

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. PAMPILO DE TORRES, DEFENDANT AND APPELLANT.*G.R. No. L-11815. January 31, 1961*

Ponente: PAREDES, J.

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Accused Pampilo de Torres was found guilty of murder qualified by evident premeditation, aggravated by treachery without any mitigating circumstance to compensate it, and sentenced to suffer reclusion perpetua, with the accessory penalties of the law, to indemnify the heirs of the deceased Simplicio Alcantara in the amount of P6,000.00 and to pay the costs. He appealed.

At about 5:00 o'clock in the morning of May 15, 1954, Simplicio Alcantara, Rosa Escanilla and Clarita Rosero were walking homeward bound, from the town fiesta of Calauan, Laguna, along the trail of barrio Tabon, same town. They were in single file, with Rosa on the lead, followed by Clarita and Simplicio. A burst of gunfire was heard and Simplicio fell, moaning and crying for help. The two women, frightened, ran away and told the news of the ambush to the relatives of the victim. They found Simplicio dead sustaining 6 gunshot wounds on the different parts of his body, as described in Exhibit A, post mortem report of Dr. Santiago Gutierrez. The assailant was not seen nor identified.

Two months after the incident, in an encounter between the Army and the Huks in the mountain of Lipa, Batangas, accused De Torres was wounded and captured and confined in the Army Hospital at Los Baños, Laguna. It appears that before joining the Huks, he left a letter, Exhibit D, to someone not clearly indicated in the record, but which letter was already attached to appellant's statement Exhibit C, when it was presented to the Justice of the Peace. Exhibit D relates:

"Ako si Filo ang pumatay. Kung iyong hahanapin ang pumatay kay Felicio ako ay nilibot noong araw. Ang baril na ginamit ko ay binili ko ng P50.00. Kung iyong akong hahanapin ay sa bundok ng Makiling. Ang mga partido ko ay huag bibigyang sala at babalik ako at tudas kayo. Ang baril ay dala ko. Walang ibang nakakaalam ng ginawa kong ito. Dalawang gabi kung inabangan sa kamalig. Ipinaabot ko saiyo, mamang Ermin ako'y si Filo." (Exhibit D, p. 7 rec.)

In his statement Exhibit C, the accused confirmed and incorporated Exhibit D and confessed that on the date and hour in question, he ambushed and shot Simplicio Alcantara between barrio Masi-it and Calauan town, with a carbine, Caliber .30, which he bought for P50.00 from one Miling, a member of the HMB; that he had discharged 10 shots; that he had been planning to kill Simplicio or Felicio for a long time; that Cmdr. Lumbero took from him the said carbine upon joining the HMB, for having killed Simplicio; that Exhibit D was his letter sent before joining the Huks; and that he killed Simplicio because he was jealous of him, being his rival over the hand of one Basiang (Gervacia) of barrio Masi-it.

The defense, however, alleged that on the date on which Simplicio was killed, the accused was in the mountains of Lipa, where he had been staying since 1950 when he joined the HMB unit under Commander Sandoval. On

July 30, 1954, after an encounter between the Huks and the 17th BCT, he was wounded and captured. At the Army station Hospital in Los Baños, where the accused was taken and on the third day of the investigation, a PC soldier forced him to admit the statement Exhibit C, regarding the killing of Simplicio. The accused told the PC investigator that he did not know anything about it. The investigator proposed to the accused that inasmuch as he was a member of the HMB, if he (accused) admit the killing of Simplicio, they would not file a case against him for rebellion complexed with other crimes, but only for simple rebellion. The accused admitted Exhibit C and was accordingly charged for the lighter offense, to which he pleaded guilty.

It is contended, as the principal ground of the appeal, that the material facts set forth in the confession Exhibit C are not confirmed by the prosecution's theory; that the confession was obtained thru promise of leniency and that the same was not corroborated. While the appellant gave as the motive for the killing, his jealousy over the hand of one Gervacia and had fixed the time of the killing at 5:00 o'clock in the morning of May 15, 1954, the mother of the deceased Simplicio, however, asserted that her son was not the one courting Gervacia but his friend Mundo and the medical officer reckoned the killing to be between 1:00 and 3:00 o'clock in the same morning. As the Solicitor General has well remarked, "whether the deceased was courting Gervacia or not is immaterial as long as appellant believed rightly or wrongly, and not what the mother of the deceased did not know that made the appellant jealous." The discrepancy of one or two hours in what appellant and the medical officer believed as the hour of shooting is of no moment. What is important is that the deceased was shot in the early morning which could be from 1:00 to 5:00 o'clock.

It is claimed that the letter Exhibit D, was not identified and that appellant was not seen in the act of shooting the deceased. The said letter, acknowledging the killing and asking to spare his kins was, however, incorporated in the confession Exhibit C, which was duly identified during the trial. The confession voluntarily given, supplied the legal deficiency of direct evidence as to appellant's having killed the deceased. Appellant identified himself as the assailant of Simplicio in his letter Exhibit D and in his confession, which was, in turn, identified during the trial by Justice of the Peace Artemio Lepaño, before whom the same was acknowledged and ratified. Exhibit D was ordered to be copied by the said Justice on either Exhibit D-1 or Exhibit D-2. A comparison of these three documents shows that said Exhibit D was also written by the appellant. Exhibit C was voluntarily signed and sworn to by the appellant before the Justice of the Peace, after the latter had read its contents to him and after the said appellant had acknowledged that he fully understood the same.

The record does not sustain the allegation of the defense that the confession was secured thru promise of leniency. The appellant did not reveal the existence of such promise to the Justice of the Peace. If the idea was to condone the murder, what was the reason for taking a confession of the killing, or any confession at all? Promise of immunity by one who is not a prosecuting officer who could honor or comply with his promise, is no ground for objecting the admissibility of the confession. Appellant cannot plausibly pretend immaturity to be so easily duped by his investigators. On the contrary, appellant had shown some resourcefulness, by joining the Huks as fugitive from justice, for having precisely killed Simplicio.

Exhibit C was substantially corroborated by proofs other than the confession itself. It was shown at the trial that the deceased and two companions were walking along a trail on the date and hour in question; that the deceased sustained several bullet wounds on the back and that the appellant was with the Huks and captured by the government forces in the Lipa mountains, as in fact he pleaded guilty for the crime of rebellion. The mother of the deceased testified to the existence of such jealousy.

In view hereof, we find appellant Pampilo de Torres guilty beyond reasonable doubt of the offense charged, qualified by treachery (alevosia), without any modifying circumstance to consider. The record does not clearly show the presence of evident premeditation. Appellant is hereby sentenced to suffer reclusion perpetua, to

indemnify the heirs of the deceased Simplicio Alcantara, in the sum of P6,000.00, without subsidiary imprisonment in case of insolvency and to pay the costs.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Dizon, JJ., concur.

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