

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ESTER DEL ROSARIO MURRAY, DEFENDANT AND APPELLANT.*G.R. No. L-4467. April 30, 1959*

Ponente: LABRADOR, J.

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Appeal from a judgment of the Court of First Instance of Rizal, Hon. Ceferino de los Santos, presiding, finding appellant Mrs. Ester del Rosario-Murray guilty of parricide for the death of her husband George C. Murray, and sentencing her to reclusion perpetua, to indemnify the heirs of said deceased, and pay the costs.

The following facts appear sufficiently proven by the prosecution. The appellant herein was married to the deceased George Murray during the liberation, more specifically on May 9, 1946. Appellant was a widow at the time of the marriage and had four children by her former marriage, namely, Maria Luisa, 16, Caridad, 17, Jasmin, 6, and Eddie, 4 years. The deceased was a retired officer of the United States Army and together with a partner, Thomas Simmons, was ostensibly engaged in buying and selling surplus U. S. Army equipment. The appellant and her husband and the children of the former lived in a rented two-story house at No. 202 N. Domingo Street, San Juan, Rizal. They had a maid by the name of Maria Nara, and a driver, Jose Tagle. They had two cars, one a Buick, used by Mrs. Murray and her children, ordinarily driven by the driver and occasionally by her, and another, a Cadillac, driven by Murray himself. The upper story of the house had three bedrooms, one used by the spouses, another beside it, used by the younger children Jasmin and Eddie Boy, and a third, separated from the couple's bedroom by a small hall where the stairs landed occupied by the elder children and the housemaid. The driver slept in the garage, where the two cars of the family were kept. Mrs. Murray kept three boxer (bull) dogs and three native dogs. The former were kept in a kennel in the yard while the three native dogs were kept in the garage.

Both Murray and Mrs. Murray appeared to have loved each other. They often went dancing in night clubs, and also spent time together aboard a yacht, the "Mistress," which the deceased and his partner owned. While aboard the yacht the deceased had taught the appellant to use the revolver, in which use she became proficient. Murray seemed to be much in love with his wife. On one occasion he came to blows with an American who tried to dance with her without his previous permission.

Murray and the appellant seemed to have lived quietly until May, 1949, when Murray met Carolina Trinidad, a young cinema actress, 20, whose screen name is Carol Varga. The occasion of the meeting was aboard the yacht "Mistress," where a picture was then being filmed, in which Carol Varga was one of the members of the cast. The Sunday after that meeting Murray invited Varga to lunch, then in the evening took her to night club where they stayed till 3:00 a.m. As time passed by their meetings and going to night clubs became more and more often. Murray made love to her and she accepted his love and they became engaged. In June or July Murray went to Hongkong and while there kept sending cables to her, telling her how he was missing her (Exhs. "V," "V-1" "V-5").

The last time that Carol saw Murray was on August 12, 1949, at about 7:00 in the evening. They went on a ride in Murray's Cadillac to "Marifusa" where they took drinks. At 9:30 they left the place and Murray conducted Varga to her home. After that, he went home, reaching it at 10:00 p.m. When he left her, he told her he was going to the Riviera.

The same evening at 7:00 Mrs. Murray arrived home with her children, who had come from school. She opened a drawer of a sewing machine near the dining room and took out therefrom Murray's revolver, which she placed in her white bag. Then she went down to the garage and from there went out in the Buick car, alone, driving it herself. It so happened that the car had a flat tire, so she left it, and ordered Tagle to fetch the car. Tagle arrived with the car at 9:00. Murray arrived at 10:00 in the evening and began looking for his revolver. But he could not find it, and was mad about not finding it. As above stated, Mrs Murray had taken the revolver earlier in the evening and did not give it to him. They went up talking; then Murray came down alone—and left.

