



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Appellee,

G.R. No. 195243

Present:

- versus -

PERALTA, J., *Acting Chairperson*,  
ABAD,  
VILLARAMA, JR., \*\*  
PEREZ, \*\*\* and  
MENDOZA, JJ.

RAUL BERIBER y FUENTES @  
JERRY FUENTES y IGNACIO @  
GERRY BERIBER @ BONG @  
RAUL FUENTES,  
Appellant.

Promulgated:

29 August 2012

*Officer*

X-----X

DECISION

PERALTA, J.:

Before us is an appeal from the Decision<sup>1</sup> dated July 9, 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 01623, which affirmed with modification the Judgment<sup>2</sup> dated July 7, 2005 of the Regional Trial Court (RTC), Branch 32, San Pablo City, finding appellant Raul Beriber y Fuentes @ Jerry Fuentes y Ignacio @ Gerry Beriber @ Bong @ Raul Fuentes, guilty of the crime of Robbery with Homicide.

\* Per Special Order No. 1290 dated August 28, 2012.

\*\* Designated Acting Member, in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 1291 dated August 28, 2012.

\*\*\* Designated Additional Member, per Special Order No. 1299 dated August 28, 2012.

<sup>1</sup> Penned by Associate Justice Jose C. Reyes, Jr, with Associate Justices Antonio L. Villamor and Manuel M. Barrios, concurring; CA *rollo*, pp. 126-140.

<sup>2</sup> Penned by Judge Zorayda Herradura-Salcedo; *id.* at 59-81.

On March 22, 2001, a Second Amended Information<sup>3</sup> was filed before the RTC of San Pablo City charging appellant of Robbery with Homicide.<sup>4</sup> The accusatory portion of the Information reads:

That on or about October 3, 2000, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, with intent to gain, did then and there willfully, unlawfully, and feloniously enter the premises of SPOUSES HENRY and MA. LOURDES VERGARA, located at Brgy. San Cristobal, this city, and once inside and finding an opportune time, did then and there take, steal and carry away cash money amounting to ₱2,000.00, Philippine Currency, belonging to said Spouses Henry and Ma. Lourdes Vergara, by means of violence against or intimidation of persons and by reason of or on the occasion of said robbery, said accused attack[ed] and stab[bed] to death his immediate employer Ma. Lourdes Vergara with a bladed weapon with which the accused was then conveniently provided, thereby inflicting wounds upon the person of said Ma. Lourdes Vergara which caused her immediate death.

CONTRARY TO LAW.<sup>5</sup>

When arraigned on April 17, 2001, appellant, with the assistance of a counsel *de oficio*, entered a plea of not guilty.<sup>6</sup>

Trial on the merits thereafter ensued.

The evidence for the prosecution is aptly summarized by the Solicitor General in the Appellee's Brief as follows:

The prosecution presented six (6) witnesses, as well as documentary evidence to prove its case.

The first witness for the prosecution was Dr. Lucy Andal Celino (Celino), the physician who examined the remains of the victim, Lourdes Vergara. Celino is the Health Officer of San Pablo City. She testified that she conducted a necropsy of the victim on October 3, 2000 at 4:15 p.m., and that she prepared a Necropsy Report which states that the victim died of shock and hemorrhage secondary to multiple stab wounds all over her body, some of which damaged her heart, lungs, and liver. Celino also stated that the location of stab wounds, abrasions and lacerations on the victim's body indicated that the latter struggled against her killer. The

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<sup>3</sup> Records, p. 15.

<sup>4</sup> Docketed as Criminal Case No. 12621-SP (00).

<sup>5</sup> Records, p. 15.

<sup>6</sup> *Id.* at 26.

physician added that the perpetrator used two kinds of instruments in inflicting wounds on the victim: a sharp-pointed instrument and a pointed rounded instrument.

On cross-examination, Celino confirmed that the wounds sustained by the victim were inflicted using two different pointed instruments.

