

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO TALAY Y BAYBAY AND VIDAL TALAY Y BAYBAY,
DEFENDANTS-APPELLANTS.**

G.R. No. L-24852. November 28, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an automatic review of the judgment of the Court of First Instance of Oriental Mindoro in Criminal Case No. R-2745 finding the accused, Rodolfo Talay y Baybay and Vidal Talay y Baybay, guilty of the crime of murder and sentencing them as follows:

"WHEREFORE, the Court finds the accused RODOLFO TALAY y BAYBAY and VIDAL TALAY y BAYBAY guilty beyond reasonable doubt of the crime of MURDER, defined and penalized under Article 248 of the Revised Penal Code, with the presence of the six aggravating circumstances, to wit: (1), nighttime, (2) dwelling, (3) superior strength, (4) evident premeditation, (5) craft, and (6) disregard of rank, without any mitigating circumstance to off-set the same, and the Court hereby sentences the accused VIDAL TALAY y BAYBAY to RECLUSION PERPETUA, with all the accessories provided for by law, and the accused RODOLFO TALAY y BAYBAY to DEATH, with all the accessories provided for by law; each to pay one-half of the costs. The said accused are also sentenced to pay jointly and severally the heirs of Leocadio de Castro the amount of P6,000.00 as indemnity, without subsidiary imprisonment in view of the nature of the principal penalty.

IT IS SO ORDERED.

Calapan, Oriental Mindoro, July 8, 1965.

(Sgd.) NICANOR P. NICOLAS
Judge"[1]

In August 1964, Provincial Fiscal Amado V. Tolentino filed in the Court of First Instance of Mindoro the following information for murder:[2]

"The undersigned Provincial Fiscal accuses Rodolfo Talay y Baybay and Vidal Talay y Baybay of the crime of murder committed as follows:

"That on or about the 1st day of August, 1964, at 10:00 o'clock in the evening, more or less, inside the dwelling house of Leocadio de Castro, alias Leocadio Santiago, and his family, in the barrio of Communal, municipality of Calapan, province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Rodolfo Talay y Baybay and Vidal Talay y Baybay, conspiring, confederating and mutually aiding one another, with treachery and evident premeditation and the decided purpose to kill and taking advantage of their superior strength, wilfully, unlawfully and feloniously attacked, assaulted and shot the said Leocadio de Castro, alias Leocadio Santiago, barrio captain of the said place, with a carbine rifle, who was then unaware, defenseless and armless and while inside his house, inflicting upon him a gunshot wound,

left chest, thru and thru, penetrating and perforating the liver., right lobe, right lung, diaphragm, and fracturing the sixth rib, as a consequence of which the said Leocadio de Castro alias Leocadio Santiago, died few minutes thereafter.

"That in the commission of the foregoing offense, the qualifying circumstances of treachery, and the generic aggravating circumstances of (1) superior strength, (2) evident premeditation, (3) night-time, (4) dwelling and (5) in disregard due the victim on account of his rank, he being the barrio captain of barrio Communal, are present."

Upon arraignment, on September 9, 1964, the accused pleaded not guilty.[3]

The evidence adduced by the prosecution is summarized by the appellee as follows:[4]

"On July 25, 1964 Pedro Dinglasan, a resident of Bo. Communal, Calapan, Oriental Mindoro lost two of his texas cocks valued at ten pesos each. Being informed that appellant Rodolfo Talay stole them, he called the attention of the Bo. Captain, Leocadio de Castro, to the theft committed. Whereupon the Bo. Captain talked to Rodolfo Talay, appellant herein, requesting the latter to produce the two cocks. Rodolfo Talay resented this. He told Bo. Captain de Castro that if he would be compelled to produce the missing cocks, he might be forced to kill a man (pp. 21-23, t.s.n., Oct. 27, 1964). Despite this threat, the Bo. Captain nevertheless instructed him to produce the cocks and return them to the owner, Pedro Ding-lasan (pp. 28-29, t.s.n., Oct. 27, 1964).

