

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CEFERINA FLORES DE GARCIA, ET AL., DEFENDANTS AND
APPELLANTS. THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND
APPELLEE, V...**

G.R. Nos. 13986-87. March 27, 1961

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Direct appeal from a judgment of the Court of First Instance of Pangasinan in Criminal Cases Nos. T-399 and-T-433, convicting all the accused of robbery with homicide; sentencing them to suffer reclusion perpetua; to indemnify Sui Chuy in the sum of P4,830; and to pay the costs.

Indisputably shown are the following facts: in the early morning hours of June 13, 1956, in barrio San Leon, municipality of Umingan, Pangasinan, Sui Chuy was robbed by several persons, who gained entrance to the house of Chuy by forcing their way thru the back door. The robbers took from the Chinese cash and valuables amounting to P4,830.00, at the same time inflicting on the latter slight physical injuries which required medical treatment for a few days (Exh. "A"). The robbers were divided into two (2) groups, one of which was composed of those who forced their way to Chuy's house, the other, of those who also forcibly entered Chuy's bodega situated nearby, where said robbers attempted to break open a safe. On the occasion of the robbery, a certain Maria Madamba, living in a store near the warehouse, was shot through the head, causing her instantaneous death (Exh. "B").

Charged with the offense in two (2) separate informations filed in the court below were Ceferina Flores de Garcia, Alberto Delima, Tirso Mirandi, Emiliano Micu, Oftaciano Manalo, Rufino Vino and Francisco Tejada. Alberto Delima was subsequently discharged from the information and utilized as a state witness. All the others were convicted after a joint trial; hence, this appeal concerns all the accused except Alberto Delima.

The identity of the culprits has been clearly established, not only by the victim, Sui Chuy, but also by Alberto Delima, a confederate turned state witness, and Alberto Flores, a guard in the hacienda rice mill. These witnesses, and other circumstances on record, have shown that Emiliano Micu, Ceferina Flores, Alberto Delima and Tirso Mirandi composed the group that went up to the house of Sui Chuy, while Oftaciano Manalo, Rufino Vino and Francisco Tejada were the ones, who broke into the warehouse. Particularly as to Ceferina Flores and Tirso Mirandi, their identification is unassailable, the authorities having caught them, along with Alberto Delima, right there in the house of Chuy.

Appellants make much capital of certain alleged inconsistencies between Sui Chuy's testimony in court and his affidavit Exhibit "6", dated June 19, 1956. Such alleged inconsistencies involving only minor details, we are satisfied that the witness was able to identify Micu, Ceferina Flores, Mirandi and Delima as those who robbed him that early morning of June 13, 1956. There was a lighted table lamp in the room during the incident, and Chuy had known those who entered his room, long before the robbery, making identification relatively easy. It was the

appellant Micu who, as Chuy had fallen to the floor from a fist blow by Delima, in turn struck Chuy on the back of his head with a caliber 45 pistol. For their part, Ceferina Flores and Tirso Mirandi helped their confederates in ransacking the drawers for money and valuables. Mirandi also slapped Chuy's wife when she was offering resistance. Considering the surprise and fear which Chuy must have felt during the robbery, it was very natural that he should fail to narrate the events with minute exactitude. What is important is that his testimony, in its own right, and in relation to other circumstances shown, substantially narrated a coherent and truthful picture of the incident, including his identification of the robbers. His failure to specifically mention Ceferina Flores in Exhibits "6" and "7" does not appreciably affect his testimony, since, as to her, the question is not one of identity. There had never been any doubt that she entered Chuy's house with the robbers, and was there during the robbery, some of her belongings having been found there. It is insinuated for Micu that he was included by Sui Chuy in the complaint because of an old grudge harbored by the latter against the former, in connection with a previous murder case[1] in which Ceferina Flores, the same accused herein, and who is Micu's mother-in-law, was among the accused but acquitted on reasonable doubts. Suffice it to say that if at all, it was Micu who had reason to entertain a grudge against Sui Chuy for accusing his mother-in-law, and not vice-versa.

Appellants assail Alberto Delima's testimony as coming from a polluted source, he being a confederate. But appellants themselves claim that Ceferina Flores, Alberto Delima and Tirso Mirandi were held up and forced to go with the robbers to Sui Chuy's house; so that Delima could hardly be called a confederate. And it has not been established why Alberto Delima should falsely implicate all his former co-accused, against none of whom he had had a serious enough quarrel which could generate a lasting enmity, let alone motivate a false imputation of a very grave offense. Appellants point to Delima's declarations before the Justice of the Peace of Umingan (Exh. "1", pp. 141-146, T-399) where this witness did not identify the robbers and instead, declared that he, along with Ceferina Flores and Tirso Mirandi, were held up by unknown persons and forced to go with them to Chuy's house. Apart from being inherently-improbable, for reasons which we shall later touch on, the trial court correctly found that Delima, at that time, was laboring under fear of his co-accused, especially of Micu, who had uttered threats against his confederates should any of them reveal the identity of the others. Understandably, Delima's fear was compounded by the fact that Attorneys Flores and Rilloraza, his counsel, were absent in that hearing before the Justice of the Peace, and it was Atty. Joaquin, one of Micu's Lawyers, and Micu himself (who is also a lawyer), who exposed Delima on the witness stand. Under such circumstances, the declarations made by Delima before the Justice of the Peace, and which he subsequently repudiated before the trial court, are more than sufficiently explained.

