

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
ELIAS NANA ALIAS COMMANDER DELFIN, HERMOGENES  
GREGORIO, ZACARIAS GACUTANA ALIAS ALFARO, ROMY YACAT  
ALIAS ROMY, RICARDO...**

*G.R. No. L-9483. January 30, 1960*

Ponente: CONCEPCION, J.

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**CONCEPCION, J.:**

This is an appeal taken by Alejandro Briones, Delfin Bumanlag, Elias Nana, Crescencia Pabiling and Victoriano Tabliga from a decision of the Court of First Instance of La Union convicting them, together with other seven (7) defendants, of the crime of rebellion. The first two (2) appellants (Briones and Bumanlag) were further convicted of multiple murder and murder, respectively. Inasmuch as defendants Nana, Pabiling and Tabliga were subsequently allowed to withdraw their appeal, the only matter left for determination is the appeal taken by Briones and Bumanlag. Insofar as pertinent to them, the dispositive part of the decision appealed from reads:

"In view of the foregoing, and finding the accused guilty of the crime of rebellion, the Court hereby sentences:

\* \* \* \* \*

"11. Delfin Bumanlag alias Commander Delfin, in pursuance of paragraph 1 of Article 135, Revised Penal Code, to ten (10) years of prision mayor and to pay a fine of P10,000, with proportionate costs;

"12. Alejandro Briones alias Florante, in pursuance of paragraph 1 of Article 135, Revised Penal Code, to ten (10) years of prision mayor and to pay a fine of P20,000, with proportionate costs.

"The Court also finds Delfin Bumanlag and Alejandro Briones guilty of the murder of Emilio Dayao and sentences each of them to reclusion perpetua, to indemnify jointly and severally the heirs of Emilio Dayao in the amount of P6,000, with proportionate costs.

"The Court also finds Alejandro Briones guilty of the murders of Desiderio Ordinario, Alfredo Lacsamana and Bonifacio Nariz. For the murder of Desiderio Ordinario, the Court sentences him to reclusion perpetua, and to indemnify the heirs of Desiderio Ordinario in the amount of P6,000 with costs, for the murder of Alfredo Lacsamana, to reclusion perpetua and to indemnify the heirs of Alfredo Lacsamana in the amount of P6,000, with costs; for the murder of Bonifacio Nariz, to reclusion perpetua and to indemnify the heirs of Bonifacio Nariz in the amount of P6,000, with costs.

"All accused are entitled to one-half of their preventive imprisonment they have already undergone."

Appellants do not question the judgment against them for simple rebellion. They merely impugn their additional conviction for multiple murder and murder, upon the theory that these offenses form part of, and are absorbed by, said crime of rebellion, as held in *People vs. Hernandez*, 52 Off. Gaz., 4612. The prosecution in turn, cites, in support of the decision appealed from, the case of *People vs. Romagosa*, 103 Phil., 20, 56 Off. Gaz. (14) 2946 in which this Court, by the vote of six (6) members thereof, with four (4) members dissenting, and one (1) member

concurring in part and dissenting partly, held:

"As in the Geronimo case, there is the further question of whether, in view of appellant's plea of guilty to the information, he should be deemed to have admitted the commission of the simple crime of rebellion alone, or of rebellion and other separate crimes, if any of the counts of the information charges crimes independent of and not constituting essential acts or ingredients of the rebellion charged. As already stated, the three counts of the information against herein appellant Romagosa are exactly the same as the last three of the five counts charged against Federico Geronimo (100 Phil., 90). As ruled by the majority in the preceding case, the first count under the present information (the third count against Geronimo) does not charge appellant's participation and can not, therefore, be taken into consideration in this case; the second (the fourth count against Geronimo) alleges an essential act of rebellion and is absorbed by that crime; while the third (the fifth count against Geronimo) charges the murder of one Policarpio Tibay, a barrio lieutenant, which killing, though committed within the jurisdiction of the lower court, does not appear to be related to the rebellion and hence constitutes an independent offense in itself.

"The same majority of six justices of this Court maintain their view expressed in the Geronimo case that by his plea of guilty, appellant has admitted the commission of the independent crime of murder alleged in count 3 of the information, the averment that said crime was perpetrated 'in furtherance' of the rebellion being a mere conclusion and not a bar to appellant's conviction and punishment for said offense, appellant having failed, at the arraignment, to object to the information on the ground of multiplicity of crimes charged. Therefore, appellant must be held guilty, and sentenced for the commission, of two separate offenses, simple rebellion and murder."

It should be noted, however, that the allegation to the effect that the acts with which Romagosa stood charged were perpetrated in furtherance of the rebellion, was made solely in the opening paragraph of the information. The pertinent counts thereof did not state that the acts therein set forth were committed either in furtherance of the rebellion or as a necessary means to commit such crime. In the words of the majority of this Court, the specification involved in the Romagosa case "does not appear to be related to the rebellion and hence constitutes an independent offense in itself."

