

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. FELIPE SACAYANAN, DEFENDANT AND APPELLANT.*G.R. Nos. L-15024-25. December 31, 1960*

Ponente: REYES, J.B.L., J.

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Appeal from the decision of the Court of First Instance of Pangasinan convicting defendant-appellant of kidnapping with murder (in Case No. 19636) and kidnapping with frustrated murder (in case No. 19704), and sentencing him to suffer reclusion perpetua and reclusion temporal, for the crimes charged; to indemnify the heirs of deceased victim Juan Galaraga, and the other victim, Victor Alamar, in the sums of P6,000.00 and P5,000.00, respectively; and to pay the costs.

It is uncontested that around midnight of June 17, 1952, a group of five armed men converged on the house of the deceased Juan Galaraga, in barrio San Pedro Apartado, Alcala, Pangasinan. Three of them went inside, one stayed at the door, while another remained at the foot of the stairway. Rousing the occupants of the house from their sleep, and ordering the male members of the household to lie face down on the sala, they forcibly brought down with them the deceased, Juan Galaraga, and his son-in-law Victor Alamar. Heading northward, and at a distance of about 40 meters from their house, Juan Galaraga and Victor Alamar were almost simultaneously fired upon by their captors, who hit Juan Galaraga mortally (Exhibit "B") and wounded Victor Alamar in the lumbar region (Exhibit "A"), causing injuries that could have caused his death were it not for timely medical assistance. Only appellant was arrested and charged; the others remain at large.

The case hinges on whether appellant Felipe Sacayanan was sufficiently identified as one of the group of aggressors. The record shows that defendant appellant was pointed out by the prosecution witnesses as one of the men who, on the night of June 17, 1952, forcibly brought down Juan Galaraga and Victor Alamar from their house. Concepcion and Adriatico Galaraga, and one of the victims himself, Victor Alamar, all testified to having recognized Felipe Sacayanan when one of the intruders, lighting the way with a flashlight, illuminated the face of defendant-appellant who was standing by the door. Although the flashlight was directed downward, the floor on which appellant Sacayanan stood was about 1/2 meter lower than the sala, bringing his face well within range of the flashlight beam. Aside from this, the house was not exactly engulfed in total darkness, because a lamp was lighted by Juana Picu, the wife of the deceased Galaraga, though its dim light could not entirely penetrate the surroundings. Felipe Sacayanan had been well known to both Concepcion and Adriatico Galaraga long previous to the incident, defendant-appellant being the cousin of their sister in-law (Exhibit "F-1", Exhibit "H-1"). Upon the other hand, one of the victims, Victor Alamar, had been close to defendant-appellant when the latter's face was lighted up on the way down from the house, and was at a vantage point for purposes of identification; and the circumstance that the men conducted Alamar and the deceased Juan Galaraga for a distance of 40 meters before shooting, gave Victor more than ample opportunity for closer observation. According to the latter's testimony, Felipe was the man walking behind and somewhat to the left of the deceased Juan Galaraga, while he (Victor) followed with two (2) men holding him by the arms.

Adriatico Galaraga did not reside in the house of his deceased father, Juan Galaraga, but upon hearing the dogs bark, he went to the window and saw five men on the way to his father's house. He followed them, and upon reaching his father's house, hid himself under the kitchen, behind one of the posts. From there, at a distance of less than three meters, Adriatico saw two men at the stairs, one of whom he recognized as Felipe Sacayanan when his face was lighted by the electric torch borne by one of those coming down the house. Upon verifying from his sister Concepcion that his father and his brother-in-law had been taken, Adriatico sounded the alarm by pounding on a "colloong" (a wooden trough for pounding palay) ; but the alarm was answered by a volley of shots. Neighbors rushed to help but arrived to see Juan Galaraga dead and Victor Alamar grievously wounded.

For her part, Concepcion Galaraga (Victor Alamar's wife) was right in the sala from where the flashlight was beamed in the direction of Felipe Sacayanan, who was standing at the door, thus being likewise afforded a reliable view of the person of the accused due to her relative proximity. The witnesses asserted that the raiders wore hats, but their faces were neither covered nor painted.

As correctly observed by the trial court, the killing was not without motive. A land dispute appears to exist over a tract of land between the Pindangan Agricultural Corporation to which the deceased, Juan Galaraga, belonged, on one hand, and on the other, a certain "Union" or association of claimants, of which Simplicio Sacayanan, the father of Felipe, was a member. The Galaragas and the Sacayanans thus were ranged on opposing camps of the controversy, and the bone of contention between the two families, in particular, was a parcel of about several hectares forming part of the disputed area. It is on record that at around 5:00 o'clock in the afternoon of June 14, 1952 (three days before the killing), while the deceased Juan Galaraga and Victor Alamar were plowing the disputed land, Simplicio Sacayanan, defendant appellant's father, in a state of agitation, appeared and addressed words of warning to the two. Brandishing a long bolo in a belligerent mood, he said-

"Why did you plow again this land? How courageous you are and as if you have no shame. Why did you continue plowing when I have already prohibited you to plow this land?" (t.s.n. Abalos, P. 35).

and after admonishing the two that something will happen if they persisted, Simplicio Sacayanan left the premises, ominously muttering under his breath. Despite the warning, Juan Galaraga and Victor Alamar plowed the field again the following day. The foregoing explains why one of the five men, addressing Juan Galaraga before the latter was shot, demanded "Why is it old man that you are plowing land which is not yours?"; to which the deceased could only meekly reply, "No, my son." The land dispute was certainly a sufficient motive. Men have been driven to as much, if not greater, lengths in the struggle for a piece of land, and while appellant was not directly involved, he stood up to ultimately benefit by whatever success his father attained in the dispute.

