

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. DAVID SAULO Y SANTOS, ACCUSED.

G.R. No. 94547. July 29, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Quezon City, Branch 104, the dispositive portion of which reads:

"WHEREFORE, finding the accused DAVID SAULO Y SANTOS guilty beyond reasonable doubt of the crime of Robbery with Homicide, as charged in the information, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA or life imprisonment; to indemnify the heirs of the deceased in the amount of P200,000.00 for funeral and other expenses, without subsidiary imprisonment in case of insolvency, with the accessory penalties provided for by law, and to pay the costs.." (Rollo, p. 38)

The amended information filed against the accused alleges:

"That on or about the 25th day of January, 1987, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to gain, by means of violence and intimidation of person, did then and there, wilfully, unlawfully and feloniously rob one OSCAR ILUSTRE Y ILAGAN of his GOLD NECKLACE WITH CROSS PENDANT with undetermined value and FIVE (5) P100 PESO BILLS, that on the occasion of the said robbery herein accused did then and there, wilfully, unlawfully and feloniously and without any justifiable cause, attack, assault and employ personal violence upon the person of OSCAR ILUSTRE Y ILAGAN by stabbing the latter with a kitchen knife, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the deceased-victim OSCAR ILUSTRE Y ILAGAN, in such amount as may be awarded to them under the provisions of the Civil Code.." (Rollo, p. 3)

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is as follows:

"Benjamin Berto, 33 years old, and working as driver for the victim for about four years, testified that on January 25, 1987, at about 1:00 o'clock in the afternoon, he was in the servant's quarters of the house of the victim at 25 West Maya Street, Philamlife Homes, Quezon City; that he, at that time, heard somebody moaning, in his own words 'umuungol', from the room of the victim; that he, together with Noel Drapez and Jesus Donato, rushed to the said room; that upon entering the room, they saw the accused stabbing the victim with a knife about 10 inches long; that, although the victim was still alive when they entered the room, the victim passed out right after their arrival; that they forthwith ganged up on him and boxed him; that as a result, the accused dropped his knife which the witness then picked up and laid inside the cabinet; that, upon noticing the accused's bulging pockets, they frisked him and found the necklace belonging to the victim and some cash of five hundred peso bills amount (sic) to P500.00; that they tied up the accused, using a wire; that they called the police and a doctor; and, upon arrival of a policeman, turned the accused over to him and handed the necklace and money to him; that the accused was brought to the police precinct and incarcerated.

"Jesus Donato, 27 years old, houseboy of the victim, testified as follows: That on January 25, 1987, at about 1:15 or 1:30 o'clock in the afternoon, while at the garage of the victim's house, he, together with Benjamin Berto and Noel Drapez, heard a shout coming from the room of the victim; that they rushed to the room of the victim and, finding the door closed, pushed hard on it until the lock gave way; that upon entering the room, they saw the accused on top of the victim who was lying on the floor, face up, and stabbing him with a knife; that they jumped on him and boxed him, causing the knife to fall; that they tied up the accused and called the police and a doctor; that he, himself, called a doctor named Jaime Aquino, and his companion, Benjamin Berto, called the police; that when the doctor arrived, the victim was already dead, and when a policeman came, the victim was taken to the precinct at the Baler station.

"Carmelo Lopez, 47 years old and a member of the Quezon City Police Force, testified on May 27, 1987 that on January 25, 1987, upon arrival at the Headquarters in Quezon City on EDSA, he received a radio message to respond to 25 West Maya St., Quezon City, because someone was stabbed therein; at 25 West Maya St., he was met by Jesus Donato, Benjamin Berto and Noel Drapez, who told him that their employer, the victim, had been stabbed by David Saulo whom they had apprehended; that Mr. Berto informed him that he (Berto) had confiscated five one hundred peso bills from the pocket of the suspect together with a gold necklace with a pendant; that Berto also showed him the knife on top of the aparador which was used by the accused; that he asked that the body of the victim be brought to the NBI morgue for an autopsy; the three persons, namely Drapez, Donato and Berto, together with the accused, were brought to the Police Headquarters; that Donato, Drapez and Berto each made their own statements; that the accused verbally admitted his guilt to him but refused to give a statement to that effect.

"Dr. Renato C. Bautista, a medico-legal officer of the National Bureau of Investigation, testified on May 31, 1989 that he conducted an autopsy examination on January 25, 1987 on the body of the victim. He observed seventeen (17) stab wounds; ten were on the frontal side of the body, seven of which were fatal; six were on the posterior side, three of which were fatal, and the seventh was on the right side of the body, also fatal, because it perforated the right lobe of the right lung, and that all the wounds were probably caused by a sharp, pointed, single-bladed instrument, which could be a knife.

