

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMULO PALENCIA, JOSE PALIZA ALIAS "JOSELING",
PATERNO NOGA, AND NESTOR NOLLODA,
DEFENDANTS-APPELLANTS.**

G.R. No. L-38957. April 30, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal from the judgment of the Court of First Instance of Albay, dated April 4, 1974, finding appellants Romulo Palencia, Jose Paliza alias "Joseling", Paterno Noga, and Nestor Nolloda guilty of the murder of Alfredo Corigal, and sentencing each of them to suffer the penalty of reclusion perpetua, to indemnify, jointly and severally, the heirs of Alfredo Corigal in the sum of P12,000.00, and each to pay 1/5 of the costs. Originally, Jaime Nolloda was included in the charge, but he was acquitted after trial.

It is not disputed that at about 2:00 o'clock in the afternoon of February 19, 1972, in Sitio Quemagboñog, Barrio of Tumpa, Municipality of Camalig, Province of Albay, Philippines, Alfredo Corigal was fatally stabbed. Post-mortem findings on the body of the deceased by Dr. Benedicto M. Honrado, then Municipal Health Officer of Camalig, Albay indicated the injuries sustained by the deceased and the cause of his death, thus:

"Post-Mortem, Findings:

1. Generalized Marked Pallor.
2. Presence of Rigor Mortis all over body.
3. Multiple Gaping Wounds located as follows:

a) Nape: - six inches long with the cervical vertebra cut located at the mid portion:

- Another wound, six inches long about one-half inch below above wound also with the cervical vertebra cut.
- Another wound, four inches long cross-ing wound first described above.

b) Face: - Four inches long beginning at base of nose going up to the temporal area, left.

c) Deltoid Area: - Two and one-half inches long one inch deep with the shoulder joint bones exposed right.

d) Deltoid Area: - Three inches long, two inches below wound (c).

e) Back: - Nine inches long, extending from the base of right scapula to the base of left scapula.

- Another wound, seven inches long, two inches below first wound of back.
- Another wound, eight and one-half inches, three inches below second wound of back, with the small intestines ex-posed.

- Another wound, eight inches long cross-ing all above three wounds.

f) Head: - Three inches long at the occipital area, right side with the skull affected.

g) Deltoid Area: - Three inches long, at upper portion, left.

- Another wound, two and one-half inches long, two inches below above wound of said deltoid area, left side.

Cause of Death: Hemorrhage, severe, secondary to multiple Gaping Wounds."

Dr. Honrado testified that the afore-described multiple gaping wounds, specifically the gaping, clean cut wounds located in the nape, face, back and head must have been caused by heavy, sharp cutting instruments, such as a bolo, while the wounds in the deltoid region must have been inflicted by a small, sharp cutting instrument, like a "sogot" (a small bolo used in stripping abaca).[1]

To establish the criminal participation of appellants Romulo Palencia and Nestor Nolloda, the lone eyewitness, Rodolfo Corigal, 22 years old, abaca stripper, of Buhi, Camarines Sur, related that at about 2:00 o'clock in the the afternoon of February 19, 1972, while he was working in Sitio Quemagboñog, of Barrio Tumpa, he saw his cousin, Alfredo Corigal, being attacked with bolos by two men whom he identified to be appellants Romulo Palencia and Nestor Nolloda. He claimed that he was able to recognize them because the victim and his assailants were only fifteen (15) meters away from him, with only a few abaca stalks between them which did not obstruct his view. He testified that it was Romulo Palencia who first hacked the victim with a long bolo called "minasbad", followed by appellant Nestor Nolloda who similarly boloed the victim. Upon seeing his companion being attacked, his immediate reaction was to run towards the residence of one Rosito, owner of their boarding house, to ask for his assistance. Together with Rosito, he returned to the site of the incident and there they found Alfredo Corigal already dead. After informing the barrio captain about the incident, they proceeded to the poblacion where they reported the matter to the Chief of Police at the municipal building. On the basis of their report, the Chief of Police sent three (3) policemen to sitio Quemagboñog to investigate the death of Alfredo Corigal. The police officials later returned to the poblacion bringing with them the cadaver of the deceased for autopsy.

