

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PAULO SANTOS ET AL., DEFENDANTS. JOSE DIZON RAMOS (ALIAS MORVEN), DEFENDANT-APPELLANT.

G.R. Nos. L-1820-21. June 27, 1949

Ponente: OZAETA, J.

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OZAETA, J.:

Jose Dizon Ramos alias Morven, together with several other persons who had not yet been apprehended at the time of trial, was accused of the murder of Marina de Leon, Manuel Lansang, and Florencio A. Manalo in three separate informations before the Court of First Instance of Pampanga. By agreement of the parties the three cases were tried and decided jointly. The said accused was acquitted of the murder of Marina de Leon in criminal case No. 267, and convicted in criminal cases Nos. 269 and 270 (G.R. Nos. L-1820 and L-1821) of the murder of Manuel Lansang and Florencio A. Manalo, respectively, and sentenced in each case to suffer life imprisonment, to indemnify the heirs of each of the deceased in the sum of P2,000, and to pay the costs. From that sentence he has appealed to this court.

The evidence for the prosecution, consisting of the direct testimony of eleven witnesses and two extrajudicial sworn declarations of the accused, establishes the following facts:

The appellant Jose Dizon Ramos alias Morven, and his co-accused Paulo Santos alias Pampanga, Celestino Santos alias Jesse, Nicolas Payumo alias Espiritu, Pedro Sicat alias Edison, Eugenio Salenga alias Balagtas, Fortunate Medina alias Fred, Apolinario Manalo, alias Ritano, and Monico Salalila alias Belly, were all members of the Hukbalahap organization and belonged to the unit or group of which Paulo Santos alias Pampanga was the chief, and which had its headquarters in the municipality of Santa Rita, Pampanga. On October 26, 1943, Paulo Santos convened the members of his unit to a meeting in the house of Felisa Cruz in the barrio of Diladila, Santa Rita, at which the appellant was among those present. In that meeting Eugenio Salenga proposed the kidnaping and killing of Florencio A. Manalo on the ground that he was a bad character, alleging that he was responsible for the killing of some seventeen persons in Santa Rita. That proposition was carried and Paulo Santos then and there issued the order to realise it. Accordingly, on the night of October 29, 1943 the appellant, accompanied by Celestino Santos, Eugenio Salenga, and Pedro Sicat, went to the house of Florencio A. Manalo in the barrio of San Juan of the municipality of Santa Rita and, not finding him there, proceeded to the house of his brother-in-law Eleuterio Calilong in the same barrio. According to Eleuterio Calilong and Emerita Manalo, Florencio's daughter, it was the appellant and Pedro Sicat who called at his house and demanded that the door be opened, otherwise they would shoot, and who thereafter dragged Florencio A. Manalo to the street, where they were joined by Celestino Santos and Eugenio Salenga. That same night the appellant and his companions brought Manalo to their chief, Paulo Santos, in the barrio of Diladila. After making Manalo write a letter to his family telling them not to worry about him because he had joined Huk Squadron No. 101, Paulo Santos ordered the appellant, Celestino Santos, and Pedro Sicat to take Manalo to a field about four hundred meters away and kill him there. The appellant and his companions took along with them Ceferino Cunanan after ordering the latter to procure a hoe

and a shovel with which to dig the grave. On the way to the place of execution they saw Victor Dizon and brought him along also to help dig the grave. According to Ceferino Cunanan, as soon as the pit was deep enough, the appellant and Pedro Sicat held Florencio Manalo and brought him close to the pit and then the appellant told Manalo to pray because he was going to die. While Manalo was kneeling, the appellant picked up the hoe which was lying on the ground and hit Manalo at the back of his head, Manalo fell face downward. The appellant "hit him again causing him to turn to his side," and then "hit him for the third time causing his death." When Manalo was thus hit by the appellant, his hands were tied behind him and his eyes were covered (blindfolded). After thus murdering Manalo, the appellant and Pedro Sicat dragged him by the feet and dropped him into the grave and then ordered the grave-diggers to cover it. Victor Dizon corroborated the testimony of Ceferino Cunanan that it was the appellant who told Manalo to kneel down and pray. When asked, however, who hit Manalo on the head, Victor Dizon answered, "I do not know his name." He said it was the appellant who ordered him and Cunanan to cover the pit.

