

## EN BANC

[ G.R. No. 131151, August 25, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR LOPEZ Y EMOYLAN, ACCUSED-APPELLANT.**

### DECISION

**YNARES-SANTIAGO, J.:**

After appellant was charged and tried under an information which reads:

"That on or about the 19th day of December 1994, in the Municipality of Dasmariñas, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, being then armed with a bolo, and with treachery and evident premeditation, did, then and there, wilfully, unlawfully and feloniously, attack, assault and hack the person of Bonifacio David, inflicting upon said victim mortal wound on the neck thereby causing his subsequent death, to the damage and prejudice of his legal heirs."<sup>[1]</sup>

he was convicted of murder, sentenced to death and ordered to indemnify the victim. The dispositive portion of the decision states:

"WHEREFORE, in view of the foregoing, this Court finds the accused Edgar Lopez y Emoylan GUILTY beyond reasonable doubt of the crime of murder and hereby sentences him to suffer the penalty of DEATH and to indemnify the heirs of the offended party the sum of FIFTY THOUSAND PESOS (P50,000.00).

SO ORDERED."<sup>[2]</sup>

The lower court premised its judgment on the following summary of events as testified to by the two prosecution witnesses:

"Jeffrey Serio, a poultry caretaker in Bucal, Dasmariñas, Cavite, had been working for Mrs. Fructoso as a stay-in employee since March 1994. He came to know appellant, victim Bonifacio David and Ramon Candalo as among the laborers working in the house of Mrs. Fructoso that was under construction.

"On the night of December 19, 1998 (*sic*), between 6:00 and 7:00 in the evening, Jeffrey Serio, together with another stay-in worker Wilfredo Hisim, saw appellant, Bonifacio David and Ramon Candalo having a drinking spree at the latter's sleeping quarters. At about 7:00 P.M., when they stopped drinking and when Bonifacio David and Ramon Candalo were already sleeping, Jeffrey Serio and Wilfredo Hisim left the place and proceeded to sleep at their own place. But before they left, Jeffrey

Seriño reminded appellant, who was still awake and was playing the cassette recorder, to switch off the light at 10:00 P.M.

"At about 11:00 P.M., Wilfredo Hisim woke up Jeffrey Seriño to check on what the dog was barking at. They proceeded to the sleeping quarters where appellant was when they saw that the light was still on. But as they were about to go, they met appellant, carrying a black bag and whose white pants were bloodied, hurriedly running towards the direction of the gate. They saw appellant climb over the gate. Jeffrey Seriño and Wilfredo Hisim then went to the sleeping quarters where appellant came from. There, they saw the bloodied body of Bonifacio David lying with an injury at the neck. Ramon Candalo was still sleeping. They ran out of the place to ask for help. While being accompanied by a neighbor on their way to the barangay captain to ask for help, they met appellant who was with the barangay captain and some NBI agents who had arrested him."

[3]

Postmortem examination on the victim's body revealed that he died of hack wounds on the neck, to wit:

#### "POSTMORTEM FINDINGS

Pallor, marked, generalized.

Incised wounds, 4.0 cms., right side of the face; multiple linear, area of upper right chest, 16.0 x 9.0 cms., dorsal aspect of right hand.

Contused abrasion, 3.0 x 6.0 cms., deltoid area, left.

Hackwounds, 4.5 cms., right mandibular area with fracture of mandible; 13.0 cms. anterior aspect of neck, right, fracturing the 4th cervical vertebra cutting the carotid blood vessels, trachea and esophagus; 9.0 cms. dorsal aspect of left hand.

Heart, brain and all other internal visceral organs are pale.

Stomach, -filled with brownish fluid."<sup>[4]</sup>

The judgment is now before this Court for automatic review pursuant to Article 47 of the Revised Penal Code as amended by R.A. No. 7659. Appellant contends that his guilt was not proven beyond reasonable doubt and prays for his acquittal. On the contrary, the Solicitor-General argues that the circumstantial evidence presented would lead to no other conclusion but appellant's culpability except that it recommends that he be held liable only for the crime of homicide as the qualifying circumstances of treachery and evident premeditation were not proven. These circumstances in the Solicitor General's own enumeration are:

"(i) prior to the incident, appellant was seen by Seriño and Hisim having a drinking spree with Bonifacio David and Ramon Candalo. (ii) appellant was still awake when Jeffrey Seriño and Wilfredo Hisim left the place while Bonifacio David and Ramon Candalo was already asleep; (iii) appellant was seen by Seriño and Hisim coming out of the old house hurriedly heading towards the gate at around eleven o'clock in the

evening; his white pants were bloodied, and in leaving the compound in haste, he jumped over the fence; (iv) Bonifacio David's body was found in the place where appellant immediately came from; (v) appellant was seen together with the barangay captain, the tanods and the NBI agents."<sup>[5]</sup>

After a careful perusal of the evidence on record, the Court agrees with the recommendation of the Solicitor-General that the circumstantial evidence presented against appellant is sufficient to support a conviction but only for the crime of homicide. In criminal cases, it is the prosecution's duty to prove each and every element of the crime charged in the information to warrant a finding of guilt for the said crime or of any other crime necessarily included therein. In this case, the prosecution ably discharged its burden. Although the prosecution is not always tasked to present direct evidence to sustain a judgment of conviction, the absence of direct evidence does not necessarily absolve an accused from any criminal liability. 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.<sup>[6]</sup> Under the Rules of Court<sup>[7]</sup> and pursuant to settled jurisprudence,<sup>[8]</sup> conviction may be had even on circumstantial evidence provided three requisites concur:

