

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REX T. CANLAS AND OTHER JOHN DOES, ACCUSED-APPELLANTS.

G.R. No. 141633. December 14, 2001

Ponente: CARPIO, J.

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CARPIO, J.:

Where the court relies solely on circumstantial evidence, the combined effect of the pieces of circumstantial evidence must inexorably lead to the conclusion that the accused is guilty beyond reasonable doubt. Conviction must rest on nothing less than moral certainty, whether it proceeds from direct or circumstantial evidence.

The Case

On appeal before us is the Decision[1] of the Regional Trial Court, Branch 59, Angeles City, dated January 19, 2000, in Criminal Case No. 98-755 finding appellant REX T. CANLAS guilty of the crime of robbery with homicide and sentencing him to suffer the penalty of reclusion perpetua.

The Charge

Appellant was charged together with six other unidentified men who were designated in the Information as Richard Doe, Peter Doe, Rommel Doe, Winston Doe, and Charlie Doe. The Information alleges:

"That on or about the 14[th] day of June, 1998, in Brgy. Palat, municipality (sic) of Porac, province (sic) of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent of (sic) gain, and with violence, did then and there willfully, unlawfully and feloniously take, steal and carry away with them merchandise consisting of assorted clothes worth P4,000.00 and cash money in the amount of P1,000.00, belonging to the deceased, Jing Garcia Flores, with a total value of FIVE THOUSAND PESOS (P5,000.00) Philippine Currency, and on the occasion of said robbery and for the purpose of enabling them to take, steal and carry away the said articles, accused in pursuance of their conspiracy, and taking advantage of their superior strength and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the deceased, Jing Garcia Flores with the use of a lead pipe and a hunting knife, inflicting upon him mortal and fatal injuries which caused his death.

Contrary to law."[2]

Arraignment and Plea

When arraigned on October 7, 1998, appellant, with the assistance of counsel, pleaded not guilty.[3] Trial then ensued.

The Trial

The evidence of the prosecution consisted of the oral testimonies of SPO2 Henry Ayson (for brevity "SPO2 Ayson"), Jose Tamayo (for brevity "Jose"), Willie Silva (for brevity "Silva"), Ismael Victoria (for brevity

"Victoria"), Dr. Olga Bausa (for brevity "Dr. Bausa"), and Dr. Lilia Panlilio, as well as documentary and object evidence. The defense for its part presented appellant as its lone witness.

Version of the Prosecution

The prosecution through the Office of the Solicitor General narrates its version of the facts, as follows:

"On June 14, 1998, at around 2:00 o'clock in the afternoon, Willie Silva, Ismael Victoria, Daniel Flores and Jing Flores, all ambulant vendors, went to Palat, Porac, Pampanga to sell different kinds of clothes, such as t-shirts, shorts and sandos. Daniel Flores and Ismael Victoria were the first to be called by customers, while Willie Silva and Jing Flores went on their way to look for other customers. When Willie Silva was called by a customer to whom Willie showed his wares, Jing Flores continued walking and entered a small alley. After Willie Silva finished attending to his buyer, Willie followed Jing Flores at the small alley. Not finding Jing Flores, Willie asked the residents there if they saw where Jing went. After receiving negative replies, except from a deaf-mute who said that Jing was embraced by someone, Willie Silva went back to his companions. Willie, this time accompanied by Ismael Victoria and Daniel Flores, went back to the alley and looked for Jing Flores. They also searched the back of a house and the creek, but to no avail. At the time he disappeared, Jing Flores was wearing a white Hanes t-shirt, maong short pants, blue sandals, a cap with "Bench" marking and a red towel.

Thereafter, at around 3:00 o'clock in the afternoon, Willie Silva, Ismael Victoria and Daniel Flores went to Towking, Porac to continue selling their goods. The three of them returned to Palat an hour later. They continued looking for Jing Flores until 8:00 o'clock in the evening. Thereafter, they all went home to Dolores, Mexico, Pampanga.

Upon learning that Jing Flores had not yet gone home, Willie Silva and his companions sought the help of their barangay captain and several barriomates. Their group, numbering twenty, went back to Palat, Porac to look for Jing Flores. Arriving midnight at Palat, the group sought the help of the barangay captain thereat and thereupon searched for Jing Flores. They searched the whole barangay for hours. At around 6:00 to 7:00 o'clock in the morning the following day, June 15, 1998, the lifeless body of Jing Flores was found in a creek with his head and upper body covered with animal feed sack.

