PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELICIANO ANABE Y CAPILLAN, APPELLANT.

G.R. No. 179033. September 06, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

In two separate Informations filed with the Regional Trial Court (RTC) of Quezon City, both dated January 15, 1998, Feliciano Anabe y Capillan (appellant) and one Felicita Generalao y Irgulastion (Felicita), in conspiracy with "another person,"[1] were charged with robbery with homicide[2] and destructive arson.[3]

When arraigned, appellant and Felicita pleaded not guilty.[4]

FELICITA, who turned state witness,[5] gave the following version:[6]

Felicita, appellant and a certain Conrada were house helpers of one Jose Chan (Chan). When Chan and family departed in December 1997 for a vacation abroad, Chan's brother-in-law Lam Tiong Uy (Uy), on Chan's request, stayed with the Chans' two-storey house at Tanggale Street, Barangay San Jose, Quezon City.

At around 8:00 p.m. of December 31, 1997, appellant instructed Felicita and Conrada to repair to their room while he sat beside Uy who was watching television. After about an hour, Conrada went to the dining room and saw appellant holding a knife. As Felicita followed, she saw the dead body of Uy lying on the floor covered with a mat, and as she noticed a bloodstained knife on the table, she exclaimed, "you killed Kuya Tony!," which appellant admitted.

Appellant at once instructed Felicita and Conrada to leave the house, otherwise they would be suspected of killing Uy. Appellant then hailed a taxi which the three of them boarded after he had gone back to the house to set it on fire. They headed for a pier in Tondo, Manila and boarded a boat that brought them to Masbate where they stayed in appellant's house for a week.

On Felicita's request, appellant brought her to her province, Butuan. Felicita told her mother of the incidents in which she had no participation. She was soon brought to Bombo Radio where she surrendered.

Prosecution witness CHAN declared that when he and his family left for Singapore on December 30, 1997, the only persons in their house were appellant, Felicita, Conrada and his brother-in-law Uy; and that they returned to the country on January 1, 1998 after learning that their house got burned the previous night.[7] Gemma Chan (Gemma), daughter of Chan, gave essentially the same testimony.[8]

ROSITA UY (Rosita), Uy's widow, testified on, among other things, the damages she suffered as a result of her husband's death including moral damages of over P3,000,000 and funeral expenses of P200,000.[9]

By the account of another prosecution witness, SPO1 CARLOS VILLARIN (Villarin) of the Central Police District (CPD) in La Loma, Quezon City,[10] when he arrived at about 10:40 p.m. of December 31, 1997 at the house of Chan to conduct an investigation, the second floor of the house and an adjacent warehouse were totally

burned and he found the lifeless body of Uy at the living room, lying face down with multiple stab wounds. He and CPD officers SPO2 Eduardo Taveso (Taveso) and SPO4 Juanito Legaspi (Legaspi) later went to Butuan City, where they picked up appellant and Felicita and brought them to the CPD in La Loma, Quezon City.[11]

At the police station, Rosita identified the Tag Heuer wrist watch then worn by appellant as belonging to her late husband Uy,[12] while Gemma identified the ring and bracelet then worn by Felicita as among her missing pieces of jewelry.[13]

SFO1 SAMUEL TADEO (Tadeo), who conducted an investigation of the incident, declared that he found out that the fire was ignited by a rice cooker left plugged inside a room on the second floor, right wing of the house, which suffered the most extensive damage; that 60% to 70% of the house was damaged; and that 90% of the adjoining warehouse was likewise destroyed.[14]

NAZARIO FERNANDEZ, JR. of the Scene of the Crime Operation (SOCO) of the Philippine National Police (PNP) Crime Laboratory attested that he and his team also went to the house of Chan on December 31, 1997; that, led by Tadeo, they found the dead body of Uy at the living room with multiple stab wounds and an incised wound on the neck; and that at the back of the house, they recovered a knife which tested positive for human blood.[15]

MA. CRISTINA FREYRA, a medico-legal officer of the PNP Crime Laboratory who conducted an autopsy on the body of Uy, found that the cause of the death of Uy, who sustained 16 stab wounds, four incised wounds and one contusion, was hemorrhage.[16]

ROGELIO DAGOC, family driver of the Chans, attested that the knife recovered by the SOCO team was familiar to him as appellant used it every day for cutting chicken.[17]

Upon the other hand, APPELLANT gave the following account:[18]

At about 8:00 p.m. of December 31, 1997, while appellant was inside his room, Conrada entered it crying. When he asked her why, she answered "We have to leave." When he further asked why, she just said "Si Kuya kasi." He, Conrada and Felicita thus left via taxi and headed for Lucena City, where they boarded a boat bound for, and arrived at, Masbate. They thereafter proceeded to Butuan, where he was arrested and detained until Quezon City policemen brought him and Felicita to the CPD. Conrada was able to flee.

