

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, AND APPELLEE, VS. ALBERTO SANTOS, AND ISABELO CRUZ, DEFENDANTS AND APPELLANTS.

G.R. No. L-1728. November 26, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

Appellant Isabelo Cruz was accused, jointly with Cecilio Salomon and Vicente Delgado, of theft of large cattle in the justice of the peace court of Cordon, Isabela. They approached Geronimo Enriquez, chief of police of Cordon, to post a bail for them. Enriquez told them to approach a man Raymundo Feliciano, who had a bigger property, because his own land was not yet declared in his name for taxation purposes. They approached Raymundo Feliciano, but the latter refused to file a bond in their favor, "because you do not have the master mind with you." (154-155).

In the afternoon of February 24, 1946, Enriquez was warned "by Cecilio Salomon and Vicente Delgado to be careful because Isabelo Cruz intended to kill him. On February 25, 1946, Monday night, at about 7 o'clock, Isabelo Cruz, Marcos Vargas and another unknown person, went to the house of Enriquez, calling him. Because of the warning he received, Enriquez did not answer. (146). Those who warned him stated that the reason why Isabelo Cruz wanted to kill him was "because I was the bodyguard of Raymundo Feliciano." (146-147). As Enriquez did not answer and refused to go down, the three individuals left. Twenty minutes after they had left, "I heard a detonation of firearm and three others successively thereafter." Not long after, Casimiro Feliciano came to Enriquez telling him that his father, Raymundo Feliciano, was carried away by Isabelo Cruz and others. Enriquez advised Casimiro to run immediately to the UP or to the camp to report the matter, and Casimiro ran to the camp of the Ifugao soldiers. (147-148).

Between three and four o'clock in the afternoon of February 25, 1946, while Casimiro Feliciano was splitting bamboo in his home, appellant Alberto Santos asked him, "Is your father in?" To which he answered, "Yes, he is there." After this answer, Alberto Santos left.

That same night, after Enriquez refused to heed the call of Isabelo Cruz and his two companions, Alberto Santos entered the house of Raymundo Feliciano. He asked for him. Siena Soriano, who was then playing cards with Lucia and Casimiro Peliciano, answered that he was sleeping inside the room. Alberto took his revolver, told the inmates of the house not to move as the house was surrounded with soldiers, entered the room, and dragged therefrom Raymundo Feliciano. Upon reaching the stairs, they were met by Isabelo Cruz who helped in dragging Rayraundo downstairs. Isabelo Cruz ordered Emeteria Bartolome, wife of Raymundo, and Casimiro Feliciano: "Do not follow" and aimed his revolver at them. After saying that, he closed the door. (74-75).

Downstairs appellants were joined by five other individuals, Casimiro heard his father ask them: "What is the matter, Bentong, Belong? Why, what is this you are doing to me? Why are you pulling me? Is it that you stole a carabao?" He did not hear any answer, but heard that his father was repeatedly boxed. He saw him blindfolded by

Alberto Santos. The group went to the southwestern part of the house. After a while, a gunshot was heard, followed by three other successive gunshots. (75-77). Soon thereafter, Casimiro reported the kidnaping to the authorities. Soldiers were immediately sent to investigate, but they could not proceed that same night because the kidnapers were armed, and the place was dark and shrubby.

The next morning, the dead body of Raymundo Feliciano was found lying in a guava grove with gunshot wounds. At the place were found two empty .45-caliber shells. That same night, sometime after the shooting, Teofilo Bugtong, a policeman of Cordon, saw Alberto Santos driving a truck loaded with five carabaos and two cows. Among his passengers were Marcos Vargas, Vicente Delgado and Raymundo de Vera, the latter sitting beside him. Bugtong focused his flash- light at the truck. Marcos Vargas told him: "If you like to check the truck, you better have it checked outside the town," holding Bugtong's hand, which he had to pull away from him. Immediately the truck started and the driver increased the velocity of the truck. (169-171).

Appellant Alberto Santos offered an alibi as a defense, but it is unconvincing, and it cannot overcome the straightforward testimonies of the witnesses for the prosecution who identified him as the one who took Raymundo Feliciano from his room and then dragged him downstairs with the help of Isabelo Cruz. He was the one who in the afternoon, immediately before the night of the kidnaping and killing, inquired from Casimiro Feliciano whether his father was at home. He was the one who in the night of the kidnaping entered the house of Raymundo Feliciano, asked for him, and ordered the inmates, some of whom were playing cards, not to move, because the house was surrounded by soldiers. He was the one who, after the crime was committed, drove in a truck away from Cordon his companions with several heads of cattle.

Isabelo Cruz, in a trying to support the alibi of Alberto Santos, concocted a version of the kidnaping and killing, which is more childish than anything. His story runs as follows: "On the night of February 25, 1946, at about 8 o'clock, Marcos Vargas came to my house and invited me to drink meding (a native wine). I accepted his invitation. We went to the road. He told me that we had to pass for his companions. I asked him, 'Where is your companion anyway?' He said, 'They are here,' and he immediately held my right hand and pulled me. As soon as we reached a distance of about 100 meters from the place where we were, he whistled two times. Two men from a hiding place came out, approached me and held the collar of my sweater. They stuck the barrels of their revolvers on both sides of my body. The unknown men asked me, 'What, will you follow us or not?' I answered them, 'Why, where are we going?' They told me, 'We will go to kill old man Raymundo.' I answered them, 'I cannot kill a person who does not have any fault.' They told me that if I would not follow them, they would kill me. Because of fear, I was forced to follow them to the house of Raymundo Feliciano. Upon reaching the premises of the house of old man Raymundo Feliciano, at a distance of about five meters away from the house, Marcos Vargas and his two unknown companions whispering told me that I would go upstairs and bring down the house old man Raymundo Feliciano. I told them, I cannot go up the house because every member of the family including the children knows me and aside from that, they are my relatives.' They told me to call for the old man Raymundo Feliciano to peep through the window so that upon peeping, they would immediately shoot him. I told them that I could not do it "because even the youngest child knows my voice. Marcos Vargas held my right arm and pulled me near the stairs. (261-263), The two unknown men went up the house and upon reaching the door, they kicked it. One entered the house aiming his revolver inside the house saying, 'Nobody should move.' After a few moments, the unknown man carried with him old man Saymundo Feliciano. He lifted old man Feliciano by carrying him in the arms. He delivered old man Raymundo Feliciano to the other unknown man who was hiding behind the door. As soon as old man Raymundo Feliciano was brought outside the door, he was made to stand on the stairs. Immediately thereafter, one of the unknown men closed the door inserting his hand with the revolver inside the house saying, 'Nobody should follow.' The unknown man immediately shut the door and then the two unknown men carried in their arms old man Raynundo Feliciano. (264). Marcos Vargas held me on my right arm and pulled

me downstairs, and brought me southward. We went ahead to a place with a distance of 150 meters, more or less, from the house of Raymundo Feliciano. Behind, I heard a firearm detonation. I turned around and saw old man Raymundo Feliciano turning around. He immediately fell down. The two unknown men shot him two times. My companions ran away. I returned home. Marcos Vargas followed the two unknown men running. (265). I could not sleep because of fear." (266).

The uselessness of Isabelo Cruz for the avowed purpose of Marcos Vargas and his two companions makes the story unbelievable. The presence and company of Isabelo Cruz had the effect of hampering the plans of Marcos Vargas and his two companions, because they had to waste energy in holding up an unwilling, partner and assistant in the commission of the crime, while without him they could have, as they did in spite of him, carried out the plan of killing Raymundo Feliciano. The story appears to have been concocted to show the absence of Alberto Santos and the involuntary participation of Isabelo Cruz in the kidnaping and killing of Raymundo Feliciano.

Appellants' guilt has been proved beyond all reasonable doubt. The trial court sentenced them to reclusion perpetua and to indemnify jointly and severally the heirs of the deceased in the amount of P2,000.00 with the accessory penalty of the law, and each to pay one half of the costs. The prosecution recommends that the indemnity be raised to the sum of P6,000.00, according to the rule laid down in *People vs. Amansec*, L-927. (45 Off. Gaz., Supp. to No. 9, p. 51)[1]. The recommendation is well taken. The appealed judgment, modified with the increase of indemnity as recommended, is affirmed with costs against appellant.

Moran, C.J., Paras, Feria, Pablo, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

[1] 80 Phil., 424.

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