Roberto Bautista, the Barangay Captain of Dolores, Mexico, reported to SPO2 Henry Ayson of the Porac Police Station that the dead body of Jing Flores was found in a creek at Palat, Porac. SPO2 Ayson, together with SPO2 Edilberto David and other policemen, went to the site where the cadaver of Jing Flores was found. SPO2 Ayson ordered the taking of pictures before and after retrieving the cadaver, which was positively identified by Roberto Bautista as that of Jing Flores.

Traces of blood were seen not only at the place where the lifeless body of Jing Flores was found, but also on the leaves of the different plants which lead to the backyard of the house, around 300 meters away from the creek, of Jose Tamayo. Since there were still traces of blood leading to the kitchen of Jose Tamayo's house, SPO2 Ayson asked the permission of Jose if the former could enter the latter's house. When said permission was granted, SPO2 Ayson, together with his policemen-companions and some barangay officials and members of the search party, entered the house and found traces of blood on the kitchen floor which was covered with sand. Traces of blood that lead to one of the rooms were also found. Upon entering the said room, SPO2 Ayson found underneath a bamboo bed a bag containing assorted clothes, some of which were soaked in blood. SPO2 Ayson likewise found inside the room a red sack containing a blue cap with "Bench" markings, a red towel wet with blood, a bed sheet with blood stains and blue sandals. At the corner of the bamboo bed was a lead pipe likewise stained with blood. A hunting knife inside one of the drawers in the house was also recovered.

Lucila, the wife of Jose Tamayo, told SPO2 Ayson that Rex Canlas is their grandson, and that the bag which was recovered inside the room belongs to Rex who used to occupy the bamboo bed. Upon further questioning by SPO2 Ayson, Lucila narrated that she saw Rex Canlas call Jing Flores to enter the house. Rex asked Lucila

to get out of the house and, when she complied, Rex locked the door. Outside, Lucila heard someone was being beaten inside the house. After an hour, Lucila found the dead body of Jing Flores inside the house and Rex Canlas cleaning the kitchen floor.

In the course of his investigation, SPO2 Ayson also found that, at around 9:00 o'clock in the morning of June 14, 1998, Rex Canlas had a drinking spree with his cousins as it was the birthday of one of their relatives. That appellant attended said birthday celebration was admitted by appellant himself.

Willie Silva, who was among those who went inside the house of Jose Tamayo, also saw blood on the wall in the kitchen. Willie likewise found that the clothes inside the bag and the blue sandals which were recovered inside one of the rooms in the house were those of Jing Flores. He also saw Lucila Tamayo washing a white Hanes t-shirt stained with blood.

Ismael Victoria likewise identified the clothes that were placed inside the bag which was recovered underneath the bamboo bed as those being sold by Jing Flores, and that the blue sandals, cap and red towel were those worn by Jing Flores at the time he disappeared the day before. Ismael recalled that the first time he and his companions looked for Jing Flores in the afternoon of June 14, 1998, Ismael saw Rex Canlas standing under a tree across the house of Jose Tamayo.

Dr. Olga Bausa, a forensic chemist of the PNP, Camp Crame, conducted an examination to determine the presence of human blood on the evidence (sic) the police gathered that led them to the house of Jose Tamayo and those that were recovered therein. According to Dr. Bausa, all except the bladed weapon, gave positive results for the presence of human blood.

Dr. Lilia Panlilio, the Municipal Health Officer of Porac, Pampanga, conducted an autopsy of the cadaver of Jing Flores. According to Dr. Panlilio, Jing Flores suffered numerous incised and lacerated wounds. She also found that all of the lobes of the brain of Jing's cadaver had blood, and that the most fatal wound inflicted upon Jing was the one which caused epidural hemorrhages in the brain. Dr. Panlilio concluded that Jing died of cardio-respiratory arrest secondary to intracranial hemorrhages, and that the weapon used in inflicting the aforesaid hemorrhages could have been a blunt object such as a lead pipe.

Jose Tamayo declared that he is the father of appellant's mother, Remedios. After Remedios died, Jose Tamayo and his wife took care of appellant. When appellant would come home from work, he would sometimes sleep in (sic) the bamboo bed in the house of Jose Tamayo.

