

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DIONISIO VILLAMIN, DEFENDANT AND APPELLANT.***G. R. No. 45301. October 29, 1937*

Ponente: VILLA-REAL, J.

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This is an appeal taken by the accused Dionisio Villamin from the judgment rendered by the Court of First Instance of Laguna which found him guilty of the crime of murder and, taking into consideration the presence of the qualifying circumstance of evident premeditation and of the generic aggravating circumstances of nighttime and dwelling, sentenced him to the penalty of reclusion perpetua with the accessory penalties prescribed by law, to indemnify the heirs of the deceased Victor Titan in the sum of P1,000, and to pay the costs of the trial.

In support of his appeal, the appellant assigns as the only error committed by the court a quo in its appealed judgment that of having found him guilty beyond reasonable doubt of the crime of murder.

The only question of fact to be determined in this appeal is whether or not the herein accused-appellant is the author of the death of Victor Titan.

The prosecution attempted to prove that on November 19, 1933, Victor Titan, who already suspected that his wife Pelagia Soeorro was having illicit relations with the accused Dionisio Villamin, caught the latter inside the mosquito net under which his wife was sleeping under his house in the municipality of Cavinti, Province of Laguna. Upon seeing the accused, Victor Titan attacked him, inflicting upon him several wounds which caused his confinement for several days in the provincial hospital in the municipality of Santa Cruz, Laguna. Victor Titan immediately filed a complaint for trespass to dwelling against the accused in the justice of the peace court of Cavinti. Said complaint was later withdrawn by reason of an amicable settlement had between the two (Exhibit 5). After said incident, Victor Titan, wishing to separate his wife from her lover, sent her to live with her sister Ramona Socorro in the barrio of Talaungan, about seven kilometers from Cavinti. One day, Narcisa Custodio, mother of Pelagia and Ramona, went to said barrio to see her daughter Pelagia and at the same time to verify the news she had received about the accused Dionisio Villamin's continued visit to Pelagia. When Narcisa arrived at Ramona's house she was informed by the latter that Pelagia had gone to Pedro Custodio's house to prepare pandan strips for making hats. Narcisa Oustodio went to said house and caught the accused Dionisio Villamin hiding in a room thereof. Angered by said act, Narcisa attacked the accused with a bolo but did not succeed in wounding him, thanks to the timely intervention of Calixto Lubuguin and Pedro Custodio. Two days prior to the crime in question, that is, on May 24, 1934, the accused-appellant went to visit the wife of the deceased in the barrio of Talaungan.

On the day of the crime, the deceased Victor Titan was living with his small daughter Paz in the upper part of his house situated in the poblacion of the municipality of Cavinti, Province of Laguna. Under said house lived his sister-in-law Felicidad Socorro, sister of his wife Pelagia Socorro, Cecilio Flores and the latter's mother Maria Alcantara. At about 3.30 o'clock in the morning of May 26, 1934, a shot was heard in the upper part of Victor

Titan's house. Cecilio Flores and Felicidad Socorro, who, as already stated, lived under the house, were awakened by the shot and they ran to the wall separating their room from the stairway leading to Victor Titan's room. Peeping through said wall, they saw two men running down the stairway, the first one carrying a shotgun. The chief of the municipal police and Lieutenant Gojo of the Insular Police conducted the investigation early in the morning of said day and found Victor Titan lying on his mat and bathed in his own blood, with a wound in the abdomen from which his intestines protruded. They likewise found the lead pellets, Exhibits B and D; the two used waddings, Exhibit C, belonging to a caliber 16 shotgun; the mosquito net, Exhibit E; the two bedsheets, Exhibits F and H, stained with blood; and the clothes, Exhibit G, worn by the deceased in the morning of the crime, which are also stained with blood. Victor Titan was brought to the provincial hospital of Laguna where he died as a result of the hemorrhage produced by the wound.

