

THIRD DIVISION

[G.R. No. 193837, September 21, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENATO M. PANGAN, ACCUSED-APPELLANT.**

DECISION

PEREZ, J.:

For review is the Decision^[1] dated 30 April 2010 of the Court of Appeals, Thirteenth Division, in CA-G.R. CR-H.C. No. 03730 affirming *in toto* the Decision^[2] dated 8 April 2008 of the Regional Trial Court (RTC), Branch 53 of Guagua, Pampanga in Criminal Case No. G-6466, which found appellant Renato Pangan y Madlambayan guilty beyond reasonable doubt of the crime of Robbery with Homicide.

In the Information dated 12 February 2004, appellant was charged with the crime of robbery with homicide, to wit:

That on or about the 21st day of August 2003, in Brgy. Pabanlag, Municipality of Floridablanca, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and carry away Rodolfo Ocampo's cellphone and other personal belongings in the total amount of Php 17,060.00.

That by reason or on the occasion thereof, the above-named accused, armed with a bladed weapon, with intent to kill, did then and there willfully, unlawfully and feloniously attack and assault Rodolfo Ocampo, hacking him in the head and neck, resulting in the latter's death.^[3]

Appellant pleaded not guilty during his arraignment. Trial proceeded. The prosecution presented as witnesses Ernesto Aguinaldo (Aguinaldo), the widow Carmencita Ocampo (Ocampo), Michael Aragon (Aragon), Rialyn Napicog (Napicog), Senior Police Officer 1 (SPO1) Rosby Ramos (SPO1 Ramos), Dr. Jude Doble (Dr. Doble) and Mauricio Magtoto (Magtoto).

During trial, the defense had admitted the sworn statements of Aguinaldo, Ocampo and Aragon as their respective testimonies; thus, their direct and cross-examinations were disregarded.^[4]

Aguinaldo narrated that on 21 August 2003, at about four o'clock in the afternoon, he saw the victim talking with appellant near the hut the victim had been renting out from Aguinaldo. An hour later, around five o'clock in the afternoon, he had left the place with the two (2) still together.^[5] The following day, 22 August 2003, Ocampo, the victim's wife, called Aguinaldo and requested assistance as her husband could not be reached through his mobile phone. A male voice would answer

her calls and subsequently turn it off. Aguinaldo thus visited the hut in the morning of 23 August 2003, found the same padlocked and thought that the victim had gone out. In the morning of the next day, 24 August 2003, Aguinaldo revisited the hut and through the window saw the victim's decomposing body on the bed.^[6]

Around five o'clock in the afternoon on even date, SPO1 Ramos received an information from a certain *Kagawad* Bansil concerning the death of the victim. SPO1 Ramos immediately proceeded to the location and found the victim with hack wounds on the head and the neck.^[7] In the course of the crime investigation, Aragon supplied information that in the morning of 22 August 2013, he saw appellant in possession of a mobile phone, a Nokia 3310. Appellant purportedly sought help refilling the load of said phone and in the process, Aragon saw the names Rowena and Rudy in its phonebook. Aragon further observed that appellant would receive calls on said phone but would immediately turn the power off.^[8]

SPO1 Ramos allegedly confronted appellant with this information and asked for the mobile phone. Appellant supposedly replied that the same had been given to Napicog while the SIM card had been left in a grassy area near a river where indeed it was as avowed later, recovered. SPO1 Ramos asserted he went with appellant to see Napicog who produced the subject mobile phone without a SIM card. Napicog purportedly reasoned that appellant had given her the mobile phone in the afternoon of 22 August 2003. Napicog confirmed that the mobile phone had borne no proof of ownership.^[9] SPO1 Ramos however professed the same had belonged to the victim; and kept custody of the subject phone from the time he had come into its possession to its presentation to the court on 21 July 2006 when it was first marked.^[10]

Dr. Doble, who conducted the autopsy of the victim and executed the certificate of death and the medico-legal report, confirmed that the victim had died of hemorrhage and shock resulting from the hack wounds.^[11] His medico-legal report had no finding in regard to the victim's approximate time of death.^[12]

