

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARTIN MAGUDDAYAO, FAUSTINO LIQUIGAN AND LAUREANO
MAGUDDAYAO, ACCUSED-APPELLANTS.**

G.R. No. L-43923. September 12, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This case was appealed to the Court of Appeals but it was certified to the Supreme Court because the Court of Appeals agreed with the recommendation of the Solicitor General that the appropriate penalty which should be imposed on the appellants is reclusion perpetua.

In Criminal Case No. 561-T of the Court of First Instance of Cagayan, MARTIN MAGUDDAYAO, FAUSTINO LIQUIGAN and LAUREANO MAGUDDAYAO were accused of the murder of Cipriano Baliwag, Sr. The information against them reads as follows:

"That on or about May 14, 1967, in the municipality of Solana, province of Cagayan, and within the juris-diction of this Honorable Court, the said accused Martin Maguddayao, Faustino Liquigan alias Tinoy and Laureano Maguddayao alias Anoy, armed with pointed bolo, knife (balisong) and a gun, conspiring together and helping one another, with intent to kill, with evident premeditation and with treachery, did then and there wilfully, unlaw-fully and feloniously attack, stab and shoot one Cipriano Baliwag, Sr., inflicting upon him several wounds which caused his death." (Expediente, p. 36.)

After trial, the accused were sentenced as follows:

"WHEREFORE, Martin Maguddayao, Laureano Maguddayao and Faustino Liquigan are hereby found guilty beyond reasonable doubt of the crime of Murder and therefore this Court hereby sentences them to suffer indeterminate penalty, with due consideration of Art. 61, par. III, of from 14 years, 8 months and one day to 17 years, 4 months, both of reclusion temporal, with the accessory penalties provided for by law, to pay the heirs of the deceased the amount of P12,000.00 jointly and severally, and to pay the costs." (Id., p. 330.)

All three accused filed notice that they were appealing to the Court of Appeals. (Id., p. 345.) Because of the indeterminate penalty, the appellants correctly elevated their case to the Court of Appeals.

The appellants were committed to the New Bilibid Prison in Muntinlupa, Rizal, but Faustino Liquigan was able to post bail pending appeal and his release was authorized by the Court of Appeals on November 26, 1973. (Rollo, p. 85.)

On March 14, 1975, Martin Maguddayao filed a Motion For Withdrawal of Appeal. (Id., p. 140.) The Motion was granted by the Court of Appeals on April 7, 1975. (Id., p. 141.) It should be stated that when Martin was allowed to withdraw his appeal the briefs had not yet been filed. The brief for the appellants was filed on July 31, 1975; that for the appellee was filed on November 25, 1975.

In a resolution promulgated on May 11, 1976, the Court of Appeals certified the case to this Court for the reason

above-stated.

On June 9, 1976, this Court, by resolution, ordered the case to "be DOCKETED x x x and DECLARED SUBMITTED for decision." (Id., p. 202.)

On October 26, 1980, Martin Maguundayao reiterated the withdrawal of his appeal (Id., p. 240.) The rollo does not indicate any action on Martin's letter presumably because the withdrawal of his appeal had already been granted. But the Clerk of Court should ascertain whether or not Martin and the Director of Prisons have each received a copy of the resolution of the Court of Appeals dated April 7, 1975, which allowed the withdrawal of the appeal.

On August 20, 1984, Laureano filed a Motion to Withdraw Appeal which We cannot grant because he is guilty and should be sentenced to reclusion perpetua. To allow him at this stage to withdraw his appeal will enable him to suffer the lesser indeterminate penalty.

This decision deals only with Faustino Liguigan and Laureano Maguundayao.