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

Simply put, for circumstantial evidence to be sufficient to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt.<sup>[9]</sup> Facts and circumstances consistent with guilt and inconsistent with innocence, constitute evidence which, in weight and probative force, may surpass even direct evidence in its effect upon the court.<sup>[10]</sup>

To an unprejudiced mind, the circumstantial evidence in the case at bar, when analyzed and taken together, leads to no other conclusion except that of appellant's culpability for the death of the victim. The Court herein quotes with approval the lower court's enumeration of those circumstantial evidence:

1. The accused Edgar Lopez was seen by Jeffrey Serifio and Wilfredo Hisim in the sleeping quarters in the old house with Ramon Candalo and Bonifacio David having a drinking spree between six to seven o'clock in the evening of December 19, 1994. Ramon Candalo also attested in his Sinumpaang Salaysay that he had a drinking spree with Edgar and Bonifacio on said date and time. Ramon Candalo and Bonifacio David were already sleeping while Edgar Lopez was still awake when Jeffrey and Wilfredo left their quarters at seven o'clock of the same evening.
2. Edgar Lopez was seen by Jeffrey Serifio and Wilfredo Hisim coming out of the old house hurriedly heading toward the gate at around

eleven o'clock in the evening of the incident on December 19, 1994. The moon was shining brightly and Jeffrey saw Edgar's pants were bloodied as he was wearing white pants.

3. Where (sic) Edgar had come from the place where they had the drinking spree with the victim Bonifacio who was found dead with an injury on his neck. In leaving the compound in haste, he jumped over the fence surrounding the area where the incident happened.
4. As Jeffrey and Wilfredo were going to the place of the "Kapitan" with their neighbor Mrs. Wu, they met said barangay captain with the tanod, NBI Agents and the accused Edgar Lopez who was arrested by the "Kapitan."
5. On the midnight of the incident, Jeffrey Serião executed his Sinumpaang Salaysay before SPO1 Melquiades S. Manglicmot and SPO3 Apolinar Reyes at the PNP Police Station of Dasmariñas, Cavite (Exhibit "A," Records, p. 8.), while Ramon Candalo executed his Sinumpaang Salaysay attested (sic) to the fact of the drinking spree among Edgar Lopez, Bonifacio David and Ramon Candalo who slept ahead of the two, accused Edgar Lopez and victim Bonifacio David, before the death of the latter."<sup>[11]</sup>

A combination of the foregoing circumstances leads to a logical conclusion which suffices to establish appellant's guilt beyond reasonable doubt. He was seen running away from the place of the crime towards the gate and jumping over it with blood on his pants. The non-presentation of blood samples from the victim and appellant as well as the instrument which appellant used in perpetrating his felonious acts do not negate criminal liability. To sustain conviction, it is enough for the prosecution to establish by the required quantum of proof that a crime was committed and the accused was the author thereof. The production of the weapon used in the commission of the crime is not a condition *sine qua non* for the discharge of that burden.<sup>[12]</sup> On the other hand, flight *per se* is not synonymous with guilt and must not always be attributed to one's consciousness of guilt.<sup>[13]</sup> By itself, climbing over the gate is not wrong, but when considered with the other circumstances, it is indicative of flight and becomes a strong indication of guilt or of a guilty mind.<sup>[14]</sup> Conviction based on circumstantial evidence can be upheld, provided the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person,<sup>[15]</sup> a conclusion adequately established in this case.

The penalty for murder is *reclusion perpetua* to death.<sup>[16]</sup> In sentencing appellant to suffer the death penalty, the trial court did not mention any aggravating circumstance that would have justified the imposition of the higher penalty. As correctly argued by both appellant and the Solicitor General, the qualifying circumstances of treachery and evident premeditation appreciated by the trial court have no factual basis. No evidence was presented to substantiate the same. The two prosecution witnesses simply testified to seeing appellant come out of the house with blood on his white pants, carrying a black bag, and jump over the gate. Thus,

Q: When you went out, what did you see, if any?

A: We went to their place because we saw that the lights were still on. But as we were about to go, there we met Edgar Lopez coming out of the house hurriedly. I noticed that his pants were bloodied.

Q: What was the color of the pants that Edgar Lopez was wearing at that time?

A: White.

Q: Was he wearing any clothes?

A: Yes, sir, he was wearing a white sleeveless shirt.

Q: Was Edgar Lopez who was hurriedly leaving the place carrying anything when you saw him?

A: Yes, sir.

Q: What was he carrying?

A: He was carrying a black bag, sir.

Q: Where did Edgar Lopez proceed?

A: He proceeded towards the gate, sir.

Q: Did Edgar Lopez open the gate?

A: No, sir, he climbed over the gate.

Q: After Edgar Lopez has climbed over the gate, what did you do together with your companion Wilfredo Hisim?

A: We went to the place where Edgar Lopez came from and we saw Bonifacio David bloodied.

Q: Where was Bonifacio David when you saw him with blood?

A: Beside the place where they had the drinking spree, sir.

Q: Was Bonifacio David alone when you saw him bloodied?

A: No, sir.

Q: Who was with him?

A: He was with Ramon Candalo.

Q: What was the condition of Ramon Candalo?

A: Ramon Candalo was sleeping at that time.<sup>[17]</sup>

The conclusion of the trial court that the killing was attended by the qualifying circumstances of treachery and evident premeditation was too speculative. It was derived from the testimony that the other companion<sup>[18]</sup> of the victim in the room was still sleeping beside the latter's dead body when said witnesses arrived therein. But this did not prove that the victim was sleeping when he was killed. Moreover, no evidence was presented on the relative positions of the victim and his assailant with respect to each other. Likewise, no medical explanation was given on the nature of the wounds to show whether the attack was frontal or otherwise.

Under our penal law, there is treachery when the offender commits any of the crimes against persons employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to