

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CECILIO FAMILGAN, BARTOLOME LONZAGA ALIAS “NOLI
LONZAGA”; FLORENCIO SANCHEZ, CARLITO CARIÑOZA AND
JULIAN SANCHEZ, ACCUSED-...**

G.R. Nos. L-41022-23. January 31, 1981

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PER CURIAM:

In the Court of First Instance of Cebu, JULIANO LONZAGA, CECILIO FAMILGAN, BARTOLOME LONZAGA, FLORENCIO SANCHEZ, CARLITO CARIÑOZA and JULIAN SANCHEZ were accused of Robbery in Band with Homicide in Criminal Case No. AR-168 and Arson in Criminal Case No. AR-170.

The Amended Information in AR-168 reads as follows:

"That on or about the 24th day of December, 1970, in the municipality of Argao, province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, all fully armed with firearms, conspiring and confederating with one another and mutually helping one another, with deliberate intent of gain and to kill did, then and there wilfully, unlawfully and feloniously break into the house of the spouses Gaudencio and Gerarda Lanticse and once inside, at gunpoint demanded money from the couple and after having taken the sum of P378.00 belonging to the latter, the accused fired at random thereby inflicting gunshot wounds upon the aforementioned spouses including Francisca Cutillar, sister of Gerarda Lanticse who was also inside the house, after which the same accused set on fire the house of the said spouses; and that the wounds inflicted on the three victims caused their death shortly thereafter; and such act of robbery having resulted in the damage and prejudice of the couple or their estate in the aforestated amount."

The Information in AR-170 alleges the following:

"That on or about the 24th day of December, 1970, in the municipality of Argao, province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping mutually with one another, with deliberate intent and without any justifiable reason did, then and there wilfully, unlawfully and feloniously set fire to the house of the spouses Gaudencio and Gerarda Lanticse, which was totally razed to the ground, to the damage and prejudice of the heirs of the late couple in the approximate sum of P5,000.00, the value thereof."

Because both cases involved the same defendants, the lower court tried them jointly. However, before the start of the trial, the prosecution moved to discharge Julian Lonzaga so that he could testify as a government witness. The motion was granted despite the opposition of the other defendants who pleaded not guilty to the charges. After trial, the lower court rendered the following judgments:

"WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the court found that the prosecution has proven the guilt of all the accused: Cecilio Familgan, Bartolome Lonzaga alias Noli Lonzaga, Florencio Sanchez, Carlito Cariñoza and Julian Sanchez, beyond all reasonable doubts of the crimes charged in both aforementioned information.

In Criminal Case No. AR-168, pursuant to the provisions of Article 294, paragraph (1) of the Revised Penal Code in relation to Article 48 of the same Code, there being two (2) aggravating circumstances attendant in the commission of the crime and no mitigating circumstance to offset any of them, the court imposes upon each of them to suffer the death penalty; further ordering them to jointly and severally indemnify the heirs of the deceased (Gaudencio Lanticse, Gerarda Cutillar-Lanticse and Francisca Cutillar) in the amount of P12,000.00 each or the total amount of THIRTY-SIX THOUSAND PESOS (P36,000.00); the firearms (Exhs. "A" and "B") are hereby ordered confiscated in favor of the government; and all the accused to pay the costs proportionately.

In Criminal Case No. AR-170, there being two (2) aggravating circumstances and no mitigating circumstance to offset any of them, pursuant to Article 321, paragraph (1), sub-paragraph (a) and *People vs. Suab*, CA 40, O.G., Supp. 11, 138), the court imposes upon each of the accused the penalty of Reclusion Perpetua plus costs. Damages cannot be awarded for failure on the part of the prosecution to present proofs therefor."

