

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CATALINO SANTOS ALIAS LINO, DEFENDANT-APPELLANT.

G.R. No. L-17215-17. February 28, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal from a decision of the Court of First Instance of Nueva Vizcaya in three interrelated cases, which were jointly tried.

In G.R. Nos. L-17215 and L-17216 (Criminal Cases No. 798 and 800 of said court) appellants Catalino Santos and Tabbegat Bocto were respectively convicted of illegal possession of a firearm and ammunitions, and each sentenced to an indeterminate penalty of imprisonment ranging from five (5) to seven (7) years and to pay the corresponding costs.

In G.R. No. L-17217 (Criminal Case No. 802 of the same court), said appellants Santos and Bocto, as well as appellants Pablo Basilio and Sing-gup Olmehemet, were convicted of three murders, qualified by treachery, with the generic aggravating circumstances of evident pre-meditation, commission of the offense in an inhabited place, with the use of unlicensed firearms, and by a band, without any mitigating circumstance to offset the same, and sentenced as follows: (a) Santos, as leader and mastermind, to the extreme penalty "for each of the deaths of Flaviano Fontanilla, Raymundo Fontanilla and Victorino Fontanilla;" (b) Basilio and Bocto, as ignorant followers of Catalina Santos, to suffer each three (3) life imprisonments, with the corresponding accessory penalties; and (c) Olmehemet, as a minor and ignorant follower of Catalino Santos, to an indeterminate penalty ranging from eight (8) years and one (1) day of prison mayor to seventeen (17) years and four (4) months of reclusion temporal, "for each death of the said Fontanillas," with the corresponding accessory penalties, in addition to the four (4) appellants indemnifying, jointly and severally, the heirs of each one of said deceased persons in the sum of P6,000, without subsidiary imprisonment in case of insolvency, and to pay the costs proportionately.

The lower court, likewise, ordered one-half of the preventive imprisonment respectively suffered by appellants to be credited to them, as well as the confiscation of the firearms, boloes and ammunitions used in the commission of the offense.

The main facts are: While Flaviano Fontanilla and his sons, Ray-mundo and Victorino, together with Artemio Simanero, were walking, in single file, on the trail along the river bank of Sagat Creek, headed for the sitio of Dinatay, municipality of Aglipay, Nueva Vizcaya, on March 12, 1958, at about 2:00 p.m., they were shot by several persons who laid in wait, in foxholes, several feet away. As the Fontanillas were felled by the bullets, Simanero retreated and took cover behind some stone boulders, protected by a screen of tall grasses, locally known as "talahib," and trees, some distance away. Meanwhile, the ambushers had jumped out of their foxholes and beheaded their victims, as well as hacked their bodies and dismembered one of them, after which they went away, going upstream. Then, Simanero left his hiding place and, taking the opposite direction, proceeded to Guinalbin, Aglipay, where he reported the occurrence to Donato Ruiz, the chief of police. The latter, in turn,

relayed the news to the local PC detachment. There-upon, PC Cpl. Bulanos, and Simanero, leading a posse, proceeded, on foot, to the scene of the crime - which they reached at about 2:00 a.m. - picked up the remains of the Fontanillas and brought them to the municipal building, where the justice of the peace held, in the morning of March 13, an inquest, in the course of which Simanero re-vealed that the Fontanillas had been killed by Ilongots.

Hence, Simanero was brought to the place, near the municipal building, where all Ilongots found nearby had, meanwhile, been round-ed up and kept. Simanero readily identified, from among them, herein appellants, Catalino Santos (alias Lino), Tabbegat Bocto, Pablo Basilio, and Singgup Olmehemet, apart from one Obdiy-ya Antolin, as the cul-prits, who, accordingly, were detained and investigated. That same day, a complaint for multiple murder was filed against them with the Justice of the Peace Court of Agalipay. Three (3) days later, complaints for illegal possession of firearm and ammunitions were, also, filed against Santos and Bocto. At the preliminary hearing before said court, on March 25, 1958, appellants, upon being informed, by the Justice of the Peace, who presided it, of the charges against them, pleaded guilty to said charges.