Lieutenant Gojo ordered the inspection of all firearms in the possession of private individuals. The double barrelled caliber 16 shotgun, Exhibit A, was found in the house of Cirilo Villamin, a relative of the accused-appellant. Upon examination of said shotgun, traces of powder together with recent marks made by lead pellets were found in one of the barrels thereof.

When Felicidad Socorro and Cecilio Flores were again investigated by the municipal authorities in the municipal building of Cavinti five days later, they declared that one of the men seen by them going down the stairway, who had nothing in his hand, was the herein accused-appellant Dionisio Villamin, and the other who carried a gun seemed to them to be Calixto Lubuguin (vol. II, t. s. n., 31; vol. III, t. s. n., 29). Sometime later, that is; on May 31, 1934, each of these two witnesses made an affidavit before the justice of the peace of Cavinti (pages 3 and 6 of the record), ratifying their statements made in the municipal building.

The accused-appellant Dionisio Villamin denied each and every statement made by the witnesses for the prosecution relative to his presence at the scene of the crime immediately after the shot was fired, and testified that in the morning in question he was sleeping in his house, which is situated about fifty meters from that of the deceased, and was awakened by the noise made by the people immediately after the incident. He did not go down, however, because he believed that the agents of the authorities were the most logical persons to attend to it.

The defense likewise presented the affidavits of the witnesses for the prosecution Cecilio Flores and Felicidad Socorro (Exhibits 2-Villamin and 4-Villamin) denying the truth of their affidavits made before the municipal authorities of Cavinti and before the justice of the peace of said municipality.

Testifying on how he came to subscribe the affidavit Exhibit 2-Villamin, Cecilio Flores briefly stated that on November 1, 1934, Dionisio Villamin, the herein accused-appellant, and Aquilino Villamin invited him to go to Pagsanjan, telling him that he should go there alone in order not to be seen going with them, and gave him one peso for his expenses; that he did so and in said municipality he met said Dionisio Villamin and Aquilino Villamin with whom he ate in a restaurant at their expense; that after eating they took a truck for Lilio, also at the expense of the two Villamins; that upon arriving at Lilio they went to the house of notary public Fausto Arevalo who prepared on the typewriter Exhibit 2-Villamin whereby he was made to state the opposite of what he had stated in the affidavit made before the justice of the peace of Cavinti and before the authorities of said municipality; that at first he refused to sign for fear that something bad might happen to him, but the notary public, seconded by Dionisio Villamin and Aquilino Villamin, told him that that would save him from jail; that by reason of his ignorance, he allowed himself to be convinced; that as he had no cedula, Dionisio Villamin gave him P4 to buy himself one in the municipality of Lilio, which he did on November 1, 1934; that after having provided himself with a cedula, he signed the affidavit Exhibit 2-Villamin; that upon the invitation of said notary public, all of them took their supper and stayed for the night in the notary public's house; that on the following day he and Aquilino Villamin returned to Cavinti while Dionisio Villamin remained behind; that as he had not yet seen

Manila, Dionisio Villamin promised to bring him to the city to engage in his occupation as barber should Dionisio Villamin be acquitted.

Felicidad Socorro also testified that one Benito Ramos took her with her mother and sister to Lilio before the same notary public Fausto Arevalo and there she was made to sign the affidavit Exhibit 4-Villamin whereby she recanted her statement made before the municipal authorities of Cavinti and in her affidavit made before the justice of the peace of said municipality, upon threats of imprisonment if she refused to do so.

