

FIRST DIVISION

[G.R. No. 125964, October 22, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ELEUTERIO GUARIN Y SALAYNON (AT LARGE), WINNIE GUARIN
Y SALAYNON AND NOEL NATO (AT LARGE), ACCUSED, WINNIE
GUARIN Y SALAYNON, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

The case is an appeal from the trial court's decision^[1] convicting the accused-appellant of robbery with homicide for mercilessly robbing and killing a man and his seven year old son inside their own abode.

In an information dated February 9, 1990 filed with the Regional Trial Court, Branch 40, Silay City, Negros Occidental, the City Prosecutor of Silay City charged Eleuterio Guarin y Salaynon, Winnie Guarin y Salaynon and Noel Nato with "Robbery with Double Homicide" for robbing and killing Enrique Tan (44 years old) and Aaron Tan (7 years of age).

The information reads:

"The undersigned City Prosecutor hereby accuses ELEUTERIO GUARIN y SALAYNON, WINNIE GUARIN y SALAYNON and NOEL NATO of the crime of ROBBERY WITH DOUBLE HOMICIDE committed as follows:

"That on or about February 1, 1990 at Silay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused in conspiracy, with intent to gain and with the use of force and violence did then and there, willfully, unlawfully and feloniously assault and attack Enrique C. Tan and his son Aaron Tan, a 7 year old boy, by first striking them with an ice pick and one piece of a pair of scissors, both deadly weapons thereby wounding the victims on vital parts of their bodies which directly caused their death and thereafter, the said accused did then and there willfully, unlawfully and feloniously and forcibly take and carry away cash in the amount of P 60,000.00 and jewelry valued at P 50,000.00, to the damage and prejudice of the heirs of the said victims.

"The commission of the crime was attended by the aggravating circumstances of treachery, obvious ungratefulness, dwelling, and nocturnity.

"CONTRARY TO LAW.

"Silay City, Philippines, February 9, 1990."^[2]

After due trial, on March 7, 1996, the trial court rendered a decision the dispositive portion of which reads:

"ACCORDINGLY, finding accused WINNIE GUARIN guilty beyond reasonable doubt of the crime of Robbery with Homicide, pursuant to Article 294 of the Revised Penal Code, he is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and to indemnify the next of kin of the deceased the sum of P 100,000.00, with full credit of his preventive imprisonment.

"Let an alias warrant be issued for the arrest of Eleuterio Guarin and Noel Nato.

"SO ORDERED.

"Silay City, Philippines, March 7, 1996.

"REYNALDO M. ALON

"Judge"^[3]

The Facts

Roque Tan and his brother, Enrique "Oto" Tan, each owned a store in Severino Street, Silay City, Negros Occidental. The former owned Atlas Marketing, located three blocks away from Oto's Aaron Marketing.

On February 1, 1990 at about 7:00 p.m., Roque's store helpers, Winnie Guarin and Noel Nato, asked his permission to go out with Eleuterio Guarin, Winnie's brother and Oto's helper at Aaron Marketing. The three helpers used to go out to watch movies or attend fiestas together.

Sometime after they asked permission, the three entered the refreshment parlor of Pelagia Oxida and drank softdrinks for about 20 minutes. After which, the three went out of the parlor and sat in front of Aaron Marketing before Oto Tan opened the door and let the three enter the store.

From February 1 up to February 4, 1990, Aaron Marketing remained closed. Curious as to why his brother failed to open the store and answer his telephone calls, Roque Tan caused the store's door to be forcibly opened with the assistance of some police officers and a neighbor.

Inside, they immediately noticed a foul odor. Roque found Oto's lifeless body in the kitchen seated on a bamboo chair. Much of the blood was found on Oto's head and on the stab wounds on his stomach.

Near the bamboo chair, Oto's 7 year old son, Aaron, also lay dead on a bed. The boy had a towel stuffed in his mouth, blood on his head, and several stab wounds on his body.

The cadavers were found in an advanced stage of decomposition.

At the scene of the crime, Roque and the police discovered the following:

- a. a bloodied piece of wood with steel ballbearings and an iron spear;

- b. Oto's aparador and luggage were open; and
- c. clothing of Eleuterio were inside a bag with some of Oto's belongings, namely, two Rado watches, two rings, one diamond, one necklace, one pair of earrings, and three t-shirts.

Following autopsy, Dr. Rodolfo Garriel reported severe brain injuries, traumatic in origin, as the cause of both deaths.^[4]

Learning that the three store helpers never returned after February 1, the police suspected that they were responsible for the crime. When the police failed to locate them anywhere in Silay City, they decided to look for them at the Guarin's hometown in Sitio Handolamay, Barangay Don Espiridion Villegas, Vallehermoso, Negros Oriental, some 200 kilometers away from Silay City.

A police team led by Patrolman Severino Anteporda discovered that the three accused arrived at Vallehermoso on February 2, 1990. Residents said that they spent so much money, having paid for 15 cases of beer, and heavily lost in gambling during the benefit dance. On February 4, 1990, Eleuterio Guarin and Noel Nato left for Cebu City via Guihulngan, Negros Oriental. The two remain at large.^[5]

With the help of the barangay captain, Jimmy Villegas, the police apprehended Winnie Guarin and brought him to Villegas' house. There, in the presence of relatives, Winnie confessed to the commission of the crime and surrendered the amount of P600.00, which was what remained of his share in the loot. The following day, Winnie reenacted the crime and pictures were taken of the event.

On March 15, 1990, at his arraignment accused pleaded not guilty of the crime charged.

Based on the testimonies of Patrolman Anteporda, Pelagia Oxida, Dr. Rodolfo Garriel and the circumstantial evidence, on March 7, 1996, the trial court rendered decision convicting accused-appellant of the complex crime of robbery with homicide, and sentencing him to *reclusion perpetua* and to indemnify the next of kin of the deceased in the sum of P100,000.00 with full credit of his preventive imprisonment.

Hence, this appeal.

Errors Assigned

Accused-appellant Winnie Guarin argued that the trial court erred in:

1. giving probative value to hearsay statements of Patrolman Anteporda;
2. not excluding the extrajudicial confession of the appellant;
3. finding that robbery was established;
4. implying that conspiracy was proven;
5. finding sufficiency of circumstantial evidence to convict the appellant; and
6. rejecting appellant's *alibi*.^[6]

Court's ruling