

SECOND DIVISION

[G.R. No. 135536, June 06, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICENTE GARCIA TURTOGA ALIAS "RICKY," DOMINADOR
REGANA ALIAS "JUN MARGALLO," AND 3 JOHN DOES, ACCUSED,**

**VICENTE GARCIA TURTOGA ALIAS "RICKY," ACCUSED-
APPELLANT.**

DECISION

QUISUMBING, J.:

On appeal is the decision^[1] dated September 4, 1997, of the Regional Trial Court of Parañaque, Branch 274, in Criminal Case No. 94-0398, as follows:

WHEREFORE, this Court finds the accused Vicente Turtoga alias "Ricky" GUILTY BEYOND REASONABLE DOUBT of the crime of ROBBERY WITH HOMICIDE and HEREBY SENTENCES HIM TO SUFFER THE PENALTY OF RECLUSION PERPETUA.

SO ORDERED.^[2]

Appellant Vicente Turtoga alias "Ricky," with Dominador Regana alias "Jun Margallo" and three John Does, were charged with the crime of Robbery with Homicide. The Information^[3] dated March 9, 1994 reads:

That on or about the 25th day of January 1994 in the municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with three (3) John Does, whose true names are still unknown, and all of them mutually helping one another, with intent to gain and by means of force, violence and intimidation employed upon the person of one Elena Padilla and against the will of said complainant, did then and there willfully, unlawfully and feloniously divest from her cash money and pieces of jewels amounting to the total sum of P60,000.00, belonging to said Elena Padilla and her husband, to the damage and prejudice of the latter, in the aforementioned amount of P60,000.00;

That on the occasion of said robbery and in order to insure the commission of the said felony, the above-named accused, with intent to kill and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and slash the neck of said Elena Padilla, thereby causing her serious physical injuries which caused her death.

CONTRARY TO LAW.^[4]

Upon arraignment, appellant^[5] pleaded not guilty. Trial commenced soon thereafter.

The prosecution presented eight witnesses, namely: the victim's husband, Col. Nicanor Padilla; Police Officers SPO2 Elpidio Soquiña and Police Section Chief David Catipay, Nicanor Alfonso, Carlito Rosales, Rolando Diño, Rogelio Lumagbas and Dr. Roberto Garcia of the NBI.

As the lone witness for the defense, appellant denied any participation in the commission of the crime and proffered alibi in his defense.

COL. NICANOR PADILLA^[6] testified that at around 7:00 A.M. of January 25, 1994, he woke up to find his wife, Elena Padilla, no longer beside him. He did not find this unusual as Elena would normally wake up at around 4:00 or 5:00 A.M. to water her garden. The couple slept together in an upstairs bedroom. Nicanor went down to make himself a cup of coffee. It was then that he noticed that both the front and back doors of the house were open, although the gate and the terrace doors were still padlocked. He thought that it was Elena who opened the doors and was only out in the garden watering her plants. He wondered though why it was taking her so long to come into the house as she usually did when he was already downstairs. Nicanor went out through the back door and immediately saw his wife lying on her back. He thought that she had a heart attack but when he tried to help her sit down, to his utter shock, Elena's head flipped to the left side of her shoulder, revealing a gaping wound on her neck.^[7]

After recovering his composure, Nicanor went to another room downstairs to get coins to make a phone call to his son. He found the door to the room wide open and the room had apparently been ransacked. Drawers were on his bed and papers were scattered all over. He also discovered that all his money placed in an envelope was gone and pieces of jewelry were also missing. These were valued at P60,000.^[8]

When Elena was lying in state at the Funeraria Nacional in Quezon City, the police arrived and with them was appellant Vicente Turtoga, also known as "Ricky". Nicanor readily identified Turtoga as one of the men who previously worked for him and his wife.^[9] Nicanor then recalled that at around the last week of November 1993, Turtoga and another worker named Dominador Regana alias "Jun Margallo" went to their house and begged his wife to give them work. The two were told to come back the following day. The next day, they came with their carpentry tools. They were to add to the height of the hollow block fence from five to eight feet high.^[10] The two worked daily from Monday to Saturday and it was on Saturdays when they received their wages for the week from his wife. Nicanor narrated that during Saturdays, his wife always paid them on the "*terasa/balkonahe*" of their house. Whenever she was short of cash, she would go to Nicanor's room downstairs to get more. She did this in full view of the two workers.^[11]