Taking into consideration the ignorance of the witnesses for the prosecution Cecilio Flores and Felicidad Socorro, and the psychological and social phenomenon observed not only among the ignorant people but also among the educated ones, of refusing to testify on a criminal incident witnessed by them or of which they have knowledge, for fear of being implicated or, at least, of being molested with inquisitorial investigations, besides being the object of vengeance on the part of the criminal or of his relatives, it is not strange that, upon being investigated in the midst of the excitement caused by the shot and by the news of Victor Titan's death, said witnesses have not given the names of the persons they had seen going down the stairs of the house of the deceased, particularly since the accused-appellant is among the prominent persons as well as a councilor of the municipality of Cavinti. It does not appear that when the witnesses gave the names of the accused, upon being investigated anew in the municipal building and when they made their respective affidavits before the justice of the peace of Cavinti five days later, they were under somebody's influence. On the other hand, it appears that the affidavits respectively made by them before notary public Fausto Arevalo in Lilio were influenced by the assurance made by Fausto Arevalo and Dionisio Villamin to Cecilio Flores that the affidavit he was to make would save him from jail, by the appellant's promise to bring Cecilio Flores to Manila so that he could engage in his occupation as barber, and by the threat of imprisonment made to Felicidad Socorro if she refused to sign the affidavit Exhibit 4-Villamin. The statement made by said witnesses before the municipal authorities of Cavinti, their affidavits made before the justice of the peace of said municipality, and their testimony given during the trial, in all of which they positively asserted that one of the two men they had seen going down Victor Titan's house immediately after hearing the shot was Dionisio Villamin whom they knew beforehand, cannot in any way and in the least be disproved by the affidavits Exhibits 2-Villamin and 4-Villamin made in Lilio before notary public Fausto Arevalo by means of promises and threats.

The shotgun Exhibit A belonging to Restituto Iguaras, the safekeeping and custody of which had been entrusted by him to his father-in-law Andres Villamin before he left for Camarines Sur and which was easily accessible to the herein accused-appellant, was without doubt the gun used by the latter in the morning of the crime because when it was seized by the authorities, traces of powder were found in one of the barrels thereof, indicating that it had recently been discharged. This silent but eloquent testimony of the facts contradicted the statement made by Andres Villamin to Lieutenant Gojo of the Constabulary that the gun had never been used, although Attorney Cirilo Villamin, son of Andres, later arrived and said that the shotgun had been used by him to hunt birds in the afternoon of May 25, 1934, having fired three shots with it. When Cirilo Villamin was asked why only one barrel showed traces of powder, he gave the improbable answer that perhaps he might have used only one barrel in his confusion.

In addition to this positive and conclusive evidence that it was the herein accused-appellant who shot and killed Victor Titan in the morning in question, there is the psychological and social circumstance corroborating the statements of the witnesses for the prosecution Cecilio Flores and Felicidad Socorro. On the day in question, the accused-appellant Dionisio Villamin had his house on the same street where the house of the deceased was situated and about fifty meters away therefrom. According to his own testimony, he was awakened by the shouts of the people and informed of the incident. In spite of being acquainted with the deceased, being his neighbor, and

notwithstanding the fact that he was a councilor of the municipality whose duty was to serve the true interests of the people and to acquaint himself with any unusual and disturbing event therein for the purpose of informing the president thereof (sec. 2216, Revised Administrative Code), instead of obeying the impulse which prompted the inhabitants of said municipality, who discharged no office, to be present at the scene of the crime, and complying with his duties, he remained inside his house to observe what was going on outside and did not go down for fear, according to him, of becoming a victim of the anger of the relatives of the deceased. Upon seeing that two policemen were keeping close watch over his house, telling him that he was suspected of the crime, he did not protest, as was natural, if he really were innocent. Such attitude on his part is certainly unbecoming a municipal functionary elected by the people of his municipality to watch over its peace and tranquillity. Such negligent failure to comply with a duty and the fear harbored by him that the relatives of the deceased might take vengeance against him are clear and unmistakable tokens of a guilty conscience, and they corroborate the testimony of the two witnesses for the prosecution Cecilio Flores and Felicidad Socorro that the herein accused-appellant was really one of the persons seen by them going down the house of the deceased immediately after the shot was fired, and the one who shot and killed Victor Titan.

The documentary as well as the oral evidence of record, therefore, proves beyond reasonable doubt that the accused-appellant Dionisio Villamin is guilty of the crime of murder.

Wherefore, not finding any error in the appealed judgment, it is affirmed in toto, with the costs to the appellant. So ordered.

Avancena, C. J., Abad Santos, Imperial, Laurel, and Concepcion, JJ., concur.

Diaz, J., concurs in the result.

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