Murray came home about 4:00 o'clock the next morning, August 13th. Some thirty minutes thereafter Mrs. Murray entered the room of the girls where the maid and the two older girls slept. Mrs. Murray brought there the small boy, Eddie, and asked the maid to let him sleep beside her; then she left, closing the door behind her. Not long after Mrs. Murray had left, the maid heard four shots, one after another, at short intervals. The shots came from the room of the spouses. She turned around on the bed wondering, but as she felt an urge to urinate, she stood up and opened the door, and as she did so, she saw Mrs. Murray opening the door of their room also. Mrs. Murray proceeded down the stairs, while the maid followed her. At the middle of the stairs Mrs. Murray suddenly turned back while the maid continued on her way down to the bathroom to urinate. When the maid went up, she saw that the two eldest daughters of Mrs. Murray were already with the latter in the bedroom of the spouses, crying, so she also went inside. There she saw Mrs. Murray standing beside the window, bending over her lifeless husband, who was bleeding and motionless. Mrs. Murray said in Tagalog, "George, are you dead now?" Murray was lying down on the bed naked, except his drawers, as was his habit when going to bed to sleep. She noticed that the two windows were slightly opened, while the door leading to the balcony was also open. It had been the practice of the couple to have both windows open, while the door to the porch was kept closed.

Jose Tagle, the driver of the family, slept as usual in the garage on the evening of August 12, 1949. Between 4:00 and 5:00 at dawn he was awakened by the noise of two shots. He stood up immediately and again heard two shots. He went up the driveway to the stairs leading up the house. Upon arriving at that place he noticed that the door of the balcony above the stairs, leading to the room of the spouses, was being opened. Then he saw that it was Mrs. Murray who had opened it and further saw her in the act of throwing something away, after which he heard leaves rustling and then a thud produced by something falling on the ground, near the place where the boxer dogs were being kept.

Not long after the maid had come up to the bedroom of the spouses, Mrs. Murray ordered her daughter Caridad to phone for a doctor and fetch a policeman. Caridad and the maid went down; so did the other girl, Maria Luisa. Caridad could not use the phone as it was out of order. They proceeded to the garage and told the driver to have the car ready. The three rode in the Buick car and went first to the house of one Dr. Santos and from there they went to the municipal building. A policeman came with them in the auto. On their way back they passed by the house of the doctor, but as he was not yet ready, they returned home with the policeman only. The policeman ordered that the things in the bedroom be not touched, then asked for a cup of coffee, and the maid went down to brew coffee.

When the maid went to the bedroom of the spouses, after having fetched the policeman, she noticed that the wardrobe was already open and the clothes were scattered around. The wardrobe was closed when they left to fetch the doctor and there were no clothes scattered in the room. She also noticed that Mrs. Murray had already

changed her dress, after having taken a bath. When seen going out of her bedroom after the shots were heard, appellant was wearing a white silk gown with flowers, but when the maid and the two girls came back, she was already wearing a dress with stripes.

At 11:00 o'clock in the morning a medico-legal officer examined the body of the deceased Murray. At that time the body was already in rigor mortis. The following wounds were found: One wound, the point of entrance of which was on the center end of the left eyebrow and the point of exit at the back. A second wound with point of entry on the right side of the lower lip but without exit. The bullet, according to the medico-legal officer, upon hitting the teeth must have been deflected. This wound was not fatal. A third wound with entry just below the neck, left breast, and point of exit at the back, penetrating the thorax and the upper lobe of the right lung, and point of exit at the right side of the scapula. A fourth wound penetrating the upper thorax and the border of the upper lobe of the left lung, lacerating through and through the back of the aorta and trachea and without point of exit because the slug had lodged at the muscles at the back. The wounds penetrating the head and the chest caused the death of Murray (Exh. "II"). The direction of the wound indicated that the assailant must have been towards the legs of the victim, on the left side.

Appellant denies the following facts testified to by the maid and the driver: that she kept the revolver of the deceased in her white bag on the evening of August 12, alleging that she returned it to him upon finding it in the drawer of her sewing machine; that she was seen by the maid wearing her white nightgown and negligee, just after the shots; that she had opened the door of the balcony, and threw something down from the window, which fell near the dog kennel; that the room of the spouses was in order just after the discovery of the murder, and all the other circumstances pointing to her as the author of the crime.

The theory which the appellant tried to develop by the evidence she submitted is that the deceased was of a violent temper; that some unidentified robber must have entered their bedroom when appellant was downstairs taking coffee and preparing materials to sew; that the murderer must have climbed the balcony and passed the door leading to the bedroom, which door was then open; that the murderer ransacked the clothes of the deceased and must have found the revolver which she had given the deceased before the latter left at 10:00 o'clock the previous evening; that the intruder must have found the wallet of the deceased, and took away therefrom something less than P600, leaving the empty wallet on his way out of the room. Another possibility which she merely insinuated, is that someone who had dealings with the deceased in connection with the latter's business of smuggling ammunition and carbines, might have had the interest to eliminate him and thus caused or induced the murder. This latter theory is supported by evidence submitted by her to the effect that the police had been trying to check up the murder on this angle.

