

## **THIRTEENTH DIVISION**

**[ CA-G.R. CR No. 33212, September 05, 2014 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
GEORGE MANAOG Y CARIN, ALIAS "ONONG," ACCUSED-  
APPELLANT.**

### **DECISION**

**SADANG, J.:**

This is an appeal from the Decision<sup>[1]</sup> dated December 1, 2009, of the Regional Trial Court (RTC) of Tabaco City, Albay, Branch 17, in Criminal Case No. T-4512, finding accused-appellant guilty of robbery under sub-paragraphs 1 and 2, paragraph (a) of Article 299 of the Revised Penal Code.

Records show that accused-appellant George "Onong" Manaog y Carin (hereafter, appellant) was charged in an Information<sup>[2]</sup> that reads thus:

That between the period at around 1:00 o' clock to 4:00 o' clock in the afternoon of December 25, 2005 at Cobo, Tabaco City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and by means of force upon things, did then and there willfully, unlawfully and feloniously detached the blades of the jalousie window of the house of herein complaining witness JACINTO DG. CRUZAT and through said window entered said house then once inside take, steal and carry away one (1) unit Celfone (sic) NOKIA valued at P7,000.00, and cash money in the amount of Forty-Three Thousand Pesos (P43,000.00), to the damage and prejudice of the herein complainant.

ACTS CONTRARY TO LAW.<sup>[3]</sup>

Arraigned<sup>[4]</sup> on August 2, 2007, appellant entered a not guilty plea with the assistance of counsel. Thereafter, pre-trial and trial ensued.

At the trial, the prosecution offered the testimonies<sup>[5]</sup> of private complainant Jacinto Cruzat and Alvinio C. Bobis, as well as documentary evidence.<sup>[6]</sup>

Alvinio Bobis testified that he learned that his friend, Jojo Cruzat, son of Jacinto Cruzat, was home for Christmas so he decided to visit him in his house. As he neared the Cruzat house at Purok 5 Cobo, Tabaco City, he saw appellant detaching the blades of the jalousie window. Bobis recognized appellant because he is his neighbor and appellant works as a helper in the Cruzat bakery and they belonged to the same fraternity. Bobis asked appellant what he was doing and the latter replied that the wife of Jacinto Cruzat asked him to fix the windows. Bobis did not suspect

anything unusual because appellant worked in the Cruzat bakery. He left when he noticed that there was nobody in the house. Later, when Jojo was finally home, Bobis went to visit. It was then that Bobis learned that the Cruzats' house was robbed of cash and a cell phone. Bobis told Cruzat and his wife that he saw appellant detaching the blades of the jalousie window.

Jacinto Cruzat testified that on December 25, 2005, his family was in Tiwi, Albay and he was at the cockpit. On arriving home from the cockpit in the afternoon, he noticed that the blades of his jalousie window have been detached and piled below the window. He immediately went inside the house and discovered that the cash amount of P43,000.00 which was stashed in a drawer in their room and the Nokia cellphone that they left in the room were gone. When his family members came home from Tiwi, Jacinto told them not to touch the drawer and the window. Unfortunately, the police were not able to lift fingerprints. Jacinto suspected that it was appellant who perpetrated the robbery because he earlier heard that appellant, who works for him, had been secretly taking eggs and other items from their bakery but he did not mind the reports as the items were negligible. He reported the robbery to the police. After the incident, appellant no longer returned to work.

The defense offered the testimonies<sup>[7]</sup> of appellant and his mother, Clarina Manaog, as well as documentary<sup>[8]</sup> evidence.

Appellant denied the accusation. He testified that at about 7 AM of December 25, 2005, he reported for work at the Cruzat bakery. He left at 12 noon and got home at 12:30 PM; he slept, woke up at 3 PM and stayed home. He further stated that: he had been working in the bakery since 2003, from 7 AM to 5 PM, Monday to Saturday; the bakery is one or two meters from the Cruzat house; on December 25, 2005, he worked only in the morning and did not eat lunch at the bakery as he usually does; he knew that Jacinto Cruzat would be going to the cockpit and the family members would be leaving for Tiwi; he does not know if there was someone in the house on that day but Sonia and Elmer, his co-workers, stay there; he reported back to work only in January because he wanted a long vacation; and Cruzat confronted him about the robbery and the police came to the house.

