

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ALOD MANOBO AND MALOMPON MANOBO, DEFENDANTS AND APPELLANTS.

G.R. No. L-19798. September 20, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

The accused-appellants, Alod Manobo and Malompon Manobo, with two others, were indicted for robbery with triple homicide in the Court of First Instance of Davao, per its Criminal Case No. 3014. After trial, they were convicted only of triple homicide and sentenced -

"each to suffer the indeterminate penalty of from TEN (10) YEARS and ONE (1) DAY OF prison mayor to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY of reclusion temporal for the death of Uy Kee Kang alias Chiquito, with the accessory penalties provided for by law, to indemnify the heirs of the deceased Chiquito in the sum of P3,000.00 without subsidiary imprisonment in case of insolvency; another indeterminate penalty of from TEN (10) YEARS and ONE (1) DAY of prison mayor to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY of reclusion temporal for the death of Mandolo-on Manoba, with the accessory penalties provided for by law, to indemnify the heirs of the deceased Mandolo-on in the sum of P3,000.00 without subsidiary imprisonment in case of insolvency; and still another indeterminate penalty of from TEN (10) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prison mayor to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY of reclusion temporal, for the death of Chinaman Te Chu alias Tiago, with the accessory penalties provided for by law, to indemnify the heirs of the deceased Tiago in the sum of P3,000.00 without subsidiary imprisonment in case of insolvency, and to pay the proportionate costs of the proceeding.

"Pursuant to the provisions of Article 70 of the Revised Penal Code, the total penalty to be served by each accused shall not exceed forty (40) years." [1]

They appealed to the Court of Appeals which, in CA-G.R. No. 15933-R, finding that the impossible penalty for each appellant should be reclusion perpetua "for each of the three murders", certified the case to the Supreme Court.

Review of the evidence discloses that along the beach in the barrio of Kilain, which is three hours ride by motor launch to the town of Malita, Davao, and against a background of thick tropical foliage and mountainous terrain, stood the house of a Chinese hemp merchant, Uy Kee Kang, alias Chiquito. In this house, which doubled as a store, he lived with his wife, Mandoloon Manoba, their infant child, and another Chinese, Te Chu, alias Tiago. From this store, a path led some two hundred to three hundred meters away to the house of the nearest neighbor, the accused Alod Manobo. Further up the slope is the house of Angoy Manobo, and still further up is the house of Simeon Te and his wife, Sadia Manoba; and, not far distant, stands the house of Mansag Manobo, a barrio lieutenant.

After suppertime on 9 August 1954, the accused Malompon Manobo reported to the above-named barrio

lieutenant that there was trouble in the house of Uy Kee Kang, whereupon, Mansag sounded his agong to call for his tribesmen. Several persons responded and constituted themselves into a posse. It proceeded to the house of Uy Kee Kang and surrounded it. Noting that nothing was astir, the group went inside and there saw lying on the floor side by side the blood-bathed corpses of Tiago and Mandoloon Manoba; the latter's baby was alive and still suckling its dead mother's breast. An open wooden chest was noticed, but Uy Kee Kang was nowhere to be found. A search was started and he was discovered lying among the bushes about a hundred meters from his store in a semi-recumbent position, riddled with bullets and soaked with blood. Rigor mortis had already set in.

Autopsy examinations showed: on Uy Kee Kang, total hematoma on the face and hand and five-centimeter-diameter gunshot wounds in the clavicle, right chest, back and inner ventral thigh, with his lungs, liver and intestines perforated. On Mandoloon Manoba, an incised gaping wound two inches in length in the neck, transverse position, cutting the esophagus and principal blood vessels of the neck; another incised wound, triangular in form, an inch in diameter in the mid-sternum; another in the chest, somewhere deviating to the left side, and a fourth but superficial incised wound in the abdomen, right hyperchondrium. On Te Chu, an incised wound an inch below the left nipple to the mid-sternum; another in the left chest penetrating the lung substance; another in the right chest; and others, below the right nipple, abdomen, forearm, knee and right arm, ventral side.

As a result of police and PC investigation at the scene of the crime, a bronze dagger and an empty .22 caliber shell were recovered. The house's main door was found open while a rear door was found forced open, and in one of the windows were the blood-stained prints of two hands. A sum of P4,300.00, which had been delivered to Uy Kee Kang on 4 August 1954 in payment of abaca sold by the deceased to the Columbian Rope Company, was not found in the house, despite search.

