

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMUALDO DORICO, FERNANDO DORICO, AND DIONISIO BALLONICO, DEFENDANTS-APPELLANTS.

G.R. No. L-31568. November 29, 1973

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Appeal from the decision of the Court of First Instance of Samar, Branch IV, convicting accused Romualdo Dorico, Dionisio Ballonico and Fernando Dorico of the crime of murder and sentencing them as follows:

"WHEREFORE, The Court finds the accused, Romualdo Dorico, Dionisio Ballonico and Fernando Dorico, guilty beyond reasonable doubt of the crime of Murder qualified with treachery and with the pre-sence of the aggravating circumstance of superior strength which is not offset by any mitigating cir-cumstance, and hereby sentences each and every ac-cused, Romualdo Dorico, Dionisio Ballonico and Fer-nando Dorico, to the supreme penalty of DEATH; to indemnify the heirs of the deceased in the amount of P12,000.00; to pay moral damages in the amount of P6,000.00; and to pay the costs of the proceedings."[1]

Accused Romualdo Dorico and Fernando Dorico are brothers, while accused Dionisio Ballonico is their first cousin. All the accused and the deceased, Gervacio Dapulag, were residents of barrio Makiwalo, Mondragon, Northern Samar. There are two conflicting versions of what happen-ed on the fatal day October 12, 1964, when Gervacio Dapulag was stabbed to death.

According to the prosecution, thru the testimony of Rosa Dapulag, an eyewitness and daughter of Gervacio Dapulag, on October 12, 1964 at about 5 o'clock in the afternoon, while her father was walking towards the store of Estropio Dorico on his way to the farm, she saw accused Romualdo Dorico and Dio-nisio Ballonico come out of said store and accosted her father; that without much ado, Romualdo immediately stabbed her father, hitting him at the upper left arm, with the wound exit-ing at the inner part thereof and penetrating the left armpit; that when her father turned his back to find out who stabbed him, he was again stabbed this time by Dionisio Ballonico, hitting him on the left side of his back with the wound exiting on the abdomen; that when her father tried to run away from the two assailants, he was met by accused Fernando Dorico coming from the nearby store of Castor Dorico, another brother of the ac-cused, and who hit him with his fist which made her father drop to the ground; that Romualdo again approached her father and hacked him on the knee; that with her father lying helpless on the ground, the three accused started challenging everybody; that she saw all that happened because she was only about 30 meters behind her father on her way also to the farm to help him graze their carabaos; that she immediately hired a jeep to take her father to the hospital but it was too late and, instead, brought his remains back home; that the reasons why the Doricos and Dionisio Ballonico wanted to kill her father was because he insisted on the filing of a criminal complaint against Romualdo Dorico for the killing of one Patrocinio Megenio, a nephew of her mother and who grew up with them in their home; and that because of the death of said Patrocinio Megenio on August 15, 1964, criminal Case No. C-1511 was filed against Romualdo Dorico with the Court of First Instance of Samar.

It was not only Rosa Dapulag who actually saw what happened on October 12, 1964, but also Alberto Uy another eye-witness who testified as follows: that on the date and at the time of the incident he was inside the store of Estropio Dorico trying to buy some cigarettes; that inside said store were Honorio Dorico (father of Romualdo and Fernando and uncle of Dionisio Ballonico), Romualdo Dorico, Dionisio Ballonico and Julio Cerenado, drinking liquor called "Mallorca"; that he heard Honorio tell the group that it was Gervacio Dapulag who instigated the filing of the criminal charge against Romualdo for the killing of Patrocinio Megenio, at the same time pointing to Gervacio who was then approaching the store of Estropio; that Romualdo and Dionisio went out of the store and accosted Gervacio; that at this point up to the point where Fernando Dorico boxed Gervacio, Alberto Uy corroborated the testimony of Rose Dapulag with the only difference that it was Dionisio who first stabbed Gervacio then followed by Romualdo; that the weapons used by both assailant were bolos called "Depang"; that at the time of the incident he saw Rosa Dapulag; and that after witnessing what happened he became scared and ran to the house of his uncle, Ceferino Vicario.

