

SECOND DIVISION

[G.R. No. 242213, September 18, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER ENERO, ACCUSED-APPELLANT.

DECISION

REYES, J. JR., J.:

This is an appeal filed by Roger Enero (accused-appellant) assailing the Decision^[1] dated March 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR HC No. 08097, which convicted him of the crime of Murder.

The Relevant Antecedents

Accused-appellant, together with Mervin Verbo (Mervin), Mario Agbayani (Mario), and John Doe, was charged with the complex crime of robbery with homicide which resulted in the unlawful asportation of personal property and the death of three individuals, namely: Mabel Ulita (Mabel), Medirose Paat (Medirose), and Clark John John Ulita (Clark) in an Information^[2] that reads:

That on **AUGUST 10, 2010 or thereabout** (sic) in the Municipality of **Gattaran**, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, armed with knives, with violence against or intimidation of persons, conspiring together and helping one another, did then and there willfully, unlawfully, and feloniously enter the house/residence of Mabel Ulita, once inside took, stole and carted away [P]**20,000.00 cash; a gold ring and gold earring with pendant, and by reason or on occasion of the Robbery, the same was aggravated**, the above-named accused, with intent to kill, conspiring together and helping one another, did then and there wilfully, unlawfully, and feloniously assault, attack and stab **said Mabel Ulita y Bumanglang, Medirose Paat y Berbano, and Clark John Ulita y Bumanglang, a minor, eleven (11) years of age**, inflicting upon them multiple stab wounds which caused their deaths, and that **the same was further aggravated the act having been accompanied by the Rape of Mabel Ulita.**

CONTRARY TO LAW.^[3]

According to SPO3 Dennis Aguilor (SPO3 Aguilor), he received a phone call at about 6:30 a.m. on August 10, 2010, relaying the killing of Mabel, her son Clark, and their housemaid, Medirose. In response to said call, Police Chief Inspector Abraham Lopez (PCI Lopez), Police Inspector Mallillin, Police Inspector Rodante Albano, SPO4 Carlito

Supapo, SPO1 Elmer Juan, and the witness proceeded to the crime scene and investigated the area.^[4]

At about 9:00 a.m. of the same day, the team of the Regional PNP Crime Laboratory arrived and processed the crime scene. They collected specimens of hair, pubic hair, and latent prints on suspicion that Mabel was raped. They also found a claw hammer on top of the septic tank at the back of the house of the victims. The specimens gathered were brought to the Crime Laboratory and examined.^[5]

Bernard Javier (Bernard), one of the witnesses, testified that he was watching television in his house when he heard screams coming from the house of Mabel, which is about 20 meters away from his place. When he peeped through the window, he saw four persons coming out of the house of Mabel and he identified them as their neighbors, accused-appellant, Mervin, Ernesto Verbo (Ernesto), and Mario, who have noticeable traces of blood on their clothes. He was certain as to their identity because of the light coming from the house of Mabel and from the street.^[6]

The following morning, Bernard went to the house of Arnold to narrate to him what he noticed that early morning. They then both decided to go to the house of Mabel as they suspected that the occupants had *bangungot*. When nobody responded to their call, Arnold threw stones at the house of Mabel to get the attention of the occupants therein. Eventually, Bernard decided to peep on the flooring using the gap between the bottom portion of the door. There, he saw blood scattered on the floor. It was at this time that people started to arrive. Bernard went to the house of SPO3 William Asuncion who immediately responded to the crime scene.^[7]

On cross examination, Bernard, however, narrated that he saw about five persons coming out of the house of Mabel. Out of the five persons, he can identify four of them as accused-appellant, Mervin, Ernesto, and Mario. After seeing them, Bernard went back to sleep.^[8]

On the other hand, Arnold testified that on August 10, 2010, he heard loud screams which prompted him to go outside his house and walk towards the road to observe where the screams emanated. Subsequently, he heard the screams coming from Mabel's house and suddenly saw five persons coming out of the house. As the lights were surrounding said house, he was able to ascertain that said five persons were male. However, he failed to identify anyone.^[9]

The following morning, Arnold talked to Bernard and relayed to him what he saw in the morning of August 10, 2010. Bernard then told Arnold that he saw four of the five persons coming out of Mabel's house and named them as accused-appellant, Mervin, Ernesto, and Mario. Arnold then stated that he knew accused-appellant because he is the husband of his niece, while Mervin and Ernesto were his companions in harvesting *palay*.^[10]

On cross-examination, Arnold reiterated that he saw five male persons coming out of Mabel's house after he heard loud screams emanating from said house. He likewise affirmed that he was not able to identify such persons despite the light coming from the house and street lights.^[11]

Atty. Cicero Elizaga (Atty. Elizaga) testified that he was called by the police officers to assist Mervin and Ernesto in executing their confession. After informing the latter of their rights and the consequences of a confessional statement, Mervin and Ernesto still proceeded and decided to give the same.^[12]

