

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIETO RAMA Y MALOLOYO, ALEX DALAYAO Y MANCAWAN, (ACQUITTED) AND RONNIE DALAYAO Y MANCAWAN (ACQUITTED), ACCUSED.

G.R. No. 144386. January 23, 2002

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Accused-appellant JULIETO RAMA y MALOLOYO (hereafter JULIETO) appeals from the 15 May 2000 decision[1] of the Regional Trial Court, Branch 8, City of Malaybalay, in Criminal Case No. 8627-97, which found him guilty of murder and sentenced him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim, Florenda Son y Oplas, in the amount of P50,000.

JULIETO and his two co-accused, Alex Dalayao y Mancawan (hereafter Alex) and Ronnie Dalayao y Mancawan (hereafter Ronnie), were charged with robbery with homicide in an amended information[2] dated 19 March 1998 and filed on 24 March 1998. It reads as follows:

The undersigned Assistant Provincial Prosecutor accuses JULIETO RAMA y MALOLOYO, who claims to have been born on December 29, 1979, at Balamban, Cebu, ALEX DALAYAO y MANCAWAN, who claims to have been born on February 20, 1979, at Mailag, Valencia, Bukidnon and RONNIE DALAYAO y MANCAWAN, who claims to have been born on May 30, 1972, at Bugcaon, Lantapan, Bukidnon of the crime of ROBBERY WITH HOMICIDE committed as follows, to wit:

That on or about the 9[th] day[*] of July 1997, in the afternoon, at the house of Mrs. Florenda Son y Oplas at sitio Intavas, barangay La Fortuna, municipality of Impasugong, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent of gain entered the house of Nicolas Son and once inside, did then and there willfully, unlawfully and criminally take, rob and carry away cash amounting to TEN THOUSAND PESOS (P10,000.00), Philippine Currency, belonging to NICOLAS SON y LEGASPI in the aforementioned amount.

That on the occasion of the said robbery the above-named accused acting on the same conspiracy, with intent to kill armed with a dagger, did then and there willfully, unlawfully and criminally attack, assault and stab FLORENDA SON y OPLAS, hitting and inflicting upon her person the following wounds, to wit:

- 2 stab wounds 2-3 inches below the right nipple
- 1 stab wound, 2-3 inches left below the breast
- laceration, 5 inches left wrist
- stab wound 2 inches at the back

which caused the instantaneous death of FLORENDA SON y OPLAS, to the damage and prejudice of the legal heirs of FLORENDA SON y OPLAS in such amount as may be allowed by law.

Contrary to and in violation of Article 294 of the Revised Penal Code as amended by Republic Act No. 7659.

Each of the accused entered a plea of not guilty upon arraignment.[3]

The witnesses presented by the prosecution at the trial were Dominador Evangelista, Nicolas Son and policeman Venerando Daw-on.

Dominador Evangelista knew JULIETO, a farm worker who stayed for two months with the spouses Nicolas and Florenda Son in Intabas, La Fortuna, Impasugong, Bukidnon. Evangelista lived two kilometers away from the Sons. In the afternoon of 9 July 1997, he was plowing his farm, which was adjacent to the home of the Sons. He saw JULIETO and two others having a drink as they sat outside the kitchen of the Sons' home. Their heads were covered with cloth, exposing only their eyes and noses, which was the customary attire of the farm workers. Evangelista was about ten meters away and he only recognized JULIETO, who was facing him directly when the latter removed the cloth from his head. About fifteen minutes later, he heard a scream from the house of the Sons. It sounded like Florenda crying for help. He immediately ran to the house to see what was happening.[4]

When Evangelista arrived, he saw JULIETO rushing out of the house. His two companions were ahead of him as they fled. When he saw the blood-soaked Florenda lying on the floor, he immediately sought the couple's son, Ian, who was tending to the nearby cornfield. They rushed back to the house along with four other workers and, upon seeing his mother, Ian asked her what had happened. Florenda replied that she was stabbed by JULIETO and his two companions and they also took their money. They laid Florenda on a carriage then proceeded to the barrio, but she died along the way.[5]

