

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMUALDO BATTUNG, JR. Y ASIS AND SEVERINO TAGUINOD Y
DEPOLONIA ALIAS “ISLAO”;
DEFENDANTS-APPELLANTS.**

G.R. No. L-38936. January 22, 1981

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PER CURIAM:

Romualdo Battung, Jr. and Severino Taguinod were sentenced to death[1] by the Court of First Instance of Cagayan for the killing of Segundino Danga, for which they were charged with murder,[2] qualified by treachery, with the aggravating circumstances of nocturnity and evident premeditation. The case came up to this Court for automatic review, but only Romualdo Battung, Jr. filed his brief[3] through his counsel de oficio, Severino Taguinod having escaped while in confinement in the provincial jail of Cagayan on July 12, 1974, and appears to have still remained at large. For the purpose of the review, however, Severino Taguinod is also included, notwithstanding that he filed no brief, following procedure laid down in *People vs. Cornelio*, 39 SCRA 435, 438, although only Romualdo Battung is referred to whenever the word "appellant" is used.

The facts as established by the evidence for the prosecution, and as recited in appellee's brief, are as follows:[4]

"The root of the trouble in the instant case can be traced to the bitter political rivalry between ex-Congressmen Puzon and Ligot. It appears that the victim, Segundino Danga, a policeman of Solana, Cagayan, was a former follower of Congressman Benjamin Ligot. Danga however switched to the side of Congressman Puzon. His persecution then started. In 1964, he was removed as a policeman by Cesar Caronan, ex-mayor of Solana, an ardent supporter of Congressman Ligot. Since then, ex-mayor Caronan, had Danga hunted everytime he was in Solana. (TSN, June 6, 1974, pp. 35-37)

"September 11, 1965 proved to be the fateful day for Segundino Danga. In the evening of that day, Romulo de Asis, municipal mayor of Solana, Cagayan, testified that he was fetched from his house by Leon Rivera, driver of ex-mayor Caronan. De Asis, a close confidante of Caronan was brought to the latter's house where he saw appellant Romualdo Battung, Jr., Severino Taguinod and Erning Ramirez drinking wine. Upon arrival thereat, Caronan called for de Asis and brought him to a place far from where Battung, Taguinod and Ramirez were drinking wine. Then and there, Caronan secretly requested him to help the drinking trio to liquidate Segundino Danga and Dumo Pagulayan. De Asis refused because Pagulayan is married to his relative. He also told Caronan that the trio could do the job by themselves. The trio was then heavily armed: Battung had a thompson and Ramirez had a carbine. Unable to agree, De Asis bade goodbye to Caronan. (TSN, June 6, 1974, pp. 5, 11-14, 30-32)

"In the same evening at around 7 p.m. Dominga Danga testified that a little earlier her husband (the victim)

arrived in their house in Solana, Cagayan, changed clothes and then proceeded to the ferry boat to go to Tuguegarao to the place of the Dupayas. The victim was then a driver of Congressmen Dupaya and Puzon. (TSN, March 23, 1974, pp. 28-30, 55) Shortly thereafter, a jeep carrying ex-mayor Caronan, appellants Battung and Taguinod came to their house. Battung and Caronan then asked from her the whereabouts of her husband. She informed them he already left. Caronan was then visibly angry. (Id. pp. 34-35, 49-50) She noticed that Battung was then holding a carbine and Taguinod had also a firearm. (Id., pp. 51-52) The group proceeded southward going to the ferry boat (Id., p. 54)

"Meanwhile, the victim, Segundino Danga was already in the ferry boat which was still waiting for other passengers and cargoes. (TSN, Feb. 19 1974, p. 32) There were three (3) laborers working in the ferry boat: Victoriano Guizagan, Sergio Zalun and Marcelino Gaya. (Id., pp. 17-18) Then, appellant Battung and Taguinod and Erning arrived. (Id., p. 34) Immediately, they shot the victim. Battung was the first to fire at the victim using a carbine at a short distance. (Id., pp. 24, 27) Taguinod followed suit using a .45 caliber (Id.,) Erning shot the victim a third time using a .22 caliber long barrel (Id., pp. 24 and 20). As soon as the crime was committed the three escaped going to the direction of Solana. The shooting was seen by all ferryboat workers, Guizagan, Zalun and Gaya. The moon was then bright and the ferryboat was well lighted.