The autopsy report[2] indicating the number of wounds received by the deceased was also presented and reads as follows:

"1.

One clean cut incised stab wound on the left mid-lateral arm 4-3/4 cms. (2 inches) long, penetrating and to exit at the inner left arm 1-1/4 inches long and to hit again the upper lateral thorax below the left armpit. Stab wound measures one inch long 3-1/2 inches deep.

"2.

Presence of one clean cut incised stab wound on the right dorso-lateral upper aspect of the thorax, measures 1-1/2 inches long by 1-1/4 inches deep.

"3.

Presence of a clean cut incised stab wound on the left dorso-lateral aspect of the abdomen 2 inches long, penetrating to hit the left ventral aspect of the abdomen two inches above the umbilicus, measures 1-1/4 inches long.

"4.

Presence of a clean cut incised stab wound on the left knee measures 1-1/2 cms. long by 1 cm. deep.

"5.

Presence of one contusion on the right pinna (ear).

Conclusion

Nature of Injuries: That there are two kinds of wounds namely, open and closed wounds. That there are four stab wounds two of which are penetrating (thru and thru) and fatal in nature as they hit important organs (aortic arch and small intestines). That the wounds were caused by sharp edged pointed and bladed instrument. Other wounds contributed as bleeders.

Cause of Death: Shock from severe hemorrhage due to multiple stab wounds."

There were two more eyewitnesses, namely, Fernando Dones and Purita Becario. They were supposed to testify also but for unknown reason said witnesses left for Manila before trial without giving any forwarding addresses.

Upon the other hand, accused Fernando Dorico put up the defense of alibi, while the other brother, Romualdo Dorico, advanced the theory of self-defense. Their cousin, Dionisio Ballonico, put up the defense of non-participation in the commission of the crime. Their versions are as follows:

Romualdo Dorico: That on October 12, 1964, he was in the store of his brother Estropio; that in said store were his cousin, Dionisio Ballonico, the latter's wife, Elisa, with a son, Estropio and the latter's wife, Flor de Guia; that while their group were talking, Gervacio Dapulag arrived and called him; that when he went out of the store, Gervacio asked him why he slashed his carabaos and he answered that why should he (Romualdo) slash his (Gervacio's) as he has carabaos of his own; that with his answer, Gervacio flared up and immediately unsheathed his bolo and slashed him, but he was able to parry the blow; that Gervacio again delivered the second blow but he was able to duck; that after this they grappled with each other for the possession of the bolo of Gervacio; that he succeeded in wresting possession of the bolo; that Gervacio attempted to wrest back the bolo and this time he stabbed him on the left side of the body; that he again stabbed Gervacio for the second time on the body; that his third stabbing blow hit Gervacio on the knee; that Gervacio staggered and fell to the ground; that after the incident he went to Mayor Olimpio de Guia and informed him of what had happened and at the same time surrendered; that Alberto Uy and Rosa Dapulag were not present during the stabbing incident; that his brother Fernando Dorico was not either present; that the reason why Alberto Uy testified against all the accused was in consideration of the dropping of the arson case filed by Rosa Dapulag against Alberto.

Mayor Olimpio de Guia: That on October 12, 1964, at about 5:00 p.m., Romualdo Dorico surrendered to him for stabbing Gervacio Dapulag.

Fernando Dorico: That in the morning of October 12, 1964, he was in his farm and returned to his house at about 3:00 in the afternoon; that after resting for a while he went to the beach to buy some fish; that at the beach he met Agripino Calupo who was also looking for some fish to buy; that he and Agripino, having failed to buy some fish returned to gather to the poblacion of the barrio; that on their way home they met some people talking about the killing of Gervacio Dapulag by Romualdo Dorico; that he went home right away after hearing the news for fear that the relatives of Gervacio might retaliate as he is the brother of Romualdo, and that his inclusion in the complaint was due to his being a brother of Romualdo.

