

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. CANDIDO T. CHAN, DEFENDANT AND APPELLANT.

G.R. No. L-4014. September 11, 1951

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from a judgment of the Court of First Instance of Palawan convicting Candido T. Chan of double homicide and sentencing him to an indeterminate penalty of from 14 years, eight months and one day to 20 years of reclusion temporal, to indemnify the heirs of the deceased in the sum of P4,000, and to pay the costs.

The defendant admits that on July 14, 1942, in Sinadayan, he shot and killed from the seashore Ramon Alojado and Rufino who were on a banca fishing not far from the beach. He claims that he acted in self-defense.

Abusin, a Moro, and Leoncia Runsia alias Acacia, Ra-mon Alojado's widow, were put on the stand for the prosecution as eye-witnesses. Both witnesses declared that they were on the beach, though they were not together, and witnessed the shooting.

Abusin said he saw Ramon and Rufino on the banca with their hands raised, and heard Ramon plead to the accused not to shoot because he (Ramon) had not committed any fault; that Ramon Alojado and Rufino were hit and fell into the water one after the other in that order; that the distance between the seashore where the defendant stood when he opened fire and the victims' craft was about 50 meters. He also said that Ramon and, Rufino had a fishing net with them and that he had a companion named Budiang who also saw the shooting.

Alojado's widow's testimony is a corroboration of Abusin's with these additional details: She had gone with her husband to Sinadayan and Ramon and Rufino were fishing when they were fired upon; that she ran off after these two were shot; that the defendant, when he started shoot-ing, had emerged from the woods; that Ramon and Rufino had not been seen again after that incident.

The defendant's version is summarized in his answer to the question, what happened? He said: "Cuando estaban (Ramon y Rufino) muy cerca a mi yo levante la mano y me disparo contra mi y en eso yo di la vuelta y mi pie tropezo con una piedra y me he caido; entretanto ellos siguen remando hacia la playa. Como no podia huir, estando ellos cerca, lo que hice es disparar contra ellos libremente."

Two other witnesses testified for the defense. Pomato Moro said that on the day of the killing he went to Sugod, having been requested by Francisco Ubaldo to take a letter to Ramon Alojado who lived in that barrio, that in Ramon's house he did not find anybody except his wife; that from Sugod he walked on to Sinadayan arriving in the latter place between 11:00 and 12:00 a.m.; that in Sinadayan he sighted Ramon Alojado and Rufino on a banca, called to Ramon, and the latter came ashore; that he handed Ramon the letter and Ramon read it and grinned; that on the banca he saw a bolo and in Alojado's pocket a pistol; that when he was walking back home after he and Ramon separated, he was surprised to hear shots fired from the banca which at this time was heading towards the shore; that when the boat was about 50 meters from the shore, Ramon kept shooting while

Rufino was paddling the canoe and Candido T. Chan was running on one side of the street; that Chan hid behind a tree and from there fired twice from the effects of which Ramon and Rufino tumbled off the banca.

Eustaquio Laab, the chief of police of Brookes Point, testified regarding supposed statements made to him by the witnesses for the prosecution, the tenor of which was that they had not seen the slaying.

The trial Judge did not give credence to the defense story that Ramon Alojado shot at the accused. His Honor did not even believe that Alojado or Rufino carried a pistol saying they were out fishing and had no necessity to arm themselves.

There is no doubt in our mind that Ramon Alojado and Rufino were killed in the manner related by the Government witnesses. In fact, these witnesses' testimony is fully borne out by defendant's letter and extra-judicial statement, Exhibits A and B respectively.

In the letter Exhibit A dated November 29, 1945, which was in his own handwriting and which he sent through his brother to the commanding officer of the Army garrison in Punta Baja, Palawan, the defendant said that he had been an agent in Candawaga, Brookes Point, of one T. M. Holmsen who had an office at No. 3 Plaza Moraga, Manila; that Ramon Alojado, Rufino, and Francisco Ubaldo had stolen the company's safe containing P6,000 cash; that a policeman of Brookes Point by the name of Antonio had told him "Now war time, no government, some people rob your things, kill them, that is why, I shot these three Filipinos, that is why I became criminal." He stated that he had been staying in the mountain of Ransang hiding for three years. He re-requested the addressee of the letter to write and tell him if there was government in Palawan and he would submit himself.

On December 3 of the same year after he surrendered or was arrested, he made the declaration Exhibit B before Captain Generoso S. Lamdagan, Captain of Infantry, at Brookes Point, substantially reiterating his statements in the above letter, and describing, besides how, where and when he had killed Francisco Ubaldo. At the trial he repudiated Exhibit B alleging force or intimidation but he did not deny the voluntariness of the letter Exhibit A.

No direct proof was presented showing that Sinadayan is in Brookes Point, and the first assignment of error attacks the decision on the ground that "the prosecution has failed to establish that the crime charged was committed within the territorial jurisdiction of the court, to wit, within the province of Palawan."

This point is not well made. It appears from the testimony of the chief of police of Brookes Point as well as the testimony of other witnesses for both the Government and the defense, that Sinadayan is in the mainland of Palawan, a short walk from Candawaga which, according to the chief of police and Exhibit B, is in the municipal district of Brookes Point. For instance, Pomato Moro, the man who claimed to have taken a letter to Ramon Alojado in Sinadayan, declared that from Ramon's home in Sugod he passed through Candawaga on foot.

This appeal was elevated to the Court of Appeals but the latter Court certified the case to this Court for the reasons, among others, that in its opinion the crime committed was double murder attended by the qualifying circumstance of treachery, and the impossible penalty is reclusion perpetua. That the appellant committed two separate murders as charged, there can be no serious disagreement. The distance which separated the deceased from the accused and the fact that the former were on a banca, put them completely at the assailant's mercy, which they implored. The accused was free from any risk of retaliation by his victims; we are convinced they had no firearms.

There were two distinct crimes of murder because Ramon Alojado and Rufino were struck by different bullets the discharge of which constituted separate criminal intents and volitions.

Wherefore, the appealed judgment is modified so that the appellant shall be sentenced to suffer reclusion perpetua

for each of the two crimes, it being understood that the combined penalty shall not exceed 40 years, to pay Ramon Alojado's heirs P6,000 and Rufino's another P6,000 as indemnity, and to pay the costs. It is so ordered.

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

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