

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. GUILLERMO GALIT, LEONABDO MARCELO AND PEDRO GALICIA, DEFENDANTS.

G.R. No. L-6758. September 30, 1955

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PER CURIAM:

Leonardo Marcelo, Pedro Galicia and Guillermo Galit were charged with murder for the death of Silverio Palafos. After waiving their right to a preliminary investigation they were bound over to the Court of First Instance of Oriental Mindoro. Upon arraignment of first two defendants entered a plea of guilty and were sentenced to life imprisonment; and Guillermo Galit entered a plea of not guilty and trial as to him was held, after which he was found guilty of murder and sentenced to death, to indemnify jointly and severally with his co-defendants the heirs of the deceased Silverio Palafos in the sum of P6,000 and to pay the proportionate costs. The verdict and sentence are before us for review pursuant to section 9, Rule 118;

It appears that at about 5:00 o'clock in the afternoon of 4, June 1952, Leonardo Marcelo, Pedro Galicia, Anatolio Alberto and Guillermo Galit, who were detention prisoners in the municipal jail of Roxas, Oriental Mindoro, asked permission from patrolman Ulpiano Moral to go to a nearby store to drink tuba. Moral gave them the permission and not long after they were through drinking, Moral came to the store and chided them for staying there too long. They walked back to jail. Three went inside the jail, Leonardo Marcelo remaining outside. While Moral was answering a call of nature, Marcelo saw a carbine on the window sill, took hold of it and noticing that it was loaded fired it at Moral hitting him. The latter died as a result thereof. Pedro Galicia hacked Moral with a bolo. After killing the policeman the four detention prisoners escaped from jail and went to the house of policeman Ramon Perez where they took his Garand rifle. From there they crossed a creek bound for the house of Eulogio Marsonia where Anatolio Alberto found an opportunity to escape as he did escape from the group. The trio then proceeded to the house of Silverio Palafos at barrio Victoria and upon reaching the place Guillermo Galit called for Silverio Palafos. Sensing that something was wrong, Palafos asked who they were and as he opened the door, Leonardo Marcelo fired hitting Palafos in the left lower abdomen and killing him instantaneously (Exhibit D). The assailants fled to barrio Uyaw where they met Nicanor Gaad from whom they asked P.80; then to the house of Anacleto Solidum from whom Pedro Galicia took a .22 caliber rifle and 44 rounds of ammunitions; and finally to the house of Jose Suspini who gave them six eggs. From that place, they hurried to barrio Mahabang Sapa staying there for one day and a half and from there they crossed the mountains bound for barrio Wasig, where they stole a banca which they used in going to barrio Tubigon, Tablas, Romblon, arriving there at 4:00 o'clock in the afternoon of 7 June 1952. The next day they went to Kulasi, Tablas, Romblon, where after two days they were apprehended by soldiers of the Philippine Constabulary and brought to Roxas, Oriental Mindoro.

Guillermo Galit did not testify in his own behalf but tried to prove by the testimony of Leonardo Marcelo and Pedro Galicia, his co-defendant's non-complicity in the plot to kill Silverio Palafos. They testified that Guillermo Galit escaped with them from jail after killing policeman Ulpiano Moral; that under threat he was forced to join his companions in going to Silverio Palafos' house and after killing him went into hiding; and that Leonardo Marcelo instructed Pedro Galicia to guard Guillermo Galit to prevent his escape and to shoot him if he should attempt to do so.

It is hard to believe that after committing a serious crime Leonardo Marcelo would want to have a companion whom he hardly knew, because according to him he met Galit just a week before the incident, to witness the commission of another murder, going to the extent of forcing to join him under threat. Asked by the Court of what help Guillermo Galit would be to them, Pedro Galicia answered that he would guide them in the mountains where they intended to hide. However, in answer to a question from the Court, Pedro Galicia testified that Guillermo Galit had just arrived for the first time in Oriental Mindoro, from Romblon a week before the incident. This belies that Guillermo Galit was familiar with the terrain of the mountains of Mindoro. He could be of no use to them as guide. Leonardo Marcelo and Pedro Galicia had already been sentenced to life imprisonment after entering a plea of guilty to two charges of murder.[1] By owning responsibility for the death of Silverio Palafos, they would save Galit from possible death by electrocution.

Moreover, in his own unrepudiated affidavit executed on 21 June 1952 and subscribed and sworn to before the clerk of the Court of First Instance of Oriental Mindoro, he admitted having conspired with Leonardo Marcelo and Pedro Galicia to kill policeman Ulpiano Moral and Silverio Palafos, adding that upon arriving at the place he called for Palafos and told him to come down so that they could talk to him. Anatolio Alberto testified that the three defendant conspired and agreed to kill Palafos; and that on the way to the latter's house it was Guillermo Galit who guarded him to prevent his escape and threatened to shoot him for reproving what they had done. While this evidence is branded by counsel for the appellant as proceeding from a polluted source, no attempt was ever made during the trial to discredit him.

Guillermo Galit was not without motive in entering into conspiracy with his co-defendants to kill Silverio Palafos. He, together with Leonardo Marcelo, Pedro Galicia and Anatolio Alberto, was charged with robbery by the deceased. They unsuccessfully tried to persuade Palafos to withdraw his charge and for that reason and because they could not post the necessary bond they were detained in the municipal jail of Roxas (Exhibit A). All the more, if it is true, as testified to by Leonardo Marcelo and Pedro Galicia, that Guillermo Galit was not with his co-defendants on the night of 25 April 1952, when they robbed Palafos, he would have a stronger urge to conspire with them in killing Silverio Palafos.

The foregoing facts and reasons show that Guillermo Galit conspired with Leonardo Marcelo and Pedro Galicia to kill Silverio Palafos. He is, therefore, as guilty as his confederates.

The crime being qualified by treachery and aggravated by dwelling, the penalty imposed upon Guillermo Galit is in accordance with law.

The verdict and sentence under review are affirmed.

Bengzon, Acting C. J., Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

[1] For the death of Ulpiano Moral (criminal case No. 776, Court of First Instance of Oriental Mindoro; pp. 13, 19, t. s. n.) and Silverio Palafos (criminal case No. 790 of the same Court).

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