

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
PEDRO VALDEZ, DEFENDANT AND APPELLANT.***G.R. Nos. L-1795-96. May 23, 1949*

Ponente: MONTEMAYOR, J.

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Pedro Valdez is appealing from a decision of the Court of First Instance of Tarlac in criminal cases Nos. 130 and 143, for murder,—which were tried jointly for the reason that the two victims were killed on the same occasion,—finding him guilty in both cases and sentencing him in each case to suffer a penalty of reclusion perpetua, with the accessories of the law, to indemnify the respective heirs of each deceased in the sum of P2,000, and to pay the costs; provided, however, that in no case should the total period of both penalties exceed forty years.

In the beginning of the year 1946, Jose Teodoro, Sr. was living in the barrio of Tariji, municipality of Tarlac, Province of Tarlac, a few kilometers from the poblacion. His household consisted of his wife Maria Lasam, his only child Jose Teodoro, Jr., aged 17, his grandson Felipe de Guzman, 15 years, and some maids. In a four-room house he lived in comparative comforts, even using a battery-operated radio, a luxury in a rural community like Tariji. He had a sugarmill and some ricelands, and, though not rich, he may be regarded as quite well-off. From classroom school teacher, he worked up to be a public school supervisor and there was every reason for him and his family to be happy and contented. That state of happiness and well being, was, however, short-lived, for, on the night of March 5th of that year, some evil persons, about five in number, assaulted his house, broke into it through the kitchen door, and, once inside and in the sala, fired at least five shots with a Thompson sub-machine gun, instantly killing his son Teodoro, Jr. and inflicting mortal wounds upon Jose Teodoro, Sr. himself, which, despite an operation the following morning at the Tarlac Provincial Hospital in a desperate effort to save his life, caused his death about 7:30 in the evening of March 6th.

Now, for the identity of their killer or killers. The evidence for the prosecution has established conclusively and to the satisfaction of the trial court and of this Tribunal, that, shortly after suppertime on March 5, 1946, and while Jose Teodoro, Jr. and Felipe de Guzman were sitting at a table studying and doing their homeworks, the dogs in the yard began to bark furiously, indicating the presence or proximity of persons not known to them. Jose Teodoro, Sr. and the boys went to the window and looked out, and they could discern at some distance away behind a santol tree the blinking of flashlights. Thereafter, the lights disappeared, the dogs ceased to bark, and quiet was restored. But, Jose Teodoro, Sr., through sense of premonition, and suspecting that something untoward may happen, told his wife and the boys to put out the lights and go to bed, which they did. About midnight Teodoro, Sr., who may have been awakened by some noise, if he was not all that time awake in watchful waiting, woke Felipe up and asked him to accompany him to see if the pigs were being stolen. The evidence, however, fails to show where the pigs were,—whether they were down below in a pigsty or in the kitchen. It may be stated in this connection that the kitchen of the house was set apart from the main building but it was connected to the sala by means of a covered passage or pasillo. Teodoro, Sr. and Felipe proceeded toward the kitchen through the

passage or pasillo, and, upon approaching it, they noticed a beam of a flashlight behind the door of the kitchen. Fearing that someone had already entered the kitchen, and to protect themselves from the prowlers, the two retreated towards the sala, but, at that very moment, the intruders started battering down the kitchen door leading to the passage and to the main building. By this time Teodoro, Sr. and Felipe had gained the sala and the former, who had with him a sort of a miner's lamp (Exhibit E), turned it on and trained its beam in the direction of the kitchen door. By its light, Felipe saw two men, one behind the other, and the one in front and fully recognized by him being the defendant Pedro Valdez, dressed in khaki shirt and short pants, holding a Thompson sub-machine gun aimed at Teodoro, Sr. Felipe was so thoroughly scared that, without waiting for further developments, he fled into the bedroom occupied by him and Jose Teodoro, Jr. and there laid low. Almost immediately, he heard what sounded to him like a struggle in the sala, followed by two shots, still to be followed not long thereafter by three other shots and then someone moaning.

In the meantime, shortly before and while all this was going on, Maria Lasam, the house wife, was awakened by the noise of the battering down of the kitchen door. She got up and, at that precise moment, her son Jose Teodoro, Jr., who had gone into her room from his, whispered to her: "Mama may laban" (meaning: Mother, there is fight). Then she went to the window and in the yard below she saw a man carrying a gun. Then she heard the same noise of struggle and gun reports heard by Felipe. Her husband Jose Teodoro, Sr. was no longer in their bedroom, so she decided to look for him and see what had happened. She lighted a lamp and proceeded to the sala and there she found him slumped on the floor, face downward. When she approached him, he told her to put out the light she was carrying, but, before she could do so and by its light, she saw a man hastening into, and disappear in, the kitchen. She could only see his back and not his face, but the man appeared to be of the same height and build as the appellant herein. Teodoro, Sr. further instructed her to tell the military police when they arrived that Pedro Valdez was the one who shot him and their son, he having recognized him by the light of the miner's lamp which he was carrying, and that, for their safety, they must all leave the house because of the danger of the appellant and his followers coming back to harm them. At this time, Felipe ventured into the sala to join Maria Lasam and heard the admonition or advice given by Teodoro, Sr. about not telling anyone except the military police that he (Teodoro Sr.) had recognized Pedro Valdez to be one of the assailants, because Valdez might adopt retaliatory measures and do them harm. Maria continued to look around and it was then that she found in a corner of the sala her son, Jose Teodoro, Jr., already dead. In her desperation, heedless of all danger, and forgetting the admonition of her husband, she began to cry out loudly, even hysterically, for help. Some neighbors came to their aid. As soon as a sufficient number of men became available, Jose Teodoro, Sr. was taken at his request to the provincial hospital of Tarlac. After Dr. Trinidad Esguerra, the attending physician, had examined his wounds, he decided to operate to save Teodoro, Sr.'s life. While his injuries were being examined, and in answer to questions as to how the wounds were caused, Teodoro, Sr. told Dr. Esguerra that he and his household had been assaulted by five persons and that he and his son had been shot, although he did not mention the names of the assailantist. He, however, requested and insisted that he be allowed to see and confer with his uncle, Dr. Juan Nepomuceno. When the latter arrived at the hospital, Teodoro, Sr. recounted to him (Dr. Nepomuceno) in detail the assault on the house and upon him and his son, and said that one of the assailants whom he recognized was Pedro Valdez. Before and while making this ante mortem statement, there is no doubt that Teodoro, Sr. was of the belief that he would die from his wounds. He stated this belief several times, not only to Dr. Esguerra, but also to his uncle Dr. Nepomuceno. And the fact that despite the operation he died that same day, is proof of the serious and critical condition in which Teodoro, Sr. was when he made the statement to Dr. Nepomuceno as to the identity of his assailant. His statement may, therefore, be well regarded and admitted as a dying declaration.

As soon as the identity of the appellant as the person who fired the fatal shots was known to the authorities, the police went to the house of Pedro Valdez and arrested him. At the time of his arrest, he was wearing a

bloodstained khaki shirt and short pants, apparently the same apparel that he wore when recognized in Teodoro Sr.'s house by Felipe de Guzman. A search of his house resulted in the discovery of two hand-grenades (Exhibits J and J-1) wrapped in a sack and under the chicken roost.

After the shooting that early morning of March 6, the authorities found in the sola of the Teodoro house the electric (miner's) lamp (Exhibit E) belonging to Teodoro, a trigger pin of a hand-grenade (Exhibit H), an unexploded hand-grenade, three empty .45 caliber shells which subsequent analysis showed to have been fired from a Thompson sub-machine gun, and a denim cap (Exhibit G-1) not belonging to anyone of the members of the Teodoro family.

The motive for the crime may correctly and briefly be stated as follows: The appellant, as a tenant, was cultivating a piece of riceland belonging to the deceased Jose Teodoro, Sr. One part of the land was devoted to the cultivation of early rice,—the grain being merely scattered on the ground,—while the other part was planted to late rice. In January 1946, the appellant had a heated discussion with Teodoro, Sr. about the former's share in the harvest, the appellant claiming that he was entitled to 80 per cent of the harvest of the early rice, Teodoro, Sr., on the other hand, insisting that the sharing should be 70-30. Nothing was, however, decided between the two, and Teodoro, Sr. left the matter to Maria Lasam to handle. The discussion was later renewed, but no agreement could be reached and the defendant threateningly admonished Maria Lasam that if she did not agree to his claim of 80 per cent of the harvest, one day she would regret her attitude and action. To avoid further discussion and possible trouble, Maria Lasam finally gave in and allowed the defendant to get 80 per cent of the harvest of the early rice which was then deposited under the house of the Teodoros. Not long thereafter, the appellant returned to claim his share in the harvest of the late rice, again insisting that he be given 80 per cent thereof. Maria Lasam tried to convince him that he should get only 60 per cent inasmuch as the expenses of the planting and the harvesting of said late rice had been contributed by both himself and the Teodoros. Valdez was adamant in his attitude and, despite the intervention of Eamon Tabugan, local president of the PKM, who explained to the defendant that Maria's offer was in accordance with the very rules of that association of which the defendant was a member, Valdez did not agree. He did not hide or disguise his disgust with the refusal of Maria Lasam to give him the 60 per cent he claimed. In fact, he never came back to renew his claim or to receive his share of the late rice. From all these, it is reasonable to believe that he entertained a grudge against the Teodoro family.

The appellant put up the defense of alibi, claiming that during all the night of March 5th, 1946, until the next morning, he was asleep in his house. After analyzing this defense of alibi, the trial court rejected the same, and correctly. Aside from the inherent weakness of this kind of defense, in the present case it is not strong enough to counteract or even affect the overwhelming evidence presented by the prosecution against him, particularly that portion of said evidence about his having been seen in the house and fully recognized and identified.

In an effort to show that none in the house of the Teodoros had recognized any of the men who had come up and shot to death two of its inmates, two witnesses for the defense, Sonsa and Tabugan, lieutenant and deputy lieutenant, respectively, of the barrio were presented to testify to the effect that when they came to the house of Teodoro early in the morning of March 6th, both Jose

Teodoro, Sr. and Felipe de Guzman told them that they did not know who had come up the house and fired the fatal shots. The trial court did not give credence to this testimony for the reason that none of the two witnesses transmitted this important information to the authorities with a view to relieving the appellant of responsibility on the theory that he was really innocent. This attitude of the trial court is reasonable. But, even if Teodoro, Sr. and Felipe had really informed these two witnesses that they had not recognized any of the intruders, still there was reason for such statement. It was in line with and due to the desire and decision of Teodoro, Sr. not to reveal the identity of the appellant as the person who fired the fatal shots, except to the military police and to his uncle.

Pending appeal in this Tribunal, counsel for the appellant filed a petition for the dismissal of this case, invoking the benefits of amnesty contained in Proclamation No. 76 (series of 1948) issued by the President of the Philippines. This petition is vigorously opposed by the Solicitor General on the ground that the appellant does not come under the proclamation. After a careful study of the case, we agree with the Solicitor General that the case of the appellant is not covered by the said Amnesty Proclamation. According to the terms of this proclamation, and as implemented by the Honorable Secretary of Justice in his circular No. 27 (series of 1948) relative to the enforcement of the said Amnesty Proclamation, the latter refers to the crimes of rebellion, sedition, illegal association, assault upon, resistance, and disobedience to persons in authority, and/or illegal possession of firearms, or any other crime that may be shown to have been committed merely as an incident to or in furtherance of the commission of any of said crimes. The two murders in the present case have no relation or bearing at all with the crimes covered by the said Amnesty Proclamation; they were based on and motivated by a private grudge entertained by the appellant; and were dissociated from his being a member of the PKM, or Jose Teodoro, Sr.'s being a landlord. In fact, the very president of the PKM association, Kamon Tabugan, was against the contention of the appellant as regards the percentage of his share in the late rice, said president being of the opinion that the basis should be 60-40 in favor of the appellant, as claimed by Maria Lasam, and not 80-20 as claimed by the appellant.

The killings in this case are qualified by treachery. The aggravating circumstance of nighttime may well be regarded as being absorbed in that of treachery. Moreover, there is the aggravating circumstance of dwelling. So that, following the recommendation of the Solicitor General, there being no mitigating circumstance to off-set the same, the penalty should be imposed in its maximum degree, that is to say, death. However, for lack of the necessary votes to impose this extreme penalty, we hereby impose that of life imprisonment, this, to apply to each of the two cases of murder. With this modification, the decision appealed from is hereby affirmed, with costs against the appellant.

Moran, C J., Ozaeta, Paras, Feria, Pablo, Bengzon, Tuason, and Reyes, JJ., concur.

PERFECTO, J.:

Subject to our consistent opinion to the effect that the indemnity should not be less than P6,000, in accordance with the doctrine laid down in *People vs. Amansec* (80 Phil., 424), we concur in this decision.

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