



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE G.R. No. 243984
 PHILIPPINES, Plaintiff-Appellee, Present:

- versus -

LEONEN, J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 LOPEZ, J., JJ.

MCMERVON DELICA AGAN*
 a.k.a. "Butchoy" and "Sadisto,"
 Accused-Appellant.

Promulgated:
February 1, 2021
 Mis-DCB/H

X-----X

DECISION

DELOS SANTOS, J.:

The Case

This is an Appeal¹ assailing the Decision² dated February 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07333, which affirmed with modification the Decision³ dated December 16, 2014 of the Regional Trial Court (RTC) of Las Piñas City, Branch 254 convicting accused-appellant McMervon Delica Agan (Agan) of the special complex crime of Robbery with Homicide and sentenced to suffer the penalty of *reclusion perpetua* and to pay damages to the victims' heirs.

* Also referred to as "Mc Mervon Delica Agan" in some parts of the *rollo*.

¹ *Rollo*, pp. 23-26.

² Penned by Associate Justice Maria Elisa Sempio Diy, with Associate Justices Jose C. Reyes, Jr. and Franchito N. Diamante, concurring; *id.* at 2-22.

³ CA *rollo*, pp. 75-80.

The Facts

Agan with aliases “Butchoy” and “Sadisto” was charged⁴ with the special complex crime of Robbery with Homicide under Article 294(1) of the Revised Penal Code (RPC). The Amended Information dated March 4, 2010 states:

That on or about the 24th day of November, 2008 in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and by means of force, violence and intimidation, did, then and there willfully, unlawfully and feloniously take, steal and carry away cash money amounting to ₱20,000.00 to the damage and prejudice of its owner Ricardo Legaspi Mandreza; that on the occasion of the said robbery, the said accused with intent to kill, and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the persons of the victims Maricar Delica Mandreza, 17 years old minor, and Erlinda Verano Ocampo, by stabbing them with a deadly weapon “knife”, as a result of which the said victims sustained mortal stab wounds which directly caused their deaths.

CONTRARY TO LAW.⁵

On May 25, 2010, at the arraignment, Agan pleaded not guilty. Pre-trial followed. In the Pre-Trial Order dated August 3, 2010, the parties stipulated on the jurisdiction of the court and the identity of Agan.⁶

Thereafter, trial on the merits ensued.

The prosecution presented five witnesses: (1) Ricardo L. Mandreza (Mandreza), the father of the minor victim Maricar Delica Mandreza (Maricar); (2) Christian Reyes (Reyes); (3) Mabellen Manibale (Manibale); (4) Jammy Boy Mendoza (Mendoza); and (5) Dr. Voltaire P. Nulud (Dr. Nulud), the Chief Medico-Legal Officer of the Philippine National Police Crime Laboratory.⁷

Reyes testified that on November 24, 2008 at around 10:00 p.m., he went out to follow his father at a *mahjong* session in Manggahan, BF Resort Village, Las Piñas City. While on the way, he passed a nearby store and noticed a male individual tinkering with the door lock (“*parang may sinusundot*” and “*may kinukutkot siya sa lock ng tindahan*”). Reyes turned on his flashlight and saw his neighbor, Agan. Since he knew Agan as a relative of the store owner, he did not interfere and continued walking

⁴ Docketed as Criminal Case No. 09-0800.

⁵ CA rollo, p. 18.

⁶ Rollo, p. 3; CA rollo, p. 76.

⁷ CA rollo, pp. 62-64.

towards the *mahjong* session.⁸

Shortly after arriving at the *mahjong* session, he learned that a nearby store had been robbed and the persons inside had been stabbed and killed. Reyes immediately suspected Agan as the person responsible for the crime.⁹

Manibale testified that while she was outside the house talking with her boyfriend, she saw her neighbor, Agan, dressed in a black t-shirt and shorts. At the time, Agan was running from a nearby store and heading towards them. Manibale asked him where he was going, but Agan only replied that he was not going anywhere. Then Agan ran inside his house and slammed the door shut. A few moments later, Agan came out with a white shirt over his shoulder then walked away.¹⁰

