

## THIRD DIVISION

**[ G.R. No. 112719, January 29, 1997 ]**

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,  
VS. ERNESTO OMOTOY Y CARIAGA, ACCUSED-APPELLANT.  
D E C I S I O N**

**NARVASA, C.J.:**

Before the Regional Trial Court at Aparri, Cagayan,<sup>[1]</sup> Ernesto Omotoy was charged with the crime of Arson defined and penalized under Section 3 (No. 2) of the Presidential Decree No. 1613.<sup>[2]</sup> The information against him<sup>[3]</sup> read as follows:

"That on or about July 6, 1986, in the municipality of Gonzaga, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Ernesto Omotoy, together with several John Does who were not identified, conspiring together and helping one another, with malice aforethought and with intent to destroy, to punish and to cause damage, did then and there wilfully, unlawfully and feloniously set fire on the house of the Said Rosario Mirafuente, the accused knowing that Rosario Mirafuente and his family were actually occupying and inside their house at that time they set fire on the said house; that, as a consequence, the said house of Rosario Mirafuente went into flames and was completely burned and razed to ashes, including household belongings, such as the following, to wit:

<b>1. Ten (10) cavans of palay, worth</b>	P1,400.00
<b>2. Clothings, worth</b>	1,200.00
<b>3. Cash money, amounting to</b>	500.00
<b>4. Kitchen utensils, worth</b>	400.00
<b>5. Three (3) pieces watches, worth</b>	1,500.00
<b>6. and the House, worth</b>	2,500.00
	<b>P7,500.00</b>

to the damage and prejudice of said Rosario Mirafuente and his family in the total amount of SEVEN THOUSAND FIVE HUNDRED (P7,500.00) PESOS, Philippines Currency.

CONTRARY TO LAW

Omotoy was not arrested until January 24, 1990, some three and a half (3-½) years after the crime; this, notwithstanding that, as he was later to testify, he never left his home during all the time except for a period of some five (5) months when he stayed in the City of Manila. He was arraigned on February 26, 1990, and entered a plea of not guilty. Trial on the merits thereafter took place.

The evidence of the prosecution tends to establish the facts hereunder narrated.

In the evening of July 6, 1986, the spouses Rosario and Editha Mirafuente and their five (5) children were fast asleep inside their house in Barangay Ipil, Gonzaga, Cagayan. Their house was of two storeys: the ground floor was made of concrete hollow blocks, the upper floor, of lumber and lawanit. The roof was of cogon grass. An annexed structure served as a living room, kitchen and "batalan."<sup>[4]</sup>

The Mirafuente spouses, who were sleeping at the ground floor of the house were awakened at about 10:00 o'clock by the noise of stones pelting their house. Rosario quickly put out the kerosene lamp; then he and Editha quietly moved to their house's annex and peeped out through an opening above the shutter of its door. It was bright outside; the area was illuminated by a 50-watt electric bulb at the exterior of the house of Rosario's parents, only two (2) meters away.<sup>[5]</sup>

The couple saw several persons in the yard, but only recognized Omotoy. Editha said to him in Ilocano: "Sika met gayam Erning! Bigat to laeng, adda met turay nga pagkamangan." ("So it's you, Erning! Wait till daybreak, there is authority from whom we can seek help.") They heard someone from the street say: "Sige, sunugin ninyo and mga bahay" ("Go ahead, burn the houses.") They also heard Omotoy say in Ilocano: This is your fault," which the spouses understood as a reference to a previous incident when their son, Robert supposedly broke the leg of appellant's goat. They saw Omotoy leave; but he soon returned and calling on Rosario to come out, set the cogon roof of the Mirafuentes' house afire with a match.<sup>[6]</sup>

Made fearful because Omotoy had called out to him, and upon his wife's proddings, Rosario went out of their house through the window of the "batalan," scampered into the woods nearby and there hid himself. Editha meanwhile gathered her children and brought them out of their burning house to seek refuge in the home of Rosario's parents. She saw appellant and several other men on the street, all laughing.<sup>[7]</sup>

The sound of stones being thrown at Rosario's house also awakened Rosario Mirafuente's brother, Arthur, who was sleeping in his parents house. Looking out, he saw several men on the street. At first he failed to recognize any of them because they were in a dark area. However, when one of the men approached his brother's house and set fire to its grass roof, he came within the range of the light from the house of Arthur's parents, enabling Arthur to make him out as Omotoy. Arthur tried to go to his brother's house to help but was stopped by Omotoy, who pelted him with stones.<sup>[8]</sup>

The following day, Rosario Mirafuente came out of the woods and returned to his house. He found it razed to the ground. He saw several people milling around at that time, among whom was Catalino Marcos, the Barangay Captain and a relative of Omotoy. Marcos asked him if he knew the malefactor; Rosario named Omotoy as the culprit.<sup>[9]</sup>

The arson was reported to the Gonzaga Police Sub-Station of the Integrated National Police in Gonzaga, Cagayan. Police Corporal Rufino S. Sunico interviewed and took down the statements of Rosario and Editha Mirafuente, and Arthur

Mirafuente.<sup>[10]</sup>

Omotoy denied having committed the crime of arson imputed to him and put the defense of alibi. He declared that in the evening of July 6, 1986, he was at his house attending to his wife who was then seriously ill due to anemia. He could not bring her to the hospital that night as there was no transportation available; and it was only on the following morning that he was able to take her to the clinic of Dr. Fortunato Tabucoy. He and his wife stayed at the clinic for one (1) day. He claimed to have no personal grudge whatsoever against Rosario and Editha Mirafuente.<sup>[11]</sup>

