

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
PRECIANO MEJARES ET AL., DEFENDANTS. LUCIO LUANGCO,
FEDERICO LUANGCO, ANTONIO JARIOL, BERNARDO GANALON AND
LUIS GANALO...**

G.R. No. L-2996. March 06, 1950

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from a judgment of the Court of First Instance of Leyte, finding the herein appellants, Lucio Luangco, Federico Luangco, Antonio Jariol, Bernardo Ganalón and Luis Ganalón, guilty of sedition with murder and sentencing each of them to suffer the penalty of reclusion perpetua and to indemnify jointly and severally the heirs of Eleuterio Ilanos in the amount of P5,000. The same judgment convicted appellants' seven co-accused, but the latter did not appeal.

Under the first error assigned by appellants' counsel de oficio, it is contended that the appellants were denied time to prepare for trial. The Solicitor General agrees to this contention. It appears that on January 31, 1948, fifty-nine persons were prosecuted in the Court of First Instance of Leyte for the offense of sedition with murder committed on May 4, 1947, in the municipality of Tanauan, Leyte. On February 4, 1949, the information was amended by reducing the number of the accused to twelve. In both informations, the herein appellants were included. On February 25, 1949, at nine o'clock in the morning, Attorney Fernando Sudario, then representing some of the accused, was appointed by the court to act as attorney de oficio for all the other accused. After arraignment on the same day, said attorney moved for the postponement of the trial on the ground that he was not prepared therefor, in view of the fact that he was appointed only on that day as attorney for some of the accused. This motion was denied by the court which ordered the parties to proceed with the trial. After said trial, the court rendered the judgment hereinabove indicated.

In stating that he was not prepared for trial, Attorney Sudario argued that, as the affidavits of the witnesses for the prosecution were not attached to the record, he could not learn the basis of the information. In denying the motion for postponement, the trial court ruled that the names of the witnesses for the Government are listed in the original and amended informations. Regardless of the merit of the ground advanced by Attorney Sudario in support for his motion for postponement, or of the merit of the denial by the trial court, the fact is conspicuous that defense counsel was not ready for trial on the date the appellants were arraigned. Under section 7 of Rule 114 of the Rules of Court, after a plea of not guilty, except when the case is on appeal from the justice of the peace, the defendant is entitled to at least two days to prepare for trial unless the court for good cause shown shall allow further time. This requirement has been held to be mandatory and, by its terms, the defendant is entitled as of right to at least two days to prepare for trial, and a denial of this right is a reversible error and a ground for new trial. (Moran, Comments on the Rules of Court, 2d ed., Vol. II, page 688, citing the case of *People vs. Valte*, 43 Phil. 907.)

Wherefore, following the recommendation of the Solicitor General, the appealed judgment is hereby set aside and

the case remanded to the trial court for further proceedings, for the reception of such additional evidence as the interest of justice may require, and for the rendition thereafter of the corresponding judgment. So ordered, with costs de oficio.

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

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