

103 Phil. 693

[G. R. No. L-8776. May 19, 1958]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANTONIO CRUZ, LUCIO MOLDES, BALDOMERO RUBILLOS AND EMILIANO SALDIVIA, DEFENDANTS. ANTONIO CRUZ, LUCIO MOLDES AND BALDOMERO RUBILLOS, DEFENDANTS AND APPELLANTS.

D E C I S I O N

PER CURIAM:

Defendants Antonio Cruz alias Tony Cruz, Lucio Moldes, and Baldomero Rubillos are appealing from the decision of the Court of First Instance of Tacloban, Leyte, finding them guilty of the crime of robbery with homicide, with aggravating circumstances, and sentencing them to the penalty of death, to indemnify jointly and severally the heirs of the deceased (Mariano de Guzman) in the sum of P6,000.00, and each to pay one-fourth of the costs.

The following facts are not disputed. In the morning of May 12, 1954, the barrio lieutenant of Tagpuro notified the police authorities of Tacloban City (Leyte) about the discovery of a cadaver between kilometers 15 and 16 of the Tadoban-Guintiguian Road. The police authorities and the City Attorney hurried to the place and found the body lying face downwards, covered with palawan leaves, some distance from the roadside. It had socks on but no shoes, and the pants pockets were turned inside out. Blood spots, about five feet from the edge of the road, were found, covered with pebbles. Unidentified, the cadaver was taken to the City Hall. According to the "Post Mortem Findings", Exhibits R and R-1, of Dr. Carlos V. Matriano, the body had the following wounds and contusions:

"1. Spindle corrugated wound of the scalp, 2 1/2s inches in length exposing the scalp slanting from the left eyebrow upwards and outwards which must have

been

caused by a strong blow with a hard blunt instrument.

2. Another corrugated longitudinal wound at the mid-frontal region extending to the left temporal region $2\frac{1}{2}$ inches in length exposing also the scalp which must have been caused also by a strong blow with a hard blunt instrument.

3. Another corrugated linear wound at the coronal fissure intersecting the 2nd wound above 3 inches in length and exposing also the scalp which must have been caused also by a strong blow with a hard blunt instrument.

4. Another spindle-shape corrugated wound $1\frac{1}{2}$ inches in length at the temporal region which must have been caused also by a strong blow with a hard blunt instrument.

5. Small wound just above the right nipple.

6. Another clean-cut small wound at inner side of the left nipple.

7. Clean-cut penetrating stabbed wound at the back on the right side at the level of the 6th rib at the scapular line L-shape, 1 inch from above downwards to the angle and $1\frac{1}{4}$ inches in length from the angle outwards. These wounds must

have been caused by the two stabs, the perpendicular thrust pierced the skin and intercostal muscle, the liver, right lung and through the breast just above the right nipple-wound No. 5 and the horizontal thrust pierced the skin and intercostal muscle, the mediastinum, pericardium, the heart through the left breast at the inner side of the left nipple causing the wound No. 6.

This is the most fatal wound that must have caused the death of the deceased.

8. Corrugated wound at the occipital region $3\frac{1}{2}$ inches in length slanting to the left caused by a strong blow with a hard instrument.

9. Two other wounds 3 inches in length parallel to the above wound No. 8, 2 inches apart at the left temporal region exposing the skull which must have been caused also by a strong blow with a hard instrument.

10. Two spindle-shape corrugated wounds 1 inch in length each at the right temporal region which must have caused also by a strong blow with a hard blunt instrument.

11. Contusion below the right chin which must have been caused also by a strong blow with a hard blunt instrument.”

For the solution of the mystery surrounding the death of the man, apparently, a victim of foul play, including the identity of the authors thereof, the police authorities of the City of Tacloban and the City Attorney deserve high commendation.

