

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SATURNINO DULATRE, JR., ERNING SERQUEÑA AND MANALO
MUARILLO, JR., DEFENDANTS. SATURNINO DULATRE, JR.,
DEFENDANT-APPELLANT.**

G.R. No. 98015. September 07, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

In an information dated October 12, 1988, Saturnino Dulatre, Jr., Erning Serqueña and Manalo Muarillo, Jr. were accused of robbery with double homicide allegedly committed as follows:

"That on or about 3:00 o'clock in the afternoon of August 12, 1988 in Sitio Ditaliw, Barangay Dumabel, Municipality of Aglipay, Province of Quirino, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with bladed weapons, axe and jackhammer, conspiring, confederating and mutually helping one another, with intent to gain and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously rob, and carry away personal belongings, such as Seiko 5 wrist watch (automatic) worth P750.00, One (1) blue jacket worth P150.00, One (1) flashlight (3-battery) worth P70.00, cash amounting to P5,000.00 and one (1) Honda motorcycle bearing plate number MC-9884 worth P15,000.00 with a total value of TWENTY THOUSAND NINE HUNDRED SEVENTY PESOS (P20,970.00), Philippine Currency, belonging to Spouses Rodrigo Reyes and Francisca Reyes to their damage(d) and prejudice(d), and that during or on the occasion of the robbery, the accused, conspiring, confederating and mutually helping one another, with intent to kill, treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab Rodrigo Reyes and his son, Pedro Reyes, to (sic) the different parts of their bodies which caused their instantaneous death.

That the following aggravating circumstances were present in the commission of the crime:

1. That the crime was committed with treachery and evident premeditation;
2. That the crime was committed with the use(d) of a motor vehicle;
3. That the accused took advantage of their superior strength in the commission of the crime.

CONTRARY TO LAW."

Appellant Dulatre and Serqueña were apprehended by the authorities but Muarillo remains at large. At their arraignment, appellant and Serqueña pleaded not guilty to the offense charged. However, Serqueña was subsequently discharged as an accused by the lower court upon the motion of the prosecution stating that he was not the Erning Serqueña who allegedly committed the crime.[1] Hence, trial of the case ensued only as to the appellant's case.

The prosecution proved the following facts. Two strangers who later gave their names as Erning Serqueña and Manalo Muarillo, Jr. were seen by Romeo Balanon passing by while he was on his way to the farm of ex-Judge

Sulio in Rizal. On August 5, 1988, Balanon, then around 19 years old and a member of the CAFGU or CHDF, saw the two working in the farm of Dr. Sulio.

On August 11, 1988, Balanon was spraying in the farm of ex-Judge Sulio when he became thirsty. He went to a hut in the adjacent farm where he found the two strangers. During their conversation, the two told him that they were soldiers out on a mission. They told Balanon "that Doctor Sulio wanted them to kill somebody." [2] They even showed Balanon a list of persons to be liquidated. He saw in the list two Reyeses and one Puccao. They also told Balanon that they were "the ones who used to kill people at Santiago." [3]

Balanon noticed that the two were carrying firearms: Serqueña was holding a long firearm while his companion, Junior, had a short firearm. As the three of them were conversing, appellant, who was Balanon's gangmate, arrived. The two strangers told appellant to change his clothes and that they would meet at the back of the school in Rizal. Appellant was not holding any weapon but the two told Balanon that appellant would "be holding a knife." [4] Balanon learned from the two that it was appellant who accompanied them to the house of the barangay captain. However, when appellant arrived that morning, the two strangers avoided talking about their plan to kill some people. [5] Taking the information he learned as a joke, Balanon went home to take his lunch and did not report the matter to the authorities.

Barangay captain Anastacio Ortiz was patrolling barangay Rizal, Saguday, Quirino one night during the second week of August 1988 when he noticed a tricycle in front of the Saguday Central School. One of the three persons in the tricycle was the appellant, Junior Dulatre, who was his barriomate. In answer to the query of Ortiz, appellant told him that they had come from the ranch of Dr. Sulio in Dumabel. Ortiz also learned from appellant that his two companions were "staying with Doctor Sulio." [6] Ortiz even advised appellant to "register" the two in his house and they obliged the following day by handing the father of Ortiz a piece of paper with their names and addresses. [7]

Sixty-year-old Francisca Reyes first met appellant on August 11, 1988 as she was bound for Dibul. [8] At around 10:30 o'clock in the morning of the following day, August 12, her son, Pedro Reyes, arrived in their house in Dibul on a motorcycle. He was with Muarillo. The latter was unknown to her but her daughter interviewed Muarillo. Her son told her that he and Muarillo would be going to their farmhouse in Dibul and asked money from her.

