

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
HONORIO MAGBANUA, DEFENDANT AND APPELLANT.***G. R. No. L-3269. April 20, 1951*

Ponente: MONTEMAYOR, J.

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For allegedly robbing Filomena Martires of cash amounting to P5,500 and jewelry valued at P1,000 and in connection with said robbery, killing her and her companion Paulino Hospital in the municipality of Pototan, province of Iloilo, on May 8, 1946, appellant Honorio Magbamta was accused of robbery with double homicide, in the Court of First Instance of Iloilo. After trial, he was found guilty of the charge and sentenced to not less than seventeen (17) years and four (4) months of reclusion temporal and not more than reclusion perpetua, with the accessories of the law, to indemnify the heirs of Paulino Hospital in the sum of P6,000, the heirs of Filomena Martires in the amount of P6,000 for her death and P5,050 for the money and jewelry taken away from her, and to pay the costs. From that decision he has appealed directly to this Court.

From the evidence in the record consisting of the testimony of witnesses and of the affidavit of the accused, Exhibit A, with its translation (Exh. A-1), we find the following facts to have been established beyond reasonable doubt.

In the year 1946, Filomena Martires, a resident of the province of Capiz, was engaged in buying and selling palay, more or less, on a big scale. On May 6th of the same year she arrived at the town of Pototan, Iloilo, stopping at the house of a friend, Secundina Poticar. She told Secundina that she came to pay off certain people for palay she had previously bought, and to buy some more of the grain. In a room of the house and in the presence of Secundina, Filomena counted the money that she had brought with her, amounting to P5,000 which she took from a belt fastened around her waist, and which she replaced in the said belt after counting. She was then wearing a gold necklace with a cross incrustated with diamonds, a pair of a golden earrings also with diamonds, and a ring with a diamond "solitario". It was then the eve of the town holiday or fiesta of Pototan and early the following morning she went to church. After the mass she went to the railway station where she met the appellant Honorio Magbanua who was also looking for her. Magbanua informed her that there were some cavans of palay available for sale in the barrio of Barasan. After some conversation, presumably about the price of palay and the amount which she was ready to buy, she gave some money to the appellant with instructions to buy the palay and have it brought to town, and for purposes of helping him haul the grain, Paulino Hospital, a laborer working at the railway station, was engaged by Filomena, and he accompanied the accused to the barrio of Barasan. Filomena remained at the station. After sometime Paulino returned and told his wife, Eduviges Pats, who was selling bread and cakes at the station that he had been sent back by the defendant to get some more money from Filomena whom he later informed of his mission. Filomena gave him the amount needed and with it he returned to Barasan. Later, Paulino again returned to the station, told his wife and Filomena that the money given him was not enough, and that this time he was asked by the defendant to bring Filomena herself and for her to bring some more cash. Acting upon this information and request, Filomena went with Paulino to the barrio. Once there, the appellant informed them

that the palay for sale was on the other side of a wide open field which they had to cross on foot. On reaching the middle of the field, without any warning or provocation, Magbanua attacked Paulino Hospital with an army table knife, inflicting upon him wounds that felled him and caused his death almost immediately. Filomena, amazed and shocked at the strange and unexpected behavior of her agent and buyer, asked him why he was acting in that manner, but for all response he also attacked and wounded her with the same knife, and then snatching from her her handbag, he took from it a .32 caliber revolver and with it fired at her, emptying its bullets into her abdomen and right thigh, also killing her almost instantly. Then, he appropriated all the money and jewelry found on her person, after which he dragged her body to where Paulino lay and covering their bodies with dry grass, he fled from the place.

From Pototan, the accused went to Iloilo and from there he proceeded to the towns of Bacolod and San Carlos, Negros Occidental, later taking a boat that took him to the City of Cebu. After staying there for about two days, he proceeded to Davao where he met a townmate Luciano Poyod. He stayed or presumably hid in the farm of Poyod in the barrio of Man-ay, Tagum, Davao. In Davao he spent some of the money that he had taken from Filomena and sold the jewelry for about P60 after which, he tried to work stripping abaca until September, 1947, when he took a boat for Manila where he stayed with a relative in Calle Wright, Malate. He was finally arrested by the Manila Police and returned to Pototan, Iloilo on May 20, 1948, about two years after committing the crime of which he was charged.

