

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUDY SANCHEZ Y BAQUIRAS, ACCUSED-APPELLANT.

G.R. No. 120655. October 14, 1998

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] dated June 2, 1995 in Criminal Case No. 106437 of the Regional Trial Court of Pasig, Metro Manila, convicting the accused-appellant of the special complex crime of robbery with homicide[2] and sentencing him to reclusion perpetua.[3]

On June 16, 1994, Judy Sanchez y Baquiras was accused in an Information[4] filed by Assistant City Prosecutor Domingo P. Cecilio, of the offense allegedly committed as follows:

"That on or about the 6th day of June, 1994, in the Municipality of San Juan, Metro Manila, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, by means of force, violence and intimidation employed upon the person of one REYNALD PABORADA BALOLOY-ON, did then and there wilfully, unlawfully and feloniously, with intent to gain, take and steal and divest Reynald Paborada of his wallet containing cash money amounting to P3,015.00 and necklace, to the damage and prejudice of the latter in the aforementioned amount of P3,015.00, that on the occasion of said robbery, the above-named accused, attacked, assaulted and stabbed said Reynald Paborada, on the different parts of his body, thereby inflicting upon him mortal wounds which directly caused his death.

"CONTRARY TO LAW."

Upon arraignment on August 8, 1994, accused-appellant Sanchez, assisted by counsel de officio, Atty. Edelson Oliva, entered a plea of NOT GUILTY.[5] Trial ensued, and in due course the court a quo rendered judgment convicting the accused-appellant of the crime charged. The dispositive portion thereof reads:

"WHEREFORE, . . . this Court finds the accused Judy Sanchez guilty beyond reasonable doubt of the crime of Robbery with Homicide defined in Article 293 and penalized under Article 294. And considering the absence of any aggravating or mitigating circumstance on record, this Court sentences said accused to suffer the penalty of Reclusion Perpetua with its accessories provided by law; to indemnify the heirs of victim Reynald Paborada y Baloloy-on the sum of P50,000.00 and to pay the cost.

If accused has signed a written conformity to abide with the rules on convicted prisoners, his detention service if any shall be deducted from this sentence, computed as provided for by law.

SO ORDERED."[6]

Hence, this appeal.[7]

The Appellee's Brief[8] presents the facts as follows:

"Around 5:30 in the morning of June 6, 1994, while inside the security guard barracks of the Xavier School in San Juan, Metro Manila, Alejandro Oledan, a security guard, heard a loud scream of a person being seemingly

slaughtered. He peeped through a small hole and saw appellant Judy Sanchez., standing at the direction where the scream came from and where the body of the victim, Reynald Paborada, was sprawled. He went out and was informed that somebody was stabbed. At this juncture, he saw appellant move away from the scene of the crime. He whistled at him to stop, but the latter ran away. Alejandro suspected that appellant had something to do with the stabbing incident, as he was the only person seen standing near the victim. Jonito Barela, another security guard, saw Alejandro running after the appellant. Thereupon, the two guards joined in chasing appellant, who then had rushed through the gate of the Xavier School and got lost. (TSN, September 23, 1994, pp. 3-10)

Jonito called and informed the police authorities about the incident. Promptly, the authorities responded and conducted an investigation. (TSN, October 13, 1994, pp. 5-7)

At the ocular inspection, the police authorities gathered from witnesses that immediately prior to the stabbing incident, the victim and appellant had a confrontation, until suddenly, they heard a loud scream and saw the victim fall down while appellant ran away, holding a bag. The same bag was recovered later at the scene of the crime and found to contain things belonging to the victim. A bloodied screwdriver was also recovered at the situs criminis. Both bag and screw driver were turned over to the PNP Crime laboratory. (TSN, October 13, 1994, pp. 7-8)

Several hours later, although accused was able to elude arrest for the stabbing incident, he was nevertheless apprehended and arrested for trespassing into the White Cross Orphanage, about 100 meters away from Xavier School. The trespassing incident took place a few hours after the guards had given up their search for appellant. (TSN, October 13, 1994, p.9)

At the police station, appellant's t-shirt was found to have blood stains. It was also discovered that he wore another pants underneath, which was a maong pants splattered with blood. [Citations omitted.] When asked why there was blood on his t-shirt and pants, appellant said that he sustained injuries while being chased by the two guards. Recovered from the appellant's possession were the victim's wallet, Seiko wristwatch, money, documents, necklace and other personal belongings."[9] (TSN, *ibid.*, pp.10-11)

In contrast, the defense presents the facts as follows:[10]

"Accused Judy Sanchez testified that on June 6, 1994, at about 5:30 a.m. he and his fellow laborers were drinking coffee in the canteen, inside the compound of Metro Construction situated at Xavier School, San Juan, Metro Manila.

