

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
ANASTACIO PAZ, ALIAS &#8220;TATO&#8221;, ALIAS &#8220;COL.  
LIWANAG&#8221;, ET AL., DEFENDANTS, ANASTACIO PAZ, ALIAS  
&#8220;TATO&#8221;, ALIAS &#8220;COL. LIWANA...**

*G.R. No. L-3045 & G.R. No. L-3046. August 31, 1950*

Ponente: REYES, J.

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**REYES, J.:**

Early in the morning of July 12, 1948, Marcos Sarmiento and his son, Armando Sarmiento, were shot and killed by a group of men in the barrio of Santisimo Rosario, San Pablo City, province of Laguna. For this killing an information for double murder was filed against Anastacio Paz, alias Col. Liwanag, alias Tato, and five other defendants. But to obviate objection to the joinder of two offenses in one complaint, the fiscal, by way of amendment, later filed two separate informations one for the murder of Marcos Sarmiento and the other for the murder of the latter's son, Armando.

With his co-defendants still at large, Anastacio Paz went to trial, disclaiming responsibility for the crimes charged and at the same time invoking the amnesty proclamation in favor of the Huks. But the trial court found him guilty and sentenced him, for each of the murders, to life imprisonment, accessories of the law, indemnity of P6,000, and costs. This sentence is now before us for review.

The killing is not disputed. What is in question is appellant's participation therein as well as his pretended right to the benefits of the amnesty proclamation in favor of the Huks.

The evidence shows that some time before July 12, 1948, one Sixto Pisigan lost two carabaos. To recover them he sought the aid of appellant whom he considered a man of power or influence as chief of the Huks in those parts. To accommodate Pisigan, appellant took with him seven of his soldiers (one of them being the witness for the prosecution Rosendo Uri) to the barrio of Santisimo Rosario in order to look for the lost carabaos. That was early in the morning of July 12, 1948. At about 7 o'clock that morning appellant and his men came upon two carabaos tied to a tree in a bushy place in that barrio, and believing that they were the carabaos they were looking for, appellant ordered his soldiers to deploy around the place and watch. Before long, Marcos Sarmiento and his son, Armando Sarmiento, came. Both were unarmed; but upon seeing them, appellant ordered his men to fire. The order was instantly obeyed with the result that father and son were instantly killed, their bodies riddled with bullets.

Leaving the place some time thereafter, appellant met Anacieto Araneta and Vicente Recto, first and second barrio lieutenant, respectively, of Santisimo Rosario, who were then on their way home from the barrio of Talaga where they left early that morning after making arrangement for the wedding of Recto's brother-in-law. Conversing with appellant for a short moment, Araneta and Recto told him that they heard shots on the way and asked where the shots came from. Appellant informed them that the shots were fired on the other side of the river and that his group had killed Armando Sarmiento and Marcos Sarmiento. Repairing to the place indicated by

appellant, Araneta and Recto soon came to a cogonal under the coconut trees and there found the bullet-riddled cadavers of the Sarmientos near the spot where two carabaos were tied. Araneta reported the incident to the authorities.

Summoned by appellant through Rosendo Uri at about 11 p.m, that same day, Recto went to appellant's house in Santisimo Rosario and there found him together with Cresencio Reyes, Andres Bartolino, Ignacio Reyes, Sixto Pisigan, and Antonio Goyena. It turned out that, earlier that day, Cresencio Reyes had been fetched from his home in San Pablo city by Antonio Goyena, who threatened him with harm if he did not come along, and taken to defendant's house. He was accompanied by his uncle Ignacio Reyes, the latter's compadre Andres Bartolino, and Sixto Pisigan. Upon arriving there, Cresencio Reyes was questioned by appellant if he had anything to do with the two carabaos found in the possession of the deceased and was also informed by appellant that they killed the Sarmientos because "they caught them in a bad act."

The above summary of the facts is based principally on the testimony of Rosendo Uri, an eyewitness to the crime, being one of the group that appellant took with him to look for Pisigan's lost carabaos, and also on the testimony of Vicente Recto and Cresencio Reyes to whom appellant had admitted that the Sarmientos had been killed by his group. But in addition to the declaration of these witnesses, the prosecution also presented appellant's affidavit subscribed and sworn to by him before the deputy clerk of court of Quezon province. In this affidavit he would make it appear that the killing was done by his men, whom he had sent out to look for the carabaos, but that he himself had no participation therein.

Testifying in his own defense, appellant declared that the statements contained in the aforementioned affidavit were not true, the same having been extracted from him through force and violence. He denied the testimony of the witnesses for the prosecution, implicating him in the crime, and declared that on the day in question he could not have been at the scene of the crime because between seven and eight o'clock in the morning of that day he was in the sitio of Osiw waiting for the arrival of Councilor Tiongco, who was to take him to town and arrange for his surrender in connection with the amnesty proclamation in favor of the Huks, and that as soon as Councilor Tiongco, who was then accompanied by two policemen, arrived, they all went to the office of the mayor of Tiaong where they arrived at about 9 o'clock that morning and there with the aid of the justice of the peace of the town he was enlightened on the provisions of the amnesty proclamation. He said that he knew Sixto Pisigan, the owner of the lost carabaos, only by name and came to know his name only when it was mentioned in court. Of his co-defendants he claimed to have known only Alfredo Diacos' saying that he did not know the others and much less had he ordered them to shoot the Sarmientos.