Agripino Calupo: That it is true he met Fernando Dorico at the beach on the date and at the time of the incident and, therefore, Fernando could not have been present at the scene of the crime.

Juan Cabalitan and Estropio Dorico: They more or less corroborated the testimony of Romualdo. Estropio also added that he did not see Alberto Uy in his store buying some cigarettes at the time of the incident.

Dionisio Ballonico: That his wife, his son and himself were in the store of Estropio Dorico in the afternoon of October 12, 1964; that he saw Gervacio Dapulag walking towards the store of Estropio and upon nearing said store, Gervacio called for Romualdo; that at this point up to the point wherein Romualdo hacked Gervacio on the knee, he corroborated the testimony of Romualdo Dorico; that he did not participate in the killing of Gervacio Dapulag; that Rosa Dapulag was not present when the incident happened; that he was implicated in this case only because he is a first degree cousin of the Doricos.

On October 13, 1964, accused Romualdo Dorico, Fernando Dorico and Dionisio Ballonico were charged with the crime of murder in a criminal complaint which reads as follows:

"That on or about 5:30 in the after-noon of October 12, 1964 in the barrio of Makiwalo, Mondragon, Province of Sa-mar, Philippines and within the (preliminary) jurisdiction of this Honorable Court, the above-named accused conspiring and confederating together and mutually helping one another with deliberate intent and with intent to kill, with evident premeditation, conspiracy, treachery, did then and there, willfully, unlawfully and criminally assault and attacked and stabbed to death one GERVACIO DAPULAG as a result of which the latter received mortal wounds in his different parts of his body resulted in his death." (page 1, Vol. I, folder of exhibits)

After due hearing of the case, the trial court found all the accused, Romualdo Dorico, Fernando Dorico and Dionisio Ballonico, guilty beyond reasonable doubt of the crime of murder as charged and sentenced as previously indicated. Hence this automatic review of the death penalty,

Five (5) errors of the trial court are assigned by the appellants, to wit:

"1.

The lower court gravely erred in not giving credence and evidentiary weight to accused-appellant Fernando Doric's defense of alibi and it erred in not holding that the prosecution witnesses' testimonies are unreliable and unworthy of belief;

"2.

The lower court seriously erred in not giving weight to the strong and convincing evidence on record showing that Romualdo Dorico acted in self-defense;

"3.

The lower court erred in not holding that accused-appellant Dionisio Ballonico has not participated in any manner in killing the victim, Gervacio Dapulag;

"4.

The lower court erred in finding that conspiracy existed among the three accused-appellants in the commission of the crime charged in this case; and

"5.

The lower court erred in convicting the accused-appellants herein of the crime charged."

I

The first assigned error deals with the credibility of accused Fernando Dorico whose defense of alibi was not given credence by the trial court, which is also claimed to have erred in not holding that the prosecution witnesses' testimonies are all unreliable and unworthy of belief. Fernando Dorico argues that during the trial he clearly established his whereabouts at the time and date of the incident by the testimony of Agripino Calupo whom he met at the beach and with whom he re-turned to the barrio; that on their way home they saw a group of people talking about the quarrel between Gervacio Dapulag and Romualdo Dorico and they heard that the former was killed by the latter; that all these were corroborated by Agripino, showing that he (Fernando) was not at the

scene of the crime when the incident happened.

Fernando further argues that the only ground on which the trial court found him guilty is his alleged positive identification by Alberto Uy and Rosa Dapulag. But he claimed that their testimonies are unworthy of belief. For if Uy was actually present when the incident happened and saw everything that transpired, there is no reason why he did not report it to the authorities. His name does not even appear in the information as one of the witnesses and this is indicative of his absence from the scene of the crime.