Respecting the Tag Heuer watch which was found in his possession, appellant claimed that he bought it from Gemma.

By consolidated Decision of April 2, 2001,[19] Branch 86 of the Quezon City RTC convicted appellant as charged - robbery with homicide and destructive arson - disposing as follows, quoted verbatim:

> WHEREFORE, PREMISES CONSIDERED, JUDGMENT is hereby rendered finding the accused FELICIANO ANABE guilty beyond reasonable doubt of the crime of robbery with homicide and destructive arson and hereby sentences him to suffer the penalty of reclusion perpetua for each of the offense charged and to indemnify the private complainant Jose Chan the amount of Seven Million Two Hundred Thousand Pesos (P7,200,000.00) representing the damages suffered by his residential building, Thirty Thousand Pesos (P30,000.00) cash money and One Hundred Twelve Thousand Pesos (P112,000.00) representing the pieces of jewelry lost by said complainant less the value of the jewelry returned to Gemma Chan, plus moral damages in the amount of P50,000.00, with costs.
>
> The accused Anabe is also ordered to indemnify Rosita Uy the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity plus funeral expenses in the amount of P200,000.00 and moral damages in the amount of P50,000.00 plus costs.

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> The wrist watch belonging to Lam Tiong Uy is hereby ordered returned to his widow Rosita Uy, while the jewelry belonging to Gemma Chan is ordered returned to her. (emphasis and underscoring in the original)

Appellant, whose appeal to this Court was transferred to the Court of Appeals[20] conformably with People v. Mateo,[21] faulted the trial court

> I
>
> . . . IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF THE ACCUSED-TURNED-STATE-WITNESS FELICITA GENERALAO.
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> II
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> . . . IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE WEAKNESS OF THE PROSECUTION'S EVIDENCE.
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> By Decision of August 31, 2006,[22] the appellate court affirmed the trial court's Decision, hence, the present appeal.[23]

In separate Manifestations, both the People and appellant informed that they were dispensing with the filing of supplemental briefs, deeming their briefs earlier filed sufficient.[24]

To appellant, Felicita was merely motivated by her desire to exculpate herself. At any rate, he argues that there was no corroborative evidence to substantiate Felicita's testimony on material points. He thus posits that his conviction should not be based on the alleged weakness of his defense, but on proof of guilt beyond reasonable doubt.[25]

The People, on the other hand, maintain that a credible testimony from an accused-turned-state-witness suffices even if uncorroborated; and that the testimony of Felicita, apart from being credible, was confirmed by the findings of police investigators.[26]

The Court dismisses the appeal, but modifies the crime committed by appellant, and deletes the monetary awards and damages.

Robbery with homicide has the following elements:

> - the taking of personal property is committed with violence or intimidation against persons;
>
> - the property taken belongs to another;
>
> - the taking is characterized by intent to gain or animo lucrandi; and
>
> - by reason of the robbery or on occasion thereof, homicide is committed.[27]

That appellant took the Tag Heuer watch of Uy without his consent and with intent to gain should pose no doubt. Indeed, when stolen property is found in the possession of one, not the owner, and without a satisfactory explanation of such possession, he is presumed to be the thief.[28] Since the legal presumption of taking operated to shift the burden of evidence on appellant to disprove it, his uncorroborated version that he bought the watch from Gemma does not persuade.

The Court finds, however, that the prosecution evidence is insufficient to support the conclusion that appellant also committed violence against Uy in order to effect the felonious taking.