City detectives found inside the shirt pocket a bloodstained envelope, Exhibit C, containing a telegram, Exhibit D, dated April 28, 1954, sent by “Tony” from Tacloban, addressed to Mariano de Guzman, at No. 8 Samson Street, Balintawak, Quezon City, and a Philippine Air Lines (PAL) ticket, Exhibit E, dated May 3, 1954. The shirt itself bore the initials “M. G.”. Acting on these clues, the police combed the city for “Tony”, the sender of the telegram. At the Leyte Hotel, they found in its register, Exhibits M and M-1, that Antonio Cruz and Mariano de Guzman “checked in” at 2:00 p.m. on May 7, 1954, and “checked out” two days later, on May 9, at 9:30 a.m. Questioned, Abundio Tirado, the hotel boy, said that he knew the faces of the two hotel guests, and when later taken to the City Hall to view the cadaver, he readily identified it as that of Mariano de Guzman. Earlier that morning of May 12, one Genaro Gomatay whose wife was a laundry woman, had reported to the police that several pieces of laundry, some of which bore the initials “M.G.”, previously given to his wife to be washed, had been stolen. When the police investigated the report, it was found that the person who had given them who turned out to be Cruz, wanted to have the clothes back immediately, because he was in a hurry to leave for Manila. The police accompanied by Abundio Tirado, hurried to the pier and they saw a man standing by the railing of the vessel S.S. General Lukban, which was about to sail for Manila, who Tirado identified as Antonio Cruz, the companion of Mariano de Guzman, who stayed at the hotel for two days, from May 7 to May 9.

Cruz was immediately placed under arrest and handcuffed, and they saw that he was pale and speechless. When taken before the cadaver of De Guzman, he

exclaimed: "Never mind about that. I will stand for that; we were three." When asked for the things which he had on his person, he showed his pocket-book which contained the sum of P906.00 in the following denominations:

"One (1) five hundred (P500) peso bill;

Three (3) one hundred (P100) peso

bills;

One (1) fifty (P50) peso bill;

Five (5) ten (P10) peso bills;

One (1) five (P5) peso bill; and

One (1) one (P1) peso

bill"

which was turned over to the police and for which the authorities issued the corresponding receipt. In the course of the investigation and questioning, Cruz signed a written statement, Exhibit B, wherein he confessed to a plan or conspiracy with Lucio Moldes and Baldomero Rubillos to liquidate his uncle, De Guzman, because according to him, he had a serious disagreement and quarrel with said uncle over the latter's alleged failure to provide for and help his family in Manila, as per their agreement before leaving-that city for Tacloban, and that according to this conspiracy, he offered P200.00 to Rubillos if he killed De Guzman, and that as a matter of fact, the latter was killed by Rubillos with the aid of a companion, later identified as Emiliano Rosales alias Emiliano Saldivia, in the place where his dead body was found by the authorities in the morning of May 12, 1954, and that he actually gave P200.00 to Rubillos, out of which Rubillos gave P50.00 to Moldes. Acting on the revelations made in said statement, the police went after his co-conspirators. Moldes was arrested on May 13, and Rubillos was arrested on June 10, 1954. Saldivia surrendered the day following. In the course of the investigation, Rubillos made a written statement, Exhibit K, owning his participation in the conspiracy and in the killing. Saldivia also made a written statement, Exhibit O, admitting the part taken by him in the killing of De Guzman.

On the basis of the information in the hands of the police, Cruz, Moldes,

Rubillos and Saldivia were charged with the crime of robbery with homicide. Before the prosecution rested its case and presumably to strengthen its evidence, the prosecuting attorney moved for the exclusion of Saldivia from the information in order to utilize him as a witness for the Government, which motion was granted, and Saldivia took the witness stand for the prosecution. After the trial, the lower court found Cruz, Moldes, and Rubillos guilty as charged.

