

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LUDOVICO, DEDAL, SIMPLICIO DEDAL AND ULPIANO GARBINO, DEFENDANTS AND APPELLANTS.

G.R. No. L-1687. December 02, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

A dance took place on the night of December 28, 1946, in barrio Patlad, Dumangas, in the house of the spouses Alfredo Dimzon and Simphony Centellanos, the first agnatic brother of Manuel Dimzon and the second enatic sister of appellants surnamed Dedal.

While the dance was in progress, Ludovico arrived. Misunderstanding took place because he wanted to assume the direction of the affair, notwithstanding the fact that days before Manuel Dimzon was designated by his half-brother Alfredo to preside it, the dance having been organized by subscriptions to celebrate a novena. As he was not allowed to control the affair, Ludovico tried to stop it and, to that effect, tried to withdraw the "hamacans" used in the dance, for they belonged to him. ("Hamacan" is the Hiligaynon word for the Tagalog "sawali," a mat made of interwoven strips of bamboo bark.) To protect the rights of those who contributed to defray the expenses of the dance, Manuel Dimzon opposed Ludovico's move. Failing to take the "hamacans" and to stop the dance, Ludovico withdrew in anger from the house.

On the evening of the next day, December 29, 1946, Manuel Dimzon was met in a nearby hill by the three appellants. Ludovico said to him: "You are the fellow we had been looking; this is your time now," and right then and there, as Manuel gave them his back, stabbed him with a dagger, hitting him on the right buttock, Manuel faced Ludovico and at that time Simplicio Dedal stabbed him with a bolo, hitting him in the forehead, near the right eyebrow (til). Manuel fell down in a canal, where he was followed by the trio. Ulpiano Garbino held his feet and Simplicio his hands, while Ludovico mounted on him. Lucila Junsay, who was standing nearby, shouted for help. Carlos Dimzon, father of Manuel, went to the canal and tried to separate the assailants from his son, but Ulpiano pushed him, by hitting him with a knife. Carlos fell down unconscious, and the three accused ran away. When Carlos recovered consciousness he found his son dead (12). That same evening Ludovico and Simplicio Dedal surrendered to Mauro Hechanova, policeman of Dumangas, delivering to him three weapons, Exhibits 5, C and D. All were delivered that same evening by Mauro to Chief of Police Diosdado Digdigaa, Ulpiano Garbino, who has escaped, was arrested two weeks after the killing (21).

The above facts were substantiated by the evidence for the prosecution.

Appellants tried to show that it was Manuel Dimzon who had a motive for getting even with Ludovico, because of the dance incident and it was he who in the evening of the bloody incident, attacked Ludovico with a bolo, who just counterattacked with a dagger in self-defense; that Simplicio, while present at the start of the fight, took no part in it, because he fled through fear, and Ulpiano Garbino was at the time in his home in Hi, taking care of his small child; and that it was only Ludovico who surrendered as the one who actually killed Manuel Dimzon.

The defense has utterly failed to overcome the evidence for the prosecution. No reasonable man can believe that Manuel Dimzon had anything to regret as a result of the dance trouble. On the contrary, it was Ludovico whose pride was hurt because he failed to recover his "haraaeans" and to stop the dance. For this failure he had to withdraw from the dance, unable to endure his shame before the crowd of young men and girls therein gathered.

In his vain effort to show that it was Manuel Dimzon who felt slighted, he tried at the beginning to show that the dance was stopped. He says: "I was not able to take out the 'hamacans', but the dance did not proceed" (43). He was confronted with the testimony of Felix Garino, one of his witnesses, to the effect that the dance continued (31). Ludovico answered with three eloquent mute answers (43) to admit, at last, that he withdrew in anger from the dance, and that the same continued.

As regards Simplicio, if it were true that he took no part in the killing, no explanation has been given why we went jointly with Ludovico to surrender to policeman Mauro Hechanova soon after the killing and why he had been arrested jointly with Ludovico. There is no other explanation for these acts of appellants except that the two brothers had something to do with the death of Manuel Dimaon. The alibi of Ulpiano Garbino is made to stand mainly on the testimony of his wife, Romana Villanueva. He himself failed to take the witness stand to corroborate her. Her testimony cannot overcome the testimonies of the witness for the prosecution who pointed positively to Ulpiano Garbino as one of the killers.

The trial Court sentenced Ludovico and Simplicio Dedal each to an indeterminate penalty of from ten years and one day of prision mayor to seventeen years, four months, and one day of reclusion temporal, considering in their favor the mitigating circumstance of voluntary surrender, while it sentenced Ulpiano Garbino to an indeterminate penalty of from twelve years of prision mayor to seventeen years and one day of reclusion temporal. The penalty imposed against Ulpiano Garbino, should be reclusion perpetua there being no modifying circumstances to consider with respect to him. The three accused are also sentenced to jointly and severally idemnify the heirs of the deceased in the sum of P2,000.00 and to pay one third of the costs. The appealed judgment is affirmed, modified as above stated with respect to Ulpiano Garbino, with costs against appellants.

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

Judgment modified.

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