There being no eyewitness to the crimes charged, Section 4 of Rule 133 of the Rules of Court on circumstantial evidence applies:

> SEC. 4. Circumstantial evidence, when sufficient. -- Circumstantial evidence is sufficient for conviction if:
>
> (a) There is more than one circumstance;
> (b) The facts from which the inferences are derived are proven; and
> (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. (italics in the original)

In amplifying the above-listed conditions, this Court has held that circumstantial evidence suffices to convict an accused only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person; the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilt.[29]

As a corollary to the constitutional precept of presumption of innocence, a conviction based on circumstantial evidence must exclude each and every hypothesis consistent with innocence.[30]

In convicting appellant of robbery with homicide, the trial court reasoned, quoted verbatim:

> The death of Lam Tiong Uy caused by stab and incise wounds in vital parts of his body proves beyond dispute that violence was applied upon his person. The subsequent recovery of his wrist watch in the possession of accused Anabe indicates that said accused obtained possession of said jewelry through violence. The claim of Anabe that he purchased the watch from Gemma Chua is not only unbelievable, but also ridiculous. x x x
>
> The death weapon used against the victim was probably the kitchen knife (Exhibit "T") used by Anabe in cutting chicken and meat as helper in the Chan residence. x x x The position of the blood stains located about 10 centimeters from the pointed tip of the knife coincides with the depths of most of the wounds sustained by the victim strongly indicating that the knife was the lethal weapon.
>
> The testimony of [Felicita] that Anabe admitted to her and Conrada Salces that he killed Lam Tiong Uy convinces the Court beyond doubt that Anabe killed Lam Tiong Uy. x x x Escape of the accused from the scene of the crime indicates strong consciousness of guilt.
>
> The destruction of the Chan residence after the robbery with homicide was committed is clearly arson and the perpetrator was Anabe. [Felicita] testified that Anabe admitted to her that he plugged-in the rice cooker inside the room of Gemma Chan. Arson investigators theorized that the rice cooker was loaded with clothing which overheated and started the fire. The Court finds the theory believable. x x x [31] (emphasis supplied)

In affirming the Decision of the trial court, the appellate court found the following circumstances sufficient to sustain appellant's conviction: appellant ordered Felicita and Conrada to go inside their room while he kept Uy company in the living room; when Felicita (sic) and Conrada next saw appellant, he was already holding a bloodstained knife[32] and Uy was already dead; appellant told them that they had to go with him or else they would be suspected of killing Uy; the blood in the kitchen knife was found to be human blood; and during the confrontation at the CPD, appellant was wearing Uy's Tag Heuer watch.[33]

The Court at once notes that, based on the earlier-quoted portion of its decision, the trial court readily inferred appellant's commission of violence on Uy from the following findings: (1) the death of Uy was caused by stab and incised wounds in vital parts of his body; and (2) the Tag Heuer watch belonging to Uy was recovered from appellant.

To be sure, however, that appellant committed the felonious taking does not mean that he also committed the violence, even assuming that both occurred on the same occasion. No legal presumption obtains here.

The allegation that appellant committed violence on Uy must be proved beyond reasonable doubt.

Notatu dignum is the fact that at least two persons other than appellant were proven to be with Uy in Chan's house on December 31, 1997. While conspiracy was alleged in the Informations, it was not established during the trial.

Conspiracy as a basis for conviction must rest on nothing less than a moral certainty. Considering the far-reaching consequences of a criminal conspiracy, the same degree of proof necessary in establishing the crime is required to support the attendance thereof, i.e., it must be shown to exist as clearly and convincingly as the commission of the offense itself. While conspiracy need not be established by direct evidence, it is nonetheless required that it be proved by clear and convincing evidence by showing a series of acts done by each of the accused in concert and in pursuance of the common unlawful purpose.[34]

In the present case, there is want of evidence to show the concerted acts of appellant, Conrada and Felicita (albeit already discharged) in pursuing a common design -- to rob Uy. The prosecution in fact appears to have abandoned the theory of conspiracy altogether, no evidence thereof having been presented. Absent proof of conspiracy, appellant may only be held accountable for acts that are imputable to him with moral certainty.

The claim of Felicita that appellant confessed to the killing of Uy must be corroborated to be given credence. Like any other testimony, Felicita's statements cannot be readily accepted hook, line and sinker. More important, the testimony of a state witness must be received with great caution and carefully scrutinized. The rule is that the testimony of a self-confessed accomplice or co-conspirator imputing the blame to or implicating his co-accused cannot, by itself and without corroboration, be regarded as proof of a moral certainty that the latter committed the crime. It must be substantially corroborated in its material points by unimpeachable testimony and strong circumstances, and must be to such an extent that its trustworthiness becomes manifest.[35]

Was Felicita's testimony regarding appellant's confession corroborated by the prosecution's other evidence?

