



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

GILFREDO BACOLOD,
a.k.a. GILARDO BACOLOD,
Accused-Petitioner,

G.R. No. 206236

Present:

- versus -

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR, and
REYES, JJ.

Promulgated:

PEOPLE OF THE PHILIPPINES,
Plaintiff-Respondent.

JUL 15 2013

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RESOLUTION

BERSAMIN, J.:

It is imperative that the courts prescribe the proper penalties when convicting the accused, and determine the civil liability to be imposed on the accused, unless there has been a reservation of the action to recover civil liability or a waiver of its recovery.

Antecedents

On March 31, 2008, the Regional Trial Court (RTC), Branch 9, in Cebu City convicted the petitioner of arson,¹ viz:

WHEREFORE, in finding [the] accused GUILTY beyond reasonable doubt of the crime of Arson, this Court hereby sentences him to suffer imprisonment for a period of Ten (10) Years of Prison Mayor in its medium period as minimum to Sixteen (16) Years of Reclusion Temporal in its medium period as maximum.

SO ORDERED.

¹ Rollo, pp. 25-32.

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On December 9, 2011, the Court of Appeals (CA) affirmed the conviction,² disposing thusly:

WHEREFORE, in view of the foregoing, the Decision dated March 31, 2008 of the Regional Trial Court, Branch 9, Cebu City in Criminal Case No. CBU-74629 is hereby AFFIRMED in full. The Formal Entry of Appearance of Atty. Valeriano S. Loon as the new counsel for the private complainant by reason of the death of his former counsel, Atty. Celestino Allanic, is hereby noted.

SO ORDERED.

Issues

Hence, this appeal by petition for review on *certiorari*.

The petitioner submits that both the RTC and the CA erred in their appreciation of the evidence. He insists that no witness had actually seen him set the house on fire; that the State did not show that he had the motive to commit the arson; and that only circumstantial evidence was presented against him, but such evidence, not being incompatible with the hypothesis favoring his innocence, was insufficient to support a conviction beyond reasonable doubt.

Ruling

The Court affirms the conviction.

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. The crime charged may also be proved by circumstantial evidence, sometimes referred to as indirect or presumptive evidence. Circumstantial evidence has been defined as that which “goes to prove a fact or series of facts other than the facts in issue, which, if proved, may tend by inference to establish a fact in issue.”³

The RTC’s reliance on circumstantial evidence was sanctioned by Rule 133, Section 4 of the *Rules of Court*,⁴ which requires for circumstantial evidence to warrant the conviction of an accused that, *firstly*, there are more than one circumstance; *secondly*, the facts from which the circumstances

² Id. at 33-41; penned by Associate Justice Edgardo L. Delos Santos, with the concurrence of Associate Justice Ramon Paul L. Hernando and Associate Justice Victoria Isabel A. Paredes.

³ *Gan v. People*, April 23, 2007, 521 SCRA 550.

⁴ *Buebos v. People*, G.R. No. 163938, March 28, 2008, 550 SCRA 210, 222.

arose are duly established in court; and, *thirdly*, the circumstances form an unbroken chain of events leading to the fair conclusion of the culpability of the accused for the crime for which he is convicted. Ostensibly, our rules “make no distinction between direct evidence of a fact and evidence of circumstances from which the existence of a fact may be inferred. *No greater degree of certainty is required when the evidence is circumstantial than when it is direct, for in either case, the trier of fact must be convinced beyond a reasonable doubt of the guilt of the accused.*”⁵

The State’s witnesses credibly and reliably described a chain of circumstances that absolutely incriminated the petitioner in the criminal burning of the house of complainants Spouses Ceferino and Gemma Cogtas. As both the trial and appellate courts found, the following interconnected factual links were proved, namely: (1) prosecution witness Ruben Gonzales heard the loud voices of the petitioner and his sister coming from the Cogtas house that the Bacolod family had been renting, with the petitioner demanding money from his sister Daisy Mae Bacolod but the latter not acceding to the demand; he was then only about 15 arm’s lengths away from the Cogtas house; (2) not soon after, Gonzales heard a commotion inside the Cogtas house, and then immediately saw Daisy Mae and three other persons running out of the house asking for help; (3) Gonzales himself going towards the house to see what was happening, saw the petitioner in the kitchen waving a flaming blanket that he had lit from the burner stove; (4) the petitioner then came out of the house, daring anyone to arrest him; (5) Gonzales turned off the burner stove in the kitchen, even as he saw the ceiling of the kitchen already in flames; and (6) the fire immediately spread to the other parts of the house, and which eventually burned down the house completely. Gonzales’ account about the commotion inside the house was corroborated by Alexander Cernal, a *barangay tanod* who happened to be on board his tricycle at the same subdivision where the Cogtas house was located.

