

SECOND DIVISION

[G.R. No. 126351, February 18, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAUL ACOSTA Y LAYGO, ACCUSED-APPELLANT.

D E C I S I O N

QUISUMBING, J.:

This is an appeal from the decision^[1] dated August 25, 1996, of the Regional Trial Court of Kalookan City, Branch 127, convicting accused-appellant of the crime of Arson, and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify private complainant the amount of P100,000.00 as actual damages without subsidiary imprisonment in case of insolvency, and to pay the costs.

Appellant Raul Acosta y Laygo was a 38-year old mason, married, and a resident of Barrio Makatipo, Kalookan City, at the time of the offense charged. He used to be a good friend of Almanzor "Elmer" Montesclaros, the grandson of private complainant, Filomena M. Marigomen.^[2] On February 27, 1996, a few hours before the fire, Montesclaros, in the belief that appellant and his wife were the ones hiding his live-in partner from him, stormed the house of appellant and burned their clothes, furniture, and appliances.^[3] Montesclaros lived in the house owned by said complainant and located at Banahaw St., Mountain Heights Subdivision, Barrio Makatipo, Kalookan City. It was this house allegedly set on fire by appellant.

The pertinent facts in this case, as summarized by the Solicitor General, which we find supported by the records, are as follows:

"At about 4:00 to 5:00 o'clock in the afternoon of February 27, 1996, the nephew of prosecution witness Mona Aquino called the latter, simultaneously shouting that appellant Raul Acosta, their neighbor, was carrying a stove and a kitchen knife (TSN, May 22, 1996, pp. 3-4, 7). She went out of her house and approached appellant who, when asked why he was carrying a stove and a knife, replied that he would burn the house of complainant Filomena M. Marigomen. (*Ibid.*, pp. 3-4)

Complainant's house is situated at Banahaw Street, Mountain Heights Subdivision, Kalookan City and adjacent to the house of prosecution witness Aquino. (*Ibid.*, pp. 2, 18). Only a wall fence divides her property from that of the complainant. (*Ibid.*, p. 18).

Owing to the fearsome answer of appellant to witness Aquino's query, she returned immediately to her house (*Ibid.*, p. 7). A few minutes after closing the door, she heard the sound of broken bottles and the throwing of chair inside the house of complainant (*Ibid.*, p. 8). When she peeped through her kitchen door, she saw appellant inside complainant's house,

which was unoccupied at that time. (*Ibid.*, p. 8). Thereafter, appellant poured kerosene on the bed (*papag*) and lighted it with cigarette lighter (*Ibid.*, p. 10). The fire was easily put off by appellant's wife who arrived at the place. (*Ibid.*, p. 10)

At around 1:00 o'clock in the morning of February 28, 1996, prosecution witness Lina Videña, likewise a resident of Mountain Heights Subdivision, was roused from her sleep by the barking of their dogs at the back portion of her house. (TSN, May 20, 1996, pp. 3-4). When she went out of her house, she saw complainant's house situated at the adjacent lot near the back portion of her garage burning. (*Ibid.*, p. 4). When she peeped through the holes of the GI sheets separating her lot from the adjacent lot, she noticed the presence of appellant standing alone in front of the burning house. (*Ibid.*, p. 5) Appellant was just watching the blaze and not doing anything to contain it. (*Ibid.*)

Witness Videña immediately rushed back to her house and informed her husband about the fire at the nearby lot. (*Ibid.*, p. 5). They called up the police detachment and alerted other members of her family to be ready for any contingency. (*Ibid.*, p. 6). The fire truck arrived at around 2:00 o'clock in the morning, when the house was already razed to the ground. (TSN, May 20, 1996, p. 6; TSN, May 22, 1996, p. 11).

An on-the-spot investigation was conducted by Fire Investigator Raymundo Savare of the Kalookan Fire Department (TSN, May 27, 1996, p. 2). After the conduct of the investigation, the investigator did not find any incendiary device; hence, the cause of fire remained undetermined. (TSN, May 27, 1996, p. 5). In his Report, the investigator did not rule out the possibility of intentional burning, since there is no other source of ignition, unless otherwise somebody lighted an illuminating object and left it unattended. (TSN, May 17, 1996, p. 8).

x x x"[4]

On March 11, 1996, appellant was charged with the crime of Arson under the following Information:

"That on or about the 28th day of February, 1996 in Kal. City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, did then and there wilfully (sic), unlawfully and feloniously burn the house of one, FILOMENA MONTESCLAROS VDA. DE MARIGOMEN, located at Banahaw St., Mountain Heights Subdivision., Bo. Makatipo, this city, said accused knowing the same to be prohibited, by then and there setting fire to the said house thereby causing the same to be totally burned, to the damage and prejudice of herein complainant in the estimated amount of P100,000.00.

