

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MELQUIADES GOROSPE, ACCUSED AND APPELLANT.

G. R. Nos. L-10644-45. February 19, 1959

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

This is an appeal from the judgment in Criminal Case Nos. 1171 and 1172 of the Court of First Instance of Quezon, wherein appellant Melquiades Gorospe was found guilty of murder and sentenced in each to "suffer cadena perpetua, with the accessory penalties of the law, to indemnify the respective heirs of Leon Padchanan and Melecio Guillen in the amount of P6,000.00 in each case, and to pay the costs." These two cases were tried jointly by agreement of the parties, as the facts and circumstances surrounding both are intimately connected and interrelated.

Five witnesses testified for the prosecution, namely, Eduardo Paladio, Elpidio de la Torre, David Valenzuela, Bernabe Andres and Lucia Andres, and established the following facts:

Bernabe Andres, a middle-age fisherman of 50, has two daughters, Irene and Lucia. They married Melecio Guillen and Leon Padchanan, respectively. Guillen was the barrio lieutenant of Sabili, municipality of Baler, Quezon, while Padchanan belonged to the Easy Company, 2nd BCT, of the Armed Forces of the Philippines, both now deceased.

On the evening of June 10, 1953, between eight and nine o'clock, Bernabe Andres and his son-in-law Leon Padchanan, then on a furlough, left their house in the sitio of Sabang, to attend a dance at the house of Andres Queblar in the barrio of Sabili. On their way thereto, they passed by the house of Melecio Guillen, the other son-in-law of Bernabe Andres, to take him along with them. While Bernabe Andres and Padchanan were in Guillen's house, a certain Matilde Aganad arrived and reported to Guillen that Melquiades Gorospe, appellant herein, was having a quarrel with his nephew Bonifacio Gorospe at the latter's house. Conscious of his duty as barrio lieutenant, Guillen repaired to the place of Bonifacio Gorospe, accompanied by Padchanan and their father-in-law Bernabe Andres. Once there, Guillen called Bonifacio who in turn invited them to come up. Guillen and Padchanan obliged, while their father-in-law remained downstairs about two or three meters from the balcony. The stairs of Bonifacio's house lead directly to a corridor which runs toward the kitchen where there is another staircase. The balcony which consists merely of a protruding extension of the flooring, unenclosed by any walling or railing and measuring around 1 x 1-1/2 meters, is just on the lateral left side of the stairs, and about a meter high from the ground, where one can easily go without ascending the stairs. Guillen and Padchanan squatted side by side near each other on the balcony, facing the lateral side of the stairs and with their backs toward the open space, while Bonifacio squatted at the head of the stairs, facing them. While the trio were talking, appellant Melquiades Gorospe suddenly appeared in the balcony behind Guillen and Padchanan, and without any ado stabbed Padchanan on the right breast with a small bolo Exhibit A. As Guillen was about to turn, appellant held him by the head and stabbed him first on the left forearm and then on the left chest, the bolo penetrating the lung, appellant saying at the same time "I will kill all of you." Taken by surprise, Guillen and Padchanan ran away

in different directions, but expired in their flight. Their father-in-law Bernabe Andres upon seeing the stabbing, ran away fearing that he might be the next victim, and hid himself near his house. Appellant made his get-away along the corridor passing through the kitchen stairs. While this bloody event was happening, or perhaps a little after, Irene Andres (Guillen's wife) called at her father's house and asked her sister Lucia (Padchanan's wife) to go with her to Bonifacio's house to inquire whether their husbands were still there. Lucia told Irene to go ahead as she would follow a little later. Lucia thus went to Bonifacio's house as she promised, but before she could reach the stairs, she was met by Matilde Aganad who told her to go home as her infant breast-fed baby might catch cold, and that her husband Leon Padchanan was no longer in Bonifacio's house. Lucia then started to go back home, but at this juncture she heard someone shout that there was a dead man in the place. It was only then that Matilde Aganad told her that her husband Leon Padchanan was dead. Lucia went to the place where the voice came from, and really found her husband sprawled on the ground, dead. She embraced him and wept.