Evangelista surmised that the money taken from the Sons amounted to P10,000. He admitted, however, that he had no opportunity to see JULIETO's companions.[6]

Nicolas Son, husband of the victim Florenda, declared that JULIETO was hired as a farm worker and he had been working for them for at least two months before the incident. During that time, JULIETO lived with them.[7] In the afternoon of 9 July 1997, while he was working on a tomb at the town cemetery, a neighbor arrived to inform Nicolas that his wife had been stabbed. He ran home and met along the way the group that was rushing Florenda to the town proper on a carriage being pulled by a carabao. He helped them but they had not gone far when Florenda died. Nonetheless, they still proceeded to the town proper to inform the barangay captain of the incident. It was only then that he heard from their neighbor, Dominador Evangelista, what had happened.[8]

Nicolas later learned that JULIETO and his companions were apprehended, but they were able to escape. The following day, JULIETO was arrested anew and Nicolas filed a complaint against him. When he saw JULIETO at the police station, he asked why he killed Florenda. JULIETO denied stabbing her and, instead, pointed to his co-accused, Alex and Ronnie Dalayao, as the perpetrators of the crime. The two were eventually arrested.[9]

Florenda sustained wounds on her face, breast, hand, back and legs. Nicolas also claimed that about P10,000 worth of savings and sales were stolen by the malefactors. At the time of her death, Florenda was 41 years old, with four children. She also owned the farm which earned for them about P20,000 per harvest.[10]

SPO1 Venerando Daw-on received a radio message in the afternoon of 9 July 1997. He was informed of a murder and robbery committed in Intabas. The three suspects were apparently heading toward their barangay. He gathered the tanod members and instructed them to be on the look-out for the suspects. After being tipped off that the suspects were walking three blocks away, he instructed the driver of a passenger jeep to lure the suspects inside the vehicle. When the suspects boarded the jeep, they blocked the vehicle and requested all passengers to alight. Three suspicious men, whose clothes were wet, attracted their attention. Only one of them got off the vehicle. For their defiance, he had the two suspects handcuffed. When asked where they had come from, the men replied that they were from Intabas. But when they were further questioned as to where they were going, the men resisted, and one even threatened them with a hand grenade. During the trial, he pointed to Ronnie as the one who took the hand grenade from the bag of JULIETO.[11]

The three were able to take advantage of the darkness in escaping, but JULIETO was apprehended the following day and brought to the police station at Impasugong, Bukidnon. He was interrogated by the Chief of Police.[12] SPO1 Daw-on later identified the accused as the suspects they had initially apprehended.

The version of the defense established contrariant facts.

Alex Dalayao testified that he and Ronnie are brothers. Prior to his detention, he lived with his sister in Can-ayan, Malaybalay City, and worked as a farmer of a certain Boy Ignar in Tigbawan, about an hour's ride away by horseback. He denied knowing the Sons and Dominador Evangelista, as well as having been in Intabas at any time.[13]

In the morning of 9 July 1997, he had breakfast in the house of his sister before proceeding to Tigbawan to plow the land of Ignar. He remained there from morning until 4:00 p.m. At that time his brother Ronnie was living with their grandmother at Bugcaon, Lantapan, Bukidnon. He even visited them the following month. On 9 March 1998, he and Ronnie were arrested at the home of their grandmother's neighbor and brought to Impasugong. He denied any participation in the death of Florenda Son or the robbery that took place.[14]

For his part, Ronnie Dalayao testified that he knew JULIETO's parents since he had his early education in the latter's hometown, but he denied knowing JULIETO himself, the Sons and Dominador Evangelista, or that he had also ever set foot in Intabas.[15] Prior to his detention, he was living with his grandmother at Bugcaon, Lantapan, Bukidnon. He worked for his grandmother and uncle.

