

SECOND DIVISION

[G.R. No. 204891, September 14, 2016]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNALDO
ABAYON Y APONTE, APPELLANT.**

RESOLUTION

BRION, J.:

We resolve the appeal of accused-appellant Reynaldo Abayon y Aponte (*Abayon*) assailing the July 20, 2012 decision^[1] of the Court of Appeals (CA), docketed as CA-G.R. CR-H.C. No. 03195. The CA decision affirmed the July 31, 2007 decision^[2] of the Regional Trial Court (RTC), Branch 275, Las Piñas City, and ordered him to pay death indemnity to the heirs of Lourdes Chokilo, Aiza Delos Angeles, and Zenaida Velos.

THE CASE

In an information dated July 29, 2002,^[3] Abayon was formally charged as follows:

"That on or about the 26th day of July 2002, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to cause damage to property, did then and there willfully, unlawfully and feloniously and deliberately burn or set fire to the house and/or dwelling of ROBERTO IGNACIO Y ANTONIO and TEODORO DELOS ANGELES Y GOIS causing it to be burned and turned into ashes and as a result of said fire, victims Lourdes Chokilo, Zenaida Velos and Aiza Delos Angeles who were then sleeping inside the said house were also burned to death.

CONTRARY TO LAW."

Abayon entered a plea of not guilty when he was arraigned on August 20, 2002.

Trial on the merits followed the pre-trial where Abayon entered into stipulations regarding specified documentary evidence presented by the prosecution.

The evidence for the prosecution showed that in the evening of July 25, 2002, Abayon and his wife, Arlene, quarreled outside their residence. Since they rented an apartment adjacent to others, their neighbors witnessed the entire incident. When Arlene shouted for help because Abayon was strangling her, Corazon Requitillo (*Corazon*) and her husband pacified them. Thereafter, Corazon took Arlene's two (2) children and offered them the safety of her apartment as Abayon was still drunk.

At around 11:00 P.M. of the same day, Abayon's neighbors heard a hissing sound and smelled leaking gas. When they came out of their houses to check, they saw

Abayon holding an LPG gas tank outside his apartment. Robert Ignacio Antonio (*Robert*), one of his neighbors and his best friend, approached Abayon to ask what he was doing. He heard Abayon say, "*Putang ina, wala pala ako silbi! Inutil pala ako!*"^[4] He also noticed that Abayon was holding an unlit cigarette inserted between his left index and middle fingers, that a match was on his left palm, and that his right hand was turning on and off the gas tank. When he figured out what Abayon was trying to do, Robert scolded him and said, "*Putang ina mo, Boy! Magsusunog ka, idadamay mo pa kami!*"^[5] After that, he turned off the regulator of the gas tank and brought it to Corazon's house for safekeeping.

At past midnight of July 26, 2002, the house (containing the units where Abayon and his neighbors live) started to catch fire. The neighbors came out of their respective units because of the thick smoke and the heat coming from the fire. As a result, the house was completely burned down along with the personal effects of the residents. Three (3) persons also died because of the fire, -namely: Lourdes Chokilo, the owner of the house; Aiza Delos Angeles; and Zenaida Velos.

Expectedly, Abayon denied that he had caused the fire and raised the defense of alibi. He admitted that he had an altercation with his wife and that he had left after he was pacified by his neighbors. When he came back, Abayon realized that his wife and children were not at home, so he decided to look for them at his sister-in-law's place at Trece. Before he left, he brought inside his apartment the LPG tank and the kitchen stove that had been placed outside. When Abayon saw Robert, he asked him to look after his house while he searched for his family.

Abayon allegedly left for Trece at around 9 p.m. only to find out when he got there that his family was not there. He then proceeded to his sister's house in Makati at around 4 a.m. Again, he did not find his family there. He opted to stay at his sister's place until 8:00 p.m. of July 26, 2002. He was arrested later when he showed up at his residence.

In its July 31, 2007 decision, the RTC found Abayon guilty beyond reasonable doubt of the crime of *arson resulting in multiple homicide*, defined and punished under Sec. 1, in relation to Sec. 5 of P.D. No. 1613, as amended by R.A. No. 7659. The trial court held that the prosecution successfully established the elements of the crime charged through circumstantial evidence. It gave no credence to Abayon's denial because his neighbors — especially his best friend — positively identified him as the person who had earlier attempted to burn his place down using an LPG gas tank; the fire broke out later and razed the rooms they were renting.

On appeal, Abayon assailed the RTC decision on the ground that there was no direct evidence showing that he had started the fire that burned down the house.

In its July 20, 2012 decision, the CA upheld Abayon's conviction based on the RTC's appreciation of the circumstances proven by the prosecution. The CA held that the proven circumstantial evidence sufficiently pointed to Abayon as the perpetrator of the crime charged. The CA included an award of death indemnity worth P50,000.00 each in favor of the heirs of the three (3) victims.

