

G. R. No. L-6372

[ G. R. No. L-6372. April 29, 1954 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SINFORIANO SEDENO AND ELPIDIO MEJENIO, DEFENDANTS-APPELLANTS.**

**D E C I S I O N**

**CONCEPCION, J.:**

Convicted of the crime of murder, with which they are charged, and, hence, sentenced to life imprisonment, with the accessory penalties provided by law and to, jointly and severally, indemnify the heirs of the deceased, Crispin Amacio, in the sum of P2,000.00, and to pay the costs, defendants Sinforiano Sedenio and Sipidio Mejenio have appealed to this Court.

The theory of the prosecution is as follows: On December 18, 1950, at about 5:00 p.m., Crispin Amacio, who was living with Felina Sedenio, without the benefit of marriage, left their house in the sitio of Libon, municipality of Catarman, province of Samar, for the purpose of gathering *tuba*. A few minutes later, Espiridion Benesisto saw Crispin talking with appellant Sinforiano Sedenio atop a coconut tree, about 24 feet from the ground, not far away from said house. Soon later, Exequiel Congayan—a resident of the sitio of Libho, who, likewise, happened to pass by — noticed that Sinforiano kicked Crispin, while he was cutting a coconut bud, and that, as a consequence, Crispin fell to the ground. As he tried to stand up, appellant Elpidio Mejenio, who was then at the foot of the tree, struck him on the chin with the butt of a home-made firearm, locally known as “bardog”, thus knocking him down. Thereupon Sinforiano, who had meanwhile come down from the tree, stabbed Crispin, with a knife, in the throat. Thereupon, Exequiel, who became frightened, crawled away to prevent the appellants from noticing his

presence, and, when already at a safe distance, he ran away towards the poblacion. As he did so, Exequiel met Juan Sodiaga, who was walking towards the scene of the occurrence, where he saw appellants talking to each other under a coconut tree and heard one of them say to the other "he is already dead."

That evening, at about eight o'clock, appellants, armed with a shotgun and a small bolo, locally known as "dipang", arrived at the house of Pelagio Sedenio and his wife, Teresa Mejenio, in the sitio of Macagtas, Catalan, Samar. Pelagio is the father of appellant Sinforiano Sedenio and of Crispin Amacio's paramour, Pelina Sedenio, whereas Teresa Mejenio is a sister of appellant Elpidio Mejenio and the step-mother of his co-defendant Sinforiano Sedenio. Sinforiano, whose shirt was then blood-stained, confided to his father, in the presence of Elpidio Mejenio and Teresa Mejenio, that they (appellants) had killed Crispin Amacio, adding that he (Sinforiano) had thereby avenged the maltreatment of his sister, Pelina Sedenio, by the deceased, Elpidio Mejenio, in turn, said that he had already wreaked vengeance upon Crispin, the latter having destroyed his (Elpidio's) home-made shotgun.

Later that same night, at about eleven o'clock, Lucio Arcebucho reported to Vicente Aniacio, in the poblacion of Catarman, that his son Crispin was dead already. Vicente and his son-in-law immediately proceeded to Crispin's house, where Felina Sedenio was. As they asked for Crispin, she answered:

"I do not know. May be he fell down, because he did not return anymore," Accordingly, Vicente Aniacio, with several other persons, searched for Crispin, whom they found dead, about three meters from the coconut tree where he used to gather *tuba*, some 300 meters from his house. Upon examination of the local sanitary inspectors the latter found upon the body of Crispin the following injuries:

"Lacerated wound, left forearm, w/ a dimension of 1/2 inch long, 1/4 inch wide and 2 inches deep.

Lacerated wound, right side cheek, w/ a dimension of 1/2 inch long

1/4 inch wide and 1 1/2 inches deep. Lacerated wound, on the throat, w/ a dimension of 1/2 inch long, 1/4 inch wide and 2 inches deep and the mouth portion was disorder, with a color of blackest type." (Exhibit A, p. 10, Record.)

Said official expressed trio opinion that Crispin died of shock following acute hemorrhage from the throat wound."

Appellants set up an *alibi*. Sinfioriano Sedenio testified that on December 13, 1950, he was confined in the insular penitentiary, at Muntinlupa, Rizal, serving a term for the crime of robbery. However, it appears that Sinfioriano had escaped from jail prior to the occurrence and that he was in Catarman, not in Muntinlupa, on said date. Upon the other hand, appellant Elpidio Mejenio asserted that he was then in his house, in the sitio of Manaliguan, which is only two kilometers from the scene of the crime, so that it was not impossible for him to have been there at the time of the commission of the offense charged. Besides, Elpidio's statement is completely uncorroborated.

