

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. CASIMIRO BERSAMIN @ MIRONG ET AL., DEFENDANTS.

G.R. No. L-3098. March 05, 1951

Ponente: TUASON, J.

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TUASON, J.:

The appellant, Casimiro Bersamin, was found guilty by the Court of First Instance of Pangasinan of double murder, alleged to have been committed on the 30th of August, 1948, in the municipality of the said province of Pangasinan. With Casimiro Bersamin, Saturnino de la Vega was prosecuted but was acquitted on grounds of reasonable doubt; and included in the information but not tried because they were at large were Antonio Fernandez, Teofilo Palisoc, Francisco Bulatao and John Doe. Bulatao was later apprehended and used as a Government witness.

It is convenient to state as a prelude to the statement of the evidence, that the victims of the murders, Feliciano Batan and Pedro Batan, were the sons of Hipolito Batan, who had been shot down in February, 1948, in or near his house yard, and that for that crime information had been filed against Casimiro Bersamin, Juan Bersamin (Casimiro's brother), Crispin Licuanan, Antonio Fernandez, and Roberto Caranto. Of these accused only Crispin Licuanan and Juan Bersamin stood trial, the others having escaped. Trial of that case commenced in May and was concluded in October, 1948, with Feliciano Batan and Pedro Batan giving the evidence in chief as eye-witnesses to the crime. They were to be called back in rebuttal but their death prevented their testifying anew.

The Government's chief evidence against the herein appellant consists of Francisco Bulatao's testimony and appellant's alleged confession. If the testimony of Francisco Bulatao is to be believed, the crime was committed by or with the aid of the persons named in the information substantially in the manner following:

On the 30th of August, 1948, Bulatao was in his house. From there he went to barrio Caturay with Casimiro Bersamin and Saturnino de la Vega, requested by these two to come along "to look for a carabao." On the way, Eling Palisoc and a man whom he did not know joined them. Upon seeing two persons (Feliciano and Pedro Batan) mounted on a carabao, Bersamin said, "These are my enemies," and shot them from a distance of about four brazas, using a carbine and firing about six times. It was one o'clock in the afternoon, the place was Caturay, municipality of Mangatarem, and the carabao was walking along a trail. After mowing down the Batan brothers, Bersamin told the witness to dump their bodies into the Agno river which was swollen. He obeyed because Bersamin threatened to shoot him if he did not, and he was helped by Saturnino de la Vega. When they were cast into the water, one of the victims was already dead but the other was still wiggling his feet although his eyes were closed. However both were wounded.

Bonifacio Batan, brother of the deceased, testified to the effect that he had seen his brothers shot by the herein accused. It is not necessary to detail this witness' testimony because the trial Judge doubted its veracity. We also have our own doubts. In G.R. No. L-2960, the case for Hipolito Batan's murder mentioned above, which was decided by us on January 9, 1951, and of which we take judicial notice, the Provincial Fiscal stated on the record

as late as October, 1948, that Feliciano Batan and Pedro Batan had disappeared and their fate was unknown.

Pitted against Bulatao's testimony is the defendant's.

Casimiro Bersamin denied that he had anything to do with the murders in question. He claimed to have been busy with two companions all day, from 8:00 a.m. until sunset, on August 30, 1948, fishing, and he denied that he owned the carbine Exhibit "B".

Referring to Francisco Bulatao's testimony, the appellant said the "news" was that this witness "was the one who committed the murder," that being the reason why Bulatao, he said, "became mad" at him and "why he (Bulatao) is now against me." He declared that in the provincial jail, before trial, he had a conversation with Bulatao and Bulatao told him: "You did something wrong. You are telling that I am the one who murdered, that is why I did that."

Notwithstanding Bonifacio Batan's probable perjury, and without losing sight of the fact that Bulatao was himself a party to the crime, we are strongly of the opinion that the court below did not err in finding the appellant guilty. Bulatao's testimony exhibits nothing but characteristic evidence of sincerity, even more noticeable, as may be gathered from the appealed decision, in his manner of testifying.

Furthermore, neither Bulatao nor any of the other persons involved in the crime had cause to assassinate Feliciano and Pedro Batan. None of them had any resentment against the Batan brothers, and robbery or intent to rob did not enter into the killing. The crime was committed either for revenge or to put the victims out of the way as witnesses in the case of Hipolito Batan's murder, or both, and Bersamin alone had a motive to do that. Bersamin's motive appears in the record of that case (G.R. No. L-2960) and in his confession, Exhibit "A".