"At about 10:00 o'clock in the evening of August 1, 1964, Juliana Umandal, wife of the deceased, was awakened by a voice from the outside calling out her husband's name. Her husband, Barrio Captain de Castro, was then asleep. The voice called out 'Ka Cadio, Ka Cadio (nickname of the deceased Leocadio de Castro) Ka Duroy is calling for you.' Upon hearing the voice, Juliana got up from bed, lighted a lamp and brought it by the window of their house to see who was calling. She saw the brothers appellants Rodolfo Talay y Baybay and Vidal Talay y Baybay. She noticed that both brothers carried guns. She then woke up her husband, and informed him of their presence Leocadio de Castro got up and opened the door of their house. After the deceased had opened the door, he was suddenly met by a volley of rifle fire; his wife, Juliana, heard the sound of gunfire. Her husband fell down on the floor wounded. Damaso Cabral and Jose Atienza, neighbors, were also startled over the gun shots. While walking towards the scene of the crime, they saw the appellants hurriedly walking away and both carrying guns. She shouted for help; Cabral and Atienza responded to her call (pp. 508, t.s.n., Oct. 28, 1964). (pp. 23-27, t.s.n., Oct. 29, 1964).

"Juliana Umandal identified the appellants to be the ones who fired the shots. She knew them a year before August 1, 1964. She knew the house of the appellants which was located only about a hundred meters away from their house, also in Barrio Communal (pp. 2-5, t.s.n., Oct. 28, 1964).

"The deceased, prostrate and lifeless, was brought to the hospital and pronounced dead on arrival. He was later autopsied by Dr. Ceferino Galvez, Provincial Health Officer of Oriental Mindoro (p. 9, t.s.n., Oct. 28, 1964) who submitted the following necropsy report);

" POSTMORTEM FINDINGS

"A generally pale motionless body with expressionless face, Presence of clotted blood on the chest and abdomen.

"Presence of a gunshot wound at left chest at the point 3 cms. from midsternal line and 1 cm. at the junction of midclavicular line and costal are level.

"Wound of entrance- 2 1/2 cm. x 1 1/2 cm. with skin dented in and stretched punching the epidermis and dermis producing a roughly circular opening with slightly rugged edges with a collar of reddish brown abrasion on the immediate surrounding epidermis. The wound was directed backward, upward and deviated laterally to the right.

"On opening, the following visceral organs were perforated. The upper border of stomach perforated thru and thru: Liver, right lobe produced massive stellate wound; the diaphragm thru and thru; lower boarder of lung, right lacerating some blood vessels. About 1500 to 2000 cc of blood was found in the thoracic cavity. There was adhesion of both apex of the lungs.

"Fracture of 6th rib dorsally at the level of inferior angle right scapula. Bullet (slug) found imbedded in the costal and latissimus dorsi muscles.

"CAUSE OF DEATH: SHOCK due to extensive internal and external hemorrhage and severe injury and damage of the viceral organs secondary to gun shot wound.

"REMARKS: Death in this case is instantaneous. (Exh. A, p. 36, rec.)

"On the night of the incident, Lt. Mauro Bagus of the Calapan Police Force together with the Chief of Police and the Mayor went to the hospital after having been informed of the shooting of Leocadio de Castro, barrio captain of Communal. They discovered that the victim was already dead and brought to the Morgue. They then proceeded to the place of the incident to conduct and on-the-spot investigation (p. 28, t.s.n., Oct. 29, 1964).

"Lt. Bagus found at the scene of the crime eight (8) blank catridges (Exhs. F, F-1 to F-7) and a slug (Exh. G) under the window sill of the house of the deceased (pp. 27-28, t.s.n., Oct. 24, 1964). Lt. Bagus identified the slug (Exh. G) to belong to the same caliber of carbine as that extracted by Dr. Galvez from the body of the deceased Leocadio de Castro (p. 20, t.s.n., Oct. 29, 1964)."

The defense presented the following version of the incident:[5]

"On October 20, 1963, Vidal Talay and his family started residing at their house in Pulang-lupa, Naujan, Oriental Mindoro (t.s.n., p. 14, March 9, 1965) to work on his own farm containing an area of more than six (6) hectares (t.s.n., p. 2, March 9, 1965). On July 29, 1964, Mrs. Vidal Talay was fetched by her mother-in-law from their place at Pulang-lupa to Communal, Oriental Mindoro, where her said mother-in-law was residing, for her to deliver their fourth child there who was expected to be born sometime in September, 1964 (t.s.n., pp. 3, 25-26, March 9, 1965). Together with Mrs. Vidal Talay were their three (3) children (t.s.n., p. 15, March 9, 1965). Vidal Talay was left alone at Pulang-lupa to attend to their farm, pigs, chickens, carabaos and other plants (t.s.n., p. 16, March 9, 1965).

