PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELEUTERIO GUARIN Y SALAYNON (AT LARGE), WINNIE GUARIN Y SALAYNON AND NOEL NATO (AT LARGE), ACCUSED, WINNIE GUARIN Y SALAYNON, ...

G.R. No. 125964. October 22, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal from the trial court's decision[1] convicting the accused-appellant of robbery with homicide for mercilessly robbing and killing a man and his seven year old son inside their own abode.

In an information dated February 9, 1990 filed with the Regional Trial Court, Branch 40, Silay City, Negros Occidental, the City Prosecutor of Silay City charged Eleuterio Guarin y Salaynon, Winnie Guarin y Salaynon and Noel Nato with "Robbery with Double Homicide" for robbing and killing Enrique Tan (44 years old) and Aaron Tan (7 years of age).

The information reads:

> "The undersigned City Prosecutor hereby accuses ELEUTERIO GUARIN y SALAYNON, WINNIE GUARIN y SALAYNON and NOEL NATO of the crime of ROBBERY WITH DOUBLE HOMICIDE committed as follows:
>
> "That on or about February 1, 1990 at Silay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused in conspiracy, with intent to gain and with the use of force and violence did then and there, willfully, unlawfully and feloniously assault and attack Enrique C. Tan and his son Aaron Tan, a 7 year old boy, by first striking them with an ice pick and one piece of a pair of scissors, both deadly weapons thereby wounding the victims on vital parts of their bodies which directly caused their death and thereafter, the said accused did then and there willfully, unlawfully and feloniously and forcibly take and carry away cash in the amount of P 60,000.00 and jewelry valued at P 50,000.00, to the damage and prejudice of the heirs of the said victims.
>
> "The commission of the crime was attended by the aggravating circumstances of treachery, obvious ungratefulness, dwelling, and nocturnity.
>
> "CONTRARY TO LAW.
>
> "Silay City, Philippines, February 9, 1990."[2]

After due trial, on March 7, 1996, the trial court rendered a decision the dispositive portion of which reads:

> "ACCORDINGLY, finding accused WINNIE GUARIN guilty beyond reasonable doubt of the crime of Robbery with Homicide, pursuant to Article 294 of the Revised Penal Code, he is hereby sentenced to suffer the penalty of Reclusion Perpetua and to indemnify the next of kin of the deceased the sum of P 100,000.00, with full credit of his preventive imprisonment.

> "Let an alias warrant be issued for the arrest of Eleuterio Guarin and Noel Nato.
>
> "SO ORDERED.
>
> "Silay City, Philippines, March 7, 1996.
>
> "REYNALDO M. ALON
>
> "Judge"[3]

The Facts

Roque Tan and his brother, Enrique "Oto" Tan, each owned a store in Severino Street, Silay City, Negros Occidental. The former owned Atlas Marketing, located three blocks away from Oto's Aaron Marketing.

On February 1, 1990 at about 7:00 p.m., Roque's store helpers, Winnie Guarin and Noel Nato, asked his permission to go out with Eleuterio Guarin, Winnie's brother and Oto's helper at Aaron Marketing. The three helpers used to go out to watch movies or attend fiestas together.

Sometime after they asked permission, the three entered the refreshment parlor of Pelagia Oxida and drank softdrinks for about 20 minutes. After which, the three went out of the parlor and sat in front of Aaron Marketing before Oto Tan opened the door and let the three enter the store.

From February 1 up to February 4, 1990, Aaron Marketing remained closed. Curious as to why his brother failed to open the store and answer his telephone calls, Roque Tan caused the store's door to be forcibly opened with the assistance of some police officers and a neighbor.

Inside, they immediately noticed a foul odor. Roque found Oto's lifeless body in the kitchen seated on a bamboo chair. Much of the blood was found on Oto's head and on the stab wounds on his stomach.

Near the bamboo chair, Oto's 7 year old son, Aaron, also lay dead on a bed. The boy had a towel stuffed in his mouth, blood on his head, and several stab wounds on his body.

The cadavers were found in an advanced stage of decomposition.

At the scene of the crime, Roque and the police discovered the following:

> a. a bloodied piece of wood with steel ballbearings and an iron spear;
>
> b. Oto's aparador and luggage were open; and
>
> c. clothing of Eleuterio were inside a bag with some of Oto's belongings, namely, two Rado watches, two rings, one diamond, one necklace, one pair of earrings, and three t-shirts.

