

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TOMAS GATBUNTON, DEFENDANT-APPELLANT.***G.R. No. L-2435. May 10, 1950*

Ponente: BENGZON, J.

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This is an appeal from the decision of the court of first instance of Bataan finding the accused Tomas Gatbunton guilty of quadruple murder and sentencing him to life imprisonment, to indemnify the heirs of the respective victims in the amount of P2,000.00 for each and to pay the costs.

At midnight of September 4 1947, the moon shone bright upon the house of Magdaleno Buenaventura on the seashore of Pantalan Bago, municipality of Orani, province of Bataan. Fisherman by occupation, Magdaleno lay there, asleep, with his wife Engracia Salazar and their two boys and five girls. His partner in the fishing business, Mariano Sebastian, also slept under the same roof with his wife Maxima Capule (who was a second cousin of Engracia) and his two children.

Between one and two o'clock, the silence was noisily broken by two bursts of machinegun fire. The first killed Mariano Sebastian and Maxima Capule. The second snuffed out the life of Clarita (daughter of Magdaleno) and seriously wounded Carmen, another daughter who died that afternoon at the Provincial Hospital. (Engracia Salazar and her children Conrado, Crescencia and Angel na were wounded).

After shooting the inmates, the gunman who stood upon the top rung of the stairs hurried to a waiting banca manned by three rowers and escaped into the river and the sea. But not before he was recognized by Magdaleno and his wife and their sixteen-year-old son Cristino. All the three swore that it was Tomas Gatbunton, whom all of them knew, since he had worked with Magdaleno in the latter's fish-corral, for about a year, and had left his employ scarcely two weeks before the shooting.

It appears that Tomas departed from Pantalan Bago on account of a quarrel over a ball which his daughter Emang claimed as her own against Clarita, the daughter of Magdaleno. It is said the latter intervened to favor his daughter, and Gatbunton, resenting the interference, left the next day with all his family and transferred permanently to Lubao, Pampanga. This incident brought to a climax the differences between Magdaleno and Tomas arising from the former's repeated desire to employ Mariano Sebastian over the objection of Tomas.

After Tomas Gatbunton had left the barrio and Magdaleno's employment, the latter took in Mariano Sebastian, whose family dwelt nearby. However, a few days before the tragedy they transferred to Magdaleno's house because their house had a leaky roof; Thus it happened that in the night of September 4, the two families were resting together: Magdaleno's occupying the inner room, and Mariano's (with Cristino) the outer. The rooms being small, the occupants must have huddled together so that it was difficult for the killer to perceive who was who.

That day (September 5) the constabulary authorities investigated. And the next day, September 6, 1947, Magdaleno Buenaventura subscribed under oath before the justice of the peace of Orani, Bataan, an affidavit sub-

stantially narrating the facts above stated. And on September 8, 1947, his wife Engracia thumbmarked before the clerk of court of Balanga, Bataan, a statement corroborating her husband's assertions.

On September 9, 1947, a complaint for quadruple murder was filed against Tomas Gatbunton, Ernesto Gatbunton and two unknown persons, and on the same day the order of arrest was written.

There is no issue about the shooting, the time and place, and the identity of the slain persons. The only issue is the identity of the murderer.

As already stated, three witnesses swore that it was this appellant Tomas Gatbunton. The latter's confession Exh. D confirms their testimony. In this document Gatbunton admitted having used a grease gun to liquidate Magdaleno, alleging that the latter had cheated him in the distribution of the proceeds of their fish-corral business. Therein he disclosed further that he had been accompanied that night in the banca by two Huks, named Macario Manoyag and one Teofilo Musni, who was reportedly the owner of the automatic weapon.

We do not believe that the confession was the result of maltreatment as the accused alleges, because it bears the earmarks of truth, and because it is definitely proven by the testimony of the deputy clerk of court Eulogio C. Mina that when the latter read, word for word, the contents of the affidavit in Tagalog, Gatbunton, nodding in assent, also said "yes, that is true, because I did it". In this connection, it may be stated that Magdaleno declared immediately after the event that one of the persons who rowed the banca to safety with the criminal aboard was Ernesto Gatbunton, son of Tomas. Ernesto was consequently included in the complaint, and arrested with Tomas. Wow, it is quite probable that the father, seeing his son complicated in the grim affair, decided to make a clean breast not through any maltreatment, but of his own volition-assuming his responsibility, but clearing his son by affirming that his companions were two Huks, which he knew had already died. The complaint as to Ernesto was subsequently dropped, the prosecution obviously electing to pin the father down on the confession, letting Ernesto alone, because Magdaleno's identification of him lacked effective corroboration.

Remembering that the differences between Magdaleno and Tomas reached the stage of a family feud it is easy to believe that Tomas deliberately perpetrated the massacre. He evidently thought all those persons sleeping in the house were the family of Magdaleno, and not being expert in the use of guns, he trained the automatic firearm in the direction of the mass of individuals lying on the floor, hoping that one of them would be Magdaleno, and reckless of the consequences as to the latter's family. He thought he killed them all. Twenty-one cartridges were emptied. The result we know: four died even as four others received wounds.

It might be argued that as Tomas could not distinguish between the persons that rested in the residence, so the dwellers, like Magdaleno and his wife, could not have recognized the killer. The answer is that it was easier for those inside (under the shadows of the house) to recognize him because he was outside, the moonlight helping to outline his features and figure and even his gait. It was admittedly full moon on September 1, 1947, according to the calendar.

Perhaps Tomas Gatbunton did not know that some of the inmates were his own sister-in-law Maxima Capule and her family. And perhaps he knew, but was displeased with them because they voluntarily had substituted him, virtually refusing to side with him in his wrangling with Magdaleno as shown by the fact that they elected to abide with him. Indeed, his apparent indifference, when informed of the violent death of his relatives, might favor the view. However, it is unnecessary to clear this doubt. The plain fact is, he shot the sister of his own wife and her husband Mariano Sebastian. Whether or not he believed they were members of the household of his enemy, is entirely immaterial.

After the foregoing exposition, it becomes unnecessary to explain that the trial judge correctly discounted the alibi

which this appellant attempted to establish with the assistance of interested close relatives.

Wherefore, the appellant must be declared guilty of four murders, he having acted with treachery because he shot the victims while these were asleep, taking advantage of the nighttime the better to accomplish his purpose. The aggravating circumstance of dwelling is present, but it is compensated by the mitigating circumstance of lack of instruction.

The appellant should consequently be sentenced to life imprisonment for each murder, his total incarceration not to exceed forty years (Art. 70, Revised Penal Code). As thus modified, the appealed decision will be affirmed, with costs. So ordered.

Moran, C.J., Ozaeta, Pablo, Tuason, Montemayor, and Reyes, JJ., concur.

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