

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN ANCHETA, ACCUSED-APPELLANT.

*G.R. No. 70222. February 27, 1987*

Ponente: CRUZ, J.

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### CRUZ, J.:

The accused-appellant was charged in the Regional Trial Court of Aparri, Cagayan, with the crime of robbery with arson, committed in conspiracy with two other persons who could not be tried with him because they were then at large.[1] He asks for a reversal of the decision convicting him of the crime of arson and sentencing him to the maximum penalty of reclusion perpetua plus civil indemnity in the sum of P40,000.00 for the properties burned.[2]

To prove the guilt of the accused, the prosecution presented three witnesses, namely, Teresa Gorospe, the owner of the burned house where the robbery allegedly took place, her son Frederick, and her brother Loreto Amorada.

Teresa Gorospe testified that at about 8 o'clock in the evening of August 25, 1980, while she and some neighbors were watching their children at play in front of her house at Minaga, Gonzaga, Cagayan, Juan Ancheta, the accused-appellant, arrived and drove the group away, warning them that something would happen that night. He appeared to be intoxicated. Disturbed and intimidated by his presence, they dispersed and returned to their respective houses.[3]

Later that night, she heard somebody shouting for her husband and when she peeped through her window she saw Ancheta and two men she did not know who asked to come into her house. One of them fired a gun and then forcibly opened the kitchen door. Once inside, the three men demanded the sum of P1,000.00, threatening to burn the house if the money was not delivered. It was at this point that she jumped out of the window to report the matter to their barangay captain. She later returned with him and a councilman to find her house already in flames. She further declared that the people who had gathered could not put out the fire because the accused-appellant was brandishing a bolo and warned them they should not approach because he had more than thirty companions.[4]

Her son Frederick corroborated her testimony and added that he recognized the accused-appellant's companions as Remedios Yangat and Agustin Garcia because they had come to their house earlier in the afternoon to sell carabao meat. He further testified that it was Garcia who poured kerosene on the floor of their house and ignited it. Frederick and the other persons in the house escaped through the window but they received no response when they called for help because the people were afraid of the accused-appellant and his companions.[5]

Loreto Amorada, brother of Teresa Gorospe, recited a substantially similar version of the occurrence except that as he saw it the accused-appellant was unarmed and alone.[6]

For his part, the accused-appellant submitted a rather implausible tale that the trial court, we believe with good reason, found difficult to accept. According to him, he and his brother-in-law, Feliciano Reynon, were on their

way to a betrothal at a relative's house at about 9 o'clock in the evening of August 25, 1980, when they met two armed men they did not know who asked them for the addresses of the barangay captain and a certain policeman. When they could not give this information, they were maltreated by the strangers with the firearms they were carrying. The accused-appellant was taken to the nearby sea and further manhandled by the two in knee-deep water.[7] Reynon had earlier managed to escape, but, as he later testified, he stayed in hiding some twenty meters away to watch what was being done to Ancheta.[8]

Continuing, the accused-appellant said that the two men took him along with them and, when they passed Teresa Gorospe's house, ordered him to call the owner to let them in. Teresa Gorospe opened her window and angrily scolded them for their rudeness in waking them up in the middle of the night but, unmindful of her rebuke, one of the two men pushed his way into the house. The other forcibly took him to a spot about thirty meters away. He soon heard a gunshot and saw the other man running away from Teresa Gorospe's house, which was then already on fire. After warning him not to report the incident on pain of death, the two men set him free.[9]

Corroborating the accused-appellant, Reynon also testified that he reported the incident to the barangay captain, then went home and slept. There is no explanation in the record why he did not bother later to check what had happened to his brother-in-law, whose house was only 30 meters away from his[10] or why he was not awakened by the fire that razed Teresa Gorospe's house, which was only 100 meters away.[11]

Ernesto Requinio's testimony affirmed the reports made to him as barangay captain, first by Teresa Gorospe, of the intruders in her house, and later by Reynon, of the entry in the barangay of two strangers. He declared that he went to the house of Teresa Gorospe that night and found it already on fire and that he did not see Ancheta then nor did he notice that the people were being prevented from quenching the fire. It would appear, however, that he was more concerned at the time with saving his brother's house nearby, which he ordered the people to wet to prevent it from being burned, and could not observe much of what was then happening elsewhere in the place.[12]

We sustain the trial judge in giving credence to the evidence of the prosecution after having assessed it against the testimony of the defense witnesses, whom he also had the opportunity to observe personally. His impressions on these matters are binding on us in the absence of a clear showing of a grave abuse of discretion or an obvious misapprehension of the facts. We do not find such flaws in the factual conclusions of the court a quo.

While it may be conceded that there are certain inconsistencies and contradictions in the evidence of the prosecution, as the defense meticulously recites,[13] they do not in our view detract from its substantial truthfulness and credibility. It is not difficult to believe that Ancheta committed the acts imputed to him while he was intoxicated,[14] which is also the reason why — unnaturally, as the defense would now put it — he warned the victim of the crime they were intending to commit it. Interestingly, he himself testified that after the fire the brothers of Teresa Gorospe stoned his house and dared him to come out, but he did not accept the challenge, nor did it occur to him to at least ask why they were angry with him. He just slept.[15]

The accused-appellant's claim that he acted under the compulsion of an irresistible force or under the impulse of an uncontrollable fear severely strains the credibility and patience of this Court. His story of manhandling and coercion by two mysterious strangers — who had to take him to the nearby sea to maul him "in knee-deep water" as if in some esoteric ritual — is not even worthy of the pulp magazine fiction or the unbelievable television hogwash so popular nowadays.

