

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GUIAMAD MANTUNG, ACCUSED-APPELLANT.

G.R. No. 130372. July 20, 1999

Ponente: ROMERO, J.

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ROMERO, J.:

Accused-appellant Guiamad Mantung was charged with the complex crime of Robbery with Homicide allegedly committed as follows:

"That on or about the 10th day of August 1996, in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and without the knowledge and consent of the owner of Cebuana Lhuiller Pawnshop and by means of force, violence and intimidation employed upon the persons of Renjie Balderas and Maribel Mayola with the use of a gun, did then and there willfully, unlawfully and feloniously take, rob and divest cash money worth P62,000.00 and pieces of jewelry amounting to P5,300,000.00 belonging to said Cebuana Lhuiller Pawnshop, to the damage and prejudice of the owner thereof herein represented by Ricardo Diago, in the total amount of P5,362,000.00; that on the occasion of said Robbery, the above-named accused, with intent to kill and without justifiable reason, did then and there willfully, unlawfully and feloniously attack, assault and shoot with a gun said Renjie Balderas and Maribel Mayola, thereby inflicting [upon] them serious gunshot wounds which caused their death.

CONTRARY TO LAW."[1]

Upon arraignment, accused-appellant, with the assistance of counsel de oficio, Atty. Dante O. Garin of the Public Attorney's Office (PAO), entered a plea of not guilty to the offense charged in the Information.[2]

After trial, Judge Zosimo V. Escano of the Regional Trial Court of Parañaque, Branch 259 rendered the assailed Decision, the decretal portion of which reads:

"WHEREFORE, premises considered, finding GUIAMAD MANTUNG "GUILTY" beyond reasonable doubt, for the complex crime of Robbery with Homicide as defined and penalized under Art. 294 of the Revised Penal Code as amended by RA 7659, and with the presence of the two generic aggravating circumstances of evident premeditation and treachery, this Court hereby sentences said accused to the maximum penalty of death and to suffer the accessory penalties provided by law specifically Art. 40 of the Revised Penal Code. For the Civil liability, he is hereby further condemned to indemnify the heirs of Renjie Balderas and Mribel Mayola the following:

- P70,000 - representing funeral and burial expenses for each of the Balderas and Mayola families;
- P50,000 - as civil indemnity for each of the Balderas and Mayola families for the death of Renjie and Maribel;
- P500,000 - as moral damages for each of the Balderas and Mayola families;
- P500,000 - as exemplary damages for each of the Balderas and Mayola families.

Guiamad Mantung is likewise ordered to indemnify the Cebuana Lhuiller Pawnshop the amount of P6,641,420.00 representing the property lost by the said company less the amount of the jewelry recovered from the accused.

x x x.

SO ORDERED."[3]

The capital punishment of death having been imposed, the case is now before this Court for automatic review.

The facts, as established by the prosecution, are as follows:

On August 10, 1996, a Monday, at about 8:00 o'clock in the morning, prosecution witness Mary Ann Gordoncillo was on her way to work as district manager for Cebuana Lhuiller Pawnshop when she received a message through her pager informing her that Maribel Mayola, an employee at the Maywood, BF Parañaque branch of Cebuana Lhuiller Pawnshop, did not go home the previous Saturday. As Mayola held the keys to the Maywood branch, the shop could not be opened. After receiving such information, Gordoncillo herself tried calling the Maywood branch but no one answered the phone. She then instructed a messenger to get duplicate keys to the Maywood branch from the head office in Magallanes. Meanwhile, Gordoncillo received another call informing her that Renjie Balderas, another employee at the Maywood branch, did not go home the previous Saturday as reported by her husband. Alarmed, Gordoncillo proceeded to the Maywood branch where she found the mother of Maribel and the husband of Renjie waiting outside the shop. She tried to open the door but it did not budge. She also saw that the main door which usually had four locks had only two locks at that time and the airconditioner was running. Suspecting that something had gone wrong inside the branch office, Gordoncillo called for the police.[4]