That same afternoon, Francisca was hiking the two-kilometer distance from Dibul to Dumabel when she met three persons riding on a motorcycle which she perceived as belonging to her family. She recognized two of them as appellant and Muarillo but she could not figure out the third person whose face was hidden. [9] When she arrived at their farmhouse in sitio Manarapan, Dumabel, Aglipay, Quirino, she found both her son, Pedro, and her husband, Rodrigo, "mauled and stabbed to death." [10]

Francisca later noticed that a hammer, an ax, the money in her husband's pocket, a blue jacket and a flashlight were missing together with their motorcyle, a Honda TM. The responding nine-member PC team headed by M/Sgt. Teodolfo Tannagan, found the jackhammer, the ax and a kitchen knife, all with bloodstains, around the farmhouse of the Reyeses. Inside the house, they found the dead Pedro Reyes, with a kitchen knife still embedded in his chest. [11] After scouring the area around the house, they found the lifeless body of Rodrigo Reyes. [12]

The bodies of the victims were brought to the provincial hospital where Dr. Roger T. Baguioen autopsied them. Pedro Reyes, 30 years old, sustained a punctured wound which penetrated the upper lobe of his right lung, another punctured wound on the left nasolabial fold, and two lacerated wounds on the "mid-frontal area" and the right temporo-parietal area. He died of "hemorrhage, severe, secondary to multiple stabbed wound(s)." [13] His father, Rodrigo Reyes, 65 years old, had a punctured wound on the right infrazygomatic area, an incised wound on the

left neck, a fractured right zygomatic bone, a confluent hematoma on the right upper quadrant of the abdomen, and a confluent abrasion on the lateral aspect of the right leg. Dr. Baguioen considered his death as due to "hemorrhage, severe, secondary to multiple hacking and punctured wound(s)."[14]

The defense presented the appellant as its sole witness. A 22-year-old farmer who reached only the fifth grade, appellant learned that Serquena and Muarillo (Amorillo) had replaced his own brother in farming the land of Dr. Sulio as early as July 1988. According to his mother and sister, the two would fetch drinking water from their home but he did not get to see them.

It was on August 5, 1988 when he first met them. He was about to go home at noontime that day after spraying in the farm when Balanon, who was in the hut of Dr. Sulio, called him. Balanon introduced him to Serquena and Muarillo. They talked about farming the land of Dr. Sulio and then he went home.

Appellant once again saw the two on August 11, 1988. On that day, he was buying cigarettes in a store when the two arrived and asked him to go with them to Dumabel, Aglipay, Quirino. He accepted the invitation but not before helping them register their names with the barangay captain, as was the "procedure" in their community. The two indicated their addresses in the barangay captain's notebook as San Felipe, San Nicolas, Pangasinan.[15]

Because he wanted to gather guavas, appellant hiked with the two. Upon reaching a hut, Serqueña asked the old man who was there what his name was and when the old man answered that he was a Reyes, Serqueña said that they were relatives and they shook hands.

At around 3:00 o'clock in the afternoon, the son of the old man arrived. The latter introduced his son to their relative, Serqueña. It was in the hut that Serqueña, Muarillo and the appellant spent the night. At around 7:00 o'clock in the morning of the following day, August 12, the son told the old man that he and "Junior" or Muarillo would go to Dibul. An hour later, Serqueña called appellant and told him about the plan to kill the father and his son. When appellant asked him why, Serqueña told him that it was about the land of Dr. Sulio.[16] Appellant wanted to tell the Reyeses about the evil plan being hatched against them but the two were always following him.

