

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALEJANDRO DAYDAY, ALIAS ANDO, DAMIANO BARTON ALIAS
DAMIN AND SANTOS SINODLAO ALIAS MAN ANINGA, DEFENDANTS
AND APPELLANTS.**

G.R. Nos. L-20806-07. August 14, 1965

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PER CURIAM:

The spouses Simplicio Litan and Crispina Likayan, farmers, lived with Simplicio's mother and their two children, Nilda, 4, and Yolanda, 2, in sitio Crossing, barrio Miarayon, municipality of Talakag, Bukidnon. On Monday, May 16, 1960, the couple and their two daughters visited their farm located in a remote part of barrio Miarayon called Camarahan. Cesareo litan, brother of Simplicio Litan, followed two days later in order to bring them some sweet potatoes. At about nine o'clock in the morning he arrived in the farm and found his brother and Crispina Likayan slain and sprawled on the floor of their house. Their bodies, the mat they had slept on and the interior of the house were splattered with blood. The children, Nilda and Yolanda, were not around.

Cesareo Litan immediately reported the matter to rural policeman Francisco Longos in barrio Miarayon. The report was relayed to Councilor Kiliron and later to the Philippine Constabulary in the poblacion of Talakag.

The Philippine Constabulary sent Lt. Jose Omnes, accompanied by the justice of the peace, the chief of police, the municipal health officer of Talakag and a PC soldier, to Camarahan to investigate the reported incident. On reaching the scene of the crime the municipal health officer examined and made an autopsy on the corpses. Lt. Omnes looked around for clues and found inside the farm house a flashlight cap. After burying the corpses they proceeded to Councilor Kiliron's house.

The Philippine Constabulary learned there that a certain Vicente Tambayong, a relative of Crispina Likayan, killed, on a previous date, Aquino Dayday of sitio Napayag. The Philippine Constabulary went to Napayag and interrogated Mariano Dayday, Alejandro Dayday and Rufino Sayanan. All of them denied responsibility in the killing of the litan couple and were brought to Councilor Kiliron's house further investigation.

Later, however, Ruftno Sayanan, whose aister is married to Alejandro Day day, stated that on May 17, 1960 Alejandro Dayday told him that he, Man Aninga and Damin killed Simplicio Litan and Crispina Likayan; that Alejandro Dayday was present in the group labor in Miarayon on May 16, 1960 but was absent on May 17; that later he informed Mariano Dayday and rural policeman Honorio Sulatan of what Alejandro Dayday told Mm but Sttlatan could not report the matter to the authorities in Miarayon inasmuch as it was already dark.

Subsequently, Alejandro Payday" admitted his participation in the killing of the Litan couple, naming Santos Sinodlao alias Man Aninga and Damiano Barton alias Damin as his companions. According to him he met with Man Aninga and Damin in the house of Manlikisa at Napayag on Sunday afternoon, May 15, 1960, where Man Aninga informed him that they wanted two small children whom they would sell to the moros. Man Aninga offered him a part of the price for his help in securing the two children. At that moment he remembered that Simplicio litan who had two children was an in-law of Vicente Tambayong who previously killed his brother. He

realized then and there that it was his best chance to avenge the death of his brother. Readily, he accepted the proposal of Man Aninga. On that afternoon they planned to kill Simplicio Litan and his wife Crispina Likayan, and kidnap their two children.

As agreed, Man Aninga and Damin left the house of Manlikisa early the following Monday morning, May 16, 1960, for the farm of Simplicio Litan. Upon reaching there, they hid among the bushes near the farmhouse.

The whole day of Monday Alejandro Dayday attended the group labor in Miarayon. When afternoon came he went straight to Camarahan and joined Man Aninga and Damin. He had with him a bolo called kalia and a rifle. When it was already dark and the litan family was sound asleep, they came out of their hiding place and proceeded to the farmhouse where they hacked and stabbed to death Simplicio Litan and Crispina Likayan. Then they carried away the two children. He carried Nilda, the bigger child, and Man Aninga carried Yolanda. Not long afterwards he noticed that Nilda was severely wounded, so he suggested to Man Aninga and Damin to kill the child. Damin assented. Whereupon he took out his bolo, stabbed the child through the stomach, then cast her away. They separated. He went home while Man Aninga and Damin together with the younger child proceeded to La Roxas. (Exhibit H)

Accompanied by a PC soldier and a rural policeman, Alejandro Dayday returned to Napayag and retrieved his bolo from the roof of his house. It was smeared with blood clots. He also surrendered his rifle which he hid in his farmhouse.

