

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MOROS TANJI AMBRAN, ET AL., DEFENDANTS, MOROS SAHIBUL,
ISMAEL, MUKBAND, HATIB AJAK AND ARABANI, DEFENDANTS AND
APPELLA...**

G. R. No. L-15581. April 29, 1963

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a decision of the Court of First Instance of Basilan City, Hon. Gregorio D. Montejo, presiding, finding Moros Tanji Ambran, Sahibul, Ismael, Mukband, Hatib Ajak and Arabani guilty of the crime of murder, sentencing each and everyone of them to suffer the penalty of reclusion perpetua and jointly and severally to pay the heirs of the deceased Moro Mangao the amount of P6,000, and to pay the costs proportionately.

The evidence for the prosecution shows that at around seven o'clock in the morning of December 29, 1957 the deceased Moro Mangao, his brother Moro Balais, 15, and his cousin Moro Awali, also 15, left their house in Bohe-Canas, Lamitan, Basilan City, to go to work in their field. While on their way the accused defendants-appellants, Tanji Ambran, Sahibul, Ismael, Mukband, Hatib Ajak and Arabani and others, all of them numbering eleven, intercepted and attacked Moro Mangao. Moro Balais and Moro Awali walked ahead of Moro Mangao, who was about five fathoms behind them. Moro, Balais declared that he heard the shout of his brother Mangao and as he turned around he saw that his brother Mangao was being pierced with a spear by the defendant Tanji Moro, while the other eleven attacked and hacked his brother on all sides. Balais and Awali, for fear of their lives, ran away because the attackers of Mangao pursued them. They were able to reach the house of one Apa where they stayed until the attackers of Mangao had gone away. When they came back they found the body of Mangao lying dead near the intersection of the Marang-Marang road and the Canas road.

The testimony of Moros Balais and Awali was corroborated in all respects by Parat Yakan who declared that that morning at about five o'clock, he left his residence in Marang-Marang bound for Tuburan to buy fish. He reached Tuburan around six o'clock in the morning and was able to buy the fish that he wanted. After buying the fish he did not stay long but went back. On his way home and upon reaching the intersection of the Marang-Marang road and the Canas road he noticed some fifteen meters away from said intersection and standing by the roadside the accused Tanji Moro, Asam, Sandangan, Hasim, Mukband, Sama, Ismael, Arabani, Hatib Ajak, and one whose name he did not know. Six of them were on one side of the road and six on the other. He stopped and hid himself at the corner of the road. After Mangao and his companions had passed the intersection of the two roads, the twelve persons on both sides of the road began attacking the three, namely, Mangao, Balais and Awali. It was about seven o'clock, when this attack took place. Tanji was the one who started the attack by thrusting his spear at the stomach of Mangao, who was carrying a kris on his side in the scabbard and a scythe. After Tanji had started the attack hitting Mangao with his spear, the other eleven began hacking Mangao on all sides.

Parat explained the possible cause or reason for the attack. He declared that Tanji must have resented the fact that

Parat searched for his lost carabao on the land of Tanji, with Mangao leading the way. Mangao and Parat were able to see the hoof prints of the lost carabao near the house of Tanji; Tanji got mad when they passed by his house looking for the lost carabao. Parat says that Tanji must have resented that because it was Mangao who had acted as a guide when Parat was looking for his lost carabao.

Tanji Moro admitted having killed Mangao but declared that he was alone when he killed Mangao; that he had surprised Mangao embracing or abusing his wife in his house early in the morning of the day in question, because of which he attacked Mangao with a spear, hit him on the face and later pursued him down the house as Mangao ran down. His wife Moro Apula corroborated his statement and declared that that morning of December 29, while she was alone in the house, Mangao came to the house and began embracing her with both hands while she was sitting down; that she called for help and her husband, who had just come from the well, came up without any arms, so he took his spear from the place where it was and hit Mangao with it, hitting him on the head; that they had a fight and they continued downstairs; that Tanji was able to kill Mangao and afterwards returned with a broken spear; that that same morning they went to the house of Imam Abdurajak to surrender; that Imam Abdurajak was sleeping when they arrived and when they disclosed to him that Tanji had killed Mangao, Abdurajak brought them to Tuburan and at Tuburan Hadji Yacub accompanied both of them to the police station at Lamitan.

The other defendants denied having participated in the killing and said that they were at different places buying fish or doing some other jobs.

There are various circumstances in the record, which are not disputed, which render the story of the defense incredible, and which tend to prove conclusively the truthfulness and certainty of the story given by the witnesses for the prosecution.

