

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
DEMETRIO MOSTOLES ET AL., DEFENDANTS. LUCIANO PABLO,
DEFENDANT-APPELLANT.**

G.R. No. L-2880. March 31, 1950

Ponente: TORRES, J.

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TORRES, J.:

Luciano Pablo and his co-defendants Demetrio Mostoles, Rufino Lazaro, Pedro Velasco, Benjamin Valdez, Mariano Velasco and Leandro Pablo, were charged with triple murder for the death of Pablo Saure, Perfecto Marilao and Miguel Marcos, in two separate informations filed in criminal cases nos. 549 and 608, of the Court of First Instance of Isabela, which by leave of the court, were consolidated in one case. With the exception of Luciano Pablo, Demetrio Mostoles and Rufino Lazaro who pleaded not guilty, the other four accused pleaded guilty and were sentenced accordingly.

After proper trial, Rufino Lazaro was acquitted, while Luciano Pablo and Demetrio Mostoles were each sentenced to reclusion perpetua for the death of each of the three victims, and pursuant to Article 70 of the Revised Penal Code, the maximum period of the duration of the three penalties of reclusion perpetua imposed upon each culprit shall in no case exceed forty years, with the accessory penalties of the law, to indemnify jointly and severally the heirs of the deceased Pablo Saure, Perfecto Marilao and Miguel Marcos in the amount of P2,000 for each victim, and to pay one-third (1/3) of the costs.

This case is before this Court on appeal taken by Luciano Pablo.

Upon Our careful consideration of the facts established by the prosecution in this case, it appears that at about 10 o'clock in the morning of August 8, 1948, Pedro Velasco and his wife, Mariano Velasco and Benjamin Valdez and his wife, residents of the barrio of Bantug Petines, municipality of Angadanan, province of Isabela, came to the house of Rufino Lazaro in the barrio of San Manuel, municipality of San Mateo of said province, for the purpose of borrowing some corn grain for their consumption. Having accomplished their purpose, they did not return, however, to their homes until about 3 o'clock in the afternoon.

In the meantime, Luciano Pablo, with Demetrio Mostoles and Emiliano Tenoso, arrived and joined the group of Pedro Velasco in the house of Rufino Lazaro, and although the house of appellant Luciano Pablo was about only one kilometer away from that of Rufino Lazaro, he decided to stay and wait for his companions, because he intended to load the things that he had bought on their bulcarts. But when they were ready to depart, the rain prevented them from doing so and they transferred to a nearby store of the daughter-in-law of Rufino Lazaro, and while there, drank some wine.

Pablo Saure, Perfecto Marilao and Miguel Marcos, residents of the barrio of Bantug Petines, arrived in the meantime and sought shelter in the store, and at the suggestion of Pedro Velasco, the new arrivals, who were barrio-mates of Demetrio Mostoles, agreed that they would all go home together after taking their supper at the house of Rufino Lazaro.

After staying for about an hour in the store, Rufino Lazaro, Luciano Pablo, Pedro Velasco and Demetrio Mostoles went to the house of Leandro Pablo, only about ten meters away, and upon reaching the same, Demetrio Mostoles, who was a barrio lieutenant of Bantug Petines, told his companions that the new arrivals, Saure, Marilao and Marcos, were bandits who gave much trouble in his barrio. On his part, appellant likewise confided to Ms companions that he had suspected that those three persons were responsible for the disappearance of his carabao, and so urged his companions that they be put to death. The proposal of Luciano Pablo having been accepted by his confederates, they discussed the plan to liquidate Saure, Marilao and Marcos.