Corroborative of Bulatao's testimony though it differs from Bulatao's version as to the form of the killing and the actual killers, and made in response to questions propounded by a constabulary sergeant and later sworn to before a deputy provincial fiscal, the defendant's seven-page statement contains the following admissions and revelations, among others:

On August 30, 1948 - said the declarant - Simplicio Salomon, Antonio Fernandez, Saturnino de la Vega and one Balocating joined his gang. At that time, he was with Eling Palisoc and Francisco Bulatao in Caturay, Mangatarem, and agreed to get or kill Feliciano and Pedro Batan "as they are the important witnesses in the case for murder and frustrated murder against myself, Juan Bersamin (my brother) Crispin Licuanan and two others now still pending," Bersamin continued: "The first group under Simplicio Salomon x x x x went ahead and the second group under me x x x x followed, for the purpose of locating the two brothers mentioned above who are roaming around Bo. Caturay, Mangatarem, as reported by Saturnino de la Vega. As a result of the search, the first group under Simplicio Salomon were able to encounter the brothers. As a result, Feliciano and Pedro were shot to death by the first group under Simplicio Solomon." Asked how he knew that the first group had encountered and liquidated the two brothers, Bersamin answered, "I know because I heard shots and for a few minutes, we saw them there (and) they told us that they were the ones who successfully liquidated them," He added that afterward "they took the other way and we went to the other way too, then proceeded to my hiding place."

The defendant also stated in his confession that, having been notified by Antonio Fernandez that he, Bersamin, and others had killed Hipolito Batan, he came to Manila to find out the outcome of his application for appointment as policeman in the department of foreign affairs. Besides, he said, he was afraid he might be suspected of complicity in the killing of Hipolito Batan because he had had a land dispute with Hipolito. He declared that he stayed in Manila, in the house of Attorney Benigno Pidlaon, for more than two months, returning to Urbiztondo around April 17, 1948; that upon arriving at Urbiztondo, he proceeded to Galarin, his

barrio, where he stayed four days; that during his sojourn in Urbiztondo, he learned that constabulary soldiers and others were looking for him in connection with the death of Hipolito Batan; that at once he came back to Manila to look for a Job in order to help his brother, Juan; that before the end of May, 1948, he returned to Urbiztondo, and from that month through January, 1949, when he was arrested, he had been hiding in Caturay, Mangatarem, usually spending the nights in the jungle.

At the trial the defendant repudiated his confession saying that it had been wrung from his mouth by beatings and intimidation by the constabulary. He said he told the deputy fiscal, before whom he confirmed Exhibit "A" under oath, that his statement "is not true;" that the deputy fiscal he signed it, and he replied, "Because I was compelled to come here;" that the deputy fiscal asked him if he was willing to sign his name and he said he was "willing because there will be something that would happen to him on his return." Queried whether he requested the fiscal "to help him out," he declared that he wanted to do so but that "the PC were within the hearing distance, I could not tell the secret." To the next, paralleled, question by his attorney he replied that the fiscal told him, "Do not worry, I will be responsible about all this."

The record does not disclose any indication, aside from the appellant's general statement, that he was maltreated or otherwise forced against his will to make his confession. His answers to many questions at the trial concerning the alleged torture were notably unresponsive and contradictory and their general tenor unnatural. On the other hand, the confession is rich in details about which the police authorities could not be much interested, or which could have been known to the declarant alone. Again the part of the confession which relates to the defendant's participation in the crime was at variance with Bulatao's testimony and would shift a large share of responsibility to others. Our conclusion is that no pressure was brought to bear on the appellant and that his admissions were voluntary.

Utterly uncorroborated and unconvincing, the appellant's alibi fails to shake the evidence against him. It is noteworthy that neither his alleged companions in fishing nor any of his other friends, neighbors or relatives have been brought to bolster his story.

The court below was of the opinion that the defendant was "responsible for two separate offenses of murder." It observed that "the evidence is not clear as to which bullet or bullets killed the deceased." The Solicitor General is also of the opinion upon the evidence that only one crime was committed, there being no clear "showing that the two victims died from more than one and different bullets." With this view we agree. It is within the scope of possibility that Feliciano Batan and Pedro Batan were killed by only one and the same missile, in which case there should be only one crime of double murder.

The crime was attended with the qualifying circumstance of treachery which elevates the killing to murder. But evident premeditation or any other aggravating circumstance has not been established.

The judgment sentencing the appellant to reclusion perpetua, to indemnify the heirs of each of the deceased in the amount of P6,000, and to pay a proportionate share of the costs, is affirmed, with costs of this appeal.

Moran, C.J., Paras, Feria, Pablo, Bengzon, Padilla, Montemayor, Reyes, and Jugo, JJ., concur.

Bautista Angelo, J., took no part.

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