

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SATURNINO MABAGA, AMBROCIO MABAGA AND TEOFILO MABAGA,
DEFENDANTS-APPELLANTS.**

G.R. No. L-26337. July 25, 1969

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PER CURIAM:

Defendants Saturnino Mabaga, Teofilo Mabaga and Ambrocio Cabillo, seek the reversal of a decision of the Court of First Instance of Laguna insofar as it convicts them of the crimes of murder and frustrated murder and sentences them, for the first, to life imprisonment, with the corresponding accessory penalties, to jointly and severally indemnify the heirs of the deceased, Montano Matanguihan, in the sum of P6,000, without subsidiary imprisonment in the event of insolvency, and to pay one-third (1/3) of the costs, and, for the second, to an indeterminate penalty ranging from ten (10) years and one (1) day of prison mayor to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, with the corresponding accessory penalties, and to pay one-third (1/3) of the costs. The same decision acquitted appellants of the crime of frustrated murder as regards the person of Zoilo Matanguihan, with the corresponding part of the costs de oficio, and provided that the service of the penalties imposed for the first two (2) offenses shall not exceed 40 years.

On April 18, 1963, between 9 and 9:45 p.m., Zoilo Matanguihan, Montano Matanguihan and Felix Decillo were in the latter's house, in the Sitio Mahabang-Pulo, Barrio of Majada, Municipality of Canlubang, Laguna. They were seated on the floor of the "balcony" or extension of the kitchen, which had a brightly lighted kerosene lamp on a table, and was about four (4) feet from the ground. While they were drinking coffee in that place, four or five men approached that part of said extension which had no siding, where the bamboo stairs were. Felix Decillo recognized among them his neighbors, appellants Saturnino Mabaga, Teofilo Mabaga, Ambrocio Cabillo and Bruno Cabillo. He invited them to partake of the coffee as well as inquired where they were going, but they replied with a burst of gunshots, and then began to run away, although they kept on shooting as they did so.

Estanislao Decillo, a brother of Felix Decillo, was then in his (Estanislao's) house, about 20 meters away from that of Felix, listening to a radio program. Upon hearing the first shots, coming from the direction of the latter's house, Estanislao hurriedly descended his kitchen stairs and, lying down on the ground, watched five (5) men pass by - at about one-arm length (2 yards) from him, firing their guns as they fled - among whom he recognized appellants Saturnino Mabaga and Teofilo Mabaga.

A few minutes later, members of the constabulary arrived. They found Montano Matanguihan mortally wounded and Felix Decillo injured seriously in the neck. Together with Zoilo Matanguihan, who sustained no injury by dropping to the floor, they immediately brought Montano Matanguihan and Felix Decillo to the hospital of the Canlubang Sugar Estate, where Montano died about 30 minutes later. Thereupon, the constabulary agents, accompanied by Zoilo Matanguihan, returned to the scene of the occurrence, and inquired about the details thereof from, among others, Zoilo Matanguihan and Estanislao Decillo. The formal investigation seemingly began the next day. Felix Decillo was hospitalized for over a month, although medical treatment continued thereafter. In fact, on January 6 and March 11, 1965, or about two (2) years after the occurrence, he gave his testimony in Court

lying down on a stretcher, because he had not, as yet, fully recovered from his aforementioned injury.

Soon after the occurrence, a complaint charging appellants Saturnino Mabaga, Teofilo Mabaga and Ambrocio Cabillo, as well as Bruno Cabillo, with murder and frustrated murder, was filed with the Justice of the Peace of Canlubang, who, after conducting a preliminary investigation, found the existence of probable cause and forwarded the records to the Court of First Instance of Laguna, where the corresponding information was thereafter filed against said four (4) defendants. After due trial, with respect only to appellants herein, for Bruno Cabillo has not been apprehended as yet, said Court rendered the decision adverted to above. Hence, this appeal, upon the ground that the lower court had erred: (1) in finding appellants guilty of having murdered Montano Matanguihan, with the qualifying circumstance of treachery; (2) in convicting appellants of frustrated murder as regards Felix Decillo; and (3) in not acquitting said appellants of both charges.