At about 7:30 o'clock in the evening, while the group, including the intended victims were partaking of supper in the house of Rufino Lazaro, suddenly and unexpectedly three unknown persons appeared at the door of the kitchen and ordered the inmates not to make any move. Immediately, Pedro Velasco stood up and ordered his companions to bind the hands of Pablo Saure, Perfecto Marilao and Miguel Marcos. It is shown in the record that this appellant helped Pedro Velasco in tying the hands of Pablo Saure behind his back. When the hands of the three persons were thus bound behind their backs, they were herded and ordered to go down the house. Rufino Lazaro, sensing the impending tragedy and unwilling to be implicated in the affair, protested the killing of the three persons in his house; and addressing Pedro Velasco, his brother-in-law, told him: "Please do not do that because there are authorities before whom you could bring these people, if they really commit any fault;" but Pedro Velasco was adamant in his purpose to carry out their plan and said: "Whoever does not recognize my authority will be implicated herein," and told Rufino, "You better come along to indicate the place where we could kill them." Thus, Rufino Lazaro led them to an abandoned well about seven meters away from his house.

The three victims, who were hogtied, were lined up near the well, and Demetrio Mostoles, after flouting Perfecto Marilao, cut his right ear and then slashed him to death.

A similar fate met the other two victims, Saure and Marcos, and finally, Mostoles gave bolo blows to all the mortally wounded victims. Upon his suggestion, the lifeless bodies were thrown and dumped into the abandoned well and covered up with dirt and pieces of wood.

The assassins returned to the house of Rufino Lazaro, whom they overtook walking homeward. Once in the house of Lazaro, Pedro Velasco warned his companions, including Rufino Lazaro, not to reveal the crimes to anybody, otherwise the squealer will be killed, together with the members of his family. Then Pedro Velasco, Mariano Velasco, Benjamin Valdez, Luciano Pablo, Leandro Pablo, Emiliano Tenoso and Demetrio Mostoles returned home together, reaching Bantug Petines at about daybreak of the following morning.

On August 14, 1948, Jose Saure, brother of Pablo Saure, one of the three victims, visited the headquarters of the MPC detachment of barrio Cabatuan, municipality of Cauayan, province of Isabela, to report a robbery perpetrated in his house on the 11th of that month, and the disappearance of his brother who had not been heard from since August 8, 1948, Jose Saure informed the company commander that Pedro Velasco had been identified as one of the perpetrators of the robbery, and that he suspected Luciano Pablo as one of the persons who had stolen his carabao; that Demetrio Mostoles had a grudge against him because of his refusal to serve as a rural policeman, under the former, who was then barrio lieutenant of Bantug Petines. The report was indorsed for investigation to Sgt. Tumangday, who found out that one Jeremias Martinez, a relative of Perfecto Marilao, was maltreated by Demetrio Mostoles, and as a consequence thereof, a criminal complaint for physical injuries was filed against Mostoles in the Justice of the Peace Court of Angandanan, Isabela (Exhibit K) in which Miguel Marcos, another victim of the murder under consideration, was a government witness.

With this clue, Sergeant Tumangday, pinning his suspicion on Mostoles as one of the murderers, and who was serving sentence in the municipal Jail of Angandanan, interrogated him regarding the disappearance of Miguel

Marcos. It appears that when the case for physical injuries was called for trial on August 17, 1948, in the Justice of the Peace Court of Angandanan, Mostoles readily entered the plea of guilty, although none of the government witnesses appeared before the court. After rigid questioning by Sgt. Tumangday, Mostoles had to admit that he was present during the killing of Miguel Marcos, Pablo Saure and Perfecto Marilao in San Manuel, and implicated Pedro Velasco, Mariano Velasco, Emiliano Teñoso, Luciano Pablo and Bernarde Cabati, as the perpetrators of the crime. Mostoles was, therefore, detained by the sergeant in his temporary headquarters at Bantug Petines, together with Emiliano Teñoso and Mariano Velasco, for further questioning. Pedro Velasco could not be found in the barrio, he being at that time in Ilagan.

While working in his temporary headquarters at Bantug Petines, Sgt. Tumangday was approached by Rufino Lazaro, who secretly reported that he knew something about the death of Marcos, Saure and Marilao. Rufino Lazaro described the events that took place in his house at San Manuel on the night of August 8. Mariano Velasco was then investigated and confessed his participation in the crime, stating in detail how Saure, Marcos and Marilao had been murdered by him and his confederates. Mostoles was again questioned, and this time he admitted having gone to the well, but still denied his participation in the killings. He, however, pointed to Luciano Pablo, as one of the assassins. Pedro Velasco was likewise investigated, but, disclaiming any knowledge of the affair, alleged that he was in Ilagan on the night of August 8, 1948.