The first theory is supported mainly by her own testimony and by those of her two daughters. In the main it runs counter to the declarations of two star witnesses for the prosecution, namely, the maid Maria Naral and the driver, Jose Tagle, which have been already set forth above as: sufficiently proved.

Appellant also testified that the door of the balcony of their bedroom was open the night of the murder, thus contradicting the testimony of the maid that it was closed as the family had been accustomed to do. The fact, however, is that the night of August 12 had been a rainy night and the balcony door must have been closed to prevent the rain from getting in. The appellant also wants the court to believe that some intruder must have entered the room and shot the deceased and in order to prove this, she and her daughters testified that the clothes of the deceased had been scattered around, and his wallet was found empty on the floor, near the door of the balcony. But these claims are in turn contradicted by the maid who testified that when she entered the death room for the first time, the clothes of -the deceased were not scattered around, as well as by the finding of the first policeman who went into the room for investigation that he found no footprints in the room towards the balcony.

The police, following her subordinate theory, had tried to follow and check up appellant's claim that some enemy of the deceased must have caused his death but it appears that they were never able to get confirmation of said theory. Instead, the findings of the National Bureau of Investigation on the existence of nitrates on the right-hand glove and the cartridges in the revolver of the deceased, as well as the slugs near the latter's body fully and completely support the testimonies of the maid and the driver as to appellant's having herself, in all probability, committed the murder.

Where the identity of a person committing a crime is in dispute, the motive that may have impelled the commission is very relevant. (U.S. vs. MacMann, 4 Phil., 561; People vs. Ragsac, 61 Phil., 146; People vs. Bastatas and Bastatas, 65 Phil., 543; People vs. Tagasa, 68 Phil., 147; People vs. Caggauan, et al., 94 Phil., 118.) So we come to the motive that could have impelled the commission of the crime by the appellant. The prosecution claims jealousy of another woman, Carol Varga. Appellant denies this and claims that she never came to know Carol Varga. But the mother of the latter declared that appellant had once gone to their house on Calle Pepin, pretending to be another actress name "Daisy," a supposed companion of Carol Varga, asking if Carol had gone to the Riviera the previous night. The driver, Jose Tagle also testified that he used to drive appellant along Santa Mesa Boulevard on many occasions, and as they would approach the junction of Pepin Street, residence of Carol Varga, appellant would ask him to lessen his speed to enable appellant to see if her husband's car was parked in front of Carol Varga's residence. But a minor incident testified to by one of appellant's daughter shows that appellant knew Varga and knew her to be the object of the attentions to her deceased husband, and that said daughter knew: that her mother was aware of these attentions. A joint picture of the deceased and Carol Varga was found by appellant's daughter, Caridad, in the Buick car, in which she, Maria Luisa, Naral and the driver rode to call for a doctor and the police soon after discovery of the murder. According to Caridad herself, said picture was burned by her on August 14, the day following the murder because she "did not want my mother to see it." (Testimony of Caridad del Rosario, t.s.n., p. 29.) This conduct and statement of appellant's daughter Caridad creates the reasonable inference that appellant knew the affection of the deceased for Varga and she, the appellant, was jealous thereof.

Another incident which indicates how appellant felt towards Carol Varga is testified to by Adriano del Rosario, owner of Funeraria Quioque, who had been contracted by appellant for the funeral of her husband. Del Rosario testified that the appellant expressly ordered him to keep the coffin of the deceased closed, and in accordance with appellant's instruction, he placed the following notice on it: "Thru the request of the widow, this coffin will not be opened." Carol Varga went to the funeral parlor and asked permission to have the coffin opened and see the face of the deceased, and as Del Rosario had been instructed to have the coffin closed and not to open it, he went to appellant to have her permission for Carol Varga to see the cadaver, but appellant there upon refused Carol Varga's request, saying: "She (Varga) could not because she was the cause of all this trouble" (Testimony of Adriano del Rosario, t.s.n., p. 2).

