

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
APOLONIO RAIZ, DEFENDANT AND APPELLANT.***G. R. No. L-4565. May 20, 1953*

Ponente: BAUTISTA ANGELO, J.

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This is an appeal from a decision of the Court of First Instance of Isabela finding the accused Apolonio Raiz and Patricio Rebillos guilty of the crime of murder, and sentencing each to suffer reclusion perpetua, with the accessory penalties of the law, to indemnify jointly and severally the heirs of the deceased in the amount of P6.000, and to pay one-half of the costs.

From this decision, both accused have appealed. Subsequently, however, the appeal interposed by Patricio Rebillos was dismissed on the ground that he died while in confinement in the national penitentiary; hence this appeal only concerns the other accused, Apolonio Raiz.

The evidence shows that in the night of May 13, 1948, while spouses Alfredo de la Cruz and Fortunata Fabros were sleeping in their house situated in barrio Villafuerte, San Mateo, Isabela, Apolonio Raiz, who was armed with a pistol, and Patricio Rebillos, with other companions, came and without much ado woke up and brought downstairs Alfredo de la Cruz telling him that he should go with them somewhere. De la Cruz followed as bidden and shortly after they were gone, his wife Fortunata heard the discharge of a gun towards the northern part of their house. As De la Cruz failed to return, on the following morning, his wife Fortunata reported the incident to the barrio lieutenant, one Alba, who considered the matter lightly, as he merely advised her to see the Mayor of San Mateo. Hoping that her husband might still return, she desisted from reporting the matter to the Mayor as above suggested. She, however, reported the matter to her landlord.

In the night of the same day, May 13, 1948, Raiz and Rebillos, then special policemen of barrio Salinuñgan, San Mateo, went to the house of one Manuel Lazatin situated in barrio Villafuerte and summoned to appear before them some residents of the neighborhood, among them Pedro Achuela, Gabino Rigor, Gabriel Achuela, Anastacio Rigor, Paulino Mangapit, Antonio Achuela and Dionisio Urbano. After the seven persons so summoned had appeared, they were ordered by Raiz and Rebillos to go with them to help them bury the body of Alfredo de la Cruz who, according to Raiz and Rebillos, was killed by them. Raiz and Rebillos led them to barrio Dappig and there they found the lifeless body of De la Cruz. He was stretched on the ground with an injury on the left lower jaw. His clothes were soaked with blood and his two hands were hogtied at his back. The seven men were ordered by Raiz to dig a hole and dump the dead body into it. Before leaving, Raiz and Rebillos warned them under threats of death not to reveal the occurrence to anybody.

While some members of the local constabulary, with some policemen, were on patrol to verify the killing of one Francisco Corpuz which was reported in an anonymous letter, they came across with Gabino Rigor, Anastacio Rigor, Gabriel Achuela, Pedro Achuela, Antonio Achuela, Manuel Lazatin, Dionisio Urbano and Paulino Mañapit who informed them that they buried the body of Alfredo de la Cruz near the Dappig creek telling them

at the same time that man was killed by Apolonio Raiz and Patricio Rebillos. These men also stated that they were ordered by Raiz and Rebillos to bury the dead body.

In the afternoon of November 25, 1948, these constabulary men with Mayor Cornelio Alipio of San Mateo, Justice of the Peace Padua and other local officials, including Fortunata Fabros, wife of De la Cruz, went to the place where the body was buried. When the body was exhumed, they found only its remains, part of the clothes, a leather belt and a piece of rope. The clothes and the belt were identified by Fortunata as those worn by her husband when he was taken from their house by Raiz and Rebillos in the night of May 13, 1948.

The defense of Apolonio Raiz tends to show that he was a special policeman and as such was given a .45 caliber pistol by Mayor Alipio of San Mateo. One night in the month of May, 1948, he went to barrio Victoria to wait for his companions, among them Florentino Verzosa and Patricio Rebillos. At dawn his companions arrived in the house of Manuel Lazatin. Verzosa and Rebillos informed him that they caught a huk named Alfredo de la Cruz whom they shot when he attempted to escape. Verzosa also informed him that upon his order the body of De la Cruz was buried at the bank of Dappig creek by Manuel Lazatin, the Rigor brothers and the Achuela brothers, in the presence of Patricio Rebillos and three more persons. The evidence for the defense also shows that Florentino Verzosa is a fugitive from justice while Manuel Lazatin has disappeared and his whereabouts is not known.