The case hinges on the credibility of the witnesses, and while the defendant claims that truth is on its side, we find nothing in the record to indicate that the trial judge has not made a correct appreciation of their testimony. Appellant would have us believe that the declaration of Rosendo Uri, who claims to have been present in the killing, and that of Vicente Recto to whom appellant was alleged to have admitted that the killing was done by his group, were nothing but lies. But from appellant's own admissions we find that these two witnesses could have had no motive for testifying falsely against him, for he said that he and Uri "had been together in the hukbalahap organization," and that Recto was an old acquaintance with whom he was in good terms, so that he did not know of any reason for this witness to testify against him.

It is, however, argued that Rosendo Uri is not a credible witness, he being a participant in the crime and having to his credit a conviction for illegal possession of firearms. But while the testimony of this witness should be received with caution we find no sufficient reason for not giving it credence, specially because it is partly corroborated by appellant's affidavit and also finds confirmation in the admission made by appellant to Vicente Recto, Anacleto Araneta, and Cresencio Reyes that it was his group that killed the Sarmientos "because they

caught them committing a bad act." Commenting on the testimony of this witness the trial judge, who made it a point to observe his conduct on the stand, says: "During the extensive cross-examination of Uri by counsel for the accused, his answers given were clear and positive. His demeanor as observed by the court, was normal and he answered the questions propounded on cross-examination to the point."

The alibi put up by the appellant, though corroborated by prominent officials of his town, is not impressive. Both Mayor Punzalan and Councilor Tiongco, who testified on appellant's alleged presence in the municipal building of Tiaong at about 9 o'clock in the morning of the day the killing took place, were appellant's fellow-officers during the occupation, while the town justice of the peace, who attempted to give further corroboration, was not positive as to the date when he saw appellant in the municipal building and had to be reminded of it by reference to an entry in the police blotter. He also admitted having received favors from the appellant. It may well be supposed that appellant did really have a conference with the mayor and the other officials of the town in connection with the amnesty proclamation in favor of the Huks. But there is no certainty that that conference took place on the day of the crime.

The defense makes much of an entry in the police blotter which says: "Councilor Antonio Tiongco, accompanied by Sgt. Patrol Raymundo Dimaandal and Policeman Emilio Dimaculangan went to Barrio Quipot Sitio Osiw to fetch Col. Liwanag. (Time of Departure 7:30 a.m.) (Time arrival—8:50 a.m.) This is in compliance with the verbal order of the Municipal Mayor Mr. Marcial M. Punzalan. (Mission accomplished.)" The entry is found on the lower half of the page for July 12, 1948, under the heading "Reports of Policemen and Record of Events in the Municipality." But it is the only entry under that heading and there is no telling that it was not placed there at an opportune moment in order to bolster appellant's alibi, especially when it is considered that although the sergeant who made the entry admitted in open court that his office was required to submit monthly reports to the Philippine Constabulary about important activities of the police with particular emphasis on those that appear in the police blotter, this particular entry was not mentioned at all in the monthly reports to the Constabulary. Most significant is also the fact that in his sworn statement to the police in which he took pains to disclaim participation in the killing of the Sarmientos, appellant made no mention at all of his alleged conference with the mayor of Tiaong on the morning the killing took place. And, indeed, even supposing that the said conference did really take place, it should be noted that the killing occurred shortly after 7 o'clock and there is evidence that some time thereafter appellant left his men near the river, but giving them to understand that he would return. The conference thus does not exclude the possibility of appellants having been at the place of the killing.

Pending consideration of this case by this Court, appellant filed a motion for new trial based on newly discovered evidence consisting of the retraction of the witness Rosendo Uri, who, while a prisoner in Muntinglupa where appellant is also confined, executed an affidavit on May 13, 1949, entirely exculpating the appellant and himself assuming exclusive responsibility for the crimes herein charged, declaring that he was the only one who shot the two deceased. But this affidavit is belied by the many wounds found in the bodies of the deceased (12 in the body of Marcos Sarmiento and 5 in that of his son, Armando Sarmiento) and by the affidavit of Primitivo Calingasan, also presented as part of the newly discovered evidence, to the effect that said affiant heard Uri and three others say that they were the ones who killed the Sarmientos. In the circumstances, we cannot give credence to this belated retraction of the witness Uri and use it as a justification for acquitting the appellant whose guilt has in our opinion been clearly established by the evidence on record.

Amnesty Proclamation No. 76, which grants amnesty to the Huks, covers only "the crimes of rebellion, sedition, illegal association, assault upon, resistance, and disobedience to persons in authority, and/or illegal possession of firearms. The crimes herein charged not being among those named, appellant is not entitled to the benefits of said proclamation.

In view of the foregoing, the decision below is affirmed, with costs against the appellant..

Moran, C.J., Ozaeta, Pablo, Bengzon, Tuason, and Montemayor, JJ., concur.

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