In any event, appellants' *alibis* cannot prevail over the positive testimony of:

- 1) Espiridion Benesisto, who saw Sinfioriano Sedenio talking with Crispin Amacio, on top of the coconut tree aforementioned, a few seconds before the occurrence;
- 2) Exequiel Congayan, who saw appellants committing the offense charged;
- 3) Juan Sodiaga, who saw them, at the scene of the crime, immediately after its perpetration; and
- 4) Pelagio Sedenio and Teresa Mejenio, to whom appellants admitted their guilt, in the manner above stated.

Again, these witnesses for the prosecution had no possible motive to falsely incriminate appellants herein. On the contrary, Pelagio Sedenio and Teresa Mejenio had every reason to favor appellants' acquittal, in view of the relation of consanguinity and affinity that binds them.

The defense tried to prove that the death of Crispin Amacio was due to an accidental fall from the coconut tree. For this purpose, it introduced the testimony of Felina Sedenio and Florentine Sedenio but neither saw Crispin falling. Felina declared that Florentine reported to her that Crispin had fallen from said tree; that she went, therefore, to the place where Crispin used to gather *tuba*, and there found his dead body, with his throat impaled by a bamboo twig, which she removed; and that, thereupon, she returned home. The record shows, however, that her testimony cannot be given full faith and credence, for:

- 1) The testimony of her own father, Pelagio Sedenio, indicates that Crispin had been maltreating her;
- 2) When the father of Crispin and his brother-in-law inquired about him, several hours after the occurrence, Felina claimed ignorance of his whereabouts and added that he may have fallen, perhaps, from a coconut tree, thus demonstrating, not only that she had neither received the aforementioned report of Florentine Sedenio nor seen the body of Crispin, as she would have us believe, but, also, her indifference to his fate, if not her antagonism to him;
- 3) Typical of her character and of the nature of her attitude towards Crispin is the fact that, soon after his death, Felina—who was only 19 years of age when she took the witness stand in October, 1952—lived with another man and was then in the family way, having been cohabiting with her present paramour for about a year prior thereto;
- 4) Her testimony does not dovetail with that of her brother, Florentino Sedenio, who declared that, upon seeing Crispin, she merely "called and moved" his "body but he did not answer anymore," and that, thereupon, they returned to her house;

5) The body was in a coconut plantation, where there were neither bamboos nor bamboo twigs;

6) I Said body was found, not at the foot of the coconut tree above-mentioned—where it would, have been, had the death been merely the result of an accidental, fall—but three meters away from said trees and

7) Had she found the body of Crispin, as testified to by her, she would have caused it to be brought to their house immediately and reported the matter to the authorities, instead of leaving him at the scene of the occurrence, and letting other people search for him, give his body a decent burial and notify the local officials.

As regards Florentino Sedenio, his sister, Felina Sedenio, testified that he was only about seven years of age on December 13, 1950, so that he was too young to accompany Crispin to gather *tuba*. Besides, Florentino admitted that he did not know how Crispin happened to fall for, in his own words, "I heard only the sound of falling and when I turned my face towards him he was already there." At any rate, the foregoing evidence for the defense is far from sufficient to offset the aforementioned proof for the prosecution, already adverted to, and we are fully satisfied that appellants' guilt has been established beyond reasonable doubt.

It is next urged that appellant Elpidio Mejenio should, at most, be convicted of slight physical injuries, there being allegedly no, positive evidence of conspiracy with his co-defendant. This pretense is clearly untenable, for Elpidio's presence at the foot of the coconut tree—which he did not even try to explain—and the fact that he attacked Crispin as soon as the latter fell to the ground, prove that appellants were united in their purpose and in the execution thereof. This is borne out by the fact that, shortly after the occurrence, Sinfiorano Sedenio told Palagio Sedeño, in the presence of Elpidio Mejenio and Teresa Mejenios "Father we killed somebody. We, forced Crispin Amacio to fall from a coconut tree." (Page 14, t.s.n.; underscoring supplied.)

Instead of denying his participation in the offense charged, as implied in this statement, Elpidio Mejenio confirmed it, according to; Pelagic Sedenio and Teresa Mejenio, In the words of the latter, "*they told us that they killed Crispin Amacio \* \* \* .*" (Page 22, t.s.n; underscoring supplied.)

The Solicitor General is in favor of giving appellants the benefit of the mitigating circumstance of lack of instruction, but we do not share this view, for the lower court is in a better position to determine the propriety of appreciating said circumstance and the record before us does not disclose, and the prosecution has not indicated, any particular reason why we should disturb the action of the lower court thereon, apart from the existence of indicia that appellants had acted with evident premeditation, in addition to the treachery which characterized the crime.

In view of the foregoing, the decision appealed from is hereby affirmed *in toto*, with costs against the appellants.

IT IS SO ORDERED.

*Paras, C. J., Pablo, Bangzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.*

Mr. Justice *Padilla* did not take part.