The work lasted until December 23, 1993 when Mrs. Padilla asked them to temporarily stop work for the Christmas holidays. As instructed, the men returned after Christmas, but were told to just resume work after the New Year. A day or two after the New Year, only appellant Turtoga returned. When Nicanor asked him what happened, appellant said he needed to borrow money from Mrs. Padilla to pay for

their rent or else his family was going to be evicted. However, Mrs. Padilla refused the request and instead scolded the appellant. Turtoga gruffly and hurriedly left.^[12]

Witness NICANOR ALFONSO,^[13] a carpenter, corroborated Col. Padilla's testimony that appellant Vicente Turtoga and his co-accused Jun Margallo, had worked at the Padilla house in December 1993. He often saw them there.

SPO2 ELPIDIO SOQUIÑA,^[14] testified that in the course of police investigation, he met Rolando Diño who told them where accused Jun Margallo lived.^[15] When they went to the given address, they talked to Margallo's wife, Dolores Margallo, who informed them that Jun Margallo had not returned home since January 25, 1994.^[16]

Witness CARLITO ROSALES^[17] testified that Dolores gave him a letter^[18] from appellant Turtoga who was then in Olongapo, with a message that appellant wanted to surrender. In his letter, appellant stated that Margallo had no complicity in the crime. The same piece of paper was brought by Dolores to the police station and given to SPO2 Soquiña. He identified the letter in court.^[19]

Section Chief Inspector DAVID CATIPAY^[20] testified that several witnesses were invited to shed light on the matter. Among those who volunteered information was the wife of Jun Margallo. Her affidavit states that the night before the incident occurred, her husband and three companions were drinking at their house. When she asked what it was they were talking about, her husband kicked her. The affidavit was presented and identified by Catipay in court. On the basis of the information contained in the letter handed to him by SPO2 Soquiña, the same document which came from Dolores Margallo, they were able to ascertain the whereabouts of appellant Turtoga. Catipay led the stake out operation in Olongapo and shortly thereafter, Turtoga was apprehended. However, despite continuing surveillance, accused Dominador Regana alias Jun Margallo remains at large. So do three co-accused John Does.

ROGELIO LUMAGBAS testified^[21] that between the hours of five and six in the morning of January 25, 1994, he was with his friend Abelardo Mendez at the latter's house, situated about four or five meters from the back of the house of the Padillas. He was helping to fix Abelardo's house. At the time in question, the witness and Abelardo were standing face to face, with Abelardo facing the back portion of the Padillas' house. Abelardo suddenly shouted "*Oy, may taong galing kina Mrs. Padilla, tumalon sa bakod.*"^[22] Rogelio immediately turned and saw three persons walking hurriedly away from the direction of the Padillas' fence.^[23] Rogelio only saw their backs. He stated that two of them were wearing white t-shirts while the other one wore a red t-shirt. One of the persons in white was carrying a bag tucked under his armpit.^[24] Rogelio could not identify them as he was unable to see their faces. However, the witness stated that the persons were of medium height. At this point in the proceedings, appellant was made to stand and turn his back towards the witness. Rogelio then stated that Turtoga's height approximated that of one of the persons he saw that day.^[25]

For his defense, appellant VICENTE "RICKY" GARCIA TURTOGA,^[26] testified. He denied knowing the spouses Padilla^[27] and claimed that at the time of the incident,

he was in Olongapo. He said on January 6, 1994, he went to Olongapo with Jun Margallo upon the latter's request, in order to help fix the house of an old couple who were Margallo's relatives.^[28] He stayed there for three weeks but could not recall the old couple's names.^[29] He did not collect wages for the work as he was moved with pity for the old couple's situation,^[30] although he previously testified that he accepted the work in Olongapo to be able to send money to his siblings.^[31] Further, he testified that he previously worked as a helper in a memorial park for five months since he arrived from Bohol.^[32] He denied writing the letter stating that he wanted to surrender. He averred that he suffered in the hands of the police who forced him to confess. He also said he was not assisted by counsel when he was forced to admit to the crime.^[33]

The trial court convicted appellant.^[34] Quoted hereunder are the circumstances upon which the decision was anchored:^[35]

First, the accused Vicente Turtoga alias "Ricky" and Dominador Regana alias "Jun Margallo" were workers of the victim. They were able to work in the victim's house since the accused Jun Margallo has been known to the victim and her husband when he was introduced to them by witness Nicanor Alfonso, the person who regularly does the carpentry jobs in the victim's house in March, 1993 when the latter needed a helper in the work he was doing in the victim's house.

