counsel was not of his own choice.[1]

As to the claim that the trial court erred in not requiring them to testify in order to ascertain from them the veracity and voluntariness of their confessions, suffice it to state that not one of the accused had even intimated that said confessions were extracted through violence or coercion. In view of their express waiver to present

evidence in their defense, the trial court had no alternative but to decide the case on the basis of the evidence adduced by the prosecution (Abriol vs. Homeras, 84 Phil. 529). In *People vs. Omar* (L-7137, April 30, 1955) this Court held -

"The trouble with appellant's case is that he chose not to present evidence to account for his presence on the spot immediately after the fusilade - even in the face of incriminatory evidence linking him to it. Not that unfavorable deduction of guilt may be drawn from defendant's silence. The principle is that although the accused is not required to testify in his own behalf, nor required to produce witnesses, yet he runs the risk of an inference from non-production of evidence (U.S. vs. Sarikala, 37 Phil. 486). What we mean is that, when the mass of evidentiary details point to the general conclusion of guilt, the accused who fails to produce exculpatory evidence cannot expect the court to imagine or surmise possible circumstances which might justify rejection of such factual conclusion."

Upon these premises, all the accused are guilty of the crime charged. The slaying of Herminio Corsita during or on the occasion of the robbery, wherein they admittedly participated, makes all of them guilty of the crime charged. Well entrenched is the rule that whenever a homicide has been committed as a consequence, or on the occasion, of a robbery, all those who took part therein are liable as principals of the crime of robbery with homicide, although some did not actually take part in the homicide, unless it clearly appears that they endeavored to prevent the homicide.[2]

IN VIEW OF ALL THE FOREGOING, the decision appealed from is hereby **AFFIRMED**. However, for lack of necessary votes, the death sentence imposed upon the accused-appellants Jaime Solis, Arsenio Manchos and Bernardito Kintanar, who have been under custody for fifteen (15) years, is hereby reduced to reclusion perpetua. Costs against the accused. The civil indemnity awarded to the heirs of the victim is hereby increased to P30,000.00.

SO ORDERED.

Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Relova, Gutierrez, Jr. and De La Fuente, JJ., concur.

Fernando, C.J., Teehankee and Makasiar, JJ., on leave.

[1] U.S. vs. Laranja, 21 Phil. 500.

[2] *People vs. Bautista*, 49 Phil. 389; 396; *People vs. Carunungan*, 109 Phil. 534; *People vs. Veloso*, 112 SCRA 173.

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