In Pototan, Magbanua was delivered to the custody of Capt. Nera, an Intelligence Officer of the Constabulary. After being investigated on the same day of his arrival, and expressing willingness to talk, his statements were reduced to writing (Exhibit A) typewritten by a soldier named Julio Gumban acting as clerk or typist in the office of Captain Nera. Thereafter, the affiant was sent to the office of the Clerk of Court, Juan Jamora, accompanied by enlisted men Valenzuela and Tiso. After the contents of the affidavit had been read and explained to him by Jamora and after his assurance that said contents were true and correct, he signed Exhibit A.

Going back to the happenings' in Pototan in May, 1946, Eduvigis Pats, wife of Paulino Hospital while on the witness stand told the court that on the morning of May 8, 1946, when her husband and Filomena left the railway station for the third time to go to barrio Barasan, she waited for his return all day but she waited in vain. She continued her enquiries until the next day, in the course of which, she met the defendant's wife to whom she expressed her concern over her husband's failure to return, but the said wife of the accused allayed her fears and comforted her, saying that her husband was a good man, and that perhaps they were delayed in looking for people to haul the palay. The following day, May 10th, Eduvigis continuing her inquiries about her husband at the station, heard a rumor to the effect that two dead bodies had been discovered in the middle of a field in barrio Barasan. She immediately notified the Military Police and with them, she went to the said barrio. In the field already mentioned the bodies of Filomena and Paulino were found. After an examination by the president of the sanitary division, Dr. Engracio Parrenas, the bodies were taken to the poblacion. According to Dr. Parrenas (see Exhibit B) the body of Filomena Martires bore four (4) gunshot wounds in the abdomen situated near the umbilical region and one gunshot wound in the right thigh piercing said member, and stab wounds on the left base of the neck and at the back of the posterior base of the same. The body of Paulino Hospital bore the following—"one stab wound on the neck right base about two and one-half (2½) inches deep and another stab wound at the back, scapular right about two (2) inches deep and still another stab wound at the back on the cervical region about one and a half (1½) inches deep." The cause of death of the two was internal and external hemorrhage due to the wounds inflicted.

In the affidavit sworn to and signed by appellant, he admits killing Filomena and Paulino, the first, to rob her, and the other, to seal his lips. But on the witness stand Magbanua repudiated his affidavit (Exhibit A), telling the court

that it was the result of severe beating and torture by soldier Julio Gumban in a secret room near the office of Capt. Nera and adjoining that of Capt. Santiago. In support of this claim the defense presented Exhibit "1" which is a certificate issued by Dr. Desiderio D. Guiao who, at the request of a relative of Magbanua, had examined him on May 25, 1948, that is to say, five (5) days after the torture to which Magbanua had allegedly been subjected on May 20th of the same year. After considering the evidence as a whole and the circumstances attending the said alleged torture at the time and sometime thereafter, we believe that the trial court correctly rejected this theory of the defense. According to the accused, the beating he suffered was unusually severe and brutal. Gumban was supposed to have tied his two elbows behind his back with electric wire and in this condition of defenselessness, Gumban proceeded to deliver fist blows and kicks, even hitting him repeatedly with the butt of his revolver so that he (appellant) fell to the floor several times; and yet all he could show for this severe manhandling was what appears on Exhibit "1", namely, "a linear single bruised scar on the lower outer portion of the arm and a swelling of the left jaw." According to Dr. Guiao when presented as witness for the defense, said injuries must have been inflicted about two and a half (2½) or three (3) days before the examination conducted by him on May 25th. Apparently, they did not go as far back as May 20th, the date of the alleged torture. All this led the trial court to believe and to find that these injuries must have been self-inflicted to bolster his claim of torture in order to neutralize the effect of his affidavit. On this same subject of torture, we quote with approval a portion of the decision appealed from penned by Judge Manuel Blanco—

