

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. REGINO SANTOS Y VELASCO, DEFENDANT-APPELLANT.*G.R. No. L-7315. July 27, 1955*

Ponente: BENGZON, J.

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body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; } .style1 {color: #FF0000}

Sofronio Santos and his brother Regino Santos were tried for murder and frustrated murder in the court of first instance of Manila for the death of Maximo Andrada and the wounds of Jaime Tiglao and Ricardo Flores. Sofronio died during the trial. Regino was convicted and sentenced to life imprisonment, plus indemnity, for the murder of Andrada, and for the injuries suffered by Tiglao and Flores, constituting two offenses of frustrated murder, to imprisonment not less than eight (8) years nor more than seventeen years for each offense.

Pursuant to this timely appeal, the record has been forwarded here with the transcript of the stenographic notes of the testimonial evidence. Appellant's brief disputing the verdict of guilt is adequately answered by the Solicitor General, who recommends affirmance with increase of civil liability.

It appears that early in the evening of August 18, 1952 while Maximo Andrada, Jaime Tiglao and Ricardo Flores were walking along Northbay Boulevard, Manila, in the company of Reynaldo Santos, Alejandro Barros and Jesus Barros, a passenger jeepney overtook them, and even as it stopped, a burst of gun-fire startled the group, killing Andrada on the spot[1] and seriously wounding Tiglao and Flores[2] who ran away towards a store. Yelling "putang ina ninyo, patay na kayong lahat" the driver sped away. He was however recognized by Jesus Barros, and also by Tiglao and Flores, who while under treatment at the North General Hospital after the shooting, identified him as the driver of the escaping vehicle.

That very night police officers rounded up the two brothers, herein accused, who orally admitted their guilt. Sofronio even went with Detectives Javier, Tiamsec and Gorospe to several places in search of the grease-gun he had used and which he had thrown away upon fleeing from the scene.

Motive of the crime was revenge: A year before, Jaime Tiglao and Maximo Andrada had a quarrel with Sofronio Santos during which the latter was wounded; and about two weeks before the mortal assault, Tiglao also quarreled with, and stabbed Gregorio Santos, brother of the two defendants.

Principal witness for the prosecution was Jesus Barros. He was at the place and recognized the gun-man and the driver. He pointed to Regino as the driver. He swore it was Sofronio, the passenger, who had fired at his party while sitting in the jeepney.

Naturally, the major portion of appellant's brief is dedicated to the proposition that he was unworthy of credit, the gist of his contention being: "if after the shots were fired Barros' party scattered and confusion prevailed and he himself was confused in accordance with his own admission-it is incredible" that he "possessed accurate and perceptive powers" to recognize and remember faces and names of the killers. Having scrutinized the record on this important point, we found no clear statement to the effect that Barros saw and recognized the brothers after the burst of bullets had stricken terror in the hearts of the victim. But even if he had asserted that after the fusilade, he looked at and recognized the raiders, we would not, for that reason alone, discount his testimony, because it is not improbable for the offended party to make an effort to see who was his assailant, for the purpose of reporting him later to the authorities. It is significant that the two brothers were rounded up that same night, and they admitted their guilt.

Romulo Gorospe, one of the police officers asserted in court that Regino Santos told him "he was the one who drove the jeep x x x wherein his brother (Sofronio) rode, but he did not know the purpose of his brother". Appellant now argues: conceding that the admission had been made, his liability was that of mere accessory. However, the argument forgets that after the shooting, Regino shouted in spiteful glee, "putang ina ninyo, patay na kayong lahat". This vindictive utterance clearly indicates -as the trial judge stated- his knowledge of the purposes of the murderous expedition, and his connivance, remembering specially that he must have seen his brother in the jeep carrying the deadly weapon.

When Jesus Barros, was called to the stand, the defense remarked that he was not among those witnesses listed in the information, but the fiscal replied that Reynaldo Santos mentioned therein was the same Jesus Barros. Subsequently, the Fiscal admitted his mistake, as the two names pertain to different persons. The incident, however, is immaterial, in view of the Rule that allows the prosecution to call witnesses other than those named in the information. (Rule 112 sec. 1)

Counsel for the appellant urges that Barros must have lied when he said that "he actually saw the gunman sitting inside the jeep when he shot" at the pedestrians, because the bullets' trajectory showed beyond cavil that the gunman must have been standing too. The argument is based on the testimony of Dr. Reyes to the effect that if the gunman was "in a sitting position" the "trajectory of the bullets" was impossible. However the doctor qualified this statement, and explained that if the gunman was sitting on a higher level (like a jeepney or car) and from there he fired at the victim who was standing on the street, that is "possible", meaning, it was possible that the wounds had been inflicted in the manner described by the prosecution.

The defendant Regino Santos denied having taken part in the killing. He declared he was a jeepney driver, and operated his passenger car on that day from 5:00 a.m. to 9:00 p.m. along the line Pajo-Divisoria. He admitted, however, on cross-examination, that North Bay Boulevard crosses his route; which implies, he could have been at the place, and he was, according to the prosecuting witnesses.

To sum up, after reading the whole record we are convinced that appellant Regino Santos with knowledge of Sofronio's purpose and conniving with him, brought his brother to the place to liquidate their common enemies. There was treachery, the latter being totally unprepared to meet the emergency. Nevertheless we agree with appellant's counsel that evident premeditation was not sufficiently established.

Wherefore there was one murder and two frustrated murders[3]. The appellant has not disputed the correctness of the penalties imposed, - supposing arguendo that he was guilty as charged. The Solicitor-General on the other hand recommends affirmance, except as to the civil indemnity for death, which he says should be raised to P6,000. However we usually leave the matter of indemnity to the discretion of the lower court - provided it is not less than P2,000.

Accordingly we hereby affirm the appealed judgment, with costs. So ordered.

Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

[1] Five gunshot wounds.

[2] Tiglao, in the right shoulder, Flores, in the chest and arm.

[3] People v. Pardo 45 O. Gaz. 2023; People v. Buyco 45 O. Gaz. 2892; People v. Mones 47 O. Gaz. (Sup. 12) 11.

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