In this connection, appellants assail the sufficiency of the evidence for the prosecution identifying them among the culprits, and establishing treachery, apart from evident premeditation, on their part. With respect to the identity of the culprits, Felix Decillo and Zoilo Matanguihan testified positively that they recognized appellants Saturnino Mabaga, Teofilo Mabaga and Ambrocio Cabillo among the persons who fired at them in the evening of the occurrence. In fact, Felix Decillo recognized a fourth man, Bruno Cabillo, who, the former noticed, carried also a "long gun". Their testimony was substantially corroborated by Estanislao Decillo, who identified appellants Saturnino Mabaga and Teofilo Mabaga among the five (5) armed men he saw at the scene of the occurrence, while they were hurriedly leaving the same.

The veracity of these witnesses for the prosecution is beyond doubt, for they had no possible reason to falsely incriminate appellants herein.[1] Moreover, the former could not have mistaken the latter for other persons, because they were not only acquaintances of long standing, but, also, barrio mates.[2] Again, the place where Felix Decillo and his guests were taking coffee was brightly lighted with a kerosene lamp; the evening was clear; an almost "round" moon was shining; their assailants were only from one (1) to four (4) arms length from them, when the former began shooting, and one-arm-length from Estanislao Decillo, when they beat a hasty retreat; the faces of said assailants were not covered; and, although they wore hats, the brims thereof did not hide their faces, apart from the fact that the extension of the kitchen of Felix Decillo stood on a depression of the soil, so that the culprits must have been on a ground higher than the latter. In other words, the conditions were favorable to the recognition of the culprits or, at least, of some of them, by the witnesses for the prosecution. Likewise, their testimony is plain, simple and straightforward. It bears all the earmarks of being frank, candid and honest.[3] In fact, Zoilo Matanguihan is illiterate, whereas Estanislao Decillo has hardly completed the first grade in school and Felix Decillo has barely reached the second grade.

Upon the other hand, the defense has merely set up an alibi. It would have us believe that, in the evening of April 18, 1963, appellants were in the house of Pio Crisostomo, president of the Laguna chapter of the Federation of Free Farmers, in the barrio of Mamatid, Municipality of Cabuyao. Alibi is, however, the weakest of all defenses[4] and it is well-settled that it can not prevail over direct positive evidence on the presence of the accused at the scene of the occurrence.[5] This is especially true in the case at bar, for appellants admit that they know of no possible motive for the witnesses for the prosecution to perjure against them (appellants) and, immediately after the occurrence, Zoilo Matanguihan and Estanislao Decillo revealed to the authorities appellants' participation in the commission of the crimes involved in this case.[6] Certainly, appellants' testimony regarding their alleged conference with Pio Crisostomo can not be taken on its face value. Besides, Crisostomo appears to have testified, also, in support of the alibi set up by the defendant in another criminal case involving a member of the Federation of Free Farmers in Laguna, to which appellants are, likewise, affiliated, he being the president of the Laguna chapter of said Federation. In other words, Crisostomo seems to be a professional witness

for "Free Farmers" who are accused of crimes and have no other defense than an alibi. The testimony of Exequiel Pagaspas, who similarly tried to corroborate appellants' alibi, merits no greater weight, he being the vice-president of said chapter of the Federation.

It may not be amiss to note, also, that Canlubang is barely 30 minutes away, by jeep, from Cabuyao; that the precise time at which appellants were allegedly in Cabuyao on April 18, 1963, has not been positively established, for Teofilo Mabaga said that he and the other appellants arrived at that place "more or less past 8:00 o'clock x x in the evening", whereas Saturnino Mabaga affirmed that they were there since 6:00 p.m., and, although Pio Crisostomo declared that appellants were in Cabuyao up to 10:30 p.m., Teofilo Mabaga said that they left the place at 10:00 p.m. and Saturnino Mabaga testified that they arrived at Canlubang at about 10:00 p.m., so that they must have left Cabuyao - assuming hypothetically that they had really been there - at around 9:30 p.m., or a little before; and that, according to Estandis Decillo, the shooting happened at about 9:45 p.m., which is the very information given by the Constabulary investigators to a laboratory technician who conducted paraffin tests for the defense. In short, the witnesses for the defense merely made an estimate of the time alluded to in their testimony and it is not certain that appellants could not have been in Canlubang at the time of the occurrence, after their alleged conference with Crisostomo in Cabuyao.

