

SPECIAL TWELFTH DIVISION

[CA-G.R. CR No. 35338, May 29, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMADO TAVERA Y MOLINA, ACCUSED-APPELLANT.

D E C I S I O N

DICDICAN, J.:

Direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt^[1]. The rules of evidence allow a trial court to rely on circumstantial evidence to support its conclusion of guilt. Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference^[2]. At times, resort to circumstantial evidence is imperative since to insist on direct testimony would, in many cases, result in setting felons free and deny proper protection to the community^[3].

An appeal had been made to this Court from the Decision^[4] rendered by Judge Roberto A. Escaro, Presiding Judge of Branch 38 of the Regional Trial Court of the Fifth Judicial Region in Daet, Camarines Norte ("trial court"), on August 9, 2012 in Criminal Case No. 13016 convicting herein accused-appellant Amado Tavera y Molina ("accused-appellant") of the crime of homicide punishable under Article 249 of the Revised Penal Code in an Information^[5] which reads:

"That on or about or a few minutes after 8:30 in the evening of October 12, 2006 in Calero, Jose Panganiban, Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and repeatedly hack with a bladed weapon Arturo Enriquez who was hit in different parts of his face, head and body resulting to his untimely death, to the damage of his heirs.

"CONTRARY TO LAW."

On August 23, 2011, upon being arraigned of the crime with which he had been charged, the accused-appellant entered a plea of not guilty^[6] thereto. Subsequently, a pre-trial was conducted on September 23, 2011^[7]. A trial on the merits of said case ensued thereafter.

During the trial, the prosecution adduced in evidence the testimonies of the following persons: (1) Emelita Enriquez ("Emelita"), the widow of the victim, Arturo Enriquez ("Arturo"); (2) Dr. Antonio Fulong ("Dr. Fulong"), the Municipal Health Officer at Jose Panganiban, Camarines Norte who conducted a post-mortem examination upon the body of the victim; (3) Roberto Buenaflor ("Buenaflor"), a

barangay tanod of Barangay Calero who responded to the scene of the crime; (4) Benjie Reyes ("Reyes"), a barriomate and neighbor of the accused-appellant who saw the accused-appellant during the incident; (5) Daniel de Guzman Morante ("Daniel"); (6) John de Guzman Morante ("John"), both are stepsons of the victim who testified with respect to the search that they conducted to locate their stepfather; and (7) Mariano Raymundo Seeping ("Seeping"), a Barangay Captain of Calero who authenticated the barangay blotters caused to be made by the victim against the accused-appellant prior to the commission of the crime.

For his part, the accused-appellant adduced in evidence his own testimony as well as the testimony of his wife, Emma Tavera ("Emma").

The prosecution's recital of established facts is summarized as follows:

On October 12, 2006, at around 8:30 o'clock in the evening, Arturo went to their pastured land in Palanas to get their carabaos.

The evening went by but Arturo had not returned from their farm. Emelita then decided to look for Arturo at 4:00 o'clock in the morning of the following day. Likewise worried for his stepfather, Daniel immediately left the house to join the search.

As Emelita reached the pastured land, the accused-appellant, who was drenching wet, suddenly appeared. He was armed with a bolo. Upon inquiry as to his knowledge of Arturo's whereabouts, the accused-appellant prevented her from going through and sternly warned her that the person who she was searching for was not there.

The same encounter happened with Daniel. Daniel saw the accused-appellant in his stepfather's property with a bolo in his hand. He was also told that whoever he was looking for was not there.

Terrified, Emelita and Daniel walked away and proceeded to go home.

Meanwhile, John reported the matter that Arturo had not returned home from the farm to the Office of the Barangay Tanod. Four barangay tanods, including Buenaflor, thereafter aided him in their search for his stepfather.

Their group started the search on the other side of the hill, a property owned by his stepfather, which was 100 meters away from their house. However, the group failed to locate Arturo.

As there was still no sign of his stepfather anywhere, John went back to the hill and, this time, he found a pair of sandals. Not so far away, John saw the lifeless body of his stepfather, Arturo. Rattled, John shouted for help. Fortunately, one of their neighbor named Jun-jun heard his call for help and immediately assisted him.

Arturo's body was covered with freshly cut grass which made the search more difficult. He sustained hacked wounds on different parts of his body.

Dr. Fulong, the Municipal Health Officer at Jose Panganiban, Camarines Norte, conducted an autopsy on the body of the victim. According to Dr. Fulong, the victim suffered hacked wounds particularly at the frontal area to the supra orbital area which caused the exposure of the skull bone. There was also one near the forehead and another in the victim's jaw. Arturo's scalp was also sliced open from the back of

his head which caused the opening of the skull and exposure of a portion of brain tissue. There was also an incised wound on Arturo's neck. Aside from his mortal wounds, the victim's right wrist was also amputated. All in all, the victim sustained twenty two (22) wounds, eight (8) of which were mortal wounds which could immediately cause his death.

In the death certificate, it was indicated that the victim died of hemorrhagic shock caused by multiple hacked wounds^[8].

Reyes testified that, sometime in the afternoon of October 12, 2006, between 5:00 to 6:00 o'clock in the afternoon, he saw the accused-appellant with his son passed by while he was at the porch of his house.

Subsequently, he went to the house of Arturo to ask for his permission to allow him to gather gabi, guava shoots and other leaves from the former's property at the mountains. He then proceeded to Arturo's property.