On 16 August 1954, in the town of Malita, the above-named appellants, Alod and Malompon, executed separate extrajudicial confessions, Exhibits "D" and "E", the jurat of both affidavits appearing under the signature and seal of the local justice of the peace, Enrique A. de los Santos. These confessions relate that at about four o'clock in the afternoon of 9 August 1954, Malompon, Alod, Sabonal and Antonino met at the house of Alod and planned to rob and kill Chiquito and his family; that they thus, respectively, armed themselves with a "sangot", a "nanawe" (sharp bladed instruments), a firearm and a bolo; that they went to Chiquito's store at about seven o'clock; that, in accordance with their plan, Alod knocked at the door and pretended to buy fishing rope while the others stationed themselves at the main door; that when Tiago opened the door they simultaneously entered; that Antonino shot Chiquito, who was writing at that time; that Chiquito ran and passed outside thru the backdoor but Antonino chased and fired several shots at him; that Malompon and Sabonal stabbed Tiago to death while Alod disposed of Mandoloon. In his confession, Alod also stated that he took the money; on the part of Malompon, he stated that it was part of their plan for him to notify the barrio lieutenant to cast away suspicion and that he had hidden the "sangot", but later had taken it from its hiding place and had handed it to the investigators.

According to the version of the prosecution, during the investigation that followed the gory occurrence, Dominga, the wife of Malompon, had hinted to PC Captain (then a Lieutenant) Miguel Lagura that her husband knew something about the killings. Lagura lost no time in contacting Malompon, who had gone to Malita to attend the burial of the deceased Chinese. When Lagura met Malompon, the latter blamed the Masaglang brothers. Lagura, forthwith, went to Cubog to interrogate these brothers. The brothers Masaglang denied to Lagura any knowledge or participation in the crime, and so, Lagura brought them to Kilain and confronted Malompon. Malompon broke down and admitted having killed the deceased; he then accompanied Lagura to the house of Alod where he showed and identified the "sangot". Lagura found in a box the "nanawe", still bearing stains of blood, and the shirt of Alod, also with spots of blood, hanging in an extension by the kitchen. Thereafter, Alod and Malompon were taken to Malita, their confessions reduced in writing which they thumbmarked after the same were translated to

them in the Manobo dialect.

Appellants, on the other hand, claim that they did not kill the victims and that they signed their confessions only because they could no longer stand the maltreatment they received at the hands of the PC, the police, and the father of Chiquito, who had held them incommunicado for four days; that Malompon, furthermore, was duped by Lagura's promise that he would be utilized as a state witness; that at the time of the killings they were in the house of Alod eating their supper; that when they heard the shots and shouts for held of Mandoloon, Malompon went to report the matter to barrio lieutenant Mansag.

The appellants Alod and Malompon having confessed to conspiring and carrying out the killing of Kee Kang alias Chiquito, his wife, Mandoloon, and that of Chinaman Te Chu alias Tiago, with intent to commit robbery, the main issue naturally revolves around the credibility to be accorded to the confessions, Exhibits "D" and "E". These were executed in the office of the Chief of Police of Malita, Davao, and sworn to by both appellants before Justice of the Peace De los Santos, after the contents had been read and translated to both appellants, as already noted. The latter stoutly assert that they signed their confessions because they were unbearably maltreated by the investigating PC officers, Lieutenant (later Captain) Lagura and Sgt. Robrico (whom accused called Federico), assisted by Kee Kang's father, Vicente Uy.

Close examination of the testimony of appellants Alod, Malompon and their witnesses leave this Court unconvinced that their confessions were obtained by maltreatment, as they maintain.

Appellant Alod described in detail how he was repeatedly hit with a broom handle; how the investigators inserted bullets (cartridges) between his fingers and pressed them together, causing intense pain and producing a lump at the base of his fourth finger; and how, while handcuffed, Vicente Uy had shoved the handcuffs against Alod's mouth with such violence that one of his upper front teeth (which he brought and exhibited at the trial) was dislodged and three other teeth were loosened. Yet no complaint was formulated by Alod to the Justice of the Peace when the confession was sworn; and when defense counsel brought Alod to a physician for examination the latter certified (Exhibit "17") that Alod showed no external signs of injury, though he complained of pain over the right chondral arch, a complaint that of course was unverifiable by the doctor. No mention appears to have been made to the physician, nor to the Justice of the Peace, of the missing tooth nor of the finger lump, altho Alod sought to explain that he forgot to do so; this, despite the fact that the examination was made for the express purpose of establishing his injuries. Nor does the record contain any plausible reason why only the fourth finger showed signs of damage, when bullets, according to this appellant, had been inserted between all his fingers, that were then forced together. His attempted explanation that after inserting three bullets (cartridges) between Alod's fingers two were removed is too artificial to merit consideration.