Each of the five defendants interposed the defense of alibi during the trial, hence it is not inappropriate to reproduce here the statement of facts in the People's brief as culled from the testimony of the following witnesses for the prosecution, namely: Julian Lonzaga, the discharged defendant; Renato Lanticse, son of the deceased Gaudencio Lanticse and step-son of Gaudencio's wife Gerarda Cutillar; Isaac Carupo; Facundo Famat; Loreta Lonzaga-Sakyab, sister of Julian Lonzaga; Oscar Ellos, brother-in-law of Cecilio Familgan; Sgt. Nicanor Bancog of the Philippine Constabulary; Patrolman Paulino Fuentes of the Argao, Cebu, police force; Dr. Carlos Fortuna, the Municipal Health Officer of Argao; Sgt. Archimedes Carillo of the Philippine Constabulary; and Guillermo Menchavez, a guard at the Cebu Provincial Jail. The People's version of the facts is as follows:

"Appellant Florencio Sanchez was a man of power and influence in the Barrio of Lapay, Argao, Cebu. He was a copra dealer and owner of two grocery stores. In 1962, he was elected as Barrio Lieutenant in his barrio. After finishing his term, however, he gave way to his father in the succeeding barrio elections in order that he can devote his time to his business, as he wanted to monopolize the copra trade in his locality. To accomplish his objective, Florencio extended credit from his grocery stores and even gave cash advances to the people of Lapay, especially during times of emergency. Due to these favors, many of the coconut planters of Lapay became indebted to Florencio and, therefore, they had to sell their copra to him. Not satisfied, however, as there were still others who sold copra to his business competitors, Florencio acquired plenty of firearms and organized a group of young men, whom he utilized to terrorize his business rivals and to rob their customers. Consequently, Florencio and his brothers and followers were feared by the residents of Barrio Lapay. So much so that, in spite of the many instances of terrorism, threats and intimidations committed by Florencio and his men, no formal complaints were filed against them as no one dared to report the incident to the authorities for fear of reprisal (pp. 3-6, 48-51, 8-81, Oct. 18, 1972; pp. 3-11, 21-25, 27-30, Oct. 19, 1972; pp. 101-112, 150-155, tsn, Dec. 8, 1971; pp. 114-119, tsn, Nov. 18, 1971; p. 19, Vol. I, Rec. C. C. AR-168).

Undaunted by Florencio's notoriety, Gaudencio Lanticse stubbornly refused to sell his copra to him (pp. 118-119, tsn, Nov. 18, 1971). This was deeply resented by Florencio. On December 24, 1970 accused asked

five of his henchmen, all his co-accused including Julianio Lonzaga, to a drinking spree in his house. That was the occasion when Florencio proposed to them the plan to rob and kill the members of Gaudencio Lanticse's household. After finally getting the approval of his five companions, Florencio treated them to supper at about 7:00 o'clock that evening, during which he (Florencio) gave detailed instructions to ensure the success of their fiendish scheme. He emphasized to them that, 'after the robbery, I would like to have the owners of the house killed, and after having killed, they will be burned' to be sure that none of the occupants of the house would survive to be a witness to the incident. He instructed them on their individual roles in the execution of their plan, and to deposit the firearms and the axe which he was about to distribute to them in Florencio's toilet after the robbery. Believing that his men had already fully grasped his instructions, Florencio brought them upstairs, where he provided Julianio Lonzaga, Bartolome Lonzaga and Julian Sanchez with firearms and ammunition. He did not anymore provide Cecilio Familgan and Carlito Cariñoza with firearms and ammunition because they had already their own. Instead, Florencio provided Cecilio Familgan with an axe with which to force open the door of Gaudencio Lanticse's house (pp. 11-29, 33-34, tsn, Nov. 17, 1971; pp. 91-94, 96-97, tsn, Dec. 8, 1971).

After giving his last minute instructions at about 11:00 o'clock that evening, Florencio gave his men the go signal for their mission, while he (Florencio) stayed behind. Upon reaching Gaudencio Lanticse's yard, Cecilio Familgan together with Julian Sanchez and Carlito Cariñoza proceeded upstairs, leaving behind Julianio Lonzaga and Bartolome Lonzaga who acted as "look-outs". After Familgan had broken the door with his axe, the three immediately entered the house. Awakened by the noise, Gaudencio Lanticse and his wife and sister-in-law Francisca Cutillar rushed to the sala and shouted for help upon noticing the three intruders, who started to shoot at them indiscriminately. The three intruders then gathered the three lifeless bodies of their victims near the kitchen, and started searching for money. Meanwhile, Julianio Lonzaga and Bartolome Lonzaga went upstairs and joined their three companions in searching for the money of their victims. After Familgan found the money inside a wooden trunk, Carlito Cariñoza set the house on fire and then ran away. Gaudencio Lanticse's son Renato, was then hiding in the kitchen. He saw the accused escape and their house burn to the ground (pp. 29-43, tsn, Nov. 17, 1971; pp. 99-108, tsn, Jan. 20, 1972).

