

THIRD DIVISION

[G R. No. 99355, August 11, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO SALAZAR Y SEROMA ALIAS "INGGO," MONCHITO
GOTANGUGAN Y SEVILLA, ALIAS "MONCHING" AND JOHN DOE,
ACCUSED, DOMINGO SALAZAR Y SEROMA ALIAS "INGGO" AND
MONCHITO GOTANGUGAN Y SEVILLA ALIAS "MONCHING,"
ACCUSED-APPELLANTS.**

D E C I S I O N

PANGANIBAN, J.:

Although homicide (a crime against persons) is independently a graver offense than robbery (a crime against property), it is treated in the special complex crime of robbery with homicide as a mere incident committed by reason or on the occasion of the robbery. Unless the prosecution convincingly proves that the main purpose of the culprit(s) was the asportation of personal property and that the death was merely incidental to such asportation, there can be no conviction for this special complex crime.

Statement of the Case

This principle is stressed by the Court as it rules on this appeal from the Judgment^[1] dated April 1, 1991 of the Regional Trial Court of Quezon City, Branch 104^[2] which, acting as a special criminal court, convicted Appellants Domingo Salazar y Seroma alias "Inggo" and Monchito Gotangugan y Sevilla alias "Monching" of robbery with homicide.

In an Information dated July 31, 1989, Asst. Quezon City Prosecutor Perpetuo L.B. Alonzo accused Appellants Salazar and Gotangugan, together with one "John Doe," of robbery with homicide committed as follows:^[3]

That on or about the 10th day of March 1989, in Quezon City, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, with intent to gain and by means of violence upon person, rob one CRISPIN GATMEN Y CEYNAS of his service firearm, a Squires Bingham Cal. 38 Revolver with Serial No. 1096012 valued at P6,000.00, Philippine Currency, to the damage and prejudice of the said offended party thereof in the aforementioned amount; and that by reason of or on the occasion of the said robbery, said accused with intent to kill and without any justifiable cause, did then and there, wilfully, unlawfully and feloniously attack, and assault the person of said CRISPIN GATMEN Y

CEYNAS, by stabbing the latter, hitting him on the different parts of his body by the use of bladed weapon, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said victim in such amount as may be awarded to them under the provisions of the Civil Code.”

Upon arraignment, appellants pleaded not guilty. After trial proceeded in due course, the court a quo rendered the assailed Judgment, the dispositive portion of which reads:[4]

WHEREFORE, judgment is hereby rendered, finding both accused, Domingo Salazar y Seroma and Monchito Gotangugan y Sevilla, guilty of the crime of Robbery with Homicide as charged in the information. They are both sentenced to suffer the penalty of RECLUSION PERPETUA, to pay the heirs of the deceased damages in the amount of P30,000.00, plus the sum of P6,500.00 representing the value of the revolver taken by both accused, plus all the accessory penalties provided for by law, without subsidiary imprisonment in case of insolvency, and to pay the costs.”

The Facts

Evidence for the Prosecution

The prosecution presented the following witnesses: Pfc. Jose Antonio of the Quezon City Police, Eyewitnesses Vicente Miranda, Jr. and Pedro Soriano, Dr. Dario L. Gajardo of the PC/INP Crime Laboratory and Ben Felipe Dangza, Consultant/Manager of PUMA Security Agency. The Solicitor General, on behalf of the People, summarized the facts as viewed by the prosecution:[5]

“On March 10, 1989, at or about 3:30 (a.m.), Vicente Miranda, Jr. and his friend Nestor Arriola were standing in the corner of Road 1 and Visayas Avenue, Quezon City, about 12 meters from Linda’s Supermarket (TSN, October 31, 1989, pp. 3 and 21). At about the same time, Pedro Soriano, who was himself waiting for a ride, was standing in front of the Kambingan Restaurant along Visayas Avenue and beside Linda’s Supermarket (TSN, November 6, 1989, p. 2-3). Moments later, they saw appellants Domingo Salazar and Monchito Gotangugan together with an unidentified companion approach the security guard of Linda’s Supermarket (TSN, October 31, 1989, pp. 3-4, 27).

Salazar, Gotangugan and their companion talked to the security guard, who was later identified as Crispin Gatmen. Thereafter, Miranda saw Salazar pull out a 9-10 inches long dagger from his pocket, and pass the same to Gotangugan (Ibid., pp. 5, 15, 22). Armed with the dagger, Gotangugan suddenly started stabbing Gatmen (Ibid., p. 5, 15, 16).

At that precise moment, Pedro Soriano, who was only about 10 to 15 meters from Linda's Supermarket heard moans coming from the guardhouse in front of Linda's Supermarket. He turned his head towards the place where the moans were coming from and saw Gatmen inside the guardhouse being repeatedly stabbed by Gotangugan (TSN, November 6, 1989, pp. 2-6, 15-16).

Both Miranda and Soriano were able to witness and identify the malefactors because the place where the incident happened was well-lighted (TSN, October 31, 1989, p. 22; November 6, 1989, pp. 4-5).

While Gotangugan was stabbing Gatmen, Salazar stood close to Gotangugan, while their unidentified companion acted as a lookout (TSN, October 31, 1989, pp. 8, 15; November 6, 1989, pp. 16).

Out of fear, Miranda and Arriola ran towards Tandang Sora. While running, however, they saw Salazar and Gotangugan get the revolver of Gatmen (TSN, October 31, 1989, p. 7-8). Soriano, on the other hand, left slowly but saw Salazar get the gun of Gatmen (TSN, November 6, 1989, p. 6-7).