Ever since Vidal Talay was left alone at Pulang-lupa on July 29, 1964, he used to sleep in the house of Ni-casio Chavez, his neighbor at Pulang--lupa, up to August 3, 1964 when he was arrested (t.s.n., p. 20, Nov. 25, 1964; t.s.n., p. 2, March 9, 1965). On August 1, 1964 at around 6:00 p.m., Vidal Talay was in the house of Nicasio Chavez.

They slept at around 9:30 a.m. Vidal Talay left the house of Chavez in the morning of August 2, 1964 (t.s.n., pp. 19-20, Nov. 25, 1964; t.s.n., pp. 2-3, March 9, 1965).

Rodolfo Talay on the other hand, was staying with his sister-in-law, Apolonia Gaa, at Pulang-lupa, Naujan, Oriental Mindoro, working on the farm of his father-in-law (t.s.n., pp. 2-3, March 10, 1965). From morning till 4:00 p.m. of August 1, 1964, Rodolfo Talay was busy gathering materials for the house he was told by his father-in-law to construct. He, however, took his lunch in the house where he and his wife and children were staying. At about 4:00 o'clock in the afternoon, he was already home and started chopping firewood and thereafter attended to his animals. This was the usual activity of Rodolfo Talay since July 26, 1964 when he again commenced to live at Pulang-lupa upon instruction of his father-in-law where he would construct their family home. He was temporarily residing at Communal since March, 1964 (t.s.n., p. 15, March 10, 1965) up to July 26, 1964. Before March, 1964, however, he was a resident of Pulang-lupa, Naujan, Oriental Mindoro (t.s.n., p. 19, March 10, 1965) and he came to Communal (t.s.n., p. 36, March 10, 1965). Vidal Talay on the other hand, was a resident of Pulang-lupa, Naujan, Oriental Mindoro since 1963 (t.s.n., p. 38, March 10, 1965). Rodolfo Talay was a resident of Pulang-lupa since 1964 (t.s.n., p. 39, March 10, 1965). At about 7:00

o'clock p.m. of August 1, 1964, Rodolfo Talay and family had already finished their supper and thereafter he was requested by his sister-in-law, with whom they were staying, to bring fish to his father-in-law, Agapito Gaa, and thereafter to his brother-in-law, Emilio Gaa, whose house was more or less 200 meters away from the house of Apolonia Gaa. Rodolfo Talay stayed in the house of Emilio Gaa up to more or less 9:30 in the evening of August 1, 1964 after listening to a radio broadcast. From the house of Emilio Gaa, he proceeded to the house where he was staying, in the house of Apolonia Gaa. Upon arrival at the latter's house, he slept beside his wife and woke up at around 6:00 a.m. of August 2, 1964 to start with his usual activity (t.s.n., pp. 3-6, March 10, 1965).

Unfortunately, on August 3, 1964, a group of policemen picked up both Rodolfo and Vidal Talay at Pulang-lupa, Naujan, Oriental Mindoro and thereafter brought them to the municipal Building of Calapan, Oriental Mindoro where they were forced to admit that they were the culprits (t.s.n., p. 23, Nov. 12, 1964). Lieutenant Mauricio Bagus personally conducted the investigation. He is an N.B.I. graduate and was considered as one of those educated in the Calapan Police Force. And during the investigation, the accused-appellants denied knowledge of the crime being imputed to them and even requested Lt. Bagus to call for the N.B.I. so that they will be subjected to a paraffin test and further investigation, which request, however, was denied by said investigator (t.s.n., p. 13, March 9, 1965).

The trial court refused to give credence to the evidence of the defendants and convicted them of the crime of murder.

The defendants' counsel contended that the trial court committed the following errors:[6]

" I

LOWER COURT ERRED IN LENDING CREDENCE TO THE PROSECUTION WITNESSES.

" II

LOWER COURT ERRED IN ITS FINDINGS OF MATERIAL FACTS.

