

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIONISIO SIBAYAN ALIAS ISIONG, ET AL., DEFENDANTS, DIONISIO
SIBAYAN ALIAS ISIONG, DEFENDANT-APPELLANT.**

G.R. No. L-25174. January 30, 1970

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

After due trial upon an information charging Dionisio Sibayan, Pedro Moreno and Herminio Caspillo of the crime of murder, committed, in the language of the indictment, as follows:

"That on or about the 7th day of June, 1964, in the Municipality of Talugtog, Province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction. of this Honorable Court, the above-named accused, conspiring and confederating with one another, with intent to kill and with evident premeditation and by means of treachery, did then and there, wilfully, unlawfully, criminally and feloniously, strike and hit one Lorenzo Grospe on his head with a piece of hard wood for several times, thereby causing the instantaneous death of said Lo-renzo Grospe,"

Pedro Moreno and Herminio Caspillo were acquitted by the Court of First Instance of Nueva Ecija presided by Judge Placido C. Ra-mos, and Dionisio Sibayan, whose appeal is the subject of this decision, was adjudged guilty, and was sentenced to life imprisonment, to indemnify the heirs of the victim in the sum of P6, 000, to suffer the accessories provided by law, and to pay the costs.

Witnesses for the prosecution, seven all told, were chief of police Fidel Dumandan of Talugtog, Carmen Castillo (surviving spouse of the deceased Lorenzo Grospe), barrio captain Marceliano Caspillo of Osmeña district in Talugtog, Alejandro Soriano, mu-nicipal judge Alfredo Leybag of Talugtog, patrolman Benjamin de Fiesta of the same municipality, and Dr. Artemio Da Jose, rural health officer.

The integrated testimony of Carmen Castillo, Marceliano Caspillo, Alejandro Soriano and Benjamin de Fiesta points unerring-ly to the appellant Dionisio Sibayan as the slayer of the deceased.

The victim Lorenzo Grospe and Dionisio Sibayan were neighbors. It was about nine o'clock on the night of June 7, 1964 when these two had an altercation, immediately followed by Sibayan attacking Grospe with, a piece of hard wood, fracturing the latter's skull, and causing his death. Alejandro Soriano and Benjamin de Fiesta identified Sibayan as the assailant of the deceased. Soriano likewise declared that he saw Sibayan standing over the dying victim; de Fiesta further testified that he saw him run away from the scene of the crime. De Fiesta even gave chase but was unable to apprehend him. Supporting the declarations of these two witnesses was the admission to Marceliano Caspillo made by the appellant's wife (Clarita Castillo) in the presence of de Fiesta and Soriano that her husband succeeded in killing Grospe inspite of her attempt to stop him.

Municipal judge Leybag testified that he notarized exhibit A, which in essence is a sworn confession accomplished by Sibayan, and which substantially recites that it was he who killed the deceased by hitting him on

the head with a piece of wood. Judge Leybag further declared that he inquired from the appellant whether the confession was voluntary and whether the statements contained there-in were correct and true, and that Sibayan replied in the affirmative.

It is also undenied that in the morning of the next day, Sibayan and his wife disappeared from Talugtog, which fact left its indelible impression on the judge a quo, prompting him to remark (in his decision) in connection therewith that "Not only did he run away from the scene of the incident but he disappeared entirely from Talugtog that evening as well as in the following days. What Dionisio Sibayan did was to fly away from the scene of the incident and from Talugtog. According to him, he proceeded to Manila to look for work. It is strange, however, why even his wife had to leave early that very morning. If the purpose only of Sibayan in going to Manila was to look for work, considering, however, that Dionisio Sibayan, is related to the deceased Lorenzo Grospe, and it is the custom in the rural communities for anyone to attend to the burial of his relatives, the Court cannot reconcile itself to the explanation of Dionisio Sibayan that instead of attending the burial of a relative he would leave so early in the morning for Manila to look for work. At least, if this is so, his wife should have remained but even his wife disappeared. When Dionisio Sibayan left Talugtog that evening and could not be seen anymore, the only logical conclusion that could be established is that he really fled away from the scene of the crime. This flight indicates the consciousness of guilt on the part of Dionisio Sibayan. "

It is our considered view that the court a quo correctly accorded credence to the version of the prosecution. The cumulative testimony of the prosecution witnesses does not suffer from any infirmity; no bias of any form, shape or substance is imputed to any of the State witnesses.

Only the appellant testified for the defense. After a perceptive and careful examination of his declarations, it is sufficient for as to state, in appraisal of his testimony, that (1) his denial of the voluntariness of the execution of exhibit A cannot stand in the face of the positive testimony of Judge Leybag to the contrary, and (2) that the material contradictions between the appellant's testimony in court and the contents of exhibit A render doubtful - so the court noted, arid with which we agree - the veracity of his testimony in court.

The court a quo found Sibayan guilty of murder and sentenced him to life imprisonment. Although the information explicitly alleges that the crime was committed with evident premeditation and by means of treachery, the court in its decision was strangely silent about these two aggravating or qualifying circumstances. Nowhere in its decision does the court demonstrate the attendance of these circumstances, and the record itself is barren of evidence in respect to the presence of any of them. We are therefore not prepared to say that the offense was committed with any aggravating circumstance. As a matter of fact, the evidence for the prosecution would seem to indicate that the appellant and the deceased were facing each other when the fatal blow was struck.

Under the proven factual milieu, the offense imputable to the appellant is only simple homicide.

Homicide is penalized with reclusion temporal by article 249 of the Revised Penal Code. Applying the Indeterminate Sentence Law, the proper penalty that may be imposed on the appellant is prision mayor to reclusion temporal. Here where neither aggravating nor mitigating circumstances are attendant, the indeterminate penalty to be imposed should be in its medium period. In our view, the ap-pellant should be sentenced to an indeterminate penalty of from nine (9) years of prision mayor to sixteen (16) years of reclusion temporal. The indemnity to be paid to the heirs of Lorenzo Grospe should be increased to P12,000 (People vs. Pantoja, L-18793, Oct. 11, 1968, 25 SCRA 468).

ACCORDINGLY, the judgment a quo is modified in the sense that the appellant is adjudged guilty only of the crime of homicide, and is hereby sentenced to suffer indeterminate imprisonment of from nine (9) years of prision mayor to sixteen (16) years of reclu-sion temporal, to indemnify the heirs of Lorenzo Grospe in the sum of P12,

000, to suffer the accessories provided by law, and to pay the costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Teehankee, JJ., concur.
Barredo and Villamor, JJ., did not take part.

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