

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
VICTORIANO ALFILER, ET AL., DEFENDANTS AND APPELLANTS.***G. R. No. 10445. August 29, 1958*

Ponente: BAUTISTA ANGELO, J.

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Victoriano Alfiler, Martin Alfiler and Camilo Alfiler were accused of murder in the Court of First Instance of Tarlac for the death of one Agustin de la Cruz, then a sergeant of the police force of Camiling, Tarlac. They were found guilty and sentenced each to reclusion perpetua, to indemnify jointly and severally the heirs of the deceased in the amount of P6,000, and to pay one-third of the costs. The three took the present appeal.

Victoriano Alfiler, Martin Alfiler, and Camilo Alfiler, who are all brothers, were engaged in the buy and sale of palay in the town of Camiling, Tarlac. On November 3, 1953, they brought palay from Ponciano Espiritu, a resident of Sta. Ignacia, Tarlac, wherein he believed he was cheated in weighing the article purchased. Having complained about the matter to Sgt. Agustin de la Cruz of the police force of Camiling, Tarlac, the latter went to the house of the three brothers to investigate and in the course of the investigation they called the sergeant names which were offensive because they resented his intervention in the matter. Then Sgt. De la Cruz went to the Ben Seng Rice Mill where the palay subject of transaction was deposited and kept watch the whole night. The next day, November 4, 1953, the complainant went to said mill accompanied by the chief of police of Sta. Ignacia and by Sgt. Rafael Guillermo of the Camiling force where they found Sgt. De la Cruz still watching the palay. Upon suggestion of the chief of police, the three brothers were asked to come and when the re-weighing of the palay they bought from complainant was made, it was found that it weighed 446 kilos instead of 190 kilos paid for by them thus giving a balance in favor of complainant. The three brothers paid complainant the difference in price but Sgt. De la Cruz reproached them for their improper behavior the previous night and for having been caught cheating. Then Camilo Alfiler suddenly stood up in an attitude to strike the sergeant at which moment the latter faced him and slapped him which however merely grazed his face. It was then that Martin Alfiler intervened to help his brother Camilo and they would have come to actual grappling if not for the timely intervention of Sgt. Guillermo who pacified them and temporarily settled their differences. He made them shake hands with each other and forget the incident considering that they treat each other as brothers-in-law (bayao). After they shook hands, the Alfiler brothers left the place and a little while Sgt. De la Cruz also left on a bicycle, apparently to go home to take his breakfast.

The Alfiler brothers returned to their houses which were situated in a common yard in Camiling, Tarlac. When Sgt. De la Cruz passed by riding on his bicycles, he was asked by one of the brothers to drop in, which the sergeant heeded. After a short conversation, Victoriano suddenly embraced De la Cruz tightly from behind locking the hitter's arms; Martin hit him on the face with a piece of bamboo, while Camilo stabbed him with a dagger on the right shoulder. Upon being released, De la Cruz, bleeding from his wounds, made an effort to go out of the compound and crossed the street and stumbled on the edge of the asphalt road. Before the sergeant could stand up Camilo gave him a thrust with a dagger which he was able to evade and the blade landed on the

asphalt pavement causing the point of the dagger to bend. Dela Cruz once on his feet went to sit on a bench in front of a store across the street, while Camilo tried to straighten out the point of the dagger, at which moment Victoriano told him not to mind the dagger but to finish his victim with the pistol which he handed over to Camilo. This is the gun which Victoriano was able to snatch from De la Cruz during his maltreatment in the common yard of the Alfiler brothers. Heeding the suggestion, Camilo got the pistol and pursued De la Cruz who this time was running towards the yard of a house across the street crying for help but Camilo overtook him and fired four shots. Thereafter, the three brothers departed and were seen leaving the yard by some bystanders.

When the people came to the place of the incident, among whom were Alejandro Pagarigan and Carlos Costales, they found De la Cruz prostrate under the house of one Sabado still alive but bleeding profusely. Soon thereafter, Sgt. Guillermo came and took his ante mortem declaration. Upon being asked as to who were his aggressors, De la Cruz answered that they were the three Alfiler brothers mentioning their names. Sgt. Guillermo conducted an investigation of the place of the incident and found an empty shell near the gate of Sabado's yard three feet from the place where the body of the victim was found prostrate. He found three more shells in the same yard, but none was found in the compound of the Alfiler brothers. De la Cruz was then taken to the provincial hospital of Tarlac, Tarlac, and five days later was transferred to his residence in Camiling where he died. His autopsy shows that he died of peritonitis resulting from the gunshot wounds inflicted on his abdomen.

