

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAYMUNDO GONZAGA Y LANDA, ACCUSED-APPELLANT.

G.R. No. 90036. August 21, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is an appeal from a decision of the Regional Trial Court of Manila[1], Branch XVIII in Criminal Case No. 85-39642 wherein accused-appellant Raymundo Gonzaga was found guilty beyond reasonable doubt of the crime of ROBBERY with HOMICIDE in an Information[2] which read as follows:

"That on or about April 18, 1985, in the City of Manila, Philippines, the said accused, conspiring and confederating with others whose true names, identities and present whereabouts are still unknown and helping one another, with intent of gain and by means of force, violence and intimidation, to wit: by then and there entering the residence of Ernesto Marcelino y Villarama, and once inside, did then and there wilfully, [sic] unlawfully and feloniously, at knifepoint [sic], take, rob and carry away cash money in the amount of P6,750.00 and assorted jewelry and gold crown and necklace[s] of the Sto. Niño valued at P20,000.00, all in the total amount of P26,750.00, belonging to said Ernesto Marcelino y Villarama, against his will, to the damage and prejudice of said owner in the aforesaid amount of P26,750.00, Philippines Currency; that by reason of and on the occasion of the commission of the crime of robbery, the accused, in furtherance of their conspiracy, with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and use personal violence upon the person of said Ernesto Marcelino y Villarama, by then and there stabbing him with bladed weapons at the different parts of his body, thereby inflicting upon the latter mortal stab wounds which were the direct and immediate cause of his death thereafter.

Contrary to law."

Upon arraignment, accused-appellant pleaded "NOT GUILTY" to the offense charged and after trial on the merits, the court a quo rendered a judgement against him, the dispositive portion of which reads:

"WHEREFORE, this Court finds the accused, Raymundo Gonsaga y Landa, guilty beyond reasonable doubt of the crime of robbery with homicide under Article 294 of the Revised Penal Code, with the aggravating circumstances of aid of armed men and evident premeditation, and hereby sentences him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law and to pay the costs.

As to the civil liability of the accused, he is further sentenced to indemnify the legal heirs of the victim, Ernesto Marcelino, the sum of P12,000.00, for the victim's death, and moral damages in the sum of P50,000.00, without subsidiary imprisonment in case of default. "

The facts as found by the trial court are as follows:

The victim Ernesto Marcelino was the president of Wall Paper Philippines engaged in the business of selling and installing wallpaper. Said victim conducted his business on the ground floor of his house and occupied the second floor of said house as his residence with his six live-in employees namely: Cris Ong, Ernesto Altamera, Roger

Satur, Cresente Serna, Agustin Fabro and Randy Rempillo.[3] Accused-appellant, a wallpaper installer, was employed by the victim on a contractual basis since 1974 until he was dismissed by the victim on March 30, 1985 when the latter learned that the accused-appellant had been accepting wallpaper installing jobs without courting said jobs through his office.

At around 6:15 a.m. of April 18, 1985, accused-appellant and his three male companions, all armed with knives, poked a knife at Roger Satur while the latter was cleaning the alley in front of the victim's house and dragged him inside the house. Upon entering the house, accused-appellant and his companions cut off the telephone cord of the telephone located on the ground floor and dragged Satur with them as they proceeded to the second floor.

Once accused-appellant and his companions reached the second floor of the house, they saw Cris Ong and Agustin Fabro in the kitchen and told them not to move. After tying Ong's hands with a telephone cord, accused-appellant knocked and entered the room of the victim while his companions waited outside and herded all the other live-in employees of the victim in the kitchen.

Thereafter, the employees of the victim heard a commotion and a groaning sound from the victim's room. A few minutes later, accused-appellant came out from the victim's bedroom holding a knife dripping with blood and exchanged his blood-stained shoes for the slippers of Ernesto Altamero.

As soon as the accused-appellant and his companions left said place, Ong and his co-employees immediately went inside the victim's bedroom and saw the bloodied and lifeless body of the victim lying on his belly. They also noticed that the victim's room was ransacked and upon further investigation, it was discovered that a gold crown, two pearl necklaces of a Sto. Niño image as well as an undetermined amount of money, assorted jewelries and other personal belongings of the victim were missing.

Based on the postmortem findings of the Medico-Legal Division of the NBI, Exhibits "C" and "C-1", the victim sustained seven stab wounds in his neck, chest (left and right side), abdomen, back (left and right side), right forearm and right thigh as indicated in the sketches prepared by the Medico-Legal Division of the NBI, Exhibit "E" and "E-1".[4]

Recovered from the scene of the crime were the four knives left by the accused-appellant and his companions. The police also found in a travelling bag left by the accused-appellant a letter addressed to his wife containing his former address in Punta, Sta. Ana. Proceeding to said address, the police officers were able to intercept accused-appellant's letter addressed to his wife in Bao, Camarines Sur. They also learned that the accused-appellant's three companions were hiding in a certain barrio in Trece Martires City (Cavite).[5] Acting on said information, Pat. Benjamin C. Boco together with some police officers proceeded to said place and found Filomena Alba, one of the suspects' wife, who voluntarily turned over to them one of the stolen necklaces of the victim.