At about ten o'clock that same evening, upon receiving a report, the chief of police of Baler, Elpidio de la Torre, accompanied by policemen, together with Dr. Cenon and sanitary inspector Eduardo Paladio, went to the barrio of Sabili to make an investigation of the crime, and found the body of Padchanan, face up some forty meters from the principal stairs of Bonifacio's house, and that of Guillen about twenty meters from the balcony. A handgrenade was found inside the right pocket of Guillen's trousseurs. Then the chief of police went to the house of Bonifacio and he found that there were bloodstains on the balcony, stairs, and on the sleeping mat spread on the corridor. In view of the reluctance of the inmates of the house to reveal how the killing happened, the chief of police brought them to the municipal building for investigation. Among them were Bonifacio Gorospe, his sister Virginia Gorospe, some visitors of Bonifacio, and appellant himself. There they pointed to appellant as the killer, and the statements of Bonifacio (Exhibit G), visitor Hospicio Libag (Exhibit H) and of appellant himself (Exhibit F) were taken down, which were afterwards sworn to before Mayor David T. Valenzuela. In appellant's statement Exhibit F, he admitted having killed Guillen with the small bolo Exhibit A because he had a grudge against Guillen since a year before when Guillen hit him with a piece of wood on the leg for which he was hospitalized, and he also admitted having killed Padchanan because he had heard Padchanan remark earlier that evening that they would assault him.

Upon autopsy of the corpses by Dr. Cenon, assisted by sanitary inspector Eduardo Paladio, they found, with respect to Leon Padchanan—

**** * a stabbed wound with clean cut borders and edges, measuring 1" x 1/2" diameter, with the greater diameter lying perpendicular over the point 1" to the right of steno-clavicular junction right which just exactly corresponds in direction to the slit in the clothing. Probing revealed that the wound has taken an inferoposterior direction to about 4" deep. On opening up, there were clotted blood just beneath the fatty tissue and the clavicle at point 1" to the right of steno-clavicular junction was almost completely severed by a clean sweep of incision on the anterior aspect. The wound has penetrated deep into the lung tissues and almost severed the subclavian vessel." (Exh. B). and with respect to Melecio Guillen—

** * * there was a stabbed wound with clean cut edges and borders measuring 2" x 1" diameter, with the greater diameter lying horizontally and exactly fit the 5th ICS left chest whose outer extremity is in line with MCL. Clotted blood was found beneath the edges of the wound. On probing the wound has taken a posteriorly direction. On opening up the 5th rib was slightly slashed from "beneath with separation of small fragments toward the left, the pericardium exposed up the left ventricle of the heart and wound ending posteriorly penetrating the left lungs. The wound was 5" deep. "

There was incised wound, triangular in shape at forearm upper third, anterior with apex directed downward. The base is 21" and altitude is 2" with severance of upper third of superficial flexors of forearm left; and palmaris longus muscle." (Exhibit D).

The record discloses that appellant herein was originally indicted for this offense in Criminal Cases Nos. 1113 and 1114 upon informations filed on June 30, 1953, but inasmuch as the principal witnesses for the prosecution, particularly Bonifacio Gorospe, turned hostile by subscribing an affidavit favorable to appellant, the Provincial Fiscal had to ask for the dismissal of said cases, and the court then sitting at Baler dismissed them provisionally, with appellant's consent, in its order of July 1st, 1954. It was only after such dismissal that witnesses Bernabe Andres who, according to the evidence, had kept to himself the knowledge of the facts and circumstances of the killing of his two sons-in-law believing honestly that he could not testify for the government by reason of his relationship, came to the open and subscribed an affidavit before acting Mayor Cesario A. Pimentel on July 2, 1954, relating how the crime was committed. On the strength of this affidavit, assistant Provincial Fiscal Severino I. Villafranca filed the corresponding informations dated July 6, 1954, which were docketed and now known as Criminal Cases Nos. 1171 and 1172 and asked the court for their revival. The court, after making another preliminary investigation, revived these cases in its order of September 7, 1954, and its judgment is now appealed against.

