

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO CABRERA, ROLAND SUNGKIP AND ALANDINO CAPARENO, ACCUSED. ROLANDO CABRERA, ACCUSED-APPELLANT.

G.R. No. 105992. February 01, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

A man's house is his castle; within the confines of its four corners he feels secure. Outside, his fate is uncertain; in the streets he might be slain. Out of harm's way as his refuge is, however, it can be infiltrated somehow by someone who will bite him like a serpent either as by design or forced by circumstances. Before he finds out, he is already dwelling in the thickets of a dreadful forest. Then he is no longer safe in the sanctuary of his home. This the victims in this case realized one early morning when they were suddenly attacked in their bedroom while enjoying the peace and quiet of their marital bliss. Unfortunately they did not survive to recount their harrowing experience in the hands of intruders who incidentally were not real strangers to them.

Appellant ROLANDO CABRERA, together with Roland Sungkip and Alandino Capareno, was charged before the Regional Trial Court of Kalookan City with ROBBERY WITH DOUBLE HOMICIDE, docketed as Crim. Case No. C-33866. The information alleges that on or about the 27th day of August 1989 the accused, conspiring together, with intent to gain and being then armed with iron bars, willfully and unlawfully took P10,000.00 and assorted jewelry worth P30,000.00 belonging to the spouses Wilfredo Chua Lim and Libby Teng de Lim; and that on the occasion thereof and for the purpose of enabling them to take the money and jewelry, they unlawfully and with intent to kill hit the Lim spouses with iron bars, thereby inflicting upon the latter serious physical injuries which caused their death. Only Glerissa Piamonte could shed light on the incident as shown hereunder.

Glerissa was employed as baby sitter in the house of the Lim spouses at 231 10th Avenue, P. Sevilla, Kalookan City. There she met the three (3) accused, who were helpers in the Lim household. On 26 August 1989, at around eleven o'clock in the evening, she slept in the bedroom of her employers with their one-year old son. She and the baby slept on one bed while the Lims occupied the other bed.

At around two-fifteen in the morning of 27 August 1989, Glerissa heard somebody knocking at the door. When she opened, she saw the three (3) accused. She recognized them clearly because the light was on. Sungkip and Capareno were armed with a round steel bar and a square steel bar, respectively. Appellant Rolando Cabrera grabbed her arms and threatened to kill her if she shouted. Then he forcibly dragged her out of the room. As a result, she hit a box and fell down. She saw the accused enter the room, lock the door and turn off the light. Thereafter, she lost consciousness. When she recovered, she heard thuds coming from the room of her employers, the sound of metal or steel bars dropping on the floor. Afraid, she went downstairs and locked herself in the comfort room. After five (5) minutes, she went out and proceeded to the room of her employers. The culprits were gone but left behind the lifeless bodies of her employers lying on their bed. Their son was unharmed. Then she noticed that the two (2) plastic bags of money which she earlier saw under the bed at around two o'clock in the

afternoon when she cleaned her employers' room were missing. She found near the door the two (2) steel bars which Sungkip and Capareno were holding when she opened the room.

The post-mortem examinations revealed that the Lim spouses Wilfredo and Libby died of intracranial traumatic hemorrhage.

Accused-appellant Rolando Cabrera asserts his innocence. According to him, at around midnight of 27 August 1989, he was awakened by his co-accused Sungkip and Capareno. But he ignored them and tried to go back to sleep. However, with a blood-stained knife pointed at him, they told him that if he would not go with them, they would implead him in whatever wrongdoings they had done. So he went with them due to fear. They brought him with them to Fairview, Quezon City, where they stayed for one (1) week. But he was unable to ask them why they were in a hurry when they left the house of their employers.

For the duration of their stay in Fairview appellant was not able to report the matter to the authorities. His explanation is that his co-accused were closely monitoring his movements. Taking a JB Line Bus they proceeded to Masbate, the province of his co-accused, and stayed there for almost three (3) months where they got employed with a mining company. After earning about P200.00 appellant Cabrera managed to elude his companions by pretending that he was just going to the town proper. He went instead to Cabanatuan, Nueva Ecija, his home province where he stayed in the house of a neighbor. Still he did not report the incident to the police because he was afraid he would be made a suspect.