The son and Muarillo returned at about 10:00 o'clock in the morning. After eating "ginatan," appellant, the old man and his son slept. Muarillo and Serqueña were "guarding" them.[17] Then Serqueña called appellant and told him that they (Serqueña and Muarillo) would kill the father and son and, should appellant tell the two of their plan, he would also be killed. When appellant and Serqueña returned to the hut, the father was already awake. He went out to graze the carabao but not before telling his son to meet his mother.

It was then that Serqueña, who was carrying a short gun, once again called appellant. They followed the old man. Appellant was about eight meters away when, as they were alongside each other, Serqueña shot the old man but missed him. As the old man fled from his assailant, he met Muarillo with a bloody iron bar. Serqueña and Muarillo then mauled him. Serqueña took an ax and hacked the old man's neck.[18]

Muarillo pulled appellant into the hut where the latter saw the sleeping son with a knife stuck in his breast. Serqueña and Muarillo then drew away from the appellant and talked. Appellant heard Serqueña say, "No more, as long as he will not talk." [19] The two then took the Reyeses' motorcycle and made appellant ride between them. On the way, they met the old man's wife who asked Serqueña where her husband was. Serqueña replied that the old man was still "there." The two left him at Malasin and he hiked all the way home.

As they were riding the motorcycle, appellant could not ask the two why they killed the Reyeses because of their threat to kill him and his brothers and sisters.[20] Afraid, during the five-day period before the police arrived, he could not report the killing of the Reyeses to anyone. He also had no way of knowing whether the two had gone home to Pangasinan or not.[21] But once in the custody of the police and the PC after his arrest in his own house,

he related to them what he knew of the commission of the crime.[22]

On February 20, 1991, the Regional Trial Court in Cabarroguis, Quirino, Branch XXXI,[23] rendered a Decision finding the appellant in conspiracy with Serqueña and Muarillo in killing and robbing the Reyeses. It disposed of Criminal Case No. 665 as follows:

"IN VIEW OF ALL THE FOREGOING, the guilt of the accused having been proven beyond reasonable doubt and the accused is hereby sentenced to life imprisonment and to indemnify the heirs of the victims Pedro Reyes and Rodrigo Reyes the amount of ONE HUNDRED THIRTY THOUSAND (P130,000.00) PESOS, plus all the accessory penalties provided for by law. The detention of the prisoner shall be fully credited in his favor.

SO ORDERED."[24]

We agree with the observation of the trial court that the crime of "robbery with double homicide" indicated in the information was erroneous. The crime committed should simply be denominated as the special complex crime of robbery with homicide, regardless of the number of homicides committed.[25]

We do not agree, however, with its conclusion that the appellant had been proven beyond reasonable doubt to have committed the crime of robbery with homicide.

Appellant was found guilty of the crime charged on the strength of circumstantial evidence, there being no eyewitness to the crime. As this Court has time and again held, a judgment of conviction based on circumstantial evidence can be upheld only if the circumstances proved constitute an unbroken chain that leads to one fair and reasonable conclusion which points to the accused, to the exclusion of all others, as the guilty person, that is, the circumstances proved must be congruent with each other, consistent with the hypothesis of the guilt of the accused and at the same time inconsistent with any other hypothesis except that of guilty.[26]

As summed up by the Solicitor General, the circumstances pointing to the appellant's culpability are as follows: "(1) appellant already knew Erning Serqueña and Manolo Maurillo even prior to August 5, 1988; (2) appellant met them in a store on August 11, 1988 and went with them to the hut of the victims on the same day; (3) appellant knew beforehand that the Reyeses would be killed and did not bother to warn the Reyeses; nor did he leave or escape from the place despite what he knew; (4) appellant was walking behind Serqueña when the latter shot Rodrigo and calmly and coolly watched as Serqueña and Maurillo mauled and axed Rodrigo; (5) appellant rode on the motorcycle of the Reyeses and fled the scene of the crime together with Serqueña and Maurillo; (6) appellant did not report the crime to the authorities until he was apprehended."[27]

These circumstances, shorn of inculpatory facts, were either admitted or volunteered by the appellant himself. In light of the doctrine that the guilt of an accused must be proven by the strength of the evidence presented by the prosecution and not by the weakness of the defense, it is imperative to scrutinize carefully the prosecution's evidence to determine whether it presents the required quantum of proof to arrive at a conclusion that appellant is indeed guilty.

