

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO ROSALES, LUIS ROSALES AND SANTOS CARCER, DEFENDANTS-APPELLANTS.

G.R. No. L-38625. October 23, 1981

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PER CURIAM:

AUTOMATIC REVIEW of the death sentence imposed by the Circuit Criminal Court at Pasig, Rizal, on Luis Rosales and Santos Carcer on December 24, 1971 and of the decision promulgated by the same court on March 24, 1973 imposing likewise, the death penalty on Eduardo Rosales.

Eduardo Rosales, Santos Carcer and Luis Rosales, together with one Guillermo Natural were charged, in an information[1] filed with the Criminal Circuit Court on December 22, 1971, with the crime of Murder, thus:

"That on or about November 16, 1970, in the New Bilibid Prison, Muntinlupa, Rizal, Philippines, and within the jurisdiction of this Honorable Court, all said accused, while then confined at the said institution and identified as Bicol Region Masbate Gang (BRM)-members conspiring, confederating and acting together, the said accused Eduardo Rosales and William Natural being then gang leaders of the BRM who gave the orders to kill and the accused Luis Rosales and Santos Carcer being then each armed with an improvised deadly weapon, did then and there wil-fully, unlawfully and feloniously assault and wound therewith one RENATO MARTIN, another convicted prisoner serving final sentence in the same institution inflicting upon the latter multiple stab wounds, while then unarmed and unable to defend himself as a result of which the said Renato Martin died instantly.

"That the offense when committed by the above accused was attended by the qualifying circumstances of treachery and the generic aggravating circumstances of premeditation, the accused Santos Carcer being a recidivist having been convicted for MURDER on August 30, 1968 by the CFI of Camarines Sur an offense identical with the present case, the accused Eduardo Rosales, being a habitual delinquent having been convicted for frustrated homicide on December 1, 1962 by the CFI, Manila and an escapee twice convicted on March 16, 1966 and July 5, 1967.

"CONTRARY TO LAW."

The four accused, assisted by counsel de officio Atty. Jose O. Galvan, were arraigned on December 24, 1971. Luis Rosales and Santos Carcer pleaded guilty. The prosecution was not required to present evidence. On the same day, the trial judge "dictated and promulgated in open court" the following death sentence on Luis Rosales and Santos Carcer:

"When the accused were arraigned today, pursuant to Section 1, Rule 116 of the New Rules of Court, in relation to Rule 118 thereto, duly assisted by their counsel de officio, Atty. Jose O. Galvan, then pleaded GUILTY.

"The Court apprised the accused of the consequence of their plea of guilty and the latter manifested that they are aware of the fact that they will be punished in accordance with law, probably death.

"The Court further asked them to make a thorough soul searching and to examine their hearts and minds as to the consequence of their acts to the effect that the Court may impose upon them the death penalty and the accused manifested that they are ready to die in the electric chair, and that they thought of pleading guilty a year ago.

"Pursuant to Article 160 of the Revised Penal Code, the Court has no alternative but to impose the death penalty, they having been serving sentences for crimes committed by final conviction.

"WHEREFORE, in view of the spontaneous and voluntary confession of guilt made by the accused Luis Rosales and Santos Carcer, the Court finds them GUILTY, beyond reasonable doubt, of the crime of Murder as defined in Article 248 of the Revised Penal Code, as charged in the information, and hereby sentences each one of them to suffer the penalty of DEATH; to indemnify jointly and severally the heirs of the offended party in the amount of P12,000.00; to pay jointly and severally the amount of P10,000.00 as moral damages plus another P10,000.00 as exemplary damage' and to pay their proportionate share of the costs.

"x x x x x x x x."[2]

The Order setting the trial of Eduardo Rosales and Guillermo Natural, who both pleaded not guilty was likewise issued on that date.