On 27 February 1992, based on circumstantial evidence, the trial court found accused-appellant guilty not as charged but of double homicide and sentenced him to reclusion perpetua, and to pay the heirs of the victims P50,000.00 for each by way of indemnity, P52,400.00 for burial and other expenses for both, plus the costs. [1]

Appellant assails in this appeal the finding of the trial court that he was part of the conspiracy to commit the crime and that the attendant circumstantial evidence justified his conviction. He remonstrates against the observation of the trial court that he was part of the conspiracy to kill the victims. He asserts that, unlike him, his co-accused had a motive to commit the crime, i.e., they were previously cursed by the victims when they asked for advance salary ("bale"). He insists that he had no motive whatsoever to take the lives of his employers. He theorizes that Glerissa's testimony that only Sungkip and Capareno were holding steel bars clearly militates against his participation in the coordinated attack. The actuation of Glerissa in hiding inside the comfort room instead of running for assistance to the other helper in the other room and failing to shout for help appears contrary to common experience.

Circumstantial evidence is akin to a tapestry; it should be made up of strands which create a pattern when interwoven. To pluck out one strand and consider it alone will not evince any probative value. In this case, a resort to circumstantial evidence became essential because there was no eyewitness at the precise moment the victims were killed. The trial court only ascertained the guilt of accused-appellant through the testimony of the prosecution's main witness whom it found sincere and candid. We accord respect to this finding in the absence of any clear showing that the court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case. [2]

As stated previously, and we repeat this for emphasis, on 26 August 1989 Glerissa was sleeping inside the room of her employers. At about two-fifteen in the early morning, she heard somebody knock at their door. Upon opening she saw the three (3) accused whom she readily recognized as the light was on and they were working in the same household. Sungkip was carrying a round steel bar while Capareno was carrying a square steel bar. Appellant Cabrera cautioned her not to shout otherwise she would be killed, and simultaneously pulled her out of the room. The three (3) intruders then entered, locked the door behind them and turned off the light. As a

consequence of her forcible expulsion from the room, Glerissa hit a box and lost consciousness. When she recovered she heard sounds of metal or steel bars being dropped on the floor inside the room of her employers. Gripped with fear, she locked herself up in the comfort room downstairs. After five (5) minutes, she returned and found her employers dead. The two (2) steel bars were lying near the door but the accused were no longer there. According to appellant they fled to Fairview, Quezon City, then to Masbate. Later he managed to "escape" and return to his hometown in Cabanatuan, Nueva Ecija.

The foregoing evidence for the prosecution, albeit circumstantial, is of sufficient quantum to establish the guilt of accused-appellant as regards the death of the victims. The chain of circumstances proved sustains his guilt. The facts from which the inferences are derived abound, the combination of which produces a conviction beyond reasonable doubt. [3]

As regards the proffered defense of appellant, the trial court correctly found it inconsistent and untenable thus -

One, it is hard to believe that accused Sungkip and Capareno will (sic) take time, money and effort to bring into hiding accused Cabrera if the latter is (sic) not their co-conspirator in this case.

Two, the failure of accused Cabrera to shout for help despite the fact that he and his two co-accused were in habitable places like Fairview, Quezon City, or in JB Line Bus on their way to Masbate and while they were working in a mining company shows his claim that he was only forced to go with his co-accused to be incredible. Accused Cabrera could have run away or shouted for help in any of the given situations. It would be highly impossible that it was only after the lapse of three (3) months that accused Cabrera was able to free himself from the custody of his co-accused.

Three, it is also far from truth that after three (3) months of hiding, he still did not know why accused Sungkip and Capareno went into hiding.

Q.

Specifically, did you find out later on what was the wrongdoing that they did?

A.

No, Your Honor.

Q.

Did you inquire from Sungkip and Capareno why they have (sic) to leave the house of your employers all of a sudden?

A.