As regards Rosa Dapulag, Fernando further argues that if, as she claims, she informed the authorities about the death of her father the following morning and that she witnessed the commission of the crime, yet it is strange why no statement was taken from her by the police authorities about the incident; and that Rosa Dapulag, an alleged eyewitness like Alberto Uy, did not figure in the list of witnesses in the criminal complaint filed on October 13, 1964. Fernando concludes that the evidence for the prosecution leaves much to be desired and it exhibits a gap between doubtful evidence and proof beyond reasonable doubt.

The prosecution, on the other hand, reiterates the findings of the court a quo when it disposed of Fernando's alibi by relying on a long line of decisions of this Court holding that the defense of alibi is the weakest that can be conveniently put up by the accused because of the ease and facility with which it can be concocted and, to be believed, it must be supported by strong and convincing evidence, otherwise the same shall be discredited if there is direct and positive evidence establishing the identity of the accused. In the case at bar, the prosecution continues, accused Fernando Dorico was positively identified by Alberto Uy and Rosa Dapulag.

As to the credibility of Alberto Uy and Rosa Dapulag, the prosecution justifies their not having given any sworn statement to the investigating officer because there were enough witnesses to testify for the People at the preliminary investigation, namely, Francisco Dones and Purita Vicario, who executed affidavits (Exhs. "F" and "G", respectively). But for one reason or another, neither Francisco Dones nor Purita Vicario could be presented by the prosecution at the trial. Whether they were bought off or frightened away is not clear in the record. Had the prosecution foreseen this eventuality, it could have taken steps to take down the sworn statements of Alberto Uy and Rosa Dapulag and included them in the list of witnesses in the information. At any rate, there is no law, rule or decision requiring that only persons who have previously given sworn statements and have been listed down as witnesses may be allowed to testify in the trial of a criminal case.

The arguments of accused-appellant Fernando Dorico do not deserve serious consideration. The rule is well settled, to the point of being trite, that the defense of alibi must be received with utmost caution^[3] for it is one of the weakest defenses that can be resorted to by an accused, especially if there is direct testimony of an eyewitness duly corroborated by that of another.^[4] It is worthless in the face of positive identification by the prosecution witnesses pointing to the accused as participants in the crime.^[5] Besides, Agripino Megenio, a witness for accused Fernando Dorico, testified to wit:

Q.

You said you saw the dead body of Gervacio Dapulag on the street, how far is that place where you saw that dead body to the seashore where you and Fernando Dorico were looking for fish?

A.

About 300 meters away.

Q.

So that if you run from the seashore to the place where Gervacio Dapulag fell, it could take you only in less than 3 minutes?

A.

If one is a fast runner.

Q.

And we are very certain that you saw Fernando Dorico at 4:30 in the afternoon when you were dismissed from work?

A.

I am sure because we met.

Q.

You cannot be mistaken of the time of 4:30 in the afternoon?

A.

Why should I be mistaken when I could approximate the position of the sun when it was already down.

Q.

You cannot be mistaken of 5:30 in the afternoon?

A.

When I said 5:30 in the afternoon it was only my approximation, I do not actually have a timepiece. (t.s.n., pages 48-49, Vol. 3, emphasis supplied)

His testimony proves that the 300 meters distance between the place where the accused Fernando Dorico claimed to be and where the crime was committed is such that it does not rule out the possibility of this accused being at the place of the crime when the killing took place. It is not enough to prove that defendant was somewhere else when the crime was committed, but must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[6]

With regards to the issue that the names of Alberto Uy and Rosa Dapulag do not appear on the criminal complaint or information as witnesses for the prosecution, the last paragraph of Section 1, Rule 116 of the Rules of Court, specifically provides that the prosecution may call at the trial witnesses other than those named in the complaint

or information.[7]