Alberto Flores, the guard at the rice mill, corroborates the testimony of the other prosecution witnesses as to the complicity and identity of all the appellants. He was conversing with a certain Chinese by the name of Kep in the early morning hours of June 13, 1956 when a pick-up stopped in front of Chuy's house, from which alighted several persons who headed toward the kitchen door. He flashlighted one person in front of Chuy's house, who fired at him twice but missed. Coming nearer, the man turned out to be Micu, who poked his caliber 45 and held him, and accused him of being an "S.S.B. of the Chinese". Micu beckoned to Manalo and Vino, who then took Flores to the warehouse. At the warehouse, the two asked him to open the door. As the key was with Chuy, Manalo and Vino accompanied him to the house to get it. They waited outside while he went into Chuy's room. Inside, he saw Micu and Delima maltreating Chuy. Mirandi was also in the room. On their way down, after being told by Chuy that the key was already with Micu, he saw Ceferina Flores near the door. Accused Francisco Tejada was standing near the window downstairs, and went with the group to the warehouse and stood guard at the door. As with Delima, it was not till the trial that Alberto Flores revealed the identity of the malefactors. However, there is reason to believe that similarly, this witness was threatened with his life in case he revealed the culprits, explaining his earlier declarations which failed to name the robbers all at once. Taken collectively, the testimony

of the prosecution witnesses and the attending circumstances point decisively to all the appellants as the group who robbed Sui Chuy on June 13, 1956, and, on the same occasion, killed Maria Madamba.

Let us dwell on the particular defenses interposed for appellants: It is urged for Ceferina Flores and Tirso Mirandi that on the night of June 12, 1956 up to early morning of the day following, they, along with Alberto Delima, were making trips on the pick-up owned by Ceferina Flores, carrying passengers from Rosales to San Leon, Pangasinan, and back; that after filling the radiator with water at the railroad crossing in San Leon, and as they passed Chuy's house, they were halted by three armed men who, at gunpoint, forced them to go up Chuy's house; that there, Delima and Mirandi were led into the room upstairs and made to lie face down on the floor, while Ceferina was left downstairs. They remained in the house until the arrival of the authorities.

As correctly observed by the trial court, it is unbelievable that persons committing robbery would still gather witnesses and stupidly take them to the scene of the crime. Yet, appellants would have us believe that while the robbery was in full progress, this is precisely what the robbers did. Thus, it is averred that when they reached Chuy's house, a man was standing guard at the door of the house; that upstairs in the room, another was ransacking and taking out things. The fiction is made more emphatic by the glaring fact that despite the claim to being victims of robbery; the alleged unknown robbers did not take P6.00 in coins from Ceferina Flores, though one of the robbers had touched the pocket where the coins were contained, and Ceferina alleged that she was divested of P18.00, plus her bag, lipstick, eyeglasses, and rosary. Contrary to her claim, we believe that Ceferina did not merely stay downstairs, but, as testified to by the prosecution witnesses, went up Chuy's room and helped in ransacking the belongings of the victim. That explains why her rosary was found in the room, and her glasses on the stairs of the house. Her excuse that one of the robbers had brought these articles with him upstairs strikes us as merely a clever afterthought to hide the fact that she went upstairs and into Chuy's room. Not only that. Her immediate reactions after the incident were those of a guilty person caught in the act. Asked why she was there, she replied that they came from the market of San Andres. Queried about her companions and why she was marketing at that hour, she blurted, "Son, will you have mercy on me?" Later, when enough time had elapsed to concoct a story, she and her companions said they were held up by the robbers. But even her trips with the pick-up truck were made under dubious circumstances, to say the least. Certainly, it was not her habit, previously, to accompany her pick-up, much less until the unholy hours of the incident in question. But she did—and her varied and indecisive reasons why she did give further credence to her complicity in the crime. In her statement on the same day, June 13, 1956, sworn to before the Justice of the Peace of Umingan (Exh. "R", 438, T-399), she explained that on their way to San Leon, she did not alight in Balungao where she resided, because she wanted to talk to her Chinese husband, San Kep, to ask some money for her son, who was to leave for Manila. Kep was living in the rice mill of Sui Chuy where he was then working, and Ceferina claims she did not see him anymore because the mill was already closed. Considering that it was well past midnight, she should have known in the first place that by that time, the mill would be closed. At the trial, she said she went with the pick-up to share with her driver (Mirandi) and conductor (Delima), the viands she brought from a baptismal party, and also to supervise the collection of fares. All of which do not speak well of her credibility, much less to establish her curious defense.

