

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. ALFREDO MACLID Y OCAMPO AND DIONISIO PONCIANO, JR. Y PILI, ACCUSED.

G.R. No. 91846. August 21, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is an appeal from the judgment of the Regional Trial Court of Valenzuela, Metro Manila, convicting the herein accused-appellant Alfredo Maclid y Ocampo of the crime of robbery with homicide in Criminal Case No. 7735-V-86.

The information dated September 2, 1986, charging the herein accused-appellant and co-accused Dionisio Ponciano y Pili of the crime alleged:

"That on or about the 7th day of August, 1986, in the municipality of Valenzuela, Metro Manila, Philippines and the jurisdiction of the Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent of gain, did then and there wilfully, unlawfully and feloniously by means of force and violence destroyed (sic) the window of the toilet of the dwelling of Ingomar Moosmann y Graf, enter thereat and took (sic) and carted (sic) away with them the following items, to wit:

- a) Sixteen (16) pieces of imported caserole..... P13,600.00
- b) One (1) set of plumbing tools..... 600.00
- c) One (1) ice bucket 155.00
- d) Ten (10) pieces of white blankets..... 1,000.00
- e) Four (4) sets of serving spoons, spoons and forks,
bread knife and cheese designer 200.00
- f) Assorted clothes..... 1,000.00
- g) One (1) Bosch electric drill..... 2,500.00
- h) One (1) pair of Adidas rubber shoes 600.00
- i) One (1) piggy bank (alkansyang buddha) containing 500.00
- j) One (1) BELLS Wall Clock 1,000.00
- k) One (1) Polaroid Camera 2,280.00
- l) One (1) rivet instrument 700.00
- m) Two (2) sets of silver spoon and fork..... 1,000.00

n) One (1) travelling bag 500.00

P 25,835.00

belonging to one Ingomar Moosman y Graf to the damage and prejudice of the latter in the amount of Twenty Five Thousand Eight Hundred Thirty Five Pesos (P25,835.00) Philippine Currency, and by reason of and during the occasion of the said robbery, the said above-named accused, conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there wilfully, unlawfully and feloniously attack, assault by piece of adobe stone, stab by means of screw driver and kitchen knife and strangle by means of a noose of electric cord the said Ingomar Moosmann y Graf which directly caused the death of said Ingomar Moosmann y Graf.

"That the aggravating circumstances of nocturnity and abuse of superior strength are present during the commission of this crime.

"Contrary to law." (p. 14, Rollo)

On November 21, 1986, the accused, assisted by their counsel, entered a plea of not guilty.

During the pendency of the case, co-accused Dionisio Ponciano, Jr. died and the case against him was dismissed. Thus, trial ensued only against the herein accused-appellant, Alfredo Maclid.

From the evidence of the prosecution, the following facts were gathered:

A German national named Ingomar Moosmann V. Graf, who was married to a Filipina, Marieta Marcelo Moosmann, was robbed and killed inside the bedroom of their house at Mabolo, Valenzuela, Metro Manila on the night of August 7, 1986. At the time of the incident, the victim was alone in the house. His wife slept in the house of her children some four (4) houses away from their residence on that same night. When she went home at about 9:00 A.M. the following morning, August 8, 1986, she found her husband in their bedroom sprawled on the floor, bloodied and lifeless. She cried for help and her neighbors rushed towards the house. The things inside the house were in disarray and some personal properties described in the information and said to be worth twenty-five thousand pesos were missing.

Patrolman Isagani Salonga of the Valenzuela Police conducted an investigation on the incident. He testified at the trial that when he proceeded to the scene of the crime, he found the victim lying dead in his bedroom. An electric cord was tied around the victim's neck and he sustained several stab wounds in his body. Salonga also found a bloodied kitchen knife and an adobe stone on the floor of the bedroom. The house was in disarray and the window in the comfort room was broken which might have been used by the perpetrators in going in and out of the house. A bended knife was also found some six feet away from the body of the victim.

Dr. Rodolfo Lezondra, an NBI medico-legal officer conducted an autopsy on the body of the victim. He found 6 stab wounds. The wounds were inflicted by a single bladed knife. The wounds on the upper right chest and the lower left chest were fatal. Dr. Lezondra testified further that the cause of death was hemorrhage secondary to stab wounds and that the mark caused by electric cord looped around the victim's neck was not enough to cause death.