Similarly, the alleged violence to Alod's teeth by his investigators was emphatically disproved when, in demonstrating before the trial Judge, with similar handcuffs on his wrists, it was found that the handcuffs would not reach Alod's teeth. Moreover, as noted in the appealed decision, in the process of knocking out his teeth, Alod's lips must have been lacerated; yet he showed no trace of any such injury. Counsel's theorizing that a different kind of handcuffs was used in the court demonstration is not supported by the record.

With regard to appellant Malompon, he affirmed in court to having been maltreated for four days, and was promised besides that he would be made a state witness. Like Alod, he showed no visible signs of injury, but merely complained of pain to the physician (Exhibit "18"). This appellant, moreover, appears to have made three differing statements: one pointing out to the Masaglang brothers as presumable authors of the crime; a second one confessing to having planned, with Alod, and Sabonal and Antonino (sons of Alod), to rob and kill the victims; and to have entered the house of the victims through a ruse (Exhibit "D"); and a third one the following day,

Exhibit "8", that he, Alod, Sabonal and Antonino had been induced by manobos Semion, Angos and Monsad to go with them to the house of the victims, and that it was the three last named who carried out the massacre. It is incredible that all these statements were dictated by the Constabulary investigators: what interest could the latter have in extorting contradictory statements? If Malompon's implication of the Masaglang had been merely dictated by the PC investigators, the latter would not have taken the trouble of bringing the Masaglang all the way from Cubog to Malita for confrontation with appellants, as no man in his right senses would go chasing after his own fabrications. Lagura's testimony that when confronted with the Masaglang these appellants confessed their guilt is neither improbable in itself nor inconsistent with general experience.

Nor can we see why, after securing the confessions of Alod and Malompon (Exhibits "D" and "E") on the 16th of August, the investigators should extort from them on the very next day, August 17th, another statement (Exhibit "8") pointing out to an entirely different set of killers. The argument that the PC investigators wished to implicate also other persons to explain the shooting of Kee Kang is pure conjecture.

In another portion of the record, Malompon testified that when he was brought to the house of Alod and the then PC Lt. Lagura found the weapons (a "nanawe" and a "sangot"), he was asked by Lagura whether they were the ones used in the killing, and Malompon nodded, which indirectly corroborates Lagura's testimony that, when shown the "nanawe" and asked if it was the one used by Alod, Malompon answered that it was. It is, therefore, plain that Malompon's claim to innocence about the crime was feigned, and his claim that maltreatment impelled him to nod his head in token of assent to the identity of the fatal weapons is not credible.

Both Alod and Malompon testified that they were maltreated in the presence of many persons besides the investigators, a pretense that renders the alleged maltreatment all the more improbable, considering that violence upon prisoners to force a confession is a criminal act that is usually done in secret. True, defense witness Mansag deposed that accused Sabonal and Antonino were taken from jail and maltreated in the public plaza; this story is not only unbelievable, but it is peculiar that the latter were precisely the ones who did not confess and, in fact, were acquitted below.

Witness for the defense William Joyce, who had been Malompon's employer, and had engaged the attorney for the defense in the trial court, testified that Justice of the Peace de los Santos expressed to him, in the course of a conversation, that the Judge believed the accused not guilty, but signed the confessions due to maltreatment. De los Santos denied having made the statement, and reiterated his testimony for the prosecution that the confessants never claimed in his presence that they were coerced into making their statements, Exhibits "D" and "E". Both Captain Lagura and Sgt. Robrico, likewise, denied torturing the appellants, and the trial court did not give credence to Mr. Joyce. We find no reason to alter this view, considering that Vice Mayor Santisteban, who, according to Joyce, was also present, did not corroborate him; Santisteban declared that when Joyce asked Judge de los Santos if the accused were guilty the latter merely responded "Maybe". It is more credible that Joyce did misunderstand Judge de los Santos, for the latter knew that the murders were not triable by him, and, therefore, had no cause to pronounce whether the accused were guilty or not.

It is pointed out that some expressions in the confessions are not consistent with the ignorance and lack of culture of the appellants. This is true, but it must be remembered that Exhibits "D" and "E" are English translations of their original answers in the dialect, and some deformation through interpretation can hardly be avoided. Thus, that the confessions used the expression "stabbed to death" when the wounds were actually incised is not strange in persons not trained in medical precision, and no more outrageous than the defense claim that when Mansag testified that the rear door was "shut" he really meant it was "locked". At any rate, the essential admissions of guilt are present, and the appellants themselves avow that their statements were translated to them by Peralta and Santisteban before the thumbmarking thereof.

The rule is well established that a voluntary extra-judicial confession, when supported by evidence of corpus delicti, sustains a finding of guilt. The corpus delicti as to the slayings is unquestionable, and the appellants not having proved that their confessions were involuntary, the appealed verdict of guilty can not be overturned, particularly since the confession is supported by the finding of the murder weapons in Alod's house and by the incomplete entry in Kee Kang's account book, which testifies to the sudden irruption of the appellants into the Chinaman's house, as narrated in their confessions.

