

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANCISCO CENTENO, JUAN CENTENO ALIAS TOTOK, MANUEL
CENTENO ALIAS IYAO ALL OF MALAYA-ILOILO,
ACCUSED-APPELLANTS.**

G.R. No. L-48744. October 30, 1981

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Charged with Murder in the Court of First Instance of Iloilo, Francisco Centeno, Juan Centeno alias Totok and Manuel Centeno alias Iyao, were found guilty of simple homicide, treachery and evident premeditation or the quali-fying circumstances alleged in the information not having been found to be present. They were thus sentenced each to a penalty of "imprisonment of not less than SIX (6) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of prision mayor, as minimum, to not more than FIFTEEN (15) YEARS, SIX (6) MONTHS and TWENTY-ONE (21) DAYS of reclusion temporal, as maximum, with all the accessory penalties provided for by law, to indemnify Arsenio Asistido and Nenita C. Asistido, the heirs of the deceased, the sum of P12,000.00 for the death of Nestor Asistido and in addition thereto, the sum of P33,696.00 for loss of income, plus P10,000.00 for moral damages, and to pay the costs, the Court appreciating in their favor the mitigating circumstance of voluntary surrender.

On appeal, the Court of Appeals neither affirmed nor modified the judgment appealed from. It simply expressed the opinion that, although it adopted the view of the Solici-tor General that the crime committed is Murder, for which he recommended the penalty of death, there being present the qualifying circumstance of treachery and aggravated by evident premeditation, said Court stated that the penalty could be life imprisonment or death. Refraining, however, from impos-ing one or the other, the Court of Appeals certified the case to this Court for final determination, allegedly in pursuance of Section 34 of the Judiciary Act and Section 12 of Rule 124 of the Rules of Court.

This Court has recently held that in a situation like the present, the Court of Appeals should render judgment as it may deem proper. Thus, in the case of *People vs. Daniel*, G.R. No. L-40330, November 20, 1978, this Court directed that "henceforth, should the Court of Appeals be of the opinion that the penalty of death or reclusion perpetua (life imprisonment) should be imposed in any criminal case appealed to it where the penalty imposed by the trial court is less than reclusion perpetua, the said Court, with a comprehensive written analysis of the evidence and discussion of the law involved, render judgment expressly and explicitly imposing the penalty of either death or reclusion perpetua as the circumstances warrant, refrain from entering judgment, and forthwith certify the case and elevate the entire record thereof to this Court for review." Pursuant to this ruling of this Court, this case should be returned to the Court of Appeals for the imposition of the proper penalty. (*People vs. Lucas Ramos*, G.R. No. L-49818, February 20, 1979).

The writer, however, wishes to take this occasion to express his own personal views on the question of whether,

as held in the Daniel Case, the Court of Appeals should, "with a comprehensive written analysis of the evidence and discussion of the law involved, render judgment expressly and explicitly imposing the penalty of either death or reclusion perpetua, as circumstances warrant," or following the old practice, the Court of Appeals should simply certify the case to this Court after an analysis of the evidence sufficient to enable it (Court of Appeals) to arrive at the conclusion that the proper imposable penalty is either death or life imprisonment. I incline to the latter view because of the mandate of the law that the Court of Appeals should refrain from entering judgment, which to the writer's mind, simply means that no "express and explicit" imposition of the proper penalty is required; for of what use is such kind of judgment if it could not be entered or immediately executed in case the penalty is only life imprisonment, because the case has to be certified, anyway, to the Supreme Court?

The provision of Section 17 of the Judiciary Act which provides:

"The Supreme Court shall have exclusive jurisdiction to review, revise, reverse, modify or affirm on appeal as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in -

"(1) All criminal cases involving offenses for which the penalty imposed is death or life imprisonment; x x x"