The heirs of Jing Flores spent sums of money totaling P54,000.00 for Jing's funeral, burial and related expenses. They also suffered emotional pain, sleepless nights and mental anguish as a result of Jing's death."^[4]

Version of the Defense

In his testimony in court, appellant denied any involvement in the commission of the crime. The trial court summarized appellant's testimony in this wise:

"Accused Rex Canlas testified that he was working at Maybunga, Pasig on the date of the incident as a factory worker. He went home to his father's house at Palat, Porac in the evening of June 13, 1998. At 7 o'clock of the following morning, June 14, 1998, and when he was about to return to Pasig for work, he was invited by his cousin Dexter Canlas to attend the latter's birthday. He went to Dexter's house which is near the house of his grandfather, Jose Tamayo. He left the house of Dexter at 10:30 a.m. and proceeded to the jeepney terminal at barangay Tokwing. The jeepney that he boarded left the terminal at 11:30 a.m. and he arrived at Angeles City at noon where he boarded a Philippine Rabbit bus that brought him to Manila. He arrived in Manila at 2:30 p.m. and boarded a passenger jeepney going to Pasig. He arrived at his place of work at around 4:30 p.m. of the same day. He denied the charge made against him as he already left barangay Palat when the incident happened. He likewise denied that he lives with Jose Tamayo and alleged that he was living in his father's house which was also located at barangay Palat. He admitted, however, that he sometimes slept at the house of

Jose Tamayo. He denied though, that he slept on the wooden bed as he only slept on the sofa. He further alleged that he had nothing to do with the death of Jing Garcia Flores."[5]

The Trial Court's Ruling

After trial, the trial court rendered the now assailed judgment convicting appellant, thus:

"WHEREFORE, premises considered, accused Rex Canlas is hereby found GUILTY beyond reasonable doubt of the crime of Robbery with Homicide and is hereby sentenced to suffer the penalty of reclusion perpetua.

Accused Rex Canlas is further ordered to pay the heirs of Jing Garcia Flores the sum of P54,000.00 as actual damages, P50,000.00 as civil indemnity for the death of the victim and P50,000.00 for and as moral damages.

SO ORDERED."[6]

The Issues

In this appeal, appellant continues to profess his innocence and seeks his acquittal based on these errors allegedly committed by the trial court:

"I.

THE LOWER COURT IS (SIC) ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME AS CHARGED THRU (SIC) CIRCUMSTANTIAL EVIDENCE.

II.

THE LOWER COURT FAILED TO APPRECIATE THE EVIDENCE OF THE ACCUSED-APPELLANT IN ORDER TO ACQUIT HIM."[7]

The Court's Ruling

After a careful and thorough review of the facts and evidence on record, we rule for appellant's acquittal.

There is no direct evidence in this case that could link appellant to the commission of the crime. As stated by the trial court, "(N)obody actually saw how the victim was killed and how the robbery was committed."[8] The trial court was thus compelled to rely solely on circumstantial evidence. The trial court enumerated the pieces of circumstantial evidence that justified its finding of guilt:

"1.

Jing Garcia Flores was last seen alive at around 2 o'clock in the afternoon of June 14, 1998 entering a small alley leading to the house of Jose Tamayo.

2.

The victim was wearing a blue "Bench" cap and a pair of blue "Beach Walk" sandals, with a red towel and carrying assorted merchandise when last seen entering a small alley.

3.

While conducting the search for Jing Garcia Flores in the afternoon of June 14, 1998, prosecution witness Ismael Victoria saw accused Rex Canlas standing under a tree across the house of Jose Tamayo contrary to the accused (sic) allegation that he was already in Metro Manila at that time.

4.

In the early morning of June 15, 1998, the lifeless body of Jing Garcia Flores was found in a creek bearing

contusions and incised wounds.

5.

The creek is only around three hundred meters away from the house of Jose Tamayo.

6.

Drips of blood and blood stains (sic) were found at the creek where the body of the victim was recovered.

7.

The drips of blood and blood stains (sic) were also found on the leaves of different plants that lead to the backyard of Jose Tamayo.

8.

Blood stains (sic) were also found leading to the kitchen of Jose Tamayo's house.

9.

At the kitchen floor, drips of blood were found which were covered with sand. Blood stains (sic) were also found on the wall and on the small table of the kitchen.

10.

When the police and the searching party entered the house of Jose Tamayo, they saw the grandmother of the accused washing a white "Hanes" shirt stained with blood in a basin. The grandmother said that the clothing belonged to the victim and at the same time requesting that she be not involve (sic) in the case as she is already old.