From there, the five proceeded to the toilet of Florencio Sanchez to deposit the firearms and axe provided to them by Florencio. Julianio Lonzaga, however, forgot to leave his firearm as he was overwhelmed with fright. Then they proceeded to the vacant house of a certain Candido Familgan where they counted their loot amounting to P378.00. Cecilio Familgan then kept the money to be delivered to their boss Florencio Sanchez the following morning. Thereafter, they parted ways and proceeded to their respective homes. (pp. 44-45, tsn, Nov. 17, 1971.)

The following morning on December 25, 1970, Sgt. Archimedes Carillo of the 344th PC Company stationed at Sibonga, Cebu went to the crime scene to investigate upon learning about the incident. He recovered seven empty shells (Exhibits "H", "H-1" to "H-6") at a distance of two to three meters from the burnt area. He also found the charred bodies of the three victims, and turned them over to the Municipal Health Officer of Argao, Dr. Carlos Fortuna, who issued an autopsy report (Exhibit "D") and death certificates (Exhibits "E", "F" and "G") after examining the remains of the three victims. Sgt. Carillo also met Renato Lanticse, who narrated to him what happened the previous night. Then after taking Renato's sworn statements (pp. 6-7, Vol. I, Rec. C. C. AR-168) wherein he implicated Bartolome Lonzaga, Cecilio Familgan and Julianio Lonzaga, a complaint was filed against the three before the Municipal Court of Argao, Cebu. On the basis of this complaint, the three were arrested by a combined PC-Police Team three days after the incident. They were brought to the Municipal Building of Argao and placed them under detention inside the municipal jail. Apprehensive that the

trio might implicate him, Florencio exerted efforts to stop them from doing so. First, he showed up at the PC headquarters in Sibonga, Cebu, and in the guise of volunteering to help in solving the case, he made representations with the PC Command to detain the three arrested persons in the Argao Municipal Jail instead of in the Cebu Provincial Jail at Cebu City where he had no longer any influence. But the authorities must have sensed about his motives, because after detaining the three for a while at the Argao Municipal Jail, they were transferred to the Cebu Provincial Jail. Again, Florencio exhibited his undue concern in the case by his presence during the preliminary hearing of the cases against the three before the Municipal Court of Argao, Cebu. In fact, he was seen going in and out of the office of the Municipal Judge where the arrested persons were brought (pp. 110-112, tsn, Jan. 20, 1972; pp. 188-191, 197-199, tsn, Jan. 24, 1972; pp. 56-58; 69-77, tsn, Nov. 17, 1971; Decision, pp. 294-295, Vol. III, Rec. C. C. AR-168).

Then on December 28, 1970, the Chief of Police of Argao dispatched Patrolman Paulino Fuentes to Barrio Lapay to conduct an investigation of the incident. At first, he could not make any headway as the people of Lapay were tight-lipped, and refused to shed light on the incident. Then he came across a certain "Juan" who told him to investigate one Facundo Famat. Upon meeting Famat, however, the latter appeared tense and refused to comment. Instead, he suggested to Pat. Fuentes to investigate a certain Leny Day who, like Famat, also refused to talk. It was then that Pat. Fuentes learned from the people who were talking in whispers that he cannot expect anybody to talk about the incident, unless Florencio Sanchez was arrested or a PC Detachment was stationed in Lapay for fear of reprisal from Florencio and his henchmen. Thus, the authorities were prompted to place a PC detachment in Barrio Lapay. This must have emboldened the people of Lapay, because when a PC soldier visited on Isaac Carupo regarding the incident, the latter narrated everything that he observed during the night of the incident upon the assurance that he would be given protection. On January 12, 1971, he gave his sworn statements (p. 16, Vol. I, Rec. C. C. AR-168) wherein he revealed the names of some of those who took part in the commission of the crime. Then on January 20, 1971, the same Facundo Famat who previously refused to talk about the incident, also gave his sworn statements (p. 19, Vol. I, Rec. C. C. AR-168) wherein he divulged not only the names of those who took part in the plot to rob and kill the Lanticases, but also the previous criminal activities of Florencio Sanchez and the members of his gang (pp. 93-95, Jan. 20, 1972; pp. 131-140, tsn, Dec. 8, 1971; pp. 46, 52-56, tsn, Dec. 7, 1971; pp. 5-12, 14-29, 35-38, tsn, April 13, 1972).