In the morning of 9 July 1999, Ronnie was in Bugcaon, preparing for his grandmother's birthday the following day. He was with his relatives the whole day, sleeping only at dawn. That morning he remained in Bugcaon as it was the birthday of his grandmother. As to the whereabouts of his brother Alex, he knew that he was in Can-ayan at that time.[16]

It was only when they were apprehended on 9 March 1998, while they were having supper at the house of their grandmother's neighbor, that they realized they were being accused for the death of Florenda Son.[17]

On the other hand, JULIETO admitted knowing the spouses Nicolas and Florenda Son. Nicolas was his relative. Prior to Florenda's death, he had been living with them in Intabas as their gardener. In the morning of 9 July 1997, he was accompanied by the couple's son Ian to get fertilizers in the house. They and about ten other workers applied the fertilizers in the cornfield, which was just about a hundred meters from the house. They had lunch at the couple's house and then returned to work. At about 2:30 in the afternoon, while Nicolas was in the cemetery and they were in the field, they heard Dominador Evangelista shouting that Florenda had been robbed and killed. When they arrived at the house, he saw that Florenda was already dead. Ian asked for his help to bring her to the hospital. Evangelista and other laborers assisted them in loading Florenda on a carriage. By the time they brought the body to the barangay hall, Nicolas had already joined them. He was requested by Nicolas to go to his hometown so that his parents may be informed of Florenda's death.[18] JULIETO attended Florenda's wake that night and left in the morning. While on the way, however, he was arrested by the police as a suspect in the robbing and killing of Florenda Son. He denied the accusation and ended up being mauled. He was brought to and was detained at the municipal hall, where Nicolas and Ian visited him. He told them that he had nothing to do with Florenda's death.[19]

In its decision[20] of 15 May 2000, the trial court convicted JULIETO of murder and acquitted his co-accused Alex and Ronnie Dalayao. It decreed as follows:

WHEREFORE, judgment is hereby rendered to acquit accused Alex Dalayao and Ronnie Dalayao for insufficiency of evidence. With respect to accused Juliето Rama, this court finds him guilty beyond reasonable

doubt of the single crime of murder only, as defined and penalized under Republic Act No. 7659, and he is accordingly sentenced to suffer the penalty of reclusion perpetua. He is further ordered to indemnify the heirs of his victim Florenda Son the sum of P50,000.00.

The acquittal of Alex and Ronnie was based on the trial court's serious doubt on their culpability. Prior to the commission of the crime, all the witnesses for the prosecution admitted not knowing them. Nicolas Son learned of their participation in the crime only after JULIETO confessed to Nicolas and mentioned Alex and Ronnie as his companions. But the trial court declared JULIETO's extra-judicial confession inadmissible in evidence against his co-accused. Moreover, prosecution witness Dominador Evangelista admitted that it was only JULIETO whom he recognized at the scene of the crime.

In convicting JULIETO of murder, the trial court considered these pieces of circumstantial evidence against him: (1) he was positively placed at the scene of the crime just prior to its commission; (2) he was at the crime scene at the time of its commission; and (3) he was running away therefrom immediately after the victim was killed. It gave credence to the positive testimony of Dominador Evangelista, who had no reason to falsely testify against JULIETO.

In holding that the crime of robbery was not proven, the trial court explained that the victim was able to scream for help, causing panic among the perpetrators who immediately fled without accomplishing their intent to rob.

JULIETO anchors the instant appeal on the following alleged errors of the trial court:

- ... IN GIVING DUE WEIGHT AND CREDENCE TO THE TESTIMONY OF THE LONE PROSECUTION EYEWITNESS, DESPITE THE FACT THAT HE IS BIASED AND HIS TESTIMONIES, ARE UNRELIABLE, UNCORROBORATED, AND CONTAINS MATERIAL INCONSISTENCIES, THEREBY CASTING GRAVE DOUBTS ON THE CRIMINAL CULPABILITY OF THE ACCUSED-APPELLANT.
- ... IN CONVICTING ACCUSED-APPELLANT OF MURDER, DESPITE THE FACT THAT HE WAS CHARGED OF [sic] ROBBERY WITH HOMICIDE.
- ... IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED, DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

On the first error, JULIETO insists that the trial court failed to appreciate the testimony of the principal witness Dominador Evangelista that he did not see the commission of the crime. The latter only assumed that it was JULIETO who committed it. JULIETO imputes bias on the part of Evangelista.