Thereafter, some of their neighbors began shouting for help. Manibale attested that according to the neighbors, Maricar and her grandmother, Erlinda Verano Ocampo (Erlinda), had been stabbed inside their store and needed to be brought to the hospital. When Maricar's cousin, "Kuya Carl," turned on the light inside the store, the place was in disarray, the merchandise was scattered, and blood was everywhere. Then they saw a bloody knife outside Agan's house, situated just a few houses away from the store.¹¹

Mendoza testified that on November 24, 2008 at around 10:00 p.m., while he was loitering with his friends at the tricycle terminal in Manggahan, BF Resort Village, Las Piñas City, he heard shouts coming from inside a nearby store. They walked to the store and saw two women come out, embracing one another. When one of them fell down, he noticed that they were bleeding. Mendoza asked them what happened. One of the women told him that the door was open and the culprit was still inside. At that moment, a male individual dressed in a black *sando*, whom he later identified as Agan, came out from the store and then ran away. A tricycle arrived and Mendoza and his companion, John Kenrick Orcajada, boarded the victims inside the tricycle and brought them to Las Piñas Doctors Hospital.¹²

Mandreza testified that Agan, his wife's nephew, lived near the store he owned in Manggahan, BF Resort Village, Las Piñas City. On the evening of November 24, 2008, he was in Llabac, Siniluan, Laguna when he received a text message from their housemaid that their store in Manggahan

⁸ *Rollo*, p. 4.

⁹ *Id.*

¹⁰ *Id.* at 5-6.

¹¹ *Id.*

¹² *Id.*

had been robbed. He learned that his daughter, Maricar, and his mother-in-law, Erlinda, were stabbed and killed.¹³

Mandreza immediately went to their store and discovered that ₱20,000.00 in cash had been stolen from the cash register, merchandise was scattered everywhere and the floor was covered in blood. Maricar and Erlinda were brought to the hospital, but they did not survive the attack. After the eyewitnesses at the scene identified Agan as the perpetrator of the crime, Mandreza went to the police and reported the incident. As a result of the crime, Mandreza stated that the family incurred expenses, duly evidenced by receipts, for the hospitalization and funeral services of his daughter.¹⁴

Dr. Nulud performed an autopsy on Maricar. Per Medico-Legal Report No. M-706-2008,¹⁵ Dr. Nulud stated that Maricar sustained nine different kinds of external injuries under the heading “Head, Trunk and Lower Extremities.” He remarked that Maricar’s death was caused by stab wounds on her trunk, the most fatal of which was the one that lacerated the left ventricle of her heart. From the character of the stab wounds sustained, Dr. Nulud opined that the injuries were inflicted by a single-bladed sharp object.¹⁶

After the prosecution formally offered its evidence, the defense manifested that the testimony of Agan would just be a mere denial of the accusations against him. Thus, upon the defense’s motion, the case was submitted for decision.

Ruling of the RTC

In a Decision dated December 16, 2014, the RTC convicted Agan of the offense charged. The dispositive portion states:

WHEREFORE, in view of all the foregoing, the Court finds accused MC MERVON DELICA AGAN @ “Butchoy”, @ “Sadisto”, GUILTY beyond reasonable doubt of the crime of ROBBERY with HOMICIDE and is hereby sentenced to suffer the penalty of *reclusion perpetua*, and to pay the heirs of Erlinda Verano Ocampo and Maricar Delica Mandreza the amount of ₱75,000.00 each, as death indemnity; ₱80,000.00 each, as moral damages; and to pay the heirs of Maricar Delica Mandreza the amount of ₱79,568.98, as actual damages.

¹³ Id. at 5.

¹⁴ Id.

¹⁵ CA rollo, p. 76A.

¹⁶ Rollo, p. 7.

