

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. CRESCENCIO RAGANIT, BALDOMERO COLLAMAR AND SIMEON RAGANIT, DEFENDANTS. CRESCENCIO RAGANIT ALIAS LAGADAY, DEFENDANT AND ...

G. R. No. L-2174. 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 Leyte, finding the appellant, Crescendo Raganit guilty of murder with robbery, and sentencing him to life imprisonment, to return the articles stolen or, in default thereof, two hundred pesos, to indemnify the heirs of the offended party in the sum of two thousand pesos, without subsidiary imprisonment, and to pay the costs.

According to the evidence for the prosecution, at about seven in the evening of August 22, 1945, three persons (Baldomero Collamar, Simeon Raganit, and the appellant) suddenly entered the house of Cirilo Ariza in Barrio Upat, municipality of Barugo, province of Leyte. Baldomero's first move was to fix his firearm at Cirilo, with the statement "Don't move." Cirilo had the courage of countering "What fault did I commit?" Thereupon Baldomero shot Cirilo and, when Gavina Ariza and Eulalia Geraldo (other inmates of the house) screamed, they were also shot by Baldomero. Lucas Diesma (another member of the family of Cirilo) attempted to get out of the house, but he was likewise shot in the act by Baldomero, as a result of which Lucas fell to the ground. The appellant, still in the house, in turn fired his carbine at Lucas as the latter was already dying on the ground. The three malefactors then left, Simeon and the appellant carrying away their loot consisting of a trunk containing clothes and money. Cirilo, Gavina, Eulalia and Lucas all died as a result of bullet wounds.

The evidence for the defense tends to show that Baldomero Collamar forced the appellant to follow and go with Baldomero and Simeon Raganit (the latter being an elder brother of appellant) on the occasion in question, made possible by the fact that Baldomero and Simeon came to appellant's house drunk and that Baldomero threatened to shoot the appellant if the latter would not go. Indeed, appellant's wife was kicked by Baldomero for trying to suggest that Baldomero and Simeon should leave without appellant. While the appellant in fact accompanied the two, he was unarmed, he did not know the purpose of the trip, and he merely remained in the yard of the house of Cirilo Ariza.

Although Baldomero and Simeon were originally included in the information for quadruple murder with robbery, the case against them was dismissed because they died before the trial. The trial court, in the appealed decision, ruled that conspiracy was not proven, and this is the reason why the appellant was convicted only of murder (presumably for shooting Lucas Diesma) with robbery.

Upon the whole record, we are convinced that Baldomero and Simeon employed some pressure upon the appellant for the latter to go along with them on the occasion in question, but that such pressure was not of sufficient degree to exempt the appellant from any criminal liability. We are also convinced that although the

appellant might not have been aware of the specific unlawful acts Baldomero and Simeon were minded to commit, the appellant should have known by their conduct from the time he was fetched at his house to the moment the offense in question was perpetrated, that the said Baldomero and Simeon had criminal designs, especially because the latter were armed and Baldomero even tried his mask on the way. However, given the benefit of a reasonable doubt, the appellant must be found guilty only as accomplice, since the theory is more tenable that he remained downstairs while his companions proceeded to accomplish the acts charged in the information. This fact is of course a further confirmation of appellant's guilty participation as accomplice, because if he was wholly innocent, he could have deserted his companions as soon as the latter had entered the house of Cirilo Ariza and, better still, reported the matter to the authorities or the neighborhood.

The crime shown by the evidence to have been actually committed is robbery with multiple homicide, punishable with reclusion perpetua to death. As the appellant was merely an accomplice and under eighteen years of age at the time of the commission of the offense, the proper penalty is prision mayor. There being two aggravating circumstances (nighttime and dwelling), without any mitigating circumstance, said penalty should be imposed in its maximum period. As there is no proof as to the value of the articles stolen, the trial court erred in ordering the payment of the amount of two hundred pesos by the appellant in case said articles cannot be returned.

Wherefore, the appellant is hereby sentenced to undergo imprisonment for an indeterminate period of from 2 years, 4 months and 1 day, of prision correctional, to 10 years and 1 day, prision mayor, to return the articles stolen, and to indemnify the heirs of each of the deceased Cirilo Ariza, Gavina Ariza, Lucas Diesma and Eulalia Geraldo in the sum of two thousand pesos. So ordered, with costs.

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

PARAS, C. J.:

I certify that Mr. Justice Padilla voted in accordance with this opinion. Mr. Justice Reyes took no part.

DISSENTING

TUASON, J.,

I vote for affirmance of the appealed decision in its entirety.

Juana Ariza, a member of the deceased's household, declared that Crescencio Raganit, armed with a gun, came up the house with his brother Simeon and Baldomero Collamar. She further declared that it was Crescencio who shot Lucas Diesma after the latter "fell on the ground," and that the two Raganits carried off a trunk from the house.

Ventura Ariza, testifying as a witness for the defense, corroborated Juana Ariza and, like Juana, declared that Crescencio Raganit shot Lucas Diesma after the latter jumped out of the kitchen.

Amado Astorga, a witness for the prosecution, also swore that he saw Crescencio Raganit fire at Lucas Diesma after Diesma jumped out of the door of the kitchen to the ground.

Santiago Paladin, a member of the military police stationed in San Miguel, testified that, having received report of the murders and robbery, he made an investigation. He stated that Baldomero Collamar having been arrested, pointed to the two Raganits as his companions, and that when Crescencio was in turn arrested, Simeon having escaped, Crescencio admitted having entered the house with Baldomero and Simeon.

The appellant on the witness chair admitted that he came along with his brother Simeon and Baldomero Collamar

but stated that he had done so under force and threat by Baldomero. He admitted that he escaped after he was arrested but said that he surrendered to Captain Pabilona, a guerrilla major, one week afterward.

All these testimonies, which the court gave credence, speak for themselves and establish beyond any measure of doubt the appellant's guilt as co-principal. Counsel for the appellant fully agrees with the trial court's findings.

The appellant's, his mother's and his common-law wife's statements that he was forced by Baldomero and Simeon Raganit to come along borders on the ridiculous and were properly rejected by the court below. An unwilling companion would be a distinct liability instead of a help in a hazardous enterprise where mutual trust and absolute secrecy was of paramount importance, and Baldomero must have known that. That the accused stayed below or outside the house, as he would have the Court believe, but made no attempt to escape, which he could have done easily while his companions were up-stairs, would in itself be a conclusive refutation of his plea that he acted against his will.

The issue here boils down to the credibility of the witnesses and this issue was weighted carefully by an experienced and discriminating judge. More than the testimony of witnesses, the impression created by the personality of the accused is, in most cases as in this, the unfailing cue to a verdict in a criminal trial—his demeanor, tone of voice, his manner of denying insinuations, etc. etc.

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