"Segundino Danga perished from the gun shot wounds he sustained. Dr. Lazaro Mariano, municipal health officer of Solana, Cagayan performed the medico legal necropsy report (Exh. A) and he described the wounds of the victim as follows:

- Gunshot wound No. 1 is 1.5 x 1/2 cm. at the left 7th intercostal space along AAL with contusion collar. Wound is thru and thru directed posteriorly and upward by 1 cm. traversing the spleen. POX is 1-1/3 x 1-1/2 cm. at the left lumbar along posterior auxiliary line.

- Gunshot wound No. 2, left intraclavicular, along AAL 1 x 0.8 cm. thru and thru posteriorly to the point of exit at the left scapular area, medial portion 1.5 X 1.2 cm. at the same level as the POE.

- Gunshot wound No. 3 left pelvic 0.8 x 0.9 along MAL at level of left anterior supraliac spine, penetrating the upper portion of the left ilium, perforating the sigmoid, small intestine, omentum, transverse and ascending megacolon to POX 2.6 x 1.5 cm. at the right subcostal along the anterior auxiliary line. POE with contusion collar.

(TSN, Feb. 19,1974)
pp. 7, 10, 12-13)

Dr. Mariano stated that gunshot wound No. 1 is severe and probably caused by a high powered weapon. (Id., pp. 9-10) Gunshot wounds Nos. 2 and 3 are not so severe but also caused by high powered weapons (Id., pp. 11-14).

"For sometime, the eyewitnesses to the crime refused to break their silence because of fear considering that the killing had heavy political undertones. Upon declaration of martial law however, the PC exerted new efforts to solve the murder. Under a new atmosphere, witnesses Guizagan, Zalun and Gaya, among others, gave their free and voluntary statements (Exh. C to E) pointing to the appellants as the perpetrators of the heinous killing of Segundino Danga. With their cooperation, the long arm of the law finally caught up with the appellants."

Appellant, contends that the trial court erred[5] in giving credence to the supposed eyewitnesses to the shooting,

claiming that from where they were in the ferryboat, they could not have seen the gunmen, to be able to identify them as the appellant, the escaped Taguinod, and the at-large Erning. He, thus, imputes error to the trial court in holding that the identities of the two appellants who stood trial have been sufficiently and convincingly established and in, accordingly, not acquitting them.

To support his contention, appellant relies on the sketch of the ferryboat (Exh. 1, defense, also Exhibits H & X for the prosecution and the court, respectively) with which to demonstrate the alleged improbability, if not impossibility, of state witnesses Gaya, Guizagan, and Zalun to have seen the shooting. The same sketch, however, would show that it fails to give support to appellant's allegation. As accurately pointed out by the Solicitor General, the sketch (Exh. 1) shows the following:[6]

- The encircled letter G shows the position of witness Guizagan. From that position, it is obvious that he could easily see the gunning down of Danga by appellant and company.
- The encircled letter Z shows where prosecution witness Gaya was when appellant went up the ferryboat. Again it is obvious that from said place, he could see appellant and his companions.
- The encircled letter Y shows where prosecution witness Gaya was when the shooting started. Again there can be no doubt that from said station, he was in a position to witness the murder of Danga.
- The encircled letter S shows where prosecution witness Sergio Zalun was at the time of the shooting of Danga. Once more, it is plain that from said position he could see Danga being shot down."

From the testimony of prosecution witness Gaya, quoted in appellees brief (pp. 10-15), it is shown that he could pinpoint on the sketch the relative positions of the victim and the gunmen, Battung, Jr., Taguinod, and Erning and give an estimate of their respective distances from each other when the firing started, at which time he ran away from the place he admitted did not permit a view of the gunmen, but on leaving that place, he got a good glimpse of the culprits.

From the testimony of Zalun, it was also shown that the room where the popa was, where the three state witnesses were, as the defense alleged, was one and a half (1-1/2) meters high, clearly not high enough to have blocked the vision of said witnesses, even assuming that they were in the popa as the defense would insist. Upon hearing the gunbursts, they surely must have stood up, on their toes and even stretched their necks, if necessary, to have a look at what was happening. It is, therefore, much easier to believe the state witnesses in their positive assertion of having seen the culprits in the shooting taking place in such proximity to them than the defense' mere deductions, calculation and speculation that they could not have seen the shooting incident from their positions at the time thereof. The get-away of the gunmen certainly afforded sufficient time for the prosecution witnesses to know their identity, by a direct view of said culprits, if not upon their approach to the ferryboat, as they must have naturally endeavored to know who these malefactors were.