" III

THE TRIAL COURT ERRED IN DISREGARDING THE APPELLANTS' DENIAL OF THE CHARGE AND DEFENSE OF ALIBI DES-PITE LACK OF POSITIVE IDENTIFICATION.

" IV

LOWER COURT ERRED IN HOLDING THAT CONSPIRACY WAS PROVED BY THE PROSECUTION.

" V

LOWER COURT ERRED IN HOLDING THAT AGGRAVATING CIRCUMSTANCES WERE PROVED WITHOUT CONSIDERING THE EXISTENCE OF MITIGATING CIRCUMSTANCES.

" VI

LOWER COURT ERRED IN FINDING BOTH APPELLANTS GUILTY BEYOND REASONABLE DOUBT."

The trial court did not err in giving credence to the prosecution witnesses whose testimonies are not contrary to the natural course of things. There are no serious contradictions in their testimonies.

The findings of fact of the trial court are supported by substantial evidence.

The contention of the defendants that they were not identified as the persons who killed Leocadio de Castro has

no merit. The prosecution has established beyond reasonable doubt the identities of the defendants as the perpetrators of the crime charged in the information.

The widow, Juliana Umandal, declared that she heard somebody calling the name of her husband, Leocadio de Castro; that she went to the window with a lamp to see who was calling; that she saw the two defendants with guns in their hands; that she woke up her husband who stood up and opened the door and was shot by the appellants. (pp. 5-8, t.s.n., October 28, 1964)

Damaso Cabral declared that he knew the defendants for more than five (5) years; that in the evening of August 1, 1964, while he was walking towards the house of the deceased, Leocadio de Castro, and was about to reach his yard, he heard successive gun shots; that he saw the two accused carrying guns and walking hurriedly away from the house of the deceased; and that on the following morning, he reported to Lt. Bagus of the Calapan Police Force everything he saw. (pp. 33-37, t.s.n., October 29, 1964)

Another prosecution witness, Jose Atienza, declared that his house was near the house of Leocadio de Castro; that on August 1, 1964, he heard shots coming from the place of the deceased; that he went down to investigate; that he saw two persons holding guns walking hastily away from the house of the deceased; and that he recognized the two persons as the defendants. (pp. 3-4, t.s.n., October 29, 1964)

The mere denial of the defendants that they killed Leocadio de Castro and their alibi cannot prevail over the positive declarations of the witnesses of the prosecution that said defendants are the perpetrators of the crime charged in the information.

Both defendants declared that they were elsewhere when the crime was committed. It appears, however, that the defendants were only about thirteen (13) kilometers away from the house of Leocadio de Castro where he was shot. It was not, therefore, physically impossible for both defendants to have gone to the house of Leocadio de Castro and committed the crime.

Conspiracy is evident from the manner the two defendants committed the crime. They are brothers and were together in going to the house of Leocadio de Castro. Both were carrying guns. Both fired shots against the victim and both hurriedly walked away after the shots were fired. The two defendants mutually aided each other in killing the victim.

The trial court erred in appreciating treachery as a qualifying circumstance of the crime charged in the information.

The only person present when Leocadio de Castro was shot was his wife, Juliana Umandal. She testified that on August 1, 1964, at about 10:00 o'clock in the evening, she and her husband, Leocadio de Castro, were asleep in their house in Barrio Communal, Calapan, Oriental Mindoro; that she was awakened by the barking of dogs and somebody calling her husband; that she rose from bed and brought a lighted lamp by the window of their house; that she saw two persons whom she recognized as the defendants, Rodolfo Talay and Vidal Talay, both carrying guns about two (2) feet long; that she woke up her husband who rose and opened the door; that after her husband had opened the door, she heard one shot and then successive shots followed; that her husband was hit and fell down on his face; that her husband could only utter the word "hospital"; and that her husband was brought to the hospital but was dead on arrival.

Juliana Umandal did not actually see how her husband was shot. The pertinent portion of her testimony reads:

"Q

What did you say when your husband woke up, opened the door, regarding lamp?

A

I was holding the lamp. After waking my husband I hold the lamp and it was he who went to the door.

Q

And that your husband was ahead of you and that you were following your husband when he opened the door?

A

My husband proceeded to the door while I went to the other door, be-cause there were two doors, one after the other.