The biggest break, however, in solving the two cases came on February 1, 1971 when Julian Lonzaga broke down before PC Sgt. Nicanor Bancog. In his confession, he implicated Florencio Sanchez, Julian Sanchez and Carlito Cariñoza aside from his original two co-accused. Significantly, upon Julian's disclosure that he hid in his house the firearm (Exhibit "A") used by him during the robbery, Sgt. Bancog led a combined PC-Police team and accompanied Julian to the latter's house, where the firearm was found at the very place pointed at by Julian. Accordingly, after Julian Lonzaga formally gave his sworn statements (pp. 10-12, Vol. I, Rec. C.C. AR-168) on February 2, 1971, the original complaints in the Municipal Court of Argao, Cebu were amended to include Florencio Sanchez, Julian Sanchez and Carlito Cariñoza as additional accused (pp. 63-67, tsn, Dec. 8, 1971; pp. 82-85, tsn, Nov. 17, 1971).

Thereafter, Julian's sister, Loreta Lonzaga-Sakyab, received a letter from Florencio's half-brother, William Alberca, requesting her to meet him at the store of a certain Conling Sesaldo in the town proper of Argao, Cebu. Upon meeting her at the designated place and time, William Alberca and Conling Sesaldo advised Loreta to ask her brother to change his lawyer and to retract his confession. Forthwith, Loreta proceeded to the PC headquarters in Sibonga, and relayed the message to her brother. She also told him that Florencio's wife had been accusing him of being ungrateful for not defending her husband after all the favors that Florencio had

given him. Afraid that Florencio and his brothers would liquidate his family, Julianio wrote Florencio a letter (Exhibit "1") dated February 9, 1971. Said letter was delivered personally by Loreta to Florencio at the Argao Municipal Jail. After reading the same, Florencio assured Loreta that should Julianio retract his confession he would shoulder all the expenses for his defense (pp. 22-31, tsn, Jan. 14, 1972; pp. 95-103, 129-131, 135-156, tsn, 1971)."

The defendants and their alibis.

Cecilio Familgan admitted knowing Bartolome Lonzaga, Carlito Cariñoza, Julian Sanchez and Florencio Sanchez. As to his whereabouts on December 24, 1970, he testified that he ate breakfast with his father and mother at their house in Pulo, Lapay, Argao, Cebu, and thereafter he went with his father to their farm where they worked for several hours. They went back to their house for lunch and siesta. At 2:30 p.m. they returned to the farm where they worked until 4:00 p.m. The family ate supper at 6:30 p. m. and at eight o'clock he slept. He did not leave the house that night. The following morning he went with his mother to the poblacion to buy food and on the way they heard of the fire which burned the house of the Lanticse. He denied ownership of the gun (Exh. B). Ignacia Familgan, mother of Cecilio, corroborated his testimony.

Bartolome Lonzaga testified that he lived with his parents - Flavio Lonzaga and Sofia Familgan - at their farm in Lapay, Argao, Cebu. On December 24, 1970, the family worked at the farm until 5:00 p.m. except for a lunch break. Returning to the house, they ate supper at seven o'clock and at eleven o'clock they went to sleep. The following day he gathered grass for their animals, ate breakfast, milled corn grains, ate lunch and gathered bamboo sticks which he used to support his beans. Bartolome's testimony was corroborated by his mother, Sofia Familgan Lonzaga, who also said that Bartolome never left the house after supper because he did not want to roam around.

