

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO CORNELIO, MAURICIO CORNELIO, VALENTIN RIVERA,
MARIANO VICENTE, RAFAEL BANGUEY ALIAS PAER AND MATIAS
SIGNAOA, ACCU...**

G.R. No. L-1289. June 10, 1971

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PER CURIAM:

Upon rendition on December 11, 1946 by the Court of First Instance of Ilocos Sur, presided by his Honor, then Judge Ceferino de los Santos, of its judgment imposing upon the accused Rafael Banguay and Matias Signaoa the supreme penalty of death for Robbery with homicide and physical injuries, said accused presented their appeal on the ground that the judgment was contrary to the evidence. The records of the case were received by the Clerk on February 3, 1947. On February 19, 1947, the Clerk was informed that said accused had escaped on February 13, 1947 from the provincial jail of Vigan, Ilocos Sur, through negligence of the guards.

Their counsel de parte, Alejandrino A. Alviar, failed to file a brief for appellants, since he had been relieved as counsel by the accused's families and he had been appointed in the meantime as justice of the peace for Cervantes, Ilocos Sur, per his manifestation of July 23, 1947. The Court appointed Atty. Menandro Quiogue as the counsel de oficio, but on August 26, 1947, granted his petition for suspension of the proceedings pending apprehension of the accused-appellants, in deference to his wish to confer with them in connection with the proposed brief on their behalf.

From the periodic inquiries since then made by the Clerk to the Chief, Philippine Constabulary, the Constabulary Provincial Commander and the Provincial Warden at Vigan, the last of which was on October 24, 1968, it is now evident that the efforts of the Constabulary to determine the whereabouts and effect the apprehension of the accused-appellants have met with negative results. Whether the accused have continued with a life of crime or have somehow been meted out the fate decreed by the lower court is for the law enforcement authorities to eventually determine.

The escape of the accused does not relieve the Court of the burden of automatically reviewing the case, in the same manner that a withdrawal of appeal by a death convict would not remove the case from the jurisdiction of the Court.[1] Hence, the Court will no longer permit the case to remain further in its docket and will proceed to discharge its task of passing upon the cause en consulta and reviewing the facts and the law as applied thereto by the trial court, and determining the propriety of its imposition of the death penalty.[2]

The information for brigandage with murder and physical injuries charged the accused as follows:

"Que en o hacia el 12 de Enero de 1946, en el municipio de Candon, provincia de Ilocos Sur, Islas Filipinas, y dentro de la jurisdiccion de este Hon. Juzgado, los referidos acusados, Fernando Cornelio, Mauricio Cornelio, Valentin Rivera, Mariano Vicente, Rafael Banguay alias Paer y Matias Signaoa, conspirando entre si y ayudandose mutuamente, todos armados de rifles y bolos puntiagudos, con el proposito de robar bienes muebles, secuestrar personas en casas y caminos publicos, voluntaria, ilegal y criminalmente ejecutaron de

noche y en despoblado y en la casa de los ofendidos los siguientes hechos: a) Ataron las manos, secuestraron desde su casa en el barrio Tablac, Candon, y llevaron a un sitio despoblado a Narciso Galicia y estando alli, con premeditacion conocida, alevosia y a mano armada dispararon varios tiros de rifle a su cuerpo causandole dos heridas graves en su espalda las que causaron su muerte instantanea; b) agredieron en su casa a Paula Galicia por medio de puños cerrados y dispararon rifle contra ella causandole una herida grave en su rodilla derecha que requiere curacion facultativa por no menos de 30 dias y queda inhabilitada a dedicarse a sus trabajos ordinarios por igual espacio de tiempo y una vez herida, por medio de intimidacion y fuerza la robaron los siguientes objetos; dinero por la suma de P90.00, alhajas por valor de P70.00 y ropas por valor de P30.00; y c) robaron a Tranquilina Galicia, estando este en su casa, los siguientes objetos; dinero por la suma de P180.00, alhajas por valor de P120.00 y ro-pas por valor de P360.00, moneda filipina."

The case as to the first four named accused, namely, Fernando Cornelio, Mauricio Cornelia Valentin Rivera and Mariano Vicente was provisionally dismissed on August 30, 1946 on petition of the fiscal, since they were at large. Trial pro-ceeded expeditiously as to the two remaining herein accused, who were under detention, with two consecutive days of hearing on September 23 and 24, 1946, during which five witnesses, includ-ing two victims-eyewitnesses, Paula Galicia and Tranquilina Galicia, testified for the prosecution and six witnesses, includ-ing the two accused, testified for the defense.