An inquiry with Eleuterio Somonlay, son-in-law of Manlikisa, who was then living with the latter, confirmed Dayday's statement that in the afternoon of May 15, 1960, Dayday met with Man Aninga and Damin in Manlikisa's house. Somonlay said that Man Aninga and Damin arrived in his house at about one o'clock, Sunday afternoon, May 15, 1960; that Alejandro Dayday came to the house in the same afternoon and met with Man Aninga and Damin but he did not hear what they talked about; and that Man Aninga and Damin spent the night in his house and left early the following day.

Lt. Omnes was dispatched immediately to La Roxas where he arrested Man Aninga and Damin. Both were brought to Talakag for questioning. Damin confessed his participation in the killing of the Litan couple and gave the following narration: In April 1960 three moros went to the house of Man Aninga in La Roxas offering to buy three children whom they would sacrifice in a gold mine. Later on Friday, May 13, 1960, Man Aninga broached to him the proposal of the moros and suggested that they leave for Miarayon at dawn of Sunday, May 15, 1960. They left as planned and arrived in the house of Manlikisa in sitio Napayag at two o'clock in the afternoon. Later, Alejandro Dayday arrived and they proceeded to plan the killing of the Litan couple for the purpose of kidnapping their two children.

Man Aninga and he left the house of Manlikisa early the following morning for the farm of Simplicio litan in Camarahan. There they hid among the bushes until Alejandro Dayday arrived at six o'clock in the afternoon. When it was already dark they went to the house of Simplicio Litan. Man Aninga focused his flashlight at Simplicio Litan who was sleeping and immediately started hacking him. After they killed him and Crispina Likayan, they took away the children. About 200 meters away from the farmhouse Alejandro Dayday suggested to kill the child he was carrying because she was severely wounded. He acceded to Dayday's suggestion. Alejandro Dayday thereupon stabbed her through the stomach and threw her away. After that Alejandro Dayday went home. Man Aninga and he went back to La Roxas. Man Aninga hid in his farmhouse the bolos called lambitan which they used in killing the Litan couple. (Exhibit I)

Damin made a location sketch (reproduced in Exhibit N) of the spot where Alejandro Dayday threw away Nilda Litan. Guided by the sketch, a PC soldier later found the body of Nilda Litan, already in the state of advanced

decomposition, about 200 meters from the Litan farmhouse.

Man Aninga also admitted participation in the commission of the crime. His statement (Exhibit J) confirmed the narrations of Dayday and Damin. From him the Philippine Constabulary learned the whereabouts of the missing child, Yolanda Litan. She was later found hidden in a farmhouse of Man Aninga under the care of two old women. Also with the aid of Man Aninga's confession, the two bolos were located in his farm. Man Aninga's flashlight, sans its cap, was surrendered by his daughter.

The cap which Lt. Omnes found in the scene of the crime perfectly fitted the flashlight.

The statements of Dayday, Man Aninga and Damin were reduced into writing and sworn to before the municipal mayor and the justice of the peace of Talakag (Exhibits H, I and J). Thereafter Dayday, Aninga and Damin were formally charged in two separate informations for murder and the complex crime of kidnapping through double murder. We quote hereunder the informations:

"That on or about May 16, 1960, in the evening, in barrio Miarayon, municipality of Talakag, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the accused ALEJANDRO DAYDAY alias ANDO, armed with a moro bolo known as calis and a rifle, DAMIANO BARTON alias DAMIN, armed with a bolo called lambitan, and SANTOS SINODLAO alias MAN ANINGA, likewise armed with a bolo called lambitan, conspiring together and mutually helping one another, with intent to kill and taking advantage of their superior strength and by means of treachery, by the use of the weapons with which they were respectively armed as mentioned above, did then and there willfully, unlawfully and criminally attack, hack and stab Nilda Litan, a minor 4 years of age, inflicting several wounds on the different parts of her which wounds directly caused her death few minutes after."