Magtoto, the victim's son-in-law, asserted that appellant had owned up to him the killing of the victim. Magtoto claimed that said confession had been made in the presence of the *barangay* chairman of Pabanlag, the widow, Ocampo, and her children while outside the prosecutor's office during the preliminary investigation.^[13] On cross-examination, it was threshed out that said confession had curiously never been discussed in the subsequent affidavit of Ocampo and that neither of the ones who had supposedly heard the confession submitted sworn statements attesting to its execution.^[14]

Appellant denied the allegations against him. He claimed that he had been home with his siblings the whole day of 21 August 2003. He admitted to knowing the victim as they lived in adjacent lots; but has never had any misunderstanding with the victim. Appellant was arrested at home by SPO1 Ramos on 26 August 2003 and was thereafter brought to the police station. Appellant asserted that SPO1 Ramos had told him to admit to committing the crimes of killing the victim and taking the mobile phone. Afterward, he was incarcerated. Appellant maintained on the witness stand that he had never handed Napicog any mobile phone.^[15]

On 8 April 2008, while admitting there had been no eyewitnesses to the crime of robbery with homicide nor any direct evidence linking the appellant to its commission, the trial court, based on circumstantial evidence, found appellant guilty beyond reasonable doubt of the crime of robbery with homicide:

IN LIGHT OF THE FOREGOING, this Court finds the accused Renato Pangan y Madlambayan GUILTY beyond reasonable doubt of Robbery with Homicide under Article 294, paragraph 1 of the Revised Penal Code, as amended by Rep. Act. No. 7659, and hereby sentences him to suffer the penalty of *reclusion perpetua*. Likewise, the said accused is hereby ORDERED to pay the heirs of the victim the amount of P20,000 as actual damages; P75,000 as civil indemnity; P75,000 as moral damages, and P25,000 as exemplary damages; Costs *de officio*.^[16]

On 30 April 2010, the Court of Appeals affirmed *in toto* the trial court's decision. The Court of Appeals agreed with the trial court's conviction of appellant based on circumstantial evidence. It likewise found appellant's failure to give an explanation for possession of the victim's mobile phone crucial to the determination of his guilt in the commission of the crime.^[17]

After a careful and thorough review of the facts and evidence on record, the Court rules for appellant's acquittal.

Every criminal conviction requires the prosecution to prove two things: (1) the fact of the crime, *i.e.* the presence of all the elements for which the accused stands charged; and (2) the fact that the accused is the perpetrator of the crime.^[18] The Court finds the prosecution unable to prove both elements and is thus left with no option but to acquit on reasonable doubt.

To sustain a conviction for the complex crime of robbery with homicide, primarily an offense against property, the robbery must be proved beyond reasonable doubt.^[19] Proof of the homicide alone is not sufficient to support a conviction for the aforesaid complex crime.^[20]

In robbery with homicide cases, it is incumbent that the prosecution prove that: (a) the taking of personal property is perpetrated by means of violence or intimidation against a person; (b) the property taken belongs to another; (c) the taking is characterized by intent to gain or *animus lucrandi*; and (d) on the occasion of the robbery or by reason thereof, the crime of homicide is committed.^[21]

The prosecution should establish the offender's intent to take personal property before the killing, regardless of the time when the homicide is actually carried out. When the prosecution fails to conclusively prove that the homicide was committed for the purpose of robbing the victim, no accused can be convicted of robbery with homicide.^[22]

Two things stand out in the case at bar: there were no eyewitnesses to the robbery or to the homicide; and among the items stolen, only a mobile phone of doubtful provenance and compromised integrity was presented in evidence. There is no other evidence on record that could support the conclusion that appellant's primary motive was to rob the victim and that he was able to execute it. While the trial court

noted that there had been no eyewitnesses to the robbery, it nevertheless ruled that the robbery aspect of the special complex crime was sufficiently proven because the appellant had been the last person seen with the victim and appellant had allegedly been seen in possession of a mobile phone purportedly belonging to the victim.

