

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MACABANTUG RANGON ET AL., DEFENDANTS. MACABANTUG
RANGON, APPELLANT.**

G.R. No. L-2434. March 25, 1950

Ponente: TUASON, J.

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TUASON, J.:

This is a prosecution for murder and physical injuries. The sole issue concerns the identity of the appellant.

There is no dispute that about 2 o'clock a.m. on October 4, 1946, in Kawit, Iligan, Lanao, Marcelino Paglinawan was awakened by the barking of his dogs, looked out of the window and, with the aid of a flashlight, saw about ten men in the yard. He was fired upon and was wounded in the face and right shoulder with buckshots. Seeing three of the gang climbing up the house through the kitchen, Paglinawan, although wounded and singlehanded, picked up a bolo and engaged the trio in a hand-to-hand fight. He succeeded in striking two and routing all the intruders although he himself sustained cuts in the palm of his right hand and a gunshot wound in the left elbow.

After the marauders left, Paglinawan lighted a lamp and saw his son Sofronio dead, with gunshot wounds in the forehead, on the right side of the face, in the right temple, and in the breast. Paglinawan's daughter, Angeles, was also wounded in the right elbow. Shots had been promiscuously fired into the house.

Having been taken to the Lanao Public Hospital at Iligan, Paglinawan told the military police that he had recognized Macabantug Rangon (the appellant), Cota Balbal and Mangandiri Lumundaya and had wounded the first two. The three persons named were arrested and, sure enough, Balbal was nursing fresh cuts in the right elbow. The record does not show whether Macabantug Rangon had any wound.

Cota Balbal confessed to the police and ratified his confession under oath before the justice of the peace. And at the preliminary investigation, he pleaded guilty. He and Bangon were bound over by the Justice of the peace for trial. Mangandiri Lumundaya was discharged for lack of sufficient evidence but was ordered rearrested when Paglinawan, after his release from the hospital gave additional evidence against him. However, Lumundaya was no longer to be found.

In the Court of First Instance, Balbal pleaded guilty upon the closing of the evidence for the prosecution. Rangon maintained his plea of innocence but did not introduce any evidence.

We will confine our attention to the proofs against the appellant.

Marcelino Paglinawan testified that he had known Macabantug for a long time; that "for three years we were together in Kawit;" that he had been a settler in Iligan since 1921, coming from Tuboan, Cebu; that when he focused his flashlight from the window on the men down below, he recognized Macabantug Rangon; that, besides, it was a moonlit night; that when three men came up the house, he again recognized Rangon as one of them and struck him with his bolo, although he could not tell in what part of the body he hit this accused; that Rangon was carrying a gun and was using a flashlight too.

Matilde Tabanao said that on October 4, 1946, she lived in Marcelino Paglinawan's house. She said she sat beside a large jar, about a meter high, when two Moros came up followed by a third. She testified that she recognized Macabantug when Macabantug stood on the opposite side of the jar and one of the intruders turned his flashlight towards her and Macabantug. It was then, she said, that Haeabantug saw her and snatched her blanket, which he carried away. She further declared that she heard Haeabantug exclaim upon seeing Paglinawan's son stretched on the floor, "By God, he's dead."

Marcelino Paglinawan's and Matilde Tabanao's testimony establishes beyond the shadow of doubt that the appellant took part in the crime. There was moonlight and flashlights were copiously used by Paglinawan and Rangon. Moreover, having lived or worked with Paglinawan for several years, this accused was easily recognizable by the witnesses by his voice, build, and movements, let alone his facial features. The appellant's failure to offer evidence to refute the testimony for the prosecution adds weight to the government's case.

The killing of Sofronio Paglinawan constitutes murder qualified by treachery. The physical injuries sustained by Marcelino Paglinawan and Angeles Paglinawan were distinct offenses for each of which, as well as for the murder of Sofronio, a separate penalty should be imposed. Marcelino Paglinawan lost the use of his left arm, while Angeles Paglinawan sustained a buckshot wound in the forearm the treatment of which lasted about 27 days. Matilde Tabanao was shot and wounded in the back below the waist but said that although she stayed in her aunt's house for two months, she could go out during that period. Evidently she was only grazed by the bullet.

The Solicitor General recommends the supreme penalty for Sofronio's death, citing several aggravating circumstances. However, the required number of votes for imposing this penalty is lacking, with the result that the punishment has to be reduced to reclusion perpetua for the crime of murder. For the physical injuries inflicted on Marcelino Paglinawan, the appellant will be sentenced to an indeterminate penalty of from 2 years and four months to 4 years, 9 months and 11 days of prision correccional; for the injuries of Angeles Paglinawan to 4 months and 1 day of arresto mayor, and for those of Matilde Tabanao to 21 days of arresto manor.

The judgment appealed from is modified in the manner set forth in this decision with costs of this appeal against the appellant.

Moran, C.J., Ozaeta, Pablo, Bengzon, Padilla, and Reyes, JJ., concur.

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