

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE MALLARI, JAIME RUEDA, ALIAS "JIMMY"; AND FEDERICO GARCIA ALIAS "BINO GARCIA", ACCUSED-APPELLANTS.

G.R. No. 104891. February 06, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Convicted of the crime of robbery with homicide as defined and penalized under Article 294(1) of the Revised Penal Code and sentenced to suffer the penalty of reclusion perpetua as well as to indemnify the heir of the victim in the amount of P50,000.00, Jaime Rueda alias "Jimmy," Ronnie Mallari and Federico Garcia alias "Bino Garcia" challenge in this appeal the decision dated January 10, 1992 of the Regional Trial Court of Olongapo City, Branch 72, on the ground that the evidence for the prosecution failed to prove their guilt beyond reasonable doubt.

On September 15, 1989, the defendants, Manuel Mallari, Ronnie Mallari, one alias "Berting" and one alias "Jimmy," were charged as follows:

That on or about the seventh (7th) day of September, 1989, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping with one another, with intent of gain and by means of violence and intimidation against one Atty. Feliciano Javier, did then and there wilfully, unlawfully and feloniously take, steal and carry away the following valuables from the house of said Atty. Feliciano Javier, to wit: cash in the amount of P20,000.00, jewelries and watches, all valued at P200,000.00, one (1) cal. .38 gun and one (1) Magnum .357 gun, both valued at P50,000.00, all in the amount of P270,000.00 Pesos, Philippine Currency, and on the occasion of said robbery and for the purpose of enabling them to take, steal and carry away the above-mentioned articles, herein accused, in pursuance to (sic) their conspiracy, did then and there with intent to kill wilfully, unlawfully and feloniously and acting simultaneously, attack, assault, stab said Atty. Feliciano Javier thereby causing his death shortly thereafter, to the damage and prejudice of the family of said deceased Atty. Feliciano Javier.

CONTRARY TO LAW: With the qualifying circumstance of treachery, dwelling and abuse of confidence and obvious ungratefulness. [1]

On October 3, 1989, an amended information was filed for the crime of robbery with homicide against Manuel Mallari, Ronnie Mallari, Jaime T. Rueda alias Jimmy and one alias Berting. On December 5, 1991, a second amended information was filed for robbery with homicide against the above-named accused, to include Boy Garcia alias Bino Garcia, who was not earlier impleaded.

Upon arraignment on January 15, 1990, accused Ronnie Mallari, Jaime Rueda and Boy Garcia alias Bino Garcia entered a plea of not guilty. The accused, Manuel Mallari, remained at large.