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"That on or about May 16, 1960, in the evening, in a sitio about kilometers away from the center of population of barrio Miarayon, municipality of Talakag, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the accused ALEJANDRO DAYDAY alias ANDO, armed with a moro bolo known as calis and a rifle, DAMIANO BARTON alias DAMIN, armed with a bolo called lambitan, and SANTOS SINODLAO alias MAN ANINGA, likewise armed with a bolo called lambitan, having agreed and planned to kidnap Nilda Litan and Yolando Litan, minors of four (4) years and two (2) years of age, respectively, in order to attain said purposes and as a necessary means to effect and commit the same, conspiring together and mutually helping one another, with intent to kill, by means of treachery and with the use of the weapons aforementioned with which they were respectively and conveniently provided, did then and there willfully, unlawfully and criminally attack, hack and stab the spouses Simplicio Litan and Crispina Likayan, who were then sleeping with their aforementioned minor children, inflicting several wounds on their persons

x x x x x x x x x

which wounds directly caused their instantaneous deaths, and immediately thereafter, the aforementioned accused, conspiring together and mutually helping one another, did then and there unlawfully, and criminally take, kidnap and carry away said minors Nilda Litan and Yolanda Litan, detaining the latter for a period of 16 days."

All the three accused pleaded not guilty and were subsequently tried jointly.

During the trial the three accused repudiated their confessions, alleging that they did not know the contents of the statements which the Philippine Constabulary forced them to sign.

Alejandro Dayday testified that from May 15, 1960 until his arrest on May 21, 1960, he never left his house for he was busy stripping abaca. Man Aninga and Darnin declared in court that on May 16, 1960 they, together with

Mateo Gomarga, worked all day on the roof of the social hall of La Roxas. Mateo Gomaga corroborated their alibi.

The trial court found all the accused guilty as charged and sentenced them as follows:

"WHEREFORE, the Court hereby finds the accused, Alejandro Dayday, alias Ando, Santos Sinodlao, alias Man Aninga, And Damiano Barton, alias Damin, each guilty beyond reasonable doubt, of the complex crime of Kidnapping with Murder in Criminal Case No. 794, and sentences each one of the said accused to suffer the supreme penalty of death as provided by law, to indemnify the heirs of Simplicio Litan in the sum of Six Thousand Pises (P6,000.00) and the heirs of Crispina Likayan also in the same amount, and to pay the costs.

"In Criminal Case No. 805, the Court also hereby finds each of the above-named accused guilty beyond reasonable doubt, of the murder of Nilda Litan and sentences each one of said accused to suffer the same penalty of death, to indemnify the hairs of said Nilda Litan in the amount of Six Thousand Pesos (P6,000.00), and to pay the costs.

"The weapons used in the commission of the crimes consisting of the rifle, Moro kris, and the two 'lambitans' (bolos) are hereby forfeited in favor of the Government."

Both offenses were held qualified by treachery and attended by the aggravating circumstances of dwelling, uninhabited place, nighttime and abuse of superior strength. The trial court found no mitigating circumstance. With respect to Alejandro Dayday he was found to have acted with evident premeditation and in consideration of a prize or a promise of reward.

Pursuant to Section 9 of Rule 118 (now Sec. 9, Rule 122) of the Rules of Court the case was automatically elevated.to this Court for review.

The defense of all the accused as aforestated is alibi.

Alejandro Dayday's alibi is uncorroborated. Against such alibi are the testimonies of Rufino Sayana and Eleuterio Somonlayi Somonlay, his neighbor, testified that Dayday went to his house and met with the other two accused in the afternoon of May 15, 1960. Sayana signed a sworn statement and later testified that he met Dayday along the way when he was going home from Miarayon to Napayag after the group labor on May 16, 1960; that upon being asked why he was absent from the group labor on that day, Dayday replied that he, together with Man Aninga and Damin, killed the spouses Simplicio Litan and Crispina Likayan. This witness, Sayana, has no reason to testify falsely and impute upon Dayday the commission of a serious crime. After all, Dayday is married to his sister.