As to the second error, JULIETO argues that he could only be convicted of the crime charged in the information or that which is necessarily included therein. The trial court convicted him of murder based on the information of robbery with homicide, and nowhere in the information is there an allegation of treachery. Neither can he be convicted of a higher offense than that charged in the information.

Anent the last error, JULIETO contends that the prosecution failed to prove the commission of robbery. Other than the testimony of Dominador Evangelista, no other witness was presented to corroborate his claim of robbery. JULIETO also faults the prosecution for not producing the weapon used in the commission of the crime.

After a thorough study of the records of this case, the Court sustains the conviction of JULIETO, but modifies the same by finding him liable for homicide only.

The first assigned error assails the trial court's reliance on the testimony of Dominador Evangelista. It is settled, however, that when the issue of credibility of a witness is involved, the appellate courts will generally not disturb the findings of the trial court considering that the latter is in a better position to resolve the issue, having heard the

witness himself and observed his deportment during trial, unless certain facts of value have been plainly ignored, which if considered, might affect the result of the case.[21]

We see no compelling reason to depart from the trial court's favorable appreciation of the testimony of Evangelista, the prosecution's principal witness. He was straightforward and consistent throughout his testimony. Needless to state, JULIETO failed to enumerate the inconsistencies in his testimony. The latter's insinuation that Evangelista rented out his billiard table, which was frequently used by JULIETO, does not by itself cast aspersion on Evangelista's credibility. If at all, such insinuation is highly speculative. Evidently, no improper motive could be imputed against Evangelista as to why he should falsely testify against JULIETO. His testimony, therefore, should be accorded full faith and credit.[22]

On the other hand, we find merit in JULIETO's second assignment of error that he could not be convicted of murder where the information charged him of robbery with homicide. The accusatory portion of the information does not allege any qualifying circumstance. The term "homicide" in the special complex crime of robbery with homicide is used in its generic sense. Where a complex crime is charged and the evidence fails to support the charge as to one of the component offense, the accused can be convicted of the other. It is fundamental that every element of the offense must be alleged in the complaint or information to comply with the constitutional right of the accused to be informed of the offense charged and to enable him to set forth his defenses. The accused is presumed to have no independent knowledge of the facts that constitute the offense.[23]

It is also settled that an accused cannot be convicted of an offense higher than that with which he is charged in the complaint or information or one which is necessarily included in the offense charged. The law accords him such benefit to guarantee him his constitutional rights as an accused. In the instant case, therefore, JULIETO cannot be convicted of murder.[24]

In his final assignment of error, JULIETO asserts that the prosecution failed to prove his guilt beyond reasonable doubt. He faults the prosecution for want of direct evidence in that there was no witness who positively saw him kill the victim.

We are not persuaded. In the absence of any direct evidence, circumstantial evidence may be sufficient to sustain conviction. Section 4, Rule 133 of the Rules of Court provides that circumstantial evidence is sufficient for conviction if (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. To warrant a conviction, it is fundamental that the established circumstances constitute an unbroken chain which leads one to a fair and reasonable conclusion that the accused is guilty, to the exclusion of all others.[25]

The following circumstances convince us with moral certainty that JULIETO killed Florenda Son:

(1)

Minutes before the incident, JULIETO was seen outside the kitchen of the victim by Dominador Evangelista;

(2)

The victim's screams for help were heard and Evangelista immediately ran to the victim's house;

(3)

Upon reaching the home of the victim, Evangelista saw the victim prostrate on the kitchen floor, bleeding

profusely, as JULIETO rushed out of the house;

(4)

Evangelista at once sought the victim's son, who was just outside her house;

(5)

When asked by her son Ian as to who attacked her, the victim identified JULIETO as one of her assailants; and

(6)

JULIETO took flight twice, first, immediately after the incident and, second, when he was being apprehended.

Under these circumstances, JULIETO's defense of alibi cannot be sustained, especially considering that he actually admitted being near the scene of the crime. Moreover, his flight immediately after the killing of Florenda Son is indicative of his guilt.[26]

On the other hand, robbery was not duly proven by the prosecution. Other than the testimonies of Nicolas and Evangelista, no other evidence was presented. Needless to state, Evangelista merely presumed that the amount of P10,000 was taken, whereas Nicolas mentioned that P10,000 was taken by JULIETO and his companions when, in fact, he was not present when the crime was committed.