After scouring the records, the Court finds in the negative. The only other evidence purportedly linking appellant to the commission of violence on Uy is the bloodstained kitchen knife (allegedly seen by Conrada being held by appellant; seen by Felicita on the kitchen table; and recovered by the police at the back of the house). The measure of the extent of blood stains in the knife may have coincided with the depths of most of the wounds sustained by Uy. The Court fails to see, however, how it warrants the conclusion that appellant inflicted those wounds. Even gratuitously crediting the hearsay claim of Felicita that Conrada saw appellant holding it, there is lack of proof that he was the only person who held the knife at the crime scene.

Felicita's testimony on appellant's confession being uncorroborated, the question is whether it can stand alone and be given full credence.

Turning an accused into a state witness is not a magic formula that cures all the deficiencies in the prosecution's evidence. The state witness cannot simply allege everything left unproved and automatically produce a conviction of the crime charged against the remaining accused. Corroboration of the account of the state witness is key. It is in fact a requirement for the discharge of an accused to be a state witness under Section 17, Rule 119 of the Rules of Court that the testimony to be given can be substantially corroborated in its material points.

> Sec. 17. Discharge of accused to be state witness. -- When two or more persons are jointly charged with the commission of any offense, upon motion of the prosecution before resting its case, the court may direct one or more of the accused to be discharged with their consent so that they may be witnesses for the state when, after requiring the prosecution to present evidence and the sworn statement of each proposed state witness at a hearing in support of the discharge, the court is satisfied that:
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> (a) There is absolute necessity for the testimony of the accused whose discharge is requested;
>
> (b) There is no other direct evidence available for the proper prosecution of the offense committed, except the

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testimony of said accused;
(c) The testimony of said accused can be substantially corroborated in its material points;
(d) Said accused does not appear to be the most guilty; and
(e) Said accused has not at any time been convicted of any offense involving moral turpitude.

Evidence adduced in support of the discharge shall automatically form part of the trial. If the court denies the motion for discharge of the accused as state witness, his sworn statement shall be inadmissible in evidence. (emphasis and underscoring supplied)

The Court is not unaware that as an exception to the general rule requiring corroboration, the uncorroborated testimony of a state witness may be sufficient when it is shown to be sincere in itself because it is given unhesitatingly and in a straightforward manner and full of details which, by their nature, could not have been the result of deliberate afterthought.[36] This exception, however, applies only if the state witness is an eyewitness since the testimony would then be direct evidence. The above-quoted Section 17 of Rule 119 actually assumes that the testimony of the accused sought to be discharged as a state witness would constitute direct evidence (i.e., that he or she is an eyewitness) in that it requires that there is no other direct evidence, except the testimony of the said accused.

Where, as here, the state witness is not an eyewitness, the testimony partakes of the nature of circumstantial evidence. The rule on circumstantial evidence thus applies. If the testimony is uncorroborated, it does not suffice. It cannot merit full credence. Again, the rule on circumstantial evidence requires that, among other things, there is more than one circumstance and the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. The circumstantial evidence suffices to convict an accused of the crime charged only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.

The uncorroborated testimony of Felicita does not suffice to establish that appellant committed violence on Uy. Neither does appellant's flight. The fact remains that the three persons present at around the time the crime was committed all fled thereafter. Appellant's involvement in every element of the crime charged must still be proved beyond reasonable doubt.

In the appreciation of circumstantial evidence, the rule is that the circumstances must be proved, and not themselves presumed. The circumstantial evidence must exclude the possibility that some other person has committed the offense charged.[37]

The prosecution has not come forward with any evidence completely discounting the possibility that some person other than appellant could have stabbed Uy to death. It bears reiteration that at least three persons were present at the crime scene. Even with Felicita's discharge, the prosecution still needed to exclude the possibility that Conrada was the one who used the recovered kitchen knife to stab Uy to death. It failed to do so, however. Such failure is fatal to its case given that its evidence had already missed that indispensable nexus between appellant's presence at the crime scene and his participation in the stabbing of Uy in order to hold him liable therefor as well.

Courts must judge the guilt or innocence of the accused based on facts and not on mere conjectures, presumptions, or suspicions.[38]

The Court finds that of the previously enumerated elements of robbery with homicide, the first and fourth elements - (1) the taking of personal property is committed with violence or intimidation against persons; and (4) by reason of the robbery or on occasion thereof, homicide is committed - were not established against appellant, the prosecution having merely banked on the strength of a legal presumption that he took the Tag Heuer watch without the consent of Uy and with intent to gain. The trial and appellate courts thus erred in convicting appellant

of robbery with homicide.