While taking his coffee, he heard a man shouting for help. He then stood up and saw the man shouting at the barracks which is about 20 arms length from the canteen. He then approached the man shouting named Reynaldo Paborada but did not do anything, but to just look at him. The latter was lying down with face up and bloodied. He had other companions when he approached and saw the victim lying. A security guard then arrived and asked him what happened. Another security guard arrived who pinpointed to (sic) him as the one who stabbed the victim. He then retreated and went out of the gate. On his way out, a security guard followed and chased him. He then entered the compound of White Cross Orphanage and told a nun that he was being chased and somebody was stabbed and he is being suspected as the culprit. He was advised to sit down and rest until the policemen arrived and brought him to the station. He was later investigated why he entered the orphanage, and he told the investigator that he was chased and being pinpointed as the one who stabbed the victim. While at the station one of the security guards arrived and pinpointed (sic) to him as the man who killed the victim. Another security guard arrived and also pinpointed (sic) to him as the one who stabbed the victim. As to why he was being pinpointed as the assailant, he said that he was the one who reported the two security guards whom he caught them gambling inside the compound and therefore have grudge against him. He denied that the wallet, jewelries and other personal belongings of the accused was (sic) found in his possession. According to him, the aforesaid items were recovered from their quarters were he and the victim and other laborers were sleeping."[11] (TSN, February 16, 1995, pp.2-8)

In convicting accused-appellant Sanchez, the trial court found that the circumstances in their entirety, all duly proven and consistent with each other, lead with moral certainty to the conclusion that said accused-appellant is guilty. It found the following set of circumstantial evidence pointing to the accused-appellant's guilt:

- "1. He was the person nearest the victim when the Security Guard first reacted to the scream for help made by the victim;
2. His flight and running, away from the scene of the incident when the security Guard looked at him as the suspect to the slaying;
3. His flimsy reason that to avoid accusation, he ran away and sought haven in an orphanage where he initially was charged for Trespassing,
4. His Possession of the personal effects of the victim which qualified the offense to the present charge of Robbery with Homicide." [12]

Finding the accused-appellant's defense of denial unavailing, the lower court gave full credence to the testimonies of the prosecution witnesses, who positively identified the accused-appellant as the killer, thus:

"The complete denial made by the accused is self-serving and deserves scant consideration. It is, to say the least, a contrivance made by the accused to put up a semblance of a defense. He was initially arrested by the police for trespassing into the compound of the White Cross Orphanage. But when he was brought back to the San Juan Criminal Investigation Department, the graver offense of Robbery with Homicide gestated as he was particularly pointed to by the two Security Guards Oledan and Barela as the person who stabbed the victim. The testimony of the Police Officer Lachica is to the mind of the Court credible. Absent any proof of irregularity or ill-motive on the part of the Police Officer it is presumed that his testimony was regular and done in the performance of his duty as a Police Officer. On the other hand, no corroborative evidence was presented by the defense to bolster the claim of the accused of his denial of the crime charged against him. [13]

The accused-appellant now raises the following assignment of errors: [14]

1. The trial court erred in convicting the accused-appellant although the prosecution failed to prove his guilt beyond reasonable doubt;
2. Assuming arguendo that the accused appellant stabbed the victim the trial court erred in finding that robbery was committed on the occasion thereof; and
3. Assuming arguendo that the accused appellant killed the victim, the trial court erred in convicting him of the crime of robbery with homicide, since the prosecution failed to prove that the original criminal design of the accused was to commit robbery.

In sum, accused-appellant posits two issues: (1) Did the trial court err in convicting him of robbery with homicide? (2) Did said court err in finding that the killing took place by reason of or on the occasion of the robbery?

To resolve these issues, we are guided by the principle that "in prosecuting robbery with homicide cases, the government needs to prove the following elements: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is done with *animo lucrandi*; and (4) by reason of the robbery or on occasion thereof, homicide (used in its generic sense) is committed." [15]

The trial court convicted the accused-appellant on the basis of circumstantial evidence, ruling that "the circumstances constitute an unbroken chain -which leads to a fair and reasonable conclusion pinpointing to the accused, to the exclusion of all others as the perpetrator of the crime. [16] Thus, it held the accused guilty of the

special complex crime of robbery with homicide, but found no aggravating nor mitigating circumstance that attended the commission thereof.

Precedents have sustained the conviction of an accused through circumstantial evidence, as long as the following requisites are present: (1) there must be more than one circumstance; (2) the inference must be based on proven facts; and (3) the combination of all circumstances produces a conviction beyond doubt of the guilt of the accused.[17]

We find in the instant case that the following circumstances proved and taken in their totality, satisfy the rigid requisites for conviction of the accused-appellant for the crime of homicide on the basis of circumstantial evidence:

- (1) He had a confrontation with the victim, immediately prior to the death of the latter;
- (2) He was the only person immediately seen standing in front of the lifeless body of the victim;
- (3) He immediately ran away when approached by the security guard;
- (4) Right after the incident, he was seen wearing a t-shirt and a pair of pants full of blood stains, which he could not convincingly explain.