The prosecution also presented police officer Armando Demejes (Demejes), who testified that while he was on duty on October 3, 2000, he went to the house of Henry Vergara (Henry) in Barangay San Cristobal, San Pablo City to investigate a stabbing incident which occurred thereat. When Demejes arrived at the scene of the crime, Vergara informed him that [his wife], Lourdes, was stabbed to death. Demejes entered the house and saw a cadaver lying on a bamboo bed. He also looked around the house and saw that the place was in disarray. In the sala, about five to six meters away from the corpse, was an open drawer containing coins, and on the floor near the said drawer were more coins. Another drawer was pulled out from its original location and left on a couch. Demejes likewise found a blue tote bag on top of the center of the table and a passbook on top of the bed. He also saw that the door leading to the stairs was open. Demejes prepared a sketch of the crime scene to document what he saw during his investigation.

Thereafter, the prosecution presented Neville Bomiel (Bomiel), a resident of Barangay San Cristobal, San Pablo City. Bomiel testified that he had known the appellant for less than a month prior to October 3, 2000. He knew that the appellant was working for the Vergaras and resided at the latter's rice mill. Bomiel recalled that while he was standing in front of his house in the morning of October 3, 2000, at around 10:00 a.m., he saw the appellant leave the house of the Vergaras and walk towards the direction of the school. When appellant passed by Bomiel's house, he asked appellant where the latter was going. Appellant replied that he was on his way to Batangas for medical treatment. Bomiel noticed that appellant was wearing a yellow collared t-shirt, blue denims, and shoes. Later, he saw appellant return to the house of the Vergaras and enter the place. Afterwards, appellant left the house and passed by Bomiel's residence a second time. Bomiel again greeted the appellant and asked him why he (appellant) had not yet left for Batangas. Appellant replied that he was still waiting for Henry. Appellant again proceeded to the direction of the school. Subsequently, Bomiel saw the appellant return to the house of the Vergaras a third time. That was the last time Bomiel saw him. Bomiel observed that on that day, appellant looked restless. (*"balisa at hindi mapakali."*)

The fourth witness for the prosecution, Rolando Aquino (Aquino), likewise a resident of Barangay San Cristobal, San Pablo City, testified that he had known appellant for less than a month on October 3, 2000. He knew the appellant was hired by the Vergaras as a helper in their rice mill. In the morning of October 3, 2000, Aquino was able to talk to the appellant at the house of a certain Lola Rosy, the victim's mother. Appellant told Aquino that he was going to Batangas that day for medical treatment. Thereafter, appellant, then wearing short pants and a t-shirt with cut-off sleeves, left the house of Lola Rosy to go [to] the rice mill. At around 8:30 a.m., Aquino again saw appellant at Lola Rosy's house, but

appellant was already wearing a mint green-colored shirt and khaki pants. Aquino asked appellant why he had not yet left, but the latter did not answer and appeared restless. Later that morning, at around 11:30 a.m., Aquino learned that Lourdes had been killed. He rushed to the house of the Vergaras and saw the victim lying on a bamboo bed, drenched in blood. Aquino then noticed that the appellant's personal belongings which were kept by the appellant underneath the bamboo bed were no longer there. He further testified that he did not see appellant return to San Cristobal after October 3, 2000.

Henry Vergara also testified before the trial court. He said that he and the victim hired appellant as a helper in their rice mill in September 2000. Appellant slept in the house of Henry's mother-in-law, Rosy, but kept his personal belongings in their house (the Vergaras house), specifically under the bamboo bed where Lourdes' corpse was discovered on October 3, 2000 at past 11:00 a.m.

At around 5:30 in the morning of October 3, 2000, appellant asked Henry for permission to go to Batangas. Henry asked appellant to fetch a certain Junjun to be his replacement as Henry's helper in their store in Dolores, Quezon that day. Henry left their house in San Cristobal at 6:00 a.m. to tend their store in Quezon and stayed in the store until 11:00 a.m. before heading back home.

When he arrived at their house in San Cristobal, he noticed that the door was slightly open. He called for Lourdes, but nobody answered. He immediately entered their house and saw that the door of their rice mill was closed. This caused him to suspect that something was wrong. He then noticed that coins were scattered on the floor. He proceeded to the kitchen and saw Lourdes lying on the bamboo bed, lifeless and bloodied in the chest and stomach areas.

