

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ISABELO ALMIREZ, DEFENDANT AND APPELLANT. PEOPLE VS.
ISABELO PRINCIPE, DEFENDANT AND APPELLANT.**

G. R. Nos. L-16109 and 16110. October 20, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a decision of the Court of First Instance of Quezon, Hon. Vicente A. Arguelles, presiding, finding defendants Isabelo Almirez and Isabelo Principe in G. R. Nos. L-16109 and L-16110, respectively, guilty of murder and sentencing each of them to reclusion perpetua, to indemnify jointly and severally the heirs of Crispin Santamena in the amount of P6,000, and to pay the costs.

The evidence submitted by the prosecution, consisting principally of the testimony of witness Delfin Ursolino, is to the effect that in the afternoon of August 8, 1955, Delfin Ursolino and Crispin Santamena were on an open land between a coconut plantation and a rice field in the barrio of Bato, Mauban, Quezon. Ursolino was husking coconuts and Crispin Santamena was tying the rope of a carabao which he was pasturing, on an open land between the coconut plantation, which belonged to Pedro Villamayor and which Ursolino was taking care of. At about four o'clock in the afternoon, three persons arrived at the scene, namely, Moises Impreso, Isabelo Principe and Isabelo Almirez. Principe carried a rifle, and Impreso and Almirez had carbines. The three persons called Santamena to their place and the latter approached them. Moises Impreso, who appeared to be the leader of the group, ordered Isabelo Principe and Isabelo Almirez to tie Santamena. Principe and Almirez took green buri leaves and with these tied the right hand of Santamena across his back and his left hand across his breast. After he was thus tied by Principe and Almirez, Impreso ordered Isabelo Principe to hack Santamena with his bolo, and Almirez to stay on guard. Complying with Impreso's orders, Principe approached Santamena and with his bolo gave him some thrusts in the abdomen and in the breast, and thereafter gave him a final blow on the back of the neck. This blow almost severed Santamena's neck from his body. This done, Santamena fell down on the ground.

Ursolino had known the three assailants for a long time before the day of the killing. They were Huks and Isabelo Principe used to go to the place where Ursolino made copra to order him to buy rice, shoes, salt and cigarettes for him (Principe). He did these errands for Principe as early as 1954 in the barrio of Bato and sometimes in the barrio of Kagsiyay.

Ursolino was at a distance of about 5½ meters from the place where Santamena was boloed to death. After Santamena has fallen down, Ursolino went away from the place; the three also left the place. When Ursolino reached the town he went to the chief of police and reported to him that there was a dead person in the barrio of Bato. He also went to the house of Natividad Encallado, wife of Santamena, where he had been staying, and told her that her husband was dead.

After receiving the report, the chief of police and two other policemen and twelve constabulary soldiers proceeded to the place where the killing had taken place, arriving there at about 2 o'clock in the morning. They then brought

the dead body of Santamena to the poblacion where it was examined by the municipal health officer, Dr. Alipio Malubay. Malubay found two piercing wounds on the chest, one on the right and one on the left side of the chest; another piercing wound on the umbilical region of the abdomen with a portion of the intestine coming out. At the back of the neck he found a stab wound almost severing the head from the body. He also found some bruises on the wrists showing that the victim had been tied with a rope or cord.

A second witness for the prosecution is Florentino Santamena. He declared that he is the brother of Crispin Santamena; that he came to know of his brother's death on August 8, 1955, because on the following Wednesday, August 10, Isabelo Almirez, Isabelo Principe and his wife Leoning, approached him and another in his kaingin (where he was planting vegetables) and asked him if he had any resentment against them because they had killed his brother, and warned him that should he talk about the matter with anybody they would cut off his head.

Wilfredo Malabagyo, another witness for the prosecution corroborated the supposed meeting between Florentino Santamena and Almirez and Principe, at which meeting the latter had asked Florentino Santamena if he had any ill feeling against them because they had killed his brother. This witness declared that this meeting took place while he and Santamena were planting cassava.

Both accused denied having participated in the killing of the deceased Santamena. Almirez testified that he had been in the barrio of Rosario, with his wife and two individual by the name of Cadio and Celso, from July 20 to October 4, 1955; that barrio Bato, where Santamena had been killed is very far from barrio Rosario, and there is no means of transportation between the said places; that the declarations of Ursolino about his (Almirez) participation in the killing of Santamena are all lies; that he knew no reason why Ursolino should testify against him. He also denied having disclosed the killing to Florentino Santamena brother of the victim, and did not know why Florentino also should testify falsely against him. As to the testimony of Wilfredo Malabagyo, who had declared that he overheard Almirez and Principe telling Florentino that they would kill the latter's brother, Almirez also denied having made such a statement, and stated that Malabagyo must have testified against him because of a quarrel he had with him during their town fiesta in July, 1956.