Judge Vicente Salvadora of the Municipal Court of Guinobatan, Albay, who was then Acting Judge of Camalig, testified that appellants Romulo Palencia, Jose Paliza and Paterno Noga executed sworn statements admitting their criminal complicity in the said offense.[2] He declared that he translated to the afore-mentioned affiants the contents of said documents into the Bicol dialect, propounded questions to them to assure himself that the declarants made their statements voluntarily and that the same reflected the truth, and it was only after he was satisfied of the voluntary character of said statements that he affixed his signature thereon as the administering officer.

The appellants denied complicity in the commission of the crime and interposed the defense of alibi. Appellant Romulo Palencia declared that he is a resident of Sabang Puro, Malacbalac, Pioduran, Albay; that on February 18, 1972, he was taken by his uncle, Flavio Lucila and brought to Tumpa, Camalig, to work with him on the ricefield; that on February 19, 1972, he worked on the farm from 7:00 o'clock in the morning until 4:00 o'clock in the afternoon; that about 9:00 o'clock in the evening, he was taken by policeman Jose Flores who told him that they would talk about something in the house of the barrio captain, but instead of stopping at the house of the barrio captain, they proceeded to the municipal building. In the office of the Chief of Police at the municipal building, he was investiga- ted and when he said he had nothing to do with the incident, Pat. Flores boxed him twenty (20) times on the belly. While this was going on they asked him questions which he answered, which questions and answers were typewritten by a policeman. Afterwards, he was asked to impress his thumbmark on a written statement although the contents thereof were not translated to him in the local dialect. He admitted, however, that

he was investigated by Judge Vicente Salvadora on February 21, 1972, at the session hall of the municipal building of Camalig in the presence of several persons. He said that he only came to know his co-appellants Jose Paliza, Paterno Noga and Nestor Nolloda while they were detained in the municipal building.

For his part, Nestor Nolloda declared that prior to February 19, 1972, he did not know his co-appellants Jose Paliza and Romulo Palencia. On February 19, 1972, he was in his house in Maninila, Camalig, Albay, braiding abaca. This barrio is adjacent to Barrio Tumpa. He said he did not leave his house the whole day of February 19, 1972. The following day, he was fetched by policeman Flores who informed him that, the Chief of Police wanted to investigate him. He went with the policeman to the municipal building where he was immediately lodged in the jail. In the jail, policeman Flores gave him fist blows on the abdomen and the chest. He did not inquire why he was being maltreated much less was he investigated about the killing of Alfredo Corigal in Tumpa. He could not remember whether or not he signed or affixed his thumbmark on any affidavit. When he appeared before Judge Salvadora he was not asked about the killing at Tumpa.

On the other hand, appellant Paterno Noga testified that on February 19, 1972, he worked in the camote plantation of Eusebio Pavia in Tumpa, from morning until 4:00 o'clock in the afternoon. After 4:00 o'clock that afternoon, he went home to prepare the supper of his wife who had just recently given birth. The following day, policemen Flores and Nuyda went to his house and fetched him as the Chief of Police wanted to question him. While at first he did not go with them, he subsequently changed his mind when policeman Flores returned and accompanied the said policeman to the municipal building. While they were inside the municipal building, policeman Flores inserted the tip of the gun in his mouth and kicked him. The Chief of Police, Augusto Vibar, also gave him fist blows. He asserted, however, that he was not investigated about the killing of Alfredo Corigal. He signed the affidavit marked Exhibit "G" without knowing its real contents because policeman Flores informed him that it was a document for his release. When he appeared before Judge Salvadora the contents of Exhibit "G" were read to him in English, but they were not translated" to him in the Bicol dialect.

Jose Paliza claimed that on February 19, 1972, he did not leave his house in Tumpa, Camalig, Albay as he was doing some carpentry work. The following day, he was taken by policeman Flores and brought to the municipal building where he was asked whether he had something to do with the death of a certain person. When he told the policeman he had nothing to do with it, the latter gave him fist blows on the abdomen. As he could no longer endure the torture he signed the statement (Exhibit "E") given to him.