The CA did not err in holding that the State’s circumstantial evidence sufficed for the conviction of the petitioner. Indeed, the unbroken chain of circumstances established from the recollections of witnesses whose motives had not been impugned at all by the petitioner warranted no conclusion but that the petitioner had deliberately caused the burning of the house.

Nonetheless, the Court needs to correct the penalty the RTC imposed on the petitioner, and which the CA affirmed “in full”. The indeterminate sentence of 10 years of *prision mayor* in its medium period, as minimum, to 16 years of *reclusion temporal* in its medium period, as maximum, prescribed by the RTC was legally erroneous.

⁵ *People v. Ramos*, G.R. No. 104497, January 18, 1995, 240 SCRA 191, 199, citing *Robinson v. State*, 18 Md. App. 678, 308 A2d 734 (1973). Italicized portions are part of the quotation.

The information specifically alleged that the house burned by the accused was an inhabited dwelling. Pursuant to Section 3(2) of Presidential Decree No. 1613 (*Amending the Law on Arson*), the penalty to be imposed if the property burned is an inhabited house or dwelling is from *reclusion temporal* to *reclusion perpetua*. Not being composed of three periods, however, such penalty should be divided into three equal portions of time, and each portion forms one period of the penalty.⁶ Yet, *reclusion perpetua*, being an indivisible penalty, immediately becomes the maximum period, leaving *reclusion temporal* to be divided into two in order to fix the medium and minimum periods of the penalty. The three periods of the prescribed penalty of *reclusion temporal* to *reclusion perpetua* are then as follows:

Minimum period – 12 years and 1 day to 16 years;
Medium period – 16 years and 1 day to 20 years;
Maximum period – *reclusion perpetua*.

Section 1 of the *Indeterminate Sentence Law* requires the court, in imposing a prison sentence for an offense punished by the *Revised Penal Code*, or its amendments, to sentence the accused “to an indeterminate sentence the maximum term of which shall be that which, *in view of the attending circumstances*, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense.”⁷ Accordingly, the maximum of the indeterminate penalty in this case should be *within* the range of the medium period of the penalty, *i.e.*, from 16 years and 1 day to 20 years, because neither aggravating nor mitigating circumstance attended the commission of the crime; and the minimum of the indeterminate sentence should be within the range of the penalty next lower in degree to that prescribed for the crime, without regard to its periods.⁸

It appears, therefore, that the maximum of the indeterminate penalty fixed by the RTC fell short by one day in order to come within the medium period of the prescribed penalty. Although such fixing by the RTC was contrary to the *Indeterminate Sentence Law*, the CA uncharacteristically condoned the violation. The correction should now be made to make the sentence conform to law. Accordingly, the maximum of the indeterminate sentence of the petitioner is 16 years and one day of *reclusion temporal*.

Another substantial detail left out by the RTC, and, later on, by the CA pertained to the civil liability to be assessed against the petitioner in

⁶ The *Revised Penal Code* provides:

Article 65. *Rule in cases in which the penalty is not composed of three periods.* — In cases in which the penalty prescribed by law is not composed of three periods, the courts shall apply the rules contained in the foregoing articles, dividing into three equal portions of time included in the penalty prescribed, and forming one period of each of the three portions.

⁷ Italics supplied to focus on the relevant portion of the provision.

⁸ See *Candao v. People*, G.R. No. 186659-710, February 1, 2012, 664 SCRA 769, 770.

favor of the Spouses Cogtas as owners of the burned house. Having pronounced the petitioner guilty of committing arson, a crime against property, the RTC and the CA were bound to have then adjudged him civilly liable to compensate the Spouses Cogtas for their substantial economic damage and prejudice as the owners of the house. The RTC briefly discussed the economic loss of the Spouses Cogtas in its judgment but surprisingly omitted any award from the decretal portion.

The unfair omission should be rectified. In the records was testimony given by Architect Gabriel F. Abear to the effect that the Spouses Cogtas would need to spend ₱869,590.00 to restore their burned dwelling to its condition before the crime. In the absence of a showing that such amount had been actually expended in a manner capable of substantiation by any document or receipt, Abear's valuation remained a mere estimate, and could not be the measure of an award for actual damages. This is because, as reiterated in *Tan v. OMC Carriers, Inc.*:⁹

Actual damages, to be recoverable, must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages. To justify an award of actual damages, there must be competent proof of the actual amount of loss, credence can be given only to claims which are duly supported by receipts.