Q

Where is that door you said you went?

A

The door leading to the place where we slept.

Q

That is the door between the dining room and the sala?

A

Yes, sir.

Q

And how far were you while in that door to the door opened by your husband?

A

About three meters.

Q

And from that place where you were standing in the door dividing the dining room and the sala, you could not see a person from the outside?

A

I could not really see.

Q

And you stayed there all the while that you heard the shots?

A

Yes, sir.

x x x x "[7]

There is, therefore, no evidence on how the two defendants killed the victim, Leocadio de Castro. Treachery cannot be presumed from the testimony of Juliana Umandal that after her husband had opened the door, she heard one shot which was followed by successive shots. The widow admitted that she already knew that the two defendants were angry with her husband, Leocadio de Castro, because of the incident regarding the loss of two roosters belonging to Pedro Dinglasan. When she looked out of the window that night, she saw the two defendants carrying guns. The suspicion of a normal person could have been aroused by the fact that the two defendants were carrying guns. Certainly, Juliana Umandal must have told her husband, Leocadio de Castro, that the two defendants were carrying guns. The natural reaction of Leocadio de Castro would have been to open the door with caution. It cannot be said that Leocadio de Castro was unaware of danger when the shots were fired at him.

Treachery as a qualifying circumstance should be established by proof beyond reasonable doubt. Moreover, mere suddenness of an attack is not enough to constitute treachery where it does not appear that the accused had consciously chosen the method of attack directly and specially to facilitate the perpetration of the homicide without risk to himself arising from the defense that the victim might offer.[8] The defendants did not make any effort to disguise themselves or to conceal the two guns they were carrying. In view of the foregoing, the crime committed by the defendants is simple homicide, not murder.

The trial court also erred in considering abuse of superior strength as an aggravating circumstance. The mere fact that there were two aggressors cannot constitute per se abuse of superior strength in the absence of evidence in the record of the relative physical strength of the aggressors and the assaulted party. To take advantage of superior strength means to purposely use excessive force out of proportion to the means of defense available to the person attacked.[9] Guns were used to commit the crime. Each of the two defendants had a gun. It was not, therefore, necessary for them to take advantage of superior strength to accomplish their purpose of killing Leocadio de Castro.

There is no evidence that the two defendants employed craft as a means to commit the crime. The mere fact of calling the victim is not craft. The defendants did not use deception or guile to kill Leocadio de Castro.

However, the aggravating circumstance of dwelling should be appreciated. The victim, Leocadio de Castro, was asleep in his house and he opened the door of his house upon being called by the defendants. In *People vs. Alcala*,[10] dwelling was appreciated as aggravating circumstance although the victim was killed on the staircase

of his house.

The trial court also erred in appreciating nocturnity as an aggravating circumstance. There is no evidence that the two defendants precisely sought nighttime to facilitate the commission of the crime and to hide their identities. The two defendants called for the victim, Leocadio de Castro, and they did not make any attempt to disguise themselves or to conceal their weapons.

There is no showing of evident premeditation. It does not appear that the two defendants planned to kill Leocadio de Castro for some time during which they could sufficiently reflect on the serious consequence of their action and that they persisted in their plan. In *People vs. Beralde*,^[11] this Court held:

"To appreciate the circumstance of evident premeditation, it is necessary to establish the following: (1) the time when the offender determined to commit the crime; (2) act manifestly indicating that the culprit has clung to his determination; and (3) a sufficient lapse of time between the determination and execution to allow him to reflect upon the consequences of his act and to allow conscience to overcome the resolution of his will had he desired to hearken to its warning."

None of the foregoing requisites had been proved by the prosecution.

Disregard of the rank of the victim who was a barangay captain cannot be appreciated as an aggravating circumstance. There is no proof of the specific fact or circumstance that the defendants disregarded the respect due to the offended party. It does not appear that the defendants deliberately intended to insult the rank of Leocadio de Castro as barrio captain.

The submission of the defendants that they are entitled to the mitigating circumstance of immediate vindication of a grave offense cannot be sustained. There is no evidence that Leocadio de Castro committed a grave offense against the two defendants. The actuations of Leocadio de Castro in investigating the loss of two roosters can hardly be considered as a grave wrong committed against the two defendants.