Camilo Alfiler claims self defense. He testified that after witnessing the weighing of the palay in the Ben Seng Rice Mill in the morning of November 4, 1953, he went home riding in a calesa. He was already at the foot of his house when Sgt. De la Cruz told him to wait. Sgt. De la Cruz reproached him for the incident that had taken place in the mill, calling him names and immediately gave him a blow on his left cheek. De la Cruz tried to give him two other blows which Camilo was able to ward off. Then De la Cruz pulled out his gun and upon seeing it Camilo grabbed the hand of De la Cruz that held the gun, and while thus grappling for it, the gun went off. Camilo pulled out his dagger and with it stabbed De la Cruz twice, his left hand all the while holding the hand of De la Cruz that held the gun. Camilo then threw the dagger away and again grappled for the gun and both fell to the ground. Camilo finally was able to wrest the gun from De la Cruz, stood up and withdrawing backwards, shot De la Cruz four times. De la Cruz ran away while Camilo took a calesa and surrendered to the authorities.

Martin Alfiler set up the defense of alibi. He stated that in the morning of November 4, 1953, after taking his breakfast, he went to the house of barrio lieutenant Moises Valdez to buy palay. There he stayed until 9:00 o'clock bargaining and measuring the palay, after which he proceeded to the Ben Seng Rice Mill. Upon reaching the rice mill, he was met by a policeman who immediately placed him under arrest on the alleged reason that he killed Sgt. De la Cruz.

Victoriano Alfiler also set up an alibi. He testified that in the morning in question he took his child to the school and thereafter went to barrio Cabiganan to see the palay he was informed was for sale. From there he proceeded to the Ben Seng Rice Mill where he met his brother Camilo and several policemen. He arrived at the moment Sgt. De la Cruz was in the act of striking his brother Camilo with a chair for which reason he intervened and asked what the matter was. He was informed that Camilo was mistaken in the computation of the palay he bought from one from Sta. Ignacia municipality and that was the cause of the trouble. And so he paid the difference in the price. After that Camilo went home riding in a calesa and he also left the rice mill and proceeded home on a bicycle. While nearing his house he heard shots and saw Sgt. De la Cruz coming out from the yard bleeding but he also saw his brother Camilo going towards the north full of blood. Then a policeman apprehended him.

As may be seen, the issues raised in this appeal hinge on the evaluation of the evidence submitted by both parties and in the main depend on the credibility of the witnesses. The trial court which had the advantage of observing the demeanor and manner of testifying of the witnesses is in a better position to make such evaluation and as a

rule its findings and conclusions should be given credence and weight unless it is shown that in so doing it has overlooked some material fact or piece of evidence which if properly considered may serve as basis for reaching a different conclusion. None has been successfully shown notwithstanding vehement efforts of the defense and on this matter the trial court made the following findings relative to the incident which led to the killing of the victim pinpointing the participation of each of the appellants:

"As stated above, the defense put tip by the brothers Victoriano Alfiler and Martin Alfiler is that of alibi. Their statement, however, with which they tried to prove that they were not in the common yard of their houses when the aggression against Sgt. De la Cruz took place, are strongly gainsayed by the facts clearly established and found well proven by the Court. It is beyond any peradventure of doubt that the three Alfiler brothers were called and they come to the Ben Seng Rice Mill for the purpose of attesting and witnessing the re-weighing of the palay deposited by them previously in the warehouse of Ben Seng Rice Mill; and that after the re-weighing, the Alfiler brothers saw that it was through the indefatigability of Sgt. De la Cruz that their malicious act in underweighing the palay they bought from Ponciano Espiritu of Sta. Ignacia was exposed. It was natural for them to be resentful against Sgt. De la Cruz, as shown by the near physical encounter which took place between Sgt. De la Cruz and the Alfiler brothers soon after the Alfiler brothers had paid their shortage. The intervention of Sgt. Guillermo prevented more serious developments then. It was also proven that from Ben Seng Rice Mill, the three Alfiler brothers left ahead of Sgt. De la Cruz in the direction of their houses, and soon thereafter, Sgt. De la Cruz went in the same direction riding on a bicycle, and upon arriving in front of the common yard of the accused, he was invited by the accused to come in, and then soon thereafter the attack and aggression against Sgt. De la Cruz made in unison and in concert by the three accused herein, was made. The aggression took place at about 9:00 o'clock. Admitting for the sake of argument that Martin Alfiler and Victoriano Alfiler had early that morning gone to see certain parties from which they were seeking to buy palay, these facts did not preclude the possibility of their being on their common yard at 9:00 o'clock that morning when they committed the concerted aggression against Sgt. De la Cruz. The well proven fact as found by the Court is that, previous to the attack made by the accused on Sgt. De la Cruz, they were all together with Sgt. Cruz in the Ben Seng Rice Mill, and from there they proceeded together to their houses, and were at the common yard of their houses when Sgt. De la Cruz was passing by riding on his bicycle.