Much stress is placed on the alleged failure of the family of the victims to name any of the malefactors to different investigators immediately after the killing. We see no error in the trial court's acceptance of the explanation given by the family of the victims that they feared for their own safety; that they were then very much worried and in deep grief; and they did not want to expose themselves to further trouble at a time when their deceased father had not yet even been interred. Fear and confusion, compounded by their distraught condition arising from grief, explains their immediate reactions to their misfortune. The fear was understandable, considering that their house was situated in a relatively inaccessible barrio, about 6 to 7 kilometers from the town proper and from the nearest post of peace officers, much too far for effective rescue against any attempted reprisal. The defense witnesses, including Julian Domingo of the Philippine Constabulary (who investigated the following day), admitted that the family were in an obviously distressed state of mind after the killing; according to Julian Domingo, questions had to be repeated many times before the family could give their answers, which were made slowly and in attitudes of grief.

In particular, Victor Alamar, hovering between life and death in those instances he was allegedly queried on the

identity of his assailants, could not have been in a fully sensible state. We are more prone to believe the testimony of one of the defense witnesses, Maximo Ablao, that when Victor Alamar was asked by Tagama about the identity of the culprits, the former "was not able to tell anything" (66, t.s.n., Rollolazo). At any rate, only four days after the killings, or on June 21, 1952, Concepcion and Adriatico Galaraga revealed that Felipe Sacayanan was in the group of 5 men (Exhibit "F-1"; Exhibit "H-1"), a lapse of time, which does not seriously militate against their credibility under the facts shown.

The testimonies of Macario Fronda and Casimiro Cabrereros that they heard Policeman Antonio Aquino coaching the family of the victims (to point to Felipe Sacayanan as the man they recognized, impresses us merely as a desperate attempt to breach the damaging evidence of defendant-appellant's culpability. As narrated, its details are so self-contained as to permit of concoction. Fronda admits that he could not remember other investigations that took place in the municipal building, much less the details thereof, in the same way that he remembers the investigation that was conducted by Aquino. Queer also is his claim that the following day after his release on July 2, 1952, without any showing of special relationship between him and Felipe, he (Fronda) went to Felipe's house and allegedly told him what he heard, while admitting that it was only sometime on May 26, 1957 that Felipe told him that he (Felipe) was being accused in the case.

The defense of alibi, that Felipe was in his house the whole evening up to morning time due to a stomach trouble, was correctly disregarded by the lower court. It is strange that Marcelo de los Santos, who had no medical training or experience, should be called by Teodora Sacayanan to treat her husband, and that Santos did not exert any effort to fetch his niece who lived only a very short distance away. Moreover, according to Santos, he and Dionisio Tadeo were together in going to Felipe's house; while Tadeo's testimony is to the effect that he proceeded to Felipe's house earlier than Santos. Also, since Santos and Tadeo left between 11:00 to 12:00 p.m., it was not physically impossible for defendant-appellant to have gone to San Pedro Apartado to accomplish his purpose. He could have made it in 30 minutes by vehicle. Finally, Felipe's father and mother were living right there in San Pedro Apartado, where defendant appellant was known to have paid visits prior to June 17, 1952, which renders his alibi still weaker and more unreliable.

It was error for the trial court to convict the accused of the complex crimes of kidnapping with murder (in Case No. 19636) and kidnapping with frustrated murder (in Case No. 19704). The victims had been taken only about 40 meters from their house when they were shot. Nothing was said or done by the accused or his confederates to show that they had intended to deprive their victims of their liberty for some time and for some purpose. There was no appreciable interval between their being taken and their being shot from which kidnapping may be inferred (see *People vs. Remalante*, 92 Phil., 48; 48 Off. Gaz., [9] 3881). The crimes committed, therefore, were murder and frustrated murder, qualified by treachery. Abuse of superior strength and nighttime are absorbed by treachery.

Pursuant to Article 248 of the Revised Penal Code, defendant-appellant should be sentenced for the murder (in Case No. 19636) to suffer the penalty of reclusion perpetua, the medium degree of that provided by law.

No period was fixed by the trial court in imposing the penalty for frustrated murder. Pursuant to Article 248 in connection with paragraph 3, Article 61 of the Revised Penal Code, the penalty for frustrated murder (Case No. 19704) is prison mayor maximum (14 years, 8 months and 1 day to 17 years and 4 months), the same to be imposed in its medium period, or reclusion temporal minimum (12 years and 1 day to 14 years and 3 months), as per paragraph 4, Article 64 of the Revised Penal Code. Applying the Indeterminate Sentence Law, as amended, defendant-appellant should be sentenced for the frustrated murder to an indeterminate penalty of six, (6) years of prison correccional as minimum, and not more than 12 years and 1 day of reclusion temporal as maximum.

Wherefore, the decision under appeal is modified as above stated, and affirmed in all other respects. Costs against defendant-appellant.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Judgment affirmed with modifications.

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