In view of the foregoing, the two defendants are guilty of the crime of simple homicide aggravated by the circumstance of dwelling without any mitigating circumstance.

WHEREFORE, the defendants, Rodolfo Talay y Baybay and Vidal Talay y Baybay, are declared GUILTY of homicide with the aggravating circumstance of dwelling and are hereby imposed the penalty of imprisonment of Seventeen (17) Years, Four (4) Months and One (1) Day to Twenty (20) Years of reclusion temporal, in its maximum period, and are ordered, jointly and severally, to pay the heirs of Leocadio de Castro the amount of Twelve Thousand Pesos (P12,000.00), and to pay the costs.

SO ORDERED.

Fernando, C.J., Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., concurs in the result in a separate brief opinion.

Makasiar, J., dissents in a separate opinion.

Aquino, J., dissent. The accused committed murder qualified by treachery and aggravated by dwelling. Hence, the death penalty was properly imposed by the trial court.

Barredo, J., took no part.

[1] Rollo, p. 20.

[2] Ibid., p. 4.

- [3] Ibid., p. 5.
- [4] Brief for the Appellee, pp. 2-5, Rollo, p. 178.
- [5] Brief for defendants-appellants, Rollo, pp. 103-106.
- [6] Ibid., Rollo, p. 101.
- [7] Pp. 33-35, t.s.n., October 28, 1964.
- [8] People vs. Cabiling, 74 SCRA 285.
- [9] Idem.
- [10] 46 Phil. 739.

[11] 91 SCRA 125, 150.

DISSENTING OPINION

TEEHANKEE, J.:

I concur with the dissenting view of Mr. Justice Ma-kasiar that the crime committed is murder. However, since the penalty of 17 years, 4 months and 1 day to 20 years of reclusion temporal imposed by the Court's judgment properly falls within the imposable range for murder, I concur in the result.

DISSENTING OPINION

MAKASIAR, J.:

The accused should be convicted of murder, qualified by treachery, aggravated by evident pre-meditation and disregard of rank of the victim who was a barangay captain, aside from dwelling, and should therefore be sentenced to death.

Treachery is amply demonstrated by the fact that the two appellants, who are brothers, each carried a gun of about two feet long. When the victim's wife woke him up that night, she only told him that the two defendants were calling for him, without telling him that the said appellants were armed. She was holding a lighted lamp about 3 meters away from the door which was opened by her husband. Despite the fact that she was holding the lighted lamp, she could not see any person outside the door. When her husband opened the door, a shot rang out, followed by several other shots, hitting her husband, who fell down on his face. Because of the darkness of the night, the victim was not able to see the faces of the appellants, much less the guns they were carrying because he was about 3 meters away from the lighted lamp being held by his wife who, as aforestated, did not see any person outside the door when it was opened by her husband. It is obvious that both appellants carried firearms and precisely sought nighttime -- about ten o'clock that fateful night -- to ensure the successful commission of the crime in their barrio. But both abuse of superior strength and nighttime are absorbed in treachery.

Evident premeditation is likewise amply proven by the fact that on July 25, 1964, Pedro Dinglasan, also a resident of their barrio Communal, Calapan, Oriental Mindoro, complained to the deceased as their barrio captain that appellant Rodolfo Talay stole his two Texas cocks; that the victim as barrio captain requested appellant Rodolfo Talay to produce the two cocks; that appellant Rodolfo Talay resented such request and told the deceased that if

he would be compelled to produce the missing cocks, he might be forced to kill a man (p. 3, decision); that despite his threat, the barrio captain nevertheless instructed him to produce the cocks and return them to the owner; and that the crime was committed at 10 o'clock in the night of August 1, 1964, about 7 days from the time appellant Rodolfo threatened to kill the victim, during which period both appellants had more than sufficient time to deliberate and reflect on the consequences of their intended criminal act and even after such deliberation and reflection, they persisted in their criminal design and actually executed the same.

There is likewise disregard of the rank of the victim as barrio captain, which appellants knew. It was precisely because he was the barrio captain that the victim instructed appellant Rodolfo Talay to restore the two missing cocks to their owner, who complained to him that appellant Rodolfo stole his two cocks. The appellants killed the barrio captain, but did not resent the act of Pedro Dinglasan denouncing appellant Rodolfo for theft.

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