

PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS. SEVERINO CATUBIG Y GOTIB @ “BOY”; ALBERTO RAGUINDIN Y GARCIA @ “AMBET”; CRISPIN SARMIENTO Y ROLLODA @ “ANGOT”; AND JOHN DOE @ “;...

G.R. No. 71626. March 22, 1991

Ponente: FELICIANO, J.

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FELICIANO, J.:

Appellants Severino Catubig alias "Boy", Alberto Raguindin alias "Ambet", Crispin Sarmiento alias "Angot" and one John Doe[1] alias "Norberto" and "Felipe", were charged with the crime of robbery with homicide before the then Court of First Instance of Rizal, 17th Judicial District, Quezon City, Branch 52. The information read as follows:

"That on or about the 2nd day of February 1981, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, with intent to gain and by means of violence against and/or intimidation of person, rob Engineer Ernesto Flores y Lachica and Atty. Renato Flores in the manner as follows: the said accused, pursuant to their conspiracy, accosted Engineer Ernesto Flores and Atty. Renato Flores, who were beside their parked taxicab and then and there mauled and stabbed them with the use of bladed weapons, thereby inflicting multiple stab wounds which were the direct and immediate cause of their deaths. Thereafter, the said accused took, robbed and carried away the following belongings of Engineer Ernesto Flores:

One (1) gold ring valued at

P 2,000.00

One (1) citizen watch

1,000.00

Cash money contained in his

wallet with his driver's license
and important papers

1,000.00

All in the total amount of P

P4,000.00

and the following articles belonging to said Atty. Renato Flores, namely:

One wrist watch valued at

P2,500.00

One (1) gold ring with 3 stones

3,000.00

Cash money in different

denominations and an I.D.
and driver's license

1,000.00

All in the total amount of

P6,500.00

Philippine currency, to the damage and prejudice of the aforesaid heirs of Atty. Renato Flores and Engineer Ernesto Flores in such amount as may be awarded to them under the provisions of the Civil Code.

CONTRARY TO LAW."[2]

Upon arraignment, appellants Catubig, Raguindin ang Sarmiento pleaded not guilty.

After trial on the merits, the trial court rendered a decision dated 28 November 1984 finding the three (3) appellants Catubig, Raguindin and Sarmiento guilty beyond reasonable doubt of the crime charged. The dispositive portion of this decision read as follows:

"WHEREFORE, this Court declares all the above-accused, Severino Catubig, Alberto Raguindin and Crispin Sarmiento, guilty of Robbery with Homicide, and sentenced to life imprisonment, and jointly and severally ordered to pay the heirs of the above-mentioned victims in the amount of TWELVE THOUSAND (P12,000.00) PESOS as actual damages and FIFTY THOUSAND (P50,000.00) PESOS as moral damages for each victim and to compensate the said heirs of the amount of the items taken, FOUR THOUSAND

(P4,000.00) PESOS.

SO ORDERED."[3]

Counsel de oficio for appellant Severino Catubig, Atty. Cipriano Manansala, filed an appellant's brief for Catubig on 27 April 1987. The Solicitor General filed in due time the people's brief. Atty. Pythagoras Oliver who had been appointed by the court as counsel de oficio back in 3 November 1986[4] for appellants Alberto Raguindin and Crispin Sarmiento, failed to file an appellants' brief and apparently changed his address without informing this Court with the result that copies of resolutions addressed to him had been returned "unserved". Accordingly, the Court appointed Atty. Candido del Rosario as counsel de oficio, who filed an appellants' brief in due time for appellants Raguindin and Sarmiento. The Solicitor General, for his part, filed another appellee's brief.

Appellant Severino Catubig assigned the following errors in his appellant's brief:

"1. that the trial court below erred in convicting accused-appellant Severino Catubig on the basis of the weak evidence of the prosecution; and

2. that the trial court below erred in denying said appellants' motion for reconsideration."[5]

Appellants Alberto Raguindin and Crispin Sarmiento, for their part, assigned the following errors in their appeal brief:

"1.

the lower court erred in convicting appellants based mainly on extrajudicial confessions obtained without assistance of counsel in gross violation of the Constitution; without said confessions, glaringly, there is insufficient evidence to sustain conviction;

2.

the lower court erred when in convicting appellants, it relied more on the weakness of defense of 'alibi' rather than on the strength of the evidence of the prosecution, contrary to the well-settled doctrine that a litigant must rely more on the strength of his evidence and not on the weakness of the evidence of his adversary as held in *People v. Go Bio, Jr.*, (142 SCRA 239) and other cases; and

3.

the lower court erred when it also failed to consider in passing judgment on the liability of the appellants the well-settled doctrine that 'when the evidence gives rise to two probabilities, one consistent with defendant's innocence and another indicative of his guilt, that favorable to the accused should be considered: constitutional presumption of innocence continues until overthrown by proof of guilt beyond reasonable doubt', as held in the case of *Borromeo v. Court of Appeals* (131 SCRA 319)."