Isabelo Principe on his part also denied participation in the killing, alleging that he had not been with Moises Impreso or with Isabelo Almirez, having come to know the latter only in jail; that he acted as a security guard for Lava and could not get away from his group and that his group had never been in the poblacion or near any of the barrios of Mauban. He denied having met Crispin Santamena or his wife or Delfin Ursolino. He also declared that on August 8, 1955 he was in Laguna in the Sierra Madre mountains. He belied the testimony of Florentino Santamena and Wilfredo Malabagyo, who stated that he and Almirez had informed them (Santamena and Malabagyo) that they killed Crispin Santamena. As to Delfin Ursolino, he declared he knew him since childhood and he expressed surprise why Delfin should testify against him.

Both of the accused submitted Engracio Bamba as a witness in their favor, Bamba testified that at 5 o'clock in the afternoon of August 8, 1955 he was in barrio Bato; that at that time he left the house to go to a place where his neighbor was to pasture a carabao, and on his way back he saw the dead body of Crispin Santamena lying flat with his stomach on the ground, hands tied behind him, with a wound on the neck, at his back and at his left side, and with a portion of the intestine coming out. He declared that he imagined that Santamena must have died not long before because blood was still oozing out from the wound at his back; that he left the body and went back to the hut and there found Delfin Ursolino and the owner of the hut Jose Sardea; that he informed them that he saw the dead body of Crispin Santamena on the wayside, and that thereupon Sardea stated that he and Ursolino had been waiting for him (the deceased) for a long time, and that thereafter they left the hut and started for the poblacion. On cross-examination he declared that when he saw Ursolino, the latter was walking towards the side of the house doing nothing.

The purpose of the defense in introducing this witness is to show that Delfin Ursolino could not have witnessed the killing of Santamena because he did not say anything when Bamba came back to the hut of Sardea where Ursolino was. But upon cross-examination it was found out that this witness was named as a witness only a few days before trial, and had never disclosed the matter until September, 1957 when he should have done so immediately after he had seen the deceased dying on the wayside. Furthermore, the wounds supposedly seen by him on the person of the deceased Santamena do not correspond to the wounds found on the victim's body by the municipal health officer. Bamba said that aside from the wound at the nape he also saw a wound at the back and on the left side. But the health officer did not find any wound at the back, except the one at the back of the neck. Although he declared that he saw the intestines coming out of the wound, at the same time he stated that the victim was lying with his stomach flat on the ground. Consequently he could not have seen the intestines coming out from the stomach.

The court below found after a consideration of the evidence presented on both sides, that the prosecution has proved the commission of the crime of murder beyond reasonable doubt. On this appeal both appellants contend that the evidence submitted does not constitute proof beyond reasonable doubt of their participation in the death of Crispin Santamena.

We have carefully read the evidence, especially the testimony of Delfin Ursolino, upon which the guilt of both accused is principally made to stand. We have found that said testimony is positive and direct, suffering from no incongruity of any kind. According to the testimony, the occasion and circumstances of the murder are natural and credible. Ursolino and the victim were making copra. The victim had left for a while to pasture his carabao, when Impreso and the accused-appellants arrived at the place where Ursolino was husking coconuts; they then called Santamena to the place beside the coconut plantation.

The fact that Ursolino knew the appellants is in itself corroborated by Principe. The latter also admitted that there was no reason why Ursolino should testify against them.

It is claimed by appellants that the fact that Ursolino did not disclose the names of the killers when he informed the chief of police and the wife of the deceased about the killing, is proof that Ursolino was not a witness to the killing and could not have known who the killers were. But Ursolino explained that his failure to make a disclosure was due to his fear of reprisal. And this reason tallies with the fact that as soon as the appellants had been arrested or had surrendered, he immediately divulged the names of the persons responsible for the crime.

As to the testimony of the witness for the defense Ignacio Bamba, we find nothing therein that would destroy the fact that Ursolino had actually seen the killing of the deceased. Fearing as he did reprisal from the Huks, it was natural for him not to make any remark whom Bamba told him that he had discovered the dead body of the victim on the wayside. This failure to tell Bamba that he had actually seen the commission of the crime is consistent with his silence about the authors of the crime when he reported the killing to the police. If anybody is to be doubted for his testimony and his acts, it is Bamba who, notwithstanding the fact that he had knowledge of the killing and had seen the body of the victim as early as the day of the killing, did not divulge the matter to the authorities, but kept it to himself and offered to be a witness only in September, 1957, just before the trial. If, according to him, he was the only one who had seen the dead body, Ursolino himself having kept silent about the matter, he should have, upon reaching the town, disclosed the existence of a dead person in the barrio to the police. Besides, when Ursolino divulged the killing to the police, he did not say that he obtained knowledge thereof from Bamba. His failure to mention Bamba as a source of information proves that he must have seen the dead body himself. For all these reason, we do not find anything of importance in the testimony of Bamba that may be taken as impugning the credibility of witness Delfin Ursolino.