From the whole evidence, including the written statements of Cruz, Rubillos and Saldivia, the testimony of the witnesses for the prosecution and defense, and the exhibits introduced, and the findings of the trial court, the facts of the case may be briefly stated as follows: In April, 1954, Antonio Cruz was sent by his uncle, De Guzman, to Leyte to buy second-hand jeeps, spare parts and old material considered as "junk". He arrived in Tacloban on April 23, and he stayed in the house of Epifania Moldes in the outskirts of Tacloban. Epifania is a sister of Lucio Moldes, who frequented the house, and the two men became close friends. On April 28, Cruz sent the telegram, Exhibit D, already mentioned, asking De Guzman to send or bring with him P1,800.00. Acting on the said telegram, De Guzman went to Tacloban by plane, arriving there on May 6, 1954. The following day, he and Cruz checked in at the Leyte Hotel, staying there until May 9. Thereafter, uncle and nephew transferred to the boarding house of Froilan Creer at Veteranos Street.

Sometime after the arrival of De Guzman, Moldes saw him in the company of Cruz, and Moldes later asked Cruz as to who was the man with him. Cruz told him that he was his uncle, but that he hated him because he had treated him unfairly, and Moldes said to him in Tagalog: "Baldt hindi mo tirahin?", a popular expression specially among the criminal element which means to go after or do something to someone, or even to kill him. Cruz answered that he could not do it himself, but asked Moldes if he knew of someone who would do it and that he was ready to pay P200.00. Moldes assured him that he knew of someone capable of committing such a dastardly deed. Presumably to implement their common idea, Cruz, Moldes, Rubillos and Saldivia met in the house of Epifania Moldes in the afternoon or evening of May 10. In the course of the conference, Cruz renewed his offer to pay P200.00 for the liquidation of his uncle. Moldes asked Rubillos if he had the courage to kill a man for P200.00, and Rubillos smiled and intimated that provided that he was paid P200.00 in cash, he would undertake the

job. Moldes assured them that he knew of a place suitable for the killing where they could not be detected.

The following afternoon, Cruz invited his uncle for a ride to a place outside of Tacloban City where he said they could eat chicken and young coconut. De Guzman accepted the invitation and he and Cruz, Moldes, Rubillos and Saldivia took a passenger bus bound for Bagahupi, where Eubillos' uncle, Macario Rubillos, lived. That was about 5:00 o'clock in the afternoon. At a place between kilometers 15 and 16, within the sitio of Tagpuro, Cruz, De Guzman and Rubillos got down and they went to the house of the brother-in-law of Rubillos, where they ate, while Moldes and Saldivia continued the trip to Bagahupi. Cruz told his uncle that it was too late then for anyone to climb the tree for young coconuts. There is also evidence to the effect that one of the inducements made to lure De Guzman to Tagpuro was that there was supposed to be a second-hand weapons carrier there for sale. Between 7:00 and 8:00 o'clock that evening, the trio left Tagpuro, walking toward Bagahupi, where they met Moldes and Saldivia in the house of Macario Eubillos. There they were given supper. After the meal, Cruz suggested that they return to Tacloban City and he, De Guzman, Rubillos and Saldivia walked along the highway in the direction of Tacloban City. The city was quite a distance away, and it is to be presumed that De Guzman was assured that there was still available transportation by bus at that hour for said city.

According to the testimony of Saldivia, at a place between kilometers 15 and 16, where there were no houses, Cruz made signs to Saldivia and reminded him that it was time to play his part in the liquidation of De Guzman. Saldivia, with a wooden club, hit their unsuspecting victim twice, one blow on the head, the other landing on his arm. Both blows failed to fell him and Cruz evidently believing that he could do a better job, wrested the club from Saldivia and with it struck his uncle at least twice, as a result of which, De Guzman fell to the ground face downward, evidently helpless. Then Cruz called on Rubillos to also do his part, and Rubillos, with a bolo that he was carrying, sat astride the prostrate man and stabbed him in the back. De Guzman, on receiving this last fatal blow, exclaimed in Tagalog, "Inaku po.", and expired. Cruz then bent over him, removed his wrist watch and extracted from his pants pocket his wallet. Rubillos and Saldivia removed the dead man's shoes and later hid them. Thereafter, the dead body was dragged from the highway to a place some distance

therefrom and covered with a Palawan leaves. As already stated, the cadaver was discovered the next morning by a barrio lieutenant who reported the discovery to the authorities.