The Court will consider the above assignments of errors together, the main thrust of all the appellants' arguments being that the prosecution had failed to prove their guilt beyond reasonable doubt, considering that their extra-judicial confessions were inadmissible having been executed without the assistance of counsel.

The relevant facts according to the prosecution were as follows:

On 2 February 1981, around 1:30 o'clock in the morning, appellants Catubig, Raguindin and Sarmiento (all residents of the squatters' area at Padre Martinez St., Scout Tobias, Roces Avenue, Quezon City) and a fourth

man known only as "Felipe", posted themselves along Scout Tobias. A taxicab came along and parked at the corner of Scout Tobias and Roces Avenue and two (2) persons alighted therefrom. These two (2) persons, owners of the taxicab, the brothers Atty. Renato Flores and Engineer Ernesto Flores, were residents of Roxas District, Quezon City. Appellants' group approached the parked taxicab and announced to the Flores brothers that they were being held up. Ernesto and Renato Flores refused to hand over their cash and other valuables to appellants. Appellants and "Felipe" thereupon assaulted the Flores brothers seeking to grab their cash and other valuables. The two (2) brothers first put up a fight and then tried to run away; but they were overtaken by the group. Ernesto Flores was stabbed a number of times in the chest, forehead and other parts of his body; he dropped to the ground fatally wounded. The group then turned their full attention upon Renato Flores. Sarmiento Catubig ran to his house in the nearby squatters' area and secured a knife and promptly returned to the scene and inflicted multiple stab wounds on Renato on different parts of his body.

Conrado Perez, a barangay tanod, residing in the same squatters' area was awakened by shouts -- "Magnanakaw! Magnanakaw!". Perez rushed out of his residence to find out what was going on. He met his neighbor Reynaldo Balbarosa who advised him (Perez) to call the Barangay Captain Joaquin Torres as there was "big trouble" ("malaking gulo") at the corner of Scout Tobias and Roces Avenue. Perez went towards the scene of the hue and cry; he stopped at the corner of Scout Tobias and Padre Martinez St. and from there he saw at the intersection of Roces Avenue and Scout Tobias four (4) men beating up two (2) men, later identified as the brothers Renato and Ernesto Flores. Perez saw Renato, then wearing a white T-shirt, stabbed and fall to the ground. With the Flores brothers sprawled dead on the ground, the four (4) malefactors divested both victims of their respective watches, gold rings and money.

Moments later, the four (4) malefactors fled from the scene. Catubig fled to his house in Padre Martinez St. while appellants Sarmiento and Raguindin forthwith proceeded to Bulacan and there took shelter in a house of Sarmiento's cousin. The fourth man, "Felipe", similarly quickly departed from the scene of the crime.

Meantime, Conrado Perez reported the incident to Barangay Captain Torres who in turn promptly called in the Quezon City police authorities. The dead bodies of Ernesto and Renato Flores were brought by the police to the National Bureau of Investigation ("NBI"), Medico Legal Division, for autopsy. NBI Medico Legal Officer Ricardo G. Ibarola, Jr. rendered a post mortem report finding that the victims had sustained multiple stab wounds in different parts of the bodies and that both died of severe hemorrhage, secondary to stab wounds in the chest in the case of Ernesto Flores, and in the neck and chest in the case of Renato Flores.[6]

Appellant Severino Catubig was apprehended by the police at about 3:00 o'clock the same night, in his house in the squatters' area where he pretended to have been asleep all throughout the hue and cry. Perez had pointed out. Catubig's house to the police. Appellants Sarmiento and Raguindin were arrested the next day in Bulacan. The fourth man "Felipe", however, was never captured by the police.

At the police station, all three (3) accused were identified by Conrado Perez and Reynaldo Balbarosa as among the group of four (4) persons who had killed and robbed Ernesto and Renato Flores. The three (3) appellants were separately and individually investigated. According to the prosecution, each one was informed in Pilipino of the accusation made against him, his constitutional rights to keep silent and to counsel and of the consequences in the event they waive their rights. Each of them voluntarily offered to give their respective extrajudicial statements or confessions. Their extrajudicial statements were subscribed to by them before a fiscal of Quezon City.