Trial on the merits against Eduardo Rosales commenced on January 2, 1972 with the presentation by the prosecution of Guillermo Natural who turned state witness. And on March 24, 1973, the Court a quo convicted Eduardo Rosales of murder and imposed the death penalty on him in a decision[3] the dispositive portion of which reads:

"WHEREFORE, finding the accused Eduardo Rosales, GUILTY, as mastermind, beyond reasonable doubt, of the crime of Murder, as defined in Article 248 of the Revised Penal Code, as charged in the information, the Court hereby sentences him to suffer the penalty of DEATH; to indemnify the heirs of the offended party the amount of P12,000.00, jointly and severally with the other two accused, Luis Rosales and Santos Carcer; to pay the amount of P10,000.00 as moral damages, jointly and severally with the other accused and another P10,000.00 as exemplary damages, jointly and severally also with the other accused; and to pay his proportionate share of the costs."

Following the imposition by the lower court of the death penalty on Eduardo Rosales, his case was elevated to Us for mandatory review. The elevation of the death sentence imposed on Santos Carcer and Luis Rosales would come later for the reason, noted by the Solicitor General in his Comment[4] dated August 13, 1975, "that the Clerk of Court of the trial court perhaps through oversight, failed to forward to this Honorable Court a copy of the judgment of the lower court dated December 24, 1971 against the two accused Santos Carcer y Severino and Luis Rosales y Rivera also for the automatic review thereof pursuant to Section 9, Rule 122 of the Revised Rules of Court, since said two accused, although they pleaded guilty to the charge, were still sentenced to the capital penalty of death, nor was the attention of this Honorable Court called to the existence of said judgment against said two co-accused when the records of this case were forwarded to this Honorable Court for review of the judgment of conviction imposing the death penalty on appellant Eduardo Rosales." Acting on the subsequent motion of the Solicitor General for the consolidation in the instant case of the two trial court's judgments, respectively, dated December 24, 1971 and March 24, 1973, We allowed the filing by the Solicitor General of a consolidated plaintiff-appellee's brief against appellants Eduardo Rosales, Luis Rosales and Santos Carcer.

Appellants Luis Rosales and Santos Carcer, through counsel de oficio, now question the procedure followed by the trial court as defective and deficient on the grounds that the steps necessary to ascertain whether the accused understood the meaning of their plea of guilty were not taken and that evidence needed to support the allegations of the information were not received. They pray for a remand of their case to the court a quo for arraignment

and further proceedings.[5]

Appellant Eduardo Rosales, upon the other hand, questions, as not supported by evidence and the law, the trial court's holding that he was the mastermind in the killing by Luis Rosales and Santos Carcer of Renato Martin and that he conspired with his co-accused in the commission of the crime.[6]

The evidence for the prosecution shows that at about 4:00 o'clock in the afternoon of November 16, 1970, a member of the Bicol Region-Masbate (BRM) gang was killed at the back of Dormitory No. 4 of the New Bilibid Prison in Muntinlupa, Rizal. It was suspected that the killer came from Dormitory No. 4, which housed the rival gang of the BRM.

At about 6:30 o'clock in the evening of the same day, Eduardo Rosales, BRM gangleader (bosyo) at and inmate of Dormitory 6-A where most of the BRM's were placed, called for Guillermo Natural alias William Natural, their dormitory squad leader. Called Mayor, Natural is some kind of spokesman of the inmates, appointed by prison authorities who attends to the needs of and investigates his co-inmates.[7] Eduardo Rosales informed Natural of the plan to kill Renato Martin, a Tagalog who had been seen giving signals to the occupants of Dormitory No. 4 prior to the killing at the back thereof of the BRM gang member, to avenge the death of their com-rade. Natural tried to dissuade Eduardo from pursuing his plan but the latter was unmoved and threatened to kill him if he would interfere with the plan. While they were conferring, Eduardo called for Luis Rosales and Santos Carcer and presented them to Natural as the persons who had been designated to carry out the plan. Eduardo then climbed the ceiling, took two bladed weapons which he had concealed thereat and tossed them to Luis Rosales and Santos Carcer below.

