

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FELICIANO AMARANTE, DEFENDANT-APPELLANT.***G.R. No. L-4233. December 27, 1951*

Ponente: BENGZON, J.

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Convicted is the court of first instance of Laguna, of the crime of murder, Feliciano Amarante was sentenced to a term of years with the accessories, to indemnify the heirs of. the deceased in the sum of P4,000 and to pay costs. He appealed to the Court of Appeals. That court found him guilty Just the same, but believing the penalty should be imprisonment for life, it forwarded the expediente to us in accordance with law.

The record discloses that at midnight of August 5, 1948, Maria Linatoc, 50, asleep in her house in barrio Balibago, Santa Rosa, Laguna, was awakened by the barking of dogs in the premises of the accused Feliciano Amarante just across the road. Overhearing some conversation in her neighbor's dwelling she stood up and peeped at the window. The house was lighted, and three or four men were talking with Feliciano Amarante. Soon after, Feliciano accompanied the men who were all armed with guns, and proceeded to her house. Upon arriving near the stairs they cocked their firearms, and warned everybody to keep still. The accused climbed the stairs and pushed the door open notwithstanding the resistance offered by Linatoc. Then he pointed at her son Pablo Mallari and several shots rang out from his companions downstairs. Badly hit in the abdominal region, Pablo Mallari died instantly.

That very morning, Jose Mallari, another son of Maria Linatoc, reported the matter to the Chief of Police of the municipality, who immediately repaired to the scene of the crime to investigate. Maria Linatoc told him the above story, which she repeated in open court. Feliciano Amarante admitted having been present at the shooting, but claimed he had been forced to accompany the malefactors.

It appears that about three weeks before the assassination, Juan Mallari a younger brother of Pablo, was bitten by the dog of the accused. Pablo asked for permission to kill the animal, in pursuance of the customs of provincial folk. Feliciano at first refused, offering, instead, to defray the expenses for Juan's medical treatment; but in view of Pablo's insistence he reluctantly and resentfully yielded, making to his wife, who had tearfully objected to the sacrifice of their pet the ominous remark "Never mind about that. It concerns only a dog. It will be repaid (by) more than a dog." Since that incident, relations between the two households were strained.

A few days after the death of Pablo Mallari, the accused Feliciano Amarante, together with four John Does (unidentified) was indicted for murder.

Corroborated by his wife Lucia Guerta he related to the judge the story that three unknown men came up his house "and stuck the point of the rifle at his breast, demanding for his gun to which the accused replied he had none whatsoever; then he was ordered to stand up and go down; with the rifle pointed at his back from behind, they proceeded to the house of the deceased, Pablo Mallari; there he was ordered to go up and upon refusal, a rifle was stuck on his back and was pushed to the door of the house; in spite of the resistance offered by Maria Linatoc,

the accused and one of the dissidents succeeded in entering the house; once inside, the dissident asked Pablo Mallari for his rifle; Pablo refused and an altercation followed; when Pablo cocked his gun, the dissident fired at him followed by the other dissidents surrounding the premises."

But he evidently fabricated that portion about the dissidents' demand for guns and the refusal of Pablo Mallari.

Following are extracts of his testimony.

"Q What else happened please state to the court?

A When the firearm of Pablo Mallari was demanded they quarrelled.

COURT:

Q Who quarrelled?

A The one demanding the firearm and Pablo.

Q Why is that not placed in your affidavit? (Make it of record the witness does not answer) make it of record notwithstanding the interpretation of his lawyer the witness does not answer, x x x

Q After you were taken to the house of Maria Linatoc and when you were already inside the house what was Pablo doing?

A He was sleeping.

Q Was he holding any gun?

A He was not holding any gun.

Q Calling to your attention to Exhibit "A" of the court which appears to be subscribed and sworn to by you before the Mayor of Sta. Rosa, in that affidavit you stated that Pablo Mallari cocked his gun and at that moment he was shot by your companion, what do you say about that?

A Yes, sir.

Q So what you are stating today he had no gun when you went to his house is not true?"

It was therefore quite natural for the court to reject his version of the occurrence, what with the significant detail that if the purpose of the four men in raiding the house of Pablo was to obtain the latter's firearm it is a wonder they left without pocketing it after killing him. And then, what need did the four have of dragging Amarante along? So he will witness the foray?

The whole evidence sufficiently shows that for the loss of his woman's favorite dog, Feliciano Amarante engineered the liquidation of Pablo Mallari. The annals of the judiciary reveal that other men have been slain for lesser motives.

Like the trial court and the Court of Appeals we believe this appellant guilty of murder. The killing was accomplished with treachery, inasmuch as the victim was caught totally unprepared, and unable to defend himself. The direction of the bullet wounds shows that Pablo Mallari was probably lying down when the shooting occurred. Anyway the unfortunate man was done to death with the aid of four armed men. As the circumstance of dwelling is compensated by the lack of instruction of appellant, who does not know how to sign, his period of imprisonment should be for life. (Art. 248 Rev. Penal Code)

Wherefore, modified as indicated, the appealed decision of the court of first instance of Laguna is hereby affirmed, with costs against the appellant.

Paras, C.J., Pablo, Padilla, Tuason, Montemayor, Reyes, and Jugo, JJ., concur.

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