11.

Underneath a bamboo bed inside one of the rooms of the house of Jose Tamayo was found a bag containing assorted clothings (103 pieces of short pants and 34 pieces of sandos) with some soaked in blood and were identified to belong to the victim.

12.

The blue cap with "Bench" marking, the blue sandals, and a red towel stained with blood all belonging to the victim were also found inside the said room. At the corner of the bamboo bed was a lead pipe with blood stains (sic).

13.

A bedsheet (sic) with blood stains (sic) was also found inside the room.

14.

Dr. Olga Bausa, a forensic chemist of the PNP Crime Laboratory at Camp Crame, testified that these items with blood stains (sic) when subjected for examination gave positive results for the presence of human blood.

15.

Jose Tamayo testified that after the accused (sic) mother died, said accused lived with them and they were the ones who send (sic) Rex to school.

16.

Jose Tamayo also admitted that the accused used to stay and sleep at the room where the items belonging to the deceased were recovered.

17.

Accused admitted that in the morning of June 14, 1998, he was at his cousin Dexter Canlas' house and attended the birthday of the latter. Dexter Canlas' house is very near the house of Jose Tamayo."[9]

We do not agree with the trial court that the foregoing circumstantial evidence inexorably lead to the conclusion that appellant robbed and killed the victim, Jing Flores.

True, conviction is not always based on direct evidence for it may also rest purely on circumstantial evidence. Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference.[10] It is founded on experience, observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved.[11] Conviction may be warranted on the basis of circumstantial evidence provided that: (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.[12] With respect to the third requisite, it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of others, as the guilty person.[13]

Based on these requisites, the circumstantial evidence invoked by the trial court raises doubt rather than moral certainty as to the guilt of appellant. The circumstantial evidence of the prosecution fails to muster the quantum of proof required in criminal cases - guilt beyond reasonable doubt. Moreover, the circumstances enumerated by the trial court do not completely discount the possibility that other than appellant, there could be another person or persons who could have perpetrated the crime.

First, the trial court gave much weight to the testimony of Victoria who claimed he saw appellant standing under a tree across the house of Jose in the afternoon of June 14, 1998, at the time Victoria and his companions were looking for the victim.[14] The trial court considered the presence of appellant at the crime scene at the time the victim disappeared as sufficient to incriminate appellant to the commission of the crime. Such presence of appellant at the crime scene does not necessarily mean that appellant authored the crime. Such presence at the crime scene merely debunks appellant's alibi that he was in Manila.[15]

While the defense of alibi is by nature a weak one, it assumes commensurate significance and strength where the evidence for the prosecution is also intrinsically weak.[16] There is no evidence that appellant was the person who was last seen with the victim. There is also no evidence that appellant ever approached the victim. Silva, one of the companions of the victim, testified that when he was looking for the victim in the afternoon of June 14, 1998, a deaf-mute gestured to him that someone had embraced the victim.[17] However, Silva was not able to check the veracity of the deaf-mute's claim because the deaf-mute's mother prevented him from further communicating with Silva.[18] The deaf-mute was not presented in court. The absence of proof connecting appellant to the disappearance of the victim that fateful day compels us to consider with caution the other pieces of circumstantial evidence.

Second, we do not agree that the pieces of circumstantial evidence enumerated by the trial court "clearly make an unbroken chain which leads one to a fair and reasonable conclusion which points to the accused, to the exclusion of all others, as the perpetrator of the crime." [19] The events that transpired from the time of the disappearance of the victim at about 2:00 o'clock in the afternoon of June 14, 1998 to 7:00 o'clock in the morning of the following day, the time when the victim's body was discovered, are unaccounted for. There is no concrete proof showing that appellant was with the victim during that span of time. The records also do not show when the victim was

actually killed.

Third, in view of the inherently weak evidence of the prosecution against appellant, the possibility that another person or persons could have authored the crime cannot be totally discounted. SPO2 Ayson, the police officer who investigated the crime, testified that the house of Jose has neither a fence nor a gate. While the back of the house has a "single barbed wire", anybody could enter said house.[20] SPO2 Ayson further testified that the room where the personal properties of the victim were found and where the pipe with bloodstains was also discovered has no door, making it open.[21] The house and the said room are easily accessible to entry by other persons. Even the police investigators originally theorized that several persons committed the crime. SPO2 Ayson testified that:

"Q:

Officer Ayson, when you decided to file a case, whom did you charge?