After getting the gun, Salazar, Gotangugan, and their unidentified companion left the scene of the crime (TSN, October 31, 1989, p. 8; November 6, 1989, p. 7).

Gatmen died as a consequence of the following stab wounds, to wit:

- (1) Hacked wound, frontal extending to the right pre-auricular region, measuring 10 by 1 cm, 8 cm from the anterior midline, fracturing the frontal bone.
- (2) Stab wound, right zygomatic region, measuring 3 by 0.7 cm, 10 cm from the anterior midline, directed posteriorwards and medialwards, fracturing the right zygomatic bone.
- (3) Incised wound, chin, measuring 1.2 by 0.3 cm, 2 cm right of the anterior midline.
- (4) Stab wound, neck measuring 5 by 1.2 cm, crossing the anterior midline, 4 cm to the right and 1 cm to the posteriorwards and medialwards, lacerating the trachea, larynx and esophagus.
- (5) Stab wound, right clavicular region, measuring 8 by 2 cm, 7 cm from the anterior midline, 3 cm deep, directed posteriorwards and medialwards, fracturing the right clavicle.
- (6) Stab wound, interclavicular region, measuring 3 by 0.1 cm, 6 cm from the anterior midline.
- (7) Linear abrasion, left mammary region, measuring 3 by 0.1 cm, 6 cm from the anterior midline.

(8) Lacerated wound, palmar aspect of the left hand, measuring 5 by 2 cm, 3 cm lateral to its anterior midline.

(9) Lacerated wound, palmar aspect of the right hand, measuring 4 by 2 cm, along its anterior midline.

(10) Lacerated wound, middle phalange of the left small finger, measuring 1 by 0.1 cm.

(11) Stab wound, proximal phalange of the left index finger, measuring 2.2 by 1 cm.

(12) Incised wound, middle phalange of the right middle finger, measuring 1 by 0.5 cm.'

(Exhibit "E")"

Evidence for the Defense

Appellants, testifying for themselves, set up the defense of alibi. The court a quo summarized their testimonies as follows:[6]

"DOMINGO SALAZAR, 30 years old, and residing at c/o Bureau of Animal Industry, Visayas Avenue, Quezon City, testified that he had been in that place for ten (10) years and that during the early morning of July 27, 1989, he was at their house sleeping, when all of a sudden he was awakened because two persons kicked him and with guns pointed at him, he was ordered to stand up. The two persons searched his things inside the house and asked him where he hid his gun. Then, they dragged him out of his house. Outside the house, he was kicked, boxed and hit with the butt of the gun. There were about five (5) people who went to his house, all armed. He denied any participation in the killing of the deceased because according to him, he was at his house sleeping. He slept at 7:00 (p.m. on) March 9 and woke up at dawn, March 10. He was with his wife Juanita Salazar, and his father-in-law. They were sleeping side by side. He did not see Vicente Miranda and Pedro Soriano before he was arrested on July 27, 1989. However, he admitted having seen Miranda and Soriano at the police headquarters at Sikatuna, peeping at their cell. He often saw them at City Hall with policemen accompanying newly arrested persons.

MONCHITO GOTANGUGAN, 23 years old, married, vendor, and with residence at Visayas Avenue, Quezon City testified that he was not at the scene of the crime when the said incident took place and that on March 10, 1989, he was at Lucena City. On July 27, 1989, he was at the house of his sister located at Baex Compound, Visayas Avenue, Quezon City, arriving in that place during the first week of May 1989. In the morning of July 27, 1989, policemen forcibly entered his house and dragged him outside, ransacking his belongings and bringing him at Sikatuna Police Headquarters. He was accused of being a 'Sparrow', hold-upper and 'akyat bahay', and ordered to bring out firearms, but they did not find anything. They mauled him at Sikatuna headquarters. While still at their house, he was kicked and hit with the butt of the armalite. At the

Sikatuna headquarters, he was never informed by the police that he participated in the killing of the security guard in front of Linda's Supermarket in the morning. He had never seen the witnesses presented by the prosecution, however, he saw them at the City hall together with policemen and other detainees."

Ruling of the Trial Court

The trial court brushed aside the alibi interposed by appellants, branding it as an inherently weak defense. It gave full credence to the accounts of the eyewitnesses for the prosecution as no evidence was adduced to refute them or to show why said eyewitnesses would testify falsely against appellants. Quite the contrary, the "prosecution evidence (was) clear and convincing." The bare allegation of the defense that they were "assets and informants" of the apprehending policemen was disbelieved. Thus, it rendered the aforementioned six-page Judgment of conviction.

Hence, this appeal direct to this Court, the penalty being *reclusión perpetua*.

Assignment of Errors

In their Brief,^[7] appellants attack the prosecution evidence for its lack of probative value to outweigh their alibi and to sustain their conviction. They allege that the eyewitnesses' testimonies suffer from material inconsistencies and contradictions that cast serious doubt on their credibility. Specifically, the following errors were imputed to the court a quo:^[8]

I

The lower court erred in giving full faith and credence to the testimonies of prosecution witnesses Vicente Miranda and Pedro Soriano since a more conscientious scrutiny of their testimonies will show that they are highly incredible and consistently contradicting and improbable.

II

The lower court erred in convicting both the accused-appellants since the evidence presented by the prosecution failed to prove beyond reasonable doubt the offense charged.

III

The lower court erred in refusing and failing to find that the herein accused-appellants were arrested without warrant and therefore all evidence obtained after such illegal arrest are inadmissible.

IV

The lower court committed serious error amounting to grave abuse of discretion in finding that the testimonies of the prosecution witnesses