John Snure, Jr., a friend of the deceased living in Park Avenue, Pasay, testified that on one occasion, at about 1:30 in the afternoon, the deceased and Carol Varga visited him at his home where he was living alone. As Snure went up to the bathroom situated on the second floor of his house, the deceased followed him there and told him that his life was being threatened. According to Snure, "he (Murray) told me that his wife knew that he was going with Carol Varga;" (Testimony of John Snure, Jr., t.s.n., p. 107); that he (Snure) refused to allow the deceased to live with him because he did not want to interfere with his domestic difficulties." (Idem, p. 108.)

Mrs. Margaret S. Pier, a close friend of the Murrays, who had been frequently visiting at the Murray house in July, testified that on one occasion Mrs. Murray told her, in her presence and that of the deceased, that a certain Mr. Yatco had asked appellant if she knew her husband was going around with other girls and movie stars, to

which the deceased replied that Yatco had nothing to do with it. On another occasion witness was present during a quarrel or sort of misunderstanding between appellant and the deceased, at which time the deceased told witness that appellant did not want him to go out; and at one time she saw appellant grab Murray's necktie and shirt and open its button, but despite appellant's attitude the deceased went on to change his shirt and then left the house. (Testimony of M. S. Pier, t.s.n., pp. 68-69). She further testified that Murray had once confided to her that he wanted a divorce and had asked appellant for it, explaining that he was still young and had not yet "finished sowing his wild oats." (Id., p. 70). Note that when appellant married the deceased on May 9, 1946, the latter was only 26 years, 7 months, while the former was already 31 years and 9 months (Exh. "B-1") with four children by a former marriage. The deceased was an American who considered divorce as a simple matter, demandable at the will of either of the spouses, but which opinion is not shared and is seldom tolerated by Filipino women.

Whether or not the appellant knew of the love relations between her husband and Carol Varga, and her reactions towards such relations, are matters which cannot be proved other than by appellant's utterances or acts or conduct.

Unless such acts or statements are admissible, the inner feelings of an individual would be impossible to prove in court. The testimony, therefore, of the mother of Carol Varga as to appellant's visit on one occasion and what she (appellant) had asked about; that of Del Rosario on why appellant refused to have the coffin of her husband opened; that of Snure as to what the deceased had told him; that of Mrs. Pier as to the incidents testified to by her; and the act of appellant's daughter in destroying the picture of the deceased with Carol Varga—all these in the opinion of the Court, are admissible as relevant to prove the knowledge by appellant of, and her attitude towards, her husband's actions. To all the above we must add the testimony of Carol Varga herself that in the month of June she used to go night-clubbing with the deceased two or three times a week (Testimony of Carol Varga, t.s.n., p. 4); that the deceased used to fetch her between 8:00 and 8:30 in the evening for dinner; that after dinner they would go to a nightclub, remaining there till two or three o'clock in the morning, when the deceased would bring her home. In the month of July, also according to Carol Varga, there was one whole week when she saw him everyday. It is not possible that appellant's attention could have been attracted by these continuous meetings of the deceased with Carol Varga and his much to frequent absences from home. So, consistent with this knowledge, in the afternoon of August 12, at about 7:00 o'clock, she drove the Buick car herself, along Santa Mesa Boulevard, evidently with the purpose of seeing if her husband was at Varga's house again. When her husband came home at 10:00 o'clock that evening, bringing along with him some P600, she must have suspected that he was again going out with Carol Varga; and finally, when the deceased arrived at 4:00 o'clock the following morning, again asking for some more money, as appellant herself stated, she must have convinced herself that her husband had again come from the nightclub with Carol Varga.

When we consider appellant's claim that the deceased had loved her, had frequently taken her for a ride in his yacht and to dancing places or nightclubs, and had 'demonstrated his love by such act of possessiveness as assaulting another who had tried to dance with her without his permission, which must have made her so happy, the sudden change in his conduct in frequently going to night clubs without taking her along, must have at first aroused her suspicion, and then later, her jealousy, especially upon learning that a beautiful rival was behind his sudden change of attitude towards her.

So when the deceased arrived at 4:00 o'clock in the morning of August 13, she must have been overcome by such an overpowering feeling of jealousy that she decided to destroy the man she loved so dearly, rather than allow another to enjoy his love and affection, and thereby put an end to her misery. Revenge must have blinded her reason and goaded her to destroy the man who had once loved but had now turned cold to her. This must have been the state of her mind when her husband arrived at 4:00 o'clock on that fateful morning of August 13, when she brought her young son to the room where the maid and her two daughters had their beds and were sleeping,

most probably to keep him away from any danger. The fact that she thereafter closed the door leading to the said room, contrary to her usual practice of leaving it open, clearly indicates an attempt to conceal an act, which she was then intending to commit, from the rest of the household.

