

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAMERTO OBOSA, ACCUSED-APPELLANT.*G.R. No. 129688. April 02, 2002*

Ponente: SANDOVAL-GUTIERREZ, J.

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The case before this Court is an automatic review of the decision^[1] dated May 3, 1997 of the Regional Trial Court, Branch 121, Caloocan City, in Criminal Case No. C-49679 (95), finding Mamerto Obosa guilty of murder and sentencing him to suffer the penalty of death, and to pay the heirs of the victim, Leonarda Lora y Lalic, the sums of P50,000.00 as indemnity, P250,000.00 as funeral expenses, P250,000.00 as moral damages, P25,000.00 as attorney's fees, and the costs of the suit.

On December 4, 1995, an information was filed with the Regional Trial Court of Calookan City, charging Mamerto Obosa with murder committed as follows:

“That on or about the 7[th] day of July, 1995 in Kal. City, MM., Philippines and within the jurisdiction of this Honorable court, the above-named accused, without any justifiable cause, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack and stab with a bladed weapon one, LEONARDA LORA Y LALIC, hitting the latter on the different vital parts of her body, thereby inflicting upon said victim serious physical injuries, which injuries ultimately caused the latter's death.

“CONTRARY TO LAW.”^[2]

When arraigned, accused Obosa pleaded not guilty.^[3] Trial ensued thereafter.

The facts, as established by the prosecution and summarized by the Solicitor General,^[4] are as follows:

“Leonarda Lora was the owner of three apartment units – Apartments A, B, and C – at Lot 18, Tawilis Street, Dagat-Dagatan, Caloocan City (TSN, April 15, 1996, p. 5). On July 7, 1995, around 1:00 p.m., Leonarda was in Apartment A with her niece, Jenny Lora, and an employee, Elisa “Ely” Gorne, trimming finished clothings for her garment business (TSN, March 6, 1996, p. 3). After the trimming was completed, Leonarda went out to deliver the finished clothings at 3:00 p.m., but was back at the apartment by 3:40 p.m. (Ibid., pp. 3-4).

“Around 4:00 p.m. of the same day, appellant rang the doorbell to Apartment A (Ibid., pp. 4-5, 13). Appellant was Ely's brother-in-law, and Leonarda's attorney-in-fact for various transactions, including the filing of an ejectment case against a certain Jose Marquez (Ibid., pp. 6, 14). In addition, appellant drove a taxi that was owned and registered in the name of Leonarda (Ibid., pp. 7-8).

“Appellant and Leonarda then proceeded to Apartment C, which was being used by the latter and Jenny as their residence (Ibid., p. 5). Jenny, who was asked by her aunt to follow them, observed that Leonarda and appellant were arguing about something (Ibid.). Jenny heard appellant tell Leonarda, “Kung hindi ka magbibigay ng pera, papatayin kita” (Ibid., p. 7). Frightened by what she heard, Jenny returned to Apartment A, while Leonarda and appellant went inside Apartment C (Ibid.).

“Benjamin Marquez, who was resting at the terrace of the second floor of his uncle’s house two meters away from Leonarda’s apartments, saw appellant and Leonarda go inside Apartment C at past 4:00 p.m. (TSN, April 23, 1996, pp. 2-4, 18). Sometime later, he heard a female voice coming from Apartment C shout, “Huwag!” (Ibid., p. 11). He then saw appellant, holding both of Leonarda’s hands, drag the latter to the sofa (Ibid., pp. 12-13). Thinking that appellant and Leonarda were having a simple quarrel, Benjamin ignored the incident (Ibid., p. 13).

“Back in Apartment A, Jenny was trimming clothes (TSN, March 6, 1996, p. 8). About 4:40 p.m., the person renting Apartment B rang the doorbell to inform Jenny that nobody was answering the doorbell at Apartment C (Ibid., pp. 8, 14). Ely told the person renting Apartment B just to return the following day (Ibid., p. 8).

“Meanwhile, around 5:20 p.m., Jenny saw appellant going out of Apartment C (Ibid., pp. 9, 15). About the same time, Benjamin saw appellant return to his taxi and leave (TSN, April 23, 1996, p. 19). Thereafter, another neighbor, Jasmin Navarro, informed Jenny that nobody came to the door of Apartment C notwithstanding that she had pressed its doorbell several times (TSN, March 6, 1996, pp. 9-10). Concerned, Jenny went to Apartment C to check on her aunt (Ibid.).