The evidence for the prosecution shows that on September 7, 1989, between six and seven o'clock in the evening, accused Manuel Mallari knocked at the steel gate of the house of Attorney and Mrs. Feliciano Javier at No. 59 Drapper Street, Olongapo City. The maid, Priscilla Loremas, peeped through the small opening and asked him what he wanted. Manuel replied that he was instructed by Mang Bino, an employee of the Pussycat Nightclub along Magsaysay Drive which the Javiers operated, to get food from the Javier residence; that recognizing him, Loremas opened the gate and brought Manuel Mallari to the kitchen. She asked the other maid (Manang), who was watching television, whether there was still some rice for Mang Bino. The Manang told her that there was no more rice left for she had already given it to the driver and Mrs. Javier would anyway be coming home that evening. Manuel left, saying that "It's okay". [2] Both maids continued watching TV. Realizing after a while that no noise came from the steel gate after Manny had left, indicating that the gate was left open, Loremas went out to close the gate to prevent their dogs from going out of the yard or outsiders from getting in. On her way out, she met Ronnie and Manuel Mallari together with Bino Garcia and Jimmy Rueda who were already inside the premises. Ronnie Mallari grabbed her throat and poked a knife at her neck, threatening to kill her if she made a sound. The men quickly entered the house where they came upon Manang still viewing television. Ronnie admonished the surprised old maid not to create any noise otherwise he would kill her. Ronnie asked Manang where Atty. Javier was, to which she answered that her employer had just finished dinner and had gone upstairs with his little daughter to watch TV in his room. The men went upstairs and surprised Atty. Javier who, upon seeing Bino Garcia and Jimmy Rueda, shouted "Who are you?" [3] Whereupon, Bino stabbed him with a bladed weapon about 5 to 6 inches in length while Jaime Rueda struck him on the head with a long-nosed hammer. After stabbing Atty. Javier in different parts of the body, the men herded the maids to the bathroom together with the child, Sunshine Javier, and tied their hands with wires. The accused dragged Atty. Javier to the bathroom where the maids saw him bathed in his own blood. He pleaded with his attackers to get what they wanted but to spare their lives. The men tied his hands with wire and brought him downstairs. Ronnie Mallari re-appeared and brought Loremas out of the bathroom, and ordered her to point to them the hiding places of the Javier's money and jewelries but she answered that she did not know. Ronnie Mallari dragged her to her employer's bedroom where she noticed that the jewelry box had already been opened and the two guns had already been taken. A gun was pointed to her head and she was warned not to make an outcry as otherwise she would be killed. After a while, Bino Garcia returned to the room, discarded his T-shirt taken from the room. He warned the women inside the bathroom not to get out or he would kill them all. The maids heard the sound of ransacking and breakages in the rooms downstairs, then it was quiet again. Manang untied the wire around Loremas' hands and stayed behind with Sunshine while Loremas went down to peep. When she (Loremas) reached the ground floor, she saw that the front door and gate were open. Blood stains were scattered all over and everything was in disarray. She ran out to seek help from their neighbors, shouting "Saklolo, mga kapitbahay! Pinasok kami at hinoldap, sinaksak si Sir!" (Please help us, we were held-up and Sir was stabbed!) [4] She met two men from whom she sought help but the two could not enter because the other housemaid was able to close the door. Loremas went to the barangay office, she found no one there. She ran to the apartment building of the Javiers nearby and sought help from the tenants of one unit by the name of Kuya Andy and Connie. They took Loremas to the Base so that the holduppers would not be able to locate her. A male neighbor informed them that a man wearing an undershirt and bleeding had earlier asked that someone get a tricycle to take him to a hospital.

At around seven o'clock, Mrs. Mely Javier arrived at her house and was surprised to see people milling around. She was informed that there was a robbery/hold-up and that her husband had been rushed to the Olongapo City General Hospital. She followed her husband and found him in the operating room. He disclosed to her the identities of their boys in the club who stabbed him and robbed their house. Her husband's voice was weak but coherent, and because he was fast losing blood from his multiple stab wounds in the head and chest, Mrs. Javier sent her driver to procure type AB blood from the Pampanga Provincial Hospital in San Fernando, Pampanga.

Despite the blood transfusion, Atty. Javier succumbed to massive blood loss, infection and cardiac arrest at 7:00 am of the next day. He lay in state for five (5) days in their house and was buried in Bacolor, Pampanga.

Mrs. Javier put up a P100,000.00 reward for the immediate apprehension of the killers. Ronnie Mallari was subsequently turned over by the La Union police to the Olongapo INP. When Ronnie divulged that he left part of the loot in his uncle's house in Tondo, Manila, the Olongapo police investigators, headed by team leader Sgt. Fernando Roque, recovered some pieces of jewelry from his uncle's wife.

On January 10, 1992, the trial court rendered the appealed decision. The case against the accused, Manuel Mallari, who has remained at-large, was archived, without prejudice to its prosecution as soon as he is apprehended. An alias warrant of arrest was issued against him.

Appellant Rueda alleged that conspiracy was not established by direct evidence sufficient to prove their guilt beyond reasonable doubt. He alleged that: (1) he had no motive to commit the crime; (2) he was only implicated by appellant Ronnie Mallari in his sworn statement, which Mallari later retracted; and (3) the testimony of the maid, Loremas, was not corroborated by other witnesses. His alibi was that at the time the crime was committed, he was in Dinalupihan, Bataan, transplanting rice seedlings in his land in the company of his witness, Benigno Flores, and three other persons.

