

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. BASILIO PADUA ET AL., DEFENDANTS AND APPELLANTS.

G.R. Nos. L-14546-47. April 28, 1962

Ponente: PADILLA, J.

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PADILLA, J.:

Basilio Padua and Mamerto Flores were charged with the crime of robbery committed in the house of the spouses Ariston Flores and Avelina Garcia at barrio Diome, Municipality of Maria Aurora, Sub-Province of Aurora, Quezon, on 2 January 1956 (criminal case No. 1324).

The same defendants, together with Vicente Julian, were charged with the crime of murder for having killed Ariston Flores and Avelina Garcia in their dwelling place on 7 April 1957 (criminal cases Nos. 1427 and 1441). Santiago Rebulido, an alleged confederate, was not charged because he had not been apprehended.

Upon arraignment they entered a plea of not guilty.

The three cases were tried jointly. After trial, the Court of First Instance of Quezon rendered judgment, as follows:

WHEREFORE, the Court finds the accused Mamerto Flores and Basilio Padua guilty of robbery as charged in the information in Criminal Case No. 1324, and of murder in Criminal Cases Nos. 1427 and 1441 and, taking into account the aggravating circumstances of nocturnity and dwelling, hereby sentences the said defendants, and each of them, in Criminal Case No. 1324, to suffer an indeterminate penalty ranging from four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum, and to reclusion perpetua in Criminal Cases Nos. 1427 and 1441, to indemnify the heirs of the deceased Ariston Flores and Avelina Garcia, in each case, the sum of P4,000, for each group heirs, to the other accessory penalties provided for by law, and to pay their proportionate shares in the costs of the proceedings.

The defendant Vicente Julian is acquitted for insufficiency of the evidence against him, with the proportionate share of the costs de oficio, and, it appearing that he is now under detention, he is hereby ordered released from custody, unless he be detained for some other cause.

From this judgment only the defendants found guilty of murder in the two cases have appealed.

On the night of 7 April 1957, between 9:00 and 10:00 o'clock, four persons went to the house of the spouses Ariston Flores and Avelina Garcia, located in the barrio of Diome, Municipality of Maria Aurora, Sub-Province of Aurora, Province of Quezon. Basilio Padua and Santiago Rebulido went up the house and Mamerto Flores and Vicente Julian stayed on the ground. Suddenly a shot rent the air of that summer night. Leandro Garcia, a younger brother of Avelina Garcia, who had been awakened, saw Padua fire at his sister. Stricken with fear, he jumped out of the house and while running away he heard another report of a gun from the house. The following morning, at about 8:00 o'clock, Dionisio Estonilo, the Chief of Police of Maria Aurora, received a report from the barrio lieutenant, Geronimo Marzan, that the spouses Ariston Flores and Avelina Garcia had been found dead in their house. Upon receipt of the report, the former immediately repaired to the scene of the crime, accompanied by two

policemen, a photographer and the sanitary inspector. Leandro Garcia told the chief of police that he had seen Basilio Padua fire the first shot after which he jumped out of the house and ran away. The chief of police told the Lieutenant-Governor that Leandro Garcia was an important witness, so the latter was brought by the former to Baler. The chief of police drew a sketch of the house, showing the relative positions of the dead spouses (Exhibit G), and had photographs taken of the victims as they were found in the house and of the house itself (Exhibits F, F-1 and F-2). On the floor of the house he also found a blank cartridge (Exhibit I). The bodies of the deceased were brought to town and later on examined by Dr. Sergio Farin, the municipal health officer, who found, issued certificates of the examination he made of the cadavers (Exhibits L and K) and testified that the spouses had died of gunshot wounds. He certified that he found a gunshot wound in the body of the deceased Ariston Flores "with a point of entrance at the right mid-subclavicular region with the point of exit below the lower border of the left scapula," the bullet piercing the lungs and the heart, and "the deceased must have been shot in a sitting position" (Exhibit L). He testified that "the assailant was standing and the victim was lying down or in an upright position." Avelina Garcia sustained a gunshot wound, the bullet hitting the right maxilla and coming out of the left occipital bone. The shot perforated the skull and damaged the brain (Exhibit K). He further testified that the assailant must have been only 1% to 2 feet from her, because of the presence of powder burns on her right face, and that she must have been sitting on the bed with her assailant standing in front of her because of the downward direction of the wound.