On the following morning of August 18, Sergeant Tumangday sent for Benjamin Valdez, who, upon learning that Demetrio Mostoles, Mariano Velasco and Pedro Velasco were already held in custody, broke down and admitted that he was one of the perpetrators of the murders, but alleged that he took part therein upon orders of Pedro Velasco. In the afternoon of August 19, Sergeant Tumangday brought Mariano Velasco, Demetrio Mostoles, Pedro Velasco, Benjamin Valdez and Emiliano Teñoso to San Manuel, and on the way, the sergeant dropped in the house of Luciano Pablo for questioning. Luciano denied having participated in the binding of the hands of the victims in the kitchen of the house of Lazaro, but admitted having gone to the well with his confederates and to have witnessed their killing, and pointed to Benjamin Velasco, Mariano Velasco, Leandro Pablo and Demetrio Mostoles, as the assassins.

Upon reaching the house of Rufino Lazaro in San Manuel, the sergeant requested Rufino to point out the well where the dead bodies of Saure, Marcos and Marilao had been dumped, but Lazaro had dysentery and could only give a description of the place. With the sanitary inspector of San Manuel and a photographer, Sergeant Tumangday, the chief of police of San Mateo and the relatives of the victims, proceeded to the scene of the crime, bringing with them Demetrio Mostoles, Pedro Velasco, Luciano Pablo, Benjamin Valdez, Mariano Velasco and Emiliano Teñoso. Sergeant Tumangday ordered Mostoles and Pedro Velasco to descend to the bottom of the well (Exhibit F) to retrieve the dead bodies. The water from the well had to be drained, and after excavating the bottom, the three dead bodies were brought out and identified by their relatives as those of Pedro Saure, Miguel Marcos and Perfecto Marilao, respectively. The photograph of the dead bodies is Exhibit G of the prosecution. Upon examination of the dead bodies by Dr. Montero of the Sixth Sanitary Division of the province, he issued Exhibit "A", which describes in detail the mortal wounds inflicted by the culprits upon each of their three victims.

Later on, at about 4:30 in the afternoon of August 19, 1948, Leandro Pablo, in the office of the chief of police of San Mateo, voluntarily confessed to have taken part in the killing of Saure, Marilao and Marcos, but alleged that he was ordered to do so by Pedro Velasco. This confession was put in writing by the chief of police.

On the following morning, the confession of Benjamin Valdez and the statement of Emiliano Teñoso were reduced to writing; and on the next day, the confession of Mariano Velasco and the statement of Luciano Pablo were also taken down in writing and the respective confessions of Demetrio Mostoles and Pedro Velasco were also written at a later date.

In the light of the above facts, it only remains for us to discuss herein the role performed by this appellant in this triple tragedy. Although the appellant has admitted his presence at the time and place of the commission of the crime, he, however, contends that he did not participate in its perpetration, that he was simply compelled to witness the same.

But according to Pedro Velasco, testifying for the prosecution, it was the appellant who, suspecting that the three victims (Pablo Saure, Perfecto Marilao and Miguel Marcos) were responsible for the loss of his (Luciano Pablo's) carabao, suggested that those three persons be killed. The idea of liquidating those victims having been advanced by this appellant, a conspiracy was thereby born to kill them. Since appellant was one of the conspirators—in fact he was the author of the idea of liquidating those unfortunate victims—it is preposterous to argue now that Luciano Pablo was merely compelled to witness the commission of the crime. But he did more than that, because Luciano Pablo not only took part in the conspiracy, but he also directly participated in the execution of the preconceived plan to eliminate the three victims, by binding the hands of Pablo Saure and dumping into the well the cadavers of those three victims, in order to avoid the discovery of the crimes.

Thus, by having taken a direct part in the commission of the crime, by participating in the criminal resolution to accomplish the evil purpose and by personally taking part in the performance of acts which led to the accomplishment of the evil purpose sought by the conspirators, the liability of this appellant as principal of the three murders under consideration is beyond any shadow of doubt (*People vs. Tamayo*, 44, Phil., 38).