On rebuttal, Pat. Jose Flores testified that he arrested Jaime, Jose and Romulo, while policeman Nuyda arrested Paterno and delivered said persons to the custody of the policeman in charge of the jail. He denied having maltreated anyone of them, much less did he force them to sign aforesaid declarations.

Appellants' main argument in this appeal is that the testimony of Rodolfo Corigal should not have been accorded full credence by the trial court. Appellants insist that he could not have seen the persons who attacked the deceased because between the witness and the victim there were clusters of abaca plants which could have impeded his view. It appears, however, that the witness was only fifteen (15) meters away from the deceased at the time of the attack and while there were abaca plants between them, the abaca plants "were recently cleaned and could not obstruct" his view.[3] This circumstance – the absence of any improper motive on the part of the witness – and the forthright manner in which he identified appellants Romulo Palencia and Nestor Nolloda as the two who hacked his cousin, Alfredo, (Exhibit "1") render appellants' argument unper-suasive. Indeed, the record shows that on the very day of the incident, this witness positively identified the two appellants as the assailants of the deceased from a line-up of five (5) persons who were shown to him by the Chief of Police of Camalig, Albay. We have invariably held that "the early revelation of the identity of the killers which led to their prompt arrest bespeaks of a spontaneity of reaction not dictated by ulterior considerations".[4]

It is, however, asserted that there are discrepancies in the statements of the witness in his affidavit (Exhibit "1"), in relation to his testimony in court, which impairs his credibility. The alleged inconsistencies in said declaration, however, refer to minor details which cannot in any manner impair the credibility of his testimony. Inconsistency in the testimony of witnesses, if only on minor details, reinforces rather than weakens their credibility.[5]

Appellants also argue that the trial court erred in admitting as evidence the extra-judicial declarations of Romulo Palencia, Jose Paliza and Paterno Noga (Exhibits "G", "E", and "J"). It is claimed that all of the affidavits were concocted by Pat. Jose Flores and that the appellants signed them under duress. The attendant facts do not support such contention. It should be noted that when the afore-mentioned appellants appeared before Judge Vicente Salvadora on February 21, 1972 to ratify under oath their aforesaid declarations, not one of them complained to the afore-mentioned judge of their alleged maltreatment. As a matter of fact, Judge Salvadora, independently of the statements prepared by the police, propounded questions to the declarants and the questions and answers were all recorded.[6] The purpose of this exercise was to enable the investigating judge to determine whether or not the declarants executed those statements voluntarily and that they reflected the truth. On this matter, Judge Salvadora testified:

"FISCAL BONGANAY

Q Did you read the contents of this affidavit to the affiant Romulo Palencia before you requested him to swear?

A That affidavit is written in English so before I had him sworn to or before I have signed that affidavit I read it to him in Bicol.

Q By translating the questions and answers?

A Into the Bicol dialect.

Q After reading the same in Bicol to the affiant Romulo Palencia, what else did you do, if any, as administering officer?

A I asked him whether that was written there voluntarily, in other words, whether he was forced or not into making that kind of statement.

Q What was his statement?

A His answer was he did it voluntarily so I have the affidavit ratified and affixed my signature otherwise I would not have done it.

* * * * *

Q All right. The affiant Romulo Palencia had informed you that he voluntarily executed this affidavit specially the contents thereof, what else did you do, if any, as administering officer?

A I cross-examined him on the basis of the affidavit because that is required by the law."[7]

This declaration of the municipal judge is corroborated by Mrs. Isabelita Nasayao, Clerk of the Municipal Court who testified that she took down the stenographic notes of the proceedings. Moreover, appellants have not complained to any other authority of such purported maltreatment nor exerted any effort to have themselves examined by a reputable physician to buttress their claims. On the other hand, on the face of the extra-judicial declarations themselves, We find no signs of any suspicious circumstance which would cast any serious doubt on their integrity. Appellant Romulo Palencia not executed Exhibit "C" but also testified before Judge Salvadora (Exhibit "D"). In those two statements, he related in detail the circumstances surrounding the incident. He stated

that he was courting one Nelda Moratalla of Tumpa, Camalig, Albay, whose affection was also being sought by the victim, Alfredo Corigal. As a consequence of this rivalry, he decided to kill Alfredo. For this purpose, he went to the abaca plantation at Iraya, together with the other appellants, but he did not reveal his plan to them. Upon seeing Alfredo in the plantation, he hacked and stabbed the victim several times with a bolo. This bolo he later surrendered to the police.