The crime committed by appellant is qualified theft.

As defined, theft is committed by any person who, with intent to gain, but without violence against, or intimidation of persons nor force upon things, shall take the personal property of another without the latter's consent.[39] Intent to gain or animus lucrandi is an internal act that is presumed from the unlawful taking by the offender of the thing subject of asportation.[40]

As reflected earlier, from appellant's possession of the stolen Tag Heuer watch of Uy, the unlawful taking and intent to gain follow.

Theft becomes qualified when any of the following circumstances is present:

- the theft is committed by a domestic servant;

- the theft is committed with grave abuse of confidence;

- the property stolen is a (a) motor vehicle, (b) mail matter or (c) large cattle;

- the property stolen consists of coconuts taken from the premises of a plantation;

- the property stolen is fish taken from a fishpond or fishery; and

- the property was taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.[41]

Appellant could not have committed the crime had he not been employed as a house helper of Chan and family. His employers, as well as their relatives who stay at the Chan residence, reposed their trust and confidence in him while he was living thereat. He was allowed an almost unlimited access throughout the house and was even provided his own room. It was this trust and confidence that he exploited to enrich himself. Committed with grave abuse of confidence, the theft cannot but be qualified.

Appellant is, however, guilty of qualified theft only with respect to Uy's Tag Heuer watch, there being no competent evidence of his complicity in the asportation of the other items declared in the Information, including Gemma's ring and bracelet which were in state witness Felicita's possession after she was arrested.

On to the charge for destructive arson, the pertinent portion of Article 320 of the Revised Penal Code, as amended by Republic Act No. 7659, reads:

> Art. 320. Destructive Arson. - The penalty of reclusion perpetua to death shall be imposed upon any person who shall burn:
>
> x x x x
>
> 5. Any building the burning of which is for the purpose of concealing or destroying evidence of another violation of law, or for the purpose of concealing bankruptcy or defrauding creditors or to collect from insurance. (emphasis supplied)

This charge deserves scant consideration. Appellant being only guilty of qualified theft for stealing the Tag Heuer watch of Uy, the "burning" of the house of Chan and family for the purpose of concealing or destroying the evidence could not be unceremoniously imputed to him. The Court even fails to appreciate what evidence of qualified theft was left to conceal or destroy after appellant ran away with the Tag Heuer watch.

The claim of Felicita that appellant, before boarding the getaway taxi, returned to the house to set it on fire is

likewise uncorroborated. The findings of police investigators on the damage to the house and adjacent warehouse do not serve to corroborate Felicita's claim as they only attest to the commission of the crime, not its authorship. Again, at least three persons were at the crime scene and they all left at the same time. Being uncorroborated, Felicita's account on appellant's authorship of destructive arson does not suffice to convict him.

While denial is generally a weak defense looked upon with disfavor, the weakness of the defense cannot be the basis of a conviction. The primary burden still lies with the prosecution whose evidence must stand or fall on its own weight. Under this rule, the defense of denial finds its special place and assumes primacy when the case for the prosecution is at the margin of sufficiency in establishing proof beyond reasonable doubt,[42] as in this case.

In fine, appellant cannot be convicted of destructive arson.

Finally, for the proper penalty for the single crime of qualified theft, Articles 309 and 310 of the Revised Penal Code provide:

> Art. 309. Penalties. -- Any person guilty of theft shall be punished by:
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> 1. The penalty of prisión mayor in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prisión mayor or reclusión temporal, as the case may be.
>
> 2. The penalty of prisión correccional in its medium and maximum periods, if the value of the thing stolen is more than 6,000 pesos but does not exceed 12,000 pesos.
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> 3. The penalty of prisión correccional in its minimum and medium periods, if the value of the property stolen is more than 200 pesos but does not exceed 6,000 pesos.
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> 4. Arresto mayor in its medium period to prisión correccional in its minimum period, if the value of the property stolen is over 50 pesos but does not exceed 200 pesos.
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> 5. Arresto mayor to its full extent, if such value is over 5 pesos but does not exceed 50 pesos.
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> 6. Arresto mayor in its minimum and medium periods, if such value does not exceed 5 pesos.
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> 7. Arresto menor or a fine not exceeding 200 pesos, if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed 5 pesos. If such value exceeds said amount, the provisions of any of the five preceding subdivisions shall be made applicable.
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> 8. Arresto menor in its minimum period or a fine not exceeding 50 pesos, when the value of the thing stolen is not over 5 pesos, and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family.
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> Art. 310. Qualified theft. -- The crime of qualified theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding articles, ...