Patricio Rebillos on his part testified that one night in the month of May, 1948, some special policemen headed by Wing Verzosa showed up in his house and asked him to go along with them to conduct some patrol. Upon nearing the group of houses in barrio Villafuerte, Verzosa told him to wait on the road as he was going to get somebody. Shortly thereafter, Verzosa returned with the man and on their way to Victoria, another barrio, the man tried to escape and Verzosa fired killing him. Rebillos asked why he shot the man and Verzosa replied that he was a huk. Upon arriving in Victoria, Rebillos and Verzosa informed Apolonio Raiz, who was then waiting for them in the house of Manuel Lazatin, that Verzosa shot somebody who turned out to be Alfredo de la Cruz.

The question to be determined is whether Alfredo de la Cruz was killed by Apolonio Raiz and Patricio Rebillos, as claimed by the prosecution, or was shot to death by Florentino Verzosa, as claimed by the defense. After a careful examination of the evidence of record the only conclusion that can be drawn is that the authors of the killing are Apolonio Raiz and Patricio Rebillos. This is so in view of the overwhelming evidence submitted by the prosecution. Thus, the straightforward declarations of Gabriel Achuela, Gabino Rigor, Pedro Achuela, and Paulino Mañgapit to the effect that they, together with Anastacio Rigor, Antonio Achuela, Manuel Lazatin and Dionicio Urbano, were ordered by Raiz and Rebillos to bury the dead body of Alfredo de la Cruz at the bank of Dappig creek, after admitting to them nonchalantly that they are the ones who shot and killed him, proved conclusively that Raiz and Rebillos, and not Florentino Verzosa, are the authors of his death. The defense has not shown any reason or motive why said witnesses would testify against them and would impute to them a heinous crime. The lower court, who had the opportunity to observe their conduct and demeanor while at the witness stand has been highly impressed by the sincere and straightforward manner they have given their testimony. It may be argued that it seems unnatural for Raiz and Rebillos, after committing the dastardly act, to have ordered other people to bury the body of their victim thus exposing themselves to a sure prosecution, but there is nothing strange in such an attitude considering the fact that Raiz was then a special policeman and was given instructions by the Mayor of San Mateo to go after the huks or the bad people in the vicinity so much so that he was given a .45 caliber pistol, and must have acted the way he did in the belief that he was doing an act of heroism by eliminating a man who was a sympathizer of the huks. Be that as it may, the fact remains that the consistent testimony of said witnesses points to him in bold relief as the author of the crime.

The evidence for the prosecution is further strengthened by the testimony of Fortunata Fabros, wife of the victim, who categorically affirmed that her husband was taken from their house by the two accused in the night of May

13, 1948, and that shortly thereafter, she heard the discharge of a gun coming from the northern part of said house. Her testimony was given full credit by the court a quo.

The pretense of the accused that it was Florentino Verzosa who shot to death Alfredo de la Cruz cannot be sustained in the face of some developments that took place while this case was under trial. It appears that while the accused Raiz was then confined in the provincial jail, he wrote a letter to his brother-in-law, Constantino Balmoje, wherein he suggested ways and means to weaken the evidence for the prosecution by urging the prosecution witnesses to testify in a manner favorable to him, but he never made any mention in that letter of the fact that Verzosa was the author of the killing. This same letter also reveals a culpable conscience considering the attempt he has made to exert pressure on the prosecution witnesses and have them testify in his favor. It likewise appears that in another letter he wrote to one Anastacio Rigor sometime after he had written the first, the accused made mention for the first time of the claim that it was Verzosa who killed the victim. Evidently, this is a mere after-thought concocted at the eleventh hour in an effort to secure his exculpation. Moreover, in the confession signed by Patricio Rebillos, the co-accused of Raiz, when this case was then being investigated by the authorities, Rebillos pointed to Raiz as the author of the crime. While this confession may not be directly introduced in evidence against a co-accused, it may nevertheless be taken into consideration in passing upon the weight and credibility of the witnesses of opposing parties (*People vs. Emiliana Go*, 88 Phil. 203).

Finding no error in the decision appealed from, the same is hereby affirmed as regards the accused Apolonio Raiz, with costs.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

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