Contrary to Law."[5]

On April 22, 1996, appellant, duly assisted by counsel *de oficio* Atty. Juanito Crisostomo, was arraigned and entered a plea of not guilty.

During trial, the prosecution presented the following witnesses (1) Mrs. Lina Videña, (2) Mrs. Mona Aquino, both neighbors of appellant; and (3) Fire Investigator Raymundo Savare. When the defense agreed to the proposed stipulation that the value of the burned property was P100,000.00, the State Prosecutor dispensed with the testimony of private complainant,^[6] the owner of the house.

The defense presented the appellant himself, Ernesto Riolloraza and Marieta Acosta as witnesses. Appellant claimed that at the time of the alleged arson he was sleeping at his mother's home, some five houses away from the burned house.^[7] Ernesto Riolloraza testified he lived in the house behind the home of appellant's mother; that at around 9:00 in the evening, he saw appellant and his family transferring their belongings to the house of appellant's mother; that at around 11:00 in the evening, he saw appellant watching TV; and that at around 1:00 AM, he was awakened by the sound of fire sirens; and that he and appellant stood by the roadside and watched the fire.^[8] Marieta Acosta, common-law wife of appellant, corroborated appellant's testimony that they were sleeping in the home of appellant's mother at the time of the incident.^[9]

On August 25, 1996, the trial court rendered its decision,^[10] disposing as follows:

"WHEREFORE, the prosecution having established the guilt of the accused with moral certainty, this Court hereby sentences the accused to suffer the penalty of imprisonment of *Reclusion Perpetua* and to indemnify the offended party the amount of P100,000.00 as actual damages without subsidiary imprisonment in case of insolvency, and to pay the costs.

The period of the Accused's preventive imprisonment shall be credited in the service of his sentence if qualified under Art. 29 of the Revised Penal Code.

SO ORDERED."

Appellant seasonably interposed the present appeal assigning the following errors:

1. THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BASED MERELY ON CIRCUMSTANTIAL EVIDENCE.
2. THE TRIAL COURT ERRED IN NOT GIVING WEIGHT TO THE DEFENSE OF DENIAL AND ALIBI OF THE ACCUSED.

Appellant centers his appeal on the insufficiency of the circumstantial evidence against him. He maintains that the fact that Montesclaros lived in the house which was razed to the ground was not duly proved by the Prosecutor, and that even the Fire Investigator could not determine the true cause of the fire. Appellant further assails the credibility of the prosecution witnesses Mona Aquino and Lina Videña since their respective testimonies as to his presence in the *locus criminis* before and after the incident remain uncorroborated, and therefore, wholly unreliable and insufficient to sustain his conviction.

For the State, the Solicitor General rebutted the factual submissions of appellant. First, appellant himself testified that he knew that Elmer Montesclaros lived in the

house of private complainant.^[11] Second, the testimony of prosecution witness Mona Aquino though uncorroborated does not impair her credibility since no ill-motive was ascribed to her to testify falsely against appellant. Third, any inconsistency in Lina Videña's testimony that she did not see appellant at the *locus criminis* could be explained by a reading of her entire testimony. She saw appellant inside the yard of the burning house during the fire, not after the fire. Further, the Solicitor General stressed that the determination of credibility of witnesses remains within the province of the trial court, whose finding is accorded due respect on appeal, absent any substantial circumstance which could have been overlooked in the decision.

Arson is defined as the malicious destruction of property by fire.^[12] In this case, the alleged crime was committed on February 28, 1996, after R.A. 7659 already took effect. The trial court found appellant herein liable under Article 320, No. 1 of the Revised Penal Code, as amended by Section 10 of R.A. No. 7659, which provides as follows:

"Art. 320. *Destructive Arson*. - The penalty of *reclusion perpetua* to death shall be imposed upon any person who shall burn:

1. One (1) or more buildings or edifices, consequent to one single act of burning, or as a result of simultaneous burnings, or committed on several or different occasions.

x x x"

Appellant's conviction rests on circumstantial evidence. Pertinently, Section 4 of Rule 133 of the Rules of Court provides:

"Section 4. *Circumstantial evidence, when sufficient*.- Circumstantial evidence is sufficient for conviction if:

(a) There is more than one circumstance;

(b) The facts from which the inferences are derived are proven;

(c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt."

In order to justify a conviction upon circumstantial evidence, the combination of circumstances must be such as to leave no reasonable doubt in the mind as to the criminal responsibility of the accused.^[13] But no greater degree of certainty is required when the evidence is circumstantial than when it is direct.^[14]

In this case, we find the trial court correctly held that the following circumstances taken together constitute an unbroken chain of events pointing to one fair and logical conclusion, that accused started the fire which gutted the house of private complainant. Although there is no direct evidence linking appellant to the arson, we agree with the trial court in holding him guilty thereof in the light of the following circumstances duly proved and on record:

First, appellant had the motive to commit the arson. It is not absolutely necessary,