While he was collecting the leaves that he needed to feed his pigs, he saw the accused-appellant some twelve (12) meters away. Apparently, the accused-appellant appeared to be hacking something on the ground with the use of a bolo. He simply ignored the latter and left.

Reyes was already in his house at around 9:00 o'clock in the evening when he saw the accused-appellant and his son coming down from the mountains. Since the accused-appellant's house was situated just in front of his house, he witnessed the accused-appellant headed towards home. Simultaneously, Reyes observed that, upon the arrival of the accused-appellant in their house, a commotion took place which lasted for about an hour.

It was in the following morning when Reyes learned that Arturo was found dead in the mountains where he gathered leaves the night before. Curious and nervous, Reyes went back to the mountains and there he saw the lifeless body of Arturo.

The family members of the victim testified that the accused-appellant harbored a grudge against Arturo. According to the testimony of Barangay Captain Seeping, several blotter incidents were reported by the victim against the accused-appellant before his gruesome and untimely death. From the blotter reports, it was indicated that the accused-appellant was caught entering the property of the victim and stealing coconuts therefrom.

To absolve himself from any criminal liability, the accused-appellant vehemently denied all the accusations hurled against him. He claimed that, on October 12, 2006, he went to Daet along with his wife to register his motorcycle with the Land Transportation Office ("LTO") in Daet, Camarines Norte. He allegedly finished the registration of his vehicle at around 3:30 o'clock in the afternoon and directly headed home to Purok 3, Calero, Jose Panganiban, Camarines Norte.

Allegedly, it was already past 6:00 o'clock in the evening when they arrived at Calero and, since it was raining hard at that time, he just stayed at home.

When accosted by the police officers with regard to the death of the victim, he went with them to the Police Headquarters where he was detained for three nights.

He denied any involvement in the hacking incident but admitted that there were some issues between him and the victim with respect to land ownership but the

same had been purportedly amicably settled.

Finding circumstantial evidence, together with the positive identification by Reyes of the presence of the accused-appellant at the scene of the crime during the incident, that would point unerringly to the latter as the assailant, the court *a quo* rendered a Decision on August 9, 2012 which convicted the accused-appellant of homicide. The dispositive portion of which reads:

"WHEREFORE, premises considered, finding the accused AMADO TAVERA GUILTY beyond reasonable doubt of the crime of Homicide, he is hereby sentenced to indeterminate penalty of six (6) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum.

The accused is hereby adjudged to pay the heirs of Arturo Enriquez, the following:

Civil Indemnity	- Php 50,000.00
Moral damages	- Php 50,000.00
Loss of Earning Capacity	- Php520,000.00
Actual damages	- <u>Php 23,015.00</u>
Total damages	- Php643,015.00

"SO ORDERED."

Aggrieved by the foregoing decision, herein accused-appellant interposed the instant appeal raising the following errors purportedly committed by the trial court, to wit:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED BASED ON CIRCUMSTANTIAL EVIDENCE.

III.

THE TRIAL COURT GRAVELY ERRED IN AWARDING CIVIL INDEMNITY FOR LOSS OF EARNING CAPACITY DESPITE NON-PRESENTATION OF DOCUMENTARY EVIDENCE TO PROVE THE SAME.

In sum, the primordial issue brought before this Court for resolution is whether the court *a quo* erred in convicting herein accused-appellant beyond reasonable doubt of the criminal charge against him.

After a careful and thorough review of the facts, law and issues of this case, we affirm the trial court's conviction of the accused-appellant of the crime of homicide.

The accused-appellant asserted that the trial court erred in convicting him of the charge against him, considering that the prosecution purportedly failed to establish its case against him with moral certainty. He averred that the totality of the prosecution's circumstantial evidence palpably failed to constitute an unbroken chain leading, beyond reasonable doubt, to his guilt.

We believe otherwise. The prosecution established the accused-appellant's complicity in the crime through circumstantial evidence which were credible and sufficient that would lead to the inescapable conclusion that the accused-appellant committed the said crime. The circumstances, when considered in their totality, pointed to the accused-appellant as the culprit of the crime.

Section 4 of Rule 133 of the Rules of Court provides that circumstantial evidence is sufficient for conviction if the following requisites are complied with:

- (1) there is more than one circumstance;
- (2) the facts from which the inferences are derived are proven; and
- (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden. Crimes are usually committed in secret and under a condition where concealment is highly probable. If direct evidence is insisted upon under all circumstances, the guilt of vicious felons who committed heinous crimes in secret or in secluded places will be hard, if not well-nigh impossible, to prove^[9].

There are instances when, although a witness may not have actually witnessed the commission of a crime, he may still be able to positively identify a suspect or accused as the perpetrator of a crime as when, for instance, the latter is the person last seen with the victim immediately before and right after the commission of the crime. This is the type of positive identification which forms part of circumstantial evidence^[10].

Based on the circumstantial evidence presented by the prosecution's witnesses, the accused-appellant was in the same place where the victim was seen at the time of the incident. During the search for the victim on the day after the killing, the accused-appellant was seen holding a bolo in the same place where the lifeless body of the victim was later found. The accused-appellant was the only person in the place where the incident happened which, incidentally, was the same place where the body of Arturo was found.

Thus, there can be a verdict of conviction based on circumstantial evidence when the circumstances proved form an unbroken chain which leads to a fair and reasonable conclusion pinpointing the accused, to the exclusion of all the others, as the perpetrator of the crime^[11].

After a thorough review of the records of the case, We find that the circumstantial evidences proved by the prosecution, when viewed in their entirety, point unerringly