The trial court thereafter rendered its decision of Decem-ber 11, 1946, finding the following facts to have been proven from the evidence of record: "that about midnight of January 12, 1946, while Narciso Galicia, his brothers and other relatives, who were then living with him in the Barrio of Tablac, Municipality of Candon, Province of Ilocos Sur, were sleeping, they were awakened by the shouts of 'MP's, MP's, MP's'; and presently six persons, who were identified by the aid of moonlight and a lamp that was burning then, rushed into the house at the command of Rafael Banguay who ordered his companions to 'go ahead'; that except Mariano Vicente, whose arm was not identified, the other men were all armed as follows: Rafael Banguay, who appeared to be the leader, had a bolo; Fernando Cornelio, another bolo; Mauri-cio Cornelio, a rifle; Valentin Rivera, a 'short firearm', pre-sumably a pistol or revolver; and Matias Signaoa, a bolo; that once inside the house, Fernando Cornelio tied Narciso Galicia and with the help of Mariano Vicente took him away, while Rafael Banguay entered the room and with the aid of a flashlight opened the trunk of Tranquilina Galicia, sister of Narciso Galicia, tak-ing away clothes valued at P60.00, jewels at P120.00 and P180.00 in money; that Matias Signaoa opened the trunk of Nar-ciso Galicia and took away clothes and money; and Mauricio Cornelio opened the trunk of Paula Galicia, a niece of Narciso Galicia, and took away clothes valued at P30.00, jewels at P70.00 and P90.00 in money; that Mauricio Cornelia after hav-ing asked Tranquilina Galicia for more money and on being ans-wered that she did not have anymore, maltreated her; and Valen-tin Rivera, after having been told by Paula that she did not have any other valuables except those that were contained in her trunk, shot her on the right knee with a .45 caliber firearm causing a wound which took thirty days to heal with incapacity to labor for the same period of time; that a short while after the robbers had left the premises, gun shots were heard and later, about three hours after the robbery, the body of Narciso Galicia, already dead, was found in the rice field about 200 meters from the said house and on the cadaver the following wounds were found, to wit: (1) the left ear was cut at the root; (2) one gun-shot wound on the right breast 3 inches above the right mamma perfo-rating the pectoralis muscle and making its exit at the center of the armpit burning the posterior wall of the armpit and also the skin of the inner side of the upper 3rd of the arm; and, (3) a gun shot wound entering the left lumber region between the first left floating rib and the 9th left rib and 5 inches from the spinal col-umn, penetrating the abdominal cavity and perforating the stom-ach and transverse colon and making its exit at 2 inches above the umbilicus, a little to the right; that near the corpse were clothes newly ironed and folded, belonging to said deceased; that at the premises around the house of Narciso Galicia there were several kinds of footprints which, upon further investigation, were identified on the road passing near the place where his corpse was found and leading to a 'bulala' tree in the interior of Barrio Pila,

Banayoyo, Ilocos Sur, from which the house of Raf-ael Banguay is only about 15 meters distant and that of Matias Signaoa, a little more than 20 meters; that the accused, at the time of the commission of the crime, were living at the said bar-rio about a kilometer from the house of the Galicias; that before leaving the house, they (malefactors) told the inmates not to di-vulge about the incident, otherwise they would all be killed; that the two women (Paula and Tranquilina) must have been virtually knocked out of their senses due to what had taken place the night before and from fear of the threat of the accused, who were agents of the guerrillas and were practically terrorizing the vic-inity during the Japanese occupation, that when the agents of the law came early on the morning of the following day they found Paula and Tranquilina still trembling crossing their arms and did not want to declare as to what had happened."

The trial court rejected the accused's defense of alibi thus: "Rafael Banguay tried to prove through his testimony and that of his wife and a niece-in-law that in the night of January 12, 1946 he was in his house, he having gone to sleep as early as eight o'clock, and that at midnight of the same date he was found to be still sleeping by his wife Josefa Rivera and Elena Corazon (his wife's niece) who went to sleep late that night. Considering that his witnesses are his wife and a near relative, both having a natural desire to testify in his favor, and the fact that they had no means of determining accurately the time, little weight, if any at all, could be given to their testimony. His defense of alibi is not sufficient to overthrow the evidence of the prosecu-tion; for, considering the short distance between the house of the said accused and that where the robbery was committed, he could have easily gone out and returned after the two women went to sleep without having been noticed by them (People v. Resabal, 50 Phil. 780).

