

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALFREDO RIPARIP ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. L-2408. May 31, 1950*

Ponente: REYES, J.

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This is an appeal from a conviction for murder.

Enrique Roldan, ex-mayor of Bayambang, Pangasinan, and a lieutenant in Ramsey's guerrilla outfit, was, on December 27, 1944, kidnapped and on the following day killed by members of other guerrilla units operating in that region. For this killing three informations for murder were filed after liberation: one against Hilario Ambat, one against Genaro Bato, and one against Alfredo Riparip, Carlos Lauson, Florencio Ilagan, Federico Alcantara, Loreto Bravo, and Ernesto Flores. The case against Hilario Ambat is not before us, but according to one of the briefs, that case was, upon motion of the prosecution, ordered dismissed. The other two cases were, upon petition of the parties, heard jointly, although the defendants were granted separate trials "on condition that the evidence of the prosecution would be considered as presented against each and every one of said defendants without need of reproducing it in every individual case." Ernesto Flores, one of the defendants in the third case, was ordered discharged before trial so that he could be used as Government witness.

The evidence for the prosecution shows that the said Enrique Roldan was the holder of a license issued by the Occupation authorities for the exploitation of a fishpond in Bayambang. The products of this fishpond he shared with the men of his guerrilla unit. But, apparently, some leaders of Hunter's ROTC and the Allied Intelligence Bureau guerrillas also wanted the fishpond for themselves, for in November, 1944, a group of men from both outfits, headed by Hilario Ambat and appellant Genaro Bato, went to see Roldan and demanded possession of the fishpond, and when the demand was refused, they told him that "someday he would pay for his refusal." Some time thereafter, the group returned and made another attempt to get possession of the fishpond, but as Roldan would not yield, they came back later in the night and tried to lay hands on him. He was, however, able to escape. But finally, on December 27, 1944, a group, composed of Ernesto Flores (the accused who turned state witness), Carlos Lauson, Florencio Ilagan, Federico Alcantara, Lereto Bravo, and the appellant Genaro Bato, succeeded in capturing Roldan in his country house. Taking him to the barrio of Lagari, Bayambang, they surrendered him to the appellant Alfredo Riparip, a ranking guerrilla officer, and then left. But on the following day, the appellant Bato, accompanied by Alcantara and Flores, returned to Lagari and from there proceeded to the nearby barrio of Nagsang where Riparip had his headquarters. There Alcantara dug a pit. Brought to the edge of the pit by Bravo and a companion, Roldan, who had his hands tied behind his back, asked for mercy from Riparip, who was then present. But ignoring the plea, Riparip turned to Bravo and gave him the order "Go ahead, kill him," whereupon, Bravo gave Roldan two bayonet thrusts, killing him. Falling into the pit, Roldan's body was covered with earth by Ernesto Flores. With the assistance of Alcantara, this pit was located after liberation and Roldan's remains exhumed and identified.

After the execution of Roldan, Daniel Bato Hilario Ambat and the two appellants herein took possession of the

fishpond in question and exploited the same by selling its products.

Testifying in his own defense, appellant Riparip tried to establish an alibi, declaring that it was not true, as testified to by Ernesto Flores, that he had ordered the killing of Roldan, for he was at the time in the barrio of San Francisco, Sta. Ignacia, Tarlac. He said that Roldan was a compadre of his father-in-law, and when he learned of his arrest he hastened to his rescue, but it was too late, for when he got to the place of execution appellant Bato and Alcantara told him that Roldan had already been killed. He would attribute his inclusion in this case to his refusal to pay a bribe to Roldan's brother, the chief of police, Antonio Roldan, who, he said, had offered to release him if he would give him P3,000 from his back pay. He admitted that he had worked for Roldan as watchman of his fisheries for three months; that Roldan was giving some of the fish from his fisheries to his guerrilla unit; that he had no personal knowledge that Roldan was a Japanese spy and that it is true, as reported in his affidavit Exh. I, that when he asked Bato and one Iding (probably Federico Alcantara) why they killed Roldan, they answered that it was "because of the fisheries."