We do not think it necessary to determine whether the taking of the extrajudicial statements of the three (3) accused and the taking account by the trial court of such statements, resulted in the violation of the constitutional rights of the accused-appellants. We have examined the decision and "Supplemental Decision" of the trial court as

well as the record and it is clear to us that the evidence of record, quite apart from the extrajudicial statements of the appellants, was quite sufficient to support the conclusion of the trial court that the appellants had been proved guilty beyond reasonable doubt.

Conrado Perez, the barangay tanod, was the principal prosecution witness and he established from his testimony that:

- the appellants and a fourth man, aside from the two (2) victims, the Flores brothers, were the only persons around at the scene of the crime at the time of its commission;
- appellants and the fourth man had assaulted and beaten up the victims;
- one of the victims fell to the ground wounded while appellants were in the process of assaulting him; and
- the appellants and the fourth man all hastily left the crime scene, with one of them (appellant Catubig) carrying a bloodied knife.

Perez testified in the following manner:

"ATTY. PARUNGAO

Q.

Mr. Perez do you know why you are testifying before this Court?

WITNESS:

A.

Yes sir, because of the killing that happened in our place.

Q.

You said about the killing, do you know the date and time this killing happened?

A.

February 2 at about past one o'clock.

Q.

Where was the killing, where did it happened?

A.

At Sct. Tobias near Alejandro Roces.

Q.

At the time the alleged killing happened where were you?

A.

I was already at the corner of Sct. Tobias and Fr. Martinez.

Q.

About how far were you from the place where that alleged killing happened?

A.

About one corner.

Q.

How many meters more or less if you know?

A.

I cannot approximate in meters.

Q.

But was the incident within your seeing distance?

ATTY. MANEJA:

That could be very leading, your Honor.

COURT:

Sustained.

ATTY. PARUNGAO:

Q.

Now you said about the killing incident why do you say that it was an incident of killing?

WITNESS:

A.

Because before it happened I was in our house and hear somebody shouting: 'magnanakaw, 'magnanakaw.'

Q.

When you heard the shout: 'magnanakaw, magnanakaw' what did you do, if you did any?

A.

As a barangay tanod I went out from my house and I met Reynaldo Balbarosa and he told to call the captain because something big happened, trouble happened.

Q.

When Balbarosa told you to call the barangay captain did you call the barangay captain?

A.

I stood in the corner of Sct. Tobias and Fr. Martinez to see what was going on at the corner of Roces and Sct. Tobias.

Q.

While at the corner did you notice anything happened?

A.

I saw people which appears to be in trouble and there is a rumble, who appears to be involved in a rumble.

Q.

Did you recognize those persons allegedly involved in a rumble?

A.

The four of them I recognized.

Q.

Do you know the names of those persons, 4 persons?

A.

Only the three, one I only know by face.

Q.

What are the names of the three whom you identified?

A.

Angot, Ambet and Severino Catubig.

Q.

Why do you know these persons Mr. Perez?

A.

They are my neighbors and Severino Catubig is my kumpare.

Q.

Also in squatters area?

A.

Yes sir.

Q.

Will you please look around and tell this Hon. Court if they are present in Court?

COURT:

You go down and touch their shoulders one by one.

WITNESS:

A.

Yes, Your Honor. (Witness going down the witness stand and proceeded to the bench reserved for detention prisoners and touch the shoulder of one whom he called as Angot and who answered by the name of Crispin Sarmiento and then move to another man who answered by the name of Alberto Raguindin alias Ambet and the last one witness pointed to someone whom he calls as Agi and answered by the name of Severino Catubig.)

ATTY. PARUNGAO:

Q.

The fourth one whom you said you do not know the name is he also a resident of that squatters area at Scout Tobias?

WITNESS:

A.

He was just a visitor in that place.

Q.

How long have you seen that person in your vicinity?

A.

More or less two months.

Q.

After seeing that alleged incident of rumble what did you do, if any as tanod barangay?

A.

First, I took a look at the rumble then I saw 4 persons leaving the place and somebody fell down who was wearing a white t-shirt.

Q.

As a barangay tanod did you report the matter to the police?

A.

I went to the captain and told him that there was something big trouble going in Scout Tobias and he called the police and the captain and I went to the place of the incident and we saw 2 persons dead."[7] (Underscoring supplied)

Similarly, in his sworn statement dated 2 February 1981 given before Patrolman Melencio L. Lim, Quezon City police, Conrado Perez declared as follows:

"T:

Papaano mo naman nalaman itong mga pangyayaring ito?