"As to the defense of alibi put up by the accused Matias Signaoa, the same cannot hold water. His testimony and that of his wife is not corroborated by a disinterested person. It would have been easy for him to have one, if there were any at all, who then saw him in the Army Camp at Libtong, Tagudin, to corrobo-rate his testimony that during the night in question he was there with his brother and never left the place during the said period of time (People v. Pili, 51 Phil. 965). And even if he had been to his brother's camp, as he averred, he could have come back anytime and without being noticed to his house in Barrio Pila to join the gang as the distance is not very far and there were then available transportation facilities anytime of the day between the said camp and the 'poblacion' of Candon."

The trial court, finding that there was no evidence that the band of robbers was formed "for the purpose of committing robbery in the highway, or kidnapping persons for the purpose of extortion or to obtain ransom, or for any other purpose to be attained by force and violence" as defined by Article 306 of the Revised Penal Code, found that the crime committed by the accused was not brigandage with murder, "but that of the complex crime of robbery with homicide and physical injuries, as defined and pen-alized under Article 294 of the Revised Penal Code." It found the crime to have been committed with five aggravating circumstances and no mitigating circumstances, as follows: "for having been committed 'by a band', there being, at least, five armed men who acted together in the commission of the crime; night time, as the accused, living at only a kilometer from the house of the deceased Narciso Galicia, took advantage of the same to commit the crime with greater facility or impunity to themselves; dwelling of the offended party, robbery having been committed in the abode of the victims, treachery, Narciso Gali-cia having been tied and later killed by a gun shot fired at his back (U. S. vs. Santos, 1 Phil. 222); and, uninhabited place, said Nar-ciso Galicia having been taken away to a field, about 200 meters from the nearest inhabited place, his own house, where he had no chance of being helped or seen by another person. The penalty prescribed for this complex crime by Article 294 of the Revised Penal Code is from Reclusion Perpetua to Death; and, as there are no mitigating circumstances to counteract all the aggravating circumstances found to exist in the commission thereof, the maximum penalty should be imposed"; and consequently handed down the following verdict:

'WHEREFORE, the Court imposes upon the accused, RAFAEL BANGUEY and MATIAS SIGNAOA, the penalty of DEATH, plus the accessories of the law; to indemnify, jointly and severally, the heirs of Narciso Galicia the sum of P2,000.00; to indemnify, jointly and severally, Paula Galicia and Tranquilina Galicia the amounts of P190.00, and P360.00, respectively, these last two amounts being the sum total of the money and value of their belongings taken away by the accused; and, each of them, to pay one-sixth (1/6) of the costs."

In the absence of a brief for the accused with assignment of errors or of a similar brief by the Solicitor-General, the Court has taken it upon itself, as in *People vs. Molijon*,^[3] to carefully examine the testimonial and documentary evidence in an analytical light and determine whether the trial court committed any error in the appreciation thereof to the prejudice of the accused and in the application of the law.

The Court has thus satisfied itself of the correctness of the conclusions and judgment of the trial court.

At the trial, defense counsel concentrated his efforts in his cross-examination of the two victims - eye witnesses - Paula Galicia, 21-year old niece of the deceased Narciso Galicia, and Tranquilina Galicia, 45-year old sister of the said deceased - on seeking to discredit their positive identification of the accused by bringing out the fact that these victims did not immediately divulge the names of the accused and their companions to the police authorities and did so only in their sworn statements of February 6, 1946 and February 7, 1946 which were submitted by the chief of police of Candon with his criminal complaint for murder filed on February 12, 1946 with the justice of the peace court.

