

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EDILBERTO DE LOS SANTOS, ET AL., DEFENDANTS. ANTONIO MARCOS, ETC., ET AL., DEFENDANTS AND APPELLANTS.

G.R. Nos. L-19067-68. July 30, 1965

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Review of the decision of the Court of First Instance of Rizal (Pasig), in its Criminal Cases Nos. 7703-7704, imposing the death penalty on fourteen (14) inmates of the New Bilibid Prisons in Muntinlupa, Rizal, for the crime of multiple murder.

Originally indicted in the two cases were forty-five (45) and forty-six (46) prisoners, respectively. On the agreement of the parties, the cases were jointly tried, and, in due course, the cases against some inmates were dismissed, other defendants were acquitted, while fourteen (14) were convicted, namely: Antonio Marcos, Francisco Flores, Felix Jason, Edilberto de los Santos, Benjamin Armobit, Alejandro Macaso, Carlos Rebaño, Jose Garchitorena, Cipriano Castro, Jose Cruz, Jr., Marcial Ama, Alfredo Peralta, Conrado Belen and Benigno Casulla.

The impressions of the trial judge, Hon. Andres Reyes, of the situation obtaining in the penitentiary (he made an ocular inspection and held sessions there) were described by him in the decision, as follows:

"The whole compound was a scene of one big congestion, made more repulsive by the fact that as one enters its steel gates which lead to the cell buildings, the smell of human flesh and perspiration owing to the congestion contaminates the air. The overflow of prisoners in each cell was no ordinary one. A total count shown by the prison records reveals that there were 8,304 prisoners all packed up in the six prison buildings which were supposed to house only a little more than 5,000 inmates at its full capacity. In Brigade 1-B of Building I alone, 263 prisoners were all packed up on a cell house which can take only a load of 116 prisoners. In Brigade 1-D, the bartolina just beneath Brigade 1-B, there were 350 prisoners as compared to its capacity of only 33 inmates.

"The cell of Brigade 1-B was a big hall-like structure with six or five grilled gates and a narrow corridor on its right side. Inside the cell were triple-decked steel beddings all lined up one after another such that they occupy the whole cell itself. These arrangements were good only for 116 prisoners at most. What happened when 350 prisoners were all made to live within this cagelike confines is unimaginable. There was hardly any space for anyone to move; more so in Brigade 1-D, which houses the bartolina, where a two-man cell was filled with ten or more prisoners. The beddings certainly will not accommodate everybody. A lot of prisoners had to sleep—if they sleep at all—on the cold cement floor. The whole cell itself is one big sleeping, dining, living, toilet and drainage room when some of the inmates, finding no space, had to live, sleep and eat in the toilet and drainage rooms of the cell houses. In the bartolina, conditions were even worst. The prisoners were actually sleeping and stepping over each other like a bunch of canned sardines. And what is more, the food allowances were no allowances at all. Each prisoner has an allocation of thirty centavos worth of food per day—it is needless to speculate on what a ten-centavo meal could do. The prisoners were given each two or three pairs of clothing,

for the cleaning and washing of which they were made responsible. It is hardly possible, however, to do any washing under the obtaining conditions. Those who were fortunate enough to receive gifts in food and clothing from friends or relative were hardly able to touch or make use of them for fear that the rage of the less fortunate among the inmates would be turned against them.

"Hardened criminals were mixed with light offenders. Extortions and all sorts of crimes were being committed sometimes right under the very nose of the guards who, to top it all, could not maintain even a semblance of order and/or discipline as they were so out numbered and themselves afraid that they might also be stabbed or liquidated. Because of these situations, helpless inmates by reason of their physical build have been abused and could not complain for fear of reprisal.

"All these contributed to augment the growing feeling of the inmates that they are living in a world of outcasts where only the mighty and the strong survive, where hope of redemption is illusory and where life has been subjected to the law of the jungle or the law of the survival of the fittest.

"And so like all humans with little sense of order left in their mind, they formed themselves into bands or into groups and finally into big organizations upon which each and every member looked for protection, security and, most important of all, for food and means of Survival. The bold and outspoken assumed leadership of the gang. At first there were many of these groups, popular among them were the Flower gang, the Tira-Tira gang and the Rose Tattoo gang. But as time went on, after discipline continued to be lax, these small organizations started to foment rivalries among themselves until finally these small gangs grouped themselves into big organizations and called themselves the Sigue-Sigue and the Oxo gangs.

"None of the witnesses of the prosecution as well as the accused themselves could tell with certainty the significance or meaning of the word sigue-sigue and oxo, but the evidence is clear that the Sigue-sigue organization counted with the support of inmates coming from Luzon particularly from the Tagalog regions, while the Oxo was generally composed of inmates coming from the South or the Visayas.