S:

Nasa loob ako ng aming bahay ng makarinig ako ng sigawan na ang sinasabi 'MAGNANAKAW, MAGNANAKAW' na paulit-ulit. Ang ginagawa (sic) ko bilang isang Barangay Tanod sa aming Barangay, ay lumabas ako, at tamang-tama ng palabas na ako, ay nakita ko si REYNALDO BALBALOSA. Ang sabi niya sa akin ay tawagin ko daw si Kapitan at may nangyaring gulo. Si REYNALDO ay umuwi na sa bahay nila, at ako naman ay huminto muna sa kanto ng Father Martinez St. at Scout Tobias, at tumingin doon sa lugar na pinangyarihan ng gulo. May nakita akong mga lalaki na nagkakagulo at nagrarambulan. Tapos, may isang lalaking bumagsak na nakasuot ng puting damit na pang-itaas. Bumagsak iyong lalaki na iyon sa Scout Tobias doon sa malapit sa kanto ng Roces na nasa may tabi ng punong kawayan. Tapos, may nakita akong apat na lalaking pabalik, iyong ang mga involved sa gulo. At noong palapit na sila sa akin, namukhaan ko na iyong apat ay sila ANGOT, AMBET, iyong isang bisaya na taga-doon sa aming lugar, at si BOY CATUBIG na noon ay may dala pang kutsilyo. Ang ginawa ko ay umalis na ako at nagpunta ako sa bahay ni Kapitan. Pagpunta ko kay Kapitan ay tumelepono siya sa Police. Tapos, lumakad na kami ng (sic) nagpunta na kami sa pinangyarihan at nakita nga namin na may dalawang lalaking patay sa mismong Scout Tobias, iyong isa malapit sa kanto ng Roces at iyong naman (sic) ay malapit sa kanto ng Marathon St. tapos, nagdatingan na ang mga pulis. Tapos itinuro ko ang bahay ni BOY CATUBIG at hinuli na siya ng mga pulis at dinala dito sa Headquarters."[8]

The above statement of Perez was presented before the trial court and Perez was cross-examined thereon by defense counsel. Corroborating statements were made by Reynaldo Balbarosa in his sworn affidavit before the police author-ities (Exhibit "E"). Although Balbarosa's statement was marked as Exhibit "E" during the trial, he was not presented as a prosecution witness and therefore the appellants had no opportunity to cross-examine him. Accordingly, we cannot take Balbarosa's statement into account.

It is well-settled that the testimony of a single eye-witness, if found convincing and trustworthy by the trial court, is sufficient to support a finding of guilt beyond reasonable doubt. In the instant case, the trial court found the testimony of Conrado Perez, who gave his account of the incident and accompanied the police within half an hour of the occurrence of the incident, to be credible and firm. The principle is firmly settled that the findings of the trial court as to the credibility of witnesses are entitled to the highest respect of the appellate court.[9] There was no evidence of any ulterior or evil motive on the part of Conrado Perez that might have led him to testify falsely against the appellants. Conrado Perez knew the appellants quite well, since they were all neighbors in Padre

Martinez St., Scout Tobias, Roces Avenue, Quezon City. In addition, Conrado Perez and Severino Catubig were compadres.

That there was conspiracy in the instant case is quite clear from the record. The appellants were all present at the scene of the crime. They acted in concert in attacking the two (2) victims, assaulting and beating them up and chasing them and stabbing them and in divesting them of their watches, gold rings and money. After the bloody slayings were done, they fled from the scene and went their separate ways. By their concerted actions, the appellants showed that they acted in unison and cooperated with each other, towards the accomplishment of a common felonious purpose which was to rob and kill the victims. We conclude that the trial court was justified in finding the presence of conspiracy. Where conspiracy is shown, the governing principle is that the act of one is the act of all and it is not essential that each of the appellants actually stabbed each of the two (2) deceased victims.[10]

The appellants' principal, if not sole, defense was that of alibi. Appellant Sarmiento claimed that he was in Bulacan attending a baptismal party at the time the robbery with homicide occurred. For his part, appellant Raguindin claimed that he too was in Bulacan at the time of the incident. Appellant Catubig asserted that he was peacefully sleeping in his house in the squatters' area in Padre Martinez St., Scout Tobias, Quezon City, when the police arrived to arrest him that same night or rather, early morning.

