

EN BANC

[G.R. No. 142531, October 15, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DANILO ASIS Y FONPERADA AND GILBERT FORMENTO Y SARICON, APPELLANT.

DECISION

PANGANIBAN, J.:

Circumstantial evidence that merely arouses suspicions or gives room for conjecture is not sufficient to convict. It must do more than just raise the possibility, or even the probability, of guilt. It must engender moral certainty. Otherwise, the constitutional presumption of innocence prevails, and the accused deserves acquittal.

The Case

For automatic review before this Court is the March 8, 2000 Decision^[1] of the Regional Trial Court (RTC) of Manila (Branch 54) in Criminal Case No. 98-163090, finding Danilo Asis y Fonperada and Gilbert^[2] Formento y Saricon guilty beyond reasonable doubt of robbery with homicide aggravated by abuse of confidence, superior strength and treachery. The decretal portion of the Decision reads as follows:

"WHEREFORE, the two (2) accused are found guilty beyond reasonable doubt of the crime of Robbery with Homicide with the generic aggravating circumstances of abuse of confidence, superior strength and treachery; and each is sentenced to death under Article 294, par. 1 of the Revised Penal Code; they are also ordered to jointly and severally pay P100,000.00 as damages to the heirs of the victim."^[3]

Appellants were charged in an Information^[4] dated February 18, 1998, worded as follows:^[5]

"That on or about February 10, 1998, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, did then and there wilfully, unlawfully and feloniously, with intent to gain and by means of force and violence upon person, to wit: by then and there stabbing one YU HING GUAN @ ROY CHING with a bladed instrument on the different parts of the body thereafter take, rob and carry away the following, to wit:

Cash money in the amount of P20,000.00
one (1) wristwatch
one (1) gold necklace
and undetermined items

or all in the total amount of P20,000.00 more or less, belonging to said YU HING GUAN @ ROY CHING against his will, to the damage and prejudice of the said owner in the aforesaid amount more or less of P20,000.00, Philippine Currency, and as a result thereof, he sustained mortal stab wounds which were the direct and immediate cause of his death.”^[6]

When arraigned on July 9, 1998, both appellants pleaded not guilty.^[7] Found to be deaf-mutes, they were assisted, not only by a counsel *de officio*,^[8] but also by an interpreter from the Calvary Baptist Church. After due trial, appellants were found guilty and sentenced to death.

The Facts

Version of the Prosecution

In its Brief,^[9] the Office of the Solicitor General (OSG) detailed the facts in the following manner:

“The prosecution presented nine (9) witnesses. Although none of them had actually seen the crime committed, strong and substantial circumstantial evidence abound linking beyond reasonable doubt both appellants to the crime.

“As culled from the records, hereunder are the pertinent facts of the case:

“George Huang, the nephew of the victim Yu Hing Guan a.k.a. Roy Ching, always passes by the store of the victim at 1042 Benavidez Street, Binondo, Manila to bring food stuff, ice and other things to his uncle and mother, Diana Yu, who work[s] in the office of said store.

“On February 9, 1998, at around 6:30 o’clock in the morning, Huang arrived at the victim’s store and discovered that the steel door of the store was locked from the outside. When he opened the steel door, he found everything to be normal except for the inner door which had always been left open but which was closed at that time with only a chair blocking it.

“When he removed the blocking chair, he discovered the body of his uncle, Yu Hing Guan a.k.a. Roy Ching (victim), lying prostrate on the ground with a knife embedded on his nape. He closed the door and proceeded to Luneta, where [his] mother exercises, to inform her of what he saw. After informing [his] mother, Huang first went to the Chinatown Police Station and reported the incident; thereafter, he went to another station located in Soler corner Reina Regente to report the incident again.

“Diana Yu, the sister of the victim, testified that on February 9, 1998, before 8:30 o’clock in the evening, she was in the office of her brother where she was working at 1042 Benavidez St., Binondo, Manila. She saw the two appellants, namely: Danilo Asis and Gilbert Formento, and her brother (the victim), who are all deaf-mutes, talking in sign language. She testified that Danilo Asis frequented the office of the victim, while

Gilbert Formento came only on the night of February 9, 1998. At around 8:30 o'clock in the evening, she left the office, leaving both appellants and the victim behind. The following morning, at around 7:30 o'clock in the morning, her son, George Huang, informed her of her brother's (victim's) death. Upon learning of said incident, she went to the office where she saw her brother's body. She discovered that the sales proceeds of the preceding day were missing and the necklace of her brother (victim) which he always wore was also missing.

"On re-direct examination, Diana testified that she suspected both appellants, especially Gilbert Formento, to have perpetrated the crime because of the fact that she saw the pair of shorts of the victim in the bag of appellant Gilbert Formento.

"Jimmy Pagaduan testified that he was a helper in the Yu Hing Guan Auto Supply for five years already. He saw the two appellants everyday in the store of the victim. Furthermore, he testified that as far as he knows, Danilo Asis owed the victim PhP 3,000.00 and that he saw a list thereof which the victim showed him. On February 9, 1998, he left the store at around 6:00 o'clock in the evening and he saw both appellants conversing with the victim.

"SPO2 Pablo Ileto of WPD Homicide Section testified that on February 11, 1998, he was at Barangay Sto. Ni[ñ]o, Hagunoy, Bulacan together with Sgt. Napoleon Timbol, PO3 Luis Chico, and witness, Diana Yu. The three (3) of them were trying to locate the whereabouts of appellant Gilbert Formento in connection with the death of Yu Hing Guan a.k.a. Roy Ching. They coordinated with the Hagunoy Bulacan police and searched the area. Diana Yu saw Gilbert Formento in a delivery truck and she pointed him to them. Thereafter, they invited Gilbert Formento to their office at the WPD Homicide Section. But before going to the WPD station, they first brought Gilbert Formento to his house. Upon reaching the house, Diana Yu asked from the wife of the suspect for the stolen money. However, they could not understand each other, so the wife gave Diana Yu the bag of Gilbert Formento where Diana Yu noticed the pair of shorts which belonged to the victim. PO2 Ileto noticed what appears to be blood stains on the pair of shorts.