Clarina Manaog testified that: at around 12 noon of December 25, 2005, she, her husband and appellant were in their house at Purok 7, Cobo, Tabaco City; appellant had just arrived after working half-day; at about 2 PM she was resting while appellant was asleep; appellant woke up at 4 PM; in January 2006, she learned that appellant was being accused of a crime; she asked appellant about the accusation but he denied it.

On rebuttal, Jacinto Cruzat testified that: his sister-in-law, Sonia, had left the house in the morning of December 25 while Elmer left on December 24 and returned on December 27; his wife Cristina and Sonia came home at 5 PM on December 25 and it was then that they learned of the robbery.<sup>[9]</sup> On sur-rebuttal, appellant stated that on December 25, Sonia was wrapping bread with Elmer at the bakery and he saw Elmer inside the Cruzats' house.<sup>[10]</sup>

On December 1, 2009, the RTC found appellant guilty as charged in a Decision,<sup>[11]</sup> the *fallo* of which reads:

WHEREFORE, premises considered, accused GEORGE "ONONG" MANAOG is found GUILTY beyond reasonable doubt of the crime of Robbery under Article 299, "a" (1 & 2) in relation to par. 2 of the Revised Penal Code, he is hereby sentenced to suffer an indeterminate penalty of imprisonment of four years, two months, and one day of *prision correccional* as minimum, to eight years and one day of *prision mayor* as maximum. He is also ordered to indemnify Jacinto Cruzat, the private complainant, the amount of Fifty Thousand Pesos (P50,000) as actual damages.

SO ORDERED.<sup>[12]</sup>

Hence, this present appeal<sup>[13]</sup> with this assignment of error:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT. THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

### ***RULING***

We affirm the judgment of conviction.

The pertinent provision of the Revised Penal Code states:

Article. 299. *Robbery in an inhabited house or public building or edifice devoted to worship.* – Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by *reclusion temporal*, if the value of the property taken shall exceed 250 pesos, and if –

(a) The malefactors shall enter the house or building in which the robbery is committed, by any of the following means:

1. Through an opening not intended for entrance or egress;
2. By breaking any wall, roof, or floor or breaking any door or window;
3. By using false keys, picklocks, or similar tools;
4. By using any fictitious name or pretending the exercise of public authority.

xxx                      xxx                      xxx

When the offenders do not carry arms, and the value of the property taken exceeds 250 pesos, the penalty next lower in degree shall be imposed.

xxx                      xxx                      xxx

Thus, the elements of robbery with force upon things are: 1) the offender enters an inhabited house or public building or edifice devoted to religious worship; 2) the entry is made by any of these means: a) through an opening not intended for entrance or egress; b) by breaking any wall, roof, or floor or breaking any door or window; c) by using false keys, picklocks or similar tools; and d) by using any fictitious name or pretending the exercise of authority; and 3) once inside the house, building, or edifice, the offender takes personal property belonging to another with intent to gain.

There is no question that the house where the crime was committed is an inhabited house and that it was broken into on the day in question. The detached blades of the jalousie window were shown by competent evidence. It is also not disputed that private complainant lost P43,000.00 in cash and a cellphone worth P7,000.00.

The issue revolves on the identity of the offender. The RTC found that appellant was the offender on the basis of circumstantial evidence. That finding must be sustained.

It is doctrinal that the requirement of proof beyond reasonable doubt in criminal law does not mean such a degree of proof as to exclude the possibility of error and produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind. While it is established that nothing less than proof beyond reasonable doubt is required for a conviction, this exacting standard does not preclude resort to circumstantial evidence when direct evidence is not available. Direct evidence is not a condition *sine qua non* to prove the guilt of an accused beyond reasonable doubt. For in the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden.<sup>[14]</sup>

Resort to circumstantial evidence is sanctioned under Section 4, Rule 133 of the Rules of Court thus:

Section 4. *Circumstantial evidence, when sufficient.* – Circumstantial evidence is sufficient for conviction if:

- (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.

While no general rule can be laid down as to the quantity of circumstantial evidence which will suffice in a given case, all the circumstances proved 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. The circumstances proved should constitute an unbroken chain which leads to only one fair and reasonable conclusion that the accused, to the exclusion of all others, is the guilty person.<sup>[15]</sup> Proof beyond reasonable doubt does not mean the degree of proof excluding the possibility of error and producing absolute certainty. Only moral certainty or "that degree of proof which produces conviction in an unprejudiced mind" is required.<sup>[16]</sup> Circumstantial