Florencio Sanchez testified that he owned two stores in Lapay, Argao, Cebu and was also engaged in the buying and selling of copra. In the morning of December 24, 1970, he was in one of his stores located at the ground floor of his house. At lunchtime, Abraham Davin, driver of the Sesaldos for whom he bought copra, told him that they had to go to Cabantug to pick up copra from Marina Alberca. They went to Cabantug and loaded Marina's copra which weighed over 300 kilos. Because the road was rough and the load was heavy, they arrived in Lapay only at 6:00 p.m. He made an account of the afternoon's transaction which Abraham Davin signed. He ate supper at 7:00 p.m. with his family; at 8:00 p.m. he attended to a customer Prudencio Gesoro who bought sugar and rice; and at 9:00 p. m. he and his family had a snack consisting of chocolate, rice cake and suman. He went to sleep after eating. The following morning he learned from Juan Alcasid that the house of Gaudencio Lanticse was burned.

He was arrested on February 2, 1971, and when he asked his lawyer, Atty. Amando Amazona, Jr., the cause for his detention he was told that Julianio Lonzaga had implicated him which made him sad. While in jail, he received a letter dated February 7, 1971, (Exh. "1") from Julianio Lonzaga telling him not to worry for in truth he had no participation in the incident and as a state witness he would try his best to exonerate him. Sometime later he met Julianio who asked for forgiveness, saying that he made the statement at the request of his lawyer, Atty. Tranquilino Ortega.

As to Facundo Famat, one of the prosecution's witnesses, Florencio testified that they were not on speaking terms.

Abraham Davin, the driver of the Sesaldos, corroborated Florencio Sanchez' story about their trip to Cabantug to pick up Marina Alberca's copra. Ludy Estrella Alberca, a niece of Florencio, said that she went to her uncle's house to help tend his store. She corroborated Florencio's testimony with regard to his activities on December 24, 1970. And Marina Alberca corroborated Florencio's story that he went to Cabantug to pick up her copra.

Carlito Cariñoza testified that he lived with his mother, brother and sister in Lapay, Argao, Cebu. On December

24, 1970, he went with his mother and brother to their farm where they worked until 4:20 p.m. except to eat lunch which had been prepared by his sister. After work, he listened to the radio until supper was served. After supper, he slept. The following morning, after breakfast, he went with his sister to a spring to bathe and wash clothes. There they were told by Bernabe Sanchez that a big fire the night before had razed to the ground the house of Gaudencio Lanticse. Clarita Cariñoza, sister of Carlito, corroborated his testimony.

Julian Sanchez testified that in the morning of December 24, 1970, he plowed their farm while his aunt and grandfather weeded it. They left their work at 11:00 a.m. for lunch which they ate at twelve noon. They resumed work until 4:00 p.m., returned to the house, ate supper at 7:00 p.m. and slept an hour later. He said he had no friends. His co-accused were not his friends although he came to know their names from other people calling them on the road. He first heard of the fate of the Lanticses on Christmas morning. Pilar Sanchez, the aunt of Julian, corroborated his testimony.

The basic issues in this appeal are: (a) Whether or not the appellants had been sufficiently identified as the conspirators in the perpetration of the robbery with homicide and arson, thus shattering their defense of alibi; and (b) Whether or not the testimony of Julian Lonzaga had been corroborated in its material points considering the fact that he was discharged to be a witness for the prosecution.

(a) Whether or not the appellants had been sufficiently identified as the conspirators.

It was Renato Lanticse, son of the deceased Gaudencio, who testified that at about twelve o'clock on December 24, 1970, he was awakened by the barking of dogs so he peeped out and saw three persons who looked like Julian Lonzaga, Cecilio Familgan and Bartolome Lonzaga. Thereafter, the three entered the house by forcibly opening the door and he clearly recognized Cecilio Familgan. When his parents came out of their room, the robbers pointed their gun at them and said it was a robbery. When his parents shouted for help, they were shot including his aunt Francisca Cutillar. After the bodies had been piled in a room and the wallet of his mother had been taken from a trunk, the robbers set the house on fire with kerosene. He escaped and went to Bahabaha where two of his aunts lived. He told them of the incident. At the site of their burned house, he narrated to Sgt. Archimedes Carillo what happened the previous night.

