

## SECOND DIVISION

[ G.R. No. 115192, March 07, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELMER SALAS Y DAVID, ACCUSED-APPELLANT.**

### D E C I S I O N

**QUISUMBING, J.:**

On appeal is the judgment of the Regional Trial Court of San Fernando, Pampanga, Branch 45, in Criminal Case No. 6656, finding appellant Elmer Salas y David guilty of Robbery with Homicide and imposing upon him the penalty of *reclusion perpetua*.

The factual background of this case is as follows:

On October 14, 1992, Salas was charged in an Information filed by the Office of the Provincial Prosecutor of Pampanga, as follows:

"That on or about the 6th day of March 1992, at around 3:00 o'clock in the morning, in barangay San Nicolas, municipality of Mexico, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, ELMER SALAS y DAVID, did then and there wilfully, unlawfully and feloniously, with intent to gain and by means of force, violence and intimidation by then and there stabbing one Virginia S. Talens on the different parts of her body with the use of a bladed weapon, thereby inflicting upon the said Virginia S. Talens mortal and fatal injuries which were the direct cause of her death and thereafter take, steal and carry away with him the victim's money amounting to TWO THOUSAND PESOS (P2,000.00) more or less and a piece of gold earring valued at SEVEN HUNDRED FIFTY PESOS (P750.00) to the damage and prejudice of the said victim, Virginia S. Talens.

"Contrary to law." <sup>[1]</sup>

On November 9, 1992, appellant was arraigned with assistance of counsel. He entered a plea of "Not Guilty." <sup>[2]</sup> Trial on the merits immediately ensued.

The prosecution's evidence as synthesized by the trial court reads:

"[A]t about 6:00 o'clock in the morning of March 6, 1992, a 60 year old woman, identified as Virginia Talens was found lying dead in a canal at Bo. San Nicolas, Mexico, Pampanga; she was last seen alive at about 3:00 o'clock early morning of March 6, 1992 by Orlando Pangan and Richard Pangan who were with her going home coming from the wake of one Leonardo Flores; both Orlando and Richard Pangan testified that accused was with them (four [4] all in all, Orlando, Richard, Virginia and accused) in going home at about 3:00 o'clock in the morning of March

6, 1992; Orlando and Richard Pangan reached first their house and left the two (Virginia and accused) on the way and that was the last time Virginia was seen alive; just a few minutes after reaching his house and while inside his house, Orlando Pangan heard a shout; another woman, one Serafia Gutierrez, testified that she likewise was awakened by a shout at about 3:00 in the morning; Dr. (Dominic) Aguda who autopsied the victim found hematoma on the head and chest, an abrasion on the left chin and stabwound on the neck which stabwound, the doctor claims, was the cause of death of the victim; Police Investigator (Danilo) Gonzales who immediately responded upon report, recovered at the scene a pin (*perdible*), the victim's wristwatch, earring, a ring and P135.00 money; he likewise found on March 9, 1992 when he continued his investigation bloodstain on the front door of the house of the accused which bloodstain when submitted for examination was found to be of human blood; one (Florentina) Resultay was with Virginia Talens at about 5:00 afternoon of March 5, 1992 in going to the wake, who claims that Virginia had money on a purse as while they were on the way Virginia bet on a jueteng she saw Virginia got money from her purse a P500.00 bill but as she had no change she instead took P8.00 from her other pocket; one Ramil Talens, a son of the victim corroborated the claim of Resultay that Virginia had with her at that time money worth P2,000.00 as in the morning of March 5, 1992 he gave her (sic) mother for safekeeping the sum of P1,500.00 which he claims his mother placed in her purse and claims further that at the wake, he asked and was given P50.00 by his mother as he also participated in the gambling thereat, however, the purse of Virginia containing about P2,000.00 was no longer to be found when she was found dead; Orlando Pangan saw the accused gambled in the wake; Virginia likewise gambled at the wake; accused had been working for three (3) days before March 6 at Sta. Ana, Pampanga and up to March 5, 1992, but the following day, he did not anymore report for work at Sta. Ana, Pampanga, was no longer to be found and was last seen at about 3:00 morning together with Virginia Talens on their way home coming from the wake; the parents of [the] accused were informed by Investigator Gonzales that their son was the suspect and advised (sic) them to surrender him, but since March 6, 1992 when accused left Mexico, Pampanga, he returned only on September 19, 1992 at Arayat, Pampanga, not at Mexico, Pampanga where he was ultimately apprehended by the Mexico Police on September 22, 1992 after chancing on a radio message by the police of Arayat to their Provincial commander that a vehicular incident occurred at Arayat, Pampanga where one Elmer Salas was the victim and was hospitalized at the district hospital at Arayat, Pampanga where he used the name of Rommel Salas and not Elmer Salas." [3]

Appellant's defense was denial. He also asked the trial court to appreciate his voluntary surrender. The lower court summed up his version of the incident as follows:

"...While he denied having killed Virginia Talens, through his claim though that he chanced upon Virginia on her way home together with Richard and Orlando Pangan at about 3:00 early morning of March 6, 1992, it can be inferred that he was around or in the place of the incident at about that time when Virginia Talens was last seen alive. To support the denial or having fled, he claim(ed) that upon arrival at his house from the wake at about 3:00 in the morning of March 6, 1992, he ate, change(d) clothes, rested for a while and left for Calamba, for his new job arriving (in) Manila at about 5:00 morning and reached Calamba at about 11:00 morning. He however stayed at Calamba until September 19, 1992." [4]

On March 14, 1994, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered, finding accused Elmer Salas y David Guilty beyond reasonable doubt of the crime of Robbery with Homicide hereby sentencing him of (sic) the penalty of *Reclusion Perpetua*.