The trial court was not persuaded by the appellants' claims. Ranging their claims of alibi against the clear and positive identification made by prosecution witness Conrado Perez of the appellants as among the malefactors, the appellants' defense of alibi is unavailing.[11] Alibi is generally a weak defense since it is so easy to fabricate. For this reason, courts must view such defense with caution and should accept the same only when proved by positive, clear and satisfactory evidence. Thus, the general principle is that it is not enough to prove that the person accused of a crime was somewhere else when the crime was committed; it must also be demonstrated that it was physically impossible for him to have been at the scene of the crime at the time of the commission thereof.[12] Appellants were all residents of the squatters' area close by the scene of the crime at Scout Tobias and Roces Avenue. There was no physical impossibility of their presence at the scene of the crime considering the close proximity of the squatters' area, where they all resided, to the crime scene. The Court simply did not believe appellants Raguindin and Sarmiento's contention that they were in Bulacan at the critical time, nor Catubig's claim that he had slept through all the noise and commotion on Scout Tobias. We find no reason to overturn these holdings of the trial court.

We conclude that appellants are guilty of the crime of robbery with homicide defined and penalized under Article 294 (1) of the Revised Penal Code which reads as follows:

"Art. 294. Robbery with Violence Against or Intimidation of Persons-Penalties. -- Any person guilty of robbery with the use of violence or intimidation of any person shall suffer:

- the penalty of from reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed;

x x x x x x x x"

In the instant case, one information was filed charging the appellants with the killing of the two (2) Flores brothers. While two (2) persons were slain on the occasion of the robbery in the instant case, the Solicitor General urges that only one crime of robbery with homicide was committed, and submits that the circumstance that not one but two (2) persons were killed on the occasion of the robbery should be appreciated as an aggravating circumstance, invoking the authority of *People v. Mabilangan*[13] and *People v. Español*. [14] We find that neither *Mabilangan* nor *Español* discussed at any length the precise statutory or other legal basis for finding presence of

an aggravating circumstance where multiple and not just a single homicide occurred on the occasion of the robbery.

In the instant case, we believe that we should refrain from declaring the fact that two (2) victims, and not just one (1), were killed on the occasion of the robbery constitutes an aggravating circumstance, considering that such aggravating circumstance, even if it were found, would be academic in view of the non-enforceability of the death penalty under the 1987 Constitution. Re-examination of Mabilangan and Español must await a more propitious occasion.

WHEREFORE, the decision of the trial court sentencing each of the appellants Severino Catubig, Alberto Raguindin and Crispin Sarmiento to reclusion perpetua, is hereby **AFFIRMED**, except that the appellants shall, jointly and severally, indemnify the heirs of the victims in the amount of P50,000.00^[15] (not P12,000.00) for each victim, in addition to the P50,000.00 for each victim as moral damages, P4,000.00 as actual damages, i.e., burial expenses and P10,500.00 (not P4,000.00) as the aggregate value of the personal property taken from the two (2) dead brothers.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Davide, Jr., JJ., concur.

[1] Up to this time, the identity of John Doe is unknown and he remains at large.

[2] Rollo, p. 3.

[3] Id., p. 113. In his decision dated 28 November 1984, Trial Judge Oscar L. Leviste after finding the accused Catubig, Raguindin and Sarmiento guilty of robbery with homicide and sentencing them to life imprisonment, ordered them to pay, jointly and severally the heirs of the victims the amount of P12,000.00 as actual damages and P50,000.00 as moral damages for each victim. In a "Supplemental Decision" dated the same day, Judge Leviste added the requirement that the appellants compensate the heirs of the two (2) deceased victims in the amount of P4,000.00 representing the value of the items of personal property taken by the accused from the two (2) deceased. Rendition of this "Supplemental Decision" appears to the Court to be a most unusual and quite unnecessary procedure which, at the same time, reflects adversely upon the level of care and diligence exercised by the trial judge in the performance of his official duties.

[4] Id., p. 90.

[5] Id., p. 106.

[6] Record, Exhibit "C", p. 8 and Exhibit "D", p. 10.

[7] TSN, 14 May 1981, pp. 3, 5, 7, 8-11.

[8] Appellee's Brief, p. 16; underscoring supplied.

[9] *Tejones v. Geronella*, 159 SCRA 100 (1988); *Vda. de Portugal v. Intermediate Appellate Court*, 159 SCRA 178 (1988).

[10] *People v. Ancheta*, 148 SCRA 179 (1987); *People v. Veloso*, 148 SCRA 62 (1987); *People v. Viray*, 147 SCRA 151 (1987).

[11] *People v. Cayago*, 158 SCRA 586 (1988).

[12] E.g., *People v. Candado*, 84 SCRA 505 (1978).

[13] 111 SCRA 398 (1982).

[14] 114 SCRA 911 (1982).

[15] See, e.g., *People v. Sison*, G.R. No. 86455, September 14, 1990.

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