A:

Rey Canlas, Gerald Canlas, Rex Canlas and Angelito Galang.

Q:

That was (sic) included Rex Canlas?

A:

Yes, sir.

Q:

Will you please explain to the court why you charged those persons in the first instance, what was your basis?

A:

Because all of them participated in the drinking bout.

Q:

Did you find out the relationship of Gerald Canlas, Ramil Canlas to Rex Canlas?

A:

They are all cousins.

Q:

What about Angelito Galang?

A:

May be a relative of them (sic).

ATTY. PUNZALAN:

Q:

In your investigation, where were these persons drinking together?

A:

At the house of the celebrant, Dexter Canlas, a brother of Gerald Canlas.

Q:

Did you find out what time of the day?

A:

They started drinking from 9 o'clock. They added they went home before 1 o'clock already in the (sic) intoxicated condition.

Q:

On what day?

A:

14 June, 1998, sir.

Q:

Where were they drinking together? In what house?

A:

Gerald Canlas, sir.

Q:

That Gerald Canlas' house, how far was that from the house of Jose Tamayo?

A:

Only adjacent. They are immediate neighbors, sir.

ATTY. PUNZALAN:

That will be all for the witness, Your Honor.

COURT:

Q:

Mr. Witness, why did you include the others in this case as accused?

A:

Based on our theory, sir.

Q:

But per information given you by the grandmother it was only Rex Canlas who was inside the room when the incident happened?

A:

Yes, sir.

Q:

It was only your theory that others also participated?

A:

Yes, sir.

Q:

As what?

A:

Because they were together when the victim passed-by, sir."[22]

Due to the insufficiency of evidence against the other suspects, the Assistant Provincial Prosecutor in a Resolution dated September 4, 1998, ordered the dropping of these suspects from the case and directed the filing of the Information for robbery with homicide against appellant and other unidentified suspects designated in the Information as Richard Doe, Peter Doe, Rommel Doe, Winston Doe, etc.[23]

The test to determine whether or not the circumstantial evidence on record is sufficient to convict the accused is that the series of circumstances duly proved must be consistent with each other and that each and every circumstance must be consistent with the accused's guilt and inconsistent with his innocence.[24] The circumstantial evidence must exclude the possibility that some other person has committed the offense.[25] In this case, the evidence at hand does not convincingly prove appellant's complicity in the crime, nor does it foreclose the possibility that another person is liable for it.

Fourth, the following pieces of circumstantial evidence do not conclusively point to appellant as the assailant of the victim: (1) the traces of blood from the creek where the body was discovered leading to the house of the grandfather of appellant; (2) the bloodstains on the kitchen floor of the house of said grandfather; (3) a bag containing the items belonging to the victim found under the bamboo bed inside a room that appellant allegedly slept in occasionally; (4) the cap of the victim and a pipe with bloodstains also found inside said room; and (5) a hunting knife found inside the kitchen cabinet. No other independent physical evidence that could connect appellant to the crime, like appellant's fingerprints, was found at the scene of the crime or on the object evidence gathered by the investigators.

It is lamentable that the integrity of the evidence collected by the police investigators is highly questionable. SPO2 Ayson admitted in court that on June 15, 1998, around 150 people were in the places where they were conducting their investigation and that the police investigators were unable to secure or cordon off these places.[26] Also, due to the investigators' failure to submit a sufficient quantity of blood samples for testing, Dr. Bausa, the Forensic Chemist of the Philippine National Police, was unable to conduct further examinations such as blood typing.[27] She was thus prevented from confirming that the traces of blood in the vicinity of the crime and on the object evidence were those of the victim.[28] All that Dr. Bausa could confirm from the samples was that the blood submitted for examination was human blood.[29]

The conviction of appellant cannot stand on the basis of sketchy and doubtful circumstantial evidence. It is when evidence is purely circumstantial that the prosecution is much more obligated to rely on the strength of its own evidence and not on the weakness of the evidence for the defense, and that conviction must rest on nothing less than moral certainty.[30]

Fifth, the most compelling evidence that could have been used against appellant is the alleged statement of Lucila Tamayo to SPO2 Ayson during the course of his investigation of the crime on June 15, 1998. Lucila, the grandmother of appellant, supposedly stated that: (1) appellant called the victim inside the house pretending to buy merchandise; (2) appellant asked her to leave the house and he then locked the door; (3) Lucila heard

someone being beaten up inside the house; and (4) after an hour, she saw the victim's cadaver and appellant thereafter cleaned the floor.[31] However, Lucila was never presented in court to testify. Without Lucila's testimony, her statement incriminating appellant to the crime belongs to the realm of hearsay evidence and therefore has no probative value.