"Beverly Eleria, 37 years old and working at the Forensic and Chemistry Section of the National Bureau of Investigation, testified on October 14, 1987 that she examined the articles mentioned in Biology Report No. 87-19, namely, the kitchen knife and a gold necklace; that before she examined the blood type on the knife, she examined the blood type of the victim and found it to be "O" which was the same as the type of the blood on the knife, and that there was insufficient blood in the necklace to form a conclusion whether it has human or animal blood.

"Armando Ilustre, 42 years old and nephew of the victim, testified on November 16, 1987 that at the time of the death of the victim, he was a Director of the NAWASA and Consultant of the World Bank, earning about P120,000.00 a year; that he arranged for the funeral of the victim which cost about P100,000.00; that, although he visits his uncle's house on occasions calling for his presence, the first time he saw the accused was on January 25, 1987 when he went to his uncle's house upon being informed that he had been stabbed dead; that his uncle never mentioned the name of the accused to him, and that on trips where he accompanied his uncle, he never saw the accused with him." (Rollo, p. 32-35)

On the other hand, the defense version as summarized by the trial court is as follows:

"x x x On January 24, 1990, the accused testified that he first met the victim sometime in 1986 while he was looking for a job at Philamlife Subdivision in Quezon City; that he, while resting in the plaza of the subdivision, was invited by the victim to go to his residence; that he did so after going to the address he was looking for; that, after some preliminaries during which he was promised money, he undressed and the victim 'was able to use' him; that since then, they had a 'relationship' that lasted for about a year and a half, during which time he would go to the victim's house every Sunday and about three times they went to Baguio, staying

at the same room at the Baguio Country Club, and that he was also given gifts of money, clothes and jewelry.

"The accused further testified that on January 25, 1987, he was called by the victim from his job at Crispa, Ayala Avenue, Makati, at about 9:00 o'clock in the morning. He arrived at the victim's house about 1:00 o'clock in the afternoon. The victim was there and so also were his three houseboys who were occupying a room at the back of the house. As usual, the victim, according to the accused, had sex with him. Soon thereafter, the victim asked for anal sex, at which point the accused claimed to have refused. The victim allegedly got angry and left the room. A short while later, the victim is said to have returned and tried to talk to the accused into agreeing, but the latter was adamant in his refusal. Angered, the victim allegedly grabbed a peeling knife and tried to stab the accused. The accused was not hit. They grappled for the knife, in the course of which the victim was hit in the chest.

"The accused further claimed that the victim shouted in pain and this attracted the houseboys. The houseboys broke open the door, mauled the accused, and tied him up. Then they, according to the accused, proceeded to stab their master and got money from his vault.

"Finally, the accused claimed that the policemen who had arrived at the scene of the crime placed five hundred peso bills in his pocket, removed the necklace worn by the victim and placed that, too, in his pocket." (Rollo, pp. 35-36)

The appellant raises the sole assignment of error that:

"THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT AS THE EVIDENCE PRESENTED IS INSUFFICIENT TO OVERCOME THE LATTER'S CONSTITUTIONALLY GUARANTEED RIGHT TO BE PRESUMED INNOCENT."

The appellant contends that as between the version of the prosecution and his own version, the latter is more credible.

He states that if, indeed, his story was not true, then how could he have entered the house without anyone knowing. Second, how is it that despite all the appliances and the money that were scattered around the room (TSN, July 5, 1989, p. 40 and p. 49), he only took a necklace and five hundred pesos (P500.00). Third, how is it that the necklace found on him had little blood when it should have been bloodied as according to the testimony of one of the prosecution witnesses, Benjamin Berto, the appellant was on top of the victim stabbing him (TSN, July 5, 1989, pp. 44-46) thereby bloodying his clothing and whatever were in his pockets. Fourth, how is it that there was no laboratory examination on the five one-hundred peso bills to see whether they were bloodied or not.

The abovementioned claims set forth by the appellant questioning the veracity of the version of the prosecution and promoting the credibility of his version do not diminish the strength of the prosecution evidence. How the appellant entered the house or why he got only those certain items do not in any way make incredible the testimonies of the two prosecution eyewitnesses, the domestic helpers of the victim, that they saw the appellant stab the deceased. Likewise, the fact that the necklace had little blood on it and the non-examination by the laboratory of the five one-hundred peso bills also do not make incredible the testimony of Berto that he found these items in the pockets of the appellant.