Another prosecution witness, Ricardo Diago, area manager of Cebuana Lhuiller Pawnshop was also informed through his pager that the Maywood branch was still closed at 9:30 in the morning of August 10, 1996, when ordinarily, it should have opened at 8:30 in the morning. Finding this unusual, Diago immediately proceeded to the said branch office where he was met by Gordoncillo and several policemen. The employees detailed at the Maywood branch could not be found; the security guard was also nowhere in sight. Diago likewise observed that aside from the airconditioning, the lights inside and outside the shop were also on. He peeped through a window of the shop and did not see anything unusual but he noted a foul odor emanating from the office. At around 11:00 o'clock in the morning, Myrna Oblanda, another employee of Cebuana Lhuiller arrived with the duplicate keys and it was only then that Diago was able to open the back door leading to the kitchen of the branch office.[5]

According to Gordoncillo, when she entered the branch office through the back door she observed at first that everything seemed intact. No one was in the kitchen area or on the second floor. However, when she opened the door leading to the pawnshop, she saw that the table that used to be in the safe room was already outside and the cash drawer had been emptied of its contents. The counter was in disarray and there was a letter addressed to her. A holster had been placed on top of the letter[6] which appeared to have been written by accused-appellant Mantung, the security guard assigned to the Maywood branch. Mantung wrote in Filipino that he killed Maribel and Renjie because they gave him pork which his Moslem religion prohibited him from eating. He likewise admitted taking the cash and jewelry inside the vault, claiming that he needed money. Later, another letter addressed to his wife,[7] this time written in Moslem, was found among the pages of the office logbook.

The foul odor permeating the branch office was later traced to the vault room where the dead bodies of Maribel and Renjie were found sprawled on the floor near the vault door. When the safe was opened, it was discovered that the jewelries kept inside it were all gone.[8] Two empty shells of a 0.38 caliber revolver were likewise recovered from the crime scene by investigating police officer SPO1 Carlos Vasquez of the Parañaque police.[9]

According to the certificates of post-mortem examination of the victims which were prepared by Dr. Rolando C. Victoria and which were admitted by the defense as to their authenticity and due execution, Renjie and Maribel each sustained a gunshot wound in the head which resulted in their death.[10]

As Mantung was the only one in the Maywood branch who remained unaccounted for, investigating officer SPO2 Alberto Abad and P/A Quizon conducted a field inquiry to locate the whereabouts of accused-appellant who was the guard on duty the last working day before the crime was discovered. The police investigators went to his rented room at Block 2, Lot 26, Seaside Square, Tambo, Parañaque but did not find him there. Mantung's landlady, a certain Shirley Reyes, informed the police that in the morning of August 9, 1996, accused-appellant moved out of his rented room, telling his landlady that he was relocating to Novaliches. Acting on another tip, the investigators then went to an address in Tierra Nova, Novaliches only to learn that accused-appellant had never been there.[11]

The search for Mantung ended on August 24, 1996 in Sultan Kudarat, Cotabato where SPO2 Abad and SPO2 Soquina together with the local police arrested accused-appellant and recovered from him several pieces of jewelry believed to be part of the loot taken from the pawnshop.[12]

After his arrest, accused-appellant was immediately brought to Parañaque where he was presented to the media at a press conference called by Mayor Joey Marquez. At the said conference, when Mayor Marquez asked Mantung if he was the one who killed the two pawnshop employees, accused-appellant answered in the affirmative and said that he killed them because the victims had induced him to eat pork. News reports about Mantung's admission to the killings appeared in the Philippine Daily Inquirer and the Manila Bulletin the day following the press conference.[13] Clippings of these reports and pictures of the press conference were presented as evidence by the prosecution during trial.