We agree that there was a conspiracy among the accused-appellant and his two companions when they forcibly entered the house of Teresa Gorospe and burned it after their demand for P1,000.00 was not met.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and

decide to commit it, whether they act through the physical volition of one or all, proceeding severally or collectively.[16] It is settled that conspiracies need not be established by direct evidence of acts charged, but may and generally must be proved by a number of indefinite acts, conditions, and circumstances which vary according to the purpose to be accomplished.[17] The very existence of a conspiracy is generally a matter of inference deduced from certain acts of the persons accused, done in pursuance of an apparent criminal or unlawful purpose in common between them.[18]

It has been amply demonstrated that in the evening of August 25, 1980, at about 11 o'clock, Ancheta and his two companions awakened Teresa Gorospe, forced their entry into her house, demanded the amount of P1,000.00, and burned her house when the money was not delivered. Later, while the house was in flames, the accused-appellant, brandishing a bolo, prevented the people from approaching and putting out the fire by warning them that he had thirty companions. The three men who sought to rob and then burned the house were obviously acting in concert in accordance with a preconceived design which they ultimately carried out.

The conspiracy having been established, it should follow that the accused-appellant is as guilty as his companions of the crime of arson, even if it be conceded that he was not the one who actually poured the kerosene and ignited it to burn Teresa Gorospe's house. When there is a conspiracy, the act of one is the act of all and visits equal guilt upon every conspirator.[19]

The charge of robbery was correctly rejected because it was not proved by any of the prosecution witnesses. Nobody testified that he actually saw any of the three intruders take anything from the house, and no article taken from the house that was burned was found in the possession of Ancheta or his co-accused. The policemen who recovered the things alleged in the information to have been stolen were not presented at the trial to testify on where or from whom they were recovered.

Under Article 321 of the Revised Penal Code, the penalty of reclusion temporal to reclusion perpetua shall be imposed "if the offender shall set fire to any building, farmhouse, warehouse, hut, shelter, or vessel in port, knowing it to be occupied at the time by one or more persons. x x x."

The aggravating circumstance of nighttime was correctly appreciated because it was sought by the defendants to facilitate the commission of the offense and their subsequent escape.[20] Evident premeditation should also have been applied because the offenders had deliberately plotted the crime, as early as 9 o'clock of the night in question, or two hours before they actually burned the house.

Ancheta's intoxication cannot be considered aggravating because there was no showing that it was habitual or intentional;[21] and neither can it be considered mitigating because it did not sufficiently impair the accused-appellant's will power or his capacity to understand the wrongfulness of his acts.[22]

With these aggravating circumstances and no mitigating circumstances to offset them, the proper penalty as imposed by the trial court is reclusion perpetua. The civil indemnity of P40,000.00 is allowed, but the costs of the suit shall be adjudged in toto against the accused-appellant and not to be shared, as ordered by the trial court, by the Station Commander of Gonzaga, Cagayan, who was not even a party to the case.

WHEREFORE, the appealed decision is affirmed as above modified, It is so ordered.

Yap, (Chairman), Narvasa, Melencio-Herrera, Feliciano, Gancayco, and Sarmiento, JJ., concur.

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[1] Decision, pp. 1-3.

[2] Ibid., p. 17.

- [3] TSN, pp. 4-5; 20, February 29, 1984.
- [4] Ibid., p. 14.
- [5] TSN, pp. 6-7; 11; 13, January 5, 1984.
- [6] TSN, pp. 9-10, July 9, 1984.
- [7] TSN, pp. 13-14, July 16, 1984.
- [8] TSN, pp. 6-7, November 29, 1984.
- [9] TSN, pp. 15-18, July 16, 1984.
- [10] TSN, p. 16, November 29, 1984.
- [11] Ibid., p. 10.
- [12] TSN, p. 22, November 27, 1984.
- [13] Brief for the Appellant, pp. 14-17.
- [14] TSN, pp. 4-5, February 29, 1984.
- [15] TSN, p. 18; 39, July 16, 1984.
- [16] *People vs. Monaga*, 118 SCRA 466.
- [17] *People vs. Belen*, 118 Phil. 880; *People vs. Colman*, 103 Phil. 6; *People vs. Cu Unjieng, et al.*, 61 Phil. 236, 301; *People vs. Carbonel, et al.*, 48 Phil. 866.
- [18] *People vs. Palon*, 127 SCRA 529; *People vs. Molleda*, 86 SCRA 667; *People vs. Bernales*, 94 SCRA 604; *People vs. Aguel*, 97 SCRA 795.
- [19] *People vs. Villason*, 115 SCRA 716; *People vs. Loreno*, 130 SCRA 311; *People vs. Padilla*, 132 SCRA 682; *People vs. Manalo*, 133 SCRA 626; *Pring vs. Court of Appeals*, 138 SCRA 185; *People vs. Beltran*, 138 SCRA 521.
- [20] *People vs. Moral*, 132 SCRA 474; *People vs. Pamintuan*, 126 SCRA 5; *People vs. Gatcho*, 103 SCRA 207.
- [21] *People vs. Dungka*, 64 Phil. 423.
- [22] *People vs. Noble*, 77 Phil. 93; *People vs. Buenaflor*, 53 O.G. 8879; *US vs. Dowdell*, 111 Phil. 4.

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