The medico-legal expert who conducted the autopsy on the bodies of the victims was Dr. Cherry Anne Ayunon-Carreon (Dr. Ayunon-Carreon), who found multiple stab wounds on the upper extremities, lower and upper left arm, lower right arm. On the back side, she found wounds in the nape area, right shoulder, left and right scapular area, middle of the back, and right lower back of Medirose.^[13]

As to Mabel, Dr. Ayunon-Carreon found multiple stab wounds on the nape area, both on the interior and anterior area, the right clavicular area, the chest, the right upper quadrant and left upper quadrant of the abdomen, all of which are at the frontal side of the victim. At the back of the ventral side, she found seven stab wounds. The fatal wounds are located at the right and lower back part where the kidneys are located. The most serious wound was found on the anterior part of the neck and on both the left and right side of the chest, where the heart and lungs are located. Dr. Ayunon-Carreon reiterated that more than one bladed weapon was used in inflicting wounds upon Mabel.^[14]

As to Clark, Dr. Ayunon-Carreon found only one wound on the frontal side located at the right chest. At the back portion, two wounds were found at the right upper and lower back. She also found a hematoma at the left frontal area of the head and an abrasion on the left psychosomatic area.^[15]

During cross-examination, Dr. Ayunon-Carreon said that it was possible that one weapon caused the multiple wounds. During re-cross examination, she said that based on the multiple wounds received by the victims, it was not possible that only one assailant caused the same.^[16]

For his defense, accused-appellant denied the accusations against him and averred that when he was at the waiting shed, which was 20 meters away from the house of Mabel, he heard screams coming from the northern direction. He then went to said direction and saw Arnold and Bernard. They informed accused-appellant that Mabel was dead. He further testified that Arnold and Bernard peeped through a small opening and saw bodies lying on the ground covered with blood. Accused-appellant likewise peeped through said opening and saw the arm and feet of a person covered with blood. Upon seeing such, he ordered Arnold and Bernard to call the barangay captain and Mabel's brother, as he claimed to be a "private" *barangay tanod*.^[17]

Accused-appellant, likewise, testified that earlier on that day, while he was conditioning his fighting cocks, he saw Mario holding the right side of his stomach and his clothes were torn. He likewise noticed red stains on Mario's shirt and presumed it was blood. He was afraid to inquire as to why Mario's shirt was covered with blood and so he went back to his house to sleep.^[18]

The Regional Trial Court (RTC), in a Decision^[19] dated January 27, 2016, convicted accused-appellant of the crime as charged. By circumstantial evidence, the RTC

found that the prosecution sufficiently proved that robbery with homicide was committed by accused-appellant.

The following circumstances were considered by the trial court in ruling for accused-appellant's conviction: (a) Bernard claimed to have seen the accused-appellant near the place of the incident at the time or near at such time; (b) Bernard's statement was corroborated in some material points by Arnold's testimony that he saw four to five male persons coming out of the fence of Mabel's house; (c) Accused-appellant did not deny that on the date and time of the incident, he was at Palagao, Norte, Gattaran, Cagayan; (d) The investigation of the police officers yielded to the fact that money and jewelry were taken from Mabel's house; and (e) Mervin and Ernesto executed their respective confessions, which implicated accused-appellant in the commission of the robbery and death of the victims.^[20]

Notably, the RTC deemed it improper to discuss the existence of conspiracy "considering that only one accused was arraigned and tried."^[21] Thus:

WHEREFORE, premises considered, the court finds [accused-appellant] **ROGER ENERO** guilty beyond reasonable doubt of the crime of ROBBERY WITH MULTIPLE HOMICIDE and hereby imposes upon him:

1. The penalty of **RECLUSION PERPETUA** for **the death of Mabel Ulita**;
2. The penalty of **RECLUSION PERPETUA** for the death of John Clark Ulita;
3. The penalty of **RECLUSION PERPETUA** for the death of Medirose Paat.

The accused is further directed to pay the heirs of Mabel Ulita, Clark John Ulita and Medirose Paat the total amount of **Three Hundred Thousand (PhP300,000.00) Pesos** as actual damages, **Seventy Five Thousand (PhP 75,000.00)** each victim as death indemnity; **Fifty Thousand Pesos (PhP 50,000.00)** pesos each victim as Moral damages and the amount of **Twenty Five Thousand (PhP 25,000.00)** Pesos each victim as Exemplary Damages and to pay the costs.

Considering that accused Mervin Verbo, Mario Agbayani and John Doe are still at large, let the records of the case be sent to the archived (sic) to be reinstated upon their arrest. For this purpose, let an Alias Warrant of Arrest be issued for their immediate apprehension.

SO ORDERED.^[22]

On appeal, the CA, in a Decision^[23] dated March 27, 2018, maintained that there was no evidence presented which would prove that the complex crime of robbery with homicide took place. Accused-appellant's complicity to such crime, which was entirely based on the extrajudicial confessions of Mervin and Ernesto, remained unproven. Such confessional statements constitute hearsay evidence.^[24]