The resolution of the Court of Appeals certifying the case to Us affirms the finding of the trial court that the crime of murder was indeed committed by the accused and states that the appropriate penalty therefor is reclusion perpetua. The resolution reads in part:

"The People's evidence is correctly summarized in the following portions of the lower court's decision:

'On May 14, 1967, while Avelino Baliwag, 9 years old, minor, school grade pupil and resident of Bauan, Solana, Cagayan, was playing on the ground in the morning under the house of one called Icio, accused Martin Maguundayao, Laureano Maguundayao and Faustino Liguigan called on Cipriano Baliwag, Sr. who was then eating his breakfast in his home at Mallalabo, Solana, Cagayan where his father brought him along Bauan. The three accused went upstairs and after Cipriano Baliwag, Sr. finished eating he and the three accused came down to smoke. The three accused were given cigarettes by Cipriano Baliwag, Sr. and after they smoked half the cigarettes, the accused held Cipriano Baliwag, Sr., and stabbed him, Martin Maguundayao stabbing him at the left breast with a bolo, Exhibit A, while Tinoy stabbed Cipriano Baliwag, Sr. on the left shoulder simultaneously. When Cipriano Baliwag, Jr., son of the deceased went to the succor of his father, Anoy, referring to Laureano Maguundayao, met and stabbed Cipriano Baliwag, Jr. and ran after him but failing to catch up with him, Laureano Maguundayao went back and stabbed Cipriano Baliwag, Sr. on his stomach. Martin Maguundayao fired a gun, Exhibit B, and when Avelino went to press the nose of his father, Martin Maguundayao said, 'Get away there or else I will kill you next.' Avelino Baliwag and Cipriano Baliwag, Jr. corroborated with each other on these facts.

'A necropsy examination was conducted by Dr. Lazaro E. Mariano, Municipal Health Officer, who made a report thereon, Exhibit D, wherein he stated that deceased Cipriano Baliwag, Sr. suffered TEN (10) stab wounds causing hemorrhage and shock that caused the end of so dear a life.

' x x x

'1. Stab wound, along axillary lines, medial aspect, level of the 10th ribs 1.2 inches long and gaping 0.3 inch directed downward and backward puncturing the liver to a depth of 5 inches.

'2. Stab wound, 3 inches lateral to the xaphoid fossa, left 1.3 inch long, gaping 0.5 inch directed backward and downward to the left puncturing the lungs to a depth of 5.7 inches.

'3. Stab wound, left, level of axillary line, medial aspect directed backward me-dially 1.2 inch long and gaping 0.4 inch la-cerating the lungs to a depth of 4.5 inches.

'4. Stab wound, 1.2 inches long, gaping 0.3 inch, abdomen, left lateral aspect.

'5. Stab wound, below left cavicle, 1 inch long, gaping 0.3 inch directed backward puncturing lungs to a depth of 3.4 inches.

'6. Stab wound, left lateral aspect, neck 0.6 inch long, gaping 0.2 inch directed backwards to the right.

'7. Stab wound, circular, 0.5 inch in diameter, with corrugated border, directed downward and backward to a depth of 4.7 inches puncturing the lungs, left.

'8. Stab wound, head, left parietal area, 2.5 inches long, gaping 0.7 inch.

'9. Stab wound, 0.5 inch long left lateral aspect vertebral column.

'10. Stab wound, 0.3 inch circular, 1.2 inch deep, scapular area, left.'

(pp. 309-311, x x x 313-314, Rec.)

"Both appellants Laureano Maguddayao and Faustino Liquigan in the present appeal set up their respective alibis.

"Appellant Laureano Maguddayao has to fall back on his alibi that since 1963 when he got married, he resided at Cordova, Amulung, Cagayan, about 10 kilometers from Bauan, Solana, Cagayan. On May 14, 1967 or on the fatal day Cipriano Baliwag was slain, appellant Laureano Maguddayao went to Pakac Grande together with Marciano Agris to purchase a carabao. Both started at about 7:00 A.M., arriving at Pakac Grande about 10:00 A.M. Immediately, appellant Laureano negotiated with Ignacio Aquino, the cattle vendor. Appellant failed to purchase said carabao because the price was high. Then, appellant Laureano and Marciano Agris ate at the house of Ignacio Aquino. They rested for awhile and at about 1:00 P.M., both started for home to Cordova, arriving at about 5:00 P.M.