The task of determining the responsibility of Cruz and Rubillos for the killing is rendered less difficult by the fact that the two men admit their presence at the moment of the killing. In his testimony, Rubillos stated that for taking De Guzman to Tagpuro ostensibly to look over a weapon carrier for sale, De Guzman had promised him a tip or cigarette money; that while they were walking along the highway, shortly before De Guzman was attacked, Rubillos reminded him of his promise, but De Guzman at first ignored him, and when he renewed his suggestion, De Guzman brushed or pushed him aside, and that upon seeing this, Saldivia immediately struck him (De Guzman) with a wooden club; that De Guzman fell on his knees, but made a motion as if to take something from his pocket, which Rubillos suspected to be a weapon; and that to prevent him from using said weapon against his companions, he took the bolo being carried by Saldivia and with it, stabbed De Guzman in the back.

In his turn, Cruz told the court that he was walking ahead, with De Guzman, Rubillos and Saldivia following him and that all of a sudden, he heard a commotion, and turning" his head, he saw that his uncle was being: attacked; that he hurried back to the aid of his uncle who was already prostrate on the ground, with Rubillos sitting on him with a bolo in his hand; and that Rubillos warned him not to approach if he did not want to be implicated in the trouble; that for fear, he did not do anything and allowed Rubillos to take from his dead uncle the latter's watch, pocket-book and shoes, after which, the dead body was dragged some distance from the highway and covered with leaves; that the following morning, the three of them returned to Tacloban City with Moldes, who happened to be in the same bus that they boarded, and the reason why he did not report the incident to the authorities and why he was in a hurry to leave for Manila was that Rubillos had threatened him and advised him that he should leave Tacloban.

The version given by Rubillos and Cruz is, to say the least, quite clumsy and incredible and the trial court correctly rejected the same. The story given by Saldivia is the more reasonable, and it is the story relied on by the trial court and which this Tribunal accepts.

To complete the narration of the more pertinent events, it may be stated that in the morning following the killing, Cruz, Moldes, Rubillos and Saldivia returned to Tacloban City. Determined to leave the city for Manila immediately, Cruz as already stated, tried to get the pieces of laundry belonging to him and to his uncle, given by him to the laundry woman, already mentioned, but that some of those pieces had been stolen, which fact led to the report made by the husband of said laundry woman to the authorities that same morning. Cruz went to the boarding house where he and his uncle were staying, got his own bag and the wooden valise belonging to his uncle, which valise he delivered to Rubillos and Moldes for safe keeping. Moldes gave it to his comadre, Andrea Lacbanes, with instructions to keep it and not to give it to anyone. During the morning, Cruz, Moldes and Rubillos took their breakfast in a restaurant where Cruz paid the bill (P8.35) with a P100.00 note. As per their agreement, Cruz paid Rubillos P200.00, telling him that it was his fee for killing De Guzman. The amount consisted of one P100.00 bill and two P50.00 bills.

Rubillos in turn gave one P50.00 bill to Moldes. Besides the P200.00, Cruz also gave the watch of his uncle De Guzman to Rubillos. Alberto Sinco, the driver of the jeepney which was used by the appellants that morning, was invited to join them in eating at the restaurant. Sinco told the court that he noticed that his passengers were either sleepy or drunk, and when he asked them the reason for their appearance, they said they were very happy because they were able to buy a jeep engine, quite cheap, and later Moldes showed a P50.00 bill which he said he had received as a tip for his efforts in effecting the deal. Saldivia said that he received nothing for the role he played in the gruesome incident, but we are more inclined to believe Rubillos, his uncle, who said that he gave the watch of De Guzman given to him by Cruz, to Saldivia

