

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. DELFIN GALLEGO, CONRADO SORIANO, ROMER LACSON AND DOMINADOR VERGARA, DEFENDANTS AND APPELLANTS.

G.R. No. L-1813. December 14, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

On April 24, 1947, Conrado Soriano, accompanied by Romeo Lacson, went to the store in Bacolod of Esteban Uy, a Chinese commonly known also as Wa Ken Yao, asking him money and rice, as had been done twice before. This time Uy refused to give anything, alleging that his partner was absent. "From now on, until the third day, we will not meet anymore," said Conrado Soriano, who immediately left with his companion.

At about 7 o'clock in the evening of April 27, 1947, Sixto Impe, a laborer in the service of Uy and whose work was to haul rice from Uy's bodega to the public market, went to a black market at Smith Street for the purpose of drinking tuba. He met at the place the four appellants who were already drinking it. Conrado Soriano invited him to join them in the affair. Between 8:00 and 9:00 o'clock, appellants invited Impe to follow them. He inquired about the place, but he was told just to follow them. They went to Luzuriaga Street where the house of Uy is located. Soriano advised Impe that they were going to the house of Uy to throw a hand grenade, adding: "I am warning you not to tell anybody, because if you will inform somebody, we will kill you."

When they arrived in front of the house of Uy, they walked back and forth because there were plenty of people. To wait further for the people to get out from the place, Soriano and Impe drank tuba, while Delfino Gallego and Lacson entered the alley towards the house of Uy. After drinking tuba, Soriano invited Impe to go to the house of Uy to carry out their purpose. After reaching a nearby rice mill, Impe stopped. Soriano and Gallego went behind the house of Uy. Gallego climbed on the shoulders of Soriano and went up a window of the house of Uy. After a while, Gallego jumped down, and when he was on the ground, the hand grenade exploded in a room of Uy's house. The hand grenade was given by Soriano to Gallego. After the explosion, Lacson urged his companions to scamper away.

Sometime before the explosion, Tan Sin Tay, wife of Uy, was awakened, leaving her husband alone in the conjugal bed to see if their children were covered with blankets. At that time she heard the creaking of galvanized iron roofing but, paying no attention to it, she proceeded to the toilet to satisfy a physiological necessity. Then she heard the explosion and, upon returning to their room, she found her husband dead, bathed in his own blood. Later on, the authorities were able to retrieve in several places of the room shrapnels of hand grenade.

The testimony of Sixto Impe as to appellants' participation in the crime is corroborated by Luis Demalata who saw appellants the same night at Luzuriaga Street near the house of Uy, sometime before the explosion.

Vergara and Lacson signed affidavit Exhibits F and G, respectively both admitting their active participation in the throwing of the hand grenade in the house of Uy.

Appellants set up alibi as defense and tried to show that Vergara and Lacson were compelled to make the affidavits, exhibits F and G, through duress and that Irape is the one who threw the hand grenade that killed Uy and he is exclusively responsible for the crime.

The testimonies presented by appellants in support of their alibi cannot prevail over the testimonies of Impe and Demalata who, without any motive that could have induced them to hurl a false imputation, positively identified the four appellants as having been in the scene of the crime.

The insinuation that Impe was the only one responsible for the crime is based exclusively on the written declaration exhibit 3—Gallego, dated May 14, 1947. But the pronouncement of the trial court that exhibit 3" Gallego was not executed voluntarily by Impe is well supported by the evidence. Impe testified that he was maltreated by Lt. Felizardo Martir of the Military Police Command and forcibly stamped in said exhibit his thumb previously smeared with ink. Detective Primitivo Sumagaysay said that Impe, when brought to his office, complained of the maltreatment inflicted on him by military police authorities and showed on his body signs of the maltreatment. Marcelo Mendoza, a witness for the defense, testified that he saw that Impe was boxed by Lt. Martir, when Impe denied that he was responsible for killing Uy. Impe, according to Mendoza, was hit in the abdominal region and was given many blows until he became unconscious, and it was only after he had recovered that he said that he was one of those who threw the hand grenade, and the affidavit was prepared by Lt. Martir who later took hold of the hands of Impe and placed his thumbmark on it, the affidavit not having been read to Impe. The trial court found that Impe is uneducated who cannot read and can write only his name. Furthermore, Impe did not have the least motive to kill his employer who was paying him a monthly salary of P30, plus P0.50 a day for food and a free ration of three gantas of rice a week. Besides, for hauling rice for Uy's customers, he received tips from the latter so much so that he could net around P100 a month.

The trial court found Impe to be timid, inoffensive and submissive, and this character explains his inability to resist appellants' invitation for him to follow them to the scene of the crime.

The declarations of Vergara and Lacson that their extra-judicial confessions were exacted from them through illegal means by the police authorities had been belied by Judge Amante of the municipal court of Bacolod, former Assistant City Attorney Villarosa and detective Sumagaysay, and detectives Homogod and Vasquez. In the case of Lacson, he swore to his confession exhibit G in the presence of several persons including Mrs. Jocson and Atty, Yusay, his sister and brother-in-law, respectively.

The lower court sentenced appellants to suffer the penalty of reclusion perpetua. to indemnify jointly and severally the heirs of Esteban Uy in the sum of P2,000.00, without subsidiary imprisonment in case of insolvency, and to pay their proportionate share of the costs. The sentence is in accordance with the facts and the law except that the indemnity should be raised, as recommended by the Solicitor General, to P6,000.00 in consonance with the doctrine laid down in the case of *People vs. Amansec* (L-927) and, as thus modified, it is affirmed.

Moran, C.J., Paras, Feria, Pablo, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

Judgment modified.

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