As a rule, the matter of credibility lies within the province of the trial court. However, by way of an exception, the rule does not apply when the trial court overlooked certain facts of substance and value that, if considered, would affect the result of the case. In other words,

"x x x the above-cited rule which would accord deference to the factual findings of the court below yields whenever the findings do not conform to the evidence on record and appear to have no valid basis to sustain their correctness. That lack of basal support may arise as a conclusion not only from the import of the testimonies given but, just as importantly, also from their inherent improbability, their non-adherence to the common experience of mankind of which courts may take judicial cognizance, and other tell-tale indications of

fabrication evident on or inferable from the records." [28]

One of the prosecution witnesses, Romeo Balanon, testified that although Erning Serqueña and Manalo Maurillo were strangers to him, they confided to him the plan to kill the Reyeses. However, the prosecution did not disclose the reason why the culprits should reveal to Balanon so sinister a plan. Neither was it shown that Balanon enjoyed such a confidential relationship with the two plotters that they would give away a conspiracy that is supposed to be "hatched in secrecy." [29]

Moreover, if indeed appellant was one of the conspirators, then there was no reason why the two culprits should avoid talking about the plot in his presence, notwithstanding Balanon's insinuation that the two "told their mission (to appellant) because they are acquainted with each other." [30] In fact, a reading of the transcripts supports the conclusion that Balanon merely assumed that appellant knew of the mission. On cross-examination he testified:

"Q -

And during that time that the three of you were talking, they intimidated (sic) to you their plan to kill the another unkilld persons (sic)?

A -

Yes, sir.

Q -

But at that time that Dulatre came in you evade (sic) talking these matters anymore because you thought that Dulatre was an intruder to your conversation?

A -

No more, sir.

Q -

Am I to understand then that at that time Dulatre did not know anything about that plan?

A -

No, sir.

x x x x x x x x

COURT -

Are you sure that when the two strangers were talking about the killing of the Reyeses, Dulatre was not there?

A -

None, sir.

Q -

Are you sure of that?

A -

Yes, sir." [31]

Furthermore, if indeed Balanon was a member of the CAFGU or the CHDF, it was an act of nonfeasance for him

to keep to himself a plot to kill people which, in effect, would disturb the peace and order in the community that he was supposed to help maintain. We find incredible his claim that he thought the plot, which was even supported by a hit list, was a joke.

The only way by which appellant may be held culpable is proof beyond reasonable doubt that he was a conspirator. But conspiracy, like the crime itself, must be proven beyond reasonable doubt. The presence of the element of conspiracy among the accused can be proven by their conduct before, during and after the commission of the crime[32] showing that they acted in unison with each other, evincing a common purpose or design.[33] In other words, the accused must participate, even by a single overt act, in the perpetration of the crime.[34] It is sufficient that at the time of the aggression, all of them acted in concert, each doing his part to fulfill their common design to kill the victim.[35] Evidence of intentional participation is imperative.[36] One's mere presence in the crime scene, by itself, does not make him a conspirator.[37] In the case at bench, the prosecution relied on evidence which does not even contain a scintilla of proof as to the actual perpetration of the crime. In fact, the Court is given an idea of what transpired during the commission of the crime by the testimony of the appellant himself. Clearly, there is a missing link in the chain of circumstances pointing to appellant's guilt.

Even the prosecution provided a reason for doubting the conspiracy angle it was trying to establish when it proved that it was appellant himself who assisted Serqueña and Muarillo in registering themselves before the barangay captain.[38] Such act is certainly out of character in a criminal plotter for it provided the clue as to the identity of his alleged co-conspirators.

It is hornbook knowledge that flight from the locus criminis is a strong indication of a guilty mind.[39] In this case, appellant did not escape with the two culprits. It is uncontradicted that he was dropped off in a place where he still had to hike to get home where he stayed for some time, fearful that the culprits might get back at him, until the police arrived some five days later. Indeed, his act of remaining in a place near the site of the crime where he is known to his barriomates, coupled with the weak prosecution of the case against him, tilts the scales of justice in appellant's favor.

To be sure, appellant's story is not fool-proof. But as this Court said in *People v. Dramayo*[40], the presumption of innocence must be overcome by the prosecution by proof beyond reasonable doubt and

"x x x every circumstance favoring his innocence (must) be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty."

