

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. DANIEL GALAPON, AND EULALIO GALAPON, DEFENDANTS AND APPELLANTS.

G.R. No. L-6657. July 26, 1954

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

For the killing of Leonardo Bedeira, Daniel Galapon and Eulalio Galapon were charged with murder and after trial were,, by the Court of First Instance of Nueva Ecija, found guilty of said crime qualified by treachery and aggravated by evident premeditation and abuse of public position and sentenced to the extreme penalty of death, to indemnify jointly and severally the heirs of the deceased in the sum of P6,000 and to pay the costs. Because of the penalty imposed the record of the case was forwarded to us for review.

From a careful study of the evidence we find the following facts to have been established beyond reasonable doubt. On August 31, 1951, Sisenando Gonzaga, a rig driver, was in his vehicle going toward the railroad station at barrio San Roque, Guimba, Nueva Ecija, to pick up passengers from the incoming train. Near the station he was hailed and engaged by defendant Daniel Galapon who after boarding the rig, informed Sisenando that he was going to pick up two companions who proved to be his nephew defendant Eulalio Galapon and the deceased Leonardo Bedeira. After picking up these two persons the vehicle proceeded to the poblacion of Guimba and the three passengers alighted at and went inside a Chinese store where the three proceeded to drink Chinese wine named See Hoc Tong. Thereafter, the three passengers boarded the rig and directed the driver to proceed to the sitio of Pasong Intsik. On the way and while passing in front of the cemetery, the driver Sisenando heard a pistol shot right just behind him. He looked back started and saw blood gushing from the head of Bedeira; and he also saw Eulalio holding a revolver. Sisenando continued driving upon order of Eulalio and not long thereafter he again heard a shot behind him but this time he dare not look back. When the vehicle reached the Pasak bridge still within the municipality of Guimba, Sisenando was ordered to stop by Eulalio and Daniel who proceeded to lift the dead body of Bedeira from inside the vehicle and then dump it into some tall grass called "talahib", a few meters from the road and bridge. Thereafter, Sisenando was ordered to return to town and take Eulalio and Daniel to their respective homes, which he did, with the warning and threat that if he revealed to any one what had happened, he would be killed. It should be here stated that at the time both Eulalio and Daniel were members of the police force of Guimba; Daniel wore civilian clothes and Eulalio was in uniform.

That same evening at about eight, Lt. Carbonel of the police force led a patrol composed of several policemen, including Eulalio, to the sitio of Pasak near the bridge already mentioned, because the night before he had received a report to the effect that some armed men had attempted to kidnap some civilians there. As the patrol approached the bridge, some firing was heard from the north and upon instructions of Lt. Carbonel, the patrol returned the fire, and thereafter deployed and advanced northward. Then Eulalio announced to his companions that he had found a dead body in the "talahib," the very spot where an hour or two before the body of Bedeira was dumped. The dead body was taken to town and Lt. Carbonel broadcast the news of the find, and requested that the

relatives of the dead man come to the residencia and identify the body. Next morning the body was identified as that of Leonardo Bedeira.

An autopsy made by Dr. Felipe Batangan showed that the deceased sustained two gunshot wounds on the head; the entrance of the first was at the mid-parietal region right, and the second at the lower region of the occipital bone, and that there were signs of powder burns which according to the doctor showed that the gun was fired at a distance of not more than one foot.

The complaint for murder was not filed until January 1952. Eulalio and Daniel seem to have left town of Guimba after they had resigned or been separated from the police force. It was only in January 1952 that Daniel was arrested, and Eulalio was arrested only on August 26, 1952, although he claims that he surrendered to a lieutenant of the Army in Fort McKinley.

At the preliminary investigation conducted by the Justice of the Peace of Guimba, Daniel assisted by his counsel testified and said that in the afternoon of August 31, 1951, he really rode in a rig with his nephew Eulalio Galapon and the deceased Leonardo Bedeira; that Eulalio was then tipsy or groggy and was threatening everyone in the vehicle, pointing his revolver at them; that as they approached the Pasak bridge, Eulalio shot Bedeira and that he (Daniel) helped Eulalio dump the dead body into the "talahib" near the bridge; and that he kept silent and dared not reveal what had transpired because of the threat of death made by Eulalio. The transcript of this testimony was introduced in evidence at the trial as Exhibit "F" for the prosecution.