The aforementioned witnesses had no motive to falsely implicate the appellants in so grave an offense as could mean their lives being forfeit. While a mauling incident in which appellant figured as the aggressor, and on his admission, Gaya was one of the victims, took place a year before the shooting at the ferryboat, it is not clear from the evidence that the other two state witnesses, Guizagan and Zalun, were also victims in the same mauling incident. In any case, Gaya, the only mauled victim clearly established to be so, but not as to the other witnesses, testified that he harbored no ill-feeling against appellant, for in fact he did not even bring the incident to the attention of the authorities because, in his own words, in answer to the court's question, "that was only a small matter, sir." (pp. 55-57), t.s.n., February 22, 1974).

The delay of the state witnesses in reporting the incident to the authorities, with which appellant tries also to

impugn their credibility was explained quite satisfactorily.[7] They had great fear for their lives because, as testified by witnesses Gaya and Zalun, at the time, appellants were policemen during the incumbency of Mayor Caronan, and "if they want to kill, they can easily kill you, sir." Mention was made of their having had other cases including one of killing a "Calesero", but they had always gained their liberty on bail, which made these state witnesses afraid even after reporting to the authorities and proper charges had been filed, making their faith in the authorities as they admittedly had in them, surely inadequate to protect their lives.

For allegedly testifying with precision as to the details of the shooting incident long after its occurrence, the credibility of the eyewitnesses of the prosecution is further impugned with "material exaggerations and improbabilities"[8] supposedly featuring their testimonies. A shocking occurrence as the killing of a man in cold blood, with three gun-wielders concentrating their fire in quick succession on the victim would etch its details deeply in the memory of anyone who saw the incident. These witnesses also realize that someday, sooner or later, they would have to be summoned to perform a civic duty of helping the authorities in the solution of a grave offense committed against society. They must, therefore, have endeavored, even with the passage of time, to retain a clear recollection of what they saw until that day comes for them to be called to perform a duty they owe to society of which they are a part.

In his attempt to discredit the state witnesses appellant claims that it is unnatural and contrary to human experience that "the would be plotters of killers of Segundino Danga would ever go to his house and look menacingly for their target", and that "the ferryboat could hardly be the place for one to hatch and consummate a murder plot for the possibilities of discovery and identification are a certainty, in view of the presence of ferryboat passengers, etc." The undeniable fact, however, is that the shooting of the victim did take place in the ferryboat, while looking for the intended victim in his house, possibly to lure him out by the use of craft, and thereafter liquidate him somewhere, is all too usual and common a mode of operation of killers in cold blood.

In the present case, the widow of the victim testified[9] to the appellant and his companions, including Mayor Caronan, having gone to her house looking for her husband shortly before the latter left for Tuguegarao as she so informed the callers. She described their seating arrangement in the jeep in which they rode, which was confirmed by appellant Battung, Jr. and Mayor Caronan themselves. There could, therefore, be no reason to doubt the veracity of the testimony of the victim's widow which undoubtedly goes a long way towards establishing the identity of appellant and his two companions, Taguinod and Erning, as the killers, as positively pointed to by the three eye-witnesses of the prosecution. She could not have even included Mayor Caronan in her testimony if she were not prompted by the truth and the courage to seek justice only with the truth.

Lending firmness to the identification of appellant as one of the killers is the testimony of Mayor de Asis.[10] Despite appellant's attempt to impute improper motive in linking his name to the murder plot hatched by Mayor Caronan as Mayor de Asis declared, the latter's testimony is deserving of full credence. The alleged motive, clearly, would not suffice to induce de Asis to testify against not only appellant Battung, Jr., but some others including no less than a strong political figure in the province, Mayor Caronan, who later became Board Member, of whom he was a confidant, and a close political ally.

On the other hand, the reason or motive of appellant and his co-defendants to kill the victim was clearly established. As the trial court observed on this point:[11]

"What therefore could have been the reason for the accused Battung, Jr., and Taguinod to kill Segundino Danga? The answer is supplied by the testimony of Mayor Romulo de Asis. It was in obedience to the order of Mayor Cesar Justo Caronan. The motivation was clearly and vividly portrayed. Accused Battung, Jr., and

Taguinod were men of Mayor Caronan. Taguinod was a former policeman while Battung, Jr., was another policeman detailed and assigned as the bodyguard of Mayor Caronan. Previous to September 11, 1965, Dumo Pagulayan and Segundino Danga were also men of Mayor Caronan. They were also former members of the Police force of Solana.

