

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
IGNACIO PANUELOS Y ZIGA, DAVID PANUELOS Y ZIGA, ISIDRO
PANUELOS Y ZIGA, RODOLFO PANUELOS Y RAMOS, AND FRANCISCO
PANUELOS, ...**

G.R. No. L-40118. May 22, 1985

Ponente: RELOVA, J.

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RELOVA, J.:

On January 15, 1975, the then Court of First Instance of Camarines Sur rendered judgment in Criminal Case No. T-42, as follows:

"WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered condemning the accused Ignacio Panuelos, David Panuelos, and Isidro Panuelos to suffer the penalty of death; the accused Rodolfo Panuelos to suffer life imprisonment, all to indemnify the heirs of the deceased Florentino Pan Jr., jointly and severally in the amount of TWELVE THOUSAND (P12,000.00) PESOS plus costs; and the accused Francisco Panuelos is hereby ACQUITTED on grounds of reasonable doubt with proportional part of the costs de oficio." (p. 94, Rollo)

The case is now before Us on automatic review with respect to defendants Ignacio Panuelos, David Panuelos and Isidro Panuelos on whom the death penalty was imposed by the trial court.

Rodolfo Panuelos appealed from the decision of the lower court but later on or on August 25, 1976 withdrew the said appeal which was allowed by this Court in its resolution of September 2, 1976, and the corresponding Entry of Judgment was made thereon.

Prosecution evidence shows that about eight o'clock in the morning of March 25, 1970, Municipal Judge Florentino Pan, Jr. of Parubcan, Camarines Sur invited Candido Taghoy, Mariano Romero, Jose Candelaria, Sotero Belleza and a policeman from Parubcan and some others to go to barrio Bagacay, San Jose, Camarines Sur. They were to harvest the crop in the ricefield of Judge Pan. They rode on a jeep and arrived at the place at about 8:30 in the morning. They were in the field when a group of five armed men arrived, followed a little later by another group of three men. Thereafter, Ignacio Panuelos, one of the arrivals, called for Judge Pan and inquired in a loud voice: "Why did you cause the harvest of the palay?" Judge Pan answered: "I caused the harvest of the palay because it is already ripe and it is mine." Ignacio Panuelos then said: "Please Judge, we better talk with each other." (p. 60-61, Rollo) Judge Pan stopped harvesting and went to the place where Ignacio Panuelos and his companions were.

Ignacio Panuelos angrily asked Judge Pan again why he caused the harvest of the palay, to which the judge answered that the palay was ready for harvest and that it belongs to him.

Appellant David Panuelos, a brother of Ignacio, stood beside the judge and held the latter's left arm. When somebody uttered: "Why keep on talking with that cheater. Why don't you attack him, cheater, crook, why don't

you attack them," David, who was armed with a bolo, struck the face of the judge with it. (p. 6, Appellee's Brief).

Judge Pan fell and at that juncture, Isidro Panuelos, another brother of Ignacio, jumped towards the judge and boloed him, hitting the victim at the back of his head. This was followed by Rodolfo Panuelos, also a member of the group and son of Ignacio, who approached and struck the judge with a piece of wood hitting the latter on the shoulder. Ignacio then hacked Judge Pan with a bolo hitting him on his right shoulder.

The assault on the judge stopped when Mariano Romero tried to pacify them, saying that the victim was already dead. At this juncture, Isidro Panuelos hit Romero with a piece of wood.

Jose Candelaria, a companion of the judge, ran away and proceeded to the Municipality of Goa, Camarines Sur. He reported the matter to the Chief of Police who ordered two policemen to accompany Candelaria to the scene of the incident. Arriving there, Candelaria and some companions took the remains of Judge Pan to the Puericulture Center of San Jose, Camarines Sur.

The cadaver of Judge Florentino Pan was autopsied by Dr. Antonio de Veyra who found thirty-one (31) incised wounds, contusion in the head and body lacerations. Cause of death was "hemorrhage due to multiple incised wounds of the head and body." (p. 5, Records)

The prosecution presented in evidence the extra-judicial confessions of appellants Ignacio Panuelos, David Panuelos, Isidro Panuelos and Rodolfo Panuelos (Exhs. "D", "H", "I", and "J") which were taken by PC Sgt. Oscar Alba on March 26, 1970.