In the present case, Rosita declared that she could not remember the purchase price of the Tag Heuer watch but gave an estimate of more than P2,000.[43] This is insufficient to prove the value of the stolen article.

Merida v. People[44] instructs that to prove the amount of the property taken for fixing the penalty imposable against the accused under Article 309 of the Revised Penal Code, the prosecution must present more than a mere

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uncorroborated "estimate". In the absence of independent and reliable corroboration of such estimate, the courts may either apply the minimum penalty under Article 309 or fix the value of the property taken based on the attendant circumstances of the case.

Accordingly, the prescribed penalty under Article 309 (6) of the Revised Penal Code is arresto mayor in its minimum and medium periods. Considering, however, that the theft is qualified, the prescribed penalty shall be increased by two degrees, that is, to prision correccional in its medium and maximum periods or two (2) years, four (4) months and one (1) day to six (6) years.

Taking into account the Indeterminate Sentence Law, the minimum term shall be taken from anywhere within the range of four (4) months and one (1) day to two (2) years and four (4) months of arresto mayor, which is the penalty next lower than the prescribed penalty.

The Court finds that the proper penalty is an indeterminate sentence of four (4) months and one (1) day of arresto mayor, as minimum, to two (2) years, four (4) months and one (1) day of prision correccional, as maximum.

Respecting the trial court's awards of money and damages, affirmed by the appellate court, they cease to have any basis in light of the return of the Tag Heuer watch. They are thus deleted.

WHEREFORE, the Decision of August 31, 2006 of the Court of Appeals in CA-G.R. CR-HC No. 00928 is AFFIRMED with MODIFICATION. Feliciano Anabe y Capillan is found guilty beyond reasonable doubt of qualified theft and is sentenced to suffer the indeterminate penalty of four (4) months and one (1) day of arresto mayor, as minimum, to two (2) years, four (4) months and one (1) day of prision correccional, as maximum. He is acquitted of destructive arson.

It appearing from the records that Anabe has been incarcerated since April 2001 or for more than the maximum penalty for qualified theft, the Director of the Bureau of Corrections is ORDERED to cause his IMMEDIATE RELEASE from custody, unless he is being held for some other lawful cause, and to INFORM this Court within five (5) days from receipt of this Decision of the date he was actually released from confinement.

SO ORDERED.

Bersamin, Del Castillo,[*] Villarama, Jr., and Sereno, JJ., concur.

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[*] Per Special Order No. 879 dated August 13, 2010 in lieu of Associate Justice Arturo D. Brion.

[1] Later referred to during the trial as Conrada Salces.

[2] docketed as Criminal Case No. Q-98-74865, the accusatory portion of which reads:

> That on or about the 31[st] day of December, 1997 in Quezon City, Philippines, the said accused household helpers of one Jose Chan y Tan at his residence located at No. 64 Tanggali Street, Barangay San Jose, Quezon City, conspiring and confederating with another person whose identity and other personal circumstances have not as yet been ascertained and mutually helping one another with intent of gain and by means of force, violence against and intimidation of persons, to wit: by entering the sala of said house and for the purpose of enabling said accused to take, steal and carry away cash money and other valuables inside the house, the said accused with intent to kill and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously and treacherously attack, assault and use personal violence upon one Lam Tiong Uy, caretaker and brother in law of Jose Chan y Tan, by then and there stabbing him with a bladed weapon hitting him on the different parts of his body thereby inflicting upon him mortal wounds which was the direct and immediate cause of his death and thereafter the said accused pursuant to their conspiracy with intent of

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gain did then and there willfully, unlawfully and feloniously take, steal and carry away one (1) Wristwatch - "Tag Huer", One (1) Goldplated bracelet with undetermined value from Lam Tiong Uy and the following personal belongings, to wit:

Cash Money - P30,000.00
Two (2) Bulova wristwatch - P24,000.00
One (1) Michael Giorgio wristwatch - P8,000.00
One (1) diamond ring - P10,000.00
Three (3) jade ring - P45,000.00
One (1) pair earring - P3,000.00
Two (2) pair of gold earring - P6,000.00
One (1) pearl necklace - P10,000.00
One (1) gold pendant - P6,000.00

belonging to one JOSE CHAN Y TAN and;

One (1) gold ring - P2,200.00
One (1) gold bracelet - P1,500.00

belonging to Gemma Chan

all valued in the total amount of P145,700.00, Philippine Currency, to the damage and prejudice of said offended parties and to the heirs of Lam Tiong Uy represented by Rosita Uy.