A little later, the supper rations of the inmates arrived. Instead of eating supper, Luis Rosales and Santos Carcer proceeded to the comfort room. Eduardo stayed at a place about 12 meters away from the comfort room while Guillermo Natural, as priorly ordered by Eduardo, stationed himself at the door of the dormitory so that nobody could report the matter to the dormitory keeper. Not long after, the victim Renato Martin, having had his supper, went to the comfort room to wash up. While inside the comfort room, Renato Martin was assaulted and repeatedly stabbed to death, first, by Luis Rosales and thereafter, by Santos Carcer.

After the killing of Renato Martin, Eduardo ordered Natural to report to the dormitory keeper that there was a dead man at the comfort room. It took sometime before Natural could comply with Eduardo's order as it was then raining but Natural did as he was told as soon as the keeper, Nilo Realibut, who came to remove the drum container and supper left-overs, arrived at about 8:00 o'clock in the evening. Keeper Realibut proceeded to the comfort room but found nothing inside, the dead man apparently having been removed before Realibut's arrival. As he was about to come out of the comfort room, Luis Rosales and Santos Carcer rushed to him, surrendered two bladed weapons, and told him that they were the ones who stabbed Renato Martin dead with the use of the weapons they were surrendering. The body of Renato Martin was then brought out and sent to the prison hospital.

It is on record that on the same night of November 16, 1970, immediately after their surrender to Realibut, Luis Rosales and Santos Carcer were investigated at and executed sworn statements[8] before the investigation section of the New Bilibid Prison. Luis Rosales gave the statement before prison guard Abraham de las Alas confirming the details of his participation in the crime – that upon orders given by Eduardo Rosales and William Natural, he and Santos Carcer stabbed to death Renato Martin inside the toilet of their dormitory using improvised deadly weapons (matalas) furnished by Eduardo Rosales for the reason that Martin had been seen giving signals to the Dormitory No. 4 inmates, their gang-mate's suspected killers. Santos Carcer gave virtually the same story to prison guard Francisco A. Cometa Jr. except that he named only Natural as the one who gave both the orders to kill and the weapons of the crime.

The following day, at 9:55 o'clock in the morning of November 17, 1970, Eduardo Rosales likewise executed a sworn statement[9] before prison guard Buenaventura dela Cuesta. Confronted with the information that he had been pointed to by Luis Rosales as the one who gave the order to kill Renato Martin, Eduardo stated "Yayamanding tinuturo ho ako niya, a-aminin ko na". He confirmed Luis Rosales' and Carcer's statements that vengeance was the reason behind the killing of Martin: "Bilang ganti po sa kasama naming sinaksak ng mga Manila boy kahapon din." He admitted that he was the leader of the BRM gang at Dormitory No. 6-A and that during the time that Martin was killed, he was inside their dormitory, about five arms-length away from the toilet where Martin was slain. Guillermo Natural, on the other hand, when investigated by prison guard Jesus B. Tomagan on the same day at about the same time, denied the truth of Carcer's statement that he (Natural) ordered Carcer to stab Renato Martin and that he was the one who gave Carcer the death weapon.[10] Natural, however, affirmed that Luis Rosales and Santos Carcer were the ones who stabbed Martin at the comfort room, and like Eduardo Rosales, he stated that the kill-ing was motivated by revenge: "Dahil sa ang kalugar namin ay sinaksak sa likod ng brigada 4 noong araw ding iyon." Natural also declared that Eduardo Rosales was the leader of the BRM gang.

During the trial of Eduardo Rosales, prison guards Abraham de las Alas and Francisco A. Cometa Jr. who took, respectively, the statements of Luis Rosales and Santos Carcer, testified to the regularity of the taking of the statements of Luis and Santos,[11] identified the statements presented before the trial court as the statements of the latter executed before them and identified, as well, the signatures of Luis Rosales and Santos Carcer. Guillermo Natural, who had, by then, turned state witness, testified on the other details of the crime heretofore narrated.[12] Ricardo Ibarrola Jr., medico legal officer of the National Bureau of Investigation likewise testified[13] and identified the necropsy report which he prepared showing that Renato's death was caused by multiple stab wounds in the body.