Counsel for the appellants insinuated that the testimony of Delnn Ursolino is the only evidence against the accused. This is not correct. It is to be noted that soon after the killing, Isabelo Principe and Isabelo Almirez had seen the brother of the deceased Florentino Santamena, whom they warned not to disclose the identity of the killers, or they would take reprisals against him. This testimony of Florentino Santamena has not been discredited in any respect.

As against the testimony of Delfm Ursolino given in a direct and convincing manner by him, and the threats made by the appellants on the brother of the deceased, we have in favor of the accused-appellants only their own defense of alibi. It may be true that they had stations or hideouts far from Mauban, but that does not discount the probability that they might have spread out in the neighboring towns and barrios to eliminate their enemies. So the defense of alibi becomes practically unworthy of credit especially as the same is given by the accused-appellants themselves. On the whole, we agree with the findings of the court below that the crime of murder in which the accused-appellants are the direct protagonists, has been proved beyond reasonable doubt.

We now come to the special defense made by the accused-appellant Isabelo Principe that he had previously been convicted of the crime of rebellion in criminal case No. 1253 of the Court of First Instance of Quezon, entitled "People of the Philippines vs. Isabelo Principe alias Erning", wherein he was sentenced by the said court for the crime of rebellion after a voluntary plea of guilty (see Exhs. "4" and "5"). While counsel for the appellant Isabelo Almirez has not raised it as defense to the conviction in the case at bar, the Solicitor General argues that since the accused-appellants were admittedly Hukbalahaps and the murder of Crispin Santamena was committed in furtherance of the Huk movement, the case against said accused-appellant Isabelo Almirez should be dismissed in accordance with the doctrine laid down in *People vs. Geronimo*, 100 Phil., 90; 53 Off. Gaz., (1) 68, as it was shown that deceased had been reporting their camp or headquarters to the government authorities. The Solicitor General admits that there was no evidence on the part of the defense to show that the commission of the said crime was in pursuance of the Huk movement, but noted down the evidence submitted at the trial in favor of the appellants.

The evidence consists of the testimony of Delfin Ursolino as to the why and wherefore of the killing of the deceased Crispin Santamena. The testimony is as follows:

"A—

They saw Crispin Santamena and they talked to him.

Q—

You heard their conversation, is that not true?

A—

I heard it.

Q—

What were their conversations?

A—

They said that Crispin Santamena was reporting the camp or headquarters of the Huks.

Q—

Who was that one who made that statement?

A—

Moises Impreso.

Q—

What more conversations did you hear?

A—

That was the only thing I heard.

Q—

And what did Crispin Santamena answer when Moises Impreso said that he was reporting the camp of the Huk-balahaps?

A—

He said that he was not reporting their camp.

Q—

Then what happened? What else did you hear?

A—

I did not hear anything more. That was all I heard."

(pp. 61-62, transcript).

The question at issue, therefore, is this: Is the above testimony of Delfin Ursolino sufficient proof, or proof to our satisfaction that Crispin Santamena was killed because the Huks knew that he had indicated to the police the Huk camp or headquarters? It is true that Crispin Santamena was accused by appellants, especially their leader, of having spied on and divulging the camp of the Huks to the authorities, but Crispin Santamena emphatically denied this imputation. So the supposed belief on the part of the Huks is contradicted directly by the person to whom the act of spying was imputed. Under these circumstances we are not prepared to hold that the cause of the killing was in fact the act of the deceased in divulging the camp or headquarters of the accused-appellants to the police. It is to be noted that it is a matter of defense that the accused-appellants should have proved. Their defense was a mere alibi and they never claimed at any time or testified at the trial that they had knowledge or belief that Crispin Santamena was in fact responsible for spying on them and telling the police their camp or headquarters.

In view of the foregoing, the court finds that the findings of the court below that the accused-appellants had been guilty of murder with the qualifying circumstances of treachery, and taking advantage of superior strength, and with armed men, has been sufficiently proved beyond reasonable doubt.

Wherefore, the judgment of conviction and the sentence imposed are hereby affirmed, with costs against accused-appellants.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L. Paredes, and De Leon, JJ., concur.

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