

**PEOPLE OF THE PHILIPPINES,-PLAINTIFF AND APPELLEE VS.  
ALFREDO SORIO ALIAS &#8220;FRED&#8221;; CESAR SORIO AND  
VICTORIANO SORIO ALIAS &#8220;PIANONG&#8221;; DEFENDANTS.  
VICTORIANO SORIO ALIAS &#8220;PIANONG&#8221;;...**

*G.R. No. L-13173. November 29, 1960*

Ponente: CONCEPCION, J.

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**CONCEPCION, J.:**

In Criminal Cases Nos. 21502 and 21503 of the Cqurt of First Instance of Pangasinan, for the crime of murder upon the person of Amado Sanchez and attempted murder upon that of Hilario Cruz, respectively, which were jointly heard, by agreement of the parties, said court rendered a single decision convicting Victoriano Sorio, alias Pianong, and his sons, Alfredo Sorio, alias Fred, and Cesar Sorio, of murder in the first case, and light threat, in the second case, and sentenced each one of them, in the former, to life imprisonment, to jointly and severally indemnify the heirs of Amado Sanchez, deceased, in the sum of P4,000.00, and to pay the costs, and, in the latter, to ten (10) days of arresto menor and to pay the costs, said penalties to be served consecutively. Victoriano Sorio has appealed from said decision insofar only as the first case is concerned.

It appears that on October 26, 1956, Hilario Cruz, the offended party in Case No. 21503, an employee in the office of the Highway District Engineer of Pangasinan, housed in a structure known as garage or motor pool, near the capitol building, in Lingayen, Pangasinan, reported to the Highway District Engineer Marcelino Samson, that herein appellant, Victoriano Sorio, and one Agustin Banloa, another employee in said office, had stolen therefrom a roll of barbed wire and that, in the morning of December 3, 1956, said Hilario Cruz was advised by his brother, Fructuoso Cruz, not to go to said capitol, because Mandy which was the nickname of Amado Sanchez, had tipped him. (Fructuoso) that appellant, his son Alfredo and others were looking for him (Hilario Cruz) and Amado Sanchez, armed with weapons. In the language of the lower court, the following took place subsequently that same morning:

"(a) that on the morning of December 3, 1956, at around 9:00 o'clock, the three accused were seen at the garage compound near the capitol building at Lingayen, Pangasinan, Fred Sorio and Cesar Sorio near the building where the District Engineer lives, and in whose ground floor, Hilario Cruz was holding office, Fred Sorio, around one meter from the window near which Hilario Cruz had his desk, and a few meters away was Cesar Sorio, and around twelve meters away was Victoriano Sorio, Fred Sorio and Cesar Sorio, having their weapons tucked inside their pants; (b) that Fred Sorio approached Hilario Cruz and told him to go out, but the latter in turn asked the former to go inside if he wanted something; (c) that when Fred Sorio was one foot away from Hilario Cruz, he unsheated his dagger and said, 'Father, come', and Victoriano Sorio said, and 'Go ahead, get inside, if you do not go inside, I will be the one', and then Fred Sorio pushed the door, but Hilario Cruz was able to close it before and the three accused were, later on, brought out from the garage compound by Perfecto Rancudo thru the outer gate; (d) that once outside the garage compound and while the three accused were going towards the west a Pantranco bus passed by and stopped in front of the capitol building, and when the bus started to proceed, the accused said, 'Para, para', for which the bus stopped, and they placed themselves

near the bus, Fred Sorio, at the left side, Cesar Sorio, at right, and Victoriano Sorio behind the bus, all of them unsheating their 'balisong' when they were nearing the Pantranco bus and while thus deployed, Alfredo Sorio asked Amado Sanchez to come down saying: 'Mandy, come down: (e) that immediately after alighting from the bus, Amado Sanchez ran towards the stairs of the capitol building, but after reaching the first ladder, he was overtaken by Cesar Sorio who, almost behind his- victim, stabbed him at the left side, below the breast, thereupon, the poor victim turned back and tried to run down the ladder, but he was blocked by Alfredo Sorio who gave him several stab blow's; (f) that in spite of the mortal blows he had already received, Sanchez continued to run, but was pursued but had to fall near a bamboo arch in front of the capitol building, and while lying prostrate, Cesar Sorio gave him further blows, and left, not before telling his brother, Alfredo Sorio; 'That is enough brother, he is already dead, and, later on, going to where his father Victoriano, alias Pianong was; and that Alfredo, alias Fred Sorio going to where Sanchez was said: 'So, you are still alive', and then stabbed the deceased several times; (g) that while the three accused were hurrying towards the Pantranco bus, Victoriano Sorio made sign with his hand urging Fred Sorio to go ahead and while his two sons were chasing Sanchez, he urged them saying: 'Sigue, sigue' (Go ahead, go ahead); and (h) that the late Amado Sanchez was taken to the Pangasinan Provincial Hospital still alive, but died upon reaching the hospital."

Upon the other hand, the defense tried to prove that what happened was this:

"In the morning of December 3, 1956, upon previous understanding the other two accused Alfredo Sorio and Cesar Sorio met in the Office of the Cashier (District Engineer) in the Capitol building in Lingayen. Province of Pangasinan. After collecting his pay Cesar loaned his brother Fred some money and afterwards went to a sari-sari store at the back of the Capitol building to pay his bills while Fred went to the opposite direction. While in the store he saw persons rushing towards the front of the building to witness a fight that was going on. He also followed and when he reached the front door he saw his brother Fred locked up in deadly combat with the deceased Amado Sanchez. Seeing this, he ran towards the East where the garage is located to inform his father Victoriano Sorio of what he saw, The encounter which lasted approximately ten to fifteen minutes proved fatal for Amado Sanchez after receiving various mortal wounds from Fred Sorio. When appellant Victoriano Sorio and his son Cesar, arrived in front of the Capitol building, the fight was all over whereupon herein appellant advised his other son Fred Sorio to surrender and go peacefully with a police officer to the Municipal building. He was accompanied by Cesar Sorio. Several persons placed the body of Amado Sanchez in a car owned by a provincial board member and took it to the provincial hospital at Dagupan where he was pronounced dead on arrival." (Pp. 3-4, Appellant's Brief.)