"The enmity and rivalry that grew between the two big organizations became worse as time went on. A reading of the consolidated incident report prepared by inspector Meliton Geronimo OYCZ, security and custodian of the New Bilibid Prisons as received by the Court during the ocular inspection conducted in the penitentiary, shows that as early as 1957 cases of stabbing, assault and all sorts of crime frequently happened whenever the members of these two organizations came in contact with each other. As time went on the incident became more frequent indicating thereby that the situation was going out of control. By January, 1958 the die has been cast; the rivalry that persisted between the two organizations has grown to enormous proportions. Almost daily free-for-all fights occurred between the two rival organizations. Killing became almost a daily occurrence. * *

*. "

On 17 January 1958, the Sigue-sigue held a meeting where they decided to liquidate their rivals. They met again on the night of 15 February 1958, and decided that the next day, a Sunday, would be the appointed day.

Thus, pandemonium broke loose in the penitentiary at between eight and nine o'clock on Sunday morning, 16 February 1958, when the Sigue-sigues staged a riot against their enemies. This started with a commotion in the upper floor of the cell house. A mass of about 150 prisoners, many of whom were armed with improvised weapons, forcibly opened the door to the cell house, liberated their companions from their individual cells and then opened the cells where the Oxos were, took them out by force or deception, and then clubbed and stabbed them to death, one after the other. Five (5) died when the riot was quelled.

At about the same time on the following day, 17 February 1958, another riot, carried out in the same fashion as the day before, accounted for four (4) more deaths.

Two drums of weapons, consisting of ice-picks, sharpened instruments, improvised from nails and parts of a steel

drum, and wooden and iron clubs made from broken windows and beds (tarima), were collected from the site after each day's riot.

The findings of the medical officers of the Bureau of Prisons on the corpses of the nine (9) victims portray eloquently the shocking extent of the carnage, brutality, and cannibalism of these riots.

The findings on those who died on the 16th of February, 1958 are as follows:

Cresencio Borromeo

"(1) Lacerated wound of the scalp 6 inches in length with a crack of the skull and brain substance coming out.

(2) Right ear amputated.

(3) Lacerated wound of the right eye brow 8 inches in length and 2 cms. in depth.

(4) Bruises at both right and left leg.

Cause of death: Fracture of skull."

Martin Dorado

"(1) Two lacerated wounds of the head 4 cms. in length 1 cm in depth.

(2) Nine punctured wounds of the chest two cms. in length, five of which are penetrating, 4 puncturing the lungs one cut ting the big blood vessels.

(3) Lacerated wound of the left hand 3 cms. in length, one cm. in depth. Cause of death: Internal hemorrhage from multiple fatal wounds of the chest."

Pablo Callares

"(1) Lacerated wound left front temporal region 4 inches in length and fracture of the skull;

(2) Punctured wound right scapular region 2 cms. in length 3 cms. in depth;

(3) Bruises—right arm, left hand and abdomen;

(4) Bruises at left and right knee;

(5) Punctured wound left leg 2 cms. in length 3 cms. in depth position portion;

Cause of death: Fracture of skull."

Marcelino Javier Baltazar

"(1) Lacerated wound of the head occipital region 3 inches in length 1 cm. in depth;

(2) Lacerated wound of the left eyelids 4 cms. in length 2 cms. in depth;

(3) Lacerated wound of the mouth left angle 4 cms. in length cms. in depth;

(4) Lacerated wound at the left parotid region 4 cms. in length 2 cms. in depth;

(5) Lacerated wound left mandibular region 4 cms. in length 2 cms. in depth;

Cause of death: Cerebral contusion due to head blow."

James Garcia Dizon

"(1) Lacerated wound left occipital parietal region 5 inches in length 1 cm. in depth with cracked skull;

- (2) Lacerated wound right eye upper lid parallel to each other 4 cms. in length 1/2 cm. in depth each;
 - (3) Lacerated wound behind left ear 3 inches in length 1/2 cm. in depth;
 - (4) Punctured wound left chest 1-1/2 cms. in length 5 cms. in depth penetrating the left lungs;
 - (5) Presence of bruises on both left and right hand;
 - (6) Punctured wound left forearm 1-1/2 cms. in length 3 cms. in depth;
- Cause of death: Fracture of the skull."

The findings on those who died on the 17th of February, 1958 are also as follows:

Francisco Manalo

- "(1) Head—7 wounds lacerated & fractured;
- (2) Neck—1 wound lacerated 5 inches long;
- (3) Abdomen—10 wounds stab and penetrating;
- (4) Left hand—1 wound lacerated;
- (5) Left thigh—1 wound thru and thru."

