

THE PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. GOMER MENDOZA Y PURIGAY, ACCUSED-APPELLANT.

G.R. No. 97430. June 26, 1992

Ponente: NOCON, J.

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NOCON, J.:

It was at broad daylight at around ten o'clock in the morning of September 19, 1989, when the gruesome killing of a housemaid by the name of Rebecca Miranda Abarca and the taking of valuables amounting to Thirty Thousand Six Hundred Pesos (P30,600.00) from the house of herein complainant, Eloisa Magdurulang located at Villa Angelica Subdivision, Kaybiga, Novaliches, Kalookan City occurred.

Consequently, criminal charges against herein appellant Gomer Mendoza were filed under an Information which reads:

"That on or about the 19th day of September 19, 1989 in Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and by means of force and violence, did then and there willfully, unlawfully and feloniously take, rob and carry away the following items, to wit:

One (1) unit Sanyo betamax worth

.....

P12,000

One (1) unit Imarflex Betamax Rewinder worth

.....

P 850

One (1) Casio portable Organ worth

.....

P 5,000

One (1) Seiko Lady's wrist watch worth

.....

P 1,200

One (1) Kodak instamatic Camera worth

.....

P 800

One (1) men's gold ring worth

.....

P 500

One (1) men's gold necklace with crucifix pendant worth

.....

P 2,500

Two (2) pcs. children necklace with sodiac (sic) sign pendant worth

.....

P 3,000

One (1) set of earring worth

.....

P 800

One (1) gold ring w/ stone (brillantitos) worth

.....

P 500

Two (2) pcs. Lady's gold necklace w/pendant

.....

P 3,000

Three (3) men's T-shirt worth

.....

P 450

P29,900 (sic)

all belonging to one ELOISA MAGDURULANG y GALANG, to the damage and prejudice of the latter in the aforementioned total amount of P29,900.00; (sic) and on the occasion thereof, attack, assault and strangled with a nylon cord one REBECCA ABARCA y MIRANDA, a housemaid thereat, thereby causing her instanteneous (sic) death.

Contrary to law."^[1]

Appellant pleaded not guilty to the crime of Robbery with Homicide as charged in the Information. Anchoring his defense on alibi, the trial court rejected the same and rendered judgment against herein appellant, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused GOMER MENDOZA y PURIGAY guilty beyond reasonable doubt of the crime of Robbery with Homicide, and hereby sentences him to suffer imprisonment of RECLUSION PERPETUA; to indemnify the heirs of the deceased the amount of P30,000.00 and to reimburse

the heirs of the deceased the sum of P10,800.00 representing burial and funeral expenses; to pay Eloisa Magdurulang the amount of P16,700.00 representing the value of the unrecovered lost items and to pay the costs.

SO ORDERED."

As borne out from the records, the facts of the case are as follows:

It was about ten minutes past one o'clock in the afternoon of September 19, 1989, when complainant Eloisa Magdurulang received a phone call at her office from one of her neighbors informing her that something had happened at her house at Villa Angelica Subdivision, Kaybiga, Kalookan City. Complainant immediately left for home and upon arrival thereat, she found her housemaid Rebecca Abarca dead and the following valuables stolen: one (1) unit Sanyo betamax worth P12,000, one (1) unit Imarflex Betamax rewriter worth P850, one (1) Casio portable organ worth P5,000, one (1) Seiko Lady's wrist watch worth P1,200, one (1) Kodak instamatic camera worth P800, one (1) men's gold ring worth P500, one (1) men's gold necklace with crucifix pendant worth P2,500, two (2) pieces children's necklace with zodiac sign pendant worth P3,000, one set of earring worth P800, one (1) gold ring with stone (brillantitos) worth P500, two (2) pieces lady's gold necklace with pendant worth P3,000 and three (3) men's T-shirt worth P450, totalling to P30,600.00.

At the scene of the crime, the deceased, Rebecca Abarca had been strangled and hung with a nylon cord and a suicide note^[2] was discovered in the room where she was found. Complainant however, upon comparing the suicide letter with a copy of a recent handwritten letter of Abarca, Exhibit "K",^[3] strongly disputed the suicide letter to be that of the deceased.