Henry thereafter ran to the house of his brother-in-law, Wanito Avanzado (Avanzado), who also resided in San Cristobal. Henry told Avanzado that Lourdes was already dead. Avanzado then ran to the house of the Vergaras.

Henry recalled that before he left for their store in Quezon that day, he left appellant, his wife and their children in their house. He also remembered that cash amounting to Two Thousand Pesos (₱2,000.00) was left inside the drawer in their rice mill. However, when he looked for the money after he discovered that his wife was killed, he could no longer find it.

Henry also testified that he did not see the appellant in their house when he went home from Quezon and that appellant's personal effects were no longer under the bamboo bed where appellant used to keep them. He did not see appellant anymore after he left their house on October 3, 2000.

Lastly, the prosecution presented as witness Avanzado, the brother of the victim. Avanzado testified that at around 11:00 a.m. on October 3, 2000, he saw his brother-in-law, Henry, running towards his (Avanzado's) house and shouting "Si Aloy", the victim's nickname. He ran to the house of the Vergaras and saw his sister's bloodied body on the bamboo bed.

Avanzado tried to lift her body, but her neck was already stiff. After he was sure that Lourdes was indeed dead, he called up the police and requested them to investigate the incident. When the police arrived, they took pictures of the crime scene and conducted an investigation.

Avanzado further stated that he knew that the appellant was a helper of the Vergaras. He said that he was told by several residents of San Cristobal that they saw appellant leaving the scene of the crime with a bag.

He also narrated that as Barangay Chairman of San Cristobal, he coordinated with the police for the apprehension of the appellant. Avanzado went with some police officers to Talisay, Batangas to search for appellant in the house of his uncle, but appellant was not there. Later, Avanzado received information that appellant was apprehended in Capiz, but was released by police authorities because the latter were worried that they would be charged with illegal detention. Avanzado then sought the assistance of the staff of *Kabalikat*, a program aired by the ABS-CBN Broadcasting Company. Appellant was subsequently apprehended and brought back to San Pablo City to face the charge against him.<sup>7</sup>

Except for Dr. Celino, the defense waived its right to cross-examine the prosecution witnesses. Appellant's counsel further waived the presentation of evidence.<sup>8</sup> Both parties failed to file their respective memoranda despite being ordered to do so; thus, the RTC resolved the case on the basis of the evidence presented by the prosecution.

On October 22, 2001, the RTC rendered its Decision,<sup>9</sup> the dispositive portion of which reads:

WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court finds accused RAUL BERIBER y FUENTES @ JERRY FUENTES y IGNACIO @ GERRY BERIBER @ "Bong", @ "Raul Fuentes" guilty beyond reasonable doubt of the crime of Robbery with Homicide defined and penalized under Article 294 of the Revised Penal Code and he is hereby sentenced the supreme and capital penalty of DEATH, with costs.

He is further sentenced to pay the heirs of the deceased:

- a) the sum of ₱50,000.00 as death indemnity;
- b) the sum of ₱2,000.00 representing the stolen cash;
- c) the sum of ₱200,000.00 as moral and exemplary damages; and

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<sup>7</sup> CA rollo, pp. 102-108. (Citations omitted.)

<sup>8</sup> Records, p. 82.

<sup>9</sup> CA rollo, pp. 82-92.

d) the sum of ₱100,000.00 representing burial and other incidental expenses of the victim.

SO ORDERED.<sup>10</sup>

The case was then elevated to us on automatic review. However, in a Decision<sup>11</sup> dated June 8, 2004, we had set aside the Judgment of the RTC and remanded the case to the same court for further proceedings. The fallo of our Decision reads:

WHEREFORE, the *Decision* of the Regional Trial Court of San Pablo City, Branch 32, in Criminal Case No. 12621-SP (00), is hereby VACATED and SET ASIDE, and the case REMANDED to said court for its proper disposition, including the conduct of further appropriate proceedings and the reception of evidence. For this purpose, the proper law enforcement officers are directed to TRANSFER appellant RAUL BERIBER y FUENTES from the New Bilibid Prison where he is presently committed to the BJMP Jail in San Pablo City, with adequate security escort, where he shall be DETAINED for the duration of the proceedings in the trial court.

