

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX RAMOS ALIAS "BULKO"; (AT LARGE), ACCUSED, ANGEL FERNANDEZ, RODOLFO TULAGAN AND MARCO FERNANDEZ, ACCUSED-APPELLANTS.**

*G.R. No. 104497. January 18, 1995*

Ponente: PUNO, J.

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**PUNO, J.:**

In an Information, dated November 24, 1987, [1] appellants ANGEL FERNANDEZ, MARCO FERNANDEZ, RODOLFO TULAGAN, together with one ALEX RAMOS, alias "Bulko," were charged with the crime of ROBBERY WITH HOMICIDE before the Regional Trial Court of San Pablo City, Laguna (Branch XXXI). The crime was allegedly committed as follows:

"That on or about the evening of October 26, 1987, at Barangay West Poblacion, Municipality of Rizal, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, while conveniently armed with deadly bladed weapons, taking advantage of nighttime, with treachery, evident premeditation, abuse of superior strength and with intent to kill, did then and there, wilfully, unlawfully and feloniously enter the house of one MRS. AIDA SISON, and once inside, attack, assault and stab Aida Sison and Avelina Hernandez, with the use of bottles of coca-cola and bladed weapons which accused were conveniently provided, inflicting upon the offended parties mortal wounds which caused their instantaneous death, and on the same occasion and by reason thereof, with intent to gain, ransacked the house of Mrs. Aida Sison and did then and there, wilfully, unlawfully and feloniously take, steal and carry away assorted jewelries, personal belongings and cash money, with a total value of TWO HUNDRED THOUSAND PESOS (P200,000.00), to the damage and prejudice of the victims and their surviving heirs in the aforesaid amount. (emphasis ours)

"CONTRARY TO LAW."

Upon arraignment on February 11, 1988, appellants pleaded "NOT GUILTY." [2] Trial only proceeded against them as their co-accused, Alex Ramos, has remained at large.

There was no eyewitness to the crime. The evidence for the prosecution was given by Patrolmen DANTE ASEGURADO and GEMINIANO BAGSIK, DR. LEON RONDILLA, JR., and PEDRO SISON, JR.

From their testimonies, it appears that at about 11:30 P.M., on October 26, 1987, a certain Jonas Isleta reported to Patrolman Dante Asegurado of the Rizal Police Force in Rizal, Laguna, a robbery-slaying incident at the residence of Aida Sison, located a few meters away from the police station. [3] The authorities acted swiftly. A team of six (6) policemen, led by Station Commander Lt. Alberto E. Pabellon, rushed to the scene and surrounded Aida's house. [4] After securing the area, they entered the house and found the bloodied, lifeless bodies of 72 year-old Aida Sison and her maid, Avelina Hernandez. [5] The house, which has a store at the ground floor, was in complete disarray. [6]

Patrolmen Geminiano Bagsik and Crispin Reyes searched the Sison compound to verify earlier reports that the suspects were still within the premises. True enough, they saw appellants Angel and Marco crawling on the ground some five (5) meters away from the house of the Sisons. Pat. Bagsik collared Angel who was holding a double bladed weapon (dagger) stained with blood. [7] Marco, on the other hand, was apprehended by Pat. Reyes. The two (2) were brought to the police station and were investigated by Pat. Asegurado. [8]

At about 6:00 A.M. the following day, appellant Rodolfo Tulagan, was also apprehended at the western part of the poblacion not far from the Sison residence. Apparently, Rodolfo was with appellants Angel and Marco that fatal evening, but he avoided arrest by hiding near the fence of a schoolhouse, a few meters away from the scene. [9] A knife (lanseta) was found in his possession during his arrest. [10] Rodolfo was also brought to the police station for investigation.

Pedro Sison, Jr., eldest son of Aida Sison, was at work when the incident occurred. Upon learning of the bad news, he rushed home. He was, however, too late. He found his mother and her maid lying prostrate on the ground in a pool of blood. His mother's pieces of jewelry, valued at P150,000.00, were missing. The robbers also took cash in the amount of P50,000.00. [11] His family spent P33,049.00, for the funeral expenses of the two (2) victims.

