

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO OTADORA ET AL., DEFENDANTS. HILARIO CARREON,
DEFENDANTS-APPELLANT.**

G.R. No. L-2154. April 26, 1950

Ponente: BENGZON, J.

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BENGZON, J.:

In August, 1947, in the court of first instance of Leyte, Antonio Otadora and Hilaria Carreon were charged with the murder of the spouses Leon Castro and Apolonia Carreon. Otadora pleaded guilty, and was sentenced to life imprisonment. Denying her guilt, Hilaria Carreon was tried, found guilty and sentenced to death and other accessory penalties. The court declared that with promises of monetary reward, she had induced Antonio Otadora to do the killing. Motive for the instigation was the grudge she bore against the deceased spouses on account of disputes with them over inherited property. This woman convict appealed in due time.

Her attorney filed here a voluminous brief wherein he attempted painstakingly to break down the position of the prosecution and to expound the theory that Antonio Otadora is the only person responsible for the slaying, and that Hilaria Carreon is just "the unfortunate victim of a vicious frame-up concocted against her." She necessarily had to offer a satisfactory explanation for the conduct of Otadora, who has pleaded guilty and has declared for the prosecution against her, explaining the circumstances under which she had promised to him compensation for liquidating the unfortunate couple.

There is no question about these facts:

Early in the morning of June 16, 1947, Leon Castro and his wife Apolonia Carreon were shot dead in their house in the City of Ormoc, Leyte. In the afternoon of June 21, 1947, Antonio Otadora was arrested in Ormoc City while preparing to escape to Camotes Islands, Cebu. The next day he confessed in an extra-judicial statement (Exhibit 1) wherein he implicated the herein accused-appellant Hilaria Carreon asserting that, with offers of pecuniary gain, the latter had induced him to commit the crime. On June 25, 1947, a complaint for double murder was filed against both defendants in the justice of the peace court of Ormoc, Leyte. Preliminary investigation was waived and the record was forwarded to the court of first instance, where on September 3, 1947, Otadora pleaded guilty with the assistance of counsel. Hilaria Carreon pleaded not guilty, and asked for a separate trial, which was immediately held, with Otadora as the first witness for the prosecution.

The evidence presented on behalf of the People proved that:

(1) Apolonia Carreon was the sister of Hilaria. Due to a family quarrel, Apolonia filed in August, 1946 a criminal complaint for serious threats against Hilaria and her husband Francisco Galos (Exhibit P-1). These were arrested and had to file a bond. The case was later withdrawn by Apolonia upon the advice of friendly mediators.

In December of 1946, Leon Castro as guardian ad litem of some minors surnamed Carreon filed a civil complaint for partition of real property and damages against Hilaria Carreon. This suit was set for hearing on June 24, 1947.

(2) Antonio Otadora met Hilaria Carreon sometime in April, 1947, through Amando Garbo. Thereafter they conversed on several occasions. In the early part of May, 1947, she saw him going to barrio Matica-a and then she told him that if he would liquidate the spouses Leon Castro and Apolonia Carreon she would give him P3,000. He did not agree. In the last week of May he was invited to Hilaria's house. The proposal was renewed, better conditions being offered. (1/3 of P10,000 plus carabaos, plus P300). He must have demurred alleging that he had no adequate weapon, because Hilaria is reported to have engaged to supply it.

(3) Around the first week of June, 1947, Hilaria Carreon sent for Otadora. She gave him the revolver Exhibit A; but the revolver turned out to be defective so he handed it back to Hilaria. The latter ordered it repaired by Benigno Baltonado who had previously sold it to her. Three days later Baltonado returned the gun in good condition with more than ten bullets, and appellant in turn delivered the weapons to Otadora who was then in her house, advising him at the same time to carry out soon their plan so that Leon Castro may not attend the hearing of the civil case. Appellant also gave Otadora the bolo Exhibit B, a pair of trousers of her husband Francisco Galos (Exhibit C), a hat Exh. D and a flashlight Exh. E.

(4) Otadora set out to do his part in the morning of June 14; but Apolonia was not in her residence. He reported to appellant the next day and the latter urged him to execute it that day, giving him P6.50 for transportation. That night, at about one o'clock, Antonio climbed up the house of the Castros, passing through the window. He saw them sleeping side by side. He opened the door of the kitchen to prepare his exit. Returning to the place where the couple lay, he stumbled on Leon Castro, who exclaimed, "who are you?". Otadora replied, "I am" "I don't have any purpose except you, get up and fight". As Castro was about to stand up, Otadora fired. Apolonia was awakened, and embraced her husband who meantime had fallen. Otadora shot her too. The couple died immediately of shock and hemorrhage,

(5) After committing the murders, Otadora returned to barrio Matica-a intending to go to Hilaria's home; but as he was nearing the kitchen, Francisco Galos signalled him to go away. (He was seen, crossing the cornfield near Hilaria Carreon's house by Juanita Garbo, who so testified in court). Otadora went to his home in Sitio Hubas. On June 20, at a dance, he received word from Hilaria through her husband Galos, that he was wanted by the police, and that he should decamp. The next morning he passed by the residence of Hilaria, and the latter gave him P5, plus two packages of cigarettes, adding that he should not attempt to visit her further, because she was being watched. The next day, she again sent him P45 through Amando Garbo, who delivered the money at the back of the house of Menes Tahir in Canangca-an. After receiving the money, Otadora prepared to escape to Camotes Islands. But he was caught before he could run away.