We will now consider the positive evidence which point to her as the one who had fired the shots at her sleeping husband. They are as follows:

1. The first policeman who came to the bedroom where the dead body of Murray lay, found that entrance to the bedroom could not have been effected through the windows because there were grilles and all doors downstairs were locked; that the door to the balcony, which faced N. Domingo Street, was slightly open, but there were no footprints in the balcony itself nor in the room leading therefrom to the death bed. The policeman made the above inquiries because Mrs. Murray explained to him that the assailant might have passed through the door in the balcony. On going to the first floor he also noticed that all the doors were locked and there was no opening for anyone to enter, so he did not try to find out if there were footprints there. He also looked over the grilles of the first floor just under and leading up to the balcony but saw no marks mud or earth, on the grilles to show that persons had gone climbing up the said grilles. Neither did he see any ladder or bamboo pole near the balcony which could have been used to climb to the balcony. These circumstances positively prove that the assailant could not have come from the outside and could have been an inmate of the, house.

2. The revolver, Exhibit "C", found by the maid at about 8:00 o'clock the next morning when she went to feed the dogs, was given to the agents of the National Bureau of Investigation together with two slugs found near the scene of the crime. The N. B. I. found that the revolver had its barrel end clogged with mud or earth (Exh. "AA") ; that in the magazine chamber there had been five bullets, four of which were fired (Exh. "BB"). The fifth, which had not been fired, was between the first two fired bullets and the last two fired bullets (Exh. "III"). This circumstance tallies with the testimony of the driver that he first heard two shots, then after a brief interval, another two. The middle bullet was left unfired probably because the welder of the revolver had drawn the cock before firing the last two bullets so as to insure the death of the victim. A test was made to determine from what revolver the two slugs had been fired, and it was found that they came from the same revolver (Exh. "III"). The revolver in question is a .38-caliber police pistol, licensed in the name of Mr. George Murray (Exh. "T" and "T-1"), and known by a close friend of the deceased as belonging to the latter.

3. At about 6:00 o'clock in the morning of August 13, 1949, three policemen went to investigate the murder room. Two of them saw a pair of gloves, then suspected by them to have been used. Appellant, upon seeing that the gloves were being examined admitted that the gloves were hers, but explained that she had been using them when she worked in the garden. A neighbor testified that it was she who had given appellant said gloves. That morning the policemen saw the left glove lying on the floor near a rattan chair, while the right glove was on top of a suitcase place on a chair. At 11:30 a.m. when the two policemen who first saw the gloves were already in their station, their sergeant phoned them from the death room to inquire if they had seen a pair of gloves, and they answered that they did. At that time (11:30 a.m.), however, one of the gloves, the right one, had disappeared. Appellant was asked to try to locate this missing glove, and it was only on August 17, that she informed the police by phone that her daughter had found it in the laundry room. However, she refused to give it up, upon advice of her attorney, so that a search warrant (Exh. "WW") had to be secured, and only then were the police able to secure possession of the right glove. The disappearance of the glove and appellant's refusal to give it to the police when requested by the latter, indicate a guilty mind, and is enough to convince one that it must have been used by her when she shot the deceased.

4. Early at dawn after the maid heard the shots, she tried to hear if there was any one walking in the house, turning around in her bed, but she heard none. Then she felt like urinating, so she stood up and opened the door to go

down to the comfort room, but as she opened the door of their room, she saw Mrs. Murray also opening the door of her room. This was just after the shots had been fired. Appellant was then wearing a white silk gown and a negligee. When the maid returned with the policeman, whom she and appellant's two daughters had fetched, appellant had already taken a bath and changed her attire and was already wearing a striped dress. This, she pretended to the police, to be the dress she was wearing when the shots were heard. As the investigation progressed, it was noticed that the dress she had on when seen coming out of her bedroom right after the shots were heard, had disappeared, and when the police finally located it, it had already been washed, although some stains were found on it. These stains, appellant explained, were supposedly caused by her monthly menstruation.