Ernesto Cruz alias Matias

- "(1) Head—burned
- (2) Neck—1 wound stab in inch
- (3) Chest—1 wound stab in inch
- (4) Abdomen—2 wounds stab 1 inch
- (5) Lower extremities—both burned."

Alfredo Gabieta

- "(1) Head—beheaded
- (2) Chest—4 wounds stab
- (3) Abdomen—7 wounds cut
- (4) Pelvic region—wounds cut
- (5) Tibia fibula—1 wound lacerated."

Porfirio Sanchez

- "(1) Head—11 wounds with lacerated big round chin, right ear (2-1/2) inches
- (2) Neck—3 wounds 1-1/2 inches
- (3) Chest—10 wounds 1 inch stab
- (4) Abdomen—6 wounds 1 inch stab
- (5) Right thigh—7 wounds 1 inch."

Ernesto Cruz, alias Matias, and Alfredo Gabieta met their death differently from the others.

Ernesto Cruz was one of those who joined in the attack. After the door of their intended victims was opened, Cruz was pulled inside and killed by the inmates therein. Enraged by this incident and by the refusal of the inmates to come out of their cell, the attackers gathered pieces of wood and newspapers, poured gas and set the cell on fire, thus burning the head and lower extremities of the dead Ernesto Cruz.

Alfredo Gabieta, also known as "Pilay", came out voluntarily from his cell after receiving assurance that he was not an enemy. Upon coming out, however, he was clubbed, slapped on the face, stabbed, placed on a bench and beheaded kempetai-style. Alfredo Peralta, alias "Shane", took the severed head by the hair, took it to a typewriter of the warden and pretended to investigate it, after which Peralta ran with the head to the fire escape and from there threw it to his companions.

The meetings on 17 January 1958 and 15 February 1958 of the Sigue-Sigues and the conduct of the riots—the mass movement of the mob, the timing, the generally uniform manner in the killings, the obedience to, and execution of, the commands or instructions of the leaders—are direct proofs on the existence of a conspiracy.

Apart from the medical testimony, the prosecution presented the following witnesses with respect to the participation of each of the accused in the conspiracy and in the commission thereof: Leon Catbagan, Jovertino Carces, Marcelino Quirabo, Sotero Bautista, and Isidoro Lizardo, all serving terms in the penitentiary, and Francisco Roxas, keeper-in-charge of the cell house.

The credibility of these witnesses is the only issue.

Catbagan's testimony is assailed because, when he was presented as a defense witness about six months after he testified for the prosecution, he recanted his previous testimony against the accused, on the excuse that he was maltreated by prison authorities. The recantation and the excuse cannot be believed: his sworn testimony as a prosecution witness remained clear and straight forward for four (4) session days, on 5, 11, 12 and 30 June 1958, without detectable hint of untruth or fabrication, or lack of voluntariness.

That this prisoner's testimony for the prosecution was spontaneous also appears from certain details of that testimony. He pointed out that one of the ringleaders was a prisoner who had since been released; and that he was able to talk to a guard and reveal what he knew, without danger to himself, by employing the ruse of insulting the guard. On the other hand, when much later he recanted his previous statements, he was vague, sought support from an employee who had since gone A.W.O.L., and refused to enter into details unless all those whom he had previously implicated were present to hear him; and the reason given for his recantation (that he was about to complete serving his term) was wholly unsatisfactory, for this reason already existed when he first testified. Since Catbagan's original testimony was corroborated by other witnesses and evidence for the prosecution, we can see no error in the trial court's refusal to accept his recantation; particularly since the trial judge had opportunity to closely observe the behavior of the witness on both occasions.

The observation of this Court is that the testimony of each prosecution witness, when not corroborating another, dovetails into the narrative of the others, such that, taken together, the completed whole generates belief even unto its parts. The inconsistencies or faults in the testimonies of the prosecution witnesses are minor, not uncommon, and do no damage to the substance of the evidence. It would have been extraordinary indeed if in the observation and narration of rapidly changing events of high emotional content no inconsistencies had developed.

That the Court *a quo* acquitted some accused also implicated by the witnesses of the prosecution, because it felt that the incriminating evidence lacked adequate corroboration, does not establish that the testimony was false or fabricated. It merely emphasizes a commendable caution in weighing the proof in a capital case.

The involvement of each one of the fourteen (14) remaining accused are as follows:

Antonio Marcos

He is the recognized leader of the Sigue-Sigue gang; presided over the meetings on 17 January and 15 February 1958; was seen sharpening instruments; gave the instructions to raid the cell house and threatened those who would not follow; was seen opening the door of Brigade 1-D, the cell house; clubbed and/or stabbed Cresenciano Borromeo and another victim; set Are to the cell where Matias was killed; opened the cell door of Quirabo, an Oxo and a prosecution witness.