The settled rule is conviction can never be based on hearsay evidence.[32] Any oral or documentary evidence is hearsay by nature if its probative value is not based on the personal knowledge of the witness but on the knowledge of some other person who was never presented on the witness stand.[33] Section 36, Rule 130 of the Rules of Court provides that a witness can only testify to those facts that he knows of his personal knowledge, otherwise, such testimony is inadmissible for being hearsay.[34] The underlying reasons for this rule are: (1) to afford the judge the opportunity of observing the demeanor of the witness, and (2) to allow the adverse party a chance of cross-examining the witness.[35]

SPO2 Ayson's testimony recalling Lucila's statement merely proves the fact that such statement was made or the tenor of such statement, but it does not establish the truth of the fact asserted in the statement.[36] Lucila should have been presented in court to prove the truth of the matter surrounding appellant's alleged involvement in the crime. This would have afforded appellant his constitutional right of confrontation, or to meet the witness against him face-to-face.[37]

Finally, every criminal conviction requires the prosecution to prove two things: (1) the fact of the crime, i.e., the presence of all the elements of the crime for which the accused stands charged, and (2) the fact that the accused is the perpetrator of the crime.[38] Here, appellant was charged with the special complex crime of robbery with homicide. To be liable for the special complex crime of robbery with homicide, it is incumbent upon the prosecution to prove: (a) the taking of the personal property with the use of violence or intimidation against a person; (b) the property thus taken belongs to another; (c) the taking is characterized by intent to gain or animus lucrandi; and (d) on the occasion of the robbery or by reason thereof, the crime of homicide was committed.[39] What is crucial for a conviction for the crime of robbery with homicide is for the prosecution to firmly establish the offender's intent to take personal property before the killing, regardless of the time when the homicide is actually carried out.[40] There must be a showing that the death of the victim occurred by reason or on occasion of the robbery.

No shred of evidence is on record that could support the conclusion that appellant's primary motive was to rob the victim and that he was able to accomplish it. While the trial court noted that there were no eyewitnesses to the robbery,[41] nonetheless, it ruled that the robbery aspect of the special complex crime of robbery with homicide was sufficiently proven because:

"(T)he assorted clothings and other items of the victim was them (sic) carrying to be sold to customers were nowhere to be found near the scene where the victim's body was recovered. They were later found inside the house of Jose Tamayo. Hence, the robbery angle is also beyond dispute." [42]

The trial court's conclusion that there was robbery simply because the items belonging to the victim were found in the house of the grandfather of appellant is speculative. The evidence is not definitive as to whether appellant regularly slept in the house of his grandfather or specifically, on the bamboo bed under which the personal effects and items peddled by the victim were found. Mere speculation and probabilities cannot substitute for proof required in establishing the guilt of an accused beyond reasonable doubt.[43]

The evidence to establish the homicide aspect of the subject composite crime also falls short of proving that appellant was indubitably the assailant of the victim. The trial court, citing the cases of *People vs. Kagui Malasugui*, [44] *People vs. Lorenzo*, [45] *United States vs. Divino*, [46] and *People vs. Ramos*, [47] held that "(I)n

the absence of an explanation of how one has come into 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." [48] The presumption in these cases must not be taken in isolation, for the guilt of the accused in these cases was determined not on the basis of tenuous circumstantial evidence. The totality of the evidence in *People vs. Kagui Malasugui*, *People vs. Lorenzo*, and *People vs. Ramos* clearly pointed to the accused therein as the assailants of the victims.

In *People vs. Kagui Malasugui*, the victim's dying declaration named the accused as his killer and the accused was arrested in possession of the victim's personal effects. The accused could not give a plausible explanation as to how such possession came about. In *People vs. Lorenzo*, an eyewitness recounted on the witness stand the stabbing of the victim. The accused were arrested shortly after the killing and a portion of the proceeds of the robbery was retrieved from one of the accused. In *People vs. Ramos*, the accused were nabbed while fleeing from the scene of the crime with the bloodstained weapon. And in the case of *United States vs. Divino*, the crime charged was robbery only. The accused, who was convicted of robbery, was caught in possession of the stolen livestock.

