

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CAPT. JUVENAL ZAMORA, PAT. MATEO RAYMUNDO, AND PAT. IÑIGO MALAPITAN, DEFENDANTS, PAT. IÑIGO MALAPITAN, DEFENDANT-APPELLANT.

G.R. No. L-34090. November 26, 1973

Ponente: FERNANDO, J.

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FERNANDO, J.:

The flaw, fatal in character, which vitiates the decision of Judge Onofre A. Villaluz of the Circuit Criminal Court, convict-ing appellant Iñigo Malapitan[1] of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, is the lack of deference to the constitutional right of an accused to be presumed innocent.[2] That is implicit in the thorough and exhaustive brief filed by his counsel, Atty. Alejandro F. de Santos. It was made explicit in the equally-able brief of Solicitor General Estelito P. Mendoza.[3] As set forth therein: "The prosecution has no evidence to bolster its theory at all. The only evidence as to the killing came from the defense; it therefore stands uncontradicted. Against this evidence, the prosecution had only a theory, speculation and insinuation. We cannot press for conviction on this kind of a foundation." [4] A careful review of the records of the case persuades us that the stand of the Solicitor General supporting the plea for reversal is well grounded. The decision of the lower court must be set aside.

The facts as summarized in the brief of the Solicitor General follow: "In the morning of January 23, 1970, a certain Carlos San Juan, together with four other companions were arrested by Pat. Iñigo Malapitan of the Malabon Police Department and Sgt. Ruben Oliver of the Philippine Constabulary Metrocom in the vicinity of the Potrero Elementary School with-in the jurisdiction of Malabon, Rizal * * *. From the person of Carlos San Juan, the arresting officers recovered a .45 caliber Revolver which they seized * * *. The corresponding entry therefor was made in the police blotter of the Malabon Police Department * * *. Carlos San Juan was thereafter detained in the cell of the Malabon Police Department and information charging him for illegal possession of firearms and ammunition was thereafter filed * * *. While Patrolman Malapitan was engaged in conversation with Patrolman Raymundo at about 1:30 early morning of January 24, 1970 at the Malabon Police Headquarters, Captain Zamora ordered detainee Carlos San Juan to be taken out of the jail, and ordered Patrolman Malapitan and Raymundo to go with him outside the Police Headquarters * * *. Captain Zamora with Patrolman Malapitan and Raymundo and Carlos San Juan boarded a privately-owned jeep with Patrolman Raymundo driving the jeep * * *. The police officers with detainee San Juan, upon order of Captain Zamora, headed towards the direction of the Potrero Barrio School to search for weapons allegedly thrown within the vicinity of the said school by Carlos San Juan and his four other companions at about the time they were being apprehended by Pat. Malapitan and Sgt. Oliver of the PC * * *. At between 2:00 to 2:30 a.m. of January 24, 1970, Patrolman Mateo Raymundo using his service Thompson submachine gun killed Carlos San Juan within the compound of the Potrero Elementary School * * *. Carlos San Juan died as a result of eight (8) gunshot wounds inflicted upon him by Patrolman Raymundo Is submachine gun. The eight (8) gunshot wounds were through-and-through wounds * * *. Gunshot Wound Nos. 2 & 3 caused death,

gunshot wound No. 2 perforated the upper part of the lungs, while gunshot wound No. 3 perforated both lung and aorta, and upper lobe of the left lung * * *. All the bullets were fired from the Thompson submachine gun of Patrolman Raymundo * * *. No shot was fired from the Thompson submachine gun held by Patrolman Malapitan * * *."[5]

Nothing is clearer, therefore, from the above impartial and careful analysis of the competent and credible evidence of record by the Solicitor General than that the constitutional presumption of innocence was not overcome. Accuracy, as a matter of fact, calls for the statement that it was not even denied at all. The lower court decision, therefore, insofar as it would convict appellant Iñigo Malapitan must, as set forth at the outset, be reversed.

- Such a decision[6] contains a recital of the testimony of the witnesses both for the prosecution and the defense. Outside of the two medico-legal officers, Dr. Dario Nalagan of the National Bureau of Investigation and Dr. Fidel Capistrano of the Jose Reyes Memorial Hospital, the prosecution sought to prove the culpability of appellant Malapitan through three members of the Malabon Police Force, Danilo Ona, Antonio Orante and Felimon Pacheco as well as an enlisted man of the Philippine Constabulary, Doroteo Magaro and its Chief of the Physical Identification Branch, Major Crispin B. Garcia. There is nothing in their testimony, as summarized in the decision now on appeal, that did point to the guilt of appellant Malapitan.[7] A careful examination of the transcript of stenographic notes yields the same conclusion.[8] The widow of the deceased, Celerina Siason, also testified, but again, what was said by her could not, and did not, incriminate appellant Malapitan. Sad to say, in the face of such evidence, or more appropriately the lack thereof, the lower court adjudged him guilty.