The appellant Genaro Bato, on his part, while admitting participation in the apprehension of Roldan, disclaimed responsibility therefor. He testified that on the night of December 27, 1944, while he was with Flores and Alcantara, the three of them being unarmed, they met a force of 7 or 8 men armed with sub machine guns, carbines, and pistols and headed by Riparip and Lauson, whose names at the time struck terror in that locality; that this group at gunpoint compelled them to go with them to arrest Roldan but sent them home after Roldan had been arrested and was being brought to Riparip's headquarters; that the following day Riparip sent for them and informed them that Roldan had already been executed; that he knew Riparip and Roldan to be partners in the fishery business and that when he asked Riparip why Roldan was arrested, Riparip told him that it was because Roldan had cheated him in that business; and that he and his men had been told by Ambat to keep an eye on Riparip who had a reputation for lawlessness for taking fish out of fishponds that did not belong to him.

The lower court acquitted Carlos Lauson and Florencio Ilagan, but found the remaining defendants guilty. From the judgment of conviction, Alfredo Riparip, Genaro Bato, and Loreto Bravo appealed, but Bravo's appeal was later allowed to be withdrawn. The sentence against Riparip and Bato reads as follows:

"(1) Declaring the defendant Alfredo Riparip guilty, as principal, beyond reasonable doubt of the crime of murder for having ordered the killing of Enrique M. Roldan by Loreto Bravo under treacherous circumstances and imposes upon him the penalty of reclusion perpetua, with the accessories of the law; to indemnify the heirs of the deceased Enrique M. Roldan, Jointly and severally with his co-accused convicted in these cases, in the sum of P8,000; and to pay 1/5 of the costs.

"(1) Declaring the defendant Genaro Bato, alias Arong, guilty, as principal, beyond reasonable doubt of the crime of Murder and imposes upon him the penalty of reclusion perpetua, with the accessories of the law; to indemnify the heirs of the deceased Enrique M. Roldan; (.) jointly and severally with the accused convicted in Criminal Case No. 17191, in the sum of P8,000 and to pay the costs."

The killing of Enrique Roldan at the time and place and in the manner above narrated is beyond dispute, the same being admitted by the executioner himself, the accused Loreto Bravo, who, acting under orders from a superior, gave Roldan two bayonet thrusts which caused his death. The only question is whether these appellants have had anything to do with the crime»

The appellant Riparip would wash his hands of the whole affair by denying having given the order to kill Roldan, declaring that he was in the province of Tarlac when Roldan was killed. But considering that the killing took place at Nagsang, where Riparip had his headquarters, it is not likely that it could have been done without his authority, specially in view of Bato's testimony that it was Riparip who ordered Roldan's arrest. Riparip's explanation that he was included in the complaint because of his refusal to pay a bribe to Roldan's brother is denied by the latter

and is unsupported by reliable proof. Anyway, we have the testimony of Ernesto Flores that Riparip was present at Roldan's execution and was, as a matter of fact, the one who gave the order to kill.

Counsel for Riparip tries to impugn Flores testimony as coming from a polluted source, the same being supposedly given in consideration for his discharge. But as the Solicitor General observes in his brief, "Flores' version at the trial was but a reiteration of his affidavit and his testimony during the preliminary, investigation before the justice of the peace * * *, both of which were subscribed by him prior to his discharge." It is true that the testimony of an accomplice should be scrutinized with care as it is properly subject to grave suspicion. But such testimony is competent and may warrant conviction if corroborated to such an extent that its trustworthiness becomes manifest. (U.S. vs. Remigio, 37 Phil. 599). In the present case, Flores's testimony finds ample corroboration. His account of Roldan's arrest on the night of December 27 is confirmed by the defendants Carlos Lauson and Federico Alcantara as well as by Roldan's paramour, Felisa Arenas, and his son, Agaton. His statement that Roldan, on being arrested, was taken to Riparip's headquarters finds support in the testimony of defendant Loreto Bravo, and his declaration that while there Roldan was hit and felled by Florencio Ilagan alias Little Boy, is likewise corroborated by the defendant Carlos Lauson. Finally, his assertion that when about to be killed Roldan was pleading for mercy and that he was killed by two bayonet thrusts administered by the defendant Bravo is corroborated by the latter, except that, to save Riparip, who was his commanding officer, Bravo named Bato, who belonged to a different guerrilla unit, as the one who gave the order to kill. In the circumstances, it would not be reasonable to believe that Flores' story was a pure invention conceived with the idea of pleasing the prosecution at the expense of his co-accused.