Two days later, appellant was surrendered by his father Gregorio Mendoza to the police authorities to whom he admitted^[4] during custodial investigation his responsibility for the crime committed on September 19, 1989 at complainant's house. Appellant recounted that he was about to leave complainant's house, with the items he had stolen, when the housemaid Rebecca Abarca saw him. Hence, he ran after the maid, following her inside a room and when he got hold of her, he pressed her head against the bed and covered it with a pillow. Later, he took the dead body of the maid, tied her neck with a nylon cord and hung her by the window.^[5] Appellant then made a suicide letter to make it appear that the maid took her own life.^[6]

Appellant likewise admitted that he pawned some of the items he stole and that he kept the pawnshop tickets under the linoleum in their house.^[7] Pursuant to his disclosure, accused-appellant together with Pfc. Reynor Melmida and Pat. Edgardo Aquino went to the former's house to get the pawnshop tickets, one (1) from Cebuano pawnshop covering a Sanyo Betamax and another from Villarica pawnshop which covered a lady's wristwatch^[8] which they found at the place indicated by the accused-appellant. The items pawned were redeemed out of the money provided by appellant's father, Gregorio Mendoza and returned to the owner Eloisa Magdurulang.^[9]

Accused-appellant now seeks to nullify the judgment of the trial court on the ground that the circumstantial evidence presented was insufficient to overcome accused-appellant's presumption of innocence; and in proving that he was the person responsible for the robbery and the killing of the deceased.

The real issue in the case at bar is whether or not the circumstantial evidence on record is sufficient to warrant appellant's conviction.

Jurisprudence teaches us that for circumstantial evidence to be sufficient to support a conviction, all the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt.^[10] Guilt may be established through circumstantial evidence provided that the requisites therefor are

present, namely: (1) there must be more than one circumstance; (2) the inferences must be based on proven facts; and (3) the combination of all circumstances produces a conviction beyond doubt of the guilt of the accused.[11]

The intent to gain, being an internal act, cannot be established by direct evidence, except in cases of confession by the accused. It must therefore, be inferred from the circumstances surrounding the commission of the offense.[12]

In the instant case, the following circumstances point to the guilt of the accused-appellant:

1. The two (2) pawnshop tickets covering a Sanyo Betamax and a lady's wristwatch, items stolen from Eloisa Magdurulang, were recovered in the appellant's house in the place pointed to by him under the linoleum.[13]
2. Appellant was voluntarily surrendered by his father, Gregorio Mendoza, to the police authorities to whom he confessed his guilt.[14]
3. Appellant was able to redeem the stolen betamax from the Cebuano pawnshop after he signed the pawnshop ticket[15] and the stolen wristwatch was redeemed from the Villarica pawnshop after appellant's ID card was presented together with the pawnshop certificate.[16]
4. It was the father of the accused-appellant who provided for the money to be used in redeeming the stolen items from the pawnshops.[17]
5. Finally, appellant's house is just beside the house of Eloisa Magdurulang,[18] thus, affording appellant the opportunity to easily commit the crime and to seek refuge in his house.

All the foregoing circumstances constitute clear proof of appellant's guilt considering that even before he could be arrested, his father surrendered him to the police authorities. It would be at variance with ordinary human behavior for appellant's father to have voluntarily placed his son under police custody absent any culpability on his son's part for any offense.[19]

That the pawnshop certificates covering the stolen articles were recovered in the appellant's house seriously implicates appellant to the crime charged considering his unexplained possession of said certificates. His knowledge of the whereabouts of the pawnshop certificates convinces Us that appellant is responsible for the commission of the offense charged. When it is proven that property stolen is found in the possession of a person, who is unable to give a satisfactory explanation as to his possession of such property, a prima facie case is made against such person sufficient to justify his conviction of the crime of larceny of said property. Men who come honestly into the possession of property have no difficulty in explaining the method by which they came into such possession.[20]

The sufficiency of circumstantial evidence to support a conviction, must be determined on its own peculiar circumstances and all the facts and circumstances are to be considered together as a whole, and, when so considered, may be sufficient to support a conviction, although one or more of the facts if taken separately would not be sufficient for this purpose.[21]

In the case before Us, after taking into consideration all the circumstances surrounding the commission of the crime charged, one is led to the inescapable conclusion that appellant was the perpetrator thereof.

As found by the Court a quo:

"The Court after analyzing the evidence adduced by the prosecution firmly believe that all the evidences presented are all circumstantial, however, although circumstan-tial, they are sufficient to convict accused of the crime charged in the information. The following circumstances/observation of the court pointed to the accused as the killer of Rebecca Abarca and looter of the stolen properties of Eloisa Magdurulang. Further, the

evidences adduced by the prosecution have successfully overcome the constitutional presumption of innocence afforded the accused and had established his guilt beyond reasonable doubt." [22]

Appellant disputes the reliability of the police officers' testimony claiming that his father only accompanied him to the police headquarters because of the fear that he might be salvaged, he being the prime suspect of the crime.

But We find nothing in the evidence on record that appellant was one of the primary suspects two days after the robbery and killing and that there was a conspiracy to liquidate him, so that appellant's father had to surrender him to the police for his own protection.