On the other hand, appellant Ronnie Mallari alleged that he was working at the time as a mason in Green Valley, Baguio.

Similarly, appellant Bino Garcia averred that he was somewhere else - in Barangay Magliman, Bacolor, Pampanga.

We find no merit in the appeal.

As pointed out by the trial court: "Although the evidence is not clear on what motivated appellants to kill Attorney Javier, xxx motive becomes relevant and its absence may assume determinative significance, only when the accused has not been positively identified, and proof thereof becomes essential only when evidence of commission of the crime is purely circumstantial or is inconclusive." [5] In the present case, the commission of the crime and the participation of the accused therein were definitely established. Not an iota of evidence suggests that a pre-existing animosity between appellants and the prosecution witnesses had impelled the latter to give perjured testimony against the accused.

With regard to their alibi, suffice it to state that the places where they claimed to be at the time the crime was committed are places (Dinalupihan, Bataan for Rueda, and Bacolor, Pampanga for Bino Garcia) which are not so far away that it would have been impossible for them to be in Olongapo City when the crimes was committed. Rueda's own witness, Benigno Flores, testified that Dinalupihan is near Olongapo City if one is riding in a bus. While appellant Ronnie Mallari emphatically alleged that he was with his wife in Green Valley, Baguio City, when Atty. Javier was killed, not only could he not recall the name of his "employer" but more importantly, he could not present any record, payslip, or any document to prove that he did work in Baguio that day.

For alibi to prosper, it is not enough to prove that the appellants were somewhere else when the crime was committed but they must likewise demonstrate that they could not have been physically present at the place of the crime, or in its immediate vicinity, at the time of its commission. [6]

The trial court correctly rejected the appellants' alibi in view of their clear and positive identification by the witness, Loremas, as the perpetrators of the crime. Courts always receive with caution, if not suspicion, evidence of alibi, "not only because it is inherently weak and unreliable, but also because of its easy fabrication. To

overcome the evidence of the prosecution, an alibi must satisfy the test of ‘full, clear and satisfactory evidence.’” [7]

The circumstances clearly show that the appellants acted in concert to carry out their common design to rob the Javiers. Their cooperative acts toward that common criminal objective prove that they were parties to a conspiracy. Manuel Mallari was at the vanguard of the conspiracy for it was he who, by pretending to need some food, caused the careless housemaid, Priscilla Loremas, to open the gate and admit him into the compound of the Javiers. It was he who let in his three companions, Ronnie Mallari, Bino Garcia and Jimmy Rueda. Together they hogtied the housemaids and attacked the unsuspecting victim in his upstairs bedroom. Garcia stabbed him, Rueda bludgeoned his head with a hammer. With their two other companions, they ransacked the house and took all the case and valuables that they could find. Under the circumstances, the existence of a conspiracy among the accused is indubitable.

Conspiracy need not be proven by direct evidence. Neither is it essential that there be shown a previous agreement to commit the crime of robbery with homicide because that can be inferred from the acts of the accused. Conspiracy having been established, all the conspirators are liable as co-principals, regardless of the extent and character of their individual participation in the crime because, in contemplation of the law, the act of one is the act of all; the guilt of one is the guilt of all. [8]

Appellants' conviction for robbery with homicide was based on the explicit, clear, credible and convincing testimony of the prosecution witnesses who positively identified the appellants as the perpetrators of the crime. They were persons known to Attorney Javier and his housemaids because they were employees in his night club. This Court is fully convinced that the guilt of the appellants was proven beyond reasonable doubt.

WHEREFORE, the appealed decision is AFFIRMED in toto, with costs against the appellants.
SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Quiason, JJ., concur.

[1] Rollo, pp. 35-36.

[2] Id., at p. 39.

[3] Id., at p. 40.

[4] Id., at p. 41.

[5] *People v. Ballinas*, 202 SCRA 516, 517.

[6] *People v. Villanueva*, 211 SCRA 403.

[7] *People v. Ranola*, 212 SCRA 106.

[8] *People v. Ocimar*, 212 SCRA 646.

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