Although he claimed that he sustained injuries while being chased by the guards, the presence of these alleged injuries was never established. Nor was there any showing that he submitted himself to medical treatment for those injuries. Hence, accused-appellant's version on how he sustained bloodstains on his t-shirt and pants appears as fabricated to cover up the real reason therefor.[18]

Indeed, the foregoing circumstantial evidence bears out the culpability of the accused-appellant for the victim's death. There being no exempting or Justifying circumstance alleged or proved regarding the killing, we hold that the unbroken chain or series of events that transpired on that fateful day of June 6, 1994, excludes any reasonable doubt regarding the accused-appellant's guilt for the crime of homicide.

However, the finding of guilt in regard to the crime of homicide does not sufficiently sustain, much less automatically prove beyond reasonable doubt, the conclusion that the death of the victim occurred by reason or on the occasion of the robbery to make the offense a special complex crime of robbery with homicide.

The Revised Penal Code defines this offense as follows:

"Art. 294. Robbery with violence against or intimidation of persons-Penalties.-Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed;

xxx xxx xxx."

From the above-quoted definition of the offense, the crucial elements thereof include the presence of criminal design on the part of the accused to commit robbery, and the commission of homicide by reason, or on occasion, of the robbery. Thus, the phrase "by reason" covers homicide committed before or after the taking of personal property of another, as long as the motive of the offender (in killing a person before the robbery) is to deprive the victim of his personal property which is sought to be accomplished by eliminating an obstacle or opposition or (in killing a person after the robbery) to do away with a witness or to depend the possession of the stolen property.[19]

Thus, this Court has held that:

"It is immaterial that the death of a person supervened by mere accident, provided that the homicide be produced by reason or on the occasion of the robbery, inasmuch as it is only the result, without reference or distinction as to the circumstances, causes, modes or persons intervening in the commission of the crime that has to be taken into consideration." [20]

From the foregoing, it is patent that homicide may precede the robbery or may occur after the robbery. What is imperative and essential for a conviction for the crime of robbery with homicide is for the prosecution to establish the offender's intent to take personal property before the killing, regardless of the time when the homicide is actually carried out.

In finding accused-appellant guilty of the crime of robbery with homicide, the trial court ruled, thus:

"Going now to the charge of Robbery with Homicide, it became a complex crime because of the discovery by the Police Officer Lachica of the wallet, personal effects, watch and pendant of the victim in the possession of the accused and recovered from him. Accused denial of this and the contrivance that the Police got his P8,000.00 is to the mind of the Court a fantasy and hard to believe. Further, the accused when he testified, the Court observed, was not straight forward and direct when he gave the story that the effects and money of the victim were recovered from the quarters and not from him. How he could have known this, amazes the Court. Knowing where the victim hides his money and personal effect is the accused way of exculpating himself of the tight fix he was in." [21]

But from the record of this case, we find that the prosecution palpably failed to substantiate its allegation of the presence of criminal design to commit robbery, independent of the intent to commit homicide. There is no evidence showing that the death of the victim occurred by reason or on the occasion of the robbery. The prosecution was silent on accused-appellant's primary criminal intent. Did he intend to kill the victim in order to steal the cash and the necklace? Or did he intend only to kill the victim, the taking of the latter's personal property being merely an afterthought? [22] Where the homicide is not conclusively shown to have been committed for the purpose of robbing the victim, or where the robbery was not proven at all, there can be no conviction for robo con homicidio. [23]

We thus find occasion to reiterate this Court's ruling in *People v. Salazar*:

"In the case under consideration, appellants' primary intent remains an enigma. For this reason, we cannot affirm appellants' conviction for robbery with homicide. The fact that appellants took the firearm after shooting the security guard did not prove that their primary intent was to commit robbery. It shows that they committed an unlawful taking of property, but it does not exclude the possibility that this was merely an afterthought. Any conclusion as to their primary criminal intent based on the proven facts is speculative and without adequate basis.

In view of the facts established and consistent with jurisprudence, the Court can convict appellants only of the separate offenses of theft and homicide, which were both duly proven. This Court is cognizant of the fact that the Information accused appellants of the crime of 'robbery with homicide.' Nonetheless, it is axiomatic that the nature and character of the crime charged are determined not by the designation of the specific crime but by the facts alleged in the Information. Thus, in *People vs. Ponciano*, the Court through Mr. Justice Hugo E. Gutierrez, Jr. held:

'x x x In the case at bar, the direct relation or intimate connection between the robbery and the killing was not established.