Inasmuch as this version of the defense is inconsistent With that of the prosecution, the case hinges mainly on the relative credibility of the testimony of the opposing witnesses, which was decided by the lower court in favor of the prosecution and against the defense. The record before us fully justifies the action thus taken by His Honor, the trial Judge. Indeed, the theory of the prosecution is bolstered up by the fact that neither Alfredo Sorio nor Cesar' Sorio has appealed from the decision of the lower court, although both, or, at least, Cesar Sorio would have been absolutely innocent, if their version of the occurrence were true.

Appellant maintains, however, that he should be acquitted of the charge of murder for he had not laid hands upon the person of Amado Sanchez and the latter's death was due to injuries inflicted, not by him (appellant) ; but by his sons, Alfredo and Cesar. It is mainly urged by appellant that the existence of conspiracy between him and his aforementioned children has not been sufficiently established.

In this connection the prosecution placed on the witness stand Hilario Cruz, who was corroborated by his brother Fructuoso Cruz, his (Hilario's) officemate Dante Fernandez, Highway District Engineer Marcelino Sam-eon, security guard Perfecto Rancudo and Corleto Angeles, a janitor in the Provincial Capitol of Pangasinan. The prosecution introduced also, the testimony of Gervacio de la Cruz, one of the passengers of the Pantranco bus above mentioned, Feliciano Najera, municipal treasurer of Alaminos, Pangasinan (who was in the capitol at the

time of the occurrence), Manuel Villa (who was supervising the work of a detail of prisoners, in front of the capitol, about 30 meters therefrom, near a bamboo arch, a few paces from which Amado Sanchez fell down mortally wounded), Jaime San Juan (one of the convicts forming part of said detail), and Hermenegildo Santos, a government employee who happened to be at the threshold of the capitol when the crime charged was committed, apart from the testimony of the physician (Dr. Braulio de Venecia) who made an autopsy of the body of Amado Sanchez and the report on the result thereof. It is, likewise, worthy of notice that the defense has not even tried to impugn the motives of these witnesses in testifying as they did, and that appellant did not take the witness stand to deny any of the incriminatory acts imputed to him by said witnesses for the prosecution. More specifically, the following facts, which are relevant to appellant's participation in the commission of the offense charged, have been established, to wit:

- On October 26, 1956, Hilario Cruz reported to the Highway District Engineer Marcelino Samson, that a roll of barbed wire had been stolen from his office by appellant Victoriano Sorio and Agustin Banloa. When Samson investigated Banloa about it, the latter admitted his guilt, but claimed to have acted, not only with the assistance of, but, also, under pressure from Victoriano Sorio whom Banloa characterized as a "tough guy".
- Appellant was the person directly affected by said report. It was he, primarily, who had a motive, therefore, to harbor ill feeling towards Hilario Cruz, and, incidentally, Amado Sanchez, who gave Fructuoso Cruz a timely warning of the danger to the safety of his brother Hilario Cruz, resulting from his aforementioned report.
- In the morning of Beeember 3, 1956, appellant accompanied his children Alfredo and Cesar to the garage or motor pool where Hilario Cruz was working.
- Appellant and his children were each armed with deadly weapons.
- Upon arrival at said place, they proceeded to the structure housing the office of Hilario Cruz and, approaching the window near which he was working—like Dante Fernandez, another employee, in the same office—Alfredo Sorio invited him (Hilario) to converse outside and then ;Winkecbat appellant, wlio winked at Alfredo.
- The invitation having been rejected by Hilario Cruz, 'Alfredo drew out his dagger, and appellant coaxed him to "Go ahead," and "get inside", adding that, if he (Alfredo) did not do so, he (appellant) would.
- As Hilario Cruz locked the door of his office, Victoriano and Alfredo tried to force it open, for which reason Perfecto Banoudo, the security guard on duty in the compound, ordered the Sorios out of it.
- Upon leaving the place, they noticed Amado Sanchez aboard a Pantranco bus that passed by, whereupon appellant and his sons ran towards the vehicle and bade it to stop.
- With daggers unsheathed, Alfredo and Cesar Sorio placed themselves on each side of the bus, whereas Victoriano Sorio took his post behind it. Then Alfredo told Sanchez to alight therefrom.
- When Sanchez jumped from it and ran away pursued by Alfredo and Cesar Sorio, appellant cajoled his children, shouting "sigue, sigue".
- After his sons had overtaken and stabbed Sanchez ten (10) times, appellant fled to San Carlos, Pangasinan, where he was arrested.

These facts show beyond doubt that Alfredo and Cesar Sorio acted in concert with their father, appellant herein, and that there was, therefore, a unity of purpose and action among them, which is the essence of conspiracy. In fact, appellant—not his children—was the main source of motivation for the offense, which was qualified by treachery, and, hence, constitutes murder Although there are indications of some premeditation, we are not inclined to disturb the action of the lower court which seemingly gave the accused the benefit of doubt in

connection with said aggravating circumstance and, accordingly imposed the medium penalty for murder.

Wherefore, the decision appealed from is hereby affirmed, with costs against appellant Victoriano Sorio. It is so ordered.

Paras, C.J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Judgment affirmed.

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