1

We cannot grant the plea of appellants Luis Rosales and Santos Carcer to have their case remanded to the trial court for arraignment and further proceedings. It cannot be said that they did not understand the meaning and consequences of the plea of guilty that they entered before the trial court. Both Luis Rosales and Santos Carcer had acquired some experience in criminal procedure,[14] the former having been priorly convicted of theft of large cattle and the latter of the crime of parricide, a case similar to the present one. And they both executed extra-judicial confessions accepting their participation in the killing of Renato Martin, stating the full details of such participation. As in *People vs. Duaban*,[15] We find it reasonable to assume here that both Luis Rosales and Santos Carcer fully appreciated the nature and gravity of the second crime that they were charged with and that, for such reason, the trial court did not find any necessity in requiring the prosecution to present its evidence.

On top of this, it can be seen from the foregoing narration of facts that all the evidence necessary to sustain the conviction of both Luis Rosales and Santos Carcer were, in fact, presented before the trial court. Though this was done during the trial of Eduardo Rosales and not after the arraignment and plea of Luis Rosales and Santos Carcer when the trial court could have, more properly and prudently, taken the evidence, We are now, nonetheless, in possession of all that is needed to make a careful and thorough study on the correctness of the imposition of the death penalty on Luis Rosales and Santos Carcer. Parenthetically, it should be noted that aside from the witnesses that had been presented in the trial of Eduardo Rosales, no others were available because the rest of the inmates of Dormitory No. 6-A were afraid to testify[16] on the case thus necessitating the services of Guillermo Natural as state witness to shed fuller light on the crime done on November 16, 1970. And We now hold that the guilt of Luis Rosales and Santos Carcer have been proven beyond reasonable doubt and that, pursuant to the provisions of Article 160 of the Revised Penal Code, the death penalty was properly imposed on them. It would now be a

useless ritual to remand the case to the trial court for another arraignment and for further proceedings.

2

We fully agree with the submission of the Solicitor General that the guilt of Eduardo Rosales as the mastermind in the murder of Renato Martin has been proved by the prosecution's evidence beyond reasonable doubt. We have studied the testimonies including the sworn statement dated January 9, 1972 of Guillermo Natural, the accused turned state witness, with the greatest care, caution and circumspection[17] and We are convinced of its credibility. Appellant Eduardo Rosales tried to make much of the fact that during the hearing on January 3, 1972 and in the first written statement executed by Natural on November 17, 1970, Natural did not reveal his (Rosales') participation in the crime. As revealed by Natural during the hearing on January 21, 1972 and in his sworn statement dated January 4, 1972, he was, as early as the time when he was told by Eduardo about the plan to kill Martin, subjected to threats of being himself killed should he interfere with the plan. Such threat, coming as it did from Eduardo Rosales, was a real one considering that, as testified to by dormitory keeper Nilo Realubit, Eduardo was the bosyo of the BRM gang. Realubit revealed that "if a bosyo utilizes his power, he could even order anybody to be killed by any member of his gang." [18] Eduardo even admitted his headship of the BRM gang in the statement made a day after the crime. The fear generated by Eduardo's threat persisted until the hearing on January 3, 1972. Prison guard Buenaventura de la Cuesta testified[19] that in the afternoon of January 3, 1972, Guillermo Natural, escorted by his guards, came to his office and told him that he (Natural) had a problem which he would like to tell Fiscal Guerrero. Thus was the statement of Natural taken on January 4, 1972 where he stated that: [20]

"T - Bakit mo naman ako napiling kausapin kahapon ng ikaw ay ihatid dito ng inyong escort?