Juliano Lonzaga testified that at noontime on December 24, 1970, he was invited to a drinking spree by Florencio Sanchez. When he arrived at Florencio's house he saw Cecilio Familgan, Carlito Cariñoza, Julian Sanchez and Bartolome Lonzaga already drinking. It was while they were drinking that Florencio Sanchez broached the idea of robbing, killing and burning the family of Gaudencio Lanticse. Carlito Cariñoza, Bartolome Lonzaga, Julian Sanchez and Cecilio Familgan agreed and although he had qualms about the suggestion he also agreed to join them.

While they were eating supper, Florencio gave detailed instructions to insure the success of the scheme. Cecilio Familgan, Carlito Cariñoza and Julian Sanchez were to go up the house while Bartolome Lonzaga and Julian Lonzaga were to stay in the yard as look-outs. Florencio also said that after the robbery, Gaudencio and his family should be killed and the house burned so that no one could testify about the crimes. After ascertaining that his instructions were fully understood, Florencio gave firearms to everyone except Cecilio Familgan who already had a .38 caliber revolver (Exh. B). Instead he gave Cecilio an axe with which to break the door of Gaudencio's house. The crimes were committed as instructed by Florencio.

Isaac Carupo testified that he went to the house of Pacing Lanticse, his querida and daughter of Gaudencio, at about 9:00 p. m. on December 24, 1970. While Pacing was ironing some clothes, he sat near a window. While thus seated he heard footsteps so he took his flashlight and aimed it at the passersby. He saw Cecilio Familgan, Bartolome Lonzaga, one who looked like Dody Familgan, and others he could not recognize. Five minutes later

he heard gunshots and a voice shouting that it was a robbery. The sounds came from Gaudencio Lanticse's house about fifteen arms length away. He was certain that the voice was that of Cecilio Familgan because he was familiar with Cecilio's voice. He fled with Pacing to Bug-ot because of fear. On their way to Bug-ot, they looked back and saw Gaudencio's house in flames. In Court, he pointed to Carlito Cariñoza as the man who looked like Dody Familgan.

Facundo Famat testified that at about 4:00 p.m. on December 24, 1970, he was gambling and happened to eavesdrop in the kitchen of Florencio Sanchez where he saw Cecilio Familgan, Bartolome Lonzaga, Juliano Lonzaga, Dody Familgan, Diosing Alberca and William Alberca drinking and talking. He heard Florencio Sanchez say that at eleven o'clock they would strike. Later he met Cecilio Familgan who asked him to go with the group at eleven o'clock that evening to rob Gaudencio Lanticse but he turned down the invitation.

Loreta Lonzaga-Sakyab, sister of Juliano Lonzaga said that at about 2:00 p.m. on December 24, 1970, Juliano left the house and came back at about midnight with Cecilio Familgan. Cecilio had a .38 caliber revolver. On December 28, 1970, her brother was arrested and on February 1, 1971, he returned to their house with PC soldiers and Argao policemen to surrender his gun (Exh. A).

Oscar Ellos, brother-in-law of Cecilio Familgan testified that in the morning of December 28, 1970, Cecilio entrusted to him a .38 caliber revolver (Exh. B). However, sometime in February, 1971, some PC soldiers and Argao policemen went to his house looking for Cecilio's gun which he surrendered to them.

The positive identification and the conspiracy of the appellants have thus been confirmed by the combined testimony of Renato Lanticse, Juliano Lonzaga, Isaac Carupo and Facundo Famat and by inference from the testimony of Loreta Lonzaga-Sakyab and Oscar Ellos.

The defense sought to impugn the credibility of Renato Lanticse thru the testimony of Ve Muñoz who said that Renato and others were with him at Minong Legaspi's store in Loac, Argao, Cebu, where they drank hard liquor mixed with pepsi from 8:00 p.m. to 11:45 p.m. The defense contends that Renato could not have been at home during the robbery, shooting and arson. However, Renato denied that he was with Ve Muñoz and further stated that he did not drink liquor. While he admitted that he was in Bahabaha, Argao, in the afternoon of December 24, 1970, to deliver food to some relatives, he said he went home to Lapay at 8:00 p.m. in order to eat supper with his parents.

