

[G.R. No. L-8699. December 26, 1956]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LORENZO RUZOL, ET AL., DEFENDANTS, LORENZO RUZOL, DEFENDANT AND APPELLANT.

D E C I S I O N

LABRADOR, J.:

This is an appeal from a judgment of the Court of First Instance of Quezon, finding Lorenzo Ruzol guilty of murder, with the aggravating circumstances of dwelling, nighttime and abuse of superior strength, and sentencing him to death, to indemnify the heirs of the deceased Juan Andal in the sum of P6,000, and to pay one-half of the costs. The judgment also finds Manuel Torres guilty as accomplice of the same crime, but the latter has not appealed from the judgment.

In the middle of the year 1954, Juan Andal, married, lived in Sitio Calisetan, Barrio of San Luis, Municipality of Baler, Subprovince of Aurora, Province of Quezon. Just before midnight in the evening of August 5, 1954, while he and his family, consisting of Silvino, Leonida, Lilia and Eladio, the latter 11 years old, and the children's grandmother Feliciano Gico, were asleep in their small house in the said sitio, his son Eladio was suddenly awakened by a sound similar to that produced by the cutting of a coconut into halves. He saw a man, whom he recognized to be accused-appellant Lorenzo Ruzol, beside his father. As Eladio began to move, Ruzol turned away and walked to the kitchen. Eladio stood up and saw that his father was wounded on the head. He went to the window nearby, opened it, and saw and recognized Manuel Torres in front of the window. As he recognized Torres, the latter went away and after joining Ruzol, both ran away. Eladio went down, passing through the kitchen, then followed the two, Ruzol and Torres. He noticed that they directed their steps towards the house of Torres. As he began to follow them, he shouted three times for help, saying that his father had been killed. He continued following the two until they reached the house of Torres and went up the house. So he turned back.

By that time his brother had called one of the neighbors, a boy by the name of Aniceto Gamatan. Eladio and Aniceto rode on a carabao to the house of an uncle, Ruperto Andal, in order to secure his help. With him they went to the barracks of a detachment of the Philippine Constabulary then stationed in, Barrio San Luis. There Eladio reported the killing of his father to the lieutenant in command of the detachment. Eladio told the lieutenant that Lorenzo Ruzol and Manuel Torres had killed his father, so the lieutenant ordered a corporal to proceed with Eladio to the house of Torres and Ruzol. Torres was found in his house and was brought along by the corporal to the house of Ruzol. Here the corporal remained downstairs and called for Ruzol to come down. Ruzol began to dress up and was to wear the clothes hanging on a post of the house, but later changed his mind, requesting his wife to give him another pair. After dressing up he went down.

Torres, and Ruzol were brought to the house of the deceased and there they were told to see the dead body. As the accused witnessed the victim with his wounds Eladio and the corporal noted that they shuddered. After that they were brought by the Constabulary to the municipal building and delivered to the municipal authorities.

The autopsy performed on the body of the deceased by the president of the sanitary division shows the following:

“B. Wound incised 5 inches long and 1 1.2 inches wide running obliquely from the center of the left zygomatic bone upwards and posteriorly to end at a point 2 inches superior and 1% inches posterior to the left external auditory meatus.

“C. Fracture skull, temporal left complete compound with loss of bone substance and scalp causing an irregular hole whose center is situated at a point 2 inches superior and % inch posterior to the left external auditory meatus with escape of brain substances. This hole is 1 inch in diameter in its largest measurement.

“D. Fracture complete depressed with separation of the whole left frontal ^bone from the calvarium.

“B. Further opening the hole revealed that there, is damaged to brain substance to as deep at 5 inches and has taken a direction going inferiorly and medial ward.” (Exhibit B.)

The report also contained the following opinion of the physician:

“3. From the nature of the wound it can be deduced that(fatal instrument used was sharp edge and it must have been the square end of the instrument that hit first the subject. The depressed fracture of the left half of the frontal region must have been due to a blow over the left temporo-frontal region with such strength as to depressed the bone and was inflicted after the first.

“4. Cause of death—SHOCK AND HEMORRHAGE SECONDARY TO FRACTURE OP SKULL LEFT SIDE.”

Eladio Andal testified that he was able to identify the appellant Ruzol as the one standing beside his father when he woke up. He said that the light of a lamp that was beside the wall of the room of the house illumined the room. According to him the appellant was then wearing a checkered shirt and denim pants; and that he also recognized the accused Manuel Torres because he saw Torres' face as he opened the window, Torres being: only one meter away.

Dominga Eugenio corroborated the testimony of Eladio Andal as to the identity of the accused-appellant. She testified that on the night in question, she was asked to go and sleep with her children in the house of Manuel Torres, because the latter's father was suffering from “punsada”; that after supper that night Manuel Torres left with Lorenzo Ruzol and that they returned after three hours; that when they returned they told her not to tell anybody that they have killed Juan Andal; and that for fear that the authorities may come to the house of Manuel Torres, she went away with her children that same night, after Torres and Ruzol had come back.

Testifying as to the motives for'the commission of the crime,, Eladio declared that his mother was the paramour of Lorenzo Ruzol; that in the afternoon of August 5, there was art altercation between his deceased father and Manuel Torres; that the cause for this altercation was the fact that the grass removed by harrowing from Torres land was being carried to the land of the deceased, who objected to it; that in the course of the altercation Manuel Torres challenged the deceased to a duel, but the latter refused to fight because he did not have his bolo with him. It is important to note that Manuel Torres admitted the existence of the incident, but explained that he made the challenge only as a joke, not seriously. Eladio also declared that because his father had sent his mother away to San

Pablo, from where she hails, Ruzol had become angry with his father.