The defense, for its part, presented the lone testimony of accused-appellant Mantung to substantiate his claims of innocence. Accused-appellant testified that he was a security guard of Sultan Security Agency and was assigned to the Maywood Branch of the Cebuana Lhuiller Pawnshop since January 2, 1996. He claimed that on August 10, 1996 at about 5:15 in the afternoon, as he was outside locking one of the doors of the shop, three men approached him from behind and one of them held him at gunpoint. As they pulled him into the pawnshop, Maribel and Renjie saw what was happening and started to shout for help. One of the men brought him into the comfort room and took his 0.38 caliber revolver, warning him that if he tried to resist he would be killed. Meanwhile, he could still hear Maribel and Renjie shouting for help from the other room. Thereafter, he heard two gunshots being fired and the cries for help stopped. About twenty minutes later, the malefactors forcibly took him outside the shop and pushed him into a red car where he was blindfolded. Afterwards, he felt the car stop and heard the driver tell the others that they were going for a snack. Left alone in the car with one of the culprits, Mantung saw his opportunity to escape when his guard went to buy cigarettes. Removing his blindfold, he saw that they had reached the pier so he quickly got out of the car and mingled with people about to board a ship. Afraid that the men were still after him, he boarded the ship and hid in the engine room for about an hour. After emerging from his hiding place, he got a ticket and stayed on the ship until it reached Cebu. From there, he boarded another ship and went home to Sultan Kudarat, Cotabato where he was arrested. Mantung denied that several pieces of jewelry believed to have been taken from the pawnshop were recovered from him at the time of his arrest. He likewise refuted reports saying that he admitted to the killing of Maribel and Renjie during the press conference called by Mayor Marquez. According to him, he did not tell anyone about what transpired on the afternoon of August 10, 1996 because he was confused and did not know what to do.

The taking with intent to gain of personal property belonging to another by means of violence against or intimidation of persons or using force upon things constitutes robbery and the complex crime of robbery with

homicide arises when, by reason of or on the occasion of a robbery by means of violence against or intimidation of persons, someone is killed.

In this case, all the essential elements of the crime of robbery with homicide have been established beyond reasonable doubt by the prosecution. Personal property belonging to or held in trust by the Cebuana Lhuiller Pawnshop consisting of pieces of jewelry and cash amounting to a total of P6,641,420.00, as testified to by Anthony Erenea, Audit Manager for Luzon and Acting Head of the Audit Department of Cebuana Lhuiller, had been taken that fateful day of August 10, 1996. Moreover, during said heist, two employees of the pawnshop, Renjie Balderas and Maribel Mayola were ruthlessly shot to death.

As to who committed such heinous crime, the evidence adduced during trial all pointed to accused-appellant Guiamad Mantung as the culprit. His failure to identify, much less describe the alleged malefactors who committed the crime, his disappearance after the incident and failure to report the crime, the recovery of part of the loot from his possession at the time of his arrest, and his extrajudicial confession during the press conference clearly establish Mantung's guilt. Thus, contrary to what the defense interposes, there is no reasonable doubt that can give rise to accused-appellant's acquittal. To be sure, bare denials, unsubstantiated by convincing evidence are not enough to engender reasonable doubt in light of sufficiently telling proof of guilt presented by the prosecution.

A closer scrutiny of the evidence shows why accused-appellant's conviction must stand. First, accused-appellant's version of the facts is replete with gaping loopholes. For instance, in one case, the Court noted that the most natural reaction of victims of criminal violence during its perpetration would be to strive to see the looks and faces of their assailants.^[14] However, accused-appellant cannot even describe the three men who allegedly committed the crime despite his claim that the heist lasted for at least twenty minutes and they even took him with them all the way to the pier. Moreover, while his two female co-employees, defenseless as they were, were shot to death during the robbery, Mantung, on the other hand was spared. As the trial court stated, a man who is also a security guard and who has undergone training would be far more of a threat to the robbers than the two women. Moreover, it would have been wiser for the culprits to finish him off too, thus leaving no eyewitnesses to the crime. Stranger still is Mantung's claim that the men who took him with them then left him unguarded at the pier, thus giving him an opportunity to flee.