The alibi of Man Aninga and Damin was attested to by Mateo Gomaga who allegedly worked with them at the social hall in La Roxas on May 16, 1960. Mateo Gomaga mentioned the barrio chairman, the chief of the rural police and another prominent person in La Roxas as the ones who supervised their work. The fact that these persons were never called upon to establish the alibi gives up reasons to reject the truthfulness of said alibi.

The trial court completely discredited the accused's defense. As a rule this Court desists from disturbing the conclusion of the trial court concerning the credibility of witnesses, for the latter is in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behavior and manner of testifying.[1] Alibi, moreover, is generally a weak defense, since it is so easy to concoct. For this reason, courts view it with caution and accept it only when proved by positive, clear and satisfactory evidence.[2]

In the trial of this case, the accused repudiated their confessions, claiming that they were subjected to torture, force and intimidation; and the Philippine Constabulary forced them to sign said confessions which were written in a dialect (Cebuano) that they did not understand. This claim is however refuted by the testimonies of the municipal mayor and the justice of the peace of Talakag. The municipal mayor before whom the affidavits were

subscribed and sworn to by Dayday, Man Aninga and Damin testified that he translated the affidavits into the Binukid dialect spoken by the three accused; that he asked them one at a time if the statements in the affidavits were true and if they were voluntarily given; and that the accused answered him in the affirmative. The justice of the peace before whom Man Aninga and Damin subscribed and swore to their supplemental affidavits declared that he required the Philippine Constabulary soldiers who escorted the accused to remain outside his office; that the two accused, one after another, acknowledged before him the statements in the affidavits to be their voluntary act and that the same were true. Accused's repudiation cannot prevail over the disinterested testimonies of the municipal mayor and the justice of the peace.[3]

The accused therefore may not convincingly deny knowledge of the contents of their written confessions, for the same were translated and explained to them by the municipal mayor in the Binukid dialect, which dialect they habitually spoke. As stated, they affirmed the contents of their confessions before the municipal mayor and, later, before the justice of the peace.

Furthermore, the confessions contained precise details of the conspiracy to kill the Litan couple and kidnap their two children and of the actual perpetration of the crime, which the Philippine Constabulary could not have concocted, it was through the confession of Dayday that the complicity of Man Aninga and Damin in the commission of the crime was discovered. It was Damin's confession that led to the discovery of the body of Nilda Litan and established the ownership of the flashlight cap which Lt. Omnes found in the scene of the crime. It was also the statements of Man Aninga that enabled the Philippine Constabulary to locate the kidnapped child, Yolanda Litan, and to recover the weapons and Man Aninga's capless flashlight. The details related in the three confessions together show beyond reasonable doubt that the three accused are guilty of the crimes charged in the information.[4]

Counsel for the accused does not question the correctness of the findings of the lower court. However, he maintains that the imposition of the death penalty will not serve the ends of justice. The underlying reason for his contention is the accused's backwardness in point of civilization as compared to their Filipino brothers living in other parts of the country.

The three accused have committed the crimes for which the law imposes the penalty of death. Except in two instances, within which the accused in these cases do not come, the death penalty shall be imposed in all cases in which it must be imposed under existing laws. The law has been enacted for all who are within our jurisdiction to follow and obey, and our law enforcement agencies are duty bound to enforce it to all and in all places uniformly. Accordingly, the crime of murder committed in the hinterlands of Bukidnon is just as serious a crime as if it were perpetrated in the cities or in any other parts of the country. The penalty for murder is the same in all places.

Wherefore, finding no error in the judgments appealed from, the same are hereby affirmed. No costs. It is so ordered.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

[1] People vs. Lumayag, L-19142, March 31, 1965.

[2] People vs. Bautista, L-17772, Oct. 31, 1962.

[3] People vs. Ancheta, 106 Phil.99

[4] People vs. Gampoña, 36 Phil. 817.

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