"He is likewise hereby ordered to reimburse the amount of P2,000.00 and to indemnify the heirs of the late Virginia Talens, the sum of P50,000.00.

"SO ORDERED." [5]

On April 4, 1994, Salas filed his notice of appeal. Appellant assigns the following errors:

1. THE TRIAL COURT ERRED IN HOLDING THAT THE CHAIN OF EVENTS PRESENTED BY THE STATE CONSTITUTE CIRCUMSTANTIAL EVIDENCE SUFFICIENT TO CONVICT THE ACCUSED OF THE CRIME CHARGED IN THE INFORMATION;
2. THE TRIAL COURT ERRED IN FINDING THAT THERE IS ROBBERY IN THIS CASE;
3. THE TRIAL COURT ERRED IN DISREGARDING THE EVIDENCE PRESENTED BY THE DEFENSE MERELY BECAUSE OF MINOR AND IMMATERIAL VARIANCE OF THE TESTIMONIES OF DEFENSE WITNESSES;
4. THE TRIAL COURT ERRED IN HOLDING THAT THE PROSECUTION WAS ABLE TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT BASED ON MERE SUSPICION AND SCANTY EVIDENCE OF THE PROSECUTION;
5. THE COURT A QUO ERRED IN NOT ACQUITTING THE ACCUSED OF THE CRIME CHARGED FOR FAILURE ON THE PART OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Appellant submits that the errors assigned are intertwined and hence, may be discussed jointly.

In his brief, [6] appellant raises the following arguments to support his claim of innocence: First, he denies that he was the last person seen in the company of the victim during the wee hours of that fateful morning. Instead, he points an accusing finger at the father and son duo of Orlando and Richard Pangan, as the last persons to be with the victim. He insists that he passed the three of them on his way home to San Nicolas, Mexico, Pampanga and did reach his house ahead of them. Appellant particularly assails the testimony of Orlando Pangan that he heard a loud shout after the latter had entered his house. Appellant argues that Richard failed to corroborate Orlando's claim, thus making their story doubtful. He also contends that Orlando's statement that he failed to come out of his house to see what the shouting was about or to render assistance and succor to the victim is contrary to human knowledge and experience. He submits that the Pangans should be the prime suspects in the offense charged and not him.

Second, he faults the court *a quo* for relying on speculation, surmise, and conjecture in finding that he robbed the victim. Appellant vehemently insists that there is not a shred of concrete evidence to show that the deceased Virginia Talens was carrying the sum of P2,000.00 in her purse at the time of the incident or that he stole the same. He now insists that to sustain a conviction for robbery with homicide, the robbery must be as conclusively proven as any other essential element of a crime.

Third, appellant charges the court below with reversible error when it held that his failure to report for work on March 6, 1992 was a sign of flight and evident guilt. He insists that he quit his painting job in Sta. Ana, Pampanga, over a disagreement with his employer over his work rates and had a better offer in Calamba, Laguna. He claims that he never went into hiding and begs this Court to take a second look at the probative value of the testimonies of the witnesses he presented to support his claim.

Finally, appellant argues that the trial court committed grave error when it failed to consider his voluntary surrender. He said that he was hospitalized and thus could not surrender at that time. He said he used the name "Rommel Salas," [7] when he was hospitalized following a vehicular accident in Arayat, Pampanga. His use of "Rommel" instead of "Elmer" should not have been taken by the court as a sign of his intent to evade the law. He asks us to take notice of his explanation that his nickname is "Rommel." Besides, he insists that it makes no difference whether he used "Rommel" or "Elmer," as the two have the same sound (*idem sonans*). His use of Rommel cannot be successfully used to hide his identity.

Petitioner, therefore, prays that we reverse the decision of the trial court and acquit him of the offense charged.

The pivotal issue in this case is whether or not there is evidence sufficient to sustain a conviction of the appellant of the crime of Robbery with Homicide.

In this case, there was no eyewitness nor direct evidence, either to the robbery or to the homicide and none of the things allegedly stolen were ever recovered. However, direct evidence is not the only matrix from which the trial court may draw its findings and conclusion of culpability. [8] Resort to circumstantial evidence is essential when to insist on direct testimony would result in setting felons free.

For circumstantial evidence to be sufficient to support a conviction, [9] all the circumstances must be consistent with each other, consistent with the theory that the accused is guilty of the offense charged, and at the same time inconsistent with the hypothesis that he is innocent and with every other possible, rational hypothesis excepting that of guilt. [10] All the circumstances established must constitute an unbroken chain which leads to one and fair and reasonable conclusion pointing solely to the accused, to the exclusion of all other persons, as the author of the crime. [11] The facts and circumstances consistent with the guilt of the accused and inconsistent with his innocence can constitute evidence which, in weight and probative value, may be deemed to surpass even direct evidence in its effect on the court. [12]

The fatal stabbing of Virginia Talens occurred at around 3:00 a.m. of March 6, 1992.