Both Cruz and Rubillos repudiated their written statements, Exhibits B and K, saying that they were made after they had been subjected to torture, force and intimidation. We agree with the trial court that those statements were voluntary. They contain details of the conspiracy and of the 'Commission of the crime which could come only from persons who could furnish them under a free will, without pressure, much less torture. The wooden 'tnaleta was found in the house of Lacbanes at the indication of Moldes and Rubillos. The bolo used to stab De Guzman and the latter's shoes were found at the indication of Rubillos and Saldivia who hid them in a certain place. Even the wooden club used in

attacking De Guzman was also found at the indication of the defendants. Moreover, after making the statements, Cruz and Rubillos were taken before the City Attorney who had the contents of said statements read to them. He asked them if the contents thereof were true, and if there was any irregularity committed in relation with the taking of the statements, or if they had any complaint to make, and only after receiving a satisfactory answer, did he administer the oath to them and then sign the statements in his capacity as City Attorney.

We entertain no doubt whatsoever that there was a conspiracy on the part of Cruz, Moldes and Rubillos to liquidate De Guzman for a price. Of course, the idea came from Cruz, but it was implemented by his co-conspirators. Moldes, although not present at the killing, nevertheless, played a very important role. It was he who found the killer (Rubillos) for Cruz. It was he who selected the spot where the killing was to take place. He even received P50.00 for his efforts. He was too clever to be present at the killing, much less to take actual part in it. In this way, he probably thought that he would avoid criminal responsibility. About his connection with the commission of the crime, and the important role he played, we reproduce a portion of the decision of the trial court:

“We now come to determine what participation, if any, had the accused Lucio Moldes. The defense contended that he had no participation whatsoever in the commission of the crime, for Moldes was sleeping in the house of his uncle Macario Rubillos in Bagahupi, when the offense was “being committed in Tagporo supposedly by Rubillos and Saldivia only. Moldes went to Bagahupi merely to notify his uncle Macario Rubillos and an aunt in Sabang that his other aunt Jacinta Moldes was seriously sick. The Court has also examined carefully the evidence on record as regards this accused in order to arrive at a conclusion as to whether or not he had taken any part in the commission of the crime, with a view to avoiding a miscarriage of justice. Moldes’ going to Sabang and Bagahupi supposedly to notify his uncle and aunt that their sister Jacinta Moldes was very sick, had apparently no particular importance. But to understand fully Moldes’ role in the occurrence, the ‘Court has to re-state here that Tony Cruz, the mastermind in the plan of liquidating Mariano de Guzman, came from Manila

and stayed in the house of Epifania Moldes, sister of the accused Lucio Moldes, on recommendation of a certain friend of Cruz in Manila. While in the house of Epifania, Cruz met Lucio and they became friends. From then on they have been meeting- together in the market or in other places, particularly in the La Nueva Restaurant, where waitresses Irene de Paz and Encarnacion Cajoles were working.

In all those occasions since the arrival of Cruz in Tacloban City, Moldes and Cruz were frequently meeting each other, going and eating together, and invariably patronizing La Nueva Restaurant. Waitresses Irene de Paz and Encarnacion Cajoles served them. Moldes and Cruz themselves admitted that. They

had been inviting the said waitresses to eat with them, Cruz paying for the bill. The friendship between Cruz and Irene de Paz became so close that he used to invite her and her companion to the movies, and for picture taking, as evidenced by group pictures Exhs. "P" and "Q".

"Toward the first week of May, Baldomero Rubillos joined them in eating in La Nueva Restaurant with a companion who turned out to be Emiliano Saidivia. But one day Cruz told' Moldes that Guzman did not treat him fairly and Moldes asked:

"Bakit hindi mo tirahin". Cruz answered that he could not do it personally, and he asked Moldes if he could liquidate Guzman for P200.00. Moldes told Cruz that he knew of someone who could do it if Cruz would pay that amount. Later Moldes brought Baldomero Rubillos and Saldivia to the house of Epifania Moldes, sister of Lucio, where they agreed to kill Guzman in Tagporo. So one afternoon in May, prior to the 11th, when they ate in the La Nueva Restaurant, their group of four men, Cruz, Moldes, Rubillos and Saldivia, were talking in low voice between themselves, apparently on confidential matters relative to their plan, transferring from one table to another whenever the aforesaid waitresses approached or were near them. That change of attitude surprised the said waitresses, but they did not inquire. In the afternoon of May 11th, Cruz met Irene de Paz and Encarnacion Cajoles who accompanied him. They rode together on