Another witness for the prosecution, Loreto Rodriguez, also a member of the Valenzuela Police force testified that he conducted a follow-up of the case. Through the information allegedly given by the accused-appellant, the police were able to recover some of the stolen goods from Natividad Maclid, the accused-appellant's mother. The rest of the stolen goods were recovered from different persons who claimed that they were either sold or pawned to them by the accused or his relatives.

Patrolman Salonga further testified that Maclid was arrested in Kalookan on September 1, 1986 while his co-accused was apprehended in Tarlac also sometime in September, 1986. He claimed that Maclid orally confessed to the commission of the crime because he was already bothered by his conscience. Salonga also claimed that before Maclid was investigated, the police apprised him of his constitutional right to counsel but the former insisted to give his confession without the presence of any counsel.

The defense presented the accused-appellant and his mother, Mrs. Natividad Maclid.

The accused testified that he was a tricycle driver who plied his route from 7:00 a.m. to 7:00 p.m. On August 7, 1986, he started driving his tricycle at around noon, after doing some errands for his mother. At about 9:00 or 10:00 in the evening, he went home and watched a television program with his brothers, sisters, nephews and nieces. Home to him was his mother's house at 238 Mabolo Street, Valenzuela, Metro Manila, not far from the house of the victim. At about 11:00 p.m., he already went to sleep. He woke up at about 5:00 a.m. the next day, August 8, 1986. After he brought his mother to Caloong, Valenzuela, he proceeded to ply his usual route. When he was already home that evening, a former classmate in high school, co-accused Dionisio Ponciano, Jr., visited him together with two (2) other companions. Ponciano invited him to his (Ponciano's) house. They boarded his tricycle and on their way to Ponciano's house, Ponciano told him to look for a buyer of some goods. Ponciano showed him the goods and offered to sell them to him for P700.00 only explaining that he needed the money very badly. Maclid went home and borrowed P700.00 from his mother which he used in paying Ponciano, Jr. He then brought the goods home. Accused-appellant sold some of the goods and pawned the others to his friends and relatives and some were retained by his mother.

Maclid also testified that on September 1, 1986, Patrolman Aguinaldo invited him to Malanday and brought him to the municipal building. He was detained inside a conference room for about an hour. Then, three (3) policemen entered the room and showed him pictures of the victim. He admitted that he knew the victim because his mother's house was about six houses away from the house of the victim. He was asked if he had anything to do with the killing of the victim, but he answered that he knew nothing. He was battered and tortured by the policemen. He also admitted to the policemen that Ponciano gave him certain articles some of which he sold to his friends. During the investigation, he was not assisted by counsel.

Mrs. Natividad Ocampo, accused-appellant's mother, corroborated the statements of the accused-appellant. She testified that on that night of August 7, 1986, the accused-appellant came home at about 9:00 o'clock in the evening; that he watched a television program up to 11:00 o'clock and that he slept afterwards. She also testified that the accused-appellant never left the house that evening. She confirmed the testimony of the accused-appellant that he borrowed P700.00 from her to pay for some household wares he intended to buy and resell for profit. She learned that her son was arrested on September 1, 1986 but when she proceeded to the municipal building, she was not allowed to see her son. She only saw him at about 10:00 o'clock on that evening when he went home escorted by some policemen and they took the goods his son brought home the night following the killing of Moosmann.

As already mentioned, after trial, judgment was rendered convicting the herein accused-appellant. The dispositive portion of the decision states:

"ACCORDINGLY, finding accused Alfred Maclid y Ocampo guilty beyond reasonable doubt of the offense charged, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA.

"The accused is hereby ordered to pay the heirs of the victim the sum of P18,255.00, the value of unrecovered stolen items and death indemnity in the amount of P30,000.00 without subsidiary imprisonment and the costs of suit.

"SO ORDERED." (p. 33, Rollo)

From the decision of the trial court, this appeal was filed before Us. The following assignment of errors were raised:

"I. THE HONORABLE COURT BELOW ERRED, WE RESPECTFULLY SUBMIT, WHEN IT HELD THAT THE DEFENSE OF THE ACCUSED THAT HE WAS NOT AT THE SCENE OF THE CRIME ON AUGUST 7, 1986, WAS AN ALIBI, HENCE, FOR THIS DEFENSE TO PROSPER, IT IS NOT ENOUGH THAT HE WAS SOMEWHERE ELSE WHEN THE CRIME WAS COMMITTED, BUT HE MUST SHOW THAT IT IS PHYSICALLY IMPOSSIBLE FOR HIM TO HAVE BEEN AT THE PLACE OF ITS COMMISSION, CONSIDERING THAT HIS RESIDENCE WAS ONLY ABOUT SIX (6) HOUSES AWAY FROM THE VICTIM'S HOUSE -