The appellant himself admits that he stabbed the victim but attributes the rest of the stab wounds to have been inflicted by the domestic helpers of the victim (TSN, January 24, 1990, p. 28). The appellant would like us to believe that it was really the domestic helpers who killed and took money from the victim. He claims that the domestic helpers testified against him in order to make him the scapegoat to their killing and taking of the money.

Such claims of the supposed motive on the part of the prosecution to falsely testify against the appellant is clearly without merit.

First, the intention of the domestic helpers to help their employer was evident as they even broke the door down to know what was happening with their employer (TSN, January 24, 1990, p. 26) Second, if it were the domestic helpers' intention to make the appellant answer for the crime they committed, it would have been they who would have placed the money and the necklace in the appellant's pockets and not the policemen as testified to by the appellant himself (TSN, January 24, 1990, p. 32)

It has been ruled by this Court in *People v. Urquia*, G.R. No. 94787, November 19, 1991 citing *People v. Paco*, 170 SCRA 681, 688 [1989] that:

"The motive imputed to the prosecution witness because of the facility by which the accused can fabricate the same must be proved by clear and sufficient evidence. x x x In the absence of convincing evidence that the principal prosecution witness acted because of improper motives, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit."

In this case, there is no showing by clear and convincing evidence that the prosecution witnesses so acted because of improper motive. In fact, the records show that the only motive that the domestic helpers had was to help the victim, their employer.

The appellant also admitted that the necklace and the five one-hundred peso bills were found in his possession but puts up the defense that it was the policemen who placed the money and the necklace in his pockets, the fact that the necklace was not bloodied supposedly buttressing his defense.

We agree with the trial court that "such self-serving justification xxx deserves no credence since it is not only against the presumption that the policeman acts in accordance with law rather than not, but also because such a serious imputation or wrongdoing on the part of the policeman must at least find some corroboration in testimony or circumstance which the accused offered none." The fact that the necklace had little blood and the non-examination of the five one-hundred peso bills despite the seventeen (17) stab wounds suffered by the victim are not sufficient to taint the version of the prosecution. The items were found inside the pockets of the appellant and that could have protected them from the blood oozing from the stab wounds.

Moreover, it is essentially the credibility of the opposing witnesses that is the main issue in this case. We now reiterate the rule so firmly settled that the findings of the trial court are given weight and the highest degree of respect by the appellate court and may be disregarded only where substantial errors have been committed or determinative facts have been overlooked and which otherwise would have dictated a different conclusion or verdict. (*People v. Aguiluz*, G.R. No. 91662, March 11, 1992; *People v. Samillano*, G.R. No. 62088, March 6, 1992; *People v. Rendoque*, G.R. No. 95541, February 4, 1992)

The crime was committed at the house of the victim, the aggravating circumstance of dwelling is therefore, appreciated in this case.

From the foregoing, the appellant is found guilty beyond reasonable doubt of the crime of robbery with homicide with the aggravating circumstance of dwelling.

Robbery with homicide is punishable by reclusion perpetua to death. The aggravating circumstance of dwelling is appreciated in this case. Death, then, is the proper imposable penalty. (Article 63 (4), Revised Penal Code) In view, however, of Article III, Section 19 (1) of the 1987 Constitution as interpreted in our ruling in *People v. Muñoz, et al.*, 170 SCRA 107 [1989]), prohibiting the imposition of the death penalty, the Court has since February 2, 1987 not imposed the death penalty whenever it was called for under the Revised Penal Code but instead reduced the same to reclusion perpetua. (*People v. Badilla*, 185 SCRA 554, 571 [1990])

The proper penalty, however, to be imposed should only be reclusion perpetua and not reclusion perpetua or life

imprisonment as the trial court rendered. It has been held in *People v. Samillano*, *supra*, that:

"In a judgment of conviction for a felony, the court should specify the appropriate name of the penalty inasmuch as under the scheme of penalties in the Revised Penal Code, the principal penalty for a felony has its own specific duration and corresponding accessory penalties. xxx There is no penalty of life imprisonment in the scheme of penalties under the Revised Penal Code."

The award of damages by the trial court of P200,000.00 for funeral and other expenses is deleted as there is no evidence to support such an award. However, the appellant is hereby ordered to pay the heirs of the deceased the death indemnity of P50,000.00.

WHEREFORE, in view of the above, the judgment of the trial court is MODIFIED, and the appellant David Saulo y Santos is found GUILTY beyond reasonable doubt of the special complex crime of robbery with homicide with the aggravating circumstance of dwelling. The accused-appellant is hereby sentenced to suffer the penalty of reclusion perpetua and is ordered to pay to the heirs of the deceased the death indemnity of P50,000.00.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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