

103 Phil. 1115 Unrep. (Reporters Office)

[G.R. No. L-11328. April 16, 1958]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PETRONILO BUGAGAO AND LUIS BUGAGAO, DEFENDANTS.
PETRONILO BUGAGAO, DEFENDANT-APPELLANT.**

D E C I S I O N

BENGZON, J.:

Appeal from the decision of the Court of First Instance of Camarines Sur convicting appellant of homicide and sentencing him to imprisonment from ten to seventeen years and four months, to pay P3,000.00 to the heirs of the deceased Rodrigo Piniano and to pay the costs. The appeal was taken to the Court of Appeals, but the court, being of the opinion that the crime committed was murder, and that the proper penalty is life imprisonment, forwarded the *expediente* to this Court. Appellant's defense of alibi was correctly rejected, because two witnesses testified in open court that they saw him stab the victim. Appellant's motive does not clearly appear. However, proof of motive although pertinent and desirable, is not essential to conviction. (U.S. vs. Carlos, 15 Phil., 47; U.S. vs McMann, 4 Phil., 561) The crime committed was murder qualified by treachery, appellant having suddenly and unexpectedly attacked the victim from behind with a deadly weapon. The sentence should therefore be modified by imposing on him the medium degree of the penalty prescribe by law (Art. 248, Revised Penal Code), namely, *reclusion perpetua*.

As above modified, the decision is affirmed in all other respects, with costs. Bengzon, J., *ponente*.

D E C I S I O N

In the court of first instance of Camarines Sur, Luis Bugagao and his brother Petronilo Bugagao were duly tried for the murder of Rodrigo Piniano. The first was convicted of physical injuries; the second was found guilty of homicide and sentenced to imprisonment from ten years to seventeen years and four months, to pay P3,000.00 to the heirs of the

deceased and to spend for costs.

Petronilo took his case to the Court of Appeals; but being of the opinion that murder had actually been committed and that the proper penalty is life imprisonment, said Court forwarded the expediente to us, in accordance with statutory provisions. It made a detailed statement of the facts, which in the main agree to our own findings upon examination of the record.

On Sunday afternoon February 28, 1954, Rodrigo Piniano age 28, and his nephew Igmidio Piniano age 15, went to the cockpit of Barrio Calabangan, Sipocat, Camarines Sur. While watching a cockfight they were approached by Luis Bugagao age 20, who invited Rodrigo Piniano to a drink in one of the stores nearby, outside of the cockpit. Luis Bugagao bought a bottle of wine and one of Coca-Cola, mixed them and offered the mixture to Rodrigo; but the latter refused the drink. Visibly irritated, Luis dragged Rodrigo by the arm to the place where cocks were being matched a few meters away, and there they grappled and wrestled until they were separated by Rosendo Alday. Unappeased, however, Luis picked a piece of lumber from a fence, and struck Rodrigo on the left eyebrow, knocking him down. In an instant Rodrigo was up, parried other blows and would have escaped further injury, had it not been for Petronilo Bugagao who having witnessed the fight as a by-stander suddenly stabbed Rodrigo in the back with a balisong, inflicting a mortal wound 4 centimeters long that pierced the lung, the diaphragm and the stomach. Disabled, Rodrigo was left alone by the two brothers, even as he walked slowly towards the railroad crossing where he met Igmidio's father, who brought him to the poblacion in an "Alatco" bus. In that conveyance, Rodrigo was questioned by Sergeant of Police, Reynaldo Zamora of Sipocot. He was then very weak and pale, and "felt as if he were going to die;" however, in spite of his critical condition he manage to inform the peace officer that it was Petronilo who had wounded him in the back. The dying man was subsequently transported to the Provincial Hospital, wherein he expired the next day due to hemorrhage and four days later, this complaint for murder was sworn to before the justice of the peace of the town supported by the affidavits of Igmidio Pisiano, Rosendo Alday and Urbana Advinturado.

Luis Bugagao claimed he had acted in self-defense; but he was not believed in View of the mortal wound which he said resulted from Rodrigo's having pursued him knife in hand and having stumbled.

Petronilo age 24, essayed an alibi, which was rejected; rightly we believed ,^[1] considering the testimony of two witnesses (Igmidio and Urbana) who saw him stab the unfortunate

man, and so declared in open court, eye-witnesses who were strongly corroborated by the dying declarations heard by Sergeant Zamora. All this coupled with the immediate arrest of the culprits and the prompt convincing case for the prosecution.

The motive that impelled appellant's hand does not clearly appears it may be surmised he wanted to help his brother in the encounter with Rodrigo. At any rate proof of motive, although pertinent and desirable, is not essential to conviction. ^[2]

Upon the facts above described, we agree with the Solicitor-General and the Court of Appeals that the crime was murder qualified by treachery, the accused-appellant having suddenly and unexpectedly attacked Rodrigo from behind with a deadly weapon. Wherefore, the sentence should be modified by imposing on him the medium degree of the penalty prescribed by law. (Art. 248 Revised Penal Code) namely; reclusion perpetua.

With this modification as to the term of imprisonment, the appealed decision is affirmed in all other respects, with costs against appellant. So ordered.

Paras, Montemayor, Reyes A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

^[1] It is out of the ordinary for a farmer to be tilling his farm on Sundays. Anyway it was only kilometers distant from the cockpit.

^[2] U.S. v. Carlos 15 Phil. U.S. v. Mehan 4 Phil.