As to the appellant Genaro Bato, it is admitted that he was with the arresting party on December 27, although he claims that he was made to join that party under duress. This claim, however, is not believable, not only because it is contradicted by Ernesto Flores, but also because according to Roldan's son, Agaton, this appellant was with the group that about a month before had asked Roldan to surrender his fishpond and later tried to kidnap him and threatened him with death because of his refusal to accede to their demand. His presence at the execution is testified to not only by the state witness, Ernesto Flores, but also by the defendants Carlos Lauson and Loreto Bravo, and is also made probable by his own admission that he went to the place of execution on the date it took place although he claims that the killing was over when he arrived.

The defense claims amnesty for appellants on the pretense that the deceased was a spy. The proof on that point, however, is far from satisfactory. Neither appellant has affirmed that Roldan was really a spy. The most that Bato could say in that connection was that Riparip told him that Roldan was a spy. But not even Riparip himself could be sure of this accusation, for he admitted that he had no personal knowledge that Roldan was a spy. The accused Loreto Bravo testified that when he asked Bato the reason for the killing of the deceased, Bato told him that the deceased was a Japanese spy and was the one who pointed out his brother, a guerrilla, to the Japanese. This is, however, hearsay, and not even Bato himself would affirm it on the witness stand.

It is true that Hilario Ambat, a commanding officer of the ROTC guerrillas, testifying as a witness for some of the accused, declared that the deceased was in the wanted list of his intelligence officer. But asked why the deceased happened to be included in that list, his only explanation is that his intelligence officer "reported to me (witness) that Enrique Roldan was often going to the Japanese officers and, aside from that, he was in charge of the fisheries under the supervision of the Japanese." And it should be taken into account in this connection that this witness, at the time he was testifying, was himself an accused, charged with the murder of the same victim, Enrique Roldan, although in a separate case. It is, therefore, understandable that he should try to justify the killing for which he was also being made responsible. Furthermore, according to the evidence for the prosecution, he was among those who had asked Roldan to surrender the fishpond and took possession of it and sold its products after

Roldan's death.

On the other hand, it is an admitted fact that Roldan was himself a guerrilla and was supplying fish to the other guerrillas. In fact, according to his widow, he was once caught by the Japanese, detained in the garrison for half a day and maltreated because they took him for a guerrilla.

The real motive for the murder is not far to seek. It may be gleaned not only from the evidence for the prosecution but also from the testimony for the defense. There is clear proof that when Roldan refused the demand for the surrender of the fishpond those who were making the demand got angry and told him, "If you don't give the fishpond, then your life will answer, so prepare yourself." On his part, the appellant Riparip admitted on the witness stand having stated before the justice of the peace that "the fishery was one of the causes for the killing;" while appellant Bato testified that he knew that Riparip and Roldan were partners in the fishery business and that Riparip had told him that he had Roldan arrested for having cheated him in that business. Furthermore, the accused Carlos Lauson declared that during the investigation of Roldan by Bato, he heard the latter ask the former this question: "Why don't you give us the fisheries?" When it is recollected that appellants and their confederates did in fact take possession of the fishpond after Roldan's death, it is but reasonable to infer that that was their real purpose in eliminating him. In carrying out that common purpose, appellants were acting in concert so that each was responsible not only for his own acts but also for those of the other.

The record, in our opinion, fails to show that the deceased was really regarded by the appellants as a Japanese collaborator or spy and that his execution was in furtherance of the resistance movement. Rather, the evidence shows that all this hue and cry about the deceased being a spy was a mere cloak to hide the real intention of the killers, which was to possess themselves of the fishpond administered by the deceased, as in fact they did after his death.

After going-over the evidence, we see no reason for disturbing the findings of the trial court, and as the sentence against the two appellants herein is in accordance with law, the same is hereby affirmed, with costs against them.

Ozaeta, Pablo, Bengzon, Tuason, and Montemayor, JJ., concur.

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