Dr. Leon E. Rondilla, Jr., conducted the postmortem examination of the victims on October 27, 1987. He stated that Aida Sison died due to "intracranial hemorrhage secondary to craniocerebral injuries due to trauma." He opined that a hard object was used to hit Aida's head, causing the fractures on the occipital and parietal regions and damaging her brain severely. Housemaid Avelina Hernandez suffered more in the hands of the culprits. She sustained at least three (3) stab wounds on her neck and about twenty-two (22) incised wounds on different parts of her body. The frontal region of her head was also fractured. [12] Based on the nature and number of wounds inflicted on Avelina, the doctor declared that she was assaulted by at least two (2) assailants using different weapons, particularly sharp edged instruments like the dagger and knife (marked as Exhibits "H" and "I") confiscated from appellants Angel and Rodolfo, respectively.

The version of the defense is different.

Appellants Angel and Rodolfo are ambulant peddlers of slippers in Mandaluyong. Angel claimed that in the morning of October 26, 1987, Alex Ramos invited him to buy lanzones from his 'parents' plantation in Rizal, Laguna. He was initially reluctant to go with Alex whom he met only for the second time that morning. Angel then consulted Rodolfo who agreed to accompany him. Angel also asked his cousin, Marco, to go with him. That morning, the three (3) appellants went to Laguna with Alex.

At about 3:00 P.M., they alighted in front of Aida's store located at West Poblacion, Rizal, Laguna. Alex knew Aida since he grew up in said locality and worked in a bakery near her store. [13] The two (2) conversed for a while. After an hour, Alex left the appellants at the store to meet some friends. He returned at about 7:00 P.M. with two (2) friends. He then asked Aida to permit them to drink lambanog (a native drink) inside the store. She acceded. Alex and his friends then engaged in a drinking spree, while appellants ate biscuits and drank softdrinks. At about 10:00 P.M., Aida advised Alex to take appellants home so they could rest. He obeyed, leaving his two (2) friends at Aida's store. [14]

On their way to Alex's house, they took a shortcut via Rizal School. Upon reaching the school after a ten-minute walk, Alex told appellants that he has to return to the store as he had something to say to his friends. He left while appellants waited inside the school compound. Between 10:30 P.M. to 11:00 P.M., appellants heard a woman screaming for help, saying: "Saklolo, mga kapitbahay, papatayin kami nina Alex Ramos. [15] Initially, appellants decided to stay in the school compound. When they heard gunshots, appellant Angel was engulfed with fear. He

advised Marco and Rodolfo to leave the premises of the school as they might be suspected as the culprits. At the school's gate, however, appellants Angel and Marco were intercepted by policemen. They were mauled and then brought to the police station. [16]

The policemen continued manhandling Angel and Marco at the police station to force them to admit their participation in the robbery-slaying incident. During their interrogation, appellant Angel sustained a gunshot wound on his buttocks. The following morning, he was brought to San Pablo City Hospital for treatment. He was brought back to the municipal jail after two (2) days. [17]

Appellant Rodolfo who was arrested the following day also claimed he was maltreated by the police. Finally, on November 2, 1987, the three (3) appellants signed the sworn statements prepared by the policemen, without the assistance of counsel. [18] Thereafter, they returned to the scene and re-enacted the crime. [19]

After trial, appellants were adjudged guilty beyond reasonable doubt of the crime of "ROBBERY WITH HOMICIDE," under Article 294 (1) of the Revised Penal Code on the basis of the totality of evidence and without considering their uncounselled extrajudicial confessions. The dispositive portion of the impugned Decision, [20] dated February 8, 1990, reads:

"WHEREFORE, and from the totality of the evidence on record, the Court finds and holds the three accused, namely: Angel Fernandez, Marco Fernandez and Rodolfo Tulagan, guilty beyond reasonable doubt of the crime of Robbery with Homicide under Article 294, paragraph (1), of the Revised Penal Code, for which the said three accused are each sentenced with the penalty of Reclusion Perpetua and to pay the costs, the highest penalty imposable because of the abolition of the death penalty by the 1987 Constitution.

"As civil liability arising from the offense, all three accused are ordered to indemnify the respective heirs of the deceased Aida Sison and Avelina Hernandez for their deaths in the sum of Thirty Thousand Pesos (P30,000.00) for each set of heirs and the further sum of Thirty Thousand Three Pesos (P33,000.00) for the funeral expenses for both deceased.

"For the loss of future earnings of Avelina Hernandez, who was 42 years old when she died, at the rate of P6,000.00 annual earnings and for a period of fifteen (15) years, her heirs are awarded the amount of P90,000.00.

"SO ORDERED."

In this appeal, the critical issue is whether or not the circumstantial evidence adduced by the prosecution is sufficient to support the judgment of conviction against appellants. Corollary thereto, whether or not conspiracy was established.