The above statement of principal facts is a condensation of the testimonies of Antonio Otadora, Benigno Baltonado, Amando Garbo, Alejandro Bensig, Macario Bensig, Juanita Garbo, and others. It is substantially in accord with the findings of His Honor, the trial judge. Of course, it is founded mainly upon the declarations of Antonio Otadora that necessarily are persuasive inasmuch as he himself admits his direct participation and his assertions are fully corroborated by a series of circumstances competently established.

Hilaria denied any connection with the assassination. And naturally the defense exerted effort to discredit Otadora's version, by submitting the following theory:

Antonio Otadora planned a revenge upon Castro because the latter as a spy caused the death of his father Sergio Otadora at the hands of the Japanese. He, however, found himself in the necessity of eliminating Apolonia Carreon because the latter was a witness to his deed. On the other hand, Antonio Otadora (and the other witnesses who are his relatives) also desire to take revenge upon Hilaria Carreon because the latter, during the Japanese occupation, saved Leon Castro from death at the hands of the guerrillas. The defense says that to those who had

been prejudiced by the espionage activities of Leon Castro, Hilaria Carreon appears to be just as responsible as Leon Castro.

The theory can not be lawfully accepted. Firstly, Otadora denies that his father died at the hands of the Japanese. Secondly, the alleged "saving" of Leon Castro was not sufficiently established. Loreto Micabel, the superior officer of the guerrillas, who ordered the release of Leon Castro, did not mention Hilaria as one of those who interceded for the prisoner (p. 286, stenographic notes). Thirdly, nobody in his right senses holds Pedro criminally responsible for the crime of Juan simply because a few days before the crime Pedro saved Juan from drowning.

On the other hand, the grudge which Otadora supposedly held against Castro, readily explains why for a consideration he undertook to kill. It is likewise probable that knowing such desire for vengeance, Hilaria selected him to carry out the dangerous and delicate job. And if it is true that Hilaria saved Leon Castro during the Japanese occupation, it is very likely that she hated her "ungrateful" brother-in-law and sister, (who on two subsequent occasions brought her to court), so much that she hired Otadora to eliminate them.

The assertions of Otadora are decisively ratified by Benigno Baltonado who swore that it was Hilaria who had purchased the murderous gun from him for P55, and who ordered him to fix it; that on the third day he returned the gun to her in her home with rounds of ammunition; and that Otadora was there on that occasion. The remarks and arguments of counsel on pages 87-92 of his brief do not, in our opinion, destroy Baltonado's credibility.

Then there is the witness Amando Garbo, whose brother Esteban is married to the sister of Hilaria, and whose sister married a younger brother of Hilaria. Amando Garbo declared that he was on friendly terms with Hilaria, taking care of her fighting cock; that in December, 1946 in the fiesta of Palompon, she tried to persuade him to kill the spouses Castro; that he declined; that she asked him to look for another whom she could hire; that he introduced Hilaria to Antonio Otadora; that it was he who, at the request of Hilaria secretly delivered P45 in paper bills of different denominations to Antonio Otadora after the crime was committed.

And Juanita Garbo, niece of Hilaria Carreon, confirmed the various meetings of Otadora and Hilaria in the latter's house. And there is the witness Macario Bensig who swore that in May, 1947, at Tabogocon, Ormoc City, during the wedding of his brother Benito with Luisa Pilapil in May, 1947, Hilaria Carreon told him that if he would kill Leon Castro and Apolonia Carreon he would be given money as a reward.

Again there is the witness Sgt. Tomada who said that when the accused Hilaria Carreon was arrested in June 25, 1947, she was committed to his custody because there was no adequate place in the municipal jail for her; that she requested him confidentially to get a lock of hair of Antonio Otadora explaining to him that if that hair is burned Otadora would become insane, and therefore would not be able to declare against her.

Further corroboration of appellant's criminal connection with the bloody affair is the undisputed possession by Otadora of the pant of Francisco Galos (Exhibit C) and his hat Exhibit D. It appears that when Francisco Galos denied ownership of the pant he was ordered to put it on; and the judge found that it fitted him perfectly. This incident gave the defense opportunity for extended argument that the constitutional protection against self-incrimination had been erroneously disregarded. But we discover in the record no timely objection upon that specific ground. And it is to be doubted whether the accused could benefit from the error, if any. Furthermore, and this is conclusive, "measuring or photographing the party is not within the privilege" (against self-incrimination). "Nor is the removal or replacement of his garments or shoes. Nor is the requirement that the party move his body to enable the foregoing things to be done." (Wigmore on Evidence, Vol. 4, p. 878, quoted in *Beltran vs. Samson and Jose*, 53 Phil., 570, 576).

In conclusion, we are fully satisfied from a reading of the whole expediente that the appellant induced Antonio

Otadora to commit the double murder, and furnished him with the deadly firearm. She is just as guilty as if she herself had perpetrated the murderous assaults. The slaying is qualified by the circumstance of treachery. It is aggravated by evident premeditation; but for lack of sufficient votes the appellant is sentenced to suffer life imprisonment for each murder, (not exceeding 40 years, Art. 70, Rev. Penal Code), and to indemnify the heirs of the Castros in the sum of P4,000.00. The appealed judgment will be thus modified.

Moran, C. J., Ozaeta, Pablo, Tuason, Montemayor, and Reyes, JJ., concur.

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