It is to be noted that Renato was then only 15 years old, single and a student. The lower court considered his testimony more credible and we agree for it is difficult to believe that someone as young as Renato would engage in a drinking spree and a prolonged one at that.

(b) Whether or not the testimony of Juliano Lonzaga had been corroborated in its material points.

The appellants claim that there are material differences in the testimony of Juliano Lonzaga with those of Renato Lanticse, Facundo Famat, Isaac Carupo and Loreta Lonzaga-Sakyab.

Juliano Lonzaga and Renato Lanticse. The first point of inconsistency alleged is the individual role that each of the accused was to have played in the execution of their plot. Juliano Lonzaga testified that he and Bartolome Lonzaga merely acted as "look-outs" downstairs, while their three companions were the ones who went up the house of Gaudencio Lanticse; that Cecilio Familgan was the one who found the money of their victims from a wooden trunk; and that the one who set the house on fire was Carlito Cariñoza. According to the appellants this version is entirely different from the statement of Renato Lanticse, wherein he stated: That he recognized the three who entered their house and shot his parents and aunt as Juliano Lonzaga, Cecilio Familgan and Bartolome Lonzaga; that Juliano Lonzaga was the one who found the money inside the trunk; and the one who set their

house on fire upon orders of Julianio Lonzaga was Bartolome Lonzaga.

These alleged inconsistencies, however, were satisfactorily explained by Renato Lanticse in his testimony. According to him, when he peeped through a hole in the kitchen to see why the dogs were barking, he saw three persons downstairs who looked like Cecilio Familgan, Julianio Lonzaga and Bartolome Lonzaga. Thereafter, he noticed three persons going upstairs led by Cecilio Familgan. And, although he did not recognize the two others who followed Familgan, he presumed that they were the latter's two companions he saw earlier who looked like Julianio Lonzaga and Bartolome Lonzaga. This was clearly illustrated by Renato Lanticse in his testimony.

Besides, as correctly held by the trial court, "conspiracy was not only established by a series of circumstances or inferences but by the testimony of Julianio Lonzaga corroborated by Facundo Famat". Hence, the individual role played by each one of the accused in the execution of the crimes for which they were charged, is insignificant and of no moment because once conspiracy is established, every conspirator is responsible for the acts of the others in furtherance of the conspiracy. (People v. Pareja, G.R. No. 21937, November 29, 1969, 30 SCRA 693; People v. Cadag, G. R. No. 13830, May 31, 1961, 2 SCRA 388.)

Juliano Lonzaga and Facundo Famat. The appellants point to the supposed inconsistency between the testimony of Julianio Lonzaga and Facundo Famat on the identities of the conspirators. Appellants contend that Julianio Lonzaga identified his co-conspirators as Florencio Sanchez, Cecilio Familgan, Julian Sanchez, Bartolome Lonzaga and Carlito Cariñoza while Facundo Famat mentioned the co-conspirators as Florencio Sanchez, William Alberca, Diosing Alberca, Julianio Lonzaga, Cecilio Familgan, Bartolome Lonzaga and Dody Familgan. Thus, according to the appellants, the testimony of Facundo Famat contradicted that of Julianio Lonzaga by adding the names of William Alberca, Diosing Alberca and Dody Familgan; and omitting the names of Julian Sanchez and Carlito Cariñoza from those identified by Julianio Lonzaga as his co-conspirators.

Actually, however, Facundo Famat did not categorically state that the seven persons were the ones who conspired together in the commission of the two crimes. He merely identified them as the persons whom he saw drinking at about 4:00 o'clock in the afternoon of December 24, 1970 in the kitchen of Florencio Sanchez. In fact, he happened to observe the group only for about twenty minutes while standing at the "eavesdrops" of the kitchen, and the only words he heard regarding the alleged conspiracy was Florencio Sanchez' statement to his companions that they are going to strike at about 11:00 o'clock that evening.