"El juzgado no cree en esas excusas del acusado, porque ni el Capitan Nera ni el Capitan Santiago en la mañana y tarde del día 20 de Mayo, ni el escribano Sr. Jamora de este juzgado al día siguiente, vieron señal alguna de violencia en el cuerpo del acusado; este no enseñó sus lesiones a su pariente Zoilo Magbanua, uno de los escribientes de este Juzgado de Primera Instancia", que estuvo presente cuando el acusado suscribió y juro el affidavit Exhibit A ante el escribano Sr. Jamora; tuvo entonces conversacion con Zoilo Magbanua y este fue el que acto seguido, despues de prestada la confesion Exhibit A, llevo al acusado a la fiscalia provincial, situada en los bajos del mismo edificio de la Aduana de Iloilo donde tenia entonces sus oficinas este Juzgado de Primera Instancia; pues bien, nada dijo a Magbanua de los castigos que le habia inferido Julio Gumban, ni de las lesiones en su cuerpo que habian dejado tales castigos, lo cual hubiera sido lo mas natural que podria haber hecho el acusado en el predicamento en que se hallaba, a saber, confiarlo a su pariente Zoilo Magbanua para que este, como empleado que era de este Juzgado de Primera Instancia le ayudara a salir del atolladero y hallase los medios de defenderle contra las alegadas tropelias de Gumban; pero el acusado no lo hizo así y esa su actitud milita contra el en sus presentes pretensiones. Lo mismo podria decirse del escribano Sr. Jamora, que de haber visto las lesiones del acusado, sobre todo la de la mandibula izquierda— visible a todas luces, de ser cierta—hubiese entrado en sospechas y tomado las naturales precauciones para proteger al acusado en la toma de la confesion Exhibit A.

"El acusado tampoco ha enseñado sus lesiones ni ha relatado los alegados malos tratos de Gumban al Alcaide de la cárcel provincial, ni al jefe de policia de Pototan, cuando desde la comandancia de la Constabularia fue llevado a la cárcel provincial y al municipio de Pototan despues de haber prestado el affidavit Exhibit A, para ser llevado por fin al Juzgado de Paz del ultimo lugar para la investigacion preliminar de esta causa.

"La oficina del escribano Sr. Jamora estaba separada tan solamente por un pasillo de los despachos de dos de los jueces de este Juzgado de Primera Instancia. El acusado, persona ilustrada, pues ha sido 'land tax clerk' de la oficina del tesorero municipal de Pototan, hombre de 42 años de edad, alto, pesa 167 libras y en la plenitud de sus facultades fisicas y mentales, no es de creer que se aplanara y se achicara hasta tal grado de abyeccion tan solamente por los malos tratos de Gumban—despues de todo no muy graves, aceptando para fines del argumento solamente sus alegaciones sobre el particular—hasta tal extremo, repetimos, que le hiciera no usar de su derecho de pedir proteccion a cualquier de los jueces de este juzgado de primera instancia que se hallaban muy cerca de el. Y ese su negativo proceder corrobora la pretension de la acusacion de que la confesion Exhibit A fue espontanea y voluntaria por parte del acusado Honorio Magbanua."

Proof of guilt of appellant rests not entirely on his affidavit, Exhibit A. The statements contained therein are corroborated by the testimony of Pacita Pendon who, on May 8, 1946, lived in a house in the same field of the gruesome incident and from her window and at a distance of about 200 yards witnessed the killing. She was sure of the identity of the killer, the defendant, for they had known each other since childhood. Of course her version of the details and sequence of the attack on Paulino and Filomena differ somewhat from that found in Exhibit A, but one should bear in mind that Pacita is an unlettered and simple-minded woman who related in Court her impressions of what she had seen almost three years before. But of one thing she was sure, namely, that she had seen the accused attack and kill the two victims, after which he dragged the body of the woman to that of the man and then covered them with dry grass.

The sudden flight or disappearance of the accused from his native town (Pototan) where his wife and children were residing, his hurried trips to and short stay in Iloilo, Negros and Cebu and his prolonged stay in Davao and later in Manila for about two years after the commission of the crime, all that time abandoning his family and his business of buy and sell, do not speak well of his alleged innocence. According to him, the amount of P1,400 was stolen from him in the City of Cebu where he stayed for a short time on his way to Davao. Of course, he tried to explain the possession of this relatively big amount, say that he had borrowed it from his brothers-in-law and from his father. It is possible, if not probable, however, that this amount was part of the money he had taken from the person of Filomena Martires.

In conclusion, we agree with the trial court, that the guilt of the appellant has been established beyond reasonable doubt. We also agree with the Solicitor General that the trial court erred in applying the law on indeterminate sentence in this case. In the absence of either aggravating or mitigating circumstances the penalty which is to be applied in its medium degree is reclusion perpetua. According to section 2 of Act 4103 known as the law on indeterminate sentence as amended by Act 4225, said Act shall not apply to persons convicted of offenses punished with death penalty or life imprisonment. The accused shall therefore be sentenced to reclusion perpetua. With this modification, the decision appealed from is hereby affirmed, with costs. So ordered.

Paras, C. J., Feria, Pablo, Bengzon, Tuason and Jugo, JJ., concur.

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