"II. THE HONORABLE COURT A QUO ERRED, WE HUMBLY SUBMIT, WHEN IT HELD THAT SIGNIFICANT WAS ACCUSED'S FAILURE AND OMISSION TO GIVE HIS STATEMENT TO THE POLICE TO EXPLAIN HIS INNOCENCE WHICH IS THE NATURAL TENDENCY OF AN INNOCENT PERSON, AS A MATTER OF SELF-PRESERVATION AND A PRECAUTION AGAINST PREJUDICING HIMSELF, AND FAILURE AND OMISSION OF MOTHER WHO CLAIMED THAT HER SON WAS IN THE HOUSE ON THE NIGHT OF THE INCIDENT TO TAKE THE CUDGELS FOR HIM -

"III. THE HONORABLE COURT BELOW ERRED, WITH DUE RESPECT, WHEN IT RULED THAT OF CONSIDERABLE IMPACT WAS THE ADMISSION OF THE ACCUSED THAT WHEN CO-ACCUSED DIONISIO PONCIANO, JR., NOW DECEASED, SHOWED HIM THE MERCHANDISE, THE LATTER WAS UNEASY, RESTLESS AND IN A HURRY AND HE SUSPECTED THAT THE ITEMS CAME FROM ILLEGAL SOURCE, COUPLED BY THE FACT THAT ACCUSED'S RESIDENCE WAS JUST SIX (6) HOUSES AWAY FROM THE VICTIM'S RESIDENCE AND NEWS OF THE KILLING AND ROBBERY THAT TOOK PLACE THE NIGHT BEFORE WAS ALREADY SPREAD, AND HE STILL BOUGHT THE ITEMS, AND NO SENSIBLE AND PRUDENT PERSONS WOULD BUY/ACCEPT THE GOODS NO MATTER HOW CHEAP THE COST MAY BE -

"IV. THE HONORABLE LOWER COURT ERRED, IT IS RESPECTFULLY SUBMITTED, WHEN IT FOUND THAT THE DEFENSE ADVANCED BY THE ACCUSED WAS AN AFTERTHOUGHT TAKEN ONLY DURING THE TRIAL AS A DESPERATE ATTEMPT TO ESCAPE PENAL LIABILITY, TAKING ADVANTAGE OF THE DEMISE OF HIS CO-ACCUSED DIONISIO PONCIANO, JR., WHO CAN BLUNT AND REFUTE HIS VERSION -

"V. THE HONORABLE COURT A QUO ERRED, IT IS HUMBLY SUBMITTED, WHEN IT RULED THAT THERE WERE SEVERAL CIRCUMSTANCES WHICH BROUGHT TOGETHER A DEFINITE CONCLUSION THAT ACCUSED WAS ONE OF THE CULPRITS." (pp. 67-69, Rollo)

It is the main contention of the accused-appellant that the trial court improperly convicted him on the ground that his defense of alibi is unavailing.

The trial court held:

"From an evaluation and assessment of the evidence for the prosecution, nowhere can be found any direct evidence showing that the accused was seen doing the robbery and the killing. However, there are several circumstances which, brought together, could form a definite conclusion that the accused was one of the culprits.

"Denial or alibi is the thrust of the defense of the accused. Considering the conflicting testimonies of the

principal opposing witnesses, the Court has to determine whether or not the accused was present at or during the commission of the offense. Alibi, the weakest of all defenses because it is easy to concoct and difficult to disprove must be received with utmost caution (*People v. Dorico* 54 SCRA 172). For the defense of alibi to prosper, it is not enough that the accused was somewhere else when the crime was committed, but he must show that it was physically impossible for him to have been at the place at the time of its commission (*People v. Lingao*, 75 SCRA 131; *People v. Balbas*, 122 SCRA 859).