Following autopsy, Dr. Rodolfo Garriel reported severe brain injuries, traumatic in origin, as the cause of both deaths.[4]

Learning that the three store helpers never returned after February 1, the police suspected that they were responsible for the crime. When the police failed to locate them anywhere in Silay City, they decided to look for them at the Guarin's hometown in Sitio Handolamay, Barangay Don Espiridion Villegas, Vallehermoso, Negros Oriental, some 200 kilometers away from Silay City.

A police team led by Patrolman Severino Anteporda discovered that the three accused arrived at Vallehermoso on February 2, 1990. Residents said that they spent so much money, having paid for 15 cases of beer, and heavily lost in gambling during the benefit dance. On February 4, 1990, Eleuterio Guarin and Noel Nato left for Cebu

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City via Guihulngan, Negros Oriental. The two remain at large.[5]

With the help of the barangay captain, Jimmy Villegas, the police apprehended Winnie Guarin and brought him to Villegas' house. There, in the presence of relatives, Winnie confessed to the commission of the crime and surrendered the amount of P600.00, which was what remained of his share in the loot. The following day, Winnie reenacted the crime and pictures were taken of the event.

On March 15, 1990, at his arraignment accused pleaded not guilty of the crime charged.

Based on the testimonies of Patrolman Anteporda, Pelagia Oxida, Dr. Rodolfo Garriel and the circumstantial evidence, on March 7, 1996, the trial court rendered decision convicting accused-appellant of the complex crime of robbery with homicide, and sentencing him to reclusion perpetua and to indemnify the next of kin of the deceased in the sum of P100,000.00 with full credit of his preventive imprisonment.

Hence, this appeal.

Errors Assigned

Accused-appellant Winnie Guarin argued that the trial court erred in:

1. giving probative value to hearsay statements of Patrolman Anteporda;
2. not excluding the extrajudicial confession of the appellant;
3. finding that robbery was established;
4. implying that conspiracy was proven;
5. finding sufficiency of circumstantial evidence to convict the appellant; and
6. rejecting appellant's alibi.[6]

Court's ruling

We have consistently ruled that proof beyond reasonable doubt is indispensable to overcome the constitutional presumption of innocence[7] and that in every criminal prosecution, what is needed is that degree of proof which produces conviction in an unprejudiced mind.[8]

It must be noted, however, direct evidence of the commission of the crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.[9] Conviction can be had on the basis of circumstantial evidence if the established circumstances constitute an unbroken chain leading to one fair and reasonable conclusion proving that the appellant is the author of the crime to the exclusion of all others.[10]

Accused-appellant in this case was found guilty based on circumstantial evidence leading to the conclusion that he in fact committed the crime with two others. To justify conviction based on circumstantial evidence, the following requisites must be attendant: (a) there must be more than one circumstance to convict; (b) facts on which the inference of guilt is based must be proved; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[11]

The lower court, in convicting the accused-appellant, relied on the following series of circumstances:

First, on the night of the commission of the crime, Winnie and Noel asked permission from their employer, Roque Tan, to go out with Eleuterio Guarin, the helper of Oto Tan. After that night, the three never came back to work.

Second, Pelagia Oxida testified that the three accused, Eleuterio, Winnie and Noel, drank softdrinks in her

refreshment parlor before going inside Aaron Store. Her testimony is consistent with police findings that there were no signs of forcible entry.

Third, from the night of February 1, 1990, Oto never again opened his store. On February 4, 1990 Roque Tan and police officers found Oto and Aaron Tan in the advanced stage of decomposition. The medico legal examiner reported that they could have died two to three days before they were found. It is possible that the victims died on February 1, 1990.

Fourth, when the police officers tried to locate the accused for questioning, they could not be found anywhere in Silay City, indicating flight. The two other accused, Eleuterio and Noel, remain at large. Their flight is considered a strong indication of their guilt.

Fifth, Patrolman Anteporda testified that upon accused-appellant Winnie Guarin's arrest, the latter immediately admitted the commission of the crime in front of the punong barangay and his relatives and surrendered the P600.00 balance of his share of the loot. Winnie's statement that he together with Eleuterio and Noel engaged in a drinking spree upon their arrival in Vallehermoso coincided with reports made by the local residents.

Finally, the police found Eleuterio's bag containing Oto's valuables at the scene of the crime.

The series of circumstances suffice to prove that accused committed the crime. The prosecution presented strong circumstantial evidence directly linking the accused to the commission of the crime. The facts show that there were weapons found in the house and that he was among the last persons to see the victims alive. If accused-appellant were innocent, he would have returned to work the following day and found the bodies himself. He did not.