Assuming arguendo that he was as much a victim as Renjie and Maribel, why then did he leave posthaste for Sultan Kudarat, Cotabato without telling a single soul about the incident? To say that he is uneducated and was too confused at the time to think clearly is a hollow excuse for his sudden flight. Even a man of low intelligence but with ordinary prudence would have reported the crime to the authorities at the first opportunity, considering that as security guard, he was duty-bound to protect his employer's property and keep his co-employees safe. As the saying goes, "The wicked fleeth even when no man pursueth but the righteous are as bold as a lion." Thus, no reason can be deduced from Mantung's flight other than that he was driven by a strong sense of guilt and an awareness that he had no tenable defense.

Second, the recovery of part of the loot from Mantung at the time of his arrest gave rise to a legal presumption of his guilt. As this Court has held, "[I]n the absence of an explanation of how one has come into the possession of stolen effects belonging to a person wounded and treacherously killed, he must necessarily be considered the author of the aggression and death of the said person and of the robbery committed on him."^[15]

During the trial it was established that the jewelries recovered from Mantung upon his arrest were taken without a search warrant. Moreover, since Mantung's apprehension was not by virtue of a warrant of arrest, neither can the seizure of the jewelry in his possession be considered as one resulting from a search incident to a lawful arrest. Under these circumstances, the evidence obtained by the police would ordinarily be considered inadmissible

because the same was taken in violation of the accused-appellant's constitutional rights. In this case, however, petitioner failed to timely object to the admissibility of the evidence in question. Hence, he is deemed to have waived whatever objections he had on the matter; consequently, the trial court correctly took into account said evidence against accused-appellant in reaching a decision.

Furthermore, as this Court has held, where an accused has failed to question the validity of his arrest and subsequent search, as well as the admission of the evidence obtained thereunder, neither raising the issue nor assigning the same as an error before this Court, he is deemed to have waived any possible challenge thereto.[16]

Third, accused-appellant's admission during the press conference called by Mayor Marquez that he killed the victims because the latter made him eat pork is likewise competent evidence that lends support to his conviction. Although the clippings of the news articles reporting Mantung's confession are indeed hearsay evidence as the writers of the same were not presented to affirm the veracity of the reports, the prosecution nevertheless presented Ricardo Diago, an employee of Cebuana Lhuiller who was at the press conference, as rebuttal witness to prove that accused-appellant indeed claimed responsibility for the killings. Since Diago's testimony was based on his own personal knowledge about the proceedings during the press conference, his affirmation of Mantung's incriminating statements is admissible as evidence against the latter. Worth reiterating is the rule that the declaration of an accused expressly acknowledging his guilt of the offense may be given in evidence against him and any person, otherwise competent to testify as a witness who heard the confession, is competent to testify as to the substance of what he heard.[17]

During the trial, the defense objected to the admission of Mantung's extrajudicial statements as evidence, claiming that the confession was made without the assistance of counsel. It should be noted that in *People vs. Andan*,[18] this Court held:

"The Constitutional procedures on custodial investigation do not apply to a spontaneous statement, not elicited through questioning by the authorities, but given in an ordinary manner whereby appellant orally admitted having committed the crime. What the Constitution bars is the compulsory disclosure of incriminating facts or confessions. The rights under Section 12 are guaranteed to preclude the slightest use of coercion by the state as would lead the accused to admit something false, not to prevent him from freely and voluntarily telling the truth. Hence, we hold that appellant's confession to the mayor was correctly admitted by the trial court."

Never was it raised during the trial that Mantung's admission during the press conference was coerced or made under duress. As the records show, accused-appellant voluntarily made the statements in response to Mayor Marquez' question as to whether he killed the pawnshop employees. Mantung answered in the affirmative and even proceeded to explain that he killed the victims because they made him eat pork. These circumstances hardly indicate that Mantung felt compelled to own up to the crime. Besides, he could have chosen to remain silent or to do deny altogether any participation in the robbery and killings but he did not; thus, accused-appellant sealed his own fate. As held in *People vs. Montiero*,[19] a confession constitutes evidence of high order since it is supported by the strong presumption that no person of normal mind would deliberately and knowingly confess to a crime unless prompted by truth and his conscience.