The accused denied having committed the crime imputed to him or their alleged motives in doing so. Both accused declared that they did not leave their respective houses on the night in question. As to the claim of the witnesses of the prosecution, that they were trembling when the body of the deceased was seen by them, they explained that they did so because of the horrible scene that was shown them. Ruzol denied that the wife of the deceased was his paramour saying that he could not have had any interest in her because if his wife was ugly the wife of the deceased was more so.

The trial court found that the testimony of the eyewitness to the crime, Eladio Andal, was logical, straight forward and probable, and that his credibility was not in any manner shaken by the cross-examination to which he had been exposed. We have carefully examined the evidence and we agree with the court *a quo* that the story told by this witness bears all earmarks of truth. That the witness should be awakened by the sound is quite natural; so is the fact that he saw the assailant beside, the body of his deceased father. The defense introduced evidence that the place where Eladio said the kerosene lamp was, could not have been true because there was no soot in that place. It may be remarked that the absence of soot does not necessarily mean that the lamp was not, during the night in question, in that particular place indicated by the witness. That may not have been the ordinary place of the lamp, but it might have happened that on the night in question it was put there. Probability certainly can not overcome actual fact.

The circumstance that as soon as Eladio and his, uncle reached the Philippine Constabulary barracks, he promptly told the authorities, without doubt or hesitation, that it was Manuel Torres and Lorenzo Ruzol that killed his father, is convincing proof that he recognized the accused when he saw them. The discovery of the crime by the witness, his pursuit of the accused, and the fact that immediately thereafter, as soon as he arrived at the barracks, he positively pointed to the accused as the perpetrators of the crime, without any sufficient intervening time for him to fabricate his account, is convincing proof of the correctness of his identification. All the events occurred in rapid succession, and the pointing out of the accused as the perpetrators may be said to be parts of the *res gestae*.

In all its details, the testimony of Eladio is corroborated. The altercation between Manuel Torres and his father was admitted by the former himself to have occurred. The clothes that Ruzol was supposed to have worn on the night of the incident were found in Ruzol's house. And Dominga Eugenio declared that Ruzol and Torres came up the latter's house at

night, just as Eladia had declared. That Dominga should have been asked to go to the house of Torres to sleep that evening must have been due to a plan of Torres to be away from his house that night, so that there may be some one to help his father in case he should be attacked by his recurring sickness. Perhaps it may not have been his (Torres') original intention to come back to his house after the commission of the crime, and that when pursued after the crime he may have forgotten that a stranger had been called inside the house to sleep there. Criminals are known to commit mistakes which lead to their own undoing.

Another circumstance corroborates Eladio's testimony. The wounds must have been produced by a hatchet, the incised wound caused by its sharp edge and the fracture by its back part. There was testimony also that among the instruments found inside the house of Torres was a hatchet.

We are, therefore, satisfied from a consideration of the facts and circumstances satisfactorily proved at the trial, that the person who inflicted the wound on the body of the deceased Juan Andal is the accused-appellant Lorenzo Ruzol. That no bloodstains were found on the clothes worn by him on the night in question is not sufficient reason or ground, in our opinion, for believing that he was not the person who delivered the blows that produced his victim's death. In order that we may believe that the assailant's clothes should have been besmirched with blood if he were really the culprit, it should have been necessary to show that the arteries from which blood oozed out pointed to the direction of the place where the assailant stood as he delivered the fatal blows. Judging by the position of the wounds the deceased must have been lying on his right side, while assailant was beside the head of, and in front or behind, the deceased. These relative positions of the deceased and the assailant are inferred from the fact that the wounds extend from the cheek bone to the upper part of the ear. This position of the assailant was also confirmed by Eladio Andal, who declared that when he woke up Ruzol was at the side of his father. The arteries which were cut must have oozed blood in a direction across the wounds, not in the direction of the assailant and could not have besmirched the assailant's clothes. Hence the absence of blood stain on appellant's clothes.

The conclusion of the medico-legal expert that the instrument which produced the short incise wound is a sharp one indicates that the weapon used was not a bolo, but a hatchet. This also articulates with the testimony of Eladio that the appellant was hiding something with his hands in front of his body (See Affidavit of Eladio Andal, p. 6 of Record). A *bolo* could not have been hidden from sight so easily, long as it is. Not so with a hatchet which

sometimes has a short handle.

We are fully satisfied, therefore, that the appellant was the one who delivered the blows with a hatchet on the head of the deceased Juan Andal. The trial court found that three aggravating circumstances attended the commission of the crime, namely, dwelling, nighttime and abuse of superior strength. The Solicitor General believes, however, that the aggravating circumstances of nocturnity, dwelling and abuse of superior strength are always included in the qualifying circumstance of treachery. We agree with his opinion with respect to the aggravating circumstances of nocturnity and abuse of superior strength, but we hold that the aggravating circumstance of dwelling cannot be included therein. The crime committed, therefore, is murder attended by the aggravating circumstance of dwelling. The penalty that should be imposed upon the appellant should be the maximum for the crime of murder, which is death. But for lack of sufficient number of votes the Court has decided to impose *reclusion perpetua*, which is that recommended by the Solicitor General.

The judgment appealed from is hereby modified, and the appellant sentenced to *reclusion perpetua*, instead of death. In all other respects, the judgment appealed from is affirmed, with costs against appellant

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Reyes, J. B. L. t Endencia, and Felix, JJ., concur.