Omotoy's mother-in-law, Martina Tomaneng Marcos, gave evidence substantially to the same effect.<sup>[12]</sup>

Another defense witness, Barangay Captain Catalino Marcos, testified that in the morning of July 7, 1986, Rosario Mirafuente's mother, Itang, reported to him the burning of her son's house. Thereupon; he and first barangay councilman Alfredo Tomaneng proceeded to the scene of the incident and conducted an investigation. They asked Rosario, Editha and their children if they had any suspects, but they failed to name any one.<sup>[13]</sup>

Corroboration of Barangay Captain Marcos' testimony came from another defense witness, Councilman Alfredo Tomaneng.<sup>[14]</sup>

The trial Court found the proofs of the prosecution more credible than those of the defense, as indeed sufficient to establish Omotoy's guilt beyond reasonable doubt. It rendered judgment on July 5, 1993,<sup>[15]</sup> convicting Omotoy of arson and sentencing him to imprisonment of "from Twelve (12) Years of prision mayor maximum, as minimum, to reclusion perpetua \*\*." The dispositive portion of the judgment reads:

"WHEREFORE, premises considered, this Court in the interest of justice, hereby finds ERNESTO OMOTOY y Cariaga, the accused herein, GUILTY beyond reasonable doubt, as principal, of a violation of Presidential Decree No. 1613, Section 3, No. 2, in relation to Section 4 thereof, and hereby sentences him, after taking into consideration the provisions of par. 3 Sec. 4 of Presidential Decree No. 1613, paragraph 3 of Article 64 of the Revised Penal Code and the Indeterminate Sentence Law, with mitigating circumstance or circumstances that was (sic) proven by the prosecution, to suffer a penalty of imprisonment, which ranges from Twelve (12) Years of prision mayor maximum, as minimum, to reclusion perpetua, to indemnify Rosario Mirafuente, the private offended party herein, in the amount of Seven Thousand Five Hundred Pesos (P7,500.00), Philippine Currency, without subsidiary imprisonment, however, in case of insolvency, and to pay the costs.

The bailbond posted for the provisional liberty of Ernesto Omotoy, the accused herein, the amount of Sixteen Thousand Pesos (P16,000.00) Philippine Currency, is hereby increased to the amount of One Hundred Thousand Pesos (P100,000.00) Philippine Currency.

SO ORDERED."

In this appeal[16] -- three errors are ascribed to the Court a quo, namely:[17]

1. THE LOWER COURT ERRED IN NOT GIVING FULL FAITH AND CREDIT TO THE TESTIMONIES OF BARANGAY CAPTAIN CATALINO MARCOS AND FIRST BARANGAY COUNCILMAN ALFREDO TOMANENG WHO FIRST WENT TO INVESTIGATE THE INCIDENT EARLY IN THE MORNING OF JULY 7, 1986.

2. THE LOWER COURT ERRED IN NOT FINDING THAT THE EVIDENCE OF THE PROSECUTION IS GROSSLY INSUFFICIENT TO PROVE THE GUILT OF THE ACCUSED.

3. THE LOWER COURT ERRED IN CONVICTING THE ACCUSED UNDER SECTION 3, PARAGRAPH 2 OF PRESIDENTIAL DECREE 1613 ALTHOUGH THE PROSECUTION FAILED TO PRESENT EVIDENCE SHOWING THAT THE ACCUSED WAS A MEMBER OF A CRIMINAL SYNDICATE WHICH MAY HAVE FOREIGN CONNECTIONS.

There is no merit in the appeal.

Omotoy contends that it was serious error for the Trial Court to have spurned the testimonies of Barangay Captain Catalino Marcos and First Barangay Councilman Alfredo Tomaneng. He argues that the testimony of public officials like them should have been accorded credence -- i.e., that in their official investigation, Rosario and Editha Mirafuente, and Rosario's mother, Itang, failed to point to any person although there were asked if they had any suspects.[18]

A scrutiny of the record and the assailed decision convinces this Court that the Trial Court correctly declined to give credit to the testimonies of Marcos and Tomaneng on account of bias. They were shown to be so closely related to Omotoy as to wish to help him evade liability for the arson, as they appear to have done, in the Trial Court's view. Barangay Captain Catalino Marcos is the grandfather of Omotoy's wife, Lilia Marcos Omotoy -- hence the latter's "grandfather-in-law" -- said Catalino Marcos being the brother of Severino Marcos who is the father of Pascual Marcos, father of Lilia Marcos-Omotoy. On the other hand. First Barangay Councilman Alfredo Tomaneng is the brother of Martina Tomaneng, Omotoy's mother-in-law. It is not unreasonable to conclude, according to the Trial Court, that it was in fact the powerful influence of these barangay officials -- Marcos and Tomaneng -- that explains the incredible fact that Omotoy was not arrested until almost four years after the arson had been perpetrated, despite the fact that admittedly, he (Omotoy) had never left his house during that time, except only for a period of five months or so, in 1987, when he stayed somewhere in the City of Manila.[19]

Neither does Omotoy's alibi, corroborated by his own his relatives, merit acceptance. This Court has invariably held that for the easily concocted defense of alibi to prosper, the relevant factors of time and place should be taken into account. [20] The fact is that Omotoy's house, where he declares he was taking care of his sick wife on the night of the arson, is only approximately 100 meters away from that of the Mirafuentes; hence it was not impossible nor even improbable for Omotoy to be present at the scene of the crime at the time of its commission.