The trial court's conclusion is speculative. Appellant was the last person seen with the victim, thus, the suspicion that he was author of the crime. Although this circumstance admittedly breeds speculation, it is insufficient to establish appellant's guilt. And even if indeed it was true that appellant had in his possession the victim's mobile phone, the evidence is not definitive, among many possibilities, whether said phone had been lent to him before the homicide, whether appellant had just taken it and thereafter the victim was killed by another or whether appellant merely found the same in the victim's body or some other place after the homicide perpetrated by another person. In point of fact, mere suspicions and speculations can never be bases of conviction in a criminal case.^[23] Notably, there is no conclusive proof that the mobile phone belonged to the victim. Even assuming the mobile phone was the victim's own, the fact that it remained in the personal custody of the investigating officer from the time he had supposedly received it from Napicog and only surrendered it at the time of its presentation necessarily compromised its integrity.

The evidence to establish the homicide aspect of the special complex crime also falls short of proving that appellant committed the attendant killing. Appellant was linked to the victim's death as he had been seen last with the latter and was allegedly been seen in possession of the latter's mobile phone. Significantly, SPO1 Ramos testified as follows:

Atty. Beltran:

Q Let us make this clear Mr. witness, the death of the victim in this case was not witnessed by any witnesses?

A Yes, sir.

Q And there were only three persons you interviewed in the conduct of your investigation is that correct?

A Yes, sir.

Q The first person you interviewed Ernesto Aguinaldo has no knowledge about the death of the victim?

A Yes, sir.

Q Michael Aragon also do (sic) not have any personal knowledge about the circumstance of the death of the victim?

A Yes, sir.

Q Same with Realyn Napicog?

A Yes, sir.

Q In short Mr. witness, the accused in this case is being implicated with the death of the victim in this because of the cellphone?

A Yes, sir.

Q Which according to Michael Aragon and Realyn Napicog was found in the possession of the accused?

A Yes, sir.

Q So that is the only circumstance which links the accused in the death of the victim?

A Yes, sir.

Q Mr. witness, apart from this circumstance linking the accused to the death of the victim there is no other

circumstance?

A None sir.^[24] (Emphasis supplied)

Certainly, it is not only by direct evidence that an accused may be convicted, but for circumstantial evidence to sustain a conviction, the following are the guidelines: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is as such as to produce a conviction beyond reasonable doubt.^[25] Decided cases expound that the circumstantial evidence presented and proved must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person. 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 rationale except that of guilt.^[26]

The circumstantial evidence relied upon by the trial court engenders doubt rather than moral certainty of appellant's guilt. Moreover, said evidence does not completely preclude the possibility that another person or persons perpetrated the crime. That appellant had been last seen with the appellant and had been allegedly seen in possession of the victim's mobile phone do not necessarily mean he authored the crime. These circumstances do arouse suspicion but fail to muster the quantum of proof required in criminal cases that is guilt beyond reasonable doubt.

In addition, the pieces of circumstantial evidence do not clearly make an unbroken chain which leads one to a fair and reasonable conclusion that appellant perpetrated the crime. The events that transpired from the time appellant had been last seen with the victim at five o'clock in the afternoon of 21 August 2003 to the morning of 24 August 2003, the time when the victim's body was discovered, are unaccounted for. There is also no proof showing that appellant was with the victim during that span of time. Records also do not show when the victim was actually killed. It is even questionable why the discovery of the victim's death in the morning of said date was reported late in the afternoon of that day.

Considering the weakness of the prosecution evidence against appellant, the possibility that another person or persons could have committed the crime cannot be discounted. The evidence at hand neither proves beyond cavil appellant's complicity nor precludes the possibility of another person's liability for the crime. It bears underscoring that no independent physical evidence that could connect appellant to the crime, e.g. fingerprints, was found at the scene of the crime or on the object evidence, if any, gathered by the police.

The appellate court affirmed the conviction by the trial court of the appellant relying on, among others, the presumption laid down by Section 3 (j), Rule 131 of the Revised Rules of Evidence that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and doer of the whole act.

It is well to stress that in criminal cases, presumptions should be taken with caution especially in light of serious concerns that they might water down the requirement of proof beyond reasonable doubt. As special considerations must be given to the right of the accused to be presumed innocent, there should be limits on the use of presumptions against an accused.^[27]