"Sometime in 1964, Mayor Caronan ordered the separation from the service of Dumo Pagulayan and Segundino Danga. This caused the strained relation. In 1965, Dumo Pagulayan and Segundino Danga joined the forces of David Puzon, who was then contesting the 2nd Congressional seat with Benjamin Ligot, a candidate of Mayor Caronan. In the first fight of Ligot in 1961, Solana went solid for him. This proved the leadership of Mayor Caronan. With his former men, Dumo Pagulayan and Segundino Danga campaigning for Puzon, the leadership of Caronan was cracked. While it may not pose a threat, the fact remains that his hold of the town has weakened. The liquidation of the two, Pagulayan and Danga, was therefore necessary to sow fear in the hearts of the opposition. Thus was hatched the liquidation plot."

With how appellant was positively identified by eyewitnesses as one of the actual killers of the victim and with immediately preceding events unmistakably pointing to appellant as one of the culprits, his alibi with which he denied participation in the violent killing becomes totally unavailing.[12] The trial court, whose rating of appellant's credibility must be accorded weight and respect,[13] found the alibi as totally deserving of nothing but disbelief. Thus:[14]

"Romualdo Battung, Jr., also alleged that he was at the time of the shooting, in barrio Bauan, about 9 to 10 kilometers away from the Centro, attending a political meeting held to promote the candidacy of Congressional Candidate Benjamin Ligot. With him were Mayor Cesar Caronan, Carlos Pagulayan, a councilor, Justiniano Rallud, the barrio captain of Bauan and Pat. Nicomedes Pagulayan. He was there to give security to the Mayor, being then a member of the Solana Police Force. They left the town at about 6:00 o'clock in the afternoon and left Bauan past 12:00 o'clock that night. This meeting was held in the house of Justiniano Tallud who claimed himself to be a barrio captain.

.....

"On the part of Romualdo Battung, Jr., his claim of being in Bauan that night, assuming the same to be true, was no impediment for him to have gone to the ferry, execute the killing and again return to Bauan, as if nothing has happened. Bauan is only about 9 to 10 kilometers away from the Centre. To go there, leave and return would only take a couple of hours. This allegation of Battung, Jr., is however doubtful. The prop made to corroborate his claim was seriously doubted.

"Justiniano Tallud who claimed to have organized the meeting in his house, projected himself as a barrio captain. This was found not to be true. Barrio Captain of Bauan that time was Marciano Carag. This is confirmed by a certificate awarded to him by then Senator Jovito Salonga as barrio captain of the year. If Justiniano Tallud can afford to falsely state his position, what guarantee will the Court have that he will not also perjure his testimony to favor the accused."

We are constrained to accept the above observation of the trial court as accurate with the support of sound reason and common experience. This leaves Us with no alternative but to declare that appellant's culpability has been

established beyond reasonable doubt.

The crime committed is murder, qualified by either treachery or evident premeditation, as alleged in the information and as proven by the evidence, the other circumstance to serve as aggravating as what the trial court did, upon which it based the imposition of the death penalty. Appellant has not questioned the correctness of the designation of the crime committed, and neither the penalty imposed.

WHEREFORE, finding no reversible error in the judgment appealed from, We affirm the same in toto as recommended by the Solicitor General, with cost de oficio.

SO ORDERED.

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

Fernando, C.J., took no part.

[1] p. 29, CFI Decision, p. 78, Rollo.

[2] p. 4, Rollo.

[3] p. 135, *ibid*.

[4] pp. 2-6, Appellee's Brief, p. 156, Rollo.

[5] p. 6, Appellant's Brief, p. 135, Rollo.

[6] p. 9, Appellee's Brief, *supra*.

[7] pp. 18-24, Appellee's Brief, *ibid*.

[8] pp. 18-19, Appellant's Brief, *supra*.

[9] pp. 6-7, CFI decision, *supra*.

[10] p. 20, CFI Decision, *ibid*.

[11] pp. 29-30, Appellee's Brief, *supra*.

[12] *People v. Artieda*, 90 SCRA 144; *People v. Barut*, 89 SCRA 14; *People v. Garcia*, 89 SCRA 440.

[13] *People v. Artieda*, *ibid*; *People v. Garcia*, *ibid*; *People v. Carandang*, 52 SCRA 259; *People v. Espejo*, 36 SCRA 400.

[14] pp. 16-18, CFI decision, *supra*.

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