Both Jose Paliza and Paterno Noga admitted in their sworn statements (Exhibit "E" and "G") that they went to Tumpa, Camalig, Albay, to get some vegetables; that upon reaching the abaca plantation of Amado Nierva, they saw appellant Romulo Palencia hack a man about eleven (11) times near the "agatan" (cottage); that afterwards, Romulo faced them and threatened to hack them if they did not attack the victim; that because of his threats, Jose Paliza got a small knife (sogot) and injured the victim on the left shoulder while Paterno Noga hacked the same victim on the arm and then both of them ran away.

On the whole, the narration given by said appellants in those affidavits shows spontaneity and coherence. We have previously observed that the voluntariness of a confession may be inferred from its language. Thus, where the narra-tion of the declarant tends to explain away his conduct or shift the blame to others, this is a circumstance that may be considered as demonstrative of voluntariness rather than of compulsion.[8] And where the declaration of the accused is replete with details which could have been supplied only by the declarant, and the narration reflects spontaneity and coherence which psychologically cannot be associated with a mind under duress or torture, then such circumstances would be inconsistent with the claim of the declarant that his declaration was a mere fabrication of the police which was forced upon him. On the basis of the foregoing criteria, We find that the trial court did not err in admitting as evidence the aforesaid declarations.

Equally unmeritorious is appellants' insistence that on the basis of Dr. Honrado's testimony, there was no plurality of aggressors as only one assailant could have inflicted the wound sustained by the deceased. There is no question that the deceased sustained about thirteen (13) wounds scattered in various parts of his body. Thus, there were multiple gaping wound at the nape; one was a wound six (6) inches long cutting the cervical vertebrae located at the mid portion; another wound six (6) inches in length is located about one-and-one-half (1-1/2) inches below the first wound also cutting the cervical vertebrae; below this is another wound four (4) inches long. On the region of the face, there is a four-inch incised wound beginning at the base of the nose going to the left temporal area. There are also wounds on the deltoid area consisting of (a) wound two-and-one-half (2-1/2) inches long with the joint bones in the shoulder exposed; (b) another three-inch wound below this; (c) a three-inch wound on the upper portion, left; and (d) a two-and-one-half-inch wound below the latter. Five (5) wounds were found on the back of the victim – one nine (9) inches long, extending from the base of the right scapula to the base of the left scapula; two (2) inches below this is a seven-inch long wound; while still three (3) inches below this second wound is another wound eight-and-one-half (8-1/2) inches long, exposing the small intestines; and there is also a wound on the occipital area about three (3) inches long affecting the skull. While it is true that Dr. Honrado declared that he cannot tell whether one or more instruments were used in inflicting the aforementioned injuries, he stated very clearly that the multiple gaping clean-cut wounds could have been caused by heavy sharp-bladed instruments, like a bolo, whereas the wounds in the deltoid area could have been caused by "a small sharp cutting instrument." [9]

The commission of the offense was attended by treachery. The attack on the victim by appellants Romulo Palencia and Nestor Nolloda was deliberate, sudden and unexpected and from behind. This is evident from the testimony of Rodolfo Corigal and from the circumstance that most of the wounds sustained by the deceased and which were fatal were found on the back of the victim while the aforesaid assailants escaped completely unscathed. All of these are indicative of the fact that the assailants employed means and methods which tended directly and especially to insure the execution of the offense without risk to the offenders arising from the defense

which the offended party might have made.[10]

As to the participation of appellants Jose Paliza (Exhibits "C" and "F") and Paterno Noga (Exhibits "G" and "H"), the only evidence against them consists of their aforementioned extra-judicial statements or declarations. In both declarations, the appellants categorically stated that they attacked the deceased after appellant Romulo Palencia faced them and threatened to hack them unless they also joined in attacking the victim, Jose Paliza stated that he injured the victim on the left shoulder with his small knife, while Paterno Noga hacked the victim in the arm with a bolo (tigpas) and after injuring the victim once they both ran away.