After their arrest Basilio Padua, Mamerto Flores and Vicente Julian signed sworn statements before the municipal mayor of Maria Aurora. Mamerto Flores in his sworn statement admitted that, together with Basilio Padua, Vicente Julian and Santiago Rebullido, he went to the deceased spouses' dwelling place for the purpose of killing them, because they harbored an ill-feeling towards them for the criminal complaint for robbery filed against him and Padua and for the slugging of Julian and Rebullido by Ariston Flores; and that Padua and Rebullido were the ones who went up the house and shot the spouses (Exhibit D). Basilio Padua subscribed and swore to his first statement dated 10 April 1957 before the Justice of the Peace and the Municipal Mayor (Exhibit 5-Padua-Flores), but on 12 April 1957 he subscribed to another statement before the aforementioned mayor of Aurora, (Exhibit E). In his first sworn statement (Exhibit 5-Padua-Flores) Padua said that he together with Flores and two others went to the house of the spouses and that one of the companions of Flores went up the victim's house and shot the spouses, stating further that he was forced to go along with Flores and the two others. In his subsequent statement (Exhibit E) he said that on the night of 7 April 1957 at about 10:00 o'clock he went with Flores, Julian and Rebullido to the house of the spouses Ariston Flores and Avelina Garcia to kill them, because the latter had filed a complaint for robbery against Mamerto Flores; that he shot Ariston Flores and Santiago Rebullido, Avelina Garcia; and that this last statement, and not the former, is true (Exhibit E).

The medical certificates (Exhibits K and L), the death certificates (Exhibits J and J-1), the pictures taken of the victims and their house (Exhibits F, F-1 and F-2), the sketch of the interior of the house of the victims (Exhibits G, G-1 to G-7), the empty cartridge of the bullet found in the house of the victims in the possession of the Clerk of the Court of First Instance of Quezon (Exhibit I), and the sworn statements of the three defendants (Exhibits C, D and E) were admitted and read in evidence.

The appellants contend that, aside from their confessions which had been extorted from them by means of force and violence and for that reason should not have been relied upon by the trial court, there is no other evidence upon which a judgment of conviction may be predicated.

On this point the trial court made the following findings which are supported by the evidence:

As already stated, defendants Flores and Padua claim that they signed their respective confessions, Exhibits D and E, because they had been maltreated by Sgt. Felipe, Cpl. Sibal and Pfc. Gramaje. Defendant Mamerto

Flores also claims that he had been maltreated by Cpl. Sibal and Pfc. Gramaje on the way from his house to the municipal building of Maria Aurora, and inside the office of the chief of police of the said municipality on the afternoon of 10 April 1957. Again, this claim must be overruled. Policeman Bitong's testimony regarding the alleged maltreatment of Mamerto Flores on the way from the latter's house to the municipal building, and then inside the office of the chief of police of Maria Aurora in the afternoon of 10 April 1957, is inherently unbelievable. It is to be seriously doubted whether the constabulary soldiers could have had the effrontery to maltreat a prisoner on a public street. It is, likewise, unbelievable that the chief of police of Maria Aurora should have tolerated the alleged maltreatment of the defendant Flores by Cpl. Sibal and Pfc. Gramaje right inside his office. Bitong's testimony becomes all the more unbelievable when we take into consideration that the alleged maltreatment of Mamerto Flores by Sibal and Gramaje in the office of the chief of police occurred during office hours and the maltreatment was so serious that Mamerto's cries or shouts had attracted the people, inside the municipal building. Furthermore, it is incredible that the Municipal Mayor of Maria Aurora, who must have been in his office on the second floor of the building and who could have heard the cries or shouts of Mamerto Flores, should have tolerated the maltreatment considering that, according to the municipal mayor, the defendants Flores and Padua are his political henchmen. Besides, assuming that Mamerto Flores had really been maltreated by Cpl. Sibal and Pfc. Gramaje in the afternoon of 10 April 1957, such alleged maltreatment could not have affected the voluntariness of his confession, Exhibit D, considering that the said statement was given by Mamerto Flores not to Sibal or Gramaje but to Rosauo L. Cucal at the headquarters of the 109th PC Co. in San Luis, Baler, on 11 April 1957, when Mamerto Flores was no longer under the influence of the effects of the alleged maltreatment.

Defendant Padua's repudiation of his written confession, Exhibit E, on the same ground of maltreatment, must also be discarded. According to him, he was picked up in his house on the afternoon of 8 April 1957 and brought to the PC barracks in Barrio Ditailen, Maria Aurora. Assuming that he had been maltreated by Pfc. Gramaje in Ditailen, he was no longer under the influence of the said maltreatment when he signed his confession in the headquarters of 109th PC Co. in San Luis, Baler, Quezon, on 11 April 1957, not before Gramaje but before Sgt. Felix Santiago. Padua's complaint of maltreatment in the hands of the PC investigators, is also belied by his statement taken by Pfc. Gramaje on 9 April 1957 in San Luis, Baler, the tenor of which tended to exculpate himself, and primarily placed the blame for the killing of the spouses, Ariston Flores and Avelina Garcia, on his co-defendant Mamerto Flores and some alleged companions of the latter, who were unknown to him, and who had, according to him, practically forced him into going with them to the house of the said spouses. (Exhibit 5-PaduaFlores). It is unthinkable that the constabulary investigators would maltreat a prisoner into signing a written statement of the nature of Padua's original statement.