In his defense, Ignacio Panuelos testified that he is the tenant in a ricefield which he caused the planting of palay in June 1969. He failed to harvest anything because Judge Pan destroyed it by having it tracted. He had it replanted, expecting to harvest in March 1970. However, before he could reap the palay, Judge Pan, on March 25, 1970, between 8:00 and 9:00 in the morning, ordered the harvest of the palay. His brother, David Panuelos, who was then supervising the harvest of his own palay adjoining his ricefield, saw the arrival of Judge Pan and his companions. David Panuelos relayed the matter to him and so he had the matter reported to the barrio captain to avoid trouble. Meanwhile, he went to the ricefield and confronted Judge Pan why he was harvesting the palay which he had planted. In turn, the judge attacked him with a scythe and with a gun. By way of defense, he hacked the judge with his bolo until the latter fell to the ground. It was he alone who assaulted the judge and his co-accused namely: David, Isidro, Francisco and his son Rodolfo Panuelos had nothing to do with the killing.

David Panuelos, on his part, testified that in the early morning of March 25, 1970 while he was already in the nearby riceland he was working on, supervising the harvest of the palay, he saw Judge Pan arrive, together with about ten to fifteen persons and they started harvesting the palay. He rushed to his brother, Ignacio, in San Jose, Camarines Sur, and told him about the matter. Ignacio had his son, Claro, fetch his brother, Rodolfo, who was ordered to report the matter to the barrio captain, lest some trouble might happen. They then went back to the place where the harvest was going on, which was about half a kilometer away. He went direct to his own ricefield while Ignacio proceeded to his own place of harvest. After a while, he heard the noise of trouble, shouts of people and a gunfire. He saw Judge Pan strike his brother, Ignacio, with a scythe. When he saw Mariano Romero with a wooden club approaching Ignacio, he also took a wooden post and hit Romero with it, twice. At that juncture, Jose Candelaria was aiming to strike him; however, he beat him by hitting him first in the stomach.

The version of Isidro Panuelos, is as follows:

In the morning of March 25, 1970 he was in his house in San Rafael, Tigaon, Camarines Sur which is about 8 kilometers from the land being farmed by his brother, Ignacio. About 9:00 in the morning, he overheard a group of persons saying that his brother Ignacio and Judge Pan had a quarrel and that the latter was killed. Thereafter, he

met his brother Ignacio accompanied by a policeman going to the municipal building of San Jose about a kilometer away from the place of the incident. He was not even able to talk to or inquire from his brother what had happened. The following day, March 26, 1970, two policemen went to his house and brought him to the municipal building of San Jose where he was investigated by a sergeant of the Philippine Constabulary. He denied having anything to do with the killing of Judge Pan but then he was subjected to torture and punishment until he fainted. When he recovered consciousness, to avoid further punishment, he just signed the affidavit presented to him without knowing its contents.

For his part, Rodolfo Panuelos testified that about seven o'clock in the morning of March 25, 1970 he was fetched by his brother, Claro, and then ordered by his father to fetch the barrio captain regarding some trouble which might happen because Judge Pan was harvesting the palay of his father. He went to see Barrio Captain Clidoro. He told the barrio official about his mission and together they went to the farm of his father about one and a half kilometers away. Upon arrival at the place, they saw many people, PC men and policemen. He was pointed to as a member of the Panuelos family and, as a consequence, he was held by a PC soldier who boxed him on the left and right sides of his body. He was then turned over to a policeman of San Jose, Camarines Sur who brought him to the municipal building for investigation. He was made to sign a statement which he claims was taken by means of force and intimidation.

On March 21, 1978, the case against Isidro Panuelos was dismissed by this Court upon being informed by the Administrative Officer of the Bureau of Prisons that he died on January 2, 1978. However, the dismissal was only insofar as the criminal liability of Isidro Panuelos is concerned.

Likewise, on September 4, 1979, this Court issued a resolution dismissing the case against appellant David Panuelos who died on May 15, 1979, but only insofar as his criminal liability is concerned.

With the dismissal of the case against Isidro Panuelos and David Panuelos, and the withdrawal of the appeal of Rodolfo Panuelos, this appeal concerns only Ignacio Panuelos.

As found by the trial court, the cause of the killing of Judge Florentino Pan is the piece of riceland where the crime was committed:

"The cause of the killing is the piece of riceland where the crime was committed. It appears that the possession of the riceland which was the scene of the crime was previously contested in the Court of Agrarian Relations, between Pedro Panuelos, father of accused Ignacio Panuelos, David Panuelos, Isidro Panuelos, and Francisco Panuelos, whose wife is the sister of the victim. In CAR Case No. 608-CS-61, Pedro Panuelos asked the Agrarian Court to order Francisco Orfida the landowner to reinstate him as tenant. The case was decided in favor of Pedro Panuelos, and on appeal to the Supreme Court in G. R. No. L-23375, the decision of the Agrarian Court was affirmed on March 30, 1968 (Exh. 7, p. 262, Record). When the decision was executed, the Sheriff levied on the property of Francisco Orfida declared under Tax No. 34004 for the satisfaction of the damages awarded to Pedro Panuelos. During the auction sale of the attached property on August 11, 1969, Judge Florentino Pan appeared as one of the third party claimants (Exhibits '9' & '9-A', p. 558-560, Record).