On the basis of these facts, the Solicitor General recommends the affirmance of the judgment with respect to appellants Romulo Palencia and Nestor Nolloda and the acquittal of appellants Jose Paliza and Paterno Noga. The Solicitor General is of the view that appellants Jose Paliza and Paterno Noga apparently acted under duress. To begin with, the evidence of the prosecution against the two appellants consists of their admissions under oath (Exhibits "E" and "G") that they stabbed the deceased Alfredo Corigal because their co-appellant Romulo Palencia, after stabbing the afore-mentioned deceased several times, threat-ened to hack them unless they themselves hack the same victim. The trial court, however, pointed out that "they could have escaped if they did not want to hack Alfredo, thus, they must have voluntarily hacked him." [11]

We are not persuaded that Jose Paliza and Paterno Noga acted under duress to warrant their exemption from criminal responsibility. Duress, as a valid defense, should be based on real, imminent or reasonable fear for one's own life. It should not be inspired by speculative, fanciful or remote fear.[12] A threat of future injury is not enough. It must be clearly shown that the compulsion must be of such character as to leave no opportunity for the accused to escape.[13] In the case at bar, appellants Paliza and Noga had every opportunity to run away if they had wanted to or to resist any possible aggression on their persons by appellant Palencia, considering that the said two appellants were also armed. It is more likely that, out of a sense of companionship or camaraderie, they joined in the attack after Palencia and Nolloda had hacked the victim several times. Conspiracy has not been proven, since there is no showing that the attack was agreed upon beforehand. The wounds inflicted by appellants Jose Paliza and Paterno Noga could not have caused the death of the victim, much less materially contributed to his death. They were not serious injuries. At most, appellants Paliza and Noga should be held liable as accomplices for having cooperated in the execution of the offense by simultaneous acts which were not indispensable.[14]

Accomplices, appellants Jose Paliza and Paterno Noga shall be sentenced to suffer an indeterminate penalty from Six (6) years and Six (6) months of prision mayor, as minimum, to Fourteen (14) years, Eight (8) months and One (1) day of reclusion temporal, as maximum, together with the accessory penalties provided by law. The civil liability of Twelve Thousand Pesos (P12,000.00) shall be apportioned, as follows: Appellants Romulo Palencia and Nestor Nolloda, as principal, shall be liable primarily for Ten Thousand Pesos (P10,000.00) while appellants Jose Paliza and Paterno Noga shall be liable for Two Thousand Pesos (P2,000.00). The subsidiary liability of all of them shall be enforced in accordance with the provisions of Article 110 of the Revised Penal Code.

WHEREFORE, in view of the foregoing, the appealed judgment is hereby affirmed, with the foregoing modifications. No pronouncement as to costs.

Fernando, (Chairman), Barredo, Aquino, and Concepcion Jr., JJ., concur.

[1] t.s.n. pp. 7, 11, 12, April 11, 1973.

[2] Exhibits "C", "E", and "G".

[3] T.s.n., p. 13, Hearing of May 8, 1973.

- [4] People v. Corpus and Serquina, 107 Phil 44, 46.
- [5] People v. Garcia, 18 SCRA 197; People v. Verso, 21 SCRA 1403.
- [6] Romulo Palencia – Exhibit "D"; Jose Paliza – Exhibit "7"; Paterno Noga – Exhibit "H".
- [7] T.s.n., pp. 41-42, July 17, 1973.
- [8] People v. Buluran, L-5849, May 24, 1954.
- [9] T.s.n., p. 7, Hearing of April 11, 1973.
- [10] People v. Casalme, 17 SCRA 717; U.S. v. Pengzon, 44 Phil. 224; People v. Noble, 77 Phil. 93.
- [11] Decision of April 4, 1974.
- [12] People v. Quillooy, 88 Phil 53.
- [13] People v. Parulan, 88 Phil 623.
- [14] People v. Aplegido, 76 Phil., 571; People v. Antonio, 73 Phil 421; People v. Ascona, et al., 56 Phil 580; People v. Tamayo, 56 Phil. 587.

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