(Copied verbatim, records, pp. 1-2; underscoring supplied.)

[3] docketed as Criminal Case No. Q-98-74866, the accusatory portion of which reads:

That on or about the 31st day of December, 1997 in Quezon City, Philippines, the above-named accused, conspiring and confederating with another person whose true name and real identity have not as yet been ascertained and mutually helping one another with intent to cause damage did then and there willfully, unlawfully and maliciously set fire to the house of one JOSE CHAN Y TAN located at No. 64 Tanggali Street, Barangay San Jose, this city, thereby destroying said house including personal properties contained therein, said accused knowing fully well that said house was owned and inhabited by herein offended party and as a result said Jose Chan y Tan suffered losses and damages in the amount of P10,000,000.00, Philippine Currency, to the damage and prejudice of the said offended party.

(Copied verbatim, records, pp. 16-17)

[4] Records, p. 24.

[5] Id. at 146-147.

[6] TSN of August 27, 1999, pp. 3-11.

[7] TSN of November 5, 1998, pp. 2-9.

[8] TSN of November 20, 1998, pp. 3-9.

[9] TSN of January 29, 1999, pp. 3-9.

[10] TSN of March 30, 1998, pp. 3-28.

[11] TSN of February 25, 1998, p. 8.

[12] TSN of January 29, 1999, p. 11.

[13] TSN of November 20, 1998, pp. 10-12.

[14] TSN of June 19, 1998, pp. 2-15.

[15] TSN of July 10, 1998, pp. 2-9.

[16] TSN of August 13, 1998, pp. 5, 8.

[17] TSN of August 20, 1998, p. 7.

[18] TSN of December 8, 2000, pp. 2-7.

[19] Records, pp. 252-266.

[20] Rollo, p. 2.

[21] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, 656-658.

[22] Penned by Associate Justice Ramon M. Bato, Jr., with the concurrence of Associate Justices Jose L. Sabio, Jr. and Rosalinda Asuncion-Vicente; CA rollo, pp. 132-141.

[23] Id. at 146.

[24] Rollo, pp. 18-23.

[25] Vide Appellant's Brief, CA rollo, pp. 61-78.

[26] Vide Appellee's Brief, id. at 105-123.

[27] People v. Dela Cruz, G.R. No. 174658, February 24, 2009, 580 SCRA 212, 222-223.

[28] Pil-ey v. People, G.R. No. 154941, July 9, 2007 527 SCRA 76, 86.

[29] People v. Castro, G.R. No. 170415, September 19, 2008, 566 SCRA 92, 100.

[30] Ibid.

[31] Records, pp. 263-264.

[32] Felicita claimed that it was Conrada who saw appellant holding a bloodstained knife.

[33] CA rollo, p. 140.

[34] People v. Mapalo, G.R. No. 172608, February 6, 2007, 514 SCRA 689, 710-711.

[35] People v. Sunga, G.R. No. 126029, March 27, 2003, 399 SCRA 624, 647-648.

[36] Id. at 654.

[37] Aoas v. People, G.R. No. 155339, March 3, 2008, 547 SCRA 311, 318-319.

[38] People v. Galvex, G.R. No. 157221, March 30, 2007,519 SCRA 521, 551.

[39] REVISED PENAL CODE, Art. 308, par. 1.

[40] Matrido v. People, G.R. No. 179061, July 13, 2009, 592 SCRA 534, 541-542.

[41] People v. Sison, G.R. No. 123183, January 19, 2000, 322 SCRA 345, 364.

[42] Vide People v. Fabito, G.R. No. 179933, April 16, 2009, 585 SCRA 591, 613.

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[43] TSN of January 29, 1999, p. 13.

[44] G.R. No. 158182, June 12, 2008, 554 SCRA 366, 382.,

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