“Upon entering Apartment C and switching on the light, Jenny saw her aunt on the sofa, her head bent backwards, and her face and whole body bloodied (Ibid., p. 11). An autopsy subsequently conducted revealed that Leonarda sustained four fatal stab wounds which penetrated her heart, lungs, and liver, causing massive hemorrhage and, eventually, her death (TSN, April 23, 1996, pp. 34-38). Leonarda likewise sustained lacerations and contused-abrasions on her face and chest wall caused by either a blunt instrument or fistblows (Ibid., pp. 38-42).

“Prior to her violent death, Leonarda disclosed to her brother, Alfredo Lora, that appellant owed her a huge sum of money. Leonarda likewise had a past due account with the Bank of Southeast Asia which was secured by a chattel mortgage constituted on the taxi being driven by appellant (TSN, August 14, 1996, pp. 2-7).

“In the initial investigation of this case, appellant revealed to the authorities that two associates of Leonarda supposedly came to see her after he left Apartment C (TSN, April 1, 1996, pp. 4, 11, 13). Claiming to know the whereabouts of these two associates, appellant promised to lead the police to them (Ibid.). Instead of doing so, however, appellant disappeared and went into hiding (Ibid.).” [5]

Appellant, on the other hand, denies the charge against him and presents his version of the incident, synthesized as follows:

On July 7, 1995, at around 3:00 p.m., appellant went to the house of Leonarda Lora to deliver a certificate of title of a parcel of land. Afterwards, he proceeded to his house at Block 35, Lot 14, F-1, Phase 3 Kaunlaran Village, Caloocan City.[6]

At around 6:15 p.m., Jenny Lora and Elisa Gorne arrived at the house of appellant and informed him that Leonarda Lora had been stabbed. Appellant, who was at that time entertaining a visitor, hurriedly dressed, then boarded his taxi with Jenny Lora, Elisa Gorne, and his daughter Miriam Obosa, and rushed to Leonarda’s apartment. Along the way, he stopped at the police headquarters in Langaray Street to report the incident. Two policemen were dispatched to accompany appellant to Leonarda’s place. Upon entering the front door, they saw her bloodied body sprawled on the sofa. The policemen, after assessing the situation, stated that they would not conduct an investigation because the victim was already dead. Thus, they left the scene.[7]

Appellant proceeded to the Sangandaan Police Headquarters to request for an investigator. Thereafter, appellant returned to Leonarda’s apartment with Vivencio Gamboa, the investigator assigned to the case. After conducting an investigation, Vivencio Gamboa called up a funeraria and made arrangements for the internment and burial of the victim.[8] During the wake, which lasted for one week at the International Funeraria in Sta. Cruz, Manila,[9]

appellant was present. He also followed the remains of the victim when it was transferred to her house in Tawilis, Bilaran, Dagat-Dagatan, then to her province in Leyte, until the internment.[10]

On cross-examination, appellant testified that the window of Leonarda's apartment facing her neighbor's house was draped with thick and heavy curtains, preventing anyone to see the people inside.[11] He further declared that his house is only six blocks away from the apartment of the deceased and that the distance may be traversed on foot in ten minutes.[12]

Appellant denied the allegation of Jenny Lora that he was at the apartment of Leonarda at 4:30 p.m. on that fateful day of July. He insisted that he went home at past 3:00 p.m. after he turned over a certificate of title to her.[13] He was also at home on January 19, 1996 when he was arrested for the murder of Leonarda Lora.[14]

On May 3, 1997, the trial court rendered a decision,[15] the dispositive portion of which reads:

“WHEREFORE, premises considered, the Court finds the accused MAMERTO OBOSA GUILTY BEYOND REASONABLE DOUBT of the crime of MURDER and accordingly sentences him to suffer the penalty of DEATH; to indemnify the heirs of the victim in the sum of P50,000.00; to pay funeral expenses in the amount of P250,000.00, moral damages in the amount of P250,000.00, attorney's fees in the sum of P25,000.00 and the costs of the suit.

“SO ORDERED.”[16]

The case was elevated to this Court for automatic review, in view of the death penalty meted to the accused.

In his brief, accused-appellant Mamerto Obosa contends that the court a quo erred in:

“I.

