

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
EMILIANO AGCAOILI ET AL., DEFENDANTS. EMILIANO AGCAOILI,  
SEVERINO TOMAS, MARTIN DIEGO, CORNELIO CORPUZ, AND  
ALFREDO BA...**

*G.R. Nos. L-2084-85. June 06, 1950*

Ponente: PARAS, J.

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**PARAS, J.:**

On and prior to July 15, 1947, Vicenta Alcon and her son Domingo Durupan, Jr. lived in the house of. Jeremias and Bleuterio Durupan in the Barrio of San Jose, municipality of Banna, Ilocos Norte, Jeremias and Eleuterio being respectively the father-in-law and brother-in-law of Vicenta. In the evening of said date, Vicenta and Domingo were killed while sleeping in the sala of. the house-by the explosion of a hand grenade. None of the other inmates .sleeping in the house was harmed. The incident was not investigated until the next morning, July 16,. 1947. The inquiry conducted by the justice, of the peace; resulted in the investigation of Mariano Manzanillo who, though at first falling to reveal anything, finally incriminated Emiliano Agcaoili and other residents of barrio San Lorenzo. This caused the justice of the peace to have Emiliano and other male residents of San Lorenzo brought to him. The persons concerned were taken to the municipal building in the morning of July 17, 1947, where they were lined up. Mariano Manzanillo thereby pointed to Emiliano Agcaoili, Severino Tomas, Martin Diego, Cornelio Corpus and Alfredo Barruga, as his (Mariano's) companions in the commission of the crime. Mariano admitted his participation in a confession, Exhibit 1. An information was filed charging Emiliano Agcaoili, Severino Tomas, Martin Diego, Cornelio Corpus, Alfredo Barruga and Mariano Manzanillo with the crime of double murder. Another information was filed against Emiliano Agcaoili for a violation of Republic Act No. 62, for unlicensed possession of a hand grenade. The fiscal subsequently moved for the discharge of Mariano Manzanillo in order that he might be utilized as a witness for the prosecution, which motion was granted.

The evidence for the prosecution, mainly through the testimony of Mariano Manzanillo, tends to prove that in the evening of July 15, 1947, Emiliano Agcaoili and his co-accused went to Mariano's house in barrio Rawrawang. Upon their request, Mariano gave them one bottle of basi wine, and each drank a big glassful. Emiliano then invited Mariano to go south, for a walk. While, at first declining, Mariano finally consented to go with the accused. After covering some distance, Emiliano manifested that they were going to throw a hand grenade into the house of Durupan, whereupon Mariano indicated his desire to return home. Emiliano and his-companions, however, objected, the former threatening to kill Mariano with his hand grenade. Mariano was therefore forced to accompany the accused. Upon arriving at the house in question, the accused stopped in front of a window on the northeastern side of the house, and Emiliano was raised to the window sill by his co-accused. Emiliano then opened the .window. A few moments later, after using his flashlight, Emiliano Agcaoili threw the hand grenade inside the house, after which they all ran away. Shortly thereafter they heard an explosion.

The defense put up by the accused is that they were in the barrio of San Lorenzo, municipality of Banna, in the evening of July 15, 1947. The Court of First Instance of Ilocos Norte, relying on the testimony of Mariano

Manzanillo and on the confessions of the accused, found Emiliano guilty as principal of double murder and sentenced him to death, to indemnify the heirs of each of the deceased in the sum of P2,000, with subsidiary liability, in case of insolvency of his co-accused, for their portion in the indemnity of P1,000 to the heirs of each of the two deceased. The accused Severino Tomas, Martin Diego, Cornelio Corpus and Alfredo Barruga were found guilty as accomplices and sentenced each to suffer an indeterminate penalty of from 10 years of prison mayor to 17 years and 4 months of reclusion temporal, to indemnify jointly and severally the heirs of each of the deceased in the sum of P1,000. In the ease for unlicensed possession of a hand grenade, Emiliano Agcaoili was also found guilty and sentenced to a penalty of from 5 years to 10 years of imprisonment.