Francisco Flores

Armed with a sharp instrument, he was seen coming from the upper floor, opened the cell door of Pablo Callares, then clubbed and stabbed him; did the same to Jesus Dizon and Marcelino Javier Baltazar and another victim. He is one of the leaders of the gang and gave the order to retreat: "Nandiyan na mga guardiya, magsi-akyat na kayo" (the guards have arrived; go upstairs).

Felix Jason

He is another leader of the Sigue-Sigue gang; attended its meetings; was seen sharpening instruments on 15 February 1958; participated in the clubbing and stabbing of Jesus Dizon, Marcelino Javier Baltazar, alias "Tikboy", and Martin Dorado. He possessed the power to pardon certain supposed enemies.

Edilberto de los Santos

Armed with an iron pipe, he was seen among the mob coming from the upper floor to the cell house; shouted to open the door of the Oxos; joined in the clubbing, stabbing, and beheading of Gabieta and in the clubbing and stabbing of Callares. He gave the command in front of the cell where Matias was killed: "If we cannot enter, we burn them". He attended the meetings of the Sigue-Sigues, and was seen sharpening a weapon on 15 February 1958.

Benjamin Armobit

A member of the top-brass of the gang; he attended both meetings was one of those who attacked Gabieta.

Alejandro Macaso

He joined the rampage and participated in the clubbing and stabbing of Porfirio Sanchez and Cresenciano Borromeo. He pulled Dorado from his cell.

Carlos Rebaño

He is one of the leaders of the gang and attended one of its meetings. He clubbed and stabbed Gabieta and helped in beheading him; also clubbed Dorado. He released his companions in the cell house before the attack on the Oxos started.

Jose Garchitorea

He clubbed both Callares and Dizon and joined in the beheading of Gabieta. He was one of those who opened the cells of their companions in order to release them.

Cipriano Castro

He brought out Callares from his cell and clubbed him; he clubbed also another victim.

Jose Cruz, Jr.

He was seen with an ice-pick coming from the upper floor to the cell house; opened the door of the cell of Callares; joined in dubbing and stabbing him; he also clubbed and stabbed Dizon and Baltazar.

Marcial Ama

He was confined in the cell house but was released by the rioters who came from upstairs. He took part in the clubbing and stabbing of Callages and Gabieta.

Alfredo Peralta

He admitted in open court his participation in the decapitation of Gabieta in the manner hereinbefore narrated.

Conrado Belen

He is a Sigue-Sigue member and was among those who came from the upper Boor of and to the cell house. He entered and participated in the burning of cell 10—where Matias was burned. He clubbed Baltazar.

Benigno Casulla

He took part in clubbing and stabbing Porfirio Sanchez and Jesus Dizon.

In view of the limited distance, which is but a stone's throw, from the place where the crimes were committed to the place where the accused-appellants claim to have been at the time of commission, their common defense of alibi is incredible.

The evidence compels us to agree with the trial court that the accused-appellants are guilty beyond reasonable doubt of the crime of murder. But the members of the Court can not in conscience concur in the death penalty imposed, because they find it impossible to ignore the contributory role played by the inhuman conditions then reigning in the penitentiary, vividly described by the trial Judge in his decision. It is evident that the incredible overcrowding of the prison cells, that taxed facilities beyond measure, and the starvation allowance of ten centavos per meal for each prisoner, must have rubbed raw the nerves and dispositions of the unfortunate inmates, and predisposed them to all sorts of violence to seize from their owners the meager supplies from outsider in order to take out their miserable existence. All this led inevitably to the formation of gangs that preyed like wolf packs on the weak, and ultimately to pitiless gang rivalry for the control of the prisoners, abetted by the inability of the outnumbered guards to enforce discipline, and which culminated in violent riots. The government cannot evade responsibility for keeping prisoners under such subhuman and dantesque conditions. Society must not close its eyes to the fact that if it has the right to exclude from its midst those who attack it, it has no right at all to confine them under circumstances that strangle all sense of decency, reduce convicts to the level of animals and convert a prison term into prolonged torture and slow death.

Wherefore, and there being no sufficient number of votes are required by law, the death penalty imposed on appellants is automatically reduced to life imprisonment. The civil indemnity and costs fixed by the appealed decision are affirmed.

Bengzon, C. J., Bautista Angelo, Concepcion, Paredes, Dizon, Regala, Makalintal and Zaldivar, JJ., concur.

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