On the evening of September 7, 1985, the police arrested accused-appellant in the latter's house in Bao, Camarines Sur and brought him to the headquarters of Bao Police Force where accused-appellant verbally admitted his participation in said crime and revealed the place where the pearl necklace of the victim was hidden, which was retrieved by the police inside a bamboo post of the accused-appellant's house.[6]

On September 9, 1985, accused-appellant was brought to the Western Police District Headquarters for further investigation. Upon the request of the police authorities, Atty. Juanito Formes of the CLAO assisted the accused-appellant, who confided to the former his desire to make a confession. Atty. Formes tried to dissuade the accused-appellant from confessing by warning him that his confession would be used as evidence against him in court and that he might be sentenced to death but the accused-appellant answered: "never mind, Attorney, I will

just confess to bring in all my companions in this case so that I will not be the only one to suffer but I will also enter a plea of guilty in court because I'm afraid to die and if I will not enter a plea of guilty it will be litigated and my sentence would be life imprisonment." [7] Consequently, upon the request of the accused-appellant, Atty. Formes verbally waived the right of the accused-appellant to be assisted by counsel and left the accused-appellant who executed under oath a written declaration narrating in detail his participation in the commission of said crime.

During trial, accused-appellant denied stabbing the victim and alleged that he was only forced to execute said extrajudicial statement by the victim's brother Danilo Marcelino, police officers Mario Maglutac and Ramon Alulod. His version of the incident was that at around 6 a.m. of April 18, 1985, he and his helper, Jimmy Briyoso, were in the office of the victim to collect from the latter his unpaid salary totalling P900.00. Briyoso got mad at the victim when the latter refused to pay said amount of money to the accused-appellant and a heated argument ensued. Suddenly, a certain Edel, armed with a knife, entered the room and stabbed the victim's neck. Accused-appellant tried to stop Edel from stabbing the victim who pleaded through his eyes for accused-appellant to help him. However, while accused-appellant tried to separate them, his right biceps and upper right thigh were stabbed by Edel and the latter shouted at the accused-appellant not to meddle and continued stabbing the victim until the latter fell on the floor. Thereafter, accused-appellant was coerced by Edel and his companions to leave with them.

Accused-appellant contends that his guilt was not proven beyond reasonable doubt since no eyewitness to the stabbing incident was presented by the prosecution and the testimonies of the prosecution witnesses Cris Ong and Agustin Fabro are contradictory and inconsistent.

We do not agree.

Section 4, Rule 133 of the Revised Rules of Court provides:

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 a reasonable doubt.

In one case, this Court had stated:

"According to Moran further, 'the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion,' that is, that the accused is guilty beyond reasonable doubt. In other words, the circumstances themselves, or a combination thereof, should point to overt acts of the accused that would logically point to the conclusion, and no other, that he is guilty of the crime charged." [8]

In the case at bar, the incriminating circumstantial evidence that point to the accused-appellant as the perpetrator of the offense are the following:

1. Accused-appellant was dismissed by the victim on March 30, 1985.
2. Cris Ong saw accused-appellant dragging Roger Satur at knife point towards the second floor of the victim's house with his three companions who were also similarly armed.
3. The victim was stabbed with a sharp-pointed instrument inside his bedroom after the accused-appellant entered his bedroom.

4. Accused-appellant was the only one who entered the victim's bedroom.
5. Cris Ong and Agustin Fabro heard groans coming from the victim's bedroom.
6. Thereafter, Cris Ong and Agustin Fabro saw accused-appellant come out from the victim's bedroom holding a knife dripping with blood.
7. Accused-appellant entered the kitchen and exchanged his blood stained shoes for Altamera's slippers.
8. Accused-appellant immediately took flight after the incident.
9. When accused-appellant was apprehended in Bao, Camarines Sur, he surrendered to the police officers one of the necklaces of the Sto. Niño which he had earlier hidden in the bamboo post of his house.

The combination of all the foregoing circumstances is sufficient to establish the guilt of the accused-appellant beyond reasonable doubt. It has been held that "a conviction may rest upon circumstantial testimony alone, but the facts and circumstances must be such as are absolutely incompatible upon any reasonable hypothesis with the innocence of the accused, and incapable of explanation upon any reasonable hypothesis other than that of the guilt of the accused." [9] This is so because "crimes are usually committed in secret and under conditions where concealment is highly improbable. To require direct testimony in all cases would result in the acquittal of guilty parties leaving them free to once more wreak havoc on society." [10]

The alleged conflicting testimonies of the prosecution witnesses Cris Ong and Agustin Fabro refers only to minor details which do not destroy the credibility of said witnesses. Furthermore, accused-appellant's version of the incident deserves scant attention since he was positively identified to be the assailant of the victim by the prosecution witnesses. It is well-settled that greater weight is given to the positive identification of the accused-appellant by the prosecution witnesses than to the accused-appellant's denial and explanation regarding the commission of the crime.

While accused-appellant had a written confession which was freely and voluntarily given, the same cannot be considered and given weight in ascertaining his guilt, as the waiver of his constitutional right to be represented by counsel was not in writing.

At any rate, the circumstantial evidence on record are sufficient to sustain a verdict of guilty beyond reasonable doubt on accused-appellant. [11]

WHEREFORE, the decision appealed from is hereby **AFFIRMED** with the sole modification that the indemnity to be paid by the accused-appellant to the heirs of the victim is increased to P50,000.00 in accordance with the new policy of the Court on this matter.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.
Melo, J., no part.

[1] Penned by Judge Perfecto A.S. Laguio, Jr.

[2] Rollo, p. 6

[3] T.S.N., November 11, 1985, p. 4.

[4] Regional Trial Court's decision, p. 2; Rollo p. 24

[5] T.S.N., September 2, 1985, p. 4.

[6] Id, at pp. 6-8.

[7] T.S.N., January 27, 1986, p. 5.

[8] People vs. Flores, 186 SCRA 303 (1990).

[9] Francisco, Vicente J., The Revised Rules of Court in the Philippines, Volume VII, Part II, 1991 Ed., p. 610.

[10] People vs. Layuso, 175 SCRA 47 [1989].

[11] Article III, Sec. 12(1), 1987 Constitution.

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