The Regional Trial Court of San Pablo City, Branch 32 is directed to dispose of the case with dispatch.

SO ORDERED.<sup>12</sup>

In compliance, the RTC scheduled the case for hearing. On July 27, 2004, appellant's same counsel submitted a Manifestation that the defense is again waiving its right not to adduce evidence and with appellant's conformity. On August 10, 2004, appellant's counsel reiterated her manifestation. The RTC then ordered to place appellant on the stand, wherein appellant stood firm not to present any evidence for his defense.<sup>13</sup>

The RTC then forwarded to us the transcripts and the records of the proceedings held on August 10, 2004. In a Resolution<sup>14</sup> dated January 18,

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<sup>10</sup> *Id.* at 92.

<sup>11</sup> G.R. No. 151198, June 8, 2004, 431 SCRA 332.

<sup>12</sup> *Id.* at 344-345.

<sup>13</sup> CA *rollo*, pp. 68-69.

<sup>14</sup> Records, p. 112.

2005, we ordered the RTC to render its decision on the case based on the evidence that had been presented.

On July 7, 2005, the RTC rendered a Judgment convicting appellant of the crime of Robbery with Homicide based on circumstantial evidence, the dispositive portion which reads:

WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court finds accused RAUL BERIBER y FUENTES @ JERRY FUENTES y IGNACIO @ GERRY BERIBER @ “Bong,” @ “Raul Fuentes” guilty beyond reasonable doubt of the crime of Robbery with Homicide defined and penalized under Article 294 of the Revised Penal Code, and considering the absence of any aggravating circumstance which merits the imposition of the maximum penalty of death, and conformably with Article 63 (2) of the Revised Penal Code which provides that when the law prescribes two indivisible penalties and there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied, accused RAUL BERIBER y FUENTES @ JERRY FUENTES y IGNACIO @ GERRY BERIBER @ “Bong,” @ “Raul Fuentes” is sentenced to suffer the penalty of *RECLUSION PERPETUA* with costs.

He is further sentenced to pay the heirs of the deceased:

- a) the sum of ₱50,000.00 as death indemnity;
- b) the sum of ₱2,000.00 representing the stolen cash;
- c) the sum of ₱200,000.00 as moral and exemplary damages; and
- d) the sum of ₱100,000.00 representing burial and other incidental expenses of the victim.

SO ORDERED.<sup>15</sup>

In so ruling, the RTC enumerated the pieces of circumstantial evidence which established appellant's culpability for the crime charged, to wit:

x x x 1. accused was at the *locus criminis* at around the time of the stabbing incident; 2. witnesses testified seeing him at the scene of the crime going in and going out of the house of the victim at the time of the perpetration of the crime; 3. accused, in his own admission mentioned that he was going to Batangas for medical treatment, however, when the policemen, together with the Barangay Chairman went to Talisay, Batangas where he lives, he was nowhere to be found; 4. immediately after the incident, the witnesses and the offended party noticed that all his

<sup>15</sup>

CA rollo, pp. 80-81.

clothes kept underneath the bamboo bed where the victim was found sprouted with blood were all gone because he took everything with him although his intention was merely for medical treatment in Batangas; 5. he mentioned that he was then still waiting for Kuya Henry, husband of Lourdes, when he had already a talk with Henry Vergara that he will go to Batangas for medical treatment that did not materialize; 6. after the killing incident, accused simply disappeared and did not return anymore; 7. when he was confronted by Henry Vergara concerning the killing, he could not talk to extricate himself from the accusation; and 8. that he has been using several aliases to hide his true identity.<sup>16</sup>

Appellant filed his appeal with the Court of Appeals (CA). The Solicitor General filed his Appellee's Brief praying that except for the modification of the damages awarded, the RTC decision be affirmed.

