

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SALVADOR LUCAS RAMIREZ, ET AL., DEFENDANTS AND APPELLANTS.

*G. R. No. L-2965. June 27, 1951*

Ponente: PADILLA, J.

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### PADILLA, J.:

On 24 September 1948, the barrio lieutenants of Baoer and Polong reported to the municipal police of Malasiqui, province of Pangasinan, that they had found in a rice field the body of a dead person. The chief of police, a sergeant, two policemen and the president of the sanitary division repaired to the rice field and there found & headless corpse, die hands tied on the back, the fingers and toes cut off, except the index finger of the right hand, with a deep penetrating wound reaching the left patella and another m the right axilla. As no information could be obtained from the people in the neighborhood where the corpse was found, the police brought it to town in the afternoon of that day. Felisa, a sister of Jose Aquino alias Inciong, received two letters, one on 22 September from her brother Jose, where he informed her that he and the letter left Manila at the same time (meaning 19 September 1948); that he beat the old woman (meaning his mother-in-law Agapita de Vent) last Wednesday or 15 September; that he and Badong (meaning Salvador Lucas Ramirez) took his mother-in-law to Malasiqui; that he was apprehensive that they (meaning his in-laws) would do him some wrong (meaning would harm him); and that if she did not receive letter from him until the end of the month she should consider him gone (Exhibit D); and the other on 23 September from Vicente, another brother, where he informed her of the disappearance of their brother Jose from Manila on 19 September, Sunday, at 5:30 a.m.; of the quarrel Jose had with the old woman; of the tetter's intention to do harm to Jose, and requested her to look for the latter either in San Carlos or in Malasiqui upon receipt of the letter (Exhibit C). With the forebodings and misgivings expressed in those two letters, Felisa went to Malasiqui on 24 September to look for her brother Jose. On her way to barrio Polong, she saw policemen carrying a corpse. Suspecting that it was of her brother, she asked the driver of the bus she was riding on to stop it and got off and inquired from the policemen who the dead man was but was told to go to the poblacion. At the municipal cemetery by the height and size she was able to recognize the corpse as that of her brother Jose, the head having been cut off. Taking a hint from these letters the chief of police arrested Salvador Lucas Ramirez, who admitted he had killed Jose Aquino with the help of several persons (Exhibit A). Alejandro Aquino, mentioned by Salvador, was also arrested and swore to a statement before the municipal mayor on 25 September (Exhibit B), the same day Salvador Lucas Ramirez swore and signed his. Graciano Quinano and Francisco Ramirez, also mentioned by Salvador Lucas Ramirez, swore and signed affidavits before the justice of the peace of Malasiqui on 28 September.

Thereupon, a complaint for murder was filed against Salvador Lucas Ramirez, Alejandro Aquino, Pio Manalse, Francisco Ramirez, Graciano Quinano, Agapita de Vera, Ramona Ramirez and Elena Ramirez. After preliminary investigation, the first, second, fourth and fifth defendants were bound over to the court of first instance. The record does not show that the third, sixth, seventh and eighth defendants were excluded at the preliminary

investigation. But the information for murder filed by the provincial fiscal was against Salvador Lucas Ramirez, Alejandro Aquino, Francisco Ramirez and Graciano Quinano only. Upon petition of the prosecution, the last named defendant was discharged from the information to testify for the state. After trial, the court of first instance of Pangasinan found that Francisco Ramirez took part in the commission of the crime as an accessory after the fact only, but being a brother of Salvador Lucas Ramirez, the penalty prescribed by law could not be imposed upon him, pursuant to the provisions of article 20 of the Revised Penal Code, there being no showing that he had profited himself or assisted the offenders to profit by the effects of the crime; and found Alejandro Aquino guilty of murder as accessory after the fact and sentenced him to suffer from two (2) years and four (4) months of prision correctional to six (6) years and one (1) day of prision mayor, the accessories of the law, to indemnify the heirs of the deceased in the sum of P3,000, with subsidiary imprisonment in case of insolvency; and Salvador Lucas Ramirez guilty as principal of the crime of murder and sentenced him to suffer reclusion perpetua, the accessories of the law, to indemnify the heirs of the deceased Jose Aquino in the sum of P3,000, and each to pay a proportionate share of the costs. From this judgment Salvador Lucas Ramirez and Alejandro Aquino have appealed.