Second, the accused Vicente Turtoga alias "Ricky" was introduced to the victim and her husband by his co-accused Jun Margallo when the latter asked her to give them jobs to do in the victim's house from November, 1993 up to December 23, 1993.

Third, everytime the victim pays them their weekly wage which was always done in the "terasa", and the victim's money runs short, she always goes to her husband's room downstairs to get the money so that the wages of the workers will be fully paid, and the victim does it in full view of the accused.

Fourth, the fact that the money and jewelries in the room of Mr. Padilla downstairs were the ones that were lost.

Fifth, the accused "Ricky" went to the house of the victim shortly after New Year, 1994 to borrow money, but the victim did not accommodate him, and instead, she lambasted him with words which led him to leave in a hurry without showing any respect to the old woman.

Sixth, the accused Jun Margallo and Vicente Turtoga were the last people who had contact with the victim and her husband, aside maybe from their family because they were seen by witness Nicanor Alfonso working in the Padilla residence in December, 1993, since the former was also working at a place not far from the Padilla residence.

Seventh, the witness Nicanor Padilla readily recognized the accused Vicente Turtoga as one of their workers without pointing to him as the

perpetrator of the crime when the accused was brought by the police to the victim's wake at Funeraria Nacional to be identified by Mr. Padilla.

Eighth, the accused Vicente Turtoga is lying when he said that he does not know the victim or her husband since he was readily identified by the victim's husband as one of their workers and by witness Nicanor Alfonso as having seen him work in the victim's house in December, 1993.

Ninth, accused Jun Margallo and his co-accused Vicente Turtoga left their place since January 25, 1994 and went to Olongapo to hide and not merely to do repair works in the house of Jun Margallo's cousin.

Tenth, accused Vicente Turtoga made conflicting testimonies when asked if he was paid or not when they did repair works at Jun Margallo's cousin's house in Olongapo, and that, he cannot even name the names of the people with whom he worked for and stayed with in Olongapo, the family name of his alleged cousin whom he allegedly stayed with for five (5) months after he came from the province, and the number of persons who were staying in his cousin's house at Sampaloc Site II, the place where he allegedly lived.

Eleventh, he cannot give straight answers or name names and he was just mumbling things during his testimony in Court, and could not give a straight answer.

Twelfth, accused Vicente Turtoga failed to present other witnesses to corroborate his allegation that he could not have committed the crime since he was in Olongapo when it happened.

For the crime of robbery with homicide, appellant was sentenced to suffer the penalty of *reclusion perpetua*.

In his appeal before us, he assigns but one error:

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED IN THE INFORMATION DESPITE INSUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE NECESSARY TO CONVICT HIM.^[36]

Thus, the issue for resolution is whether there is sufficient evidence to establish appellant's guilt beyond reasonable doubt. Priorly, we must inquire whether the testimonies of the witnesses for the prosecution *vis-à-vis* those of the defense are credible. Likewise, we must resolve whether the requisite elements to convict the accused-appellant on the basis of circumstantial evidence have been proved.

On the *issue of credibility*, the trial court found the testimony of appellant riddled with the contradicting statements. His demeanor at the witness stand was marked by studied hesitance. His inability to recall basic and vital information relative to his whereabouts during the critical period when the offense was being committed, and soon thereafter, inevitably led the court to dismiss appellant's testimony as a mere concoction to support his defense of alibi.^[37] As a result, the trial court rejected his defense. Given that alibi is easy to fabricate, we agree that appellant's defense is weak. As the trial court noted, his testimony on this score was uncorroborated.^[38]