

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOMINGO MAGCAMIT, DEFENDANT-APPELLANT.*G.R. No. L-25555. March 28, 1969*

Ponente: CAPISTRANO, J.

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Appeal by Domingo Magcamit from the sentence of 17 years and 4 months to life imprisonment imposed upon him for murder by the Court of First Instance of Marinduque.

Juan Labay and Domingo Magcamit were prosecuted as principals of the murder of Arceo Montemar on June 6, 1962, at barrio Boton, Boac, Marinduque. Both pleaded "not guilty".

During the trial, Juan Labay moved that he be per-mitted to change his plea to "guilty". The motion was granted and, accordingly, when arraigned anew, he pleaded "guilty". However, pronouncement of the sentence was deferred. Domingo Magcamit having stood by his plea of "not guilty," trial proceeded against both defendants. After trial the defendants were found guilty. Juan Labay was sentenced to an indeterminate penalty of from 12 years to 20 years of reclusion temporal, and Domingo Magcamit was sentenced to 17 years and 4 months to life imprisonment. Both defendants were ordered to pay in solidum the sum of P6,000 as civil indemnity to the heirs of the de-ceased Arceo Montemar. Domingo Magcamit appealed.

At about 8:00 o'clock in the evening of June 6, 1962, Juan Labay, armed with a bolo, and Domingo Magcamit, stoned several times the house of Lamberto Lazo situated at barrio Boton, Boac, Marinduque. As the stoning became intense, Arceo Montemar, a neighbor, who was inside the house at the time, came out of the house, and as he walked towards the neighboring houses of Simeon Matre and Justa Malapad, Domingo Magcamit suddenly placed himself behind Arceo, held him fast by the waist, and told Juan Labay: "Upakan me na bayaw, ito ang kasira ko". Juan Labay then struck Arceo Montemar on the left side of the neck, inflicting a mortal wound. Both assailants then fled from the scene of the crime. Arceo staggered back to the house of Lamberto Lazo. Rolando Montemar, who with the aid of a flashlight had seen the commission of the crime, followed Arceo as he staggered back to the house of Lamberto Lazo, where he found him bathed in blood and dying. Rolando, with the help of a friend, took Arceo to the Marinduque Provincial Hospital, but Arceo died before their arrival at the hospital. These facts were proved by the testimonies of eyewitness Rolando Montemar and the co-ac-cused Juan Labay, who, after having pleaded "guilty", testified for the prosecution. Another witness, Pedro Gu-bangco, saw Juan Labay and Domingo Magcamit flee from the scene of the crime shortly after its commission. The medical certificate reads:

"This is to certify that Mr. Arceo Montemar, 22 years old, resident of Buton, Boac, Marinduque was dead on arrival at the hospital last night at 9:50 p.m. The cause of death was severe hemorrhage and shock secondary to a cut wound 6" X 3" X 3" at the left side of the neck longitudinally severing the blood vessels and cutting completely the tip of the medial end of the left clavicle.

"SGD. RAFAEL S. OCAMPO, M.D.

Resident Physician"

Appellant contends that the evidence did not establish conspiracy and treachery. The contention is unmeritorious. The foregoing statement of facts clearly shows that there was treachery because the attack was sudden and unexpected, and because Arceo Montemar was helpless at the time, and that there was conspiracy because there was previous concert of criminal design shown by the concerted action of Labay and Magcamit and by Magcamit's words, uttered to Labay, i.e., "Upakan mo na bayaw, ito ang kasira ko."

Appellant contends that there was material contradiction between prosecution witnesses Rolando Montemar and Juan Labay in that while the former said that the words uttered by Domingo Magcamit were "Tirahin mo na bayaw," the latter declared that the words were, "Upakan mo na bayaw." The contention is untenable. Rolando Montemar was about seven meters away from the place of the attack, and it is not strange that he must have heard the expression "Upakan mo na bayaw" as "Tirahin mo na bayaw," both expressions having the same meaning. The additional words "Ito ang kasira ko" heard by Juan Labay must have been uttered in a lower tone, for which reason they could not have been heard by Rolando Montemar.

Appellant's contention that the lower court erred in not giving his testimony credence, lacks merit. In his testimony, appellant admitted that he and Juan Labay stoned several times the house of Lamberto Lazo, and that Arceo Montemar came out of the house. However, he continued, when Arceo Montemar reached the place where they stood, he left the place alone because Juan Labay refused to leave, and when he had walked about fifty meters away, Labay caught up with him and told him that he had just killed a man. We find appellant's testimony unworthy of credence.

No mitigating or aggravating circumstance having attended the commission of the crime, the penalty for murder (reclusion temporal in its maximum period to death) should be imposed upon appellant in its medium degree (reclusion perpetua).

The civil indemnity to the heirs of the deceased should be raised from P6,000 to P12,000. However, as Juan Labay did not appeal, his solidary liability with appellant cannot go beyond P6,000.

PREMISES CONSIDERED, the appealed judgment is modified by sentencing appellant to the penalty of reclusion perpetua, and ordering said appellant to pay the heirs of Arceo Montemar the sum of P12,000, P6,000 of which shall be satisfied solidarily with Juan Labay.

Costs against the appellant.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, and Teehankee, JJ., concur.

Barredo, J., concurs in a separate opinion.

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CONCURRING OPINION

BARREDO, J.:

I concur in this decision since it deals only with the appeal of accused Domingo Magcamit.

It is the case of accused Juan Labay who did not appeal that needs clarification.

It will be noticed that accused Juan Labay pleaded guilty. There being not a single aggravating circumstance alleged in the information, there was no possibility that he could have been given the capital penalty. Such being the case, it seems to me that the lower court should not have deferred the pronouncement of the judgment. It is only in cases where, upon a plea of guilty, the accused can be sentenced to DEATH that I consider it justified for trial courts not to follow the logical and legal consequence of a plea of guilty - namely, the acceptance of the plea and imposition of the penalty provided by law. The rule that allows the court to further hear witnesses after the accused has entered such plea, in order to determine what punishment shall be imposed, (Section 5, Rule 118 which was Section 5, Rule 114 of the old Rules) applies only when, by virtue of the plea entered, the court would have discretion as to the punishment for the offense charged.(id.) I hold, therefore, that as a matter of correct procedure, and lest the rights of the accused be unduly prejudiced, trial courts should immediately render judgment and sentence the accused whenever a plea of guilty is duly entered by the accused, unless the sentence can be DEATH or, under the circumstances of the plea entered, the court has discretion as to the punishment to be imposed.

Moreover, it is to be noted that when Labay offered to and did, in fact, plead guilty, the trial was already in progress and the prosecution had already presented three witnesses. Accordingly, he was not entitled to have the said plea considered as a mitigating circumstance. The trial court erred in taking such plea as a mitigating circumstance and imposing sentence upon him on the basis thereof. Inasmuch, however, as he did not appeal, the sentence imposed by the court a quo can no longer be changed.

I am making these observations, albeit without effect on the judgment, with the expectation that all concerned will be properly guided, in order to minimize the occasions for error and unnecessary appeal which could be prejudicial to the state but, most of all, to the accused.

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