We therefore, follow the rule laid down in *People v. Manalang* [170 SCRA 149, 163, February 9, 1989], to wit:

We already had several occasions to bold that if the original design was not to commit robbery but that the idea of taking the personal property of another with intent to gain came to the mind of the offender after the

homicide only as an afterthought or as a minor incident it, the homicide, the criminal acts should be viewed as constituting two distinct offenses and not as a single complex crime; the crimes would be either homicide or murder, as the case may be, and theft. (People v. Atanacio, et al., No. L- 11844, November 29, 1960, 110 Phil. 1032; People v. Elizaga, 86 Phil. 364 [1950]; People v. Glore, 87 Phil. 739 [1960])' (Italics supplied)."[24]

Hence, in this case where the circumstantial evidence satisfactorily establishes that appellant did kill and unlawfully take the personal property of the victim, but the original criminal design to commit robbery was not duly proven, accused-appellant should be held liable for the separate crimes of homicide and of theft, and not for the special complex crime of robbery with homicide.

Finally, in regard to the crime of theft, the evidence on record shows that the accused had taken the victim's money (P3,015.00 in cash) and necklace sufficient to categorize the offense under par. 3 of Art. 309 of the Revised Penal Code, penalizing any person guilty of theft, where the value of the thing stolen is more than P200.00 but does not exceed P6,000.00, with the penalty of prision correccional in its minimum and medium periods.

WHEREFORE, the judgment of the trial court is hereby MODIFIED. Accused-appellant JUDY SANCHEZ y BAQUIRAS is hereby declared GUILTY beyond reasonable doubt of the separate and distinct crimes of HOMICIDE and of THEFT. Inasmuch as the commission of the crimes were not attended by any aggravating or mitigating circumstances, the accused-appellant is hereby SENTENCED to suffer an indeterminate penalty ranging from eight (8) years and one (1) day of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum, for the crime of homicide; and the indeterminate penalty of four (4) months and one (1) day of arresto mayor as minimum, to two (2) years and four (4) months of prision correccional as maximum, for the crime of theft. Service of these sentences shall be successive pursuant to the second and third paragraphs of Article 70 of the Revised Penal Code. Accused-appellant's period of detention shall be deducted therefrom, if he had signed the written conformity to abide by the rule on convicted prisoners, said period to be computed as provided for by law. He is further ordered to INDEMNIFY the heirs of the victim in the amount of fifty thousand pesos (P50,000.00) in line with prevailing jurisprudence. The stolen money amounting to P3,015.00 cash and necklace having been recovered from the accused-appellant, their RETURN to the heirs of the victim is hereby ordered.

NO COSTS.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug and Panganiban, JJ., concur.

[1] Rollo, pp.13-22

[2] Revised Penal Code, Art. 294, par.1

[3] Penned by Judge Macario Ofilada, Jr., Branch 261, RTC, NCR City of Pasig.

[4] Rollo, p.5

[5] Records, p.17.

[6] Rollo, pp.22

[7] The case was deemed submitted for decision on April 18, 1997, upon accused-appellant's failure to file his

Reply Brief within the prescribed period.

[8] This Brief was signed by Solicitor General Silvestre H. Bello, III, Assistant Solicitors General Carlos N. Ortega and Amy C. Lazo-Javier, and Associate Solicitor General Virginia R. Vitorio-Lutian.

[9] Appelle's Brief, pp.2-5; Rollo, pp.113-116.

[10] This was signed by Atty. Diosdado G. Garcia and Atty. Alan P. Cabaero.

[11] Appellant's Brief, pp.6-7; Rollo, pp.38-39

[12] Decision, p.9; Rollo, p.55

[13] Decision, p.8; Rollo, p.54

[14] Appellant's Brief, p.1; Rollo, p.33.

[15] People v. Salazar, 277 SCRA 67, 85 (1997), citing People v. Cabiles, 248 SCRA 207, 219 (1995).

[16] People v. Lorenzo, 240 SCRA 624, 642 (1995), People v. Compil, 244 SCRA 135, 143-144 (1995).

[17] People v. Tabao, 240 SCRA 758, 770 (1995); People v. Casingil, 243 SCRA 37, 44 (1995); People vs. Bacus, 204 SCRA 81, 98 (1991).

[18] Appelle's Brief, p. 9; Rollo, pp.120-121.

[19] Reyes, The Revised Penal Code, Book Two, Thirteenth edition (1993), p.559.

[20] People vs. Mangulabnan, et al., 99 Phil. 992, 999 (1956).

[21] Decision, pp.9-10; Rollo, pp.55-56. See People v. Datingginoo, 223 SCRA 331 (1993).

[22] Supra note 15, at p.85.

[23] Ibid., at p.87, citing U.S. v. Baguiao, 4 Phil. 110, 112 (1905).

[24] Ibid., at p.87-88, citing 204 SCRA 627, 639-640 (1991).

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