It must have been misled by the assumption that there was a conspiracy between the accused, Patrolman Mateo Raymundo, who was convicted and who withdrew his appeal, the one who fired the fatal shot, and appellant Malapitan. As noted, however, in his brief, there was, on May 16, 1971, a lower court order, wherein it was categorically stated that the prosecution had not shown the existence of such a conspiracy. As set forth therein: "Considering that the prosecution has failed to prove conspiracy in this case, and considering further that during the trial there was no evidence linking Capt. Juvenal Zamora to the crime of murder, the Motion to Discharge filed by accused Capt. Juvenal Zamora, through counsel Atty. A. de Santos in accordance with the provision of Section 10, Rule 119 of the Rules of Court, is hereby granted. [Wherefore], the case against Capt. Juvenal Zamora is hereby [dismissed], with costs de officio. * * *." [9] While such order referred only to one of the three original accused, Juvenal Zamora, the lower court, if only responsive to the demands of logic, let alone common sense, ought to have included therein appellant Malapitan and likewise dismissed the case against him. As clearly pointed out in the brief of the Solicitor General: "Since there is not a single tenuous thread of evidence to support the finding of conspiracy between Patrolmen Malapitan and Raymundo to kill Carlos San Juan, we are constrained to agree with appellant that the trial court erred in finding that such a conspiracy to kill Carlos San Juan existed between Malapitan and Raymundo. As a consequence of the absence of conspiracy, appellant Malapitan cannot be held legally responsible for Patrolman Raymundo's killing of Carlos San Juan. Liability cannot be collective in the absence of conspiracy; and must therefore be individual. There being no evidence to show that appellant killed or assisted in killing Carlos San Juan in any capacity at all, it follows that the trial court erred in convicting Iñigo Malapitan for the murder of Carlos San Juan." [10] As to him therefore, as emphasized in such brief of the Solicitor General, "the cardinal rule applies * * *; he is presumed innocent until the contrary is shown (Art. IV, Sec. 19, Constitution (new)); (Sec. 2, Rule 131, Rules of Court). [As] the prosecution [failed] to show otherwise, he may not be convicted at all." [11]

- There is this relevant excerpt from *People v. Dramayo*: [12] "Accusation is not, according to the fundamental law, synonymous with guilt. It is incumbent on the prosecution to demonstrate that culpability lies. Appellants were not even called upon then to offer evidence on their behalf. Their freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable

doubt. To such a standard, this Court has always been committed. There is need, therefore, for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused. Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment."^[13] If there is any case where such a standard certainly was not met, this is it. What is even more deplorable is that the decision betrays, on its face, an attempt at rationalization, relying on surmises and conjectures to justify a finding of guilt. Precisely, the constitutional presumption of innocence calls for the repudiation of such state of mind, at war with all that the Constitution stands for, insofar as the rights of the accused are concerned. As Justice Laurel took pains to emphasize, the constellation of constitutional rights which the accused is vouchsafed, especially in presumption of innocence, is "sacred", not a mere "excrescence".^[14]

WHEREFORE, as prayed for by appellant Iñigo Malapitan and concurred in by the Solicitor General, the judgment of conviction against him is reversed and set aside. Without pronouncement as to costs.

Zaldivar, (Chairman), Barredo, Antonio, Esguerra, and Aquino, JJ., concur.

[1] His co-accused was Mateo Raymundo who was likewise convicted and appealed but who thereafter, on January 23, 1973 filed a motion to withdraw such appeal, granted in our resolution of April 12, 1973. Originally Juvenal Zamora was also accused, but the case against him was dismissed in an order of the lower court dated May 16, 1971, the prosecution having failed to prove conspiracy and there being no evidence linking him to the offense charged.

[2] As set forth in Article III, Section 1, paragraph 17 of the 1935 Constitution: "In all criminal prosecutions the accused shall be presumed innocent until the contrary is proved, * * *." It is now reproduced in Article IV, Section 19 of the Revised Constitution.

[3] Solicitor General Mendoza was assisted by Assistant Solicitor General Santiago M. Kapunan and Solicitor Nathanael P. de Pano, Jr.

[4] Brief for the Plaintiff-Appellee, 19.

[5] Ibid, 5-7.

[6] Appendix to Brief for Accused-Appellant Iñigo Malapitan, 48-88.

[7] Cf. Ibid, 49-65.

[8] Cf. As to Doroteo Magaro, T.s.n., Session of November 24, 1970, 52-81; as to Danilo Ona, Antonio Orante and Felimon Pacheco, T.s.n., Session of December 9, 1970, 1-15, 16-33, 33-50; as to Major Crispin B. Garcia, T.s.n., Session of December 29, 1970, 2-11.

[9] Appendix to Brief for Accused-Appellant Iñigo Malapitan, 5.

[10] Brief for the Plaintiff-Appellee, 19.

[11] Ibid, 16.

[12] G.R. No. L-21325, October 29, 1971, 42 SCRA 59.

[13] Ibid, 64.

[14] Bermudez v. Castillo, 64 Phil. 483, 493.

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