

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MARCELIANO ARRANCHADO, ET AL., DEFENDANTS AND
APPELLANTS.**

G.R. No. L-13943. September 19, 1960

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Appeal from the judgment of the Court of First Instance of Cebu in Criminal Case No. V-6076, finding accused-appellants Sergio Arranchado, Jose Tuico and Miguel Arriesgado, guilty of murder for the killing of Revilioso Ygot, and sentencing each and every one of them to reclusion perpetua and to indemnify the heirs of the deceased victim, jointly and Severally, in the sum of P5,000.00, and to pay 3/4 of the costs.

On July 11, 1957, herein accused-appellants and Marceliano Arranchado were charged with the crime of homicide before the Justice of the Peace of Daanbantayan, Cebu, in connection with the death of Revilioso Ygot. The accused having waived their right to a preliminary investigation, the case was remanded to the Court of First Instance. On August 30, 1957, the information was amended to one of murder, with an allegation that the commission of the crime was qualified by evident premeditation and treachery. Upon arraignment, Marceliano Arranchado alone pleaded guilty to the offense charged and was, accordingly, sentenced ahead of the others to from five (5) years, five (5) months and eleven (11) days of prision correccional to twelve (12) years, five (5) months and eleven (11) days of prision mayor; to indemnify the heirs of the victim in the sum of P5,000.00; and to pay % of the costs. The court then ordered the case tried as to the remaining accused, appellants herein.

The evidence is clear to the effect that at about 5:00 o'clock in the afternoon of July 10, 1957, Leon Buangjug and Revilioso Ygot were together in the latter's house located in barrio Talisay, Daanbantayan. At about 5:30 p.m., the two friends left the place and proceeded in the direction of barrio Suba, Daanbantayan. They parted ways after Buangjug reached home, and Revilioso proceeded to the house of one Bonifacia Pepito. Less than half an hour later and while Buangjug was about ready to eat his supper, he heard Revilioso shout, "Leon, I was beaten by Iyok, Jose and Miguel (referring to the three appellants) and then I was stabbed by Marsing (Marceliano Arranchado)." Thereupon, Buangjug hurriedly came down from his house and followed Revilioso, who was then running to get home. Revilioso, however, was only able to run the distance up to Pablo Pepito's place, where he fell; whereupon, Tiburcio Arranchado and Abdon Petalita carried him to the Ygots' residence. When his father, Sergio Ygot, inquired about what happened, Revilioso declared that he was beaten up by Jose, Iyok and Miguel and stabbed by Marsing, adding, "Father, I think I will die."

Later, Revilioso was taken to the town proper (Daanbantayan) for medical treatment, where the municipal health officer, Dr. Augusto M. Lucero, administered first-aid to stop the bleeding from the stab wound; but seeing that the patient was about to die, the doctor urged his folks to bring him to the city. Upon arrival there, however, Revilioso expired.

Doctor Lucero issued a medical certificate as follows:

"This is to certify that Revilioso Ygot, of Barrio Talisay, Daan-bantayan, Cebu, was treated by the undersigned at 8:00 p.m. July 10, 1957, for the following injuries:

- Stab wound, about one inch in width and penetrating the whole thickness of the left dorsolateral thoracic wall at the level of the 9th rib. The wound was clean cut and with sharp edges and directed downwards and centrally into adjoining left lung tissues producing a condition of "sucking pneumothorax".

- Contusions were also found over the following parts of the body:

- a) Behind the right ear
- b) Upper portion of the right back
- c) Left scapular region
- d) Part of the back immediately below the left scapular region
- e) Left shoulder around the acromial region.

- The victim on arrival was dying and bleeding profusely both from the wound and from the mouth.

- Death was, therefore, caused by the severe blood loss."

The only eyewitness to the attack was Pablo Petaleta. He testified that while on his way home after fetching water from a well located at the boundary of barrios Suba and Talisay, Daanbantayan, he saw Sergio Arranchado, Miguel Arriesgado and Jose Tuico delivering blows to Revilioso with pieces of wood until the latter crumpled down on his knees. While Revilioso was still in that position, Marceliano Arranchado suddenly appeared, "I don't know where he came from", and stabbed the victim with a dagger.

The medical certificate issued by Dr. Lucero, indicating the nature and location of the wounds inflicted upon Revilioso, corroborates in significant details the statements of Pablo Petaleta on how the crime was perpetrated by the attackers.

In the face of the deceased victim's dying declaration, testified to by Leon Buangjug and Sergio Ygot, and of the attestations of the eyewitness Pablo Petaleta, all of whom were found to be worthy of credit by the trial court, the evidence for the defense, that consists of mere denials, can not prevail {see *People vs. Villanueva*, 104 Phil., 450; 56 Off. Gaz. [5] 923).

There remains the issue regarding appellants' liability. It is evident that the prosecution failed to prove conspiracy between the three accused-appellants and Marceliano Arranchado. Even the State's evidence tends to establish that it was only after the deceased was assaulted by the appellants that Marceliano Arranchado appeared and stabbed the victim; and thereafter, it does not appear that the appellants continued their attack on the deceased. Additionally, both the ante mortem statement of the deceased and the testimony of the sole eyewitness clearly indicate that the intervention of Marceliano was distinct and separate. The medical certificate issued by the attending physician, on the other hand, gave as the sole cause of death the severe loss of blood on account of the stab wound. That the contusions inflicted upon the victim were not fatal was testified to by the same doctor. Under the circumstances, appellants may not be held guilty as co-since they did not take part in the killing itself, nor did they induce Marceliano to commit the same, nor did they cooperate in the commission of the offense by another act without which it would not have been accomplished. (Art. 17, Revised Penal Code).

Neither may appellants be held guilty as accomplices to the murder under Article 18 of the Revised Penal Code for the reason that it was not proved that they knew of the criminal design of the principal culprit (Marceliano) at the time they were inflicting blows upon the deceased {see *People vs. Tamayo*, 44 Phil., 38 and authorities cited

therein). The suddenness of the attack by Marceliano in fact excludes any question of their cooperating in his homicidal attack (see *U. S. vs. Reyes and Javier*, 14 Phil., 27, 30).

"It is an essential condition to the existence of complicity, not only that there should be a relation between the acts done by the principal and those attributed to the person charged as accomplice, but is furthermore necessary that the latter, with knowledge of the criminal intent, should cooperate with the intention of supplying material or moral aid in the execution of the crime in an efficacious way." (TS, May 23, 1905; Viada, 5 Supp., 169; TS, June 28, 1901 Viada, 4 Supp., 196, quoted in *Peo. vs. Tamayo*, supra, p. 49). Italics supplied)

The crime, therefore, committed by the appellants is only that of slight physical injuries punishable under paragraph 2 of Article 266 of the Revised Penal Code, since there is no proof as to the period of the offended party's incapacity for labor or of the required medical attendance (*People vs. Penesa*, 46 Off. Gaz., Supp. 1, pp. 180, et seq.). The offense was aggravated by abuse of superior strength; the trial court, however, correctly disregarded the attendance of evident premeditation.

Accordingly, this Court finds all three appellants guilty of slight physical injuries penalized by the second paragraph of Article 266 of the Revised Penal Code, committed with the aggravating circumstance of having taken advantage of superior strength, without any mitigating circumstance. We, therefore, modify the sentence imposed by the Court below upon appellants, reducing it to 30 days imprisonment plus the accessory penalties prescribed by law; and appellants to indemnify the heirs of the deceased Revilioso Ygot, jointly and severally, for the injuries caused by them, in the sum of P1,000..No costs in this instance.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador Concepcion, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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