

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. VIRGILIO SANCHEZ ALIAS TOTOY, AND ELINO BELTRAN ALIAS SULAPE, DEFENDANTS AND APPELLANTS.

G. R. No. L-3084. July 06, 1951

Ponente: JUGO, J.

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JUGO, J.:

Virgilio Sanchez alias Totoy, Elinio Beltran alias Sulape, Serafin Valero, Ricardo Marcelo, one named Ciano, and another named Celino, were accused before the Court of First Instance of Bulacan of robbery with homicide. Several months before the trial, on petition of the Fiscal, the case against Serafin Valero and Ricardo Marcelo was temporarily dismissed. As the accused Ciano and Celino were still at large, the trial proceeded with regard to Virgilio Sanchez alias Totoy and Elinio Beltran alias Sulape. Both were found guilty and each was sentenced to suffer the penalty of reclusion perpetua, with the accessory penalties of the law, to indemnify proportionately the heirs of the deceased in the sum of P6,000, and to pay the proportionate costs. Both appealed.

On or about July 13, 1947, the accused Ricardo Marcelo, Virgilio Sanchez alias Totoy, Potenciano Catacutan alias Ciano and Elinio Beltran, together with Rosalina Garcia, hailed a Red Hood taxi driven by the deceased Aniceto Santos, boarded it, and proceeded to San Rafael, Bulacan, stopping in front of the municipal building. Ricardo Marcelo and the rest of the men, with the exception of Rosalina Garcia and the driver who were left in the taxi, alighted and went up the municipal building where Ricardo Marcelo conversed with Serafin Valero. Thereafter, Rosalina Garcia was called up the building where, after Ricardo Marcelo and Serafin Valero had talked in a low voice, Ricardo Marcelo, Virgilio Sanchez, Potenciano Catacutan, and Elinio Beltran came down, leaving Rosalina Garcia in the building. The four boarded the taxi and ordered the driver to proceed toward the Angat Dam, not far away. A little later, Rosalina Garcia heard three shots. When the group returned later, the taxi was no longer driven by its driver but by Ciano. From that time on Aniceto Santos, the driver of the Red Hood taxi, disappeared and has not been heard from.

Rosalina Garcia, witness for the prosecution, testified in substance that on July 13, 1947, she was invited from her house at Harrison Street, Pasay, by Ricardo Marcelo, Virgilio Sanchez, Potenciano Catacutan, and Elinio Beltran, with whom she went to Blumentritt Street, Manila. There they boarded a Red Hood taxi and proceeded to San Rafael, Bulacan, the taxi parking in front of the municipal building. The men alighted and went up the municipal building, leaving her in the taxi with the driver with whom she talked. A little later, she was called up on order of Ricardo Marcelo and upon arriving upstairs she found Ricardo Marcelo, Elinio Beltran, and Potenciano Catacutan in the office of Serafin Valero to whom she was introduced. Ricardo Marcelo talked with Serafin Valero in a low voice, and after the conversation, Ricardo Marcelo invited her to go down. Together with Ricardo Marcelo, Serafin Valero, Elinio Beltran, and Potenciano Catacutan, they went down and upon arriving at the next floor, she was told to sit on a bench. There the men again conversed and Rosalina overheard that Ricardo Marcelo was in need of firearms. Serafin Valero ordered one Leonardo to give Ricardo Marcela a balisong. Ricardo remarked that what he needed was a carbine. Then Ricardo told her that they were going somewhere for a while and would soon

return.

The group, except Serafin Valero and Rosalina Garcia who was left in the building, went down, boarded the taxi, and proceeded toward the Angat Dam. A little later, Rosalina Garcia heard three shots from the place where they had gone. After some time, the group returned with the taxi driven by Ciano, but without the driver Aniceto Santos. When she inquired later where the driver was, she was told not to ask questions; so she kept silent.

