

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLE, V.S.
BAGUITON, ET AL., DEFENDANTS, BAGUITON,
DEFENDANT-APPELLANT.**

G.R. No. L-7884. May 23, 1956

Ponente: REYES, A., J.

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REYES, A., J.:

This is an appeal from a sentence of life imprisonment imposed upon the appellant Baguiton for the crime of murder.

Appellant was accused of that crime in the Court of First Instance of Mountain Province together with four others, namely, Gumalda, Bangibang Banna and Bangawan. But the case was dismissed as to Banna and Bangawan, while Gumalda and Bangibang were acquitted after trial and only appellant was convicted.

We gather from the evidence that in the forenoon, of June 22, 1952, while Tallongon was at the foot of the stairs of the house of Gumalda in barrio Gaang, municipal district of Tanudan, Kalinga, Mountain Province, his rifle accidentally went off, the bullet hitting and killing appellant's son Sagudan, who was then at the head of the stairs, Fearing revenge from Sagudan's relatives, who were around, Tallongon left the place in a hurry and went into hiding.

Well might Tallongon entertain such fear, for it was the custom among his people, the Kalingas, that when a man was killed by another who belonged to another clan the victim's kinsfolk were honor-bound to avenge his death by killing a member of that clan. It appears that in accordance with that custom, Sagudan's kinsmen, among them, his granduncle Boyagan, his father (the appellant herein) and the latter's four co-accused in this case, went after Tallongon and while they were looking for him, they spotted his mother Guillay among the reeds near her farm. Guillay's son-in-law Alfredo Ballay, who, forewarned of the danger, was then with her and was apparently leading her to a place of safety, tried to protect her and even grappled with appellant who tried to spear him. But the odds were against him, and all he could do was to lead her to a ditch with the idea of hiding her, and while Guillay was in that ditch, Ballay who was only a few meters away, saw appellant and his companions attack her. First, it was Boyagan who plunged his barbed spear into the ditch where Guillay was. The spear got stuck and Boyagan left without being able to retrieve it, the appellant also plunged his spear into the ditch. Taking their turns, the others followed and with their bolos and clubs inflicted wounds and contusions on Guillay's body. After they had left, Ballay looked into the ditch and found his mother-in-law already dead with several wounds and other injuries on her body. Boyagan's barbed spear was found stuck in her body, and aside from that she had another stab wound apparently caused also by a spear. Autopsy revealed that she died from severe hemorrhage and shock.

Appellant tried to prove that at the time Guillay was killed he was in his house grieving over the dead body of his son and that the sole author of the crime was his uncle Boyagan, who, accused under a separate information, had already pleaded guilty and received his sentence. But Boyagan did not testify in the present case and no

competent proof was adduced that he was the sole author of the crime and appellant's alibi was not believed by the court.

After going over the record, we find no justification for interfering with the finding below that appellant also took part in the murder of Guillay. While it is true that Ballay, the only eyewitness to the killing of his mother-in-law, had, previous to the trial, made some contradictory affidavits, the alleged contradictions have been explained and are not of such importance as to discredit his entire testimony in the case. Moreover, his declaration that appellant also took part in the killing finds corroboration in Tallongon's testimony that appellant was one of those who pursued him, which was only natural because he was the deceased Saguda's own father. And it is clear that Boyagan was able to make only one spear thrust into the body of Guillay, so that the other spear wound found on her body may be accounted for by Ballay's statement that appellant also plunge his spear into the ditch where Guillay was.

Wherefore, the decision appealed from, in so far as it declares appellant guilty of murder and sentences him to life imprisonment plus indemnity and costs, is hereby affirmed, with costs against the appellant.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.

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