

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
LORENZO PINEDA, DEFENDANT AND APPELLANT.***G.R. Nos. L-1625-26. August 30, 1949*

Ponente: PADILLA, J.

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Early in the evening of 5 November 1946, Justiniano Arcilla and his wife Maria Arcilla were killed and buried in a common grave in the barrio of Malonso, municipality of Baraban, province of Tarlac. Justiniano Arcilla was the overseer of Tito Feliciano in his rice lands there. The police noticed the disappearance of the spouses and suspecting that Lorenzo Pineda had something to do with it brought him to the municipal building for questioning. As he disclaimed knowledge of the spouses' whereabouts he was released. About the end of March 1947 a Huk runner by the name of Pablo Rivera fell into the hands of the police and revealed that some people in the barrio of Malonso knew what became of the Arcilla spouses. The police gathered the male inhabitants of the barrio and told Rivera to point to the person who had information about the whereabouts of the missing spouses. Rivera pointed to Dominador Wage. The latter, Francisco Maninang and Andres Galang revealed to the police that in the afternoon of 5 November 1946 while the tenants were threshing palay in the patio not far from the Arcilla home, Lorenzo Pineda asked Justiniano Arcilla to give him a ration of four cavan of palay. Justiniano granted him one cavan only. Pineda was disgusted with Arcilla because he was allowed one cavan only whereas the others were given two. Pineda disclosed his resentment to Dominador Wage whom he met that afternoon. Faustino Galang alias Romy, Miguel David alias Peping, Bartolome Pasion alias Tomy, Horacio David and Troadio Tamayo, the co-defendants of Pineda, stopped Dominador Wage and Francisco Maninang, who were on their way home, and compelled them to dig a hole in the sitio called Ocho in the barrio of Malonso with shovels furnished them; and after digging the hole they were brought to a place 300 meters away from it. They were guarded by Bartolome Pasion. Later on, about dusk, the house of Pineda was surrounded by people among whom were Pineda and his co-defendants. They brought the spouses down and tied their elbows on the back and led them to the hole. With the butt of a carbine carried by Horacio David, Faustino Galang and Troadio Tamayo struck blows on the heads of the spouses, as a result of which they died. They were buried in the hole. Pineda and his co-defendants were recognized by Andres Galang who was still in the patio threshing palay and was dragged along by the malefactors to the place of the commission of the crime. The latter, Francisco Maninang and Dominador Wage were warned not to reveal what they had seen or else they would be killed including their families. The revelation brought about the arrest of Pineda who made a clean breast of the part he had taken in the macabre crime. This is set forth in an affidavit marked Exhibit A. The dead bodies of the deceased spouses after exhumation were identified by their children.

Two informations for murder were filed against Lorenzo Pineda and his co-defendants who were still at large at the time Pineda was brought to trial. He was found guilty and sentenced in each case to suffer reclusion perpetua with the accessories of the law, to indemnify the heirs of the deceased in the sum of P2,000 and to pay the costs, provided that the period of imprisonment should not exceed 40 years, pursuant to article 70 of the Revised Penal Code, as amended by Commonwealth Act No. 217. From this judgment the defendant has appealed.

There is no dispute that Justiniano Arcilla and Maria Arcilla were killed.

The alibi set up by the appellant supported by the testimony of his wife and of his son-in-law Benjamin Masiclat, to the effect that during the whole evening of 5 November 1946 he did not leave his house, is not sufficient to overcome the positive evidence for the prosecution which points to him as one of those who took part in the killing of the Arcilla spouses. There was a motive for the crime. He was to receive one cavan of palay for ration instead of two that the other tenants like him actually received. It was he who to avenge the discrimination committed by Justiniano Arcilla went to inform his co-defendants about it (pp. 42, 53, t.s.n.). Two witnesses for the prosecution are appellant's relatives. Dominador Wage is his son-in-law (pp. 13, 14, 76, t.s.n.), and Francisco Maninang is married to his niece (pp. 19, 28, t.s.n.). Asked whether his son-in-law Dominador Wage had any grudge against him or entertained any ill-feeling towards him, appellant swore that he did not (p. 84, t.s.n.). After appellant's arrest his wife sent for her son-in-law Wage to live with her in the house (p. 15, t.s.n.). Appellant's testimony at his trial on the third-degree cure resorted to to wring from him the confession which appears in the affidavit Exhibit A cannot be believed. His wife testifies that she did not notice anything on his body (p. 92, t.s.n.) which might have been the result of illtreatment. And this must be true, for if he really was maltreated in the way he testified, he could not have talked to his wife the following day when she went to the municipal jail to see him.

The judgment appealed from is affirmed with costs.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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