SO ORDERED.¹⁷

The RTC ruled that the circumstantial evidence presented by the prosecution proved each and every element of the crime of Robbery with Homicide and the guilt of Agan beyond reasonable doubt.¹⁸

The RTC stated that the prosecution submitted the testimonies of three witnesses who saw Agan at the scene of the crime at the same approximate time before, during, and after the commission of the crime of Robbery with Homicide. The distinct and closely related accounts of the witnesses showed that Agan forcibly opened the door of the store where the victims were staying, ransacked the store for cash hidden inside, stabbed the helpless unarmed victims, and immediately fled the scene.¹⁹

The RTC added that although Mandreza was not present when the crime occurred, the ₱20,000.00 cash was duly proved to have been kept inside the store, as relayed to him by his wife, for the use of their daughter Maricar for purchases in the store. Such amount would be an information that was likewise known to Agan, being a frequent visitor at the store and Maricar's cousin. This substantial amount of cash surely became Agan's motive to commit the heinous crimes against his cousin and Mandreza's mother-in-law.²⁰

Also, the RTC stated that Mandreza proved, by presenting receipts, that he and his wife incurred hospitalization expenses amounting to ₱4,568.98 and funeral expenses in the amount of ₱75,000.00 for Maricar.²¹

Agan filed an appeal with the CA.

Ruling of the CA

In a Decision dated February 27, 2018, the CA affirmed with modification the findings of the RTC. The dispositive portion states:

WHEREFORE, premises considered, the instant Appeal filed by accused-appellant McMervon Delica Agan alias "Butchoy" and "Sadisto" is DENIED. The assailed Decision dated December 16, 2014 of Branch 254, Regional Trial Court of Las Piñas City in Criminal Case No. 09-0800 is AFFIRMED with MODIFICATION.

¹⁷ CA *rollo*, p. 80.

¹⁸ Id.

¹⁹ Id. at 79.

²⁰ Id. at 79-80.

²¹ Id. at 80.

Accused-appellant McMervon Delica Agan alias “Butchoy” and “Sadisto” is hereby found GUILTY beyond reasonable doubt of the special complex crime of Robbery with Homicide as defined and punished under Article 294(1) of the Revised Penal Code (RPC) and is accordingly sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. Furthermore, accused-appellant McMervon Delica Agan alias “Butchoy” and “Sadisto” is hereby ORDERED to pay:

(1) the heirs of the victim, Erlinda Verano Ocampo, the following amounts:

- (a) seventy-nine thousand five hundred sixty-eight pesos and 98/100 centavos (Php79,568.98) as actual damages;
- (b) one hundred thousand pesos (Php100,000.00) as civil indemnity;
- (c) one hundred thousand pesos (Php100,000.00) as moral damages;
- (d) one hundred thousand pesos (Php100,000.00) as exemplary damages;

(2) the heirs of the victim, Maricar Delica Mandreza, the following amounts:

- (a) one hundred thousand pesos (Php100,000.00) as civil indemnity;
- (b) one hundred thousand pesos (Php100,000.00) as moral damages;
- (c) one hundred thousand pesos (Php100,000.00) as exemplary damages.

All monetary awards for damages shall earn interest at the legal rate of 6% per annum from the date of the finality of this Decision until such amounts shall have been fully paid. Costs against accused-appellant.

SO ORDERED.²²

The CA declared that Reyes’ account in positively identifying Agan as the person he had seen tinkering with the door and picking the lock is considered as an overt act indicative of Agan’s criminal intent to rob the store. Otherwise, Agan could have just simply knocked on the door or call for his cousin, Maricar.²³

Mendoza’s account that he heard screams from the store and saw Agan running out, which was the same as witness Manibale’s account who saw Agan running from the store, would signify Agan’s presence at the store to be an indication of the commission of the offense coupled with his unexplained act of fleeing from the *situs* instead of reporting the incident to the police authorities.²⁴

²² *Rollo*, pp. 20-22.

²³ *Id.* at 13-14.

²⁴ *Id.* at 14.

The CA stated that Agan's acts were a display of evasive, odd, and suspicious behavior. The fair and legitimate deduction was that Agan was in a rush to get home to clean up and get rid of any trace of evidence of the crime he had committed.²⁵

Further, the CA took notice that Agan no longer proffered any defense, save for his mere denial of the crime, contravening the first impulse of an innocent man when accused of a wrongdoing which was to express his innocence at the first opportune time and defend his honor.²⁶

Hence, this appeal.