. . . NOT ACQUITTING THE ACCUSED OF THE CRIME OF MURDER CONSIDERING THAT THE EVIDENCE ADDUCED BY THE PROSECUTION IS INSUFFICIENT TO PROVE THE GUILT OF HEREIN ACCUSED BEYOND REASONABLE DOUBT.

“II.

. . . CONVICTING THE ACCUSED FOR THE CRIME OF MURDER ON THE BASIS OF PURE CIRCUMSTANTIAL EVIDENCE.

“III.

. . . NOT PROPERLY APPRECIATING THE DEFENSE OF ALIBI RAISED BY THE ACCUSED AND CORROBORATED BY OTHER WITNESSES.”[17]

Thus, the core issues in this case are, essentially, the credibility of witnesses and the sufficiency of circumstantial evidence to warrant the conviction of appellant of murder.

It is a well-entrenched doctrine that appellate courts will generally not disturb the assessment of the trial court regarding the credibility of witnesses since the latter court is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[18] However, the rule admits of certain exceptions, namely: (1) when patent inconsistencies in the statements of witnesses are ignored by the trial court, or (2) when the conclusions arrived at are clearly unsupported by the evidence.[19] We shall, therefore, determine whether these exceptions are present in the case at bar.

The trial court gave full credence to the testimonies of the prosecution witnesses and convicted appellant of the crime charged. However, he assails the credibility of Jenny Lora, the principal witness for the prosecution, because of her conflicting sworn statements given to the police and the inconsistencies in her testimony before the trial court.

Upon a thorough perusal of the records, we find the testimony of Jenny Lora credible even if she executed conflicting sworn statements before the police. Admittedly, in her first sworn statement, she failed to name the perpetrator of the crime, but she identified appellant in her second sworn statement. She explained that he was beside her at that time and coerced her what to state. When she executed her second sworn statement, he was no longer present. Hence, she was able to give her statements freely and named appellant as the person who stabbed her aunt.

In court, Jenny Lora testified in a candid and straightforward manner, repeating her statements in her second sworn statement. Her initial reluctance to name appellant in her first affidavit is understandable for she feared reprisal. Despite a lengthy cross-examination, she maintained her version of the incident.

Significantly, we cannot discern any ill-motive on the part of witness Jenny Lora in testifying against appellant, pointing to him as the person who killed her aunt. On the contrary, as the niece of the deceased, Jenny had more reason to ensure that the real perpetrator of the crime be punished if only to avenge the senseless death of her aunt. It is unnatural for a victim's relative, who is interested in vindicating the crime, to accuse somebody other than the real culprit. Where there is no evidence to indicate that the prosecution witness has been actuated by any improper motive, and absent any compelling reason to conclude otherwise, the testimony given is ordinarily accorded full faith and credit.[20]

What reinforces the testimony of Jenny Lora is the testimony of another witness, Benjamin Marquez, who was resting in the veranda of his uncle's house beside Apartment C prior to the stabbing incident. The curtain of Leonarda's apartment was tied to the side of the window, allowing Marquez a clear view of the premises.[21] He saw appellant dragging Leonarda to the sofa minutes before she died. He also heard a female voice from the same apartment shouting, "Huwag!".

While the prosecution did not present any eyewitness, however, there is circumstantial evidence to prove that it was appellant who committed the crime.

The rules on evidence and jurisprudence sustain the conviction of an accused through circumstantial evidence when the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[22] All the circumstances must be consistent with each other, consistent with the theory that the accused is guilty of the offense charged, and at the same time inconsistent with the hypothesis that he is innocent and with every other possible, rational hypothesis excepting that of guilt.[23] The circumstantial evidence must constitute an unbroken chain of events so as to lead to a fair and reasonable conclusion that points to the guilt of the accused.[24] In this way, circumstantial evidence could be of similar weight and probative value as direct evidence. In either case, what is required is that there be proof beyond reasonable doubt that the crime was committed and that the accused committed the crime.[25]

In this case, the following circumstances, when pieced together, lead to no other conclusion than that appellant is the culprit.

First, appellant arrived at Leonarda's apartment at around 4:00 p.m. of July 7, 1995.

Second, he demanded money from the victim and threatened her with death if she refused to comply.

Third, appellant and the victim entered the apartment together.

Fourth, a female voice inside the apartment was heard shouting, “Huwag!”.