That moral certainty cannot be inferred from the facts proven by the prosecution in this case.

WHEREFORE, the decision of the trial court is hereby REVERSED and SET ASIDE and appellant Saturnino Dulatre, Jr. is hereby ACQUITTED of the crime of robbery with homicide.

SO ORDERED.

Melo and Vitug, JJ., concur.

Feliciano, J., on leave.

[1] At the trial, prosecution witnesses Anastacio Ortiz and Romeo Balanon swore that the "Erning Serqueña" in court was not the one they saw with appellant and Muarillo (TSN, February 15, 1989, pp. 7 & 17).

[2] TSN, February 15, 1989, p. 11. In a counter-affidavit dated October 5, 1988, Dr. Jesus S. Sulio vehemently

denied the "allusions and innuendoes" cast on his person by Romeo Balanon and Francisca Reyes, swearing that he did not know the accused and he had nothing to do with the commission of the crime (Record, p. 17).

[3] TSN, February 15, 1989, p. 24.

[4] Ibid., p. 16.

[5] TSN, November 21, 1989, p. 3.

[6] TSN, February 15, 1989, p. 5.

[7] Exhs. "A" & "B."

[8] TSN, December 14, 1989, p. 2.

[9] Ibid., p. 10.

[10] Ibid., p. 8.

[11] TSN, September 20, 1989, p. 4.

[12] Exh. "D."

[13] Exh. "I."

[14] Exh. "H."

[15] Exh. "B" or "1."

[16] TSN, March 22, 1990, p. 45.

[17] Ibid., p. 16.

[18] Ibid., p. 19.

[19] Ibid., p. 20.

[20] Ibid., p. 33.

[21] Ibid., p. 35.

[22] Ibid., p. 37.

[23] Presided by Judge Carlos T. Aggabao.

[24] The penalty imposed should have been reclusion perpetua. The trial court committed here the common blunder of imposing "life imprisonment" in a crime defined and penalized by the Revised Penal Code. There is no penalty of "life imprisonment" in the scheme of penalties under the Revised Penal Code (People v. Samillano, G.R. No. 62088, March 6, 1992, 207 SCRA 50).

[25] People v. Nunag, G.R. No. 92570, April 22, 1991, 196 SCRA 206, 214.

[26] People v. Adofina, G.R. No. 109778, December 8, 1994, 239 SCRA 67, 76; People v. Estrellanes, Jr., G.R. No. 111003, December 15, 1994, 239 SCRA 235, 248.

[27] Appellee's Brief, p. 14.

[28] People v. Villagonzalo, G.R. No. 105388, November 18, 1994, 238 SCRA 215, 224.

[29] *People v. Villagonzalo*, supra at p. 225.

[30] TSN, February 15, 1989, p. 21.

[31] TSN, November 21, 1989, pp. 4-5 & 6.

[32] *People v. Macam*, G.R. Nos. 91011-12, November 24, 1994, 238 SCRA 306, 315 citing *People v. Degoma*, G.R. Nos. 89404-05, May 22, 1992, 209 SCRA 266.

[33] *People v. Dalanon*, G.R. No. 107458, October 14, 1994, 237 SCRA 607, 619.

[34] AQUINO, THE REVISED PENAL CODE, Vol. I, 1987 ed., p. 496.

[35] *People v. Magalang*, G.R. No. 84274, January 27, 1993, 217 SCRA 571.

[36] *Medija, Jr. v. Sandiganbayan*, G.R. No. 102685, January 29, 1993, 218 SCRA 219.

[37] *People v. Buntan, Sr.*, G.R. No. 90736, April 12, 1993, 221 SCRA 421.

[38] In his affidavit, Barangay Captain Anastacio Ortiz stated that "the two persons accompanied by Saturnino Dulatre, Jr. came to my house to register" (Exh. A).

[39] *People v. Fernandez*, G.R. No. 113474, December 13, 1994, 239 SCRA 174, 186.

[40] L-21325, October 29, 1971, 42 SCRA 59, 64, cited in *People v. Austria*, G.R. No. 55109, April 8, 1991, 195 SCRA 700 and in *People v. Villagonzalo*, supra.

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