In his sworn declaration before Special Prosecutor Filemon Cajator, the appellant gave his version of the killing as follows:

"Q. When the pit was fully dug, what happened?—A. Florencio Manalo, Edison, and I conversed, Florencio Manalo saying that he knew me and that Edison was his nephew. But Edison told him that nothing could be done, because that was ordered by Pampanga. We, however, told Florencio Manalo that Edison and I would not lay a hand on him. But while we were thus talking Jessy, who was behind Florencio Manalo, hit him with the hoe he was holding, the head of the hoe falling on the back of the head of Florencio Manalo, while the two hands of the latter were tied behind him. Florencio Manalo did not fall with that first blow dealt by Jessy. Jessy hit him again with the same hoe, its head hitting the top of the head of Florencio Manalo. This time the latter fell face down on the ground in which position Jessy hit him again with the head of the hoe on the head. Then Florencio Manalo died completely.

"Q. When Florencio Manalo died, what happened?—A. Jessy told me to take off Florencio Manalo's undershirt and to give it to the persons who had dug.

"Q. Did you obey this order?—A. I did. I untied the hands of Florencio Manalo's cadaver and took off his undershirt and gave it to those who had dug.

"Q. Who lifted and dropped the cadaver into the pit?—A. Edison and I helped Jessy lift and drop the cadaver into the pit, Jessy holding it by the shoulders, Edison and I each by each foot." (Exhibit A-1, a translation of Exhibit A.)

In his affidavit Exhibit D subscribed and sworn to before the municipal mayor, the appellant made substantially the same declaration as that made by him in Exhibit A as to the killing of Manalo.

The foregoing refers to case No. 270 of the trial court (G.R. No. L-1821 of this court). We shall now proceed to state the facts proven by the prosecution with regard to case No. 269 of the lower court (G.R. No. L-1820 of this court), referring to the murder of Manuel Lansang.

About noon on October 30, 1943, Paulo Santos alias Pampanga again called a meeting in the house of Felisa Cruz in the barrio of Diladila, Santa Rita, at which were present the appellant, Celestino Santos alias Jesse, Nicolas Payumo alias Espiritu, Pedro Sicat alias Edison, Eugenio Salenga alias Balagtas, Fortunato Medina alias Fred, Apolinario Manalo alias Ritano, and German Galang. At that meeting Eugenio Salenga proposed the apprehension and execution of Manuel Lansang, mayor of Santa Rita, on the ground that he was a bad character, alleging that together with Manalo (who had just been killed early in the morning of that day) was responsible for the killing of seventeen residents of Santa Rita. No one expressed any objection to that proposition; and Paulo Santos; giving his assent thereto, designated the appellant, Apolinario Manalo, Fortunato Medina, Celestino

Santos, Nicolas Payumo, and Pedro Sicat to apprehend and kill Manuel Lansang, giving them full discretion as to the manner and place of execution. Accordingly, about nine o'clock in the evening of that day, October 30, 1943, the designated group went to the house of Manuel Lansang in the barrio of San Jose, Santa Rita, and apprehended him. At the same time they ransacked the house and took therefrom clothes, money, and jewelry. The appellant and his companions brought their captive and their loot to the hut of Serafin Ocampo situated in the middle of a field in the barrio of Santa Barbara, Bacolor, a town adjacent to Santa Rita. There they met Eugenio Salenga (Balagtas) with another captive, Marina de Leon. From that place Eugenio Salenga, Pedro Sicat and Crisanto Sason brought Manuel Lansang and Marina de Leon to a place about half a kilometer north of Ocampo's hut, where Eugenio Salenga shot Manuel Lansang to death and Pedro Sicat boxed Marina de Leon about ten times until she fell unconscious. Then Balagtas and Edison dropped the lifeless body of Manuel Lansang and the still breathing body of Marina de Leon into the pit that had been dug by Crisanto Sason upon their orders and buried them. The appellant and his other companions remained in Ocampo's hut during the killing.

In his declaration before Special Prosecutor Filemon Cajator which he made on July 27, 1946, the appellant gave his version of the apprehension and execution of Manuel Lansang as follows:

"Q. What did you do in order to be able to get Manuel Lansang from his house?—A. Pampanga left us after assigning us to the task of taking Manuel Lansang. We went directly to the house of Manuel Lansang in barrio San Jose, Sta. Rita, with Quitano leading us there, because he knew the house well.

"Q. When Pampanga separated from you, after your having eaten your supper in the three houses, where did he go?—A. He returned to barrio San Basilio, Sta. Rita, where his brother, Perlin, lived.