Appellant in his defense admits having stabbed the two deceased, but alleges that he killed them in self-defense, and in support thereof he tried to show by his testimony and those of his nephew Bonifacio Gorospe and niece Virginia Gorospe that at about four o'clock in the afternoon of June 10th, 1953, a certain Florencio Carreon who was courting Virginia was visiting her at Bonifacio's house where she lives; that in the course of that visit Florencio held her hand, and her brother Bonifacio did not like Florencio's behavior, so the latter was told to leave and never to return; that later that afternoon while Bonifacio was in the store of Rafael Orlando, Padchanan and Guillen arrived and asked Bonifacio to buy drinks for them, so the three got drunk; that Bonifacio went home and left Guillen and Padchanan in the store; that later that evening, at about 8:30, while the visitors in the house of Bonifacio were already lying down on the mat spread on the corridor of the house, Guillen and Padchanan arrived, Padchanan carrying a .45 caliber gun in his waist; that Bonifacio got the kerosene lamp inside and put it near the door; that in the course of the conversation among the three, Virginia was called and Guillen and Padchanan wanted to take her with them, for her to talk with Florencio Carreon at Guillen's house; that when Virginia refused to go with them, Guillen pulled her by the arm, so she screamed: "I don't want, I don't want; neighbors help;" that when appellant, whose house is just about ten meters from Bonifacio's heard her screams for help, he armed himself with the bolo Exhibit A which was in its scabbard hanging on the wall, and rushed to her rescue; that upon arriving at Bonifacio's house he demanded explanation from Guillen and Padchanan, only to be told by Guillen that he should not interfere, whereupon Padchanan told Guillen to take out his handgrenade and blast the house so that all the inmates would be killed; that Guillen got his handgrenade out and when he was about to pull its safety pin, appellant unsheathed his bolo and stabbed Guillen; that when Padchanan saw this, he squeezed appellant's neck, so appellant stabbed Padchanan without the latter having a chance to draw his gun, and that both Guillen and Padchanan ran away; that appellant then returned to his house, but later went again to Bonifacio's place where he met councilor Tomas Bitong whom he told that he had just killed the two deceased; that appellant took councilor Bitong to his house and there surrendered the bolo and its scabbard, and from there they went back to Bonifacio's house and thence appellant was conducted by the councilor to the municipal jail where his statement Exhibit F was taken by the chief of police.

After a careful scrutiny of appellant's contention, we find that he tried to take advantage of the fact that a handgrenade was found inside Guillen's pocket after his death, and has woven his defense around it, coloring the same with situations that are highly incredible and contrary to the natural course of things and human behavior. First of all, it is hard to believe that Guillen took out his handgrenade and was about to pull its pin before he was stabbed by appellant, for the simple reason that, if this were true, then said grenade should have exploded or at least should have been found near the balcony itself or at any place along his flight, and not right inside his pocket

when he expired just twenty meters away from the balcony; secondly, were it true that Padchanan was armed with a .45 caliber gun at the time that Guillen was being stabbed, he would not, as a professional soldier, have just strangled appellant to defend his brother-in-law, but would have conveniently used his pistol. According to Lucia Andres, her husband Leon Padchanan did not carry his gun when he left for the dance but left it with her, and this is corroborated by the testimony of the chief of police who stated that no gun was ever found in the premises during his investigation. Thirdly, it is hard to believe that Padchanan squeezed appellant's neck before he was stabbed, for according to eyewitnesses Bernabe Andres, the first one to be assaulted was Padchanan who immediately ran and died on the way. Lastly, the defense put up by appellant is entirely contrary to what he and his nephew Bonifacio narrated in their statements Exhibits F and G, wherein both admitted that no conversation between appellant, on the one hand, and Guillen and/or Padchanan, on the other, had ever ensued, and that the attack was made all of a sudden and without warning; that appellant had a grudge against Guillen since a year before by reason of Guillen's having struck appellant with a piece of wood, and according to appellant himself, he had to kill Padchanan because he had heard him (Padchanan) say to Guillen while the two were passing in front of his house that evening that they would assault him (appellant). Certainly it is more reasonable to believe that, with a feeling of revenge against Guillen and goaded at the spur of the moment by Padchanan's threat, appellant armed himself with a bolo and followed them to Bonifacio's house and there dealt with them before they could carry out what they, in appellant's mind, proposed to do.