From Facundo Famat's own testimony, it is possible that during the twenty minutes that he had the occasion to observe the group, Julian Sanchez and Carlito Cariñoza were somewhere else inside the house not visible to him, or that the two arrived later.

Juliano Lonzaga and Isaac Carupo. The first point of contradiction raised by the appellants refers to the time of the incident. It is contended that Julianio Lonzaga's estimate of the time of the incident as about 11:00 o'clock in the evening of December 24, 1970, is contradicted by Isaac Carupo who, according to the appellants, declared that the incident took place at about 9:00 o'clock that evening. Appellants base their conclusion upon Carupo's statements: that he was in the house of Pasing Lanticse at about 9:00 o'clock in the evening of December 24, 1970; and that a few minutes after he saw persons pass by the house of Pasing Lanticse, he heard gunshots coming from the house of Gaudencio Lanticse.

Appellants' contention, however, is misleading because there is no showing as to the time when Carupo saw those persons pass by the house of Pasing Lanticse. The fact that he was in the house of Pasing at about 9:00 o'clock in the evening of December 24, 1970, does not necessarily mean that that was also the time when he saw those persons. Hence, it could be possible that he saw those persons pass by the house of Pasing Lanticse at about 11:00 o'clock in the evening of May 24, 1970. After all, even the period from the time he saw those persons pass by the

house of Pasing Lanticse until he heard the gunshots, was merely his (Carupo) estimate as he did not have a watch then.

The other point of contradiction raised by the appellants is Carupo's statement in his affidavit of having recognized a certain Dody Familgan as one of the three persons who passed by the house of Pasing Lanticse shortly before the incident took place, claiming that such statement contradicts Julianio Lonzaga's testimony wherein said person was not being implicated. But, as satisfactorily explained by Carupo in his testimony, he was only certain of the identity of two of the three persons he saw as Cecilio Familgan and Bartolome Lonzaga, and not of the third one who, according to him, looked like Dody Familgan. When asked on the witness stand to identify the third person who looked like Dody Familgan, he readily pointed to Carlito Cariñoza who, incidentally was one of those implicated in Julianio Lonzaga's testimony.

Moreover, the testimony of Isaac Carupo on the identity of the persons who passed by the house of Pasing Lanticse shortly before the incident, is merely a circumstantial evidence to corroborate Julianio Lonzaga's testimony that said persons were the ones responsible therefor, which fact has already been satisfactorily established by direct evidence.

Juliano Lonzaga and Loreta Lonzaga-Sakyab. There is no real contradiction between the testimony of these witnesses as regards the time when Julianio Lonzaga left their house to go to the house of Florencio Sanchez in the afternoon of December 24, 1970. For, Julianio Lonzaga's testimony that he was in Barrio Lapay at noontime on December 24, 1970 does not mean that he already left their house in Sitio Pulo at that time, because Sitio Pulo is also a part of Barrio Lapay.

The alleged contradictions on whether or not Julianio Lonzaga came home alone or with a companion after the incident, as well as on the date when Julianio Lonzaga and his two companions were arrested could be attributed to mental lapses on the part of Loreta Lonzaga-Sakyab. For she took the witness stand only on January 14, 1972, or a period of over one year after the incident. Moreover, they are minor details to the proof of conspiracy to commit the crimes attributed to the appellants.

In the light of the foregoing, we agree with the trial court that evidence beyond reasonable doubt "shows that Florencio Sanchez who is the oldest of all the accused and the only one among them who is financially stable and as a matter of fact the only one out on bail, is a principal by inducement, he being the mastermind and accused Cecilio Familgan, Bartolome Lonzaga alias Noli Lonzaga, Carlito Cariñoza and Julian Sanchez are principals by direct participation."

The trial court considered two aggravating circumstances against the appellants in both cases with no mitigating circumstance. Although the court did not specify them, the aggravating circumstances are obviously nocturnity and superiority.

WHEREFORE, the judgments of the lower court in Criminal Cases Nos. AR-168 and AR-170 are hereby affirmed in toto. Costs de oficio.

SO ORDERED.

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

Fernando, C.J., did not take part.

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