Section 3 of Rule 133 of the Rules of Court prescribe that an extrajudicial confession made by an accused shall not be sufficient ground for conviction, unless corroborated by evidence of corpus delicti. Corpus delicti has been defined as the body or substance of the crime and, in its primary sense, refers to the fact that a crime has actually been committed. As applied to a particular offense, it means the actual commission by someone of the particular crime charged.[20] In this case, as pointed out by the Solicitor General, the corpus delicti was convincingly established by the prosecution. First, it was proven that a robbery with homicide was committed at the Maywood Branch of the Cebuana Lhuiller Pawnshop on August 10, 1996. Second, the concatenation of circumstantial

evidence, coupled with the extrajudicial confession of the accused established beyond reasonable doubt that Mantung committed the crime.

As regards the proper penalty to be imposed, we find that the trial court erroneously considered the generic aggravating circumstances of evident premeditation and treachery to qualify the offense. It is elementary that to properly appreciate evident premeditation and treachery, there must be proof of the elements of such aggravating circumstances and such proof must be as clear as the evidence of the crime itself.[21]

In the case at bar, proof is lacking that accused-appellant knowingly hatched a plan to commit the robbery and killings. Although the investigating officer testified for the prosecution about the information given by Mantung's landlady that the accused moved out of his rented room the day before the killings, such evidence is hearsay as the prosecution did not present the landlady during trial. Besides, Mantung's departure from his usual place of residence a day prior to the commission of the crime, by itself, is not sufficient to constitute evident premeditation on his part. Well settled is the rule that where there is no proof of the time when the intent to commit the crime was engendered in the mind of the accused, the motive and all those facts and antecedents which when combined would show that the crime was knowingly premeditated, evident premeditation cannot be appreciated.[22]

As for the circumstance of treachery, no evidence was likewise presented to prove the manner by which accused-appellant committed the killings. This Court has ruled that when no particulars are shown as to the manner in which the aggression was made or how the act which resulted in the death of the victims began and developed, it can in no way be established from mere suppositions that the accused perpetrated the killings with treachery.[23]

WHEREFORE, the judgment of the trial court finding accused Guiamad Mantung guilty beyond reasonable doubt for the crime of robbery with homicide is hereby **AFFIRMED** with the **MODIFICATION** that the penalty is reduced from death to reclusion perpetua and the award of moral and exemplary damages is stricken off as there is no legal basis for imposing the same.

Costs against the appellant.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Records, p. 4.

[3] Rollo, pp. 20-39.

[4] tsn, November 26, 1996, pp. 9-17.

[5][tsn, November 12, 1996, pp. 6-8.]

[6] Exhibit B, Records, p. 774.

[7] Exhibit C, Records, p. 775.

[8] tsn, November 12, 1996, pp. 13-18.

[9] Exhibit O, tsn, February 4, 1997, pp. 10-11.

[10] Exhibits LL and MM, Records, pp. 851-852.

[11] tsn, February 4, 1997, pp. 13-19.

[12] ibid., pp. 21-26.

[13] tsn, July 21, 1997, pp. 4-9.

[14] People vs. Avillano, 269 SCRA 553 (1997).

[15] People vs. Kagui Malasugui, 63 Phil 221 (1936) cited in People vs. Prado, 254 SCRA 531 (1996).

[16] People vs. Cuizon, 256 SCRA 325 (1996).

[17][17] People vs. Maqueda, 242 SCRA 565 (1995).

[18] 269 SCRA 95 (1997).

[19] 246 SCRA 786 (1995).

[20] People vs. Roluna, 231 SCRA 446 (1994).

[21] People vs. Añonuevo, 262 SCRA 22 (1996); People vs. Halili, 245 SCRA 340 (1995).

[22] People vs. Bautista, 254 SCRA 621 (1996).

[23] Peopel vs. Patamama, 250 SCRA 603 (1995).

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