In the first place, the sanitary inspector who made a post-mortem examination of the body of the deceased Mangao found no less than nineteen wounds on the person of the latter in various parts of the body, on the face, on the shoulder, in the breast, on the stomach, at the nape, etc., as witness the following certificate, Exhibit A :

- Wound, stabbed, 1 inch long, upper eye lid, left.
- Wound, stabbed, 3/4 inch long, upper eye lid, right.
- Wound, incised, 1-1/2 inches long, face, right.
- Wound, stabbed, 3/4 inch long, shoulder, right.
- Wound, stabbed, 1-1/2 inches long, breast, right.
- Wound, stabbed, 1 inch long, belly, right.
- Wound, stabbed, 2 inches long, penetrating the abdominal cavity, left. ' .
- Wound, stabbed, 1-1/2 inches long, thru and thru, right hand.
- Wound, incised, 5 inches long, nape.
- Wound, incised, 4 inches long, nape.
- Wound, stabbed, 1 inch long, back, left,
- Wound, stabbed, 2 inches long, back, right.
- Wound, stabbed, 2 inches long, back, right

- Wound, stabbed, 1 inch long, shoulder, right.
- Wound, stabbed, 1 inch long, back, right.
- Wound, stabbed, 2 inches long, back, right.
- Wound, incised, 5 inches long, back, left.
- Wound, incised, 4 inches long, back, left.
- Wound, incised, 3 inches long, back, left.

The cause of death of the above mentioned deceased was acute anemia, secondary hemorrhage, multiple wounds.

(Sgd.) LUVIMINDO VALDEZ.
Sanitary Inspector

Note that the 7th wound penetrates the abdominal cavity, left. This corroborates the declarations of the witnesses for the prosecution that Mangao was speared in the stomach by Tanji Moro. If the fight was between Tanji and Mangao alone there would not have been so many wounds on the nape, at the back, on the shoulder, etc., of the deceased. The existence of these wounds in front and at the back, on the shoulder, etc., shows that Mangao was attacked from all sides by many persons-the fact testified to by the eyewitnesses Parat Yakan, Balais and Awali.

In the second place, the scene of the killing as brought out by the cross-examination made by counsel for the defense, is at the intersection of two roads. The place does not appear to be close to the house of Tanji Moro. If the declaration of Tanji Moro that he surprised Mangao in his house the body of Mangao would have been found somewhere near the house of Tanji Moro, which is not a fact. The place where the body was found according to Exhibit "1" is a hundred meters away from the house of Apa, thus corroborating the testimony of Moros Balais and Awali that upon being pursued by the attackers of Mangao they ran away to the house of Apa. The instruments found in the place, like the broken spear, the scythe (of Mangao), etc., also corroborate the story of the witnesses for the prosecution.

The appellants declared that some of them were at home resting, one declared that he was fishing until morning. It may be true that they had gone fishing or had gone to buy fish early in the morning, but these circumstances would not prevent them from being present at the place where Mangao was ambushed and killed which appears to be around a kilometer or more from the place where the fish is caught or bought or from the place where defendants resided. It is to be noted that not all of the twelve assailants of Mangao were present at the time of the trial.

Those who were identified as present and who were convicted and found guilty by the court as having participated in the killing or ambush are Tanji Ambran, Sahibul, Ismael, Mukband, Hatib Ajak and Arabani. All these defendants, in addition to Tanji Moro were identified by the three witnesses for the prosecution. It is not possible that three persons would have made a mistake as to their identity considering that the witnesses and the accused appear to be known to each other. We therefore find, in view of the wounds and the arms found, as well as the testimony of the witnesses for the prosecution, who fully identified the appellants, that the latter had taken part in the assault on the person of the deceased Mangao.

This appeal concerns the defendants other than Moro Tanji, who did not appeal from the decision. We affirm the finding of the court below that the accused had committed the crime of murder, all having conspired to attack and kill the deceased. Therefore everyone of them must be declared guilty of the crime committed. The crime is qualified by alevosia and aggravated by the circumstance of superior strength. Considering that the Solicitor

General has recommended that the sentence imposed be affirmed, and considering further that the crime of physical injuries and homicide are not considered so grave a crime among the accused, who are moros, we believe that the sentence imposed is justified.

Wherefore, the decision appealed from is hereby affirmed, with costs against the defendants-appellants proportionately.

Bengson, C. J., Padilla, Bautista Angela, Conception, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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