Courts generally give full faith and credit to the testimony of police officers on the basis of the presumption of the regularity in performance of their official duties. Their testimonies cannot simply be discredited where no improper motive is shown why they would frame up appellant, [23] or in the absence of proof to the contrary. [24]

Guided by the foregoing principles and the absence of any evidence whatsoever to show that the prosecution witnesses had ulterior motives to testify falsely against appellant, other than to tell the truth and to bring to justice the perpetrator of the crime charged, their testimonies are worthy of full faith and credit.

On the other hand, appellant denies confessing to the crime charged; his having informed the police authorities the whereabouts of the pawnshop tickets; his having signed the aforementioned pawnshop ticket [25] and that his father provided the money to redeem the stolen items.

As between a negative assertion and a positive one, the latter carries greater weight than a negative assertion. Mere denials constitute self-serving negative evidence, which cannot be accorded greater evidentiary weight than the declarations of credible witnesses who testify on affirmative matters. [26]

In addition thereto, his allegation that on the night of the day in question he slept at home cannot be taken seriously without accounting for his whereabouts in the morning of said day, when the offense was believed to have been perpetrated. [27]

Besides, time and again courts have looked upon the defense of alibi with suspicion [28] and always receive it with caution [29] not only because it is inherently weak and unreliable but also because of its easy fabrication. [30] For alibi to serve as a basis for acquittal it must be established by clear and convincing evidence. The requisite of time and place must be strictly met. The accused must show that he was at some other place where the crime was committed at the time of its commission. [31] Appellant failed to meet the requisites.

Appellant's extra-judicial confession before Pfc. Reynor Melmida and Pat. Edgardo Aquino, having been elicited during custodial investigation, in the absence of counsel and, albeit an informal one, not being reduced to writing, is inadmissible in evidence against appellant. As held in *People vs. Lacap*, G.R. No. 78730, promulgated March 8, 1989:

"No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, or by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence." [32]

Where therefore, the execution of the extrajudicial confession is made in the absence of counsel, *de parte* or *de officio*, and the waiver was not made with the assistance of counsel, said extrajudicial confession should be disregarded.

However, even without the extra-judicial confession, the circumstantial evidence presented by the prosecution

unerringly points to the appellant as the author of the crime charged.

WHEREFORE, the decision appealed herefrom is hereby AFFIRMED save for the modifications that the indemnity to be paid to the heirs of the deceased be increased to P50,000.00^[33] and the amount to be paid to Eloisa Magdurulang be increased to P17,400.00. With costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Rollo, p. 7.

[2] Exhibit "P", Records, p. 68.

[3] Records, p. 61.

[4] T.S.N., March 28, 1990, p. 4.

[5] Id., at pp. 5-6.

[6] Ibid.

[7] T.S.N., January 22, 1990, pp. 5-6.

[8] Id., at p. 6.

[9] T.S.N., November 10, 1989, p. 9.

[10] People vs. Maravilla, Jr., No. 77968, 167 SCRA 645, (1988).

[11] People vs. Alcantara, No. 74737, 163 SCRA 783, (1988).

[12] Bernal vs. Court of Appeals, No. L-32798, 165 SCRA 18, (1988).

[13] T.S.N., January 22, 1990, p. 6.

[14] T.S.N., March 28, 1990, p. 12.

[15] Id, at p. 5.

[16] T.S.N., January 22, 1990, p. 9.

[17] Id., at p. 10.

[18] T.S.N., May 31, 1990, p. 4.

[19] People vs. Dy, No. 74517, 158 SCRA 111, (1988).

[20] U.S. vs. Espia, No. 5813, 16 Phil. 506, (1910).

[21] People vs. Aldeguer, G.R. No. 47991, 184 SCRA, (1990).

[22] Decision, p. 5, Rollo, p. 68.

[23] People vs. Marcos, G.R. No. 83325, 185 SCRA 154, (1990).

[24] People vs. dela Cruz, G.R. No. 83260, 184 SCRA 416, (1990).

[25] Decision, p. 6, Rollo, p. 69.

[26] People vs. Alcantara, No. 74739, 163 SCRA 783, (1988).

[27] T.S.N., May 31, 1990, p. 4.

[28] People vs. Bondoc, No. L-2278, 85 Phil. 545 (1950).

[29] People vs. Cinco, No. 46144, 67 Phil. 196 (1939).

[30] People vs. Rafallo, No. L-2265, 86 Phil. 22 (1950).

[31] People vs. Cruz, No. 68805, 142 SCRA 576, (1986).

[32] 171 SCRA 147.

[33] People vs. Sison, G.R. No. 86455, 189 SCRA 643, (1990).

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