S- Dahil kayo ho ang nakakaalam ng kaso namin at gusto kong ipaliwanag sa inyo kung bakit ako hindi nagsabi ng katotohanan sa husgado noong ako ay natanong kung si Eduardo Rosales ay leader ng BRM. Ang nasagot ko ay assistant mayor siya at sabi ko pa na nasa labas ng brigada namin si Eduardo Rosales noong tanongin ako kung saan siya noong saksakin si Martin. Gusto ko sanang kausapin si Fiscal bago pag bista pero pagdating namin doon sa husgado, hindi nagtagal, nagumpisa man kagad. Hindi pa nga ako natanggalan ng posas.

"T- Ano ang binabalak mo sanang sabihin kay Fiscal kung nakausap mo siya bago nagumpisa ang bista?

S - Sabihin ko sana sir na ihiwalay ako sa kasama-han ko dahil pinagbantaan ako na papatayin nila kung magtetestigo laban kay Eduardo. Noon pa ako binantaan pagkatapos kaming bistahan ni Fiscal Guerrero. Nandodoon man din siya noong sabihin ni Fiscal na magtetestigo ako. Ngayon sabi sa akin ni Eduardo na maskina ano ang gawin sa akin wag ako magsasabi ng totoo at ipapapatay niya ako.

"x x x x x x x x."

After requesting that he be placed separately from his gang-mates, he revealed all that he knew of the participation of Eduardo Rosales in the killing of Renato Martin. Natural's statement on such participation dovetails with Eduardo Rosales' own statements executed on November 17, 1970, one day after the crime.

There was, in his appeal, an effort on the part of Eduardo Rosales to disown what he had stated on November 17, 1970 al-leging that it was secured from him by the investigators through force and violence.

We cannot accept this.

The statement of Eduardo Rosales bears all the earmarks of voluntariness and spontaneity. It had details which only Eduardo Rosales was capable of knowing. He even delineated his place in the heirarchy of BRM gang leadership. Thus, at the very top was a certain Rudy Regala; that he was one of the four leaders at the next level

and that at Dormitory No. 6-A, he was the sole leader. Then too, it should be noted that aside from Eduardo's statement, there were three other extrajudicial statements taken in this case – that of Luis Rosales, Santos Carcer and Guillermo Natural. Not one of these latter three complained about the manner by which their statements were taken. And no reason was given why Eduardo Rosales could have been differently treated. There is furthermore, the fact that there never was an instance when Eduardo Rosales denounced the alleged torture that was done to him before the higher authorities of the New Bilibid Prison even if he had the chance to do so. We thus find, as We did in the case of Luis Rosales and Santos Carcer, that the death penalty was correctly imposed by the lower court on Eduardo Rosales following the provisions of Article 160 of the Revised Penal Code.

WHEREFORE, the decisions of the lower court dated December 24, 1971 and March 24, 1973, respectively, imposing the death penalty on Luis Rosales and Santos Carcer and on Eduardo Rosales are hereby **AFFIRMED** in toto.

SO ORDERED.

Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Fernando, C.J., took no part.

[1] Original Record, p. 1.

[2] Ibid., pp. 19-20.

[3] Ibid., p. 209.

[4] Rollo, p. 91.

[5] Ibid., p. 157.

[6] Ibid., pp. 100-113.

[7] Original t.s.n., pp. 63-64.

[8] Original Records, p. 157 (Exh. "D") and p. 159, (Exh. "I").

[9] Ibid., p. 156 (Exh. "F").

[10] Ibid., p. 150 (Exh. "A").

[11] Original t.s.n., pp. 47-52.

[12] Ibid., pp. 78-94.

[13] Ibid., pp. 10-18.

[14] People vs. Nierra, et al., G.R. No. L-32624, Feb. 12, 1980 citing People vs. Duaban, L-31912, August 24, 1979, 92 SCRA 743.

[15] L-31912, August 24, 1979, 92 SCRA 743.

[16] Report of PG-Investigator Jesus B. Tomagan, Finding No. 4, p. 158, Original Records, Exh. "H".

[17] People vs. Tabayoyong, G.R. No. L-31084, May 19, 1981.

[18] Original t.s.n., p. 57.

[19] Ibid., pp. 27-29.

[20] Original Records, p. 155.

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