"Q. Tell what happened when you reached the house of Manuel Lansang.—A. Quitano called and said good evening. It was only after about five minutes that Manuel Lansang opened the door. As he did so, Manuel Lansang said: "Come in." We went in, with Quitano leading us. As soon as we were in Quitano grabbed Manuel Lansang and brought him down from the house. Since we had orders from Pampanga to take everything we could when we would take the Japanese Spy, we did so, my two companions opening the two cabinets (aparadores). We took all the clothes we could take. Fred found jewelry and money which he also took. We also carried away three (3) umbrellas. We wrapped the clothes into four bundles with white blankets. While my companions were gathering the things we took, I stood guard in the house, holding my Revolver with my right hand, in view of the possibility that those in the house might be armed, because I saw a pistol holster on top of one of the cabinets (aparadores). When they had finished and had bundled everything, Fred said: "Let us go, Captain," (in English) and I answered: "O. K." (in English). Then we left, taking Manuel Lansang with us, Quitano carrying him on his right shoulder because Manuel Lansang altho tall was thin, while Quitano was a big man. Fred made me carry one of the bundles. Quitano, however, did not tie the hands of Manuel Lansang. We went directly to the house of Serafin Ocampo near the Baluyot Creek, and at the foot of the stairs of said house we reached Balagtas, Belly with Marina de Leon. Jessy and I went up the house, because Jessy was sick and I watched over him. My companions, Balagtas, Belly, Quitano, Fred, Espiritu and Edison were the ones who left and brought with them our captives, Marina de Leon and Manuel Lansang. We depended upon them to kill the said two persons." (Exhibit A-1, a translation of Exhibit A.)

The appellant had given substantially the same version in his affidavit dated July 10, 1946, which he subscribed and swore to before Mayor Hernando E. Dizon of Santa Rita.

The appellant was the only witness who testified in his behalf. He gave his personal circumstances as being "15 years of age, single, operator of a gambling house, and a resident of Maria Clara, Manila." He declared in substance that in the month of January or February, 1943, Pampanga (Paulo Santos) and Jesse (Celestino Santos) kidnaped him on suspicion that he was in connivance with his cousin, Lamberto Dizon, a provincial guard during the Japanese occupation; that after his capture he was forced to go with his captors on threat that, should he

escape, his relatives would pay with their lives; that when Pampanga and Jesse went to Santa Rita to organize and recruit members of the Hukbalahap organization they took him along for fear that he would escape; that from the time of his capture until he was taken to Santa Rita he was never given any firearm; that during that time he was assigned as a courier. Although he admitted that he was present in the meetings called by Pampanga in the house of Felisa Cruz wherein the kidnaping and killing of Florencio Manalo and Manuel Lansang was proposed and decided, he denied having participated in the deliberations, alleging that being a mere captive he had no personality to take part therein. He also denied any participation in the kidnaping and killing of Manalo and Lansang.

In his brief for the appellant counsel de oficio does not rely on the latter's testimony given in open court "which naturally and undoubtedly was made to suit the interests of the defense," according to counsel himself, but relies solely on the appellant's affidavit Exhibit D-1.

Thus, counsel for the appellant, the Solicitor General, and the trial court agree that the uncorroborated testimony given by the appellant during the trial is unworthy of credence, and we find no justification whatsoever to overrule that conclusion. The testimony of the various witnesses for the prosecution establishing the conspiracy among the members of the Hukbalahap unit headed by Paulo Santos and the appellant's participation therein as well as in the killing and kidnaping of Florencio Manalo and Manuel Lansang has not been rebutted by any credible evidence. On the contrary, it is corroborated and fortified by appellant's extrajudicial sworn declarations Exhibits A and D.

We can not sustain the contention of counsel for the appellant that the latter should be acquitted of the murder of Manuel Lansang and convicted only as an accomplice in the murder of Florencio Manalo on the ground that the appellant did not participate in the murder of the first victim and was only used as a tool in the murder of the second. Conspiracy having been alleged and proven, the appellant as a conspirator is equally responsible for the acts of his co-conspirators. It has been proved beyond reasonable doubt that the appellant was present in each of the meetings wherein the kidnaping and killing of Manalo and Lansang was proposed and decided. The appellant was one of those designated to carry out the agreement reached in each case, and he performed his bloody mission without any scruple. He took part in the kidnaping and actual killing of Manalo. He was one of those who apprehended Lansang and turned him over to his co-conspirators for execution. The fact that he was not present on the spot where Lansang was killed does not minimize or mitigate his criminal liability because the killing was done by his co-conspirators in pursuance of the conspiracy.