II

The second assigned error to be resolved is whether or not the lower court erred in not giving weight to the alleged strong and convincing evidence on record showing that Romualdo Dorico acted in self defense. The elements of self defense are: 1) unlawful aggression, 2) reasonable necessity of the means employed to prevent or repel, and 3) lack of sufficient provocation on the part of the person defending him-self. In order that the plea of self defense can prosper, the above mentioned elements must be satisfactorily established. In the instant case, Romualdo Dorico claims that it has been clearly established that during the incident Gervacio Dapulag, the victim, first unsheathed his bolo and slashed him, and that he was able to move backward and on the second blow he ducked and parried Gervacio's hand. Under the circumstances he claims that there was unlawful aggression on the part of Gervacio which endangered his life. After he had parried the second blow, he maintains that they grappled for the possession of the bolo and he succeeded in wresting it from Gervacio, and when the latter attempted to wrest back the weapon he then stabbed the deceased. He concludes that the means employed were reasonable to prevent or repel the aggression; that he was justified in striking the deceased in view of the imminent danger or peril to his life, and that to stab Gervacio was the only reasonable means to repel his unlawful attack. As to lack of sufficient provocation, he asserts that the deceased had given cause for the aggression because of his unjust attack. As it was not he who incited the fight, Romualdo maintains that all the elements of self defense were duly satisfied.

Romualdo claims that the trial court, in rejecting the theory of self defense, based its finding on the following grounds: 1) that Romualdo threw the bolo after stabbing to death the victim; and 2) that he did not sustain even a small scratch in the course of their struggle. He argues that the fact that he threw the bolo and did not surrender the same does not necessarily make his claim of self defense untenable. He points out that immediately after the incident, he was under stress without knowing what is best to do under the circumstances; that he could not have acted with all the coolness of a person under normal condition, and that being a layman, he is unaware of the probative value in evidence of surrendering the weapon used in the assault.

And lastly, Romualdo contends that the second ground why the trial court did not give weight to his claim of self defense is because he did not even sustain a scratch in the course of the struggle with the deceased. However, he claims it is not necessary that the person defending himself must sustain an injury in order to act in self defense, and that the trial court demanded too much from accused-appellant which would entirely take away from him his right to self-defense.

If Romualdo Dorico really stabbed the victim twice in the body when the victim is claimed to have lunged at him to grab the bolo, the latter would have been hit in front. But the stab wound that went through the left arm and hit the chest below the left armpit (No. 1 in Exh. "B") and the wound that went through the back to the front of the body (No. 3 in Exh. "B") were both inflicted from behind. It is noteworthy that these wounds are not slashing or hacking wounds caused by the cutting edge of a bladed weapon but deep stab wounds which are caused by a straight forward thrust with the point of a sharp-bladed weapon to produce a penetrating wound. The nature and location of the wounds just described show them to have been inflicted from the back or from the side of the victim, for the forward thrust must have been made when the back or side of the victim was directly in front of the knife-wielder.

Another circumstance that casts doubt on the allegation of self defense is the act of accused Romualdo after stabbing the victim of throwing away the weapon used in the commission of the crime. This is not the behavior of one who killed another in self defense.[8] An accused invoking self defense, or for that matter defense of a relative, must prove his case clearly and convincingly, otherwise conviction would follow from his admission that

he killed the victim.[9] For courts of justice have adhered to the rule that for the plea of self defense to prosper, a defendant must rely on the strength of his own evidence, not on the weakness of that for the prosecution.[10]

III

The third assigned error to be resolved is whether or not accused-appellant Dionisio Ballonico participated in any manner in the killing of the victim, Gervacio Dapulang. Accused-appellant Dionisio Ballonico maintains that his presence at the scene of the crime was purely incidental - being there only as a bystander. While he admits that he had seen the quarrel between Romualdo Dorico and Gervacio Dapulag, there is no convincing evidence that he participated in the fight between the two, and that there is no compelling reason or strong motive for him to join the fight. He claims that he was only implicated in this case because of his being a first cousin of the Doricos. And having nothing to do with the case, his inclusion as a party defendant came as a great surprise and he immediately complained or pro-tested to the Mayor, Judge and Chief of Police. He re-sisted his unfounded inclusion by taking positive steps and he argues that his conduct indicates his innocence.

