

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. DOMINGO TELAN, CANUTO TELAN AND AMANDO MACABALLUG, ACCUSED AND APPELLANTS.

G. R. No. L-17921-22. June 29, 1962

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from a decision of the Court of First Instance of Isabela (Judge Manuel Arranz, presiding) finding the defendants, after a joint trial, guilty beyond reasonable doubt of the crimes of murder and frustrated murder and sentencing:

(a) In Criminal Case No. 2498 the defendants each to suffer the penalty of LIFE IMPRISONMENT (RECLUSION PERPETUA), with the accessory penalty of the law, to indemnify the heirs of Ramon Soriano in the sum of P4,000.00, and to pay the costs;

(b) In Criminal Case No. 2499 the defendants each to suffer an indeterminate penalty ranging from SIX (6) YEARS ONE (1) DAY of prision mayor as minimum to FOURTEEN (14) YEARS, EIGHT (8) MONTHS AND ONE (1) DAY of reclusion temporal as maximum, with the accessory penalty of the law, and to pay the costs."

An examination of the records show the following facts:

On their way home to barrio Ngarag, Cabagan, Isabela, from a game of cards in the house, of Gregoria Marayag in the barrio of Cubag of the said municipality, at about 9:00 o'clock in the moonlit evening of September 21, 1958, Ramon Soriano, Severino Paguirigan, and Victoriano Malabug, who were walking in a field trail one behind the other in the order named, were fired upon in ambush by some malefactors.

Ramon Soriano received several gunshot wounds in different parts of his body, while Victoriano Malabug was hit in the thigh. Severino Paguirigan was not hit, because he ducked and laid fiat on the ground upon noticing the volley. When the firing ceased, Severino Paguirigan crawled for safety to a group of tall bushes commonly called "barani" (wild spinach) about 20 meters away. The malefactors went near Ramon and Victoriano, who were both lying on the ground, and believing them dead, remarked in the Ibanag dialect, "Nappate ngana ira" (All of them are already dead), and then went away. In withdrawing from the scene of the ambush, the malefactors passed by the hiding place of Severino Paguirigan at a distance of 2 meters. He heard them say in the dialect, "Nabalin ngara ira" (They are already finished). Victoriano and Severino claim that they recognized the malefactors as the three accused, namely, Domingo Telan, Canuto Telan and Amando Macaballug, with the first-named carrying a carbine.

When the defendants were gone, Severino Paguirigan returned to the house of Gregoria Marayag and informed Ventura Macaballug, Miguel Macaballug and Inocencio Laggui, who were still playing cards, that Ramon Soriano and Victoriano Malabug were shot. He requested them to accompany him to the scene of the shooting. They went to the place where the shooting occurred, and then proceeded to inform Emilia Tagufa, wife of Ramon Soriano,

whose house was some 300 meters away. Upon receiving the information, she rushed to the scene, and there she found her husband flat on the ground, critically wounded and groaning. She asked him about his injuries, and he indicated his stomach and fractured bones. He said that he was going to die, and told her to take care of their children. Twice, on inquiry by Emilia, he mentioned Domingo Telan, Canuto Telan, and Amando Macaballug as their assailants. Ramon Soriano was brought to the Cabagan dispensary in a rig driven by Ventura Macaballug. However, before the municipal health officer, Dr. Tercial Ramirez, could be summoned, Ramon Soriano expired, at about 11:00 o'clock that same evening.

The autopsy disclosed that Ramon Soriano died of shock and internal hemorrhage caused by four firearm wounds, three of which traversed the forearm and the umbilical and lumbar regions. The bullets had perforated in many places the intestines and mesenteric blood vessels, smashed the left kidney, and fractured the fourth lumbar vertebra. Victoriano Malabug, in turn, had a bullet wound above the left knee, traversing the thigh.

A report of the incident reached Cubagan Chief of Police Amado Miguel at about 11:00 o'clock on that tragic night. While about to proceed to the scene of the shooting with two of his policemen, they met the rig bearing Ramon Soriano. Chief Miguel found Ramon speechless and hovering between life and death. He called for the municipal health officer, but Ramon died shortly thereafter.

On the following morning, Chief Miguel, together with his two policemen, repaired to the scene of the crime and conducted an ocular investigation. He made a sketch of the place based on the version of Severino Paguirigan (Exhibit "2"). He recovered seven empty carbine shells some 12 meters away from where Ramon Soriano and Victoriano Malabug were shot (Exhibits "C" to "C-6"), and, in the same place, found footprints of one person.

It has been sufficiently established that bad blood existed between the assailants and their kinsfolk on one hand and the victims and their kinsfolk on the other, arising from the alleged bololing by Ramon Soriano and Severino Paguirigan of four carabaos of Canuto Telan and three carabaos of Lourdes Macaballug, sister of accused Amando Macaballug, for which the deceased and Paguirigan were convicted of malicious mischief by the Justice of the Peace Court of Cabagan; but the cases were on appeal when the shooting took place.

The defendants-appellants assign four errors allegedly committed by the trial court, to which, however, simmer down to only one issue—the identification of the culprits.

On this point, the decision appealed from reads, and we quote:

"* * *. We have carefully listened to the declarations of Victoriano Malabug, Severino Paguirigan and Emilia Tagufa, we have observed their demeanors and manner of testifying and we are fully convinced that the first two, Malabug and Paguirigan, who were eyewitnesses to the crime because they were the target of the shooting, recognized the defendants when they went near them immediately after the shooting, to verify whether they (victims) were still alive. Victoriano Malabug could not have been mistaken in recognizing the defendants because they were only two meters from him when they remarked with light bravado 'they are already dead', and that their faces and stature are familiar to him because they are all natives and barriomates in Cubag. Likewise, Severino Paguirigan also recognized the defendants as they were passing by a group of "barani" where he hid himself and uttering the remark, 'they are already finished.' What is more, Emilia Tagufa who immediately repaired to the scene of the shooting, situated about three hundred meters away from her house, was able to talk with her husband who, conscious of an impending death, told her to take care of their children and at the same time mentioned the defendants as his assailants. * * *."

The defense theorizes that because of the gravity of his wounds, the deceased Soriano could not have spoken to his wife and revealed to her the identity of his assailants. This is pure surmise, and can not overcome the positive testimony of the widow and the brothers Malabug who heard the declarations of the wounded man. The same can

be said about the defense's theory that the bleeding Victoriano Malabug was too weak to notice the assailants' approach, and that Paguirigan could not have identified them because he lay face down on the ground to escape being noticed. Obviously, it was not impossible for him to lift his head occasionally to survey the scene.

We find nothing unnatural in the inability of the widow and of the other eyewitnesses to give a coherent narration and identify the appellants that same night the event occurred due to their emotional shock and agitation which was obvious even to the police officers. The fact is that the very next day these appellants were pointed out to the police as the culprits, and there is nothing on record to indicate any conspiracy on the part of the state witnesses to falsely impute such a serious crime to innocent persons.

The alibi set up by appellants is unimpressive and is supported exclusively by their near relatives. It fails to overcome the positive identification by the prosecution witnesses. The two appellants Telan claim to have spent the night in question in their respective houses located in the same barrio where the attack took place, while Macaballug is asserted to have gone to the house of a cousin seven kilometers away to help him harvest a corn crop, when he had not seen this cousin for years.

Finding no error in the judgment appealed from, the same is hereby affirmed, with the sole modification that the indemnity for the death of Ramon Soriano is hereby increased to P6,000.00. Costs against appellants.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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