"SPO1 Benito Cabatbat testified that he, together with SPO1 Alfredo Opriasa, SPO1 Raul Olavario, the photographer SPO2 Tabio, and fingerprint technician Domingo Daclan of the District Crime Laboratory Division went to the crime scene to conduct the investigation on February 10, 1998. Upon arriving at the scene, they saw the victim lying prostrate on the ground, barefooted, and clad only in brief.

"After photographing the victim, the team went upstairs where traces of blood were seen on the second and third floors.

"During the course of investigation, SPO1 Cabatbat received a phone call from a relative informing him that one of the suspects, appellant Danilo Asis, went back to the scene of the crime. Afterwards, they brought Danilo Asis to the police station for investigation, who expectedly denied having anything to do with the killing of the victim.

"During investigation (February 10, 1998), SPO1 Balatbat noticed that there was a bloodstain in Asis' T-shirt.

"During the presentation of prosecution witness Dr. Olga Bausa, they stipulated that the bloodstains found in the white t-shirt with a lettering of 'Collorrific' and in the short pants were human blood."^[10] (Citations omitted)

Version of the Defense

On the other hand, appellants' version of the facts is as follows:^[11]

"GILBERT FORMENTO is a deaf-mute who is one of the accused in this case. He testified through sign interpreter, Mrs. Nelda Bahena. On February 9, 1998 at about 11 am., he was in the house of Roy Ching[.] They talked about things and events. When he left the house of Ching he proceeded to Bulacan while Asis went to Luneta. He denied having in possession of the clothes of Ching found with him in Bulacan. A policeman met him in his house in Sto. Nino, Hagunoy, Bulacan. They handcuffed him immediately. He was whipped for the first time in his life. He was brought to Manila at Funeraria Paz. The relatives of Roy Ching were pointing to him while he was being whipped by the two policemen.

"NESTOR PAGLINAWAN is a friend of Danilo Asis. He is a vendor who vends at the PICC area. He testified that accused-appellant Danilo Asis occasionally help[s] him in vending by guarding his selling items and preparing coffee. He communicated with accused-appellant Asis through sign language. He had known Asis for five years. On February 9, 1998, at about 10:00 p.m., Danilo Asis was with him at the PICC. Accused-appellant Asis stayed with him until 7:00 am of the following day.

"DANILO ASIS is a deaf-mute and one of the accused in this case. He testified through sign interpreters, Ms. Theta Figuerres and Mrs. Nelda Bahena. Roy Ching was his friend since 1995. On February 9, 1998, he went to the store of Roy Ching because he was called by Ching to help him in his store. When he arrived at Ching's store, Gilbert Formento was there already. The three of them drank beer. He left the store at 9:00 p.m., ahead of Gilbert Formento. He proceeded to PICC to help his friend Nestor, a cigarette vendor.

"He denied killing Ching. When he went back to Roy Ching's store at 10 a.m. the following day, he felt depressed upon knowing that Roy Ching was dead. He was arrested and incarcerated on that same day."^[12] (Citations omitted)

Ruling of the Trial Court

The RTC held that the "crime charged and proved is robbery with homicide under Article 294, No. 1 of the Revised Penal Code."^[13] It ruled that "although no witnesses to the actual killing and robbery were presented, the circumstantial evidence including the recovery of bloodstained clothing from both accused definitely proved that the two (2) x x x committed the crime."^[14] Finally, the RTC also appreciated the aggravating circumstances of abuse of confidence, superior

strength and treachery and thus sentenced both appellants to the supreme penalty of death.

Hence, this automatic review before us.^[15]

Issues

In their Brief, appellants fault the trial court with the following assignment of errors:

"I

The trial court gravely erred in finding the accused-appellants guilty beyond reasonable doubt of the crime of robbery with homicide notwithstanding the insufficiency of the circumstantial evidence presented by the prosecution.

"II

The trial court gravely erred in concluding that evident premeditation, treachery and conspiracy attended the killing of Roy Ching.

"III

The trial court gravely erred in not considering the physical infirmities of the two accused-appellants who are deaf-mutes."^[16]

The Court's Ruling

The appeal is meritorious. The prosecution's evidence does not prove the guilt of appellants beyond reasonable doubt; hence, their constitutional right to be presumed innocent remains and must be upheld.

Main Issue:

Sufficiency of Prosecution Evidence

In the present appeal, two things stand out: *first*, there were no eyewitnesses to the robbery or to the homicide; and *second*, none of the items allegedly stolen were recovered or presented in evidence.

Appellants argue that the pieces of circumstantial evidence submitted by the prosecution are insufficient to prove their guilt beyond reasonable doubt. The prosecution counters that these pieces of evidence, taken together, necessarily lead to their conviction.

Certainly, it is not only by direct evidence that the accused may be convicted of the crime charged.^[17] Circumstantial evidence is resorted to when direct testimony would result in setting felons free and deny proper protection to the community.^[18] The former is not a "weaker form of evidence vis-à-vis the latter."^[19] The accused may be convicted on the basis of circumstantial evidence, provided the proven circumstances constitute an unbroken chain leading to one fair reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.^[20] "Circumstantial evidence is akin to a tapestry; it should be made up of strands which create a pattern when interwoven."^[21] This pattern should be