

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOAQUIN SALBINO, ET AL., ACCUSED, SY CHIN AND ANTONIO AGRAVANTE, ACCUSED-APPELLANTS. D E C I S I O N*G.R. No. L-40235. February 25, 1985*

Ponente: AQUINO, J.

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Antonio Agravante and Sy Chin appealed from the decision of the Court of First Instance of Camarines Sur, finding them and Joaquin Salbino (the latter in absentia) guilty of robbery with homicide and sentencing each of them to reclusion perpetua and to indemnify the heirs of the victim, Chan Seng, "proportionately" in the sum of P12,000 (Criminal Case No. L-10).

The question is whether Sy Chin's guilt as the mastermind in the robo con homicidio was proven beyond reasonable doubt by the prosecution witnesses and, in Antonio Agravante's case, whether his extrajudicial confession is corroborated by evidence of the corpus delicti.

From the testimony of Cecile Barrameda, an errand boy, cook and helper of Sy Chin alias Chiquito, and the extrajudicial confessions of Salbino and Agravante (Exh. E and F), it appears that on October 13 and 14, 1969 Agravante, 22, and Salbino, 19, while in Sy Chin's house located at Barrio Libod, Libmanan, Camarines Sur, plotted with Sy Chin to rob Chan Seng who was reputed to have P18,000. Chan Seng resided in Maria Bautista's house which was at the back of Sy Chin's house (Sketch, Exh. A).

Early in the morning of October 16, 1969 (past midnight of October 15), Salbino and Agravante, armed with a balisong knife and revolver, respectively, proceeded to Maria Bautista's house. The knife was purchased by Sy Chin through Barrameda. Agravante stayed in the balcony. Salbino was able to enter Chan Seng's room through the beam (See sketch, Exh. D). Chan Seng was awakened. The two had a fight.

Salbino stabbed him to death. He sustained four stab wounds in the chest (Exh. B). Salbino opened the door of the room and confronted the occupants of the house who had been awakened by the commotion in Chan Seng's room. He pointed a knife at them and told them to keep quiet. He ordered that the door leading to the balcony be opened. After it was opened, Agravante, who was wearing a mask, entered the dining room. He was armed with a gun.

Salbino and Agravante entered Chan Seng's room and got the money there amounting to P400. They told the occupants to enter the bedroom. They locked the door of the bedroom and left the house. They returned to Sy Chin's house and gave him the money (No. 51, Exh. F).

Sy Chin, as planned, entrained for Manila at five o'clock in the morning of October 16, 1969 while Salbino and Agravante left for Naga City. Salbino and Agravante were arrested by agents of the National Bureau of Investigation on November 9, 1969 at the Rolex office in the Cinerama Bldg., Manila.

They executed confessions. They reenacted the crime (Exh. G, etc. and H, etc.). They were charged with robbery with homicide. Barrameda, who was included in the information, was discharged to become a State witness. After

the prosecution had presented its evidence and Salbino had testified in his defense, he escaped from jail. He has not been recaptured.

Appellants contend that the trial court erred in discharging Barrameda to become a State witness. No such error was committed. The trial court acted correctly in discharging Barrameda. His testimony was necessary to prove conspiracy or to prove Sy Chin's role as a co-principal by inducement. The two young men, Salbino and Agravante, could not have been expected to have planned the crime by themselves without Sy Chin's help.

Appellants contend that the trial court erred in giving weight to the confessions of Agravante and Salbino, that Barrameda's testimony comes from a polluted source, that the testimony of Florentino Vasquez is riddled with contradictions, that Agravante was not Salbino's companion in perpetrating the robbery and that it was error to admit the pictures of the reenactment of the crime.

The Solicitor General competently refuted in his brief appellants' arguments in support of these assignments of error. The trial court in its 232-page decision made an overly thorough examination of the evidence and convincingly demonstrated that the guilt of the appellants was established to a moral certainty.

Sy Chin, 43, admitted in his testimony that he had known Agravante for about a year and the victim, Chan Seng, for about six years. He transferred to the house, where he was staying and which was near Chan Seng's house, a week before October 15, 1969.

Appellants in their "Statement of the Facts and of the Case" admit the robbery with homicide but claim that it was committed by Salbino and Vasquez without any participation of Agravante who had to attend to his sick wife in Naga City (pp. 7-16, Brief). This version cannot prevail over the extrajudicial confessions of Agravante and Salbino. It was rightly discredited by the trial court.

WHEREFORE, the trial court's judgment is affirmed with the modification that the indemnity is increased to P30,400 for which appellants are solidarily liable. Costs de oficio.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

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