On July 9, 2010, the CA issued the assailed Decision, which affirmed with modification the RTC decision, the dispositive portion of which reads:

WHEREFORE, the appeal is DENIED for lack of merit. The Judgment dated July 7, 2005 of the Regional Trial Court, Branch 32 of San Pablo City in Criminal Case No. 12621-SP (00) finding Raul Beriber y Fuentes, @ Jerry Fuentes y Ignacio, @ Gerry Beriber, @ "Bong," @ "Raul Fuentes" GUILTY beyond reasonable doubt of the crime of Robbery with Homicide defined and penalized under Article 294 of the Revised Penal Code, for which he is sentenced to suffer the penalty of *RECLUSION PERPETUA* is hereby AFFIRMED with the MODIFICATION in that the damages to be awarded the heirs of Ma. Lourdes Vergara shall be: a) ₱50,000.00 as civil indemnity; b) ₱2,000.00 as actual damages; c) ₱25,000.00 as temperate damages; and d) ₱50,000.00 as moral damages.<sup>17</sup>

Appellant filed his Appeal with us. In a Resolution<sup>18</sup> dated March 9, 2011, we required the parties to file their respective Supplemental Briefs, if they so desire. Both parties filed their Manifestations stating that they were dispensing with the filing of Supplemental Briefs as their Briefs earlier filed were sufficient.<sup>19</sup>

Appellant's lone assignment of error alleges that:

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<sup>16</sup> *Id.* at 78-79.

<sup>17</sup> *Id.* at 139-140.

<sup>18</sup> *Rollo*, p. 23.

<sup>19</sup> *Id.* at 25-31.



THE COURT A *QUO* ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>20</sup>

Appellant contends that to sustain a conviction for the crime of robbery with homicide, it is necessary that robbery itself must be proved as conclusively as any other essential element of the crime which was not established in this case. He argues that the eight (8) circumstantial evidence found by the RTC can be summarized into two circumstances, *i.e.*, (1) the appellant was at the scene of the crime at approximately the same time that the crime was committed; and (2) that he fled the *locus criminis* thereafter. He claims that the first circumstance cannot be taken against him, since it is natural for him to be at the victim's house as he resides therein. As to the second circumstance, appellant claims that witnesses even testified that he told them that he was going to Batangas for a medical check-up, thus, the finding that he fled the crime scene is a conclusion without sufficient basis; and that assuming he indeed escaped and flight be an indication of guilt, such circumstance is not enough to prove his guilt beyond reasonable doubt.

We find no merit in the appeal.

The crime for which appellant was charged and convicted was robbery with homicide. It is a special complex crime against property.<sup>21</sup> Robbery with homicide exists when a homicide is committed either by reason, or on occasion, of the robbery. In charging Robbery with Homicide, the *onus probandi* is to establish: (a) the taking of personal property with the use of violence or intimidation against a person; (b) the property belongs to another; (c) the taking is characterized with *animus lucrandi* or with intent to

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<sup>20</sup> CA rollo, p. 47.

<sup>21</sup> *People v. Jarandilla*, G.R. Nos. 115985-86, August 31, 2000, 339 SCRA 381, 394.

gain; and (d) on the occasion or by reason of the robbery, the crime of homicide, which is used in the generic sense, was committed.<sup>22</sup>

Admittedly, there was no direct evidence to establish appellant's commission of the crime charged. However, direct evidence is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.<sup>23</sup> At times, resort to circumstantial evidence is imperative since to insist on direct testimony would, in many cases, result in setting felons free and deny proper protection to the community.<sup>24</sup> Thus, Section 4, Rule 133 of the Revised Rules of Court on circumstantial evidence requires the concurrence of the following: (1) there must be more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt of the guilt of the accused. We have ruled that circumstantial evidence suffices to convict an accused only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.<sup>25</sup>

We agree with the RTC as affirmed by the CA that the circumstantial evidence proven by the prosecution sufficiently establishes that appellant committed the offense charged.