The evidence against appellant is so overwhelming that even his counsel de officio stated in his brief, by way of comment, that—

"After perusing the evidence, the undersigned fully agrees with the reasons given by the trial court for believing the witnesses for the prosecution and discrediting appellant's defense and the testimony of his witnesses. In addition, the undersigned counsel notes that appellant narrated in the witness stand during the trial a story entirely different from what he stated in his confession executed before the chief of police and sworn to before the mayor immediately after the occurrence. Considering that the questions and answers 192 in said confession were explained and translated from Tagalog to Ilocano and vice-versa to appellant before he was made to sign and swore to it, and that these two officials were not shown to have any motive or reason for compelling appellant to execute a fabricated confession appellant himself admits that these officials have no grudge against him and therefore should be taken to have acted regularly in the performance of their official duties in the investigation of the case, the undersigned counsel is constrained to disagree with appellant's claim that the confession in question was executed by him without first understanding its contents. Obviously, appellant's story in the witness stand can not but be an afterthought. Moreover, in line with the reasons given by appellant in his said confession for attempting against the lives of Leon and Melecio, what must have happened was that appellant really followed the victims that night to the house of Bonifacio upon overhearing Leon's remarks that they (Leon and Melecio) were going to strike at him that same evening, and that upon overtaking them in Bonifacio's house, appellant started a fight with the two." (8-9, Appellant's Brief.)

The facts proven against appellant constitute the crime of murder, he having, as described by Bernabe Andres and supported by appellant's admission in his statement Exhibit F, treacherously stabbed the two deceased one after the other on the night in question.

Appellant, however, invokes two mitigating circumstances in his favor, namely, voluntary surrender and lack of instruction or schooling which, according to him, the trial court failed to consider. With respect to the first circumstance, the evidence does not show that appellant surrendered voluntarily; on the contrary, according to the uncontradicted testimony of the chief of police, he had to take several persons, including appellant, to the municipal building for investigation as nobody in Bonifacio's house volunteered to give information about the killing; and as regards the bolo allegedly surrendered to councilor Bitong, the chief of police assured the court that it was only during the course of his investigation in the municipal building that he learned that the said weapon

was hidden in a rice container locally known as "buklod" in appellant's house, and for that reason he had to request the councilor to accompany one Leon Rabor to fetch the bolo.

Regarding the second circumstance of lack of instruction, the evidence shows that appellant is really an unschooled fisherman of 50 who had only to use his thumbmark in lieu of signature, and the Solicitor-General agrees that this be considered as mitigating circumstance in appellant's favor. We do not, however, subscribe to this point of view, for illiteracy alone does not constitute the alternative circumstance of lack of instruction, for, as we have ruled in the case of *People vs. Ripas, et al.*, 95 Phil., 63.

"The fact that Orbista thumbmarked the document attesting to the promulgation of the decision, a sign that he did not know how to write, is not sufficient to prove the existence of this alternative circumstance. Not illiteracy alone but also lack of sufficient intelligence are necessary to invoke the benefit of the circumstance. A person able to sign his name but otherwise so densely ignorant and of such low intelligence that he does not realize the full consequences of a criminal act, may still be entitled to this mitigating circumstance. On the other hand, another unable to write because of lack of educational facilities or opportunities, may yet be highly or exceptionally intelligent and mentally alert that he easily and even realizes the full significance of his acts, in which case he may not invoke this mitigating circumstance in his favor."

Consequently, and there being no aggravating nor mitigating circumstance present, the penalty that should be imposed is reclusion perpetua in accordance with the provisions of Art. 248, in relation to Arts. 77 and 64, paragraph 1, of the Revised Penal Code, and, therefore, the decision appealed from which imposes "cadena perpetua" should be accordingly modified.

Wherefore, with the modification above indicated, the judgment appealed from is affirmed in all other respects, with costs.

Paras C. J., Bengzon, Padilla, Montemayor, Reyes A., Bautista Angelo, Labrador, Concepcion, and Reyes J. B. L., JJ., concur.

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