While Daniel and Eulalio were confined at the provincial jail of Nueva Ecija they had a talk with one Urbano Gepilano, son-in-law of the deceased Leonardo Bedeira in the presence of provincial guard Florencio Vilorio, resulting in the preparation of a promissory note, signed by Eulalio and Daniel, witnessed by Florencio Vilorio, and later introduced in evidence as Exhibit "H" for the prosecution. We are reproducing it below:

"PROMISSORY NOTE"

Ten days after date we Eulalio Galapon and Daniel Galapon promised to pay Mr. Urbano Gepilano the amount of Two Thousand Five Hundred Pesos (P2,500.00) only for our indemnity to the late Leonardo Bedeira kidnap and murder by us last August 31, 1951.

Cabanatuan City, January 12, 1953

1. EULALIO GALAPON

2. DANIEL GALAPON

Witness:

1. FLORENCIO VILORIA"

We entertain no doubt as to the guilt of the two accused (Daniel and Eulalio) whose acts previous to, during, and after the shooting of the deceased showed unity of purpose and conspiracy to do away with Bedeira. Although the actual shooting was done by Eulalio, the evidence shows that his co-accused Daniel engaged the rig, picked up Eulalio and the deceased and then the three engaged in what the trial court called a "drinking spree" in a Chinese store after which the two accused took the victim for a ride toward Pasong Intsik, said victim being made to sit between them. The rig driver Sisenando, star witness for the prosecution witnessed the shooting; he does not seem to have heard or witnessed any discussion, quarrel or struggle between Bedeira and Eulalio or any attempt on the part of Daniel to prevent the shooting. On the contrary, Daniel readily helped in disposing of the dead body and joined in enjoining Sisenando not to reveal what he had seen, under penalty of death. The flight of the two

accused from Guimba is another indication of their guilt. Added to this, is the document (Exh. "H") wherein both accused promised to pay P2,500 as an indemnity to the person whom they had kidnapped and killed.

At the trial, the two accused said that the original promissory note they signed called only for P250.00 and did not contain the clause about the kidnapping and killing of the deceased. However, as correctly contended by the Solicitor General, there is nothing in the document itself to show that this clause was added later; and that if the clause in question had not been in the document at the time it was signed, then the signatures would have been at the middle of the page instead of at the bottom.

Daniel claims that the testimony given by him at the preliminary investigation (Exhibit "F") was not voluntary but was the result of intimidation. Considering that said testimony was given before the justice of the peace and in the presence of, and with the assistance of his own counsel, there is no reason to doubt its voluntariness. His claim that he was intimidated and forced by Eulalio to help him commit the crime does not merit serious consideration bearing in mind that the two defendants were members of the police force of Guimba and Daniel was an uncle of Eulalio, so that it was not likely that the nephew would and could exert undue influence on his uncle. And, as to Eulalio, the fact that he readily found the dead body of Bedeira, in the thick "talahib" below the road and when according to Lt. Carbonel it was then very dark, shows that he knew that there was a dead body in that place, the very same one that he and his uncle had previously dumped there and which he wanted the authorities, particularly Lt. Carbonel who led the patrol, to believe that he (Bedeira) was a victim of the armed dissidents which had been terrorizing the area.

We are in accord with the Solicitor General that the aggravating circumstance of evident premeditation has not been clearly proven; and as to the aggravating circumstance of abuse of official position, we also agree to the contention of Government counsel that there is no evidence that the accused took advantage of their being policemen. The record shows that the deceased evidently rode with his two assailants voluntarily, perhaps induced and assured by their friendliness, with the exhilarating effect of the liquor taken during their "drinking spree." With the elimination of these two aggravating circumstances, the penalty for the crime of murder should be imposed in its medium degree, namely, reclusion perpetua.

It may not be entirely out of place here to quote one of the last paragraphs of the decision of the learned trial court. Said his Honor Judge M. M. Mejia:

"As already stated, the two defendants were members of the police force of Guimba, Nueva Ecija. They were appointed as such to enforce the law and to protect the inhabitants of the municipality. But untrue to their sworn duty, they instead became the executioners of a poor and innocent citizen. They were assassins in policemen's clothing. The Court feels that civilized society has no use for the lives of police officers like these, except perhaps to serve as a deterrent for others criminally inclined like them. For ruthless, cold-blooded and merciless killers like them, the death penalty was intended and for them must be enforced."

We are in full agreement with the court below that considering the defendant's position as policemen and peace officers, their act was atrocious and utterly reprehensible. Although under the law, we may not impose the extreme penalty, still we believe that they are not deserving of any compassion or of Executive Clemency, particularly Eulalio Galapon who appears to be the mastermind and the more guilty of the two.

With the modification above stated, the decision appealed from is hereby affirmed, with costs.

Paras, C. J., Pablo, Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

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