Fifth, appellant was seen dragging the victim to the sofa inside the apartment.

Sixth, then appellant left the apartment a few minutes past 5:00 p.m. and boarded his taxi.

Seventh, the distance from appellant’s house to the scene of the victim is negotiable in ten minutes by foot.

Eighth, Jasmin Navarro, a neighbor of the victim, rang the doorbell of the apartment at around 5:30 p.m. and received no answer.

Ninth, Jenny Lora entered the apartment and saw the victim sprawled on the sofa, bloodied.

Tenth, the investigation conducted reveals no signs of burglary or forced entry.

Noteworthy is the fact that the appellant was the last person seen with the victim before she died. And he was in the vicinity of the scene of the crime within minutes before and after the approximate time of her death.

To complement its theory, the prosecution introduced evidence showing there was motive on the part of appellant in committing the crime. Jenny Lora testified that previously, appellant threatened to kill Leonarda if she would not meet his demand for money. With proof of such motive and circumstantial evidence on hand, appellant’s guilt is indeed beyond any doubt. In *People vs. De Mesa*,^[26] this Court held that “Motive is generally irrelevant, unless it is utilized in establishing the identity of the perpetrator. Coupled with enough circumstantial evidence or facts from which it may be reasonably inferred that the accused was the malefactor, motive may be sufficient to support a conviction.”

Appellant interposed the defense of alibi. He testified that he was at home at the time of the incident. With him was Virgilio Layog, who stayed there from 6:00 to 6:30 in the afternoon, and saw Jenny Lora and Elisa Gorne arrived to inform appellant that Leonarda had been stabbed.^[27] It bears stressing at this point that appellant accounted for his presence at his residence only between 6:00 p.m. to 6:30 p.m., but not from 4:00 p.m. to 6:00 p.m., the approximate interval of time when the stabbing incident occurred. He likewise admitted that the distance between his house and the victim’s apartment could be traversed on foot in ten minutes. Obviously, since he was driving his taxi, he would have little problem negotiating the distance after the incident and still be at home in time to receive his visitor, Virgilio Layog. Thus, the lackluster defense of appellant fails to cast doubt on the continuous chain of circumstances established by the prosecution. To be sure, such defense cannot prevail over the positive identification by the prosecution witnesses that he is the assailant.

We therefore find appellant guilty of the crime charged. Under Article 248 of the Revised Penal Code, the following are the essential elements of the crime of murder: a) that a person was killed; b) that the accused killed him; c) that the killing was attended by any of the qualifying circumstances mentioned in Article 248; and d) that the killing is not parricide or infanticide.

In its decision, the trial court appreciated the aggravating circumstance of treachery to qualify the offense to murder, and considered dwelling and abuse of confidence as generic aggravating circumstances attendant to the commission of the crime.

We agree with the trial court in appreciating the qualifying aggravating circumstance of treachery. Treachery may be considered an aggravating circumstance when the offender commits any of the crimes against persons employing means, methods or forms of attack which tend directly and especially to insure the execution of the crime without risk to himself arising from the defense which the offended party might make.^[28] For treachery to

exist, two essential elements must concur: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the said means of execution was deliberately or consciously adopted.[29]

The nature and location of the stab wounds showed that the killing was executed in a treacherous manner, preventing any means of defense on the part of the victim. She was stabbed, not just once, but four times on her chest, each stab being fatal. The lacerations and other contusions indicated that she was hit on the different parts of her face by a blunt instrument or fist blows. Her lips were sore. She was also unarmed.

Indeed, she could not have been able to retaliate or defend herself under such disadvantaged conditions. Without doubt, treachery attended the commission of the crime. The trial court did not err in qualifying the killing to murder.

Regarding the other aggravating circumstances of dwelling and abuse of confidence or obvious ungratefulness, the same cannot be appreciated as generic aggravating circumstances. The information does not allege the presence of such circumstances. They were only established during the trial. A recent amendment to the Revised Rules on Criminal Procedure[30] mandates that “the complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances.”[31] Thus, qualifying as well as aggravating circumstances must be expressly and specifically alleged in the complaint or information, otherwise the same will not be considered by the court even if proved during the trial.[32] This principle is applicable in all criminal cases, not only in cases where the aggravating circumstance would increase the penalty to death.[33] Guided by the rule of applying retroactively a penal statute, substantive and remedial or procedural, that is favorable to the accused, we hold that the circumstances of dwelling and abuse of confidence or obvious ungratefulness should not be appreciated against the appellant considering that these aggravating circumstances are not alleged in the information.