5. The right glove was found by the chemist who examined it to have spots of nitrate at the dorsum about the first phalange thumb, ring finger, and third finger (Exh. "YY-1") Appellant tried to explain the presence of this substance in the right-hand glove, saying that it was caused by the fertilizer that she had used for her plants in the garden, but the chemist disproved her claim by saying that if the nitrate had been caused by her handling of "vigoro," the substance would have been in bigger sizes on the palm, not as mere spots at the dorsum of the glove. The above facts conclusively show that the hand with the glove on had something in its grip, which could have been no other than a revolver, the firing of which caused the spots found in the dorsum of the glove.

6. Appellant, from the start of the investigations by the police, had always answered the questions of the policemen, both for herself and for the maid, instead of allowing the latter to face the investigators and answer their questions herself. On one occasion appellant ordered the maid to hide in a closet of the house just so the policemen could not talk to her. Later on, she hid the maid in the house of her laundry woman, planning to send her away to Cavite to prevent her from facing the investigators. It was when the maid was about to board a jeep to go away that she was grabbed by agents of the N.B.I, and taken into custody for purposes of investigation and later for use as a witness for the prosecution.

It can be seen from the above that the prosecution has succeeded in weaving a net of incidents, facts and circumstances, all belying the claim of the appellant that some intruder might have entered the room and shot her husband. None of the incidents, facts or circumstances is consistent with her claim of innocence; on the contrary, each one of them points to her guilt, and each is consistent with all the others. All of them put together produced a conviction in the mind of the Court that it was appellant, and no other, who had a motive to end the life of the deceased, and that it was she herself who voluntarily shot the deceased.

* * * in order that circumstantial evidence may constitute proof beyond reasonable doubt, there must be a series of circumstances satisfactorily proved, that the circumstances are consistent with each other, and that each and everyone of them is consistent with defendant's guilt and inconsistent with his innocence. (U. S. vs. Douglas, 2 Phil., 461, 474; U.S. vs. Lim Sip, et al., 10 Phil., 627; People vs. Chan Uh, 57 Phil., 523; People vs. Ludday, 61 Phil., 216.)" People vs. Mahlon, et al., 92 Phil., 883.

"No general rule can be laid down as to the quantity of circumstantial evidence necessary to convict." (People vs. Ludday, 61 Phil., 216, 221). "All the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent." (U.S. vs. Levente, 18 Phil., 439; People vs. Chan Uh, 51 Phil., 523; People vs. Tan-choco y Marcelo, 76 Phil., 463; People vs. Mahlon. et al., supra; see 3 Moran, 1957 ed., p. 592.)

"* * * the evidence submitted by plaintiff, which is all circumstantial and therefore less susceptible to fabrication, constitutes an unbroken chain of natural and rational circumstances corroborating each other, and it certainly can not be overcome by the very inconcrete and doubtful evidence submitted by the defendants." Erlanger & Galinger, Inc. vs. Exconde, 93 Phil., 894.

The Rules of Court expressly provides:

"Sec. 98. Circumstantial evidence when sufficient.—Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt."

We have, therefore, no other alternative than to follow the law as quoted above and find the appellant guilty of parricide as charged and, as found by the court below. Whether or not the deceased was awake when appellant assaulted and shot him, the evidence is not sufficiently clear to convince us one way or the other. Only the appellant knows under what circumstances she shot the deceased. We are constrained to find, therefore, no aggravating or mitigating circumstances attending the commission of the crime. Since the penalty prescribed for parricide is reclusion perpetua to death, the penalty to be imposed on the appellant should be that of reclusion perpetua, in accordance with Article 63, par. 2(2) of the Revised Penal Code.

As to the indemnity, we do not see any reason for departing from the practice of fixing it at P6,000. The decision should, therefore, be modified in this respect. Before closing, some word of explanation must be given why the case lasted more than eight years in this Court.

The records were forwarded to this Court on January 8, 1951. But it took four years and eight months before the stenographic notes could be fully transcribed by the stenographers who took notes at the trial. The counsel for the accused was notified of the completion of the record only on October 25, 1955, and he filed appellants brief on March 26, 1956.

The Solicitor-General should have filed his brief for the Government on April 25, 1956, but no less than fifteen extensions were asked for and granted, and the Government's brief was filed only on August 30, 1956. The case was submitted for decision only on June 12, 1957. All the above explain the delay in the disposal of this case.

For the foregoing considerations, the judgment appealed from is hereby affirmed, with modification as to the indemnity as above indicated. With costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, and Endencia, JJ., concur.

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