

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. MARTIN BANTAGAN (ALIAS MARTES), LUIS BANTAGAN, MARCOS PE LA CRUZ AND FRANCISCO FERMINO, DEFENDANTS AND APPELLANTS.

G.R. No. 33045. August 15, 1930

Ponente: STREET, J.

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STREET, J.:

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This appeal has been brought to reverse a judgment of the Court of First Instance of the Province of Camarines Sur, finding the appellants, Martin Bantagan (alias Martes), Luis Bantagan, Marcos de la Cruz, and Francisco Fermino, guilty of the offense of murder, committed upon the person of one Raymundo de los Santos, and sentencing Martin Bantagan, as principal to undergo imprisonment for life (cadena perpetua), with the accessory penalties prescribed in article 54 of the Penal Code, and sentencing Luis Bantagan, Marcos de la Cruz, and Francisco Fermino, as accomplices, to undergo imprisonment for twelve years and one day, cadena, temporal, with the accessory penalties prescribed in article 56 of the same Code. The accused were furthermore ordered to indemnify the heirs of the deceased in the amount of P500, and to pay each his proportional part of the costs of prosecution.

The deceased, Raymundo de los Santos, was, in life, a resident of the barrio of San Isidro, municipality of Iriga, Province of Camarines Sur, On July 18, 1929, he planned to make a trip to the town of Iriga for the purpose of buying a shotgun. Before departure he took his family to the house of a neighbor, one Graciano de los Santos, who lived about one kilometer away. Upon leaving his wife at the place mentioned, he told her that he would return either on the afternoon of the same day or on the morning of the next. As he did not return that night his mother-in-law went over to the house the next day to feed the pigs. Upon her arrival she found Raymundo lying on the floor dead, with his hands on his breast, the body being covered by a petate.

Information as to the gruesome discovery was at once given to those nearly related, and several individuals soon appeared on the scene, including Maria de los Santos, a sister of the deceased, and Adriana Ludoviko, his wife, as well as the barrio lieutenant and others. Upon inspection of the dead body, it was found that the right back portion of the neck was discolored, while the right eyeball tended to protrude from its socket and some blood had exuded from the right ear. In the belief that the death had been due to a criminal act, the barrio lieutenant reported the matter to the municipal authorities and the chief of police, after bandaging the eye of the deceased, removed the body to the municipal building, from whence, after inspection by the local health officer, it was taken away and buried.

Information derived from Maria de los Santos and Jose Alvarez, together with suggestions obtained from other sources, directed suspicion upon Martin Bantagan, Marcos de la Cruz, and Francisco Fermino, who were arrested within a few days. Upon being quizzed by the officials and confronted with each other, the three admitted their participation in the homicide, and their several confessions were reduced to writing and signed by each of them. The confession of Martin Bantagan is somewhat fuller than those of the other two, and the same is, in the main, here reproduced:

"On July 18, 1929 (Thursday), I and my son, Luis Bantagan, conceived the idea of killing Kaymundo de los Santos, because the latter had, several months previously, taken away my daughter, Angela Bantagan, in order to make her his mistress (*querida*) only. In the afternoon of the same day, at about 5 p. m., my son Luis and I, armed with bolos and clubs, went to the home of Francisco Fermino and invited him to go with us to the house of Raymundo de los Santos. Francisco Fermino accepted our invitation and went along with us. We three (my son Luis, Francisco and myself) then sought out Marcos de la Cruz, in the sitio of Oyoy-Oyoy, in order to ask him also to go with us to the house of Raymundo de los Santos; and Marcos also consented and went with us. We four (my son Luis, Francisco Fermino, Marcos de la Cruz and myself) then directed our steps to the house of Raymundo de los Santos in the sitio of Macandog, barrio of San Agustin, Iriga, Camarines Sur. Upon reaching the house of Raymundo de los Santos, we four found Raymundo alone in his house and seated on the floor with his back toward us. My son Luis, who was carrying a stick, slowly approached to the place where Raymundo de los Santos was sitting and hit him once in the neck. Raymundo dropped to the floor after having been struck by Luis. I also had a stick and, when I saw that Raymundo was not yet dead, I hit him also in the back of the shoulder. When he was dead we immediately wrapped his body in a mat and left it in his house. We found a purse in Raymundo's pocket, and I took and opened said purse which contained ninety centavos (P0.90). I took the money because Luis, Francisco, and Marcos did not wish to get it; but there was no intention to rob him of it, our purpose being to kill him because I hated him. After we killed Raymundo de los Santos, We four went home and we promised each other that nobody would say anything about the killing."

The statements made by Marcos de la Cruz and Francisco Fermino embrace substantially the same features as that of Martin Bantagan, indicating that Luis Bantagan and Martin Bantagan were the actual assailants of the deceased and that they all participated in wrapping the deceased in the mat after the homicide was committed, and that they all agreed to say nothing to any body about the killing. The three were also unanimous in the fact that Martin Bantagan took and appropriated P0.90 from a purse found on the person of the deceased.

The confession of Martin Bantagan shows a cause of resentment on the part of Martin Bantagan towards the deceased in that the deceased had misused Bantagan's daughter, Angela; and the proof further shows that both Francisco Fermino and Marcos de la Cruz entertained rancor against the deceased; also that, only a few days before the homicide was committed, Marcos de la Cruz had made a threat to the effect that Raymundo de los Santos would be a dead man within two months.'