These victims, however, readily explained that they were in fear for their lives, as the malefactors had threatened to kill them if they were to report the crime to the authorities. The accused and their companions had treated the two women roughly and brutally, boxing twice Tranquilina's face when they could not get any more money from her and abruptly shooting Paula through the right knee upon her telling them also that she had no more money.^[4] They had taken away Narciso, tied his hands behind and then mercilessly shot him at his back. The women knew the malefactors well, as they used to go to their barrio, and were known to be "SS" or the ones who ruled over the barrio people as agents of the guerrillas in the mountains.^[5] As Tranquilina put it, "I did not reveal the identity of the accused because I was thinking of what the accused told us that they would kill all of us including the children"^[6], and it was later on February 6, 1946, after the MP's had assured them of protection "that I was able to make up my mind to have the authorities protect us and bring the matter to the authorities."^[7]

That the two women were cringing in mortal fear and could not even talk right after the crime was testified to as part of the *res gestae* furthermore by the chief of police, Romualdo de Castro, who recounted that when he went early in the morning of January 13, 1946, to the house of the deceased Narciso, "Paula Galicia could not talk because she was groaning" and "Tranquilina Galicia was trembling like a mad woman and I could not talk to her."^[8]

The initial fears of the two victims-witnesses in divulging the identities of the accused until they were able to overcome them and gather enough courage from the assurance of police protection by the authorities were understandable and could not in any way detract from their straightforward testimony.

The accused's defense of alibi could not prevail, of course, as against their positive identification by the two victims-eye-witnesses, Paula and Tranquilina. By the very testimony of Josefa Rivera, wife of the accused Banguay, Tranquilina was her godmother and size could not think of any reason why Tranquilina and the niece, Paula, would come to court and falsely incriminate her husband.^[9] The other accused, Signaoa, upon taking the witness stand, admitted that he never had any misunderstanding with the Galicias as would give them reason to falsely testify against him.^[10] None of the other defense witnesses, Banguay himself and Signaoa's wife, Dominga Simin, even attempted in their testimonies, to cast any doubt upon the veracity of the testimonies of the

Galicias or to attribute to them any false or improper motive or ill will against them.

The escape and flight on February 19, 1947 of the accused from the provincial jail, after their conviction by the trial court's judgment of December 11, 1946, strongly indicate their consciousness of guilt, as established by the evidence of record as discussed above.[11]

As to the crime committed, the trial court correctly ruled the same to be the complex one of robbery with homicide and physical injuries under Article 294 of the Revised Penal Code, and properly appreciated that the same was committed with five aggravating circumstances[12] in that it was committed by a band, at nighttime and in the victims' dwelling as the robbery was committed in the victims' abode, as well as aggravated by treachery and uninhabited place in the killing of the victim Narciso Galicia, as discussed in the trial court's decision, *supra*. In the absence of any offsetting mitigating circumstances, the Court is called upon to affirm the supreme penalty of death.

WHEREFORE, the Court finds the accused Rafael Banguay and Matias Signaoa guilty beyond reasonable doubt of the crime of robbery with homicide and affirms in review the sentence of death imposed upon them by the trial court. The judgment of indemnity of the trial court is likewise affirmed, except that the indemnity to the heirs of the deceased Narciso Galicia is increased to the sum of P12,000.00.[13]

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Ruiz Castro, J., took no part.

[1] *People vs. Villanueva*, 93 Phil. 927 (1953) cit. *U.S. vs. Laguna* 17 Phil. 532 (1910); *People vs. Molijon*, 99 Phil. 58 (1956), cf. *People vs. Bocar*, 97 Phil., 398 (1955).

[2] R.A. 296, as amended, sec. 9; Rule 122 (formerly Rule 118), sec. 9.

[3] *supra*, fn. 1. In this case, counsel de oficio stated in his brief for appellant that "after a conscientious study of the case, he is led to the belief that the conclusions of the trial court are correct" and invoked the Court's mercy for the accused, and the Solicitor-General in turn made no analysis of the evidence submitted or of the facts proved and limited his brief to asking for the affirmance of the death sentence. The Court *sua sponte* reexamined the evidence of record and the law as applied thereto.

[4] T.s.n. of Sept. 23, 1946, p. 7.

[5] *Idem*, pp. 1, 13.

[6] *Idem*, p. 25.

[7] *Idem*, p. 26.

[8] *Idem*, p. 20.

[9] T.s.n. of Sept. 24, 1946, p. 13.

[10] *Idem*, p. 35.

[11] Vide 5 *Moran's Rules of Court*, 1970 Ed., p. 235; *Francisco Evidence*, 1964 Ed., p. 779.

[12] Cf. *People vs. Saquing*, 30 SCRA 834 (Dec. 26, 1969) and cases cited.

[13] People vs. Pantoja, 25 SCRA 468 (1968).

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