"On the other hand, appellant Faustino Liquigan tried to prove his innocence claiming that on May 14, 1967, he was in barrio Nangalawasan, Amulung, Cagayan, working on the 'footing' of the house of Feliciano Trinidad together with Akong Trinidad, Esteban Trinidad, Paulino Trinidad, Doming Duran, Duro Duran and Juan Borgado. He left Bauan in the morning of May 13, 1967 at about 4:30 A.M. and arrived at 6:00 A.M. in Barrio Nangalawasan. He slept in the house of Feliciano Trinidad. In the morning of May 14, 1967, he and Feliciano went to barrio Capitan, Iguig, Cagayan. They rode a motorboat that took them to barrio Concepcion. From there, they took the bus to the house of Ildefonso Verbo, a log concessioner from whom appellant bought posts for his house. According to appellant Faustino Liquigan, he was issued an invoice, the original of which was lost and the duplicate is now marked as Exhibit I. Appellant Faustino Liquigan and Feliciano Trinidad returned to Nangalawasan on the same day arriving at about 5:00 P.M. Again, appellant Liquigan slept in the house of Trinidad. In the following morning, May 15, 1967, appellant Liquigan worked on the 'footing' of the house of Trinidad. The next day, May 16, 1967, he was arrested by the PC soldiers.

"Laying aside for a moment the almost trite rule that alibi is a weak defense for it is easy to fabricate, still we cannot entertain appellant's respective defenses against their positive identification as the authors of the crime by 2 principal eye-witnesses for the prosecution, namely Avelino Baliwag and Cipriano Baliwag, Jr. These eye-witnesses testified that it was appellant Faustino Liquigan who took hold of the victim giving way for accused Martin Maguddayao to stab Cipriano Baliwag, Sr. on the breast. And simultaneously, appellant Faustino Liquigan, who was holding a knife, also stabbed the victim on the left shoulder. When Cipriano Baliwag, Jr. tried to succor his father, appellant Laureano Maguddayao chased him, injuring him on the hand. But appellant, failing to catch up with Cipriano Jr., went back and stabbed the victim on the stomach.

"Furthermore, the People's evidence is strengthened by the rebuttal testimony of Juan Liquigan, nephew of appellant Faustino Liquigan, who declared that appellant Laureano Maguddayao came back with his family to

Bauan, Solana, Cagayan in 1967 up to and until the 40 days celebration of the death of victim Cipriano Baliwag, Sr.

"Likewise, Lucio Camayang's testimony re-butted the alibi of appellant Faustino Liquigan. He averred that the 'footing' of the house of Feliciano Trinidad was constructed March 1968 and not on May 13, 1967. He (Camayang) helped with four other workers in the placing of the 12 'footings.' They worked for 2 weeks. Then one night, as they were gathered, appellant Faustino Liquigan told them that he may not finish the construction of the house because of his big problem regarding the death of Cipriano Baliwag, Sr." (Id., pp. 194-199.)

We adopt the findings of the Court of Appeals which are supported by the recorded evidence. We agree with the Court of Appeals that in the commission of the crime there were no attendant mitigating or aggravating circumstances so that the imposable penalty is reclusion perpetua.

WHEREFORE, the judgment of the trial court finding the appellants guilty of murder is hereby affirmed but the sentence is modified in that they shall suffer the penalty of reclusion perpetua and indemnify, jointly and severally, the heirs of the deceased in the sum of P30,000.00. Costs against the appellants.

SO ORDERED.

Makasiar, (Chairman), Aquino, Escolin, and Cuevas, JJ., concur.

Concepcion, Jr., and Guerrero, JJ., on leave.

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