

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CRISPINO TANGBAON AND MARIANO TADEO, DEFENDANTS AND APPELLANTS.

G.R. No. L-5113. August 31, 1953

Ponente: PADILLA, J.

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PADILLA, J.:

At dusk of 31 October 1950 Guilay was shot to death in the kitchen of his house located in the barrio of Bacooc, municipality of Lagangilang, province of Abra, when in a semi-squatting position, inclined to the left, and his left hand holding a ladle stretched as if to dip it in a pot, he together with his family consisting of his wife named Dipaten, and children Tasing, Sitang and Agustin, 6, 3 and 1 year of age, respectively, was about to take his dinner.

For the killing of Guilay, Crispino Tangbaoan and Mariano Tadeo were charged with murder. Found guilty and the first as principal sentenced to death, the accessories of the law, to indemnify the heirs of the deceased in the sum of P5,000, and the second as accomplice, to suffer from 6 years and 1 day of prison mayor to 12 years and 6 months of reclusion temporal, the accessories of the law, to indemnify the heirs of the deceased in the sum P1,000, and each to pay one-half of the costs, both have appealed.

In the afternoon of that day, Crispino Tangbaoan, Mariano Tadeo and Bawanta Bagayan boarded a bus of the Sambrano Transportation at Tayum, Abra, where they had gone to weave buri hats, the first paying for the fare of his companions. Upon reaching Talogtog, at about 4:00 p.m., the three alighted from the bus and from there walked to barrio Bacooc, municipality of Lagangilang, Abra. On the way Crispino told his companions that they were going to Bacooc to kill Guilay. At first Bawanta refused but Crispino threatened to kill him if he would not follow them saying that he would have the same fate as his father. At dusk they arrived at Bacooc and proceeded to the house of Guilay, Crispino Tangbaoan armed with a paltik locally known as invention and his companions with bolos. From the ground Crispino Tangbaoan could recognize the inmates of the house of Guilay who were in the kitchen because of the spaces between the bamboo slats of the floor. Bawanta and Tadeo stationed themselves under the living room, and Crispino Tangbaoan went under the kitchen, of the house of Guilay. Crispino Tangbaoan in a crouching position and looking upwards fired his paltik at Guilay who was in a position as described at the start of this opinion. When Guilay fell as a result of the shot, Dipaten, his wife, cried out for help and Dangayo, sister of the deceased, who heard the shot and whose house was located 12 meters away, rushed to her brother's house and on her way met Crispino Tangbaoan carrying a gun, Mariano Tadeo and Bawanta Bagayan coming from under the kitchen of her brother's house and proceeding toward the northwest where there were bamboo groves along the creek. Upon arriving in the house of her brother she saw his wife holding him and weeping and found him dead with a wound under the left armpit bleeding. Later on, barrio lieutenant Lippago arrived at the house and inquired what had happened. Dangayo told him that she saw Crispino Tangbaoan, Mariano Tadeo and Bawanta Bagayan coming from under the batalan, a roofless part of the house which connected the living room (sala) with the kitchen. In a grassy place in Talogtog Crispino Tangbaoan and his two

companions slept and the following morning proceeded to Bangued. Tangbaoan told Bawanta to return to his house in San Juan and warned him not to reveal what he had seen. Upon the report of the acting chief of police of Lagangilang made on 1 November, Lieutenant Florentino de Leon Dumpit together with sergeant Oliveros and an enlisted man, after conferring with the mayor and acting chief of police of Lagangilang, repaired to the house of Guilay where he saw his corpse, noticed the bamboo floor of the kitchen stained with blood and broken by the passage of pellets and made a sketch of the scene of the crime. Investigated by Lieutenant Dumpit, Dangayo said that while in her house she heard a gun report followed by screaming calling for help, so she rushed to her brother's house and on her way saw Crispino Tangbaoan, Mariano Tadeo and Bawanta coming from under the kitchen of her brother's house, the first holding a gun but she was not sure of the weapons carried by the other two. On 2 November, in San Juan, Bawanta gave Lieutenant Dumpit the same account of how Guilay was killed as at the trial. On 4 November, Benjamin Cardenas brought Crispino Tangbaoan and Mariano Tadeo to the PC detachment to surrender.

As there is no dispute that the shot fired at Guilay was the direct and proximate cause of his death, it is unnecessary to set out at length the necropsy report of the physician or surgeon who made the autopsy of his corpse. It is enough to state that according to him the parts of Guilay's body injured by the buckshot fired at him caused his death.

Appellants' claim and testimony that they were in Tayum from the evening of 29 October until the morning of 1 November 1950 engaged in weaving buri hats, corroborated by Benjamin Cardenas, cannot outweigh the evidence for the prosecution which establishes beyond doubt that Crispino Tangbaoan killed the deceased in the manner described by the witnesses for the prosecution. Dangayo recognized the persons whom she met and saw coming from under the kitchen of her brother's house on the evening he was killed. She knew Crispino Tangbaoan and Mariano Tadeo for quite a long time and Bawanta is her second-degree cousin. Benjamin Cardenas' testimony is biased because the father of Mariano Tadeo is his second-degree cousin. That of Felix Ferrer cannot be relied upon because he was requested by Juan Tadeo, the father of Mariano, to testify for him and the afternoon he brought firewood to the house of Benjamin Cardenas, granting that he did bring the fuel to the house, may be other than the 31st of October. The testimony of Bawanta, a companion of the appellants, giving an account of their movements in the afternoon of 31 October, from Tayum to Bacooc, where Guilay was shot to death by Crispino Tangbaoan, is corroborated by Manuel Gamilde, a disinterested witness, who testified that in the afternoon of that day at Tayum he saw Crispino Tangbaoan, whom he knew since boyhood, board bus No. 6 of the Sambrano Transportation, of which he was the conductor, and that he (Crispino), two men, an old woman and children got off at Talogtog at 3:30 p.m.

Crispino Tangbaoan killed Guilay because the latter had charged him with theft of large cattle for which he was prosecuted.

Mariano Tadeo, however, unlike Crispino Tangbaoan, had no old score to settle with Guilay. From the testimony of Bawanta it appears that Mariano Tadeo did not know of Crispino Tangbaoan's plan to kill Guilay until after they alighted from the bus at Talogtog and were already on the way to Bacooc. It is not unlikely that out of friendship and companionship he accompanied Crispino Tangbaoan to Talogtog and after learning of his plan to kill Guilay was afraid to leave him because of his threat to Bawanta. These circumstances justify the trial court's pronouncement that Mariano Tadeo was just an accomplice.

For lack of the number of votes required to impose the penalty of death the next lower in degree or that of reclusion perpetua is imposed upon Crispino Tangbaoan. Subsidiary liability in case of insolvency in the payment of the indemnity is imposed upon the appellants pursuant to article 110 of the Revised Penal Code. With these modifications, the judgment appealed from is affirmed, with costs against the appellants.

Paras, C.J., Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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