Elino Beltran, one of the malefactors who was arrested several months after the incident, made a confession while confined at the North General Hospital, the substance of which is as follows: After taking lunch in the house of Rosalina Garcia at Harrison, Pasay, on July 13, 1947, he together with Ricardo Marcelo, Virgilio Sanchez, Potenciano Catacutan, and said Rosalina Garcia, boarded a jeep for Blumentritt Street, Manila. Upon arriving there they boarded a Red Hood taxi and proceeded to San Rafael, Bulacan, reaching said place at about six o'clock in the afternoon. They parked the taxi alongside the municipal building. Ricardo Marcelo went up. About fifteen minutes later, he came down and boarded the taxi. The men, together with the driver, who was later identified as Aniceto Santos, proceeded to Angat Dam, not far away, leaving Rosalina Garcia in the municipal building. Along the way, not far from the dam, they saw Leonardo de la Cruz who was carrying a carbine. They stopped and Ricardo Marcelo talked with Leonardo, who gave the carbine to Ricardo who, in turn, delivered it to Virgilio Sanchez. With Leonardo on the running board, they proceeded to the dam, but had to go down when the taxi was struck in the mud before reaching the bank of the river. After walking for about twenty meters the group, with the driver, stopped. Leonardo was left behind to guard the taxi. Ricardo told Virgilio Sanchez to give the carbine to Ciano. After ordering the driver to lie down, Ricardo instructed Elino Beltran and Virgilio Sanchez to tie the hands and legs of the driver, which the two did. On instruction of Marcelo, Sanchez placed the driver face downward. Then, on order of Marcelo, Catacutan shot the driver three times, hitting him in the nape. Catacutan searched the cash box of the taxi, but found no money. Marcelo examined the pockets of the driver and took his watch, driver's license, automobile license, credentials, and residence certificate which contained the name of Aniceto Santos. After throwing the body of the driver to the river, they returned to the municipal building and fetched Rosalina Garcia.

It should be noted that Elino Beltran admits having signed the confession Exhibits F, F-1 to F-5, although he claims that he signed the same through intimidation, while suffering pain in the hospital. Constabularyman Francisco Sanchez, Dr. Bayani N. Jenabe, Teofilo C. Amargo, special policeman of the North General Hospital, and Major Celso M. Alikpala, testified that Elino Beltran signed said confession voluntarily and even smiling.

The appellant Beltran contends that the corpus delicti has not been proven independently of his alleged confession, and, consequently, there is no basis for conviction, citing authorities to that effect. Corpus delicti means that a crime has been committed. In the present case, it has been proved by evidence outside of the confession that the driver Aniceto Santos was taken by the defendants to the Angat Dam and three shots were heard by Rosalina Garcia. When they returned to the municipal building Rosalina asked them where the driver was and she was told not to ask questions. The taxi formerly driver by Santos came back driven by Ciano. This taxi was disposed of illegally by the defendants and found in the possession of Lt. Hector Crisostomo to whom it had been sold after its motor number had been changed and its body repainted with different color. These facts constitute the corpus delicti of the crime charged.

The question raised by the appellant Virgilio Sanchez is that the confession of Beltran cannot be used as evidence against Sanchez.

Independently of the confession of Beltran, the participation of Sanchez in the commission of the crime is established by the testimony of Rosalina Garcia and the other witnesses who testified as to the disposal of the taxi

driven by the deceased. There was conspiracy between the defendants to commit the crime. Sanchez was one of those who invited Rosalina to go with them from Pasay to San Rafael, Bulacan. In the municipal building he took part in the conference with his co-defendants, previous to the execution of the crime. He went with the group who took the driver to Angat Dam from where three shots were heard by Rosalina in the municipal building. He came back with the group, without the driver Aniceto Santos, the group refusing to answer any questions from Rosalina as to the whereabouts of Santos. It has also been proved by evidence other than the confession of Beltran that the Red Hood taxi had been illegally disposed of by the co-defendants.

In conclusion, there is sufficient evidence outside of the confession of Beltran that Sanchez was a co-author of the crime charged.

As correctly pointed out by the Solicitor General, the indemnity of P6,000 to the heirs of the deceased Aniceto Santos should be paid jointly and severally by the defendants.

The taxi which has been recovered by the police authorities should be returned to the Red Hood Taxi Company.

With the above modifications, the judgment appealed from is hereby affirmed in all other respects. It is so ordered.

Paras, C. J., Pablo, Bengzon, PadiUa, Tuason, Montemayor and Reyes, JJ., concur.

PARAS, C. J.:

Mr. Justice Feria voted with the majority.

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