We affirm the judgment of conviction.

Evidence is either direct or circumstantial. Direct evidence is that evidence which proves a fact in issue directly without any reasoning or inferences being drawn on the part of the factfinder. Circumstantial evidence is that evidence which indirectly proves a fact in issue. The factfinder must draw an inference or reason from circumstantial evidence. [21]

Under our Rules of Court, conviction based on circumstantial evidence is sufficient if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. [22]

It ought to be noted that our rules "make no distinction between direct evidence of a fact and evidence of circumstances from which the existence of a fact may be inferred. No greater degree of certainty is required when

the evidence is circumstantial than when it is direct, for in either case, the trier of fact must be convinced beyond a reasonable doubt of the guilt of the accused." [23]

In the case at bench, we are convinced that the totality of the circumstantial evidence adduced by the People excludes any reasonable doubt that appellants are innocent. The records indubitably show that appellants had the opportunity to commit the crime at bench. They arrived together and immediately proceeded to the store of victim Aida Sison in the afternoon of October 26, 1987. By their own admission, they were at the locus criminis shortly before the tragic incident. They also had the means to commit the crime. Soon after the killing, appellants Marco and Angel were nabbed by the authorities within the compound of the Sison residence. Pat. Crispin Reyes arrested Marco, while Geminiano Bagsik collared Angel who was still holding the bladed weapon (Exhibit "H") stained with blood. Rodolfo Tulagan was arrested in the morning, the following day, near the crime scene, also in possession of a knife. [24] Significantly, appellants were fleeing when the authorities apprehended them.

The timely apprehension of appellants Marco and Angel inside the compound, Angel's possession of the dagger stained with blood at the time of his arrest, Rodolfo's act of concealing himself from the arresting officers and his foiled attempt to leave the locality the following day, are clear indicia of said appellants' guilt. [25]

In an attempt at exculpation, appellants point to Alex and his alleged two (2) friends as the criminals. They insist that they were lured to Laguna by Alex to buy lanzones.

We are not persuaded.

Appellants are in their early twenties, but judging from their replies to the questions propounded to them during the trial, appellants are not as naive as they claim to be. Neither do they strike us as mentally dense. We find it unbelievable that they would, indeed, trust a complete stranger like Alex and hastily go with him without first checking his character and credibility. Moreover, it would be foolhardy for Alex to involve in the crime the three (3) appellants whom he hardly knew.

Obviously, appellants are straining to make it appear that their trip to Rizal, Laguna, was for a legitimate purpose. The facts in field, however, easily blew up this cover. To begin with, appellants admitted it was their first time to go to Rizal, Laguna. They hardly knew Alex. They could not give the details of their alleged agreement with Alex. They were not in the business of buying and selling lanzones. They are ambulant vendors of slippers. When apprehended, they did not yield any money to be used in buying lanzones. Instead they yielded deadly knives. Indeed, they did not even bother to discuss how much they would earn from the transaction or how they would transport the lanzones. [26]

Further, there is no sense in killing Aida Sison and her maid whom appellants met only that fateful day other than to prevent their identification. When the policemen arrived shortly after the commission of the crime, the Sison residence was in complete disarray. The store's cash sales and the pieces of jewelry of Aida were missing. We have ruled that "(i)n the absence of any other known motive for the crime, it would be, in our judgment, to reject the universal teaching of experience to draw the inference that the same person who killed the occupants of the house also committed the robbery." [27] It is crystal clear that at the time of the robbery and killing, only appellants and Alex Ramos had access to the money and valuables of victim Aida Sison. No outsiders were able to intrude into the premises due to the timely arrival of the authorities and apprehension of the appellants. Although the loot was not recovered from appellants, this can be attributed to the failure of the policemen to arrest the fourth malefactor, Alex Ramos.