After the three above-mentioned had confessed, Luis Bantagan was arrested by Alfredo Crisologo, a sergeant of the Constabulary. Upon being questioned by the sergeant, Luis admitted that he was present when Raymundo de los Santos was killed, but his statement differed in several particulars from those of his associates in the crime, chiefly in indicating that he and his father were invited to go to the house of Raymundo de los Santos by his associate Francisco Fermino, and he asserted that the fatal blow was inflicted on the deceased by Francisco Fermino, who took a roll of paper money from the person of the deceased. In this statement Luis Bantagan admitted that he assisted in taking the body of the deceased from the basement, where Raymundo was slain, to the living room above; and Jose Alvarez testified that Luis Bantagan also admitted, in the same conversation, that when he and his father were invited by Francisco Fermino and Marcos de la Cruz to join them, they explained that they were going to get the one they were after.

The confession made by Luis Bantagan, under questioning from Crisologo, was not at once reduced to writing by the latter, but Crisologo later drew up a formal statement, embodying the substance of the confession, and turned it over to his superior, with the suggestion that the signature of Luis should be procured to the statement. Said signature was not obtained; and the written statement (Exhibit E) was admitted as evidence by the court, not as a written confession of Luis Bantagan, but merely as a part of the testimony of sergeant Crisologo.

No explanation is given of the failure of Luis Bantagan to sign the statement, but the fact that he did not accredit the statement with his signature does not render inadmissible the oral testimony of Crisologo and Alvarez as to the substance of his previous admissions; and the accounts given by Crisologo and Alvarez sufficiently show that Luis Bantagan had guilty knowledge of the purpose of the errand that was taking them to the house of Raymundo de los Santos, and that he participated in the homicide, as the trial court found, at least in the character of an accomplice. Of course the three separate confessions made by Martin Bantagan, Marcos, de la Cruz and Francisco Fermino are not admissible as against Luis. But his own admissions, made in the presence of the two individuals above-mentioned, show that he was present at the commission of the crime, and abetting therein as an accomplice. Indeed the circumstances surrounding the homicide strongly indicate that the four accused conspired to take the life of Raymundo de los Santos prior to the commission of the act, and if this view should be accepted all would necessarily be guilty in the character of principals. But the proof on this point is not absolutely clear; and the trial judge, we think, exercised good judgment in holding three of the four to be accomplices only. As suggested in *People vs. Tamayo* (44 Phil., 38), where there is a doubt whether a guilty participant in a homicide has performed the role of a principal or that of a mere accomplice, the court should favor the milder form of responsibility. We note in passing that, with respect to the situation involved in this case and that discussed in *United States vs. Romulo* (15 Phil., 408), there is the difference that the three who are here held liable as accomplices had knowledge of the intention to commit the crime. The trial court, in our opinion, committed no error in finding the four accused guilty in the characters respectively assigned to them.

It is suggested in the brief for the appellants that there is no sufficient proof that Raymundo de los Santos came to a violent end, and that the confessions of the accused are inadmissible for lack of proof of the *corpus delicti*. We are of the opinion that this contention is not well founded. Two or three of the witnesses who saw the body before it was removed from the home of the deceased to the municipal building testified that the right back side of the neck showed a dark bruise, that the right eye was partly protruding from the socket, and that blood had trickled from the right ear. The inference drawn from this by the district health officer was that the deceased had probably been struck with a cudgel on the right side of the back of the neck, and the local medical officer said that on the day the body was found he observed a dark spot on the neck. It is unnecessary to go into the details of the testimony on this point, but the facts shown were clearly sufficient to indicate that "the death of the deceased might have resulted from violence; and this is sufficient to make admissible the confessions of the accused to the effect that blows had been given, of the character indicated by the bruise on the neck, sufficient to deprive the deceased of his life. The rule to the effect that an accused person cannot be convicted upon his confession alone, without some independent proof of what is called the "*corpus delicti*" does not mean that every element of the crime must be clearly established by independent evidence, apart from the confession. It means merely that, in a jurisdiction where the question of guilt is determined by a jury, there should be some evidence tending to show the commission of a crime apart from the confession. As suggested in Wigmore's treatise on Evidence, the rule requiring independent proof of the *corpus delicti* was merely intended to guard against convictions upon false confessions of guilt (Wigmore, *Evid.*, sec. 2070). The utility of the confession as a species of proof would vanish if it were necessary, in addition to the confession, to adduce other evidence sufficient to justify conviction independently of such confession.

The provision made by the trial court with respect to indemnity to be paid to the heirs of the deceased does not

accord altogether with article 125 of the Penal Code; and this part of the judgment will be amended by providing that Martin Bantagan, as principal, shall be required to indemnify the heirs of the deceased in the amount of P500 and that, in case of his insolvency, his three coaccused shall be jointly and severally liable, secondarily, for said amount; and furthermore that the three accomplices, Luis Bantagan, Marcos de la Cruz, and Francisco Fermino, shall be jointly and severally liable for another P500, in the character of accomplices, and that Martin Bantagan shall, in case of the insolvency of said three accomplices, be secondarily liable, for such amount.

It being understood therefore that the appealed judgment is modified with respect to the provision for indemnity in the manner above stated, the judgment, as thus modified, is affirmed. So ordered, with proportional costs against the respective appellants.

Avanceña, C. J., Villamor, Romualdez and Villa-Real, JJ., concur.

DISSENTING

Malcolm, Ostrand and Johns, JJ., in part:

From a legal point of view, we do not think that the evidence is sufficient to convict Luis Bantagan as an accomplice. In all other respects, we agree with the majority of the court.

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