The Issue

Whether or not the CA erred in finding Agan guilty of the special complex crime of robbery with homicide based on circumstantial evidence.

The Court's Ruling

The petition lacks merit.

Article 294(1) of the RPC states:

ART. 294. *Robbery with Violence Against or Intimidation of Persons; Penalties.* — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of [*reclusion perpetua*] to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.

Robbery with homicide is a special complex crime against property.²⁷
The four elements in order to be convicted of Robbery with Homicide are:

- (1) The taking of personal property with the use of violence or intimidation against the person;
- (2) The property taken belongs to another;
- (3) The taking is characterized by intent to gain or *animus lucrandi*; and

²⁵ Id.

²⁶ Id. at 15.

²⁷ *People v. Arondain*, 418 Phil. 354, 362 (2001).

- (4) On the occasion of the robbery or by reason thereof the crime of homicide was committed.²⁸

A conviction for Robbery with Homicide requires certitude that the robbery is the main purpose and objective of the malefactor, and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life. The killing, however, may occur before, during, or after the robbery.²⁹

In the present case, there were no eyewitnesses to the actual taking of Mandreza's personal property consisting of ₱20,000.00 in cash. However, the prosecution was able to establish Agan's guilt through circumstantial evidence.

Under certain circumstances, the Rules of Court recognizes that circumstantial evidence is sufficient for conviction. Section 4, Rule 133 of the Rules of Court provides:

SEC. 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 a reasonable doubt.

In *People v. Lignes*,³⁰ we held that the lack or absence of direct evidence does not necessarily mean that the guilt of the accused cannot be proved by evidence other than direct evidence. Direct evidence is not the sole means of establishing guilt beyond reasonable doubt, because circumstantial evidence, if sufficient, can supplant the absence of direct evidence.

Thus, conviction based on circumstantial evidence can be upheld, provided that 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.³¹

In this case, we agree with the RTC, as affirmed by the CA, that the circumstantial evidence proven by the prosecution sufficiently established

²⁸ *People v. Sumalinog*, 466 Phil. 637, 657 (2004); *People v. Obedo*, 451 Phil. 529, 538 (2003).

²⁹ *People v. Ngano Suga*, 661 Phil. 749, 754 (2011).

³⁰ G.R. No. 229087, June 17, 2020.

³¹ *Espineli v. People*, 735 Phil. 530, 533 (2014).

that Agan committed the offense charged. The prosecution demonstrated that: (1) Agan was the houseboy or “*bantay*” of Maricar at the store; (2) Maricar and Erlinda were at the store on the evening of November 24, 2008; (3) Agan was the last person seen at the store immediately prior to the incident; (4) Agan was seen picking the door lock (“*parang may sinusundot*” and “*may kinukutkot siya sa lock ng tindahan*”); (5) the victims, who were stabbed, were seen struggling to get out of the store and moments later, Agan was seen departing from the same store; (6) Agan ran away from the store; (7) upon being confronted by Manibale, Agan was evasive and exhibited odd behavior; (8) Agan hurriedly went inside his house; and (9) Agan came out of the house again with a shirt hanging from his shoulder.³²

The testimony of the three witnesses, who saw Agan at the scene of the crime at the approximate time of the commission of the offense, sufficiently proved and supported the conviction. Both the RTC and the CA found their testimonies to be clear, straightforward and consistent. Their distinct and closely related accounts gave a clear picture of what Agan did before, during, and after the commission of the crime.³³ Indeed, the substantial amount of cash hidden inside the store served as a motive for Agan to commit robbery and in the process, killed two innocent and unarmed victims.

Truly, all the elements of the special complex crime of Robbery with Homicide were present:

First, Mandreza testified that after learning about the incident, he immediately went and inspected the store and found that the cash in the amount of ₱20,000.00 was found to be missing from the cash register. Agan took the cash and on the occasion of the robbery, used violence by stabbing Maricar and Erlinda.

Second, the said cash, which was reserved to be used for purchases for the store, belonged to Mandreza.