The prosecution had established that around 6:00 a.m. of October 3, 2000, Henry went to his store in Dolores, Quezon, leaving his wife (the victim) and appellant in their house at Barangay San Cristobal, San Pablo

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<sup>22</sup> *People v. Uy*, G.R. No. 174660, May 30, 2011, 649 SCRA 236, 249, citing *People v. Baron*, G.R. No. 185209, June 28, 2010, 621 SCRA 646, 656; *People v. De Jesus*, 473 Phil. 405, 426-427 (2004), citing *People v. Pedroso*, G.R. No. 125158, July 19, 2000, 336 SCRA 163, 174.

<sup>23</sup> *Id.* at 251, citing *Salvador v. People*, G.R. No. 164266, July 23, 2008, 559 SCRA 461, 469-470; *People v. Almoguerra*, 461 Phil. 340, 356 (2003).

<sup>24</sup> *Id.*, citing *Salvador v. People*, *supra*, at 469-470, citing *People v. Padua*, G.R. No. 169075, February 23, 2007, 516 SCRA 590, 600-601.

<sup>25</sup> *Id.*

City. He remembered leaving a cash amounting to ₱2,000.00 inside the drawer in their rice mill.<sup>26</sup> Around 10:00 a.m., Bomiel, the victim's neighbor who lived around 15 to 20 meters from the victim's house, saw appellant leave the house. When appellant passed by his house, Bomiel asked the former where he was going to, which appellant answered that he was going to Batangas for a medical treatment. Later, Bomiel saw appellant return to the victim's house and left after a while. When appellant passed by his house again, Bomiel asked appellant why he had not yet left for Batangas, to which appellant answered that he was waiting for Kuya Henry and went ahead. After a while, Bomiel saw appellant again going back to the victim's house.<sup>27</sup> Around 11:00 a.m., Henry, who came back from his store in Dolores, entered their house and found his lifeless wife with several stab wounds lying on a bamboo bed. Henry saw drawers and coins scattered on the floor, and the drawer, where he put the ₱2,000.00 cash which was nowhere to be found, was pulled out.<sup>28</sup>

Appellant, who was supposed to have gone to Batangas for a medical treatment on the same day, never came back. In fact, appellant's belongings, which were kept under the bamboo bed where the victim's body was found lying, were no longer there when the incident was discovered.<sup>29</sup> Moreover, when the victim's brother, Avanzado, went to the house of appellant's uncle in Batangas, appellant was nowhere to be found. Appellant was later apprehended in October 2000 in Capiz, so Avanzado went to Capiz to verify this but appellant was already released as the police feared that they might be charged with illegal detention. Notably, appellant knew that he was being arrested for the crime of robbery with homicide, yet he did not present himself to the authorities or to the victim's family to establish that he had nothing to do with the crime. In fact, he was not seen by the victim's family since the incident and it was only on March 25, 2001, after he was again

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<sup>26</sup> TSN, August 3, 2001, pp. 4-9.

<sup>27</sup> TSN, August 2, 2001, pp. 7-13

<sup>28</sup> TSN, August 3, 2001, pp. 5-7, 9.

<sup>29</sup> TSN, August 2, 2001, p. 23

apprehended in Capiz and brought to San Pablo City that Henry saw him at the police station.<sup>30</sup> These circumstances denote flight. The flight of an accused, in the absence of a credible explanation, would be a circumstance from which an inference of guilt might be established, for a truly innocent person would normally grasp the first available opportunity to defend himself and assert his innocence.<sup>31</sup>

Appellant offered no explanation on why he never returned to his employer after his alleged medical treatment in Batangas and why he was in Capiz when arrested. In fact, worth quoting was the narration of the RTC in its decision on what transpired during the hearing of August 10, 2004, thus:

x x x The Court found the accused to be firm in his stand not to present any evidence as both manifested by his counsel and by himself. The Court therefore ordered the accused Raul Beriber y Fuentes to be placed on the witness stand and questions were propounded on him by the Court. x x x he reiterated his stand on waiver to present evidence as his defense; when asked by the Court why, he answered “none”; he does not know of any reason why he should defend himself despite the fact that the charge against him is very serious and punishable by death; he could not tell of any reason why he would not like to bring out his defense in this case; he is aware that by not presenting and waiving his right to present evidence for his defense, he knew that he could be sentenced to death as the Court did.<sup>32</sup>