Abayon filed the present appeal to challenge the CA decision.

OUR RULING

We affirm the conviction of Abayon and order him to pay civil damages on top of the death indemnity.

There is no complex crime of arson with (multiple) homicide.

In *People v. Malngan*,^[6] we held that there is no complex crime of arson with homicide because the crime of arson absorbs the resultant death or is a separate crime altogether, *to wit*:

Accordingly, in cases where both burning and death occur, in order to determine what crime/crimes was/were perpetrated - whether arson, murder or arson and homicide/murder, it is *de rigueur* to ascertain the main objective of the malefactor: (a) if the main objective is the burning of the building or edifice, but death results by reason or on the occasion of arson, the crime is simply *arson*, and the resulting homicide is absorbed; (b) if, on the other hand, the main objective is to kill a particular person who may be in a building or edifice, when fire is resorted to as the means to accomplish such goal the crime committed is *murder* only; lastly, (c) if the objective is, likewise, to kill a particular person, and in fact the offender has already done so, but fire is resorted to as a means to cover up the killing, then there are two separate and distinct crimes committed — *homicide/murder and arson*.

From the body of the information filed, Abayon is charged with the crime of arson because his intent was merely to destroy his family's apartment through the use of fire. The resulting deaths that occurred, therefore, should be absorbed by the crime of arson and only increases the imposable penalty to *reclusion perpetua* to death, pursuant to Section 5 of P.D. No. 1613.

The prosecution established the elements of the crime of simple arson through circumstantial evidence.

Simple arson, defined and punished under Section 1 of P.D. No. 1613, is essentially the destruction of property by fire that is not under the circumstances enumerated under Article 320 of the Revised Penal Code, as amended by R.A. No. 7659. In prosecuting arson, whether destructive or simple, the *corpus delicti* rule is generally satisfied by proof that a fire occurred, and that it was intentionally caused.^[7]

We point out that no one among the prosecution's witnesses actually saw Abayon start the fire. The lower courts had to resort to circumstantial evidence since there was no direct evidence proving his guilt.

It is settled that in the absence of direct evidence, circumstantial evidence may be sufficient to sustain a conviction provided that: "(a) there is more than one circumstance; (b) the facts from which the inferences are derived have been proven; and (c) the combination of all the circumstances results in a moral certainty that the accused, to the exclusion of all others, is the one who has committed the crime. Thus, to justify a conviction based on circumstantial evidence, the combination of circumstances must be interwoven in a way that would leave no reasonable doubt as to the guilt of the accused."^[8]

In the present case, the RTC enumerated the following circumstances leading to the unavoidable conclusion that Abayon set the fire that engulfed not only his apartment but his neighbors' as well:

1. The quarrel of the accused with his wife who must have hurt the accused when she told him that he was good-for-nothing "*walang silbi, inutil*;" and shouting at him to leave the house (*lumayas ka*);
2. His having muttered audibly, "*walang silbi pala ako, inutil pala*," indicative of his having harbored intense hatred for his wife against whom he evidently wanted to get back at by burning the house;
3. While holding a match, and having opened the gas tank, such that leaking gas smelled strongly, indicating that plenty of it leaked out when he opened the gas tank;
4. His having been berated by his neighbor and best friend about his intention to burn the house and his fear that his house, too, will be burned;
5. The failure of the accused's sister to corroborate his defense of alibi;
6. The fact that his best friend, Robert Ignacio, not only did not corroborate his claim that he entrusted his house to Ignacio, but also and most importantly the testimonial of his best friend that he opened the gas tank while muttering the words already mentioned, and while holding a match and unlighted cigarette.^[9]

The CA, for its part, enumerated the following circumstances pointing to Abayon's guilt, as follows:

1. On July 25, 2002, at about 9:00 in the evening, neighbors/witnesses heard accused Reynaldo Abayon y Aponte and his wife Arlene by the road of Block 5, Lot 4, Champaca Street, Paramount Village, Las Piñas, having a heated argument with the latter shouting at the accused: "*Putang ina mo! Walang silbi! Inutil ka! Lumayas ka dito.*"
2. Neighbors Corazon Requyitillo and her husband Eduardo came to the aid of the distressed Arlene when she yelled "*saklolo!*", as the accused began to strangle her.
3. Thereafter, at around 11:00 in the evening, next room-neighbor Roberto Ignacio y Antonio and his wife Helen heard a hissing sound and sensed a robust stench of leaking gas indicating that an abundance of such had indeed seeped out.
4. Roberto Ignacio then proceeded to the place of the accused and saw the latter holding an unlit cigarette and a match at his left hand while twisting on and off the valve of the gas tank with his right and slurring the words: "*Putang ina, wala pala akong silbi! Inutil pala*