Subsequently, or on April 19, 1958, the provincial fiscal filed, with the Court of First Instance of Nueva Vizcaya, an information for illegal possession of firearm and ammunitions, against Catalino San-tos, alias Lino (Criminal Case No. 798 of said Court); another infor-mation, for a similar offense, against Tabbegat Bocto (Criminal Case No. 800 of said Court); and a third information, against Catalino San-tos, alias Lino, Pablo Basilio, Tabbegat Bocto, Singgup Olmehemet and Obdiy-ya Antolin, for multiple murder. On motion of the prosecu-tion, Antolin was, later discharged from the information in the latter case, to be a state witness. After due trial, thereafter, judgment was rendered as above indicated. Hence, these appeals by the convicted defendants.

The main issue for determination is one of fact. In G.R. No. L-17217 the question is: Who killed the Fontanillas? Testifying on their own behalf, appellants pleaded absolute innocence. However, two (2) eye witnesses, namely, Simanero and Antolin, positively affirmed the contrary. Simanero declared that, as he hid himself behind some big boulders, immediately after the Fontanillas had been shot by their assassins, the latter emerged from the foxholes in which they were, and turned out to be Catalino Santos, Pablo Basilio, Tabbegat Bocto, Sing-gup Olmehemet, and state witness Obdiy-ya Antolin; that he recognized them because they not only came out of said foxholes, but, also, had spent some time dancing and shouting merrily, as they beheaded the Fontanillas, hacked their bodies, and disemboweled them, even tossing at each other the severed heads of Victorino and Raymundo Fonta-nilla, aside from eventually throwing their bodies into the stream nearby.

This testimony was fully corroborated by Antolin, who further testified that Santos, Basilio and Bocto had used Japanese rifles - which he identified during the trial as Exhibits A, B and C, and had been recovered by the authorities, with his assistance, from a tree in the Dibibi forest, in which said weapons were hidden - in shooting the Fontanillas; that the latter were killed because they were going to, and working on, a land claimed by the Ilongots, whose leader was Santos; that, in the afternoon of March 11, 1958, Flaviano Fontanilla had asked Santos, in the house of one Elpidio Calio, in Calapitag, to join him the next morning and help in the cultivation of said land in Dinatay; that, in reply Santos urged Flaviano to proceed directly to this place, and gave assurances that he (Santos) and other Ilongots would follow him thereto; that, Basilio and Bocto were then, likewise, present in said house; that, early the next morning, Santos, Bocto, Basilio and Olme-hemet went to Antolin's house and invited him to go fishing, in view of which he joined the group; that, while they were walking along the bank of Addalam River, Santos bade them to hide the fishing equipment they carried, because they would get firearms in Dibibi and then ambush the Fontanillas, who were going to work on the aforementioned land of the Ilongots in Dinatay; that, thereupon, they proceeded to the afore-mentioned Dibibi forest, where Bocto climbed a balet tree and got three (3) Japanese rifles concealed therein; that, thence, they - carry-ing said rifles, as well as boloes and a spear - proceeded to Sagat Creek, using a trail along Addalam River; that, a short distance

away from the bank of Sagat Creek they dug seven (7) foxholes and then laid in wait therein; that, when, early in the afternoon, the Fontanillas passed in front of them, several feet away from the foxholes, Santos fired at Flaviano Fontanilla, whereas Basilio and Bocto shot Raymundo and Victorino Fontanilla, respectively; and that, thereafter, appellants and Antolin emerged from their foxholes and boloed the bodies of the Fontanillas as well as beheaded the same.

The foregoing direct evidence for the prosecution was cor-roborated by the following:

1. When, accompanied by Simanero, peace officers proceeded to the scene of the crime to recover said bodies of the Fontanillas, they found, inside the foxholes above mentioned, personal belongings (marked as Exhibits I to I-13, J to J-15 and K to K-4) which on March 13, 1958, appellants admitted to be theirs;
2. The prosecution introduced, also, in evidence, the confes-sions of Catalino Santos, Exhibits N and O, a confession of Pablo Basilio, Exhibit P, that of Tabbegat Bocto, Exhibit Q, and that of Singgup Olme-hemet, Exhibit R, each one of which had been subscribed and sworn to before the justice of the peace of Aglipay;
3. At the preliminary hearing held before this officer, who trans-lated the respective informations into the Ilocano dialect, which appellants understand and speak, the latter entered a plea of guilty, and said officer so stated in his orders of March 25, 1958, forwarding the records of these cases to the Court of First Instance;
4. Capt. Gregorio Panis of the Constabulary testified that, upon being investigated by him, Catalino Santos admitted being the owner of the Japanese rifle Exhibit A, as well as of the spear Exhibit D and two (2) boloes, Exhibits E and H, apart from the deer skin bag (Exhibit K), containing personal articles (Exhibits K to K-4), found in one of the foxholes at the scene of the crime; that Pablo Basilio, in turn, admitted that the Japanese rifle, Exhibit B, the bolo with its scabbard, Exhibits G and G-1, and a deer skin helmet and deer skin bag, found in one of the afore-mentioned foxholes, are, in turn, his own; and that appellant Bocto ad-mitted that the Japanese rifle, Exhibit C, belongs to him and that he has no license to possess the same; that in the course of the investigation conducted by him (Panis), which was put in writing (Exhibit N), Santos admitted having committed the crime charged, because the Fontanillas were clearing and working on a land claimed by the Ilongots, who, accord-ingly, resented it; and that the statement contained in Exhibit N was given by Catalino Santos freely and voluntarily;
5. Upon the other hand, Sgt. Arsenio Esteban, declared that he took the confessions, Exhibits O, P, R and Y of Santos, Basilio, Boc-to, Olmehemet and Antolin, respectively; that said confessions were free-ly and voluntarily made by the aforementioned defendants, in the dialect known and spoken by them, and then translated into English; that said confessions were brought, unsigned, before the justice of the peace of Aglipay, before whom defendants subscribed their respective confessions and swore to the truths of the contents thereof, after said justice of the peace had translated the same to them into the local dialect and ascertain-ed that they had made it without any compulsion whatsoever; and that appel-lants Santos, Basilio and Bocto had, likewise, admitted to him that they owned the aforementioned rifles and had no license to hold the same;
6. Rodolfo G. Hermoso, the justice of the peace of Aglipay, con-firmed the foregoing evidence regarding the verification of defendants' confessions Exhibits N, O, P, Q, R and Y and the fact that they enter-ed a plea of guilty at the preliminary hearing held before him on March 25, 1958.

Appellants maintain that the lower court had erred in allowing An-tolin to be discharged to be a witness for the prosecution, and in giving credence to his testimony as such, despite his subsequent recantation and testimony for the defense. The first part of this pretense is based upon the fact that Simanero had witnessed the occurrence from which de-fense counsel deduces that there was no "absolute necessity for the tes-timony of the defendant whose discharge" was requested by the prosecu-tion. The fallacy of this argument is apparent from the fact that

appellants' counsel assails the sufficiency of the testimony of Simanero and Antolin, to justify the appealed decision, despite the other evidence corroborating said testimony. Moreover, Simanero could not possibly have testified on the motive of the assassins, an important element that Antolin could and did supply, apart from the circumstance that his co-operation made it possible for the prosecution to locate the firearms used in the commission of the offense. In short, the lower court was justified in discharging Antolin from the information in the case for multiple murder.

Regarding the credibility of his testimony as a state witness, suffice it to say that its veracity has been amply established, not only because it was substantially corroborated by Simanero's testimony, but, also, by the fact that the firearms used by appellants were recovered through the assistance of Antolin, that personal effects belonging to appellants were found in the foxholes at the scene of the occurrence, and that the other evidence on record bear out the aforementioned testimony of Antolin.

It is true that, testifying subsequently for the defense, Antolin claimed to know nothing about the circumstances under which the Fontanillas had been killed, because he was then, he claimed, in his house. In this connection, however, the decision appealed from has the following to say:

"x x x Altho Obdiy-ya Antolin, as a defense witness, tried to repudiate his testimony as a State witness, by stating that he did not know who ambushed and killed the Fontanillas and that the facts testified to by him as a State witness were taught to him by Sgt. Esteban of the 120th PC Company, this Court can not believe this testimony of Obdiy-ya Antolin, as a defense witness, not only because of his manner in so testifying, - very hesitant, with bowed head towards the floor as if he could not squarely face the Court, under heavy strain and wary, - which was a direct contrast from his manner when he testified for the State, - alert, quick and confident, - but also because the essential details of his testimony as a State witness could not have been taught to him by Sgt. Esteban. In fact, Antolin's revelations to Capt. Panis led to the recovery of the firearms used by the accused in the ambushade from the hiding place in Dibibi forest and to the quick solution of the mystery of the ambushade of the Fontanillas. Besides, the essential details of Antolin's testimony as a State witness and of the lone survivor (Simanero) as regards the ambush and the individual participation of the accused are sustained by the respective confessions of Catalino Santos (Exhs. 'N' and 'O'), Pablo Basilio (Exh. 'P'), Tabbegat Bocto (Exh. 'Q'), and Singgup Olmehemet (Ex. 'R'), wherein they admitted their individual participation in the ambushade, and stated the motive - the clearing and working of the land in Dinatay by the Fontanillas, which are claimed by the Ilongots to be theirs, and the tribal belief or tradition 'ponyang' (killing of people to cure sick Ilongots)."

Under the circumstances, we are not justified in disturbing the conclusion thus reached by His Honor the trial Judge, who was in a better position than we are to pass upon the veracity of the witnesses in this case.

Appellants, likewise, impugn the testimony of Simanero as biased and prejudiced, because he is related to the Fontanillas and his testimony is "clearly motivated by hatred," in the language of defense counsel. It should be noted, that this alleged hatred is attributed, not to any personal animosity towards appellants, but to Simanero's consuming desire to punish the murderers. This suggests, however, his earnest conviction that appellants herein are the true culprits, for, otherwise, instead of satisfying said desire, his testimony would defeat it by promoting the conviction of innocent parties, thus, in effect, exonerating the guilty ones. In other words, the indications are to the effect that Simanero had really witnessed the occurrence.

Indeed, upon being investigated the next day, Simanero stated positively that the Fontanillas had been killed by Ilongots, whom he could identify if he saw them again, and, when, immediately thereafter, he was brought to the place where Ilongots had been rounded up, he unhesitatingly singled out herein appellants and Antolin as the culprits, and they, in turn, admitted their guilt.

Appellants would have us believe that their confessions had been secured through duress, but, the testimony of the Justice of the Peace before whom said confessions were subscribed and sworn to, the firm hands with which[1] they had apparently subscribed said confessions, and the many details set forth therein,[2] which could have been supplied by no other person than appellants themselves,[3] leave no room for doubt as to the absence of said duress.

It is apparent from the foregoing that the lower court has not err-ed in finding appellants herein guilty of multiple murder, as charged in the information in G.R. No. L-17217. Although the penalty meted out to them is in accordance with law, the number of votes necessary to sanction the ex-treme penalty imposed upon Catalino Santos is lacking, he having committ-ed the offense to forestall, he believed, a usurpation of rights he felt mo-rally bound to defend. Indeed, Santos was regarded as a leader of the Ilongots, for he had had some schooling, and was, at one time, a public officer, although he had not gone beyond the elementary education. Pre-cisely, because of the limited nature of his schooling and of the effect, upon his general outlook, of the unenlightened environment prevailing in the community of Ilongots to which he belongs, as well as of the circum-stance that the deceased Flaviano Fontanilla had been a former municipal mayor, whose act in clearing and working on a land claimed by the Ilongots was seemingly regarded by these non-Christians as one of oppression and abuse of authority, the Court feels that Santos should not be dealt with the severity due to persons otherwise circumstanced. Hence, the penalties imposed upon him should be reduced to three (3) life imprison-ments, subject to the limitations prescribed in Article 70 of the Revised Penal Code.

With respect to cases G.R. Nos. L-17215 and L-17216, it is clear that the testimony of the witnesses for the prosecution, corroborated by the con-fessions above referred to and the other circumstances already adverted to, deserves more credence and has much more weight than the absolute-ly uncorroborated testimony of appellants Santos and Bocto, who, like their codefendants, Basilio and Olmehemet, have limited themselves to merely denying the acts imputed to them by the prosecution.

Modified as regards the penalties for Catalino Santos in G.R. No. L-17217, which are hereby reduced to three (3) life imprisonments, the decision appealed from is, accordingly, affirmed in all other respects, with costs against the appellants.

IT IS SO ORDERED.

Reyes, Dizon, Regala, Makalintal, Bengzon, Zaldivar Sanchez and Ruiz Castro, JJ., concur.

[1] Judging from their signatures thereon.

[2] Most of which were later confirmed.

[3] Despite their testimony to the contrary.

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