There are vital considerations that led us to doubt the guilt of the herein appellants. The record does not reveal any sufficient motive for the appellants to kill, much less by a hand grenade, Vicenta Alcon and her son Domingo Durupan, Jr. The trial court appears to have believed that on one occasion appellants Emiliano Agcaoili, Severino Tomas and Martin Diego were insulted by the deceased Vicenta Alcon for trespassing over a rice field, and that on another occasion Vicenta Alcon, refusing to sell a pig to Emiliano, later sold it to another at the same price offered by Emiliano. This theory is of little or no significance, not only because it is established by appellants' confessions which had been repudiated but also because its effect is negated by the evidence tending to show that the deceased Vicenta Alcon was to receive a pension for the death of her husband who died in Bataan, and this necessarily leads to the conjecture that the killer or killers of Vicenta Alcon and her son were those who may have a right to succeed to said pension. And this cannot be the herein appellants who are not related to Vicenta and her son or her husband.

The testimony of Mariano Manzanillo cannot be readily accepted. It comes from a polluted source. It is not pretended by the prosecution that Mariano and appellant Emiliano Agcaoili were in such intimate relations as to justify Emiliano in seeking the help and cooperation of Mariano in the commission of the crime. Upon the other hand, Mariano is from a barrio different from that where the appellants lived, and there is even evidence tending to show that Mariano on a previous occasion was maltreated by appellants Emiliano Agcaoili, Severino Tomas and Martin Diego. The fact that Mariano had no sufficient attachment to Emiliano is further proved by the very testimony of Mariano that he had to be compelled by the appellants to join the alleged criminal expedition.

It is surprising that, notwithstanding the fact that there were other inmates in the house, only Vicenta Alcon and her son were killed. It is not improbable that those who killed Vicenta Alcon and her son were familiar with the layout of the house, such that they were able to carry out their purpose without injury to any other person. This theory is of course to be linked to the supposition that the assailants had an eye on the right to succeed to the pension of the deceased husband of Vicenta.

The alleged confessions of the appellants can neither be the basis of their conviction, in view of their repudiation grounded on torture. We are inclined to accept the argument of the defense on this point, as it is supported by the testimony of Dr. Maximiano L. Agbayani who examined the persons, of appellants on July 21, 1947, or only six days after the incident in question, and found traces of injuries on appellants' bodies. It is not pretended that Dr. Agbayani could have any motive for making a false certification.

The record also shows that the principal witness for the prosecution, Mariano Manzanillo, made two conflicting affidavits (Exhibits 1 and 2) in that, while in Exhibit 1 he incriminated the appellants in the way he testified at the trial, he retracted the contents of said exhibit in the subsequent affidavit, Exhibit 2. This is certainly destructive of Mariano's credibility which cannot easily be overcome by the explanation of the prosecution that the later affidavit was obtained through machinations of attorneys for the defense. The point is that a witness who changes his statements as often as he wants to suit his convenience, is unreliable. Indeed, it is also a fact of record that Mariano did not spontaneously incriminate the appellants, because when he was first questioned by the justice of

the peace, he did not reveal anything and, on the other hand, alleged that he was in the house of his brothers on the night of July 15, 1947. Even when he allegedly broke down before the justice of the peace who investigated the case, Mariano did not definitely incriminate the appellants, but merely jointed to Emiliano Agcaoili and others from barrio San Lorenzo as the possible authors of the crime. All the accused are from Laoag, a distant municipality, and went to Banna at the time for the only purpose of planting palay, the season having just started. They did not even know the family of the deceased.

Upon the whole, the guilt of the herein appellants has not been proved to a point of moral certainty, and we are therefore constrained to decree their acquittal.

Wherefore, the appealed judgment is hereby reversed and the appellants are acquitted. So ordered with costs de oficio.

Ozaeta, Pablo, Bengzon, Padilla, and Reyes, JJ., concur.

**OZAETA, J.:**

I certify that Chief Justice Moran voted for acquittal.

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