

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. DATUMANONG MONADI AND MASCARA MONADI, DEFENDANTS AND APPELLANTS.

G.R. Nos. L-3770-71. September 27, 1955

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The four defendants in cases G. R. Nos. L-3770-71, namely, Datumanong Monadi, Mascara Monadi, Racid Lucman, and Palawan Lucman, are appealing the decision of the Court of First Instance of Lanao finding them guilty of the crime of murder for the killing of Pangandaman P. Aguam (later to be referred to as Pangandaman), and sentencing Palawan Lucman as principal to the penalty of reclusion perpetua, and to indemnify the heirs of the deceased in the amount of P2,000; and sentencing the other three defendants Datumanong Monadi, Mascara Monadi and Racid Lucman as accomplices, each to an indeterminate penalty of from six (6) years, one (1) month and eleven (11) days of prision mayor to twelve (12) years, five (5) months and eleven days of reclusion temporal and to indemnify jointly and severally the heirs of the deceased in the sum of P2,000; and all four to pay proportionate costs.

It is not disputed that on November 14, 1947, at about 7:30 p.m. as Pangandaman was about to enter his house in Dansalan, Lanao, he was shot in the back with a revolver, causing a mortal wound which resulted in his death a few minutes later. The four appellants were charged separately in two informations. First, Datumanong and his brother Mascara both surnamed Monadi and Moro Mapupuno were charged with murder in Criminal Case No. 362 on March 27, 1948; later on July 8, 1948, first-cousins Racid Lucman and Palawan Lucman were charged with the same crime in Criminal Case No. 446. The two cases were tried jointly and after the prosecution had rested its case, at the request of the prosecution itself the case against Moro Mapupuno was dismissed for lack of evidence. Extensive evidence was presented by the Government and the defense, the former presenting 17 witnesses and later 3 rebuttal witnesses, and the defense presenting about 29 witnesses.

According to the evidence and as found by the trial court in an exhaustive and well-written decision penned by Judge Ramon O. Nolasco, in the evening in question Makasindig Umpat, Manking Aguam and Abdul Aguam, sister-in-law and brothers, respectively, of the deceased were living in the latter's house in Dansalan, Lanao. At about 7:30 p.m. these three happened to be in the second story of the house. Makasindig heard a knock at the door of the ground floor. She hastened to answer it and opening the door she saw Pangandaman wiping his shoes at the foot of the stairs preparatory to entering the house. At the same time she saw the two brothers Datumanong and Mascara walk fast or run from under the avocado tree in the yard, a few meters away from the door, toward two gasoline drums standing near the stairs, and as they reached the same, she saw Palawan Lucman stand up from behind the said two drums and with a revolver fire the fatal shot hitting the deceased in the back. The Monadi brothers also aimed their revolver at the deceased but because Makasindig shouted and cried for help, they desisted and the three defendants fled. A few moments later, several shots were heard from behind the house. Answering the cry for help for Makasindig, Manking stood up from the table where he was at and because of the

shot or shots that he heard, he looked out the window and he saw five persons running below, away from the house, all carrying revolvers. He recognized only Racid Lucman and Palawan Lucman. He ran below and saw his brother sprawled below the stairs. Makasindig informed him of the identity of the three men she had seen but Manking told her not to reveal what she had seen to any one, not even to the authorities because they (relatives of the deceased) would take care of seeking revenge on the assailants. Makasindig and Manking carried the body of the deceased inside the house. Abdul Aguam was in the toilet room upstairs when he heard the shot and the cry for help. He hurriedly buttoned his pants, entered the kitchen and looked out the window and he saw Racid Lucman followed by four others among them Palawan Lucman, all running. As he descended to the ground floor he saw Makasindig and Manking carrying the body of the deceased. It seems that he was also informed of the identity of the three defendants seen by Makasindig and he also enjoined her not to reveal their identity because they would take care of avenging the outrage. Condar Mama, a neighbor of the deceased, also heard the shots. He went down his house and saw three persons in the yard of the deceased but recognized none of them. Maungko Diro, another witness for the Government stated that that evening he was walking along the main road not far from the house of the deceased Pangandaman; in fact he could see the house from where he was. As he reached a spot in front of the house of one Sampaco Gubat he heard a shot followed by two other shots from the direction of the house of Pangandaman. He stopped walking evidently to observe and later saw Racid and Palawan running along a path from the direction of the house of Pangandaman extending from the house of the deceased toward the main road; and as the two defendants reached the highway he addressed Racid as Governor, the latter being a Deputy Governor of the municipal district of Bayang, and asked him where they came from. Racid curtly answered him with "Don't ask us". Just then two other persons followed Racid and Palawan along the same path or trail. Then Racid told those two to proceed to the lake; and "We will proceed to the house of Damocao Alonto".

In their defense appellants Datumanong and Mascara Monadi tried to prove by their testimony and that of their witnesses that in the afternoon and the whole evening of November 14, 1947, they were in the municipal district of Bayang where they were then residing; that Bayang is on the farther side of the lake (Lanao); that the only transportation then available from Bayang to Dansalan was by boat and it would take several hours to travel the distance, and that consequently, they could not possibly have been at the scene of the killing. Racid and Palawan tried to prove that at the time that Pangandaman was killed, they were in the house of Iki Alonto and Alauya Alonto, respectively, and that upon being informed of the death of Pangandaman, they together with Atty. Damocao Alonto and others hurried to the house of the deceased where they view the body and later volunteered to join search parties that went around lake Lanao in an effort to apprehend the perpetrators of the killing; that after a fruitless search they returned to the house of the deceased around midnight and Racid was even requested by the father-in-law of the deceased to look for a truck to carry the dead body to the Municipal District of Ganasi where it was buried the following day, Racid and Palawan attending the burial.

In the course of the hearing the trial judge made an ocular inspection of the premises of the house of the deceased and he found that the two gasoline drums from behind which Palawan shot at the deceased was only about one and half meters from the door, easily visible from where Makasindig was standing at the time of the shooting. Also visible was the avocado tree from under which the Monadi brothers hurried to join Palawan behind the gasoline drums; that at the time of the shooting, there was an electric bulb burning about 15 yards away and another electric light inside the house near the door. The trial judge also found that the houses of Iki Alonto and Alauya Alonto where Racid and Palawan claimed to have been at the time that Pangandaman was killed were not so far away, that is, they were only a few minutes walk from the house of the deceased so that it was perfectly possible for these two defendants to have been near the house of Iki Alonto and Alauya Alonto.

On the defense of alibi of the Monadi brothers, the trial court said that the witnesses presented to prove alibi were closely related to them; besides, their memory as to dates could not be relied upon for while they remembered

Friday, November 14, 1947, they could not however state with certainty other dates more important to them and which concerned them personally, like the dates of the births of their children or their marriages, and the court concluded: "In short, their testimonies do not clearly and positively prove that the accused Datumanong and Mascara Monadi were in the municipal district of Bayang on the night in question."

Pending appeal there was filed with us a motion for new trial on the ground of newly discovered evidence which would consist of the testimony of several witnesses who, if permitted to testify would say that two other persons not included in the present case were the real killers of Pangandaman; that said killers had confessed their crime to one of the proposed witnesses; that defendants herein Racid and Palawan were among the first who rendered succor to the victim (Pangandaman); and that all the prosecution witnesses were paid and their testimonies fabricated, etc. The motion for new trial is accompanied by affidavits of persons said to be willing to testify at said new trial. In the first place, as well observed by the Solicitor General in his brief, the alleged evidence is not really newly discovered evidence within the meaning of the law because it could have been presented at the trial of the case, and that the new trial sought would only serve to further delay the final disposition of this case, and that furthermore, this so-called newly discovered evidence if allowed to be presented would only affect the credibility of witnesses which has been fully discussed by the trial court in its decision. Moreover, this is not the first time that a motion for new trial of this nature has been presented to us. We have considered similar motions for new trial where the very persons said to be responsible for the commission of the crime, filed affidavits owning and claiming the criminal responsibility, and yet we have almost invariably refused to entertain and grant them, because of the inherent improbability of the alleged new version of the commission of the crime, as well as the easiness and facility with which such affidavits are obtained. For these reasons, we are constrained to deny as we hereby deny the present motion for new trial.

The motive for the commission of the crime was in our opinion, duly established by the prosecution. We quote with approval the findings of the trial court on this point:

"Pangandaman P. Aguam and Racid Lucman joined the guerrilla forces in Lanao as first lieutenants. Pangandaman was promoted to captain, while Racid remained as First lieutenant. Pangandaman subsequently was made Assistant Chief of Staff G-2 of the 108th Division under Col. Hodges, but Racid was made Battalion Commander only. When Racid was proposed to be promoted to captain, Pangandaman did not give his favorable recommendation thereto and his promotion was disapproved. Immediately after the liberation and during the organization of the Military Police Command in the Province of Lanao, Pangandaman, in his capacity as Operations Officer, was directed to select ten (10) Moro Officers from the Replacement Battalion in Camp Overton for integration in the Military Police Command, Racid Lucman was not selected by Pangandaman.

"At one time, Datu Umpat, father-in-law of Pangandaman, was shot and wounded in Bayang, Lanao, by Barodi Monadi, a brother of Datumanong and Mascara Monadi and a relative of Racid and Palawan Lucman. Shortly thereafter, Barodi was shot to death and as a consequence thereof, Ayonan Aguam, a son of Pangandaman and three other relatives of said deceased, were accused in court in, connection with the death of Barodi Monadi. (Criminal Case No. 141 of this Court.) In this particular criminal case, the accused were acquitted except Rascal Dimalna, who entered the plea of guilty. While the case was pending decision, Racid Lucman wrote a letter to the then presiding Judge of First Instance, of Lanao, Hon. Felicisimo Ocampo, dated March 16, 1947, which has been marked as Exhibit H, urging the conviction of the accused. A few months after, 'that is on November 14, 1947, by way of revenge, the accused assaulted and fired at the deceased Pangandaman F. Aguam, thereby causing his almost instantaneous death."

The determination of the guilt or innocence of appellants rests in large measure upon the credibility of the witnesses presented by both parties. After the hearing, and after the trial judge had observed the behavior and

reactions of said witnesses on the witness stand, he chose to accept the testimony of the witnesses for the Government, considering them as more credible. We find nothing in the record to warrant disturbing said finding and action of the lower court. It will be remembered that each of the principal witnesses for the prosecution does not pretend to have seen and recognized all the appellants; one witness saw three men and recognized them all (Palawan, Datumanong and Mascara), two of said witnesses claim to have seen five men running and recognized only two of them (Racid and Palawan); and one witness recognized only two (Racid and Palawan) out of the four men he saw hurrying from the direction of the house of the deceased. If these witnesses for the Government had chosen to make an air-tight case and clinch it for the prosecution, it would have been easy for them to have told the court that they all saw only four persons and that they readily recognized said four persons to be the appellants herein, this, without any fear of contradiction or impeachment by the defense, and yet as already stated, they actually testified as they did thereby rendering it more difficult for the prosecution to sort out and correlate their different versions. This may indicate that they were not rehearsed or taught to tell the same story.

After a careful appraisal of the evidence we agree with the trial court that the guilt of the four appellants has been proven beyond reasonable doubt. The lower court as already stated, found that only Palawan who actually fired the shot was responsible as a principal and that his co-accused should be considered as mere accomplices. The Solicitor General disagrees with this appraisal of criminal responsibility, he, believing that the four appellants should be held responsible as principals. We are inclined to agree with the Solicitor General. It is true that there was no direct evidence as to conspiracy among the four appellants, but conspiracy can be inferred and proven by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action, and community of interests. Here, the four appellants were seen together at or near the scene of the crime, three of them at the scene itself, in fact only about two meters from the man who was shot and killed by one of them. The four of them, including Racid were seen running just behind the house of the deceased and later two of them, Racid and Palawan, accompanied by two others were seen and recognized running from the direction of the house of the deceased toward the main road, and all that time these four accused were armed with revolvers. As was said by this Court thru Mr. Justice Labrador in the case of *People vs. Panglina Mahlon, et al.*,[*] G. R. No. L-5198, April 17, 1953, on the point of conspiracy:

"Actual cooperation with Sabtal and Mañon, the trigger men in the assassination, is the only plausible or reasonable conclusion that can be inferred from the fact that the three appellants were in company with Sabtal and Mañon as they proceeded to the place where Lumundut was, and were armed with blade instruments, as well as from the fact that they came back together from the place of the commission of the crime. The same inevitable conclusion is obtained from the possession of the victim's rifle by Mahlon as they came back. If appellant merely approved of the assassination, it would not have been necessary for them to join Sabtal and Mañon, and neither would they have carried their weapons with them. * * All these acts of the appellants can point to no other conclusion—that appellants conspired to commit the crime, and are therefore all guilty as principals of the crime of murder were present at the time of its commission, giving encouragement thereto by their armed presence. It is unreasonable to presume that appellants were present only as curious onlookers; possession of their weapons and company with the trigger men just before and after the killing—all these are inconsistent with such an assumption. On the other hand, these circumstances are not consistent with innocence."

Now, as to community of interests among the accused We start with the fact that they are all closely related to each other by blood. Racid and Palawan are first cousins, although many consider them as brothers. Datumanong and Mascara are brothers. And the Lucmans and Monadis are relatives. It is not difficult to see that the four of them had strong reasons to hate the family of the deceased and to adopt measures, even 'radical, to obtain revenge. The action of the deceased while a guerrilla officer in blocking the promotion of Racid Lucman and later failing to select him among the ten Moro officers for purposes of integration, must have caused resentment in Racid who

by the way seems to be the most intelligent and active among the four accused and possibly the moving spirit among them. He seems to be the one giving the orders although in the actual killing, he was behind the scenes. Then, came the killing of Barodi Monadi, brother of Datumanong and Mascara, wherein relatives of Pangandaman were strongly suspected as the killers. In fact, Ayonan Aguam, the son of Pangandaman was included among the four defendants accused in the murder case. Pending the preparation and promulgation of the decision in that case Racid wrote Exhibit "H" to Judge Ocampo who tried the case and later decided it, telling the Judge that the four accused in that case were all guilty and urging their conviction. However, three of the defendants therein were acquitted including Ayonan Aguam, son of the deceased, and only Rascal Dimalna, a minor who pleaded guilty to the charge was found guilty and he was not punished either because being a minor it would appear that he was sent to the reformatory. All this, must have embittered Racid and his co-accused, including the two brothers Datumanong and Mascara Monadi who perhaps must have felt the death of their brother Barodi was not duly avenged. On this point of the custom among the Moros in Lanao of taking the law into their hands, preferring to adopt measures and avenge any outrage committed on them or their kins, the trial court found this to be prevalent} at least at the time, and this will explain why despite the investigation conducted by the authorities, including the police and the Constabulary, the two criminal cases in the lower, court accusing the four appellants herein were filed several months after the killing.

In conclusion, we find the four appellants guilty as principals of the crime of murder. With the modification that all four are to be sentenced to the penalty of reclusion perpetua, and to jointly and severally indemnify the heirs of the deceased in the sum of P6,000, the appealed decision is hereby affirmed, with costs.

Bengzon, Acting C. J., Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur. '

Judgment affirmed with modification.

[*] 92 Phil., 883.

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