There being no generic aggravating circumstances considered in the case at bar, a modification of penalties imposed by the trial court is in order. Under Article 248 of the Revised Penal Code, as amended, murder is punishable by reclusion perpetua to death. Pursuant to Article 63 of the same Code, if the penalty prescribed by law is composed of two indivisible penalties, the lesser penalty shall be imposed if neither mitigating nor aggravating circumstances are present in the commission of the crime. In this case, though the killing was qualified with treachery, in the absence of any other aggravating circumstance, the penalty should be lowered from death to reclusion perpetua.

As to damages, the amount of P250,000.00 awarded by the trial court as moral damages should be reduced to P50,000.00, in light of the purpose for making such award, which is to compensate the heirs of the victim for injuries to their feelings and not to enrich them.

Moreover, we cannot sustain the award of P250,000.00 as actual damages (for the funeral and burial expenses) in the absence of any supporting evidence on record.[34] No competent proof was presented in court in the form of receipts and other documents as to the expenses incurred arising from the death of the victim. For the same reason, attorney’s fees should also be deleted.

WHEREFORE, the assailed decision of the Regional Trial Court, Branch 121, Caloocan City, dated May 3, 1997 in Criminal Case No. C-49679(95), is hereby **AFFIRMED**, with the **MODIFICATION** that appellant Mamerto Obosa is sentenced to reclusion perpetua, instead of death, and is ordered to pay the heirs of the victim, Leonarda Lora y Lalic, the sums of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

With costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares- Santiago, De Leon, Jr., and Carpio, JJ., concur.

Puno, and Vitug, JJ., on official leave.

[1] Penned by Judge Adoracion G. Angeles.

[2] Rollo, p. 3.

[3] Certificate of Arraignment dated January 31, 1996, Records of the Regional Trial Court (RTC), p. 20.

[4] Appellee's Brief, Rollo, pp. 133-154.

[5] Rollo, pp. 137-140.

[6] Transcript of Stenographic Notes (TSN), December 3, 1996, pp. 4-5.

[7] TSN, December 3, 1996, pp. 5-11.

[8] Ibid., pp. 11-12.

[9] Ibid., pp. 13-14.

[10] TSN, December 3, 1996, pp. 14-15.

[11] Ibid., January 27, 1997, pp. 17-18.

[12] Ibid., pp. 12-13.

[13] Ibid., December 3, 1996, p. 18.

[14] Ibid., p. 19.

[15] Rollo, pp. 19-32.

[16] Rollo, p. 32.

[17] Ibid., p. 75.

[18] *People vs. Mendoza*, 332 SCRA 485, 494 (2000); *People vs. Durado*, 321 SCRA 498, 512 (1999); *People vs. Naguita*, 313 SCRA 292, 304-305 (1999).

[19] *People vs. Espina*, 326 SCRA 753, 761 (2000).

[20] *People vs. Dimailig*, 332 SCRA 340, 350 (2000).

[21] TSN, April 23, 1996, p. 22.

[22] Section 4, Rule 133, Rules of Court; *People vs. Casingal*, 337 SCRA 100, 110 (2000); *People vs. Orcula, Sr.*, 335 SCRA 129, 136 (2000).

[23] *People vs. Salas*, 327 SCRA 319, 328-329 (2000).

[24] *People vs. Flores*, 328 SCRA 461, 469 (2000).

[25] *People vs. Acuram*, 331 SCRA 129, 138-139 (2000).

[26] G. R. No. 137036, March 14, 2001.

[27] TSN, November 4, 1996, p. 4.

[28] *People vs. Mira*, 341 SCRA 631, 642 (2000).

[29] *People vs. Dorado*, 303 SCRA 61, 71 (1999).

[30] Effective December 1, 2000.

[31] Section 8, Rule 110 of the Revised Rules on Criminal Procedure.

[32] *People vs. Legaspi*, G. R. Nos. 136164-65, April 20, 2001.

[33] *Ibid.*.

[34] *People vs. Ricafranca*, 323 SCRA 652, 666 (2000); *People vs. Panaga*, 306 SCRA 695, 708-709 (1999).

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