Flight is an evidence of guilt[12] . In this case, the three accused fled from the city where the crime was committed and never went back to work.

Accused-appellant invokes alibi as a defense. He claimed that at the time of the commission of the offense, he was making a fence 200 kilometers away in Vallehermoso, Negros Occidental. To corroborate this alibi, he presented Gerardo Tiburcio, lupon member, who declared that as president of the fiesta celebrations he hired the accused-appellant to help put up or construct the fence around the dance hall from January 24 to February 4, 1990.[13]

Alibi is always considered with suspicion and received with caution, not only because it is inherently weak and unreliable, but also because it is easily fabricated and concocted.[14] It is therefore incumbent upon the accused to prove that he was at another place when the felony was committed, and that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[15]

We agree with the trial court that building a temporary fence will not take twelve days. What is more, the defense failed to present a logbook or payroll to prove that Gerardo Tiburcio in fact hired the accused.

Prosecution witness Pelagia Oxida lacked ill motive in testifying to having seen the three accused drink softdrinks in her store and thereafter enter the victims' house. As between alibi and positive testimony placing the accused at the scene of the crime on the night of the assault, the latter must prevail.

Corollarily, we have ruled that positive identification, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving of weight in law.[16]

Thus, accused-appellant Guarin's alibi must fail.

The trial court correctly awarded indemnity to the heirs of the deceased amounting to P100,000.00 which shall be for the death of Enrique C. Tan and Aaron Tan, at P50,000.00 each.

The Judgment

WHEREFORE, the Court hereby AFFIRMS the decision of the Regional Trial Court, Branch 40, Silay City, Negros Occidental in Criminal Case No. 2440 finding accused-appellant WINNIE GUARIN guilty beyond reasonable doubt of robbery with homicide, defined and penalized under Article 294 (1) of the Revised Penal Code, and in the absence of any modifying circumstance, sentencing him to reclusion perpetua, and to indemnify the heirs of the deceased in the amount of P100,000.00, and to pay the costs.

Costs in this instance against accused-appellant.

SO ORDERED.

Davide, Jr., C.J. (Chairman), and Puno, J., concur.

Kapunan, and Ynares-Santiago, JJ., on official business abroad.

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[1] In Crim. Case No. 2440, RTC, Branch 40, Negros Occidental, Silay City, Rollo, pp. 27-34.

[2] Rollo, p. 17.

[3] Decision, Regional Trial Court, Rollo, pp. 27-34.

[4] Exhibits A and B, Necropsy Reports by Dr. Rodolfo V. Garriel, Original Records, pp. 90-91.

[5] Decision, Regional Trial Court, March 7, 1996, Rollo, pp. 27-34.

[6] Appellant’s Brief, Rollo, p. 65.

[7] People vs. Gomez, 270 SCRA 432 (1997).

[8] People vs. Bao-in, 295 SCRA 745 (1998).

[9] People vs. Bantilan, G.R. No. 129286, September 14, 1999, citing People vs. Danao, 253 SCRA 146 (1996).

[10] Ibid., citing People vs. Parel, 261 SCRA 720 (1996); People vs. Tabag, 268 SCRA 115 (1997); People vs. Villarin, 269 SCRA 630 (1997); and People vs. Salvame, 270 SCRA 766 (1997).

[11] People vs. Rivera, 295 SCRA 99 (1998); People vs. Berroya, 283 SCRA 111 (1997); People vs. Abrera, 283 SCRA 1 (1997); People vs. Ragon, 282 SCRA 90 (1997); People vs. Doro, 282 SCRA 1 (1997); People vs. De Guia, 280 SCRA 141 (1997); People vs. Binamira, 277 SCRA 232 (1997).

[12] People vs. Aringue, 283 SCRA 291 (1997).

[13] TSN, September 3, 1993, p. 53.

[14] People vs. Cawaling, 293 SCRA 267 (1998), citing People vs. Castillo, 273 SCRA 22, 32-33, (1997).

[15] Ibid., citing People vs. Sequiño, 264 SCRA 79, 101-102 (1996) and People vs. Jubila, Jr., 252 SCRA 471, 480 (1996).

[16] People vs. Enriquez, 292 SCRA 656 (1998), citing People vs. Dinglasan, 267 SCRA 26 (1997), citing People vs. Amania, 248 SCRA 286 (1995), reiterated in Bautista vs. Court of Appeals, 288 SCRA 171 (1998); People vs.

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Cawaling, supra, citing People vs. Dinglasan, 267 SCRA 26 (1997) and People vs. Obzunar, 265 SCRA 547 (1996).

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