We also count in favor of the prosecution the lack of proof that the police officers, specifically Pat. Bagsik and Asegurado, harbored any ill-motive to falsely testify against appellants. This accords with the rule that the

testimony of arresting officers, with no motive or reason to falsely impute a serious charge against the accused, are credible. [28]

Appellants also aver that the policemen were only zealous to resolve the case the soonest possible time, hence named them as culprits and planted evidence against them. We are satisfied, however, that the totality of evidence sufficiently inculpatates appellants. The trial court rightly did not dignify the baseless suspicions of the appellants. The well-settled rule is that findings of trial courts on credibility of witnesses deserve respect, having observed the deportment of witnesses during the trial. [29]

We now proceed to appreciate the aggravating circumstances that attended the commission of the crime at bench. It is evident that appellants took advantage of the darkness of the night to facilitate their criminal act. [30] Nighttime is not per se aggravating, but it is considered as such if it was deliberately and purposely sought to facilitate the commission of the crime. Although not alleged in the Information, Alex and appellants also employed craft to gain easy access into Aida's store. They pretended they were customers and this devious scheme facilitated the commission of the offense. [31] The circumstance of dwelling was also proved and should be appreciated against appellants. [32]

The crime was likewise committed with abuse of superior strength. The victims in this case were women, one of whom was in her seventies, who could hardly put up a fight against their male attackers. The number and nature of their wounds buttress this conclusion.

In fine, we rule that the circumstantial evidence against appellants are strong enough to remove any cloud of doubt on their guilt, sufficiently overturn the presumption of innocence of the appellants, and exclude every postulate except that of their guilt. [33] We reiterate the ruling that resort to circumstantial evidence is essential since to insist on direct testimony would, in many cases, result in setting felons free and deny proper protection to community. [34]

WHEREFORE, premises considered, we AFFIRM the appealed decision in toto. However, the civil indemnity awarded in favor of the heirs of the victims, Aida Sison and Avelina Hernandez, respectively, is increased to Fifty Thousand Pesos (P50,000.00). Costs against appellants.

### **SO ORDERED.**

Narvasa, C.J., (Chairman), Regalado, and Mendoza, JJ., concur.

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[1] See Original Records, p. 14.

[2] Certificate of Arraignment, Original Records, p. 27.

[3] TSN, June 23, 1988, p. 9; TSN, September 20, 1988, p. 4.

[4] TSN, April 13, 1988, pp. 10-13.

[5] TSN, September 20, 1988, pp. 5-6; see also Exhibits "A" and "B".

[6] Exhibits "F-8" to "F-11."

[7] TSN, September 20, 1988, pp. 7-12, 30.

[8] TSN, June 23, 1988, pp. 3-4.

[9] TSN, September 6, 1989, p. 22.

- [10] TSN, April 13, 1988, p. 34; TSN, May 31, 1988, p. 7.
- [11] TSN, November 15, 1988, pp. 4-8.
- [12] Exhibits "A" and "B"; TSN, June 23, 1988, pp. 32-35 and 38.
- [13] TSN, December 8, 1988, p. 10.
- [14] TSN, April 18, 1988, pp. 6-10.
- [15] Ibid., pp. 9-11.
- [16] TSN, August 22, 1989, pp. 14-16, 19.
- [17] TSN, April 18, 1989, pp. 16-22.
- [18] Exhibits "G" to "G-3."
- [19] Exhibits "G-3" to "G-7."
- [20] Penned by Judge Enrique B. Inting.
- [21] Gardner, Criminal Evidence, Principles, Cases and Readings, West Publishing Co., 1978 ed., p. 124.
- [22] Section 4, Rule 133, Revised Rules on Evidence; People vs. Ilaoa, et al., G.R. No. 94308, June 16, 1994; People vs. Pajarit, G.R. No. 82770, October 19, 1992, 214 SCRA 678, 682; People vs. Iran, G.R. No. 88915, December 14, 1992, 216 SCRA 575, 580.
- [23] Robinson v. State, 18 Md. App. 678, 308 A2d 734 (1973).
- [24] TSN, September 20, 1988, pp. 6-12.
- [25] See People vs. Gonzales, 210 SCRA 44.
- [26] TSN, August 22, 1989, p. 72.
- [27] United States vs. Merin, No. 1093, March 31, 1903, 2 Phil 88.
- [28] People vs. Gonzales, G.R. No. 93722, May 28, 1993, Supreme Court Advanced Decisions, Vol. 41, p. 883.
- [29] People vs. Dolar, et al., G.R. No. 100805, March 24, 1994.
- [30] People vs. Empacis, G.R. No. 95756, May 14, 1993, Supreme Court Advanced Decisions, Vol. 41, p. 270.
- [31] Ibid.
- [32] People vs. Barlis, G.R. No. 101003, March 24, 1994.
- [33] U.S. vs. Douglas, No. 994, August 31, 1903, 2 Phil 461.
- [34] People vs. Fuertes, G.R. No. 104067, January 17, 1994, 229 SCRA 289, 299-300.

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