is apparently viewed as an unauthorized modification of the power of the Supreme Court as conferred by the Constitution over appealed "criminal cases in which the penalty imposed is death or life imprisonment," and is thus constitutionally objectionable. Viewed as enlarging or otherwise altering the constitutionally conferred appellate jurisdiction of the Supreme Court, the constitutional infirmity suggested may seem, indeed, to exist. But it can be viewed equally as a limitation of the appellate jurisdiction of the Court of Appeals by removing from such jurisdiction cases in which death or life imprisonment is, or would be, imposed. Then, the above-quoted provision would be free from any constitutional infirmity since the law may define and limit the jurisdiction of the Court of Appeals being its own creation. Judicial rulings enjoin interpreting a law in such a way as to save it from the doom of unconstitutionality, as against one that would consign it to such fate. (*Alba vs. Evangelista*, L-10360, January 17, 1957, 100 Phil. 683; *Teehankee vs. Rovira*, L-101, December 20, 1945, 75 Phil. 634; *Po vs. Zeta*, L-7140, December 22, 1955, 52 O.G. 222). The interpretation as is reflected in Section 12 of Rule 124, and the long practice adopted in its observance, would seem to me to counsel against any change in such practice which would make the full-blown decision required to be rendered by the Daniel doctrine of no practical value, since said decision may not be executed forthwith even if the penalty imposed is only life imprisonment, despite that the appellant is satisfied with such penalty and is ready and willing to commence execution thereof upon its rendition, as, ordinarily, it may be done without awaiting entry of the judgment. In case the penalty deemed by the Court of Appeals to be properly imposable is death, of course, compulsory review by the Supreme Court may not be avoided, and execution of said penalty has to await its imposition by the said Court either in affirmance of the trial court's decision, or on the basis of its own evaluation of the evidence.

In passing, it may be pertinent to ask: what is the effect of Justice Barredo's "Concurring Opinion" in *People vs. Ramos*, supra, which actually clashes with the doctrine as laid down in the Daniel Case, which became such "doctrine" only because of Justice Barredo's vote therefor? Whatever may be the answer to this question, and regardless of my personal views as above expressed, the controlling effect of the Daniel doctrine has to be conceded.

Accordingly, We refrain from passing on the correctness of the assessment of the evidence by the Court of Appeals which We find to be sufficiently thorough and exhaustive, and let said Court determine for itself what the proper penalty should be under its own analysis of the evidence, in accordance with the aforecited ruling of *People vs. Daniel*, supra.

WHEREFORE, let this case be returned to the Court of Appeals for proper action as above indicated.

SO ORDERED.

Fernandez and Melencio-Herrera, JJ., concur.

Teehankee, (Chairman), J., concurs in the result in a separate opinion.

Makasiar, J., concurs pursuant to the Daniel doctrine.

Guerrero, J., concurs in the result.

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SEPARATE OPINION

TEEHANKEE, J.:

I hold the opposite view (which coincides with the personal view expressed by the ponente, Mr. Justice De Castro) as per my vote concurring with the valedictory main opinion of Mme. Justice Palma in the cited 1978 case of *People vs. Daniel*[1] that under the theretofore consistent interpretation (of over forty years standing since the creation of the Court of Appeals) of the pertinent provisions of the Constitution and the law[2], whenever the Court of Appeals in an appealed criminal case before it (where the penalty imposed by the trial court is reclusion temporal or a lesser penalty and which theretofore falls under its exclusive appellate jurisdiction, since cases wherein the trial court imposes the penalty of death or reclusion perpetua are vested by the Constitution and Judiciary Act within the exclusive appellate jurisdiction of this Court[3]) is of the opinion that the penalty of death or life imprisonment should be imposed, it shall refrain from rendering (entering) judgment and shall forthwith certify the case to the Supreme Court for Final determination as if the case had been brought before the Supreme Court on appeal.

However, since the Court, by a bare majority vote, overruled this long-standing doctrine in the cited case of *Daniel*, it has accordingly gone through the protracted process of returning such cases to the Court of Appeals for the express imposition of either death or reclusion perpetua but directing that the Court of Appeals "refrain from entering judgment" but "forthwith certify the case and elevate the entire record thereof" once again to this Court for review. I believe that the *Daniel* ruling should be reexamined and set aside. While this has not been done, I am constrained (in line with my separate opinion in *People vs. Traya*[4], which this Court returned to the Court of Appeals in March 1979 pursuant to the *Daniel* ruling instead of deciding it on the merits and is now pending for the second time around, for decision, in this Court) to defer thereto and concur in the result.

[1] 86 SCRA 511 (November 20, 1978).

[2] Section 34 of the Judiciary Act and Rule 124, section 12 of the Rules of Court.

[3] Art. X, sec. 5, sub-par. (2) (d), 1973 Constitution, Art. VIII, sec. 2(4), 1935 Constitution; and section 17 of the Judiciary Act, RA 296.

[4] 89 SCRA 274, 277 (March 30, 1979).

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