Upon the other hand, the information in the case at bar alleges, not only in its opening paragraph, but, also, in each specific count, that the acts therein charged were committed in furtherance of the rebellion. The counts for multiple murder and murder involved herein were couched in the following language:

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"That on or about April 22, 1951, in the barrio of Sinapangan, Bangar, La Union, the said accused in furtherance of their purpose aforesaid, conspired and confederating together and with the aid of an undetermined number of Huks, did then and there kidnap Desiderio Ordinario, Alfredo Lacsamana and Bonifacio Nariz from their homes and afterwards killed and murdered these persons kidnapped;" (italics supplied)

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"That on or about May 9, 1951, in Barrio Lon-oy, San Gabriel, La Union, the said accused in furtherance of their purpose above-stated, conspiring and confederating together and with the aid of an undetermined number of Huks led by the accused Delfin Bumanlag alias Commander Delfin, did then and there wilfully, unlawfully and feloniously and with evident premeditation kidnap Emilio Caslangan alias Emilia Dayao from his home, then qualified, appointed and acting as Barrio Lieutenant of Lon-oy who has not since then returned or appeared alive as he was murdered by the Huks." (Underscoring supplied.)

Hence, the doctrine laid down in the Romagosa case is not in point. Moreover, the record shows that Desiderio

Ordinario, Alfredo Lacsamana and Bonifacio Nariz were possessors of shotguns; that when Lacsamana and Nariz were kidnapped, in the evening of April 22, 1951, they were performing guard duty upon orders of the barrio lieutenant, seemingly, to maintain peace and order in the locality and to forestall any disturbance that the Huks may cause therein; and that, when the Huks entered the house of Ordinario, that same evening, they found his shotgun leaning by the wall, apparently in readiness for use should the Huks show up. Accordingly, the Solicitor General agrees, with the defense, that Ordinario, Lacsamana and Nariz were kidnapped and possibly killed as a means to commit the crime of rebellion or in furtherance thereof.

As regards the kidnapping of Emilio Dayao, there is nothing in the record to indicate that appellant Bumanlag had any personal motive to harbor ill-feelings towards him. What is more Dayao was, at the time of his kidnapping, acting barrio lieutenant. Thus being responsible for the maintenance of peace and order in the place of his residence, it is not unlikely that the Huks considered him as their enemy or a threat to their existence or to the accomplishment of their objective—the rebellion. This is borne out by the fact that, according to the fifteenth specification in the information, the acts alleged therein were committed by the defendants herein, not only "in furtherance" of the crime of rebellion, but, also, after "conspiring and confederating together and with the aid of an undetermined number of Huks led by the accused Delfin Bumanlag." Hence, we are not prepared to hold, beyond reasonable doubt, that the kidnapping of Dayao was independent of, or unrelated to the crime of simple rebellion, of which he has been convicted.

Lastly, the specific allegation, in each count of the information herein, to the effect that the acts described in such count were performed in furtherance of the conspiracy to commit rebellion, was evidently made to forestall a possible motion to quash, upon the ground of multiplicity of crimes charged in said information, as held in *People vs. Geronimo* (100 Phil., 90, 53 Off. Gaz., 68) and *People vs. Romagosa* (supra). In other words, the information is so drafted as to necessarily convey, to a person of average intelligence, the impression that the accused were meant to be charged, and are actually charged, with a series of acts constituting a single offense. Hence, appellants' conviction for murder and multiple murder, as crimes independent of that of rebellion, violates their constitutional right to be "informed of the nature and cause of the accusation" against them (*Tubb vs. People* 101, Phil., 114, 53, Off. Gaz., 6096), and constitutes a denial of due process.

Wherefore, with the elimination of the judgment of conviction for the kidnapping of Dayao, Ordinario, Lacsamana and Nariz, as independent and separate offenses, and of the additional penalties therefor, the decision appealed from, insofar as it finds Briones and Bumanlag guilty of simple rebellion and sentences them accordingly, is hereby affirmed, without special pronouncement as to the costs in this instance. It is so ordered.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

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## DISSENTING OPINION

**PADILLA, J.:**

For the same reasons stated in my opinion in the case of *People vs. Geronimo*, 53 Off. Gaz. 68, 92, and *People vs. Romagosa*, 103 Phil., 20, 56 Off. Gaz., (14), 2946, the judgment appealed from, insofar as it finds the defendants guilty of murder and kidnapping and metes out to them the penalty provided by law, should be affirmed; or the penalty for the complex crime of rebellion with murder and kidnapping should be imposed.

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