In the meantime, after execution, Pedro Panuelos died in the middle of 1969, and his eldest son, the accused Ignacio Panuelos succeeded as tenant to the landholding that was disputed. (Atty. Prila's Memorandum p. 2). The year prior to the occurrence of the incident, that is in 1969, Ignacio Panuelos cultivated the riceland that was tenanted by his deceased father. Before the crop could bear fruit, the deceased, Judge Florentino Pan destroyed it by having it tractored claiming ownership over the property. The accused, Ignacio Panuelos then replanted it. Before the second crop could ripen and be harvested by accused, Ignacio Panuelos, the victim Judge Florentino C. Pan, in company with about 12 persons some men and others women, went to the property and harvested the palay on March 25, 1970. It was during this occasion that he was killed inside the disputed property in sitio Bagacay, barrio Mampirao, San Jose, Camarines Sur." (pp. 58-59, Rollo)

There is no reason to doubt the findings and conclusion of the trial court relative to the credibility of prosecution witnesses, namely: Candido Taghoy, Jose Candelaria and Mariano Romero, all of whom testified that David Panuelos began the aggression by striking the face of the deceased with a bolo after somebody had shouted that talking with the judge would not be of any use considering that he is a "cheater" and a "crook." We find no ground for altering the court's appreciation of the credibility of these witnesses, especially since no improper motive on their part has been proved. The immobilization of Judge Pan by appellant Ignacio Panuelos and his companions, and the suddenness of their attack on the unprepared victim who honored the invitation of Ignacio to come and talk things over leave no doubt that the culprits took measures to forestall any danger to themselves. Appellant is guilty of the murder of Judge Florentino Pan, the crime being qualified by alevosia or treachery.

The claim of appellant that the victim had a revolver was not substantiated. Taghoy testified that he heard one gun shot when the deceased was already on the ground, dead. The gun (Exhibit "M" for the People and Exhibit "3" for the Defense), most likely belongs to the Panuelos who arrived at the place of the incident, fully armed, and had one purpose in mind — to stop the judge from harvesting the palay. On the other hand, Judge Pan had no reason to bring a firearm because he did not know that the Panuelos were coming to enjoin him from taking the palay. And, it is surprising that not one of the Panuelos or their companions was hit despite their proximity, if the firing did come from the deceased.

The claim of self-defense was, therefore, correctly rejected by the trial court.

However, treachery absorbs superior strength; although evident premeditation was fully substantiated. Appellant Ignacio Panuelos admitted that he did not like what the judge did a year before the incident when he tracted his palay. He had nursed his hatred of the deceased since then and had sufficient time to plan what he would do if he repeated it. Obviously, he never thought of bringing the matter to the court; he had other things in mind.

There was conspiracy as shown by the fact that appellant and his companions arrived at the scene of the crime together, all armed, and they helped each other in the assault of the victim, inflicting upon him thirty-one (31) incised wounds, aside from the contusions in the head and lacerations in the body. On the other hand, not one of the appellant and his companions sustained any injury — not even a scratch.

With respect to the extra-judicial confession of herein appellant, suffice it to say that PC Sgt. Oscar Alba testified that he interrogated appellant who gave his statement voluntarily and signed it after Judge Pante had read to him the contents thereof. Judge Pante also declared about the manner in which the said confession was given by the appellant on March 26, 1970. Said confession is admissible in evidence, as held in the case of Magtoto vs. Manguerra, 63 SCRA 4, since it was obtained before the effectivity of the 1973 Constitution, even if presented thereafter and even if he had not been informed of his rights to counsel. Otherwise stated, the provisions of Section 20, Article IV of the new Constitution will not apply in the case at bar.

WHEREFORE, the conviction of appellant Ignacio Panuelos for the crime of murder is upheld; but the penalty imposed upon him is reduced to reclusion perpetua due to lack of necessary votes and the indemnity is increased to P30,000.00. In all other respects, the judgment under appeal is AFFIRMED.

SO ORDERED.

Makasiar, Aquino, Abad Santos, Melencio-Herrera, Plana[*], Escolin, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Teehankee, J., concur except for the admissibility of the uncounselled confession.

Fernando, C.J., in the result.

Concepcion, Jr., J., on leave.

[*] He signed before he left.

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