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"The evidence of the prosecution identifying the three accused as the persons who made the aggression against Sgt. De la Cruz is so overwhelming and conclusive, that it can give no place to a favorable entertainment of the defense of alibi on the part of the two accused, Martin Alfiler and Victoriano Alfiler, and the defense of self defense set up by Camilo Alfiler. The Court finds that the evidence is clear and convincing, positively pointing that the three accused committed the crime charged against them, a crime they had meditated to commit against a public officer who exposed their misdeed to the public."

Indeed, the trial court did not give credence to the version given by Camilo Alfiler nor to the alibi put up by his co-appellants and brothers for the reason that they are not supported by the evidence. Rather, the evidence for the prosecution is sufficient enough to prove the claim that the victim was assaulted and shot by the three Alfiler brothers in line with the plan they conceived when it was discovered in the Ben Seng Rice Mill that they cheated one Ponciano Espiritu in the purchase of his palay as a result of the investigation conducted by the deceased for which reason they became resentful of the latter and they decided to kill him.

This version of the prosecution is correct and is supported by the evidence. Thus, both Sgt. Rafael Guillermo, an eyewitness for the prosecution, as well as Florencia Quiindrino, wife of appellant Martin Alfiler, agreed that no empty shells were found in the yard of the Alfileres, thus negating the theory that the shooting occurred inside said compound. On the other hand, the evidence shows that in said compound footprints and drops of blood were found leading the way to the street and to the yard of one Sabado where Sgt. Guillermo found several empty and

live shells which clearly support the claim of the prosecution, to wit: that the victim was waylaid, disarmed, and stabbed in the Alfileres' compound; that once released the victim fled to the open highway where he stumbled; and that he ran to a store south of the Alfileres' yard on the opposite side of the street and entered Sabado's yard where he was fired upon by Camilo Alfiler.

The alibi of Martin Alfiler to the effect that in the morning of November 4, 1953 he went to the house of barrio lieutenant Moises Valdez to buy from him ten cavanese of palay and that he went to Ben Seng Rice Mill to get money to pay the price agreed upon and upon arriving there he was arrested by a policeman, is top flimsy to be entertained. The accused himself stated that Valdez could have brought the palay directly to the rice mill to sell where he could get a better price per cavan. It is therefore strange that Valdez would prefer to sell his palay to Martin Alfiler instead of selling it to the rice mill. The least that can be said is that this claim is suspicious. Moreover, as the trial court said, this alibi does not preclude the possibility of Martin Alfiler's being in the common compound where he and his brothers began the aggression against the deceased.

Neither can we entertain the claim of alibi of Victoriano Alfiler that in the morning in question he went to the Beng Seng Rice Mill and upon his arrival he found a quarrel between Sgt. De la Cruz and his brother Camilo about the cheating incident which he had a hand to settle and that when he went home he heard the detonation of four gunshots in their compound and saw Sgt. De la Cruz drenched with blood emerging from the compound and then and there a policeman arrived to arrest him on the claim that he had a hand in killing Sgt. De la Cruz. Again, this version does not dovetail with the evidence found by the peace officers. While Victoriano claims that the shooting took place in the Alfileres' compound, yet, as already stated, Sgt. Guillermo found no shells whether live or empty in said compound but in the yard of Sabado where the prostrate body of Sgt. De la Cruz was found and where, according to the witnesses for the prosecution, he was fired upon by Camilo Alfiler. Evidently, this claim of Victoriano Alfiler is another eleventh hour effort to exculpate himself from liability.

It is true that there is no direct evidence of conspiracy on the part of appellants as regards the killing of Sgt. De la Cruz, but to prove conspiracy direct evidence is not necessary. The same may be inferred from acts indicating concerted action or community of purpose. And here these acts had been established. Thus, it has been shown that Sgt. De la Cruz was invited by the Alfiler brothers to go to their compound and after a short conversation Victoriano immediately embraced him tightly from behind locking his both arms to immobilize him, then Martin came along and struck him with a piece of bamboo on the face, while Camilo stabbed him twice with a dagger. Then when De la Cruz was able to get away from them he ran towards the street pursued by the three until he was fired upon in the compound of one Sabado where his body was found prostrate by the peace officers. These acts are indicative of a concerted and deliberate plan to kill the victim.

Premises considered, we find that the decision appealed from is in accordance with law and the evidence, and so we affirm the same with costs against appellants.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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