During the pendency of this appeal the appellant filed a petition for dismissal under Amnesty Proclamation No. 76, which we are now called upon to resolve. The Solicitor General opposes the petition on two grounds: (1) that the two murders of which the petitioner was convicted in the trial court, having been perpetrated in October, 1943, that is to say, during the enemy occupation, by members of the Hukbalahap as a guerrilla organization who were motivated by the belief that the victims were undesirable elements, fell more properly within the purview of Amnesty Proclamation No. 8 and should have been submitted to the Guerrilla Amnesty Commission created thereby; and (2) that the petitioner did not comply with the provisions of Circular No. 27-A of the Secretary of Justice.

Proclamation No. 8, dated September 7, 1946, granted amnesty to "all persons who committed any act penalized under the Revised Penal Code in furtherance of the resistance to the enemy or against persons aiding in the war efforts of the enemy, and committed during the period from December 8, 1941, to the date when each particular area of the Philippines was actually liberated from enemy control and occupation."

On the other hand, Proclamation No. 76, dated June 21, 1945 was premised on the consideration or understanding

that the leaders and members of the Hukbalahap and the PKM who had theretofore lived beyond the pale of the law recognized the authority of the Government of the Republic of the Philippines and its duly constituted officers and agents and pledged loyalty and obedience to them so that they might enjoy the rights and the protection under the Constitution, and upon that premise, among others, said proclamation declared amnesty "in favor of the leaders and members of the associations known as Hukbalahap and Pambansang Kaisahan ng mga Magbubukid (PKM) who have committed the crimes of rebellion, sedition, illegal association, assault upon, resistance, and disobedience to persons in authority, and/or illegal possession of firearms; Provided, however, That this amnesty shall apply only to those of said groups of persons who have presented themselves with all their arms and ammunition and to those who shall have presented themselves with all their firearms and ammunition to the duly constituted authorities of the Republic of the Philippines within twenty days from the date this proclamation is concurred in by the Congress."

We agree with the Solicitor General that the murders in question fell, if at all, within the purview of Proclamation No. 8 and not within that of Proclamation No. 76. The crimes were committed in October, 1943, by members of the Hukbalahap (Hukbong Laban sa Hapon) which was then a guerrilla organization engaged in a fight not against the Government of the Philippines but against the Japanese invaders. As a matter of fact, these cases were originally submitted to the Fourth Guerrilla Amnesty Commission, but for reasons which do not appear in the record, the attorney for the herein appellant, with the conformity of the provincial fiscal, petitioned that body to order the return of these cases to the Court of First Instance of Pampanga for trial therein, which petition was granted by the Commission on March 26, 1947.

Amnesty Proclamation No. 76 was not intended for crimes committed during the enemy occupation, which were already covered by Amnesty Proclamation No. 8, but for crimes committed after the liberation by members of the Hukbalahap and the PKM who were no longer engaged in the resistance against the Japanese enemy but against the constituted authorities of the Government of the Republic of the Philippines, the purpose of said amnesty being to bring about "the return of these dissident and recalcitrant elements of our population to their homes and the resumption by them of their lawful pursuits or occupations as loyal and law-abiding citizens" in order to "accelerate the rehabilitation of this war-devastated country, restore peace and order, and secure the welfare and happiness of their communities."

In any event, in the certificate of the Assistant Director of Prisons accompanying the petition for dismissal, that official stated that when Jose Dizon Ramos presented himself to him as a member of the Huk organization, he did not present any arm or ammunition; and although an affidavit of Felipe Salas, Chief of Police of Mexico, Pampanga, to the effect that in April, 1946, he "received, from one Jose Ramos, of Santo Domingo, this municipality, one pistol, cal. 45, the number and make of which I no longer remember," has been attached to the record without explanation as to the identity of Jose Ramos with the herein appellant Jose Dizon Ramos, nor as to the circumstances under which he received said firearm from Jose Ramos, we cannot consider said affidavit as a compliance by the appellant with the requisites of Proclamation No. 76.

Hence, the petition for dismissal must be denied.

A majority of the Court agree with the Solicitor General that the commission of each of the two murders in question was attended by two aggravating circumstances, namely, evident premeditation and nighttime, without any mitigating circumstance, and that, therefore, the maximum penalty, death, should be imposed. The majority vote, however, is short of the required number to impose the death penalty.

Wherefore, the sentence of the trial court in each of these two cases is affirmed, with costs. So ordered.

Moran, C.J., Paras, Feria, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

OZAETA, J.:

I certify that Mr. Justice Pablo voted to affirm the decision of the trial court.

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