To be sure, the investigators appear to have been remiss in failing to ascertain the origin of the bloody handprints found outside the window of Chiquito's house, what rifle fired the bullet that killed him and ejected the empty shell that was found near the kitchen, and whether the stains in Alod's shirt and the weapons were caused by human blood or not. We believe that the true cause is not a desire to hide the truth, as the defense avers, but the lamentably deficient preparation of the investigators and a general tendency to rely excessively on confessions on the part of law officers. Be that as it may, the failure to follow these leads does not justify the assumption that, if made, the result would necessarily favor the herein appellants, or raise reasonable doubt over the guilt admitted by them. A confessant carries the burden of convincing the judge that his admissions are involuntary or untrue, as well as to establish exculpatory facts.

Much stress is laid on the fact that the rear door of the victim's house was found by then Lt. Lagura to have been forced open and the testimony of the defense witnesses that when they first arrived ahead of the police investigators that door was shut. It is argued that such circumstance does not dovetail with appellants' confessions that they secured entrance through the ruse of pretending to buy rope. But the uncontradicted testimony is that blood drops or dots were found "leading outside passing through the rear door" leading to the place where Kee Kang's corpse was found. The probabilities are that if the door was forced open it was by Kee Kang himself, in his haste to escape the assailants.

The allegations of the defense are not supported by unbiased evidence, since their main witnesses are members of the appellants' own family. We, therefore, find no adequate justification in deviating from the appreciation of the trial court, who saw the witnesses testify. The virulent and personal attacks of defense counsel, some of them based on facts admittedly not on record, must be deplored and condemned. This Court feels constrained to reiterate that passionate insults do not constitute argument, and that it is debasing to the administration of justice that a member of the bar, who feels called upon to protect their client's constitutional rights, should be the one to deny due process to the trial judge by attacking him behind his back in the appeal brief. We reiterate here what was said in *Perkins vs. Perkins*, 57 Phil. 223, 236:

"The court notices with considerable regret the heated and acrimonious tone of the remarks of the counsel for appellant. In his brief, in speaking of the action of the trial judge. We desire to express our opinion that excessive language weakens rather than strengthens the persuasive force of legal reasoning. We have noticed a growing tendency to use language that experience has shown not to be conducive to the orderly and proper administration of justice. We therefore bespeak the attorneys of this court to desist from such practices, and to treat their opposing attorneys, and the judges who have decided their cases in the lower court, adversely to their contentions with that courtesy all have a right to expect."

On the nature of the crime committed, we agree with the trial court that these appellants may not be convicted of robbery with homicide, there being no adequate independent proof of the robbery. There is no sufficient evidence, outside of the confessions, that anything was stolen from the house of the victims. While there is testimony that four or five days prior to the crime Kee Kang received a large amount of money, there is nothing to prove that the money remained with him until the time the killings were committed, several days later. The hiatus between the reception of the money and the delict itself was long enough for the deceased to send the money elsewhere. Nor is

there evidence that anything was taken from the house or the trunks therein. That the appellant intended, as they admitted, to rob Kee Kang does not constitute actual robbery. Without separate proof of corpus delicti, the extrajudicial confessions will not support conviction for robbery (Rule 133, section 3).

No robbery being proved, conviction for robbery with homicide becomes impossible (People vs. Bamego, 61 Phil. 318, Peo. vs. Panaligan, 43 Phil. 131; Peo. vs. Labita, 99 Phil. 1068).

The slaying of Kee Kang, his wife Mandoloon, and his clerk Te Chu must thus be considered as triple murder (People vs. Barruga, 61 Phil. 318, 331, and cases cited), qualified by treachery (which absorbs nocturnity), and aggravated by the circumstance of having been perpetrated in the dwelling of the victims. The apposite penalty would be death, but, for lack of a sufficient number of votes, the sentence is reduced to reclusion perpetua.

The sentence appealed from is modified, by increasing the penalty, from that imposed by the court below, to reclusion perpetua. In all other respects, the same is affirmed. Each appellant to pay one-half of the costs.

The attention of the authorities concerned is called to the testimony of the accused and their witnesses to the effect that they were detained for several days for purposes of investigation, which is in violation of Article 125 of the Revised Penal Code. A thorough investigation of the matter is in order, so that if the charge is substantiated the persons responsible may undergo condign punishment.

Concepcion, C.J., Barrera, Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.
Regala, J., no part.

[1] The case against appellants' 2 other co-accused, Sabonal Manobo and Antonino Manobo, was dismissed by the trial court on defense motion for insufficiency of evidence after prosecution rested its case.

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