Needless to say, the evidence for the defense has corroborated, in one important respect, that of the prosecution, and that is that appellants were together at the time of the occurrence, thus bolstering up the prosecution.[7] At that time, Teofilo Mabaga said, evidently in an unguarded moment, he was in his house in Canlubang. On direct examination by counsel for the defense, Teofilo testified:

"ATTY. DIMAANO

x x x

"Q Can you explain to the Honorable Court why the witnesses for the prosecution pointed to you as the assailant?

"A I do not really know about that, sir, I was surprised why I was pointed to as the assailant, sir.

"Q Witness for the prosecution testified before this Honorable Court that he was drinking coffee together with two others and that this happened on the night of Apr. 18, 1963, and said that you were about 4 to 5 meters from him when you fired your carbine. What can you say as to that testimony?

"A Those are lies because I was in our house, how could it be possible that I was the one who fired at them?"

Since Teofilo was then with his co-appellants and his house is in Canlubang, it follows that all of them were in that municipality, not in Cabuyao, when the attack upon Felix Decillo and his guests took place.

Furthermore, a motive has been duly established. Indeed, Felix Decillo testified that, about two (2) weeks prior to the occurrence, appellants herein and Bruno Cabillo had urged him to join them in a petition for the expropriation of the lands of the Calamba Sugar Estate, parts of which were held by them, and that he (Felix Decillo) turned down their request, despite their warning that "something wrong" would happen to him if he did not acquiesce thereto.[8]

The defense attaches much weight to the negative result of paraffin tests conducted on Saturnino Mabaga, Teofilo Mabaga and other members of their family, and to the fact that the striations on some .30 caliber discharged cartridges picked up at the scene of the occurrence were not congruent with those of similar cartridges fired from a carbine found in the house of Teofilo Mabaga the next day. Commenting on the paraffin tests, His Honor, the trial Judge said:

"x x x It will be noted that the test was made about 13 hours after the commission of the crime and there is

enough opportunity for the accused to have employed means and methods to have caused the disappearance of gunpowder residue, not counting that the use of gloves or other devises could have easily foiled such chemical test."

As regards the carbine subjected to ballistic test, the decision appealed from contains the following observation:

"x x x It could well be that this firearm was not the firearm used in the commission of the crime otherwise the accused Teofilo Mabaga would not have been as careless or stupid enough to keep it in his house and in a place easily to be discovered. Besides, the said carbine according to Teofilo Mabaga, has a permit from Governor Leviste and as this gun could easily be traced, this firearm was not one of those used in the commission of these crimes."

Under the circumstances, and considering that the veracity of the witnesses for the prosecution is incontestable; that they could not have possibly committed a mistake in identifying appellants herein among the culprits; that appellants were, admittedly, together in the evening of the occurrence; that immediately after the occurrence said witnesses for the prosecution informed the Constabulary of defendants' participation in the commission of the crimes charged; that, soon thereafter, before the evening was over, the authorities began to look for the defendants, and some of them were, in fact, apprehended that same evening; and that the defendants had a motive to attempt against the life of Felix Decillo, it is clear that His Honor, the trial Judge, has not overlook or misconstrued any circumstance of weight and importance in the determination of the credibility and weight of the testimonial evidence on record, and that, accordingly, we are not justified in disturbing his findings of fact, based upon the veracity of the witnesses for the prosecution, whose behavior he had an opportunity, denied to us, to observe.[9]

Inasmuch as the victims were shot while they were drinking coffee, immediately after one of them had invited appellants to partake of this beverage, it follows that the latter had acted with treachery, their attack having taken place suddenly, under conditions eliminating any possibility of defense on the part of their victims.[10] Similarly, the fact that appellants went together, provided with firearms, to the scene of the occurrence and that, upon reaching the same and, without any provocation from their victims, they (appellants) simultaneously fired at them, coupled with the threats made to Felix Decillo two (2) weeks before, establish the existence of conspiracy among appellants, as well as evident premeditation on their part.[11] The crimes committed were, therefore, murder and frustrated murder, qualified by treachery, with the aggravating circumstance of evident premeditation, apart from that of dwelling, as regards the frustrated murder against Felix Decillo.[12]

Owing to the evident premeditation attending the commission of both offenses, the penalty prescribed by law for the crime of murder must be imposed in its maximum period, which is death, and the decision appealed from should be modified accordingly. The retribution therein meted out for the frustrated murder is, however, within the statutory range.

WHEREFORE, modified as to the penalty for murder, which is raised to the extreme penalty, and as to the indemnity to the heirs of Montano Matanguihan, which is hereby increased to P12,000,[13] the decision appealed from is, therefore, affirmed, in all other respects, with costs against the defendants-appellants.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Capistrano, and Teehankee, JJ., concur.

Fernando and Barredo, JJ., did not take part.

- [1] People v. Reyes, L-21445, May 30, 1967.
- [2] People v. Belchez, L-21196, March 28, 1968; People v. Simon, L-18035, Feb. 28, 1964; People v. Mohamad, L-14583, Dec. 28, 1963.
- [3] People v. Tansianco, L-19448, Feb. 28, 1964; People v. Castelo, L-10774, May 30, 1964; People v. Fontillas, L-25298, April 16, 1968.
- [4] People v. Gilvera, L-19421, May 29, 1967.
- [5] 2 People v. Tansianco, L-19448, Feb. 28, 1964; People v. Reyes, L-18892, May 30, 1966; People v. Pelagio, L-16177, May 24, 1967; People v. Ubaldo, L-19490, Aug. 26, 1968.
- [6] People v. Belchez, L-21196, March 28, 1968; People v. Genilla, L-23681, Sept. 3, 1966; People v. Llurca, L-14030-31, July 31, 1963.
- [7] People v. Elizaga, L-23202, April 30, 1968.
- [8] See People v. Jaravata, L-22029, August 15, 1967.
- [9] People v. Diva, L-22946, April 29, 1968; People v. Fontillas, L-25298, April 16, 1968; People v. Panganiban, L-22476, Feb. 27, 1968; People v. Estrada, L-26103, Jan. 17, 1968; People v. Gumahin, L-22357, Oct. 31, 1967; People v. Clemente, L-23463, Sept. 28, 1967; People v. Orzame, L-17773, May 19, 1966; People v. Secapuri, L-17518-19, Feb. 28, 1966.
- [10] People v. Tiongson, L-9866-67, Nov. 28, 1964; People v. Macatembal, L-17486-88, Feb. 27, 1965; People v. Sagario, L-18659, June 29, 1965; People v. Pasilan, L-18770, July 30, 1965; People v. Casalme, L-18033, July 26, 1966; People v. Villalba, L-17243, Aug. 23, 1966; People v. De Gracia, L-21419, Sept. 29, 1966; Bernabe v. Bolinas, L-22000, Nov. 29, 1966; People v. Bato, L-23405, Dec. 29, 1967.
- [11] People v. Pedro, L-18997, Jan. 31, 1966; People v. Asilum, L-19380, June 30, 1965; People v. Sagario, L-18659, June 29, 1965; People v. Castro, L-17465, Aug. 31, 1964; People v. Simon, L-18035, Feb. 28, 1964.
- [12] People v. Cabellon, 51 Phil. 846.
- [13] People v. Pantoja, L-18793, Oct. 11, 1968; People v. Gutierrez, L-25372, Nov. 29, 1968; People v. Buenbrazo, L-27852, Nov. 29, 1968.

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