the same jeep to Veteranos street to fetch Guzman from the boarding house of Froilan Creer. On invitation of Cruz that they were to eat coconuts and chickens

which Guzman relished, Guzman went with them to the Kapit Bayan Restaurant for some refreshments. Later they left the two girls in the restaurant. Afterwards Cruz and Guzman were seen with Moldes by the waitresses going toward the City Hall, passing by the seawall in front of the seashore at about past 4:00 p.m. Moldes, Guzman and Cruz were met by Kubillos and Saldivia in the waiting station near the City Hall, and all five of them rode on a bus to Bagahupi.

“Following their preconceived plan in the house of Epifania Moldes and undoubtedly in their secret conversation in the La Nueva Restaurant, Rubillos and Saldivia were to go ahead to Bagahupi after Cruz; had given Rubillos one peso for their fare at the suggestion of Moldes himself, while Guzman, Cruz and Moldes were to board a bus in the waiting station near the City Hall, Moldes leading the two tagalogs, Guzman and Cruz, to the place agreed between them because Moldes knew it. But while the three of them were waiting for the bus, Rubillos and Saldivia appeared and joined them, because they missed their transportation. So all five of them proceeded to Bagahupi together on the same bus. Later in the night, May 11th, 1954, Guzman was killed by Cruz, Rubillos and Saldivia in Tagporo, Tacloban City, Leyte. Can better proofs of conspiracy, principally between Cruz, Moldes and Rubillos be found than what we have so far related?

As to Rubillos, he admitted that he had been in the Iwahig Penal Colony for about five years to serve part of his sentence for homicide. He is a killer. And he killed De Guzman for a price.

As to Saldivia who was used as a State witness, we are willing to believe that he is the least guilty of the four, and consequently, was properly excluded from the information to insure the success of the prosecution. At the time, he was a mere youth of eighteen. He is a nephew of Rubillos and evidently, was closely attached to his uncle and was impressed by the glamour surrounding said uncle as a killer. So, he blindly followed him and did his bidding even if he did not expect any reward, although according to said uncle, that morning when Cruz gave P200.00 and the watch of De Guzman to him (Rubillos), the latter gave Saldivia the watch plus P32.00.

We agree with the trial court that appellants are guilty of the crime of robbery with homicide. There is every reason to believe that De Guzman was killed for his money. Cruz, it will be recalled, asked him to bring with him from Manila, P1,800.00. Cruz admitted that he thought that his uncle had with him at least P1,200.00. And his co-conspirators undoubtedly knew this because they were given to understand that De Guzman and Cruz went to Tacloban to buy second-hand jeeps, spare parts, etc., and after De Guzman was killed, the first thing that Cruz did was to take from his person, the wrist watch and the pocket-book which must have contained over P1,000.00.

In the commission of the crime, the following aggravating circumstances were present:

Evident premeditation—which although not applied in case of simple robbery, nevertheless, is to be considered in robbery with homicide;^[1] nighttime; superior strength; price or reward.

We might also consider the additional aggravating circumstance of craft, appellants having lured the victim to the place where he was killed and robbed.

In the face of these aggravating circumstances, without any mitigating circumstances to offset them, we see no other way but to agree to the imposition of the extreme penalty of death. We also agree with the Solicitor General that the appealed decision should be modified in the sense that the amount of P906.00 belonging to De Guzman and recovered from Cruz, as well as the wooden valise also belonging to him and recovered from Moldes, should be ordered returned to the heirs of the deceased.

In view of the foregoing, and with the modifications above-indicated, the appealed decision is hereby affirmed. With costs.

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

^[1]People vs. Valeriano, et al., 90 Phil., 15, promulgated September 19, 1951; Prof. Ambrosio Padilla on Criminal Law, Revised Penal Code, Book, 1, p. 248.

Date created: September 25, 2014