Although appellant’s silence and refusal to testify, let alone refusal to present evidence, cannot be construed as evidence of guilt, we have consistently held that the fact that an accused never testified in his defense even in the face of accusations against him goes against the principle that “the first impulse of an innocent man when accused of wrongdoing is to express his innocence at the first opportune time.”<sup>33</sup>

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<sup>30</sup> TSN, August 3, 2001, p. 13.

<sup>31</sup> *People v. Tonog, Jr.*, G.R. No. 144497, June 29, 2004, 433 SCRA 139, 161, citing *People v. Diaz*, G.R. No. 133737, January 13, 2003, 395 SCRA 52.

<sup>32</sup> *CA rollo*, pp. 69-70.

<sup>33</sup> *People v. Tonog*, *supra* note 31, at 161-162, citing *People v. Castillo*, G.R. No. 111734-35, June 16, 2000, 333 SCRA 506.

Appellant's contention that there is no evidence of robbery is devoid of merit. The element of taking and the existence of the money stolen by appellant were adequately established by the prosecution. Henry positively testified that he left ₱2,000.00 in the drawer in the ricemill in the morning of October 3, 2000 which was no longer found upon discovery of his wife's lifeless body.<sup>34</sup> Moreover, Investigator Demejes testified that when he came to the crime scene, he saw the place in disarray, *i.e.*, drawers and coins were scattered on the floor, another drawer was pulled out from its original location and left on a couch; and that a blue tote bag was also seen on top of a table and a passbook on top of the bed.<sup>35</sup> Intent to rob is an internal act, but may be inferred from proof of violent unlawful taking of personal property. The prosecution was able to establish that the motive for killing the victim was robbery.

Appellant's argument that it was natural for him to be at the house of the victim at around the time of the incident as he lives there does not persuade. True, the mere presence of appellant at the scene is inadequate to support the conclusion that he committed the crime.<sup>36</sup> However, his presence there becomes an indicium of his commission of the offense when coupled with his unexplained act of fleeing from the *situs* instead of reporting the incident to the police authorities, as well as with his act of hiding until he was arrested.<sup>37</sup> Taken together, the foregoing circumstances are highly indicative of guilt.<sup>38</sup>

**WHEREFORE**, the appeal is hereby **DENIED**. The Decision dated July 9, 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 01623, which affirmed with modification the Judgment of the Regional Trial Court,

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<sup>34</sup> TSN, August 3, 2001, p. 9.

<sup>35</sup> TSN, July 18, 2001, pp. 4-6.

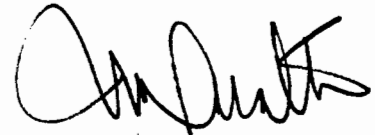
<sup>36</sup> *People v. Corre, Jr.*, G.R. No. 137271, August 15, 2001, 363 SCRA 165, 180, citing *Abad v. Court of Appeals*, G.R. No. 119739, June 18, 1998, 291 SCRA 56.

<sup>37</sup> *Id.*, citing *People v. Obello*, G.R. No. 108772, January 14, 1998, 284 SCRA 79.

<sup>38</sup> *Id.*, citing *People v. Macuha*, G.R. No. 130372, July 20, 1999, 310 SCRA 819.

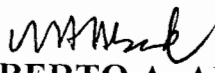
finding appellant Raul Beriber y Fuentes @ Jerry Fuentes y Ignacio @ Gerry Beriber @ Bong @ Raul Fuentes, guilty beyond reasonable doubt of the crime of Robbery with Homicide, is hereby **AFFIRMED**.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**



**ROBERTO A. ABAD**  
Associate Justice



**MARTIN S. VILLARAMA, JR.**  
Associate Justice




**JOSE PORTUGAL PEREZ**  
Associate Justice



**JOSE CATRAL MENDOZA**  
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.



**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson, Third Division

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice