

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
SOCORRO MONGAYA AND FELIPE MONGAYA, ALIAS JOSE  
MONGAYA, DEFENDANTS-APPELLANTS.**

*G.R. No. L-23708. October 31, 1968*

Ponente: CAPISTRANO, J.

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**CAPISTRANO, J.:**

Appeal from the judgment of the Court of First Instance of Samar imposing upon the defendant Socorro Mongaya the penalty of *reclusión perpetua* and upon defendant Felipe Mongaya, alias Jose Mongaya, an indeterminate sentence of from 12 years and 1 day to 17 years, 4 months and 1 day.

At about 5:00 o'clock in the afternoon of September 3, 1963, Juan Briones was working in his ricefield in Barrio Lipata, Allen, Samar. The brothers Socorro Mongaya and Felipe Mongaya who, due to previous incidents, harbored ill-feelings towards Angel Garcia, Sr., and his family, came passing by and asked Briones if he had seen Santos Garcia. Briones asked why they were looking for Santos Garcia. Socorro replied "If only I will see him now, it will not last up to tomorrow morning, we will kill him." Briones followed the two brothers to the poblacion of Barrio Lipata with the intention of warning Angel Garcia, Jr., elder brother of Santos. After crossing the bridge, Briones stopped by the house of his son, Jesus, where he drank a glass of water and played for a short time with his grandson. But before he went up the house of his son, he saw the Mongaya brothers some distance from the bridge standing and looking around.

At about 6:00 o'clock P.M., he (Briones) went down the house of his son to go to the house of Angel Garcia, Jr., which was about one hundred meters further ahead. When he reached the house of Gregorio Pollente, he heard someone groaning near a hill planted to bananas. As he cast his eyes in that direction he saw Socorro Mongaya Stabbing with a long-pointed weapon the chest of Santos Garcia while Felipe Mongaya held the latter fast by the left arm. Briones, seized with fear, scampered away towards the ricefield, and his home. While running he looked back and saw Santo staggering towards the house of his brother, Angel, pursued by the two Mongaya brothers.

Angel was in his house at the time and heard his brother Santos utter, "I was stabbed by Socorro Mongaya and Felipe Mongaya". Beaming his flashlight on the stairs, he saw his brother bathed in blood. A short time later, Pelagio Pornelos, step-father of the Mongaya brothers, arrived, went up the house and told Angel Garcia, Jr., "You better not go out any more with your family so that your life and the lives of the members of your family will not be in danger". After delivering the warning, he left. Also caught in the beam of Angel's flashlight were Socorro, who was holding a blood-stained, long-pointed weapon, and Felipe, both standing on the stairs. They also left immediately.

At about the same time, Jose Macabare, barrio Lieutenant of Lipata, was resting in his house, when Pornelos arrived and informed him that Santos had met with a mishap, namely, that he had been stabbed by his step-sons, Socorro and Felipe. Macabare told Pornelos to go ahead to Angel Garcia's house and he would follow. Macabare went to Angel's house and on seeing Santos Garcia lying in a prone position with his abdomen bleeding, he placed

his hand on Santos' right shoulder and asked who wounded him. Santos replied that Socorro wounded him while Felipe held him. On hearing this declaration, Macabare told Angel to put it in writing. Angel did so, and Macabare held the thumb of Santos and placed the imprint of the latter's thumb on the declaration. Macabare then affixed his signature on the declaration as a witness.

Santos was then placed on a jeepney and taken to the Allen Emergency Hospital, where he died.

The autopsy report shows that six stab wounds were inflicted on the chest and abdomen of Santos Garcia, and that his death was caused by severe hemorrhage due to the stab wounds.

The trial court, without giving legal reasons, found the two defendants guilty of murder.

The first point for determination, not discussed in the lower court's decision, is whether there was conspiracy between the two brothers. The point is a vital one because without conspiracy, the liability of the defendants would not be that of principals, but individual, that is, each defendant would be liable only for his own acts. Conspiracy means previous concert of criminal design or participation in the same criminal intent. The evidence shows that at about five o'clock in the afternoon, when the two Mongaya brothers, who had been looking for Santos Garcia, came passing by the ricefield being tilled by Juan Briones, Socorro asked the latter if he had seen Santos Garcia; that when asked why they were looking for Santos Garcia, Socorro replied: "If only I will see him now, it will not last up to tomorrow morning, we will kill him"; that the two brothers then continued walking in the direction of the poblacion, Juan Briones following them at a distance with the intention of going to the house of Angel Garcia, Jr. (Santos' elder brother), to inform him of the plan of the Mongaya brothers to kill Santos; that on the way, Juan Briones stopped for a while at the house of his way, son in order to drink a glass of water and to play with his grandson; that he saw at a distance the Mongaya brothers near the bridge and they appeared to be waiting for some-one; that at about six o'clock in the same afternoon he resumed walking towards the house of Angel Garcia, Jr.; that when he reached the house of Gregorio Pollente, he heard someone groaning near a hill planted to bananas; that casting his eyes in that direction he saw Socorro Mongaya stabbing Santos Garcia with a sharp-pointed weapon at the chest, while Felipe Mongaya held Santos Garcia fast by the left arm; that seized with fear he scampered away towards the ricefield and his home; that while running, he looked back and saw Santos Garcia staggering towards his elder brother's house pursued by Socorro and Felipe. These facts and circumstances clearly show that there was previous concert of criminal design or participation in the same criminal intent, which was conspiracy. In other words, the concerted acts performed by the defendants clearly show their individual, direct participation in the execution of the crime, which they had agreed to commit.

The second question for resolution, on which the trial court made no finding, is whether there was evident premeditation. The facts above-stated clearly show that the defendants had, under the circumstances, sufficient time for full meditation and reflection; hence, there was evident premeditation.

The trial court's finding that there was treachery is correct. Although Socorro Mongaya stabbed Santos Garcia from in front, said victim could not defend him-self because he was held fast by his left arm by Felipe Mongaya and because he had no weapon. The killing was committed in such form and manner that there was no risk to the corporal integrity or the lives of the killers.

Reviewing the case for the appellants, we find that their defense of alibi is not worthy of serious consideration; that it is unnecessary to resolve their contention that it was error for the lower court to admit in evidence the alleged dying declaration of Santos Garcia, for the reason that the testimonies of Juan Briones, Angel Garcia, Jr., and the Barrio lieutenant, Jose Macabare, sufficiently proved beyond reasonable doubt the guilt of said appellants; that the circumstances pointed out by appellants' counsel to cast doubt upon the credibility of the said witnesses for the prosecution are not of sufficient weight or importance to disturb the findings of the trial court which found

them and their testimonies worthy of credence.

The qualifying circumstance of treachery having elevated the killing of murder, the qualifying circumstance of evident premeditation should be taken into account only as a generic aggravating circumstance calling for the imposition of the penalty for murder in its maximum period, which is death. The death penalty should, technically, be imposed upon appellant Socorro Mongaya, but for lack of the necessary votes for the imposition of this penalty, considering that said appellant was only 18 years old at the time of the commission of the murder, he should be given the penalty of *reclusión perpetua*. With respect to the other appellant, Felipe Mongaya, considering that he was only 17 years old when the murder was committed, a privileged mitigating circumstance under Article 68 (2) of the Revised Penal Code, he should be given the penalty one degree lower than the applicable penalty and in relation to the Indeterminate Sentence Law.

The award of P6,000 as compensatory damages to the heirs of Santos Garcia should be modified and raised to P12,000 (*People vs. Pantoja*, G.R.No. L-18793, promulgated October 11, 1968).

PREMISES CONSIDERED, the appealed judgment is hereby affirmed with respect to the penalty of *reclusión perpetua* imposed upon Socorro Mongaya. The appealed judgment is, however, modified with respect to the penalty imposed upon Felipe Mongaya, alias Jose Mongaya, who is hereby given an indeterminate sentence of from 10 years of *prisión mayor* to 15 years of *reclusión temporal*.

With respect to the civil indemnity, the appealed judgment is modified by raising the amount of compensatory damages to the heirs of Santos Garcia from P6,000 to P12,000.

Costs against the appellants.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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