"With the above guidelines, the defense of alibi put up by the accused' miserably failed. It is admitted that the victim's residence is only about six (6) houses away from the house of the mother of the accused where the latter was when the crime was committed. The victim's house can be negotiated by one or two minutes walk from the place where the accused was. The accused was within the periphery of barangay Mabolo, Valenzuela, Metro Manila. It was physically possible for the accused to be at the crime scene." (pp. 7-8, Rollo)

It should be noted that even the trial court admitted in its decision that from its evaluation and assessment of the evidence for the prosecution "nowhere can be found any direct evidence showing that the accused was seen doing the robbery and the killing." Accused-appellant's conviction was based merely on circumstantial evidence. The trial court relied mainly on the fact that part of the stolen goods were recovered from persons pinpointed by the accused-which fact carries with it the admission that he was once in possession of the part of recently stolen property and the presumption that he is the thief relying on *U.S. v. Ungal*, 37 Phil. 835. The trial court also considered the accused's admission that when co-accused Ponciano, Jr. showed him the merchandise, the latter was uneasy and restless and he suspected that the goods were stolen. The trial court commented that no sensible and prudent person would buy/accept the goods no matter how cheap the cost may be with the knowledge that someone in the vicinity was robbed and killed. For the trial court, the accused-appellant's claim that he was merely a buyer of those stolen goods was an absurd explanation to escape responsibility for the robbery and killing. The trial court noted the accused's failure and omission to give his statement to the police showing his innocence which is allegedly the natural tendency of an innocent person as a matter of self-preservation and a precaution against prejudicing himself. And lastly, the trial court put considerable weight on accused's failure to convince the court of his defense of alibi.

There is no question that circumstantial evidence is sufficient to convict where the circumstances point to the accused as the culprit. The following requisites however, must be satisfied: (1) there must be more than one circumstance; (2) the facts from which the inference is derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt (*People v. Santito*, G. R. No. 91628, August 22, 1991, 201 SCRA 87).

The circumstances presented by the prosecution during trial in an attempt to pin the accused did not in any way point to him as the perpetrator of the robbery and the killing. It is true that his possession of the stolen goods results in a strong suspicion that he had something to do with the crime. However, this is only one circumstance and the presumption brought about by this fact had been overcome by his reasonable explanation that he bought the goods from his co-accused. Accused-appellant's admission that he already suspected that the goods sold to him were probably stolen and his failure to give any statement to prove his innocence do not indicate his commission of the crime charged. This fact does not make him the thief or the robber. At most, accused-appellant could be guilty of violating the anti-fencing law. Neither should one's silence be equated with guilt. Suspicion of guilt, no matter how strong should not be permitted to sway judgment (*People v. Fontanilla*, 199 SCRA 897). A defendant in a criminal case must always be presumed innocent until the contrary is proven. When his culpability is not satisfactorily shown, or in case of a reasonable doubt, he shall have the right to be acquitted, though his innocence be doubted (*People v. dela Cruz*, G.R. Nos. 90907-12, August 7, 1991, 200 SCRA 379).

So far, the prosecution's evidence only showed that after an investigation on the incident was conducted by the

police force in Valenzuela, they apprehended two suspects, namely, Donisio Ponciano, Jr. and the herein accused-appellant, Alfredo Maclid. There was no showing how the latter became a suspect. He was invited for questioning and he confessed that Ponciano, Jr. sold to him certain articles which turned out to be those which were stolen from the victim's house. These admissions, given without the aid of a counsel are not admissible in court but even if these admissions were admissible, they do not prove accused-appellant's participation in the robbery with homicide. Moreover, his co-accused, Ponciano, Jr., before his death never admitted that the accused-appellant played a role in the robbery and killing of the victim nor did he give any testimony incriminating Maclid. Finally, none of the witnesses of the prosecution positively identified Maclid as one of the perpetrators of the crime.

In sum, the evidence of the prosecution does not establish beyond reasonable doubt that the accused-appellant committed the crime. As it now stands, the weakness of appellant's defense of alibi can not be held against him in view of the absence of his clear and positive identification as one of the culprits. And while alibi may not have been proven so satisfactorily as to leave no room for doubt, such an infirmity can not strengthen the weakness of the prosecution's evidence, the reason being that in a criminal prosecution, the state must not rely on the weakness of the defense. Alibi need not be inquired into if the prosecution's evidence fails to satisfy the test of moral certainty (*People v. Lazarte*, G.R. No. 89762, August 7, 1991, 200 SCRA 378).

ACCORDINGLY, the decision of the trial court is REVERSED and SET ASIDE. Accused-appellant is hereby ACQUITTED of the crime of robbery with homicide on reasonable doubt.

SO ORDERED.

Cruz, (Chairman), Grino-Aquino, and Bellosillo, JJ., concur.

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