The claim of maltreatment put up by defendants Padua and Flores are (is) also belied by the abundance of details in their respective statements, Exhibits D and E, which could have been known only to them but which were difficult if not impossible, for the investigators to have known. Thus, Flores and Padua even gave a description of the firearms used in the killing, as one with a long barrel, and another with a short barrel (Question and Answer No. 12, Exhibit D; Question and Answer No. 10, Exhibit E). They also mentioned a certain Santiago Rebullido, who is still at large, as one of their companions in going to the house of the spouses Ariston Flores and Avelina Garcia. (Question and Answer No. 9, Exhibit D; Question and Answer No. 3, Exhibit E). Mamerto Flores even told the investigators that Padua was the first one to go up the house of the victims, followed by Santiago Rebullido, and that he (Flores) had even, hidden one hand grenade in a banana plant near his house while, for his part, Padua told the investigators that the firearms he used had been given by him to Mamerto Flores. Lastly, Mamerto Flores told the investigators that the firearm he used had been given by him to Mamerto Flores. Lastly, Mamerto Flores told investigators that after the death of the spouses, Ariston Flores and Avelina Garcia, Santiago Rebullido told him in Barrio Bangco that it was he who shot and killed the spouses, a conversation which could not have been known by the investigators.

But what is really destructive of the claim of defendants Padua and Flores, regarding their alleged maltreatment in the hands of the PC investigators, is the testimony of their own witness, Mayor Pedro

Wenceslao of Maria Aurora. Mayor Wenceslao testified that a few days after Padua and Flores and Julian had acknowledged their respective statements before him, they returned to his Office, accompanied by a policeman, and asked him, "What shall we do, Mayor? We signed the affidavits because we were afraid we will be maltreated by the soldiers." From Mayor Wenceslao's language, it can be easily inferred that the defendants signed their respective affidavits not because they had been actually maltreated, but because they were merely afraid that they might be maltreated by the PC soldiers. If these defendants had really been maltreated by the PC soldiers into signing their respective statements, they could have easily told Mayor Wenceslao, even if some PC soldiers were present when they acknowledged their said statements before the Mayor, because the latter would have certainly given them all the protection of his office, considering that they were his political followers.

The fact that defendants Padua and Flores pleaded not guilty in the preliminary investigation conducted by the Justice of the Peace of Maria Aurora (Exhibits 8 and &-a-Padua-Flores), does not in any manner substantiate their claim of maltreatment. The preliminary investigation was made a considerable length of time after Padua and Flores had made their fatal admissions in Exhibits D and E. Realizing the gravity of the admissions they had made, it must have occurred to them, as an afterthought, to repudiate their confessions and to voice their innocence at the preliminary investigation. It would, indeed, be dangerous to overrule and discard a confession made by a defendant only by the simple expedient of hii later on pleading not guilty upon his arraignment in the preliminary investigation for then, all that defendant would have to do to repudiate a confession, would be to plead not guilty upon arraignment.

* * *

Contrary to the claim of the appellants, there is evidence, besides the confessions made by them, which is the testimony of Leandro Garcia, who testified at a joint trial of the three cases, to the effect that he saw Basilio Padua fire at his sister on 7 April 1957.

A motive for the killing of the spouses is not lacking. The complaint filed by the spouses charging the appellants with the crime of robbery committed in their house on 2 January 1956 upon which criminal case No. 1S24 was commenced and tried jointly with these two criminal cases for murder (Nos. 1427 and 1441) and the slugging of Vicente Julian and Santiago Rebullido by Ariston Flores as revealed by Mamerto Flores in his sworn statement (Exhibit D) furnish the motive for the commission of the crimes.

The trial court correctly gave no credence to the alibi set up by both appellants in the face of clear and positive evidence showing that they committed the crimes with which they are charged.

As found by the trial court, the appellants Basilio Padua and Mamerto Flores are guilty beyond reasonable doubt of murder in each case qualified by treachery with the aggravating circumstances of nocturnity and dwelling, without any mitigating circumstance to offset them. The main penalty to be imposed in each case, as provided for in Article 248 of the Revised Penal Code, is death. For lack of the number of votes required by law to impose such penalty, the medium period of the penalty provided by law has to be imposed.

The judgment appealed from in each case is affirmed, with costs against the appellants.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B, L., Barrera, and Paredes, JJ., concur.

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