Appellants do not dispute that the headless, toeless, fingerless and hogtied corpse found in the rice field in the barrio of Polong, municipality of Malasiqui, province of Pangasinan, belonged to a person who in lifetime was called Jose Aquino. Appellant Salvador Lucas Ramirez admits he killed Jose Aquino, his brother-in-law, but in selfdefense. He testifies that on the night of 19 September 1948, when his mother Agapita de Vera and two sisters Emiliana and Benita were on their way home, coming from the house of Pedro Herrero where they ate a dog meat dinner, he heard his mother call his name; that from the house of Pedro Herrero, he, followed by Alejandro Aquino, rushed to the place where his mother was and there saw Jose Aquino and his mother who complained to him that Jose Aquino, after asking why she left Manila without asking his permission, slapped her; that upon seeing him Jose Aquino struck him with his fiat in the chest; that he fell down in a squatting position; that Jose Aquino drew from his watch pocket a 6-inch knife with which he stabbed and wounded him in the right hand; that he retreated and in backing out he stepped on Alejandro Aquino from whom he snatched a bolo with which he hacked several times the deceased who fell down in a ditch; that he left the bolo in the place and returned to his house; that in the morning of the following day he went back to the place and found out that he had killed his brother-in-law; and that he asked Alejandro Aquino whom he met that morning to help him drag the corpse of Jose Aquino to a spot in the rice field where the rice stalks had grown high.

The evidence for the prosecution shows that in his lifetime the deceased had been extremely cruel to his mother-in-law Agapita de Vera, of which fact her children, especially Salvador Lucas Ramirez, were aware. The latter, with the consent of his mother, conceived the idea. of doing away with his brother-in-law and to that end on 19 September, he invited him, his mother and two sisters, to come to his house in Malasiqui and after arriving there, to a dog meat dinner served in the house of Pedro Herrero. After dinner, they left Herrero's house and on their wayhome, Salvador Lucas Ramirez had Alejandro Aquino and Pio Manalse tie Jose Aquino's hands on the back and Salvador Lucas Ramirez hacked him with a bolo several times until he died. Alejandro Aquino cut off the head of Jose Aquino and with the help of Pio Manalse, Graciana Quiiano and Francisco Ramirez, dragged the victim to a spot in the rice field where the rice stalks had grown quite high to conceal it. The head, toes and fingers of the victim were hidden in a bamboo clump. Frightened, Agapita de Vera and her two daughters quickly returned to the house of Salvador.

We find this to be the true account or version of what had taken place on the night of 19 September. Salvador Lucas Ramirez claims that he was stabbed and wounded with a knife by the deceased in his right hand and on the stand he showed a scar in said hand. If he was wounded, as shown by the scar, why did he not show the wound while it was still fresh to the mayor and to the justice of the peace when he appeared before them? He also claims

that the following morning after the commission of the crime, he met Alejandro Aquino whom he asked to help him drag the corpse to a rice field; that on their return from the spot where they concealed it under the rice stalks, Alejandro Aquino found the head of the deceased "which was left during the dragging, and he picked up the head and we dropped it into the hole." (p. 80, t. s. n.) This is a badge of untruthfulness, because no matter how strong the dragging had been, it certainly could not have caused the severance of the head from the trunk.

The trial court found Alejandro Aquino guilty of murder as an accessory after the fact. This is an error, because granting that, when Alejandro Aquino cut off the head of the victim, the latter was already dead, nevertheless, he actively cooperated with Salvador Lucas Ramirez by tying the hands of the victim on the back before the latter was hacked to death (Exhibit B). He is an accomplice. The evidence on conspiracy which would make him responsible for the crime as principal appearing on the extrajudicial statement made by Salvador Lucas Ramirez (Exhibit A) is inadmissible as against Alejandro Aquino. We find the latter guilty of the crime of murder as an accomplice and sentence him to suffer from four (4) years, two (2) months and one (1) day of prision correctional, as the minimum, to fourteen (14) years, ten (10) months and twenty (20) days of reclusion temporal, as the maximum. The non-payment of the indemnity does not require the service of subsidiary imprisonment in view of the penalty imposed, and the civil responsibility is only subsidiary to that of the principal.

As modified in the manner above pointed out, the judgment appealed from is affirmed, with costs against the appellants.

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

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