Homicide is defined in Article 249 of the Revised Penal Code, which is punishable by the principal penalty of reclusion temporal. No modifying circumstance having been proven, the penalty imposable would be reclusion temporal in its medium period pursuant to Article 64 of the Revised Penal Code. However, since JULIETO is entitled to the benefits of the Indeterminate Sentence Law, he can be sentenced to suffer an indeterminate penalty of imprisonment ranging from ten (10) years of prision mayor medium, as minimum, to seventeen (17) years and four (4) months of reclusion temporal medium, as maximum.

Finally, Nicolas Son testified that by reason of the death of his wife Florenda he suffered grief. This means he suffered mental and emotional anguish and serious anxiety. This entitles him to an award of moral damages pursuant to Article 2217 of the Civil Code, which we hereby fix at P25,000.

WHEREFORE, the assailed decision of the Regional Trial Court of Malaybalay City, Branch 8, in Criminal Case No. 8627-97, finding accused-appellant JULIETO RAMA y MALOLOYO guilty of murder is hereby MODIFIED. As modified, JULIETO RAMA y MALOLOYO is hereby found guilty beyond reasonable doubt as principal of the crime of homicide, defined and penalized under Article 249 of the Revised Penal Code, and is hereby sentenced to suffer an indeterminate imprisonment penalty ranging from ten (10) years of prision mayor medium as minimum to seventeen (17) years and four (4) months of reclusion temporal medium as maximum. He is further ordered to pay the husband of Florenda Son the sum of P25,000 as moral damages. The award of P50,000 as civil indemnity for the death of Florenda Son, payable to her heirs, stands.

Costs against accused-appellant JULIETO RAMA y MALOLOYO.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Original Record (OR), 107-111. Per Judge Vivencio P. Estrada. Rollo, 14-18.

[2] OR, 52-53. As of the filing of the original information on 18 September 1997 (OR, 36-37), JULIETO's co-accused, Alex and Ronnie Dalayao, were "still at large."

[*] In page 4 of the assailed decision, the court clarified that the actual date was 8 July 1997, as shown in the victim's death certificate (Exhibit "A") and from the sworn statements of the prosecution witnesses. This discrepancy, however, has no bearing on the trial court's appreciation of the evidence and the final decision reached.

[3] OR, 41; 58.

[4] TSN, 13 January 1999, 3-8, 19-21.

[5] Id., 8-13, 14.

[6] Id., 9-10, 13-14, 15.

[7] TSN, 21 January 1999, 3-5.

[8] Id., 5-9.

[9] Id., 10-12.

[10] Id., 13-16.

[11] TSN, 4 February 1999, 4-8, 13-16, 18.

[12] Id., 9-11.

[13] TSN, 6 October 1999, 3-6.

[14] Id., 6-11.

[15] TSN, 6 October 1999, 15-17, 21.

[16] Id., 17-19.

[17] Id., 19-21.

[18] Id., 23-31.

[19] TSN, 6 October 1999, 31-36.

[20] Supra note 1.

[21] People v. Eribal, 305 SCRA 341, 349 [1999]; People v. Naguita, 313 SCRA 292, 304-305 [1999]; People v. Conde, 330 SCRA 645, 652 [2000].

[22] People v. Eribal, supra note 21, at 349; People v. Bartolome, 323 SCRA 836, 841 [2000]; People v. Gallarde, 325 SCRA 835, 853-854.

[23] People v. Gallarde, supra note 22, at 845, citing U.S. v. Lahoylahoy, 38 Phil. 330, 334 [1918].

[24] *Id.*, 846.

[25] *People v. Gallarde*, supra note 22, at 847; *People v. Naguita*, supra note 21, at 306-307; *People v. Fronda*, 328 SCRA 185, 197 [2000].

[26] *People v. Laceste*, 293 SCRA 397, 408 [1998]; *People v. Dorado*, 303 SCRA 61, 70 [1999]; *People v. Gaspar*, 318 SCRA 649, 669 [1999].

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