Appellant Dionisio Ballonico's defense is plain denial. Not that he denies having been present at the scene of the crime, but what he denies is his having had any participation in the quarrel between Romualdo Dorico and Gervacio Dapulag as testified to by the two eyewitnesses, Alberto Uy and Rosa Dapulag, that he (Dionisio) was one of those who stabbed the deceased. This is a simple case of credibility of witnesses - and the lower court chose to give credence to the testimonies of Alberto Uy and Rosa Dapulag and not to Ballonico's denial. That the lower court had better opportunity to assay the credibility of witnesses than the appellate court is a principle so well-known that it hardly requires citation of authorities.

As to Dionisio's claim that he was included as party defendant because of his being a first cousin to the Doricos, it should be noted that Estropio Dorico, a brother of accused Romualdo and Fernando, who was also at the scene of the crime, was not implicated and charged in this case. Nor was Castor Dorico, from whose house accused Fernando Dorico emerged in order to block the way of the victim, charged in this case. If out of the many first cousins the Doricos had in barrio Maki-walo, only Dionisio Ballonico was charged, it was because he actually participated in the commission of the crime.

Dionisio Ballonico contends that as it was not established that he had a motive in committing the offense imputed to him, his liability has not been established. This contention is without merit. It is true that no motive has been shown why he would kill Gervacio Dapulag, but this Court has repeatedly held that motive is pertinent only when there is doubt as to the identity of the culprit. Since Dionisio Ballonico was positively identified by credible witnesses as one of the assailants of the victim, proof of motive is not essential for conviction.[11] There was no reason shown why the witnesses for the prosecution would foist a crime on Dionisio Ballonico if he did not really commit it. Neither does the record indicate any justification for rejecting the finding of the lower court that the testimonies of Alberto Uy and Rosa Dapulag are incredible. Upon the evidence, accused Ballonico's bare denial of participation is not enough to overcome the positive evidence showing beyond reasonable doubt his participation in the commission of the crime.

IV

The fourth assigned error is whether or not the lower court erred in finding that conspiracy existed among the three accused-appellants. Conspiracy, according to the defense, was found by the trial court to exist on the ground that accused Romualdo and Fernando Dorico are brothers and Dionisio Ballonico is their first cousin. Hence they have a similar or identical grudge and entertained like feelings of resentment against the victim. It is not correct to assume that the three accused-appellants have similar a complaint against the deceased based on his filing of the complaint for the killing of one Patrocinio Megenio. If any one would resent the filing by the deceased of a complaint for the death of Patrocinio Megenio, the only logical person would be Romualdo Dorico who is the

lone accused in that case.

It is fundamental that in order for conspiracy to exist there must be unity of purpose and unity in the execution of the unlawful objective. Here, appellants did not act with a unity of purpose. This is shown by the evidence for the prosecution when Alberto Uy testified that moments before the killing; he heard Honorio Dorico, father of Romualdo and Fernando Dorico and uncle of Dionisio Ballonico, say: "children, you kill that demon Gervacio Dapulag because he is the one putting you down in the case wherein Patrocinio Megenio was killed", after which appellants allegedly assaulted the deceased. If this is true, the words given by Honorio Dorico to his children were meant as a command, thus indicating that there was no previous concert of criminal design among the perpetrators. So that even as-suming that appellants have joined together in the killing, such circumstance alone does not satisfy the requirement of a conspiracy because the rule is that neither joint nor simultaneous action is per se sufficient proof of cons-piracy. It must be shown to exist as clearly and con-vincingly as the commission of the offense itself. (People v. Geronimo, G.R. No. L-35700, October 15, 1973). Obedience to a command does not necessarily show concert of design, for at any rate it is the acts of the conspirators that show their common design. In this case, the facts adduced show that the appellants intended by their separate acts to bring about the death of the victim.

The contention of the appellants that there was no conspiracy deserves serious consideration. The record is clear that before the stabbing incident took place accused Romualdo Dorico and Dionisio Ballonico, together with the former's father Honorio Dorico, were inside the store of Estropio Dorico, another son of Honorio, drinking liquor. It was Honorio Dorico who first saw the victim Gervacio Dapulag pass by the said store on his way to the farm. The finding of the lower court as to how the aggression was committed is as follows: that Alberto Uy and Rosa Dapulag saw accused Romualdo Dorico and Dionisio Ballonico stab the victim Gervacio Dapulag and when the latter ran to escape he was met by appellant Fer-nando Dorico who boxed him on the ear. This does not show conspiracy. The meeting of the victim by the accused was purely casual. No other evidence was presented by the pro-secution to show conspiracy, which, according to the settled rule, must be proved as clearly and as convincingly as the commission of the crime itself.

In People v. Portuguesa,[12] this Court ruled that:

"Although the defendants are rela-tives and had acted with some degree of simultaneity in attacking their vic-tim, nevertheless, this fact alone does not prove conspiracy."

Apparently, the murderous assaults were made by appellants Romualdo Dorico and Dionisio Ballonico who in-flicted the wounds which killed the victim. They should be guilty of murder characterized by alevosia, while appellant Fernando Dorico who merely boxed the victim on the ear should be held guilty only of lesions leves on slight physical injuries. Although accused Romualdo Dorico contends that he surrendered immediately to the authorities after the incident, the trial court observed that the police blotter, Exhibits "X" and "X-1", shows that he was arrested and that he did not surrender. In the absence of aggravating or mitigating circumstances, the penalty of reclusion per-petua should be imposed on appellants Romualdo Dorico and Dionisio Ballonico.

V.

Discussion of the fifth and last assigned error becomes unnecessary in view of the conclusion We have reached.

WHEREFORE, the decision appealed from should be modified and another one entered holding accused Romualdo Dorico and Dionisio Ballonico guilty beyond reasonable doubt of the crime of murder. Accordingly, they are sentenced to suffer the penalty of reclusion perpetua and to indemnify jointly and severally the heirs of the victim, Gervacio Dapulag, in the sum of P12,000.00.

Accused Fernando Dorico is sentenced to suffer fifteen (15) days of arresto menor.[13] Considering the period of

preventive imprisonment he has undergone,[14] Fernando Dorico is hereby ordered released immediately from custody.

Costs against appellants.

Makalintal, C.J., Zaldivar, Ruiz Castro, Fernando, Teehankee, Makasiar, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Barredo, J., concurs in the result.

Antonio, J., took no part.

[1] Page 45, rollo.

[2] Exhibit "B", Vol. I, folder of exhibits, pages 49-50.

[3] People vs. Supat, G.R. No. L-24466, March 19, 1968.

[4] People vs. Bagasala, G.R. No. L-26182, May 31, 1971.

[5] People vs. Berdida y Inguito, G.R. No. L-20183, June 30, 1966.

[6] see People vs. Herila, G.R. No. L-32785, May 21, 1973.

[7] People vs. Palacio, G.R. No. L-13933, May 25, 1960.

[8] People vs. Pelago, G.R. No. L-24884, August 31, 1968.

[9] People vs. Wong, et al, G.R. No. L-22130-32, April 25, 1968.

[10] People vs. Navarra, et al, G.R. No. L-25607, October 14, 1968.

[11] People vs. Herila, G.R. No. L-32785, May 21, 1973.

[12] G.R. No. L-22604, July 31, 1967.

[13] People v. Bautista, G.R. No. L-27638, Nov. 28, 1969.

[14] Page 48, Rollo.

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