Nonetheless, the failure to present competent proof of actual damages should not deprive the Spouses Cogtas of some degree of indemnity for the substantial economic damage and prejudice they had suffered. According to Article 2224 of the *Civil Code*, temperate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.¹⁰ For this purpose, the determination of the temperate damages rests in the sound discretion of the courts. To illustrate, in *People v. Murcia*,¹¹ the Court reduced the amount of ₱250,000.00 fixed by the RTC, although affirmed by the CA, to ₱200,000.00 by way of temperate damages upon noting that the former amount had been based only on the complainant's estimate of the value of his house. Consequently, the Court holds that the amount of ₱500,000.00 in the form of temperate damages is reasonable considering that the dwelling of the Spouses Cogtas had been completely burned down.

⁹ G.R. No. 190521, January 12, 2011, 639 SCRA 471, 481, citing *Viron Transportation Co., Inc. V. Delos Santos*, G.R. No. 138296, November 22, 2000, 345 SCRA 509, 519.

¹⁰ In arson, this provision became the legal basis for indemnifying the complainant for the damage or prejudice sustained *ex delicto* in lieu of actual damages. For instance, in *People v. De Leon* (G.R. No. 180762, March 4, 2009, 580 SCRA 617), in which the accused was convicted of arson for burning a hut valued by the complainant at ₱3,000.00, the Court affirmed the CA's award of temperate damages of ₱2,000.00 *in lieu of the valuation by the complainant*.

¹¹ See *People v. Murcia*, G.R. No. 182460, March 9, 2010, 614 SCRA 741, 753-754.

It is not amiss to stress that both the RTC and the CA disregarded their express mandate under Section 2, Rule 120 of the *Rules of Court* to have the judgment, if it was of conviction, state: “(1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) **the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.**” Their disregard compels us to act as we now do lest the Court be unreasonably seen as tolerant of their omission. That the Spouses Cogtas did not themselves seek the correction of the omission by an appeal is no hindrance to this action because the Court, as the final reviewing tribunal, has not only the authority but also the duty to correct at any time a matter of law and justice.


We also pointedly remind all trial and appellate courts to avoid omitting reliefs that the parties are properly entitled to by law or in equity under the established facts. Their judgments will not be worthy of the name unless they thereby fully determine the rights and obligations of the litigants. It cannot be otherwise, for only by a full determination of such rights and obligations would they be true to the judicial office of administering justice and equity for all. Courts should then be alert and cautious in their rendition of judgments of conviction in criminal cases. They should prescribe the legal penalties, which is what the Constitution and the law require and expect them to do. Their prescription of the wrong penalties will be invalid and ineffectual for being done without jurisdiction or in manifest grave abuse of discretion amounting to lack of jurisdiction. They should also determine and set the civil liability *ex delicto* of the accused, in order to do justice to the complaining victims who are always entitled to them. The *Rules of Court* mandates them to do so unless the enforcement of the civil liability by separate actions has been reserved or waived.

WHEREFORE, we **AFFIRM** the decision promulgated on December 9, 2011 by the Court of Appeals, subject to the **MODIFICATIONS** that:

- (1) the indeterminate sentence for **GILFREDO BACOLOD a.k.a. GILARDO BACOLOD** is corrected from 10 years of *prision mayor*, as minimum, to 16 years **and one day** of *reclusion temporal*, as maximum; and
- (2) **GILFREDO BACOLOD a.k.a. GILARDO BACOLOD** is **ORDERED** to pay the amount of ₱500,000.00 as temperate damages to **SPOUSES CEFERINO AND GEMMA**

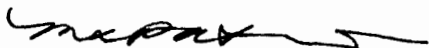
COGTAS, plus interest of 6% *per annum* reckoned from the finality of this decision, plus the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

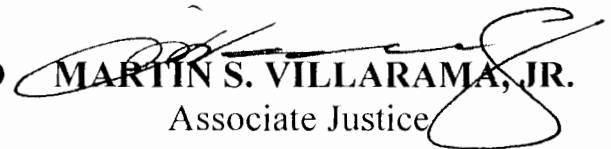
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



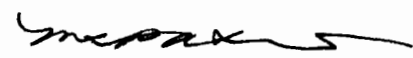
MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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