The factual milieu of the present case is different. Appellant was not found in possession of the properties of the victim. The bag containing the items peddled by the victim was discovered under the bamboo bed in the house of the grandfather of appellant. The grandfather denied that the bag belonged to appellant. [49] The evidence is not certain as to whether appellant regularly slept on the bamboo bed where the bag in question was found. It was not even proven that appellant slept in the house of his grandfather the night before the killing of the victim. The fact that the house wherein the personal properties of the victim were recovered was easily accessible precludes us from concluding with certainty that no other person or persons, aside from appellant, could have stashed away the properties of the victim in the house of appellant's grandfather.

Robbery with homicide is a special complex crime against property. [50] Absent clear and convincing evidence that the crime of robbery was perpetrated, and that, on occasion or by reason thereof, a homicide was committed, an accused cannot be found guilty of robbery with homicide, but only of homicide or murder, as the case may be. [51] There is a paucity of evidence to show that appellant had a hand in the killing of the victim. We cannot convict appellant for the special complex crime of robbery with homicide or for the separate crimes of robbery or homicide when the circumstantial evidence relied upon by the trial court is plainly inadequate and unconvincing in proving appellant's guilt beyond reasonable doubt.

WHEREFORE, the appealed Decision dated January 19, 2000 of the Regional Trial Court, Branch 59, Angeles City in Criminal Case No. 98-755 finding appellant, Rex T. Canlas, guilty of the crime of robbery with homicide is hereby REVERSED and SET ASIDE and appellant is ACQUITTED of the crime charged on the ground of reasonable doubt. He is ordered IMMEDIATELY RELEASED from confinement unless held for some other legal cause.

No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

[1] Penned by Judge Eliezer R. de los Santos.

[2] Records of Criminal Case No. 98-755, p. 4.

- [3] Ibid., p. 25.
- [4] Rollo, pp. 93-100.
- [5] Ibid, p. 26.
- [6] Ibid, p. 32.
- [7] Ibid, p. 48.
- [8] Ibid, p. 27.
- [9] Ibid, pp. 29-30.
- [10] People vs. Ayola, G.R. No. 138923, September 4, 2001.
- [11] Ibid.
- [12] Section 4, Rule 133 of the Rules of Court.
- [13] People vs. Ayola, supra.
- [14] TSN, January 20, 1999, pp. 16-18.
- [15] See People vs. De la Cruz, 279 SCRA 245 (1997).
- [16] Ibid., p. 257.
- [17] TSN, January 5, 1999, p. 11.
- [18] Ibid., p. 12.
- [19] Rollo, p. 31.
- [20] TSN, December 16, 1998, p. 24.
- [21] Ibid., p. 34.
- [22] Ibid., pp. 19-20.
- [23] Records of Criminal Case No. 98-755, p. 5.
- [24] People vs. Ayola, supra, see note 10.
- [25] Ibid.
- [26] TSN, December 16, 1998, p. 27.
- [27] TSN, July 1, 1999, p. 17.
- [28] Ibid.
- [29] Ibid.
- [30] People vs. Caparas, Jr., 290 SCRA 78 (1998), p. 90.
- [31] Rollo, p. 21.
- [32] People vs. Cui, 314 SCRA 153 (1999), p. 166.
- [33] Ibid.

- [34] People vs. Manhuyod, 290 SCRA 257 (1998), p. 270.
- [35] De la Torre vs. Court of Appeals, 294 SCRA 196 (1998), p. 204.
- [36] See Sebastian vs. Garchitorena, G.R. No. 114028, October 18, 2000.
- [37] See People vs. Manhuyod, supra.
- [38] People vs. Ayson, supra, see note 10.
- [39] People vs. Faco, 314 SCRA 505 (1999), p. 522.
- [40] People vs. Sanchez, 298 SCRA 48 (1998), p. 58.
- [41] Rollo, p. 27.
- [42] Ibid., p. 34.
- [43] People vs. Dela Rosa, 284 SCRA 158 (1998), p. 172.
- [44] 63 Phil 221 (1936).

[45] 200 SCRA 207 (1991).

- [46] 18 Phil 425 (1911).

[47] 240 SCRA 191 (1995).

- [48] Rollo, p. 31.
- [49] TSN, December 18, 1998, pp. 19-20.
- [50] People vs. Arondain, G.R. Nos. 131864-65, September 27, 2001.
- [51] Ibid.

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