They were just in a hurry and they poked the knife while we were going down, Your Honor (TSN, November 19, 1991, page 14). [4]

We agree with the trial court when it appreciated the presence of conspiracy which need not be proved by direct evidence. Proof of previous agreement to commit the crime is not essential to establish a conspiracy. It may be inferred from the acts of the accused. The conduct of the accused before, during and after the commission of the crime may be considered to show the existence of conspiracy. It is sufficient that the accused be shown to have acted in concert pursuant to the same objective. And when a conspiracy is proved, a showing as to who inflicted the fatal wound is not required to sustain a conviction. [5] As the trial court correctly observed -

Evidently the three accused, Sungkip, Cabrera and Capareno, conspired with one another in killing the herein

victims. The coordinated acts of the three accused in going into and locking themselves inside their employers' room on that fatal morning as well as in leaving the residence of their employers and abandoning their work at the same time are proofs that they acted in pursuance of one criminal design x x x [6]

Even in the absence of a known motive, the time-honored rule is that motive is not essential to convict when there is no doubt as to the identity of the culprit. Lack of motive does not preclude conviction when the crime and the participation of the accused therein are definitely shown, that is, there is no doubt as to the identities of the perpetrators of the crime. [7]

Persons do not necessarily react uniformly to a given situation, for what is natural to one may be strange to another. The fact that Glerissa hid inside the comfort room instead of running to the other helper for assistance or shouting for help should not be taken against her. It should be remembered that she was threatened by accused-appellant with death if she shouted. She was only fifteen (15) years of age with Grade I for an educational attainment. She could not be expected to act like an adult or a mature woman with courage and intelligence to disregard the threat to her life in order to save the lives of her employers.

Hence, the conviction of the accused by the trial court must be sustained. However, we observe that the imposition on him of reclusion perpetua is erroneous. Article 249 of the Revised Penal Code provides the penalty for homicide, which is reclusion temporal. The fact that accused-appellant is guilty of double homicide does not justify the imposition of reclusion perpetua. Applying the Indeterminate Sentence Law and there being neither mitigating nor aggravating circumstance, the maximum shall be taken from the medium period of the imposable penalty the range of which is fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months, while the minimum shall be taken from the penalty next lower in degree, which is prision mayor the range of which is six (6) years and one (1) day to twelve (12) years, in any of its periods. The court believes that under the circumstances accused-appellant Rolando Cabrera deserves a minimum prison term of ten (10) years, four (4) months and twenty (20) days of prision mayor maximum to seventeen (17) years, two (2) months and ten (10) days of reclusion temporal medium as maximum, for each of the two (2) crimes of homicide.

WHEREFORE, the decision finding accused-appellant ROLANDO CABRERA guilty of double homicide for the killing of the spouses Wilfredo Chua Lim and Libby Teng de Lim and ordering him to pay the heirs of his victims Fifty Thousand Pesos (P50,000.00) for each victim by way of indemnity and Fifty-Two Thousand Four Hundred Pesos (P52,400.00) for funeral expenses plus costs is AFFIRMED, subject to the MODIFICATION that the prison term imposed should be ten (10) years, four (4) months and twenty (20) days of prision mayor maximum as minimum, to seventeen (17) years two (2) months and ten (10) days of reclusion temporal medium as maximum, for each of the two (2) crimes of homicide committed by accused-appellant.

SO ORDERED.

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

[1] Rollo, p. 20; Appellant Rolando Cabrera and Roland Sungkip were separately arrested and tried. Roland Sungkip, who was arrested earlier, was likewise adjudged guilty by the same court in its decision of 28 June 1990.

[2] *People v. de la Cruz*, G.R. No. 102063, 20 January 1993, 217 SCRA 283.

[3] Sec. 4, Rule 133, Revised Rules on Evidence.

[4] Rollo, p. 42.

[5] *People v. Pinzon*, G.R. No. 94757, 7 February 1992, 206 SCRA 93.

[6] Rollo, pp. 42-43.

[7] People v. Villalobos, G.R. No. 71526, 27 May 1992, 209 SCRA 304.

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