Third, Agan’s acts of tinkering the store’s door and picking the lock, ransacking the place to look for the cash hidden inside, running away from the scene and changing his clothes immediately thereafter showed his intent to gain. The substantial amount of money impelled Agan to take another’s property without the latter’s consent.

Last, Maricar and Erlinda, who were stabbed by reason of the robbery, met their untimely demise.

³² *Rollo*, pp. 14-15.

³³ *CA rollo*, p. 79.

Thus, we affirm Agan's guilt beyond reasonable doubt of the special complex crime of Robbery with Homicide. It is clear that Agan's defense of denial is a weak and self-serving defense which cannot be accorded greater weight given the relative importance of the combination of all circumstances presented and proven during the trial. Certainly, Agan should be held liable for his awful and grievous acts.

With regard to the penalty to be imposed, the existence of the special aggravating circumstance of minority of Maricar was alleged in the Amended Information and proven during trial. The imposable penalty under Article 63³⁴ of the RPC is death. However, in view of Republic Act (R.A.) No. 9346,³⁵ the imposition of the penalty of death has been prohibited and in lieu thereof, the penalty of *reclusion perpetua* without eligibility for parole³⁶ is to be imposed.

As to the award of damages, namely civil indemnity, moral damages and exemplary damages, awarded to the heirs of each of the victims Maricar and Erlinda, we concur with the CA. Pursuant to the case of *People v. Jugueta*,³⁷ for the special complex crime of Robbery with Homicide under Article 294(1) of the RPC where the penalty imposed is death, but reduced to *reclusion perpetua* because of R.A. No. 9346, the award of damages should be ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. Thus, Agan should indemnify each of the heirs of the victims with these amounts.

As to the actual damages, the RTC awarded the amount of ₱79,568.98, duly proven by receipts during the trial, to the heirs of Maricar. However, the CA erroneously ordered Agan to pay such amount to the heirs of Erlinda. As such, we modify that the amount of ₱79,568.98 be paid to the heirs of Maricar for the hospitalization and funeral expenses incurred by

³⁴ Article 63. *Rules for the Application of Indivisible Penalties.* – In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. **When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.**

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

4. When both mitigating and aggravating circumstances attended the commission of the act, the court shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation. (Emphasis supplied)

³⁵ An Act Prohibiting the Imposition of Death Penalty in the Philippines, approved on June 24, 2006.

³⁶ See A.M. No. 15-08-02-SC. Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties, which took effect on August 4, 2015. The phrase “without eligibility for parole” should only be affixed to crimes penalized by death, but reduced to *reclusion perpetua* because of R.A. No. 9346.

³⁷ 783 Phil. 806 (2016).

Maricar's family. Also, in *Jugueta*³⁸ case, we held that when no documentary evidence of burial or funeral expenses was presented in court, the amount of ₱50,000.00 as temperate damages should be awarded. Thus, we award the amount of ₱50,000.00 as temperate damages to the heirs of Erlinda.

WHEREFORE, the Appeal is **DISMISSED**. The Decision dated February 27, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 07333 is **AFFIRMED with MODIFICATIONS**. Accused-appellant McMervon Delica Agan is found **GUILTY** beyond reasonable doubt of the special complex crime of Robbery with Homicide and sentenced to suffer the penalty of *reclusion perpetua* without parole and ordered to pay the heirs of the victims:

- (1) Maricar Delica Mandreza, the following amounts: ₱79,568.98 as actual damages, ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages; and
- (2) Erlinda Verano Ocampo, the following amounts: ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱50,000.00 as temperate damages.

A 6% interest per annum is imposed on all the amounts awarded, reckoned from the date of finality of this Decision until full payment.

SO ORDERED.



EDGARDO L. DELOS SANTOS
Associate Justice

³⁸ Id.

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

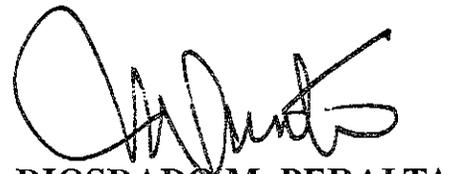
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice