

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. IGLICERIO MUNOZ AND NARCISO ANDAL, DEFENDANTS AND APPELLANTS.

G. R. No. L-3396. April 18, 1951

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is an appeal from a judgment of the Court of First Instance of Quezon, finding the appellants, Iglicerio Munoz and Narciso Andal, guilty of murder and sentencing them to reclusion perpetua, with legal accessory penalties, and to indemnify the heirs of the deceased Arturo Salandanan in the sum of five thousand pesos, plus the costs.

On and before March 27, 1949, Arturo Salandanan was living with his brother Julian Salandanan in barrio Cabay, municipality of Tiaong, province of Quezon. At about nine o'clock in the evening of said date, Arturo was sitting by the threshold of Julian's warehouse watching the generator which supplied electricity to Julian's house, when shots were heard. When the gun fire had obviously ceased, Julian Salandanan, then in the upper part of his house, came down and found his brother Arturo Salandanan wounded near the generator. Upon being asked, Arturo told Julian that Iglicerio Munoz shot him and another unidentified man also fired at him from the east, near the house. After a short while, Juanito Maranan and Leon Javier arrived in succession, the first informing Julian that Iglicerio Muiioz shot Arturo with a carbine, and the second telling Julian about the conversation of Iglicerio Munoz and Narciso Andal to the effect that Arturo was the one they shot. Arturo Salandanan asked his brother Julian to take him to the hospital, whereupon Julian brought him to Dr. Quinio in the poblacion of Tiaong. Arturo was given medical assistance by Dr. Quinio who, afterwards, advised Julian to take Arturo to Lucena. Julian followed the advice of Dr. Quinio, but as Arturo died on the way, Julian returned and brought Arturo to Dr. Claro R. Robles, president of the sanitary division of Tiaong. The latter found that the bullet that hit Arturo entered the left buttock and came out on the right angular region and that the cause of his death was hemorrhage.

Juanito Maranan, a witness for the prosecution, testified that he was answering a call of nature behind a coconut tree and bushes about fifty meters away from Julian's house and two meters from the road or trail, when he saw Iglicerio Munoz and Narciso Andal pass by towards Julian's house. Both were armed with carbines. Shortly thereafter Juanito heard shots which caused him to lie flat on the ground. Looking towards Julian's house, Juanito saw Iglicerio firing at Arturo Salandanan about five meters distant. Shots were also fired from a mango tree about ten meters from Arturo. Mission accomplished, the two hurriedly left. Juanito, who was able to see what happened because of the electric lights in Julian's house, then proceeded to Julian's house.

Leon Javier, another witness for the prosecution, in substance testified that, while he was returning home from his riceland, at a distance of some five hundred meters away from Julian's house, he heard shots. Rushing in the direction of his house, which was southeast of Julian's place, Leon saw Iglicerio Munoz and Narciso Andal, armed with carbines, pass by in an almost running pace. Leon hid himself about two meters away from the trail

and, thus situated, he heard Iglicerio saying that Arturo Salandanan was surely the one they shot. Like Juanito Maranan, Leon then went to Julian's house.

Julian Salandanan in turn testified that Arturo Salandanan was courting a girl, the daughter of the spouses Jose and Tere. On one occasion, being in love with same girl, Iglicerio Munoz warned Arturo that unless he kept away from her, he would be shot. Arturo, however, continued courting the girl. About one month before March 27, 1949, Arturo and Julian met Iglicerio Munoz and Narciso Andal in the girl's house. Upon seeing that Iglicerio acted in a threatening manner, Julian wrested from him a .45 caliber pistol and from Narciso a rifle. The rifle was returned but the pistol was turned over to the mayor of Tiaong. According to the prosecution, Iglicerio Munoz and Narciso Andal were thus prompted to kill Arturo Salandanan.

The evidence for the defense tends to show that Iglicerio Munoz, during the entire night of March 27, 1949, attended a customary vigil for a newly born child; while Narciso Andal, after helping Policarpio Regulto gather nuts in the adjoining barrio of Kinatihan, Candelaria, in the morning of March 27, 1949, stayed in said barrio to help Tomas Maranan in husking five thousand nuts without compensation from dusk until midnight of said day, and thereafter Narciso Andal went to the place of Ladislao Regulto where he helped in slaughtering a pig for the baptismal party given for Ladislao's child which lasted until the next morning, Narciso staying in the party up to two o'clock in the afternoon of March 28. It is alleged that Julian Salandanan had tried to incriminate Iglicerio and Narciso because the latter (three years before the occasion in question) refused to join Julian in his banditry and instead affiliated themselves with the organization of volunteer guards under Juan Manalo of barrio Kinatihan, Candelaria, which succeeded in stopping Julian's nefarious activities.

The trial Judge accepted the theory of the prosecution, and we have been unable to discover from the record any sufficient reason for reversing his factual conclusions. The identity of Iglicerio Munoz and Narciso Andal as the killers of Narciso Salandanan has been fully established, Iglicerio was recognized by Javier, and he was seen by Juanito Maranan in the act of firing his carbine. The two appellants were positively identified by their barrio mates, Juanito Maranan and Leon Javier, as being on the fatal scene. Leon, specifically, heard the two appellants in their conversation immediately after the shots were fired, regarding the fact that they killed Arturo Salandanan.

Appellants' argument that the statement of Arturo Salandanan to his brother Julian as to who shot him is not admissible as a dying declaration, as he had not expressly stated that he was surely dying, is without merit, because it is well settled that the declaration may be admitted when the declarant's belief in the certainty of impending death is shown by the circumstances. (People vs. Ancasan, 53 Phil., 779; People vs. Cruz, 53 Phil., 635; People vs. Chan Lin Wat, 50 Phil., 182; People vs. Serrano, 58 Phil., 669.) In this case, Arturo Salandanan, knowing that he was shot, requested his brother to take him to the hospital. Dr. Quinio, after treating Arturo, advised Julian to take Arturo to the provincial hospital, but on the way Arturo died. These circumstances are fairly consistent with the inference that Arturo Salandanan must have known that his end was inevitable. That Arturo's mind was clear does not militate against consciousness of impending death.

We cannot believe that Julian Salandanan was a brigand. Appellants admitted that no criminal complaints were ever filed against Julian. On the contrary, the latter is the administrator of the estate of his father-in-law and owns a generator; and he had been issued a certificate of good moral character by the provincial governor of Batangas.

Upon the other hand, appellants' defense of alibi is highly improbable. It is hard to believe that appellant Munoz would or could have stayed on vigil for a newly born child during a whole night without interruption or sleep, while the others present were playing cards, and that appellant Andal would or could have helped friends in the husking of coconuts from morning till midnight and thereafter joined another friend to help in slaughtering a pig up to next morning, staying in the latter's baptismal party till two o'clock in the afternoon, without rest or sleep.

The appellants invoked the fact that prosecution witnesses Juanito Maranan and Leon Javier signed their affidavits incriminating the appellants only on April 1, 1949, or four days after the killing, thereby insinuating that said witnesses were induced by Julian Salandanan or the chief of police. The delay was explained as being due to the circumstance that Juanito and Leon attended the burial of Arturo in San Juan, Batangas, on March 28, and returned to Tiaong only on March 29, and that Juanito could not go to town on March 30 and 31, because he transplanted seedlings. If their affidavits were involuntary, Juanito and Leon could have deified their contents at the trial. The chief of police, who was not shown to be biased, must be presumed to have performed his official duties regularly.

The crime committed is murder, with the qualifying circumstance of treachery, without any modifying circumstance. The penalty imposed by the trial court is thus in accordance with law.

The appealed judgment is therefore affirmed, and it is so ordered with costs against the appellants.

Feria, Pablo, Bengzon, Tvason, Montemayor and Jugo, JJ., concur.

PARAS, C. J.,

Justices Padilla and Reyes voted for affirmance.

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