It might be argued that it has not been shown that appellant did not himself inflict upon any of the three victims any injury contributing to their death, but as already stated, the conspiracy between this appellant and his co-defendants having been amply proven, the fact that Luciano Pablo did not personally inflict any injury to any of the victims, that might have caused materially their death, did not lessen his criminal liability.

Moreover, the absence of evidence showing improper motives on the part of the prosecution witnesses Pedro Velasco and Emiliano Teñoso, strongly supports the conclusion of the lower court that their respective testimonies have been given the credit that they deserve.

It was also contended by appellant that he tried to dissuade Pedro Velasco from committing the offense. It should be remembered that, as stated at the beginning of this opinion, Pedro Velasco, upon his plea of guilty, was sentenced by the lower court to the penalty of reclusion perpetua. It can not, therefore, be alleged that he testified in consideration of his having been discharged to be a witness for the Government. Hence, his testimony can not be considered tinged with improper motives, as alleged by the defense. On the contrary, it should be received, as it was received by the trial court, according to its worth. Said the trial court -

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"* * * We cannot give credence to his declaration because oddly enough he had participated in tying Pablo Saure and Marcos Miguel, and therefore, it is quite incredible that he would intercede and implore mercy for the victims when he himself had participated in rendering them defenseless by tying up their hands. But assuming for the sake of argument that he did not participate in tying the victims, the fact that he voluntarily joined Pedro Velasco, Demetrio Mostoles, Mariano Velasco, Leandro Pablo and Benjamin Valdez in bringing the victims to the spot where they were murdered, shows that he conspired with them to kill the victims. What is more, his participation in the commission of the crime is not without any motive, because he suspected Jose Saure, the brother of Pablo Saure, as the author of the disappearance of his (Luciano 's) carabao."

Predicated on all the above, we have come to the conclusion that, as found by the lower court, the guilt of appellant, as criminally responsible for the death of Pablo Saure, Perfecto Marilao and Miguel Marcos, has been established beyond reasonable doubt. The circumstance of treachery qualified the killings of the three victims.

Evident premeditation has also attended the commission of the crimes as an aggravating circumstance. In accordance with the evidence, this appellant and his confederates deliberately planned the commission of the offenses at about 4 o'clock in the afternoon and commenced the execution thereof at about 7:30 in the evening, or after the lapse of about three and a half hours. Sufficient time having, therefore, intervened between the conception of the idea and the resolution to carry out the killings, and the fulfillment of their preconceived plan, for the malefactors to dispassionately reflect upon the consequences of their act, or to desist from its execution (*People vs. Bangug*, 52 Phil., 87; *U. S. vs. Gil*, 13 Phil., 530), it is undeniable that the circumstance of evident premeditation aggravates the criminal liability of this appellant.

No mitigating circumstance is present in this case to offset the effect of said aggravating circumstance, for which reason, the Solicitor General recommends that the supreme penalty of death be inflicted upon appellant.

The three murders under consideration were committed on August 8, 1948, after the enactment of Republic Act No. 296, the Judiciary Act of 1948, which went into effect on June 17, 1948. In view of the lack of the necessary number of affirmative votes required by the provision of the last paragraph of Section 9 of said Act for the imposition of the death penalty, and inasmuch as the co-accused of this appellant have been sentenced to, and are now serving three penalties of reclusion perpetua, in line with the ruling laid down by this Court in *People vs. Sakam* (61 Phil., 27), subject to the provisions of Article 70 of the Revised Penal Code, this appellant is hereby sentenced to reclusion perpetua, with its accessories, for each of the three murders committed by him.

The judgment appealed from is, therefore, affirmed. Appellant shall pay the costs.

Moran, C.J., Ozaeta, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

MORAN, C.J.:

Mr. Justice Paras, for the reasons given in this opinion, voted for the confirmation of the judgment appealed from, but, on account of his being on leave at the time of the promulgation thereof, his/ signature does not appear herein.

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