The rest of the accused have their respective alibis. Essentially weak, Micu's alibi that he was in the Rosales auditorium from 9:00 p.m. June 12, 1956, to 3:00 a.m. in the morning of the following day, is not strongly supported by the record. Mostly, those who testified saw him last between 1:30 a.m. and 2:00 a.m., giving him enough time to go to San Leon and there commit the crime charged, since the distance between Rosales and Umingan was only several kilometers, negotiable by motor vehicle in about 15 minutes. From the evidence as a whole, the time of the robbery has been established at around past 2:00 a.m. Santiago, the son of Sui Chuy, arrived at their house at about 2:30 a.m. The robbers were already there. Corporal Ceferino Acain of the PC was

called by Pedro Bautista and awakened around 2:30 a.m. While two witnesses said that Micu left the auditorium about 3:00 a.m., we see no reason for changing the trial court's appraisal as to the weight to be accorded their testimony.

Oftaciano Manalo claims to have been in the Rosales auditorium up to 2:00 a.m., from where he went to the Balungao municipal building to inspect the guards, arriving there at 2:30 a.m. He allegedly stayed there up to 4:00 a.m., waiting for a certain Tobias who had abandoned his post without his permission. Patently weak is the alibi. In fact, it confirms that the place of the robbery was easily accessible to Manalo after he left the Rosales auditorium. His being in the municipal building of Balungao from 2:30 to 4:00 a.m. waiting for Tobias (who, by the way, never came) is a lame pretext to account for his whereabouts during those crucial hours. Neither do we give credence to Rufino Vino's alibi that he was on guard duty in the Balungao municipal building from 12:00 midnight to 4:00 a.m. as substitute for Tobias who had abandoned his post without permission. It appears, far too strikingly coincidental that Tobias had to abandon his post without permission at that particular shift; and more so, that Vino had to take over from him so conveniently, very willingly, and without complaint. Why the entry of the police blotter, regarding Vino's having taken over the post of Tobias, was not posted on the same occasion as that entry about Tobias abandoning his post, is not satisfactorily explained. Suspicion is compounded why such second entry, by erasing a period after a word, was made to appear as if entered on the same occasion as that regarding the abandonment by Tobias of his post (Exh. "S-1"). With such weaknesses, the alibis interposed cannot overcome the positive identification made by the prosecution witnesses, particularly, Sui Chuy, Alberto Delima and Alberto Flores, pointing to appellants as the perpetrators of the crime. Nor can Francisco Tejada's alibi that he was also in the auditorium from past midnight to 5:00 a.m. of June 13 prevail over the prosecution's positive evidence.

Coming now to the homicide; the question is who killed Maria Madamba. It appears that Paulino Bautista, the husband of the deceased, heard a scream from the direction of Chuy's house that fateful early morning. Going outside to see what it was all about, Paulino saw someone with a flashlight, on the road near the gate of Chuy's house. Afraid, the witness went back inside his store. While he and his wife were peeping through a door, he saw that the person with the flashlight had followed. When the stranger had come to about 6 meters away, Paulino called him "Berto", mistaking him for the rice mill guard, Alberto Flores. Without answering, and while focusing the flashlight directly on Paulino and his wife, the stranger fired his gun, instantly killing Maria Madamba. Paulino hurriedly reported this to his son, Pedro Bautista, who then called the farm guards for help. The record shows that after poking his gun at guard Alberto Flores and delivering him to Manalo and Vino, appellant Micu went in the direction of Paulino Bautista's store, a few meters away from the warehouse; that while Alberto Flores was being asked to open the door to said warehouse, he heard a gun report at Bautista's store; that nobody had been seen going there except Micu. The circumstances point to no one other than Micu as the killer of Maria Madamba. As found by the trial court, he was the one shuttling back and forth from the house to the camarin, situated very close to Paulino Bautista's store. If it was not Micu, the killer could not have been anyone else than one of the appellants, since there were no other persons in the vicinity at the time who could have shot Maria Madamba except the appellants. It could not have been the farm guards (who also fired shots when they arrived), because they were called by Pedro Bautista who, in turn, was informed by his father, Paulino, only after Maria Madamba had already been shot.

The crime committed is robbery with homicide, defined in paragraph 1, Article 294 of the Revised Penal Code, the homicide having been committed on the occasion of the robbery (*People vs. Mangulabnan, et al.*, 99 Phil., 992; 52 Off. Gaz., 6532, also p. 118, Vol. 6, 1927 Ed., Viada; p. 127, id.). Having acted in conspiracy, as shown by their concerted action and unity of criminal design in pursuance of a common objective, all the appellants are liable for the crime, and, pursuant to paragraph 1, Article 294 of the Code, were correctly sentenced to suffer the

penalty of reclusion perpetua, no modifying circumstances having attended the commission of the offense. Additionally appellants are ordered, jointly and solidarily, to indemnify the heirs of the deceased Maria Madamba in the sum of P6,000.00, which the decision of the trial court failed to include.

Wherefore, modified as above indicated, the judgment appealed from is affirmed in all other respects. Costs against appellants.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

[1] Criminal Case No. 19852, Court of First Instance of Pangasinan.

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