

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ALEJANDRO TOLENTINO, DEFENDANT AND APPELLANT.

G.R. No. 49887. October 28, 1946

Ponente: PERFECTO, J.

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PERFECTO, J.:

The Court of First Instance of Batangas sentenced appellant to reclusion perpetua, together with the accessory penalties provided by law, to indemnify the heirs of Gerundio Alcazar in the sum of P2,000, and to pay the costs, for the crime of murder committed in barrio Bañgin, Lemery, Batangas, on November 19, 1941.

According to three witnesses for the prosecution, Juan Mendoza, Irineo Sangalang, and Agripina Alcazar, at about 1 o'clock p. m., at a place near a fallen siniguelas tree, Alejandro Tolentino held with his left hand the rein of the horse Gerundio Alcazar was riding and with his right hand stabbed the latter with a pen knife. Alcazar fell down on the ground, the horse running away, and he was unable to stand up because he was again stabbed several times by the accused, who left him at the spot dead.

According to Irineo Sangalang, the motive for the crime was Gerundio Alcazar's being able to secure from his mother, Picola Landicho, permission to use a madre cacao, post in the building of his house to the disgust of the accused, who was married to his sister, Felisa Alcazar. When Gerundio began to cut the post, Tolentino told him: "Don't cut that madre cacao because I also need it." Gerundio answered: "I asked it from our mother and I have to cut it." The accused then said: "Don't cut it, otherwise something will happen." Gerundio was able to cut the post in August, 1941, and in September transferred it to another place.

Agripina Alcazar testified that at about six in the morning of November 19, 1941, she saw accused sharpening his pen knife in the kitchen of her house. She asked him why he was sharpening it, and Tolentino answered; "leave me alone. You will know it before the afternoon."

Ruperta Balani declared that at 9a. m. of the same day, she had a conversation with the accused in an open lot of Barcelisa de Rojas in which Tolentino said: "Baguio would occur before the afternoon." Upon hearing this statement, Ignacio de Rojas asked him: "Are you, mayhap, God?" The accused did not answer directly, but only reiterated: "Before the afternoon arrives, something would happen."

When the trial in the lower court began on January 26, 1943, counsel for the defense announced that accused was willing to enter a plea of guilty if the fiscal would amend the information for murder by alleging only homicide. The private prosecution opposed the proposed amendment. The information was read to the accused who answered: "I plead guilty if it is for homicide, but if it is for the crime of murder I plead not guilty."

No evidence was presented by the accused as to how Gerundio Alcazar was killed other than his uncorroborated testimony. He declared that upon seeing him, Gerundio dismounted from his horse and stabbed him with his bolo. To avoid the attack, the accused ran away, but Gerundio pursued him and, cornered by a fence, accused then defended himself with a pen knife. In the ensuing struggle, both combatants fell down. Gerundio threw away his

bolo and tried to wrest the pen knife from the hands of the accused. In the struggle Gerundio was wounded. When the accused left the place, he saw Gerundio falling.

Accused alleged that the motive of Gerundio in attacking him was Gerundio's opposition to his marriage with the sister of the deceased and the conflict concerning the madre cacao.

Accused's wife Felisa Alcazar also testified but only to support her husband's testimony concerning the motives the deceased had for nurturing ill feeling against the accused.

The testimony of the accused as to how Gerundio was killed can not prevail over the overwhelming evidence presented, by the prosecution. There is absolutely nothing in the record to show why the witnesses should falsely testify against the accused, specially when majority of them are his relatives. Even if it is true that Gerundio was not agreeable to the marriage of his sister with the accused, which took place sometime in 1936, it is unbelievable that his opposition to said marriage would induce him to bolo the accused five years thereafter, or on November 19, 1941. The conflict about the madre cacao post, which the accused tried to show as the reason that impelled the deceased to attempt the killing of his brother-in-law, rather corroborates the testimony of Irineo Sangalang to the effect that it was the accused who felt spited because Gerundio succeeded in cutting and in taking with him the madre cacao post, and who tried to stop the deceased from cutting it and warned him that something unuttered would happen if the deceased insisted in cutting it. Finally, the attitude of the accused himself in spontaneously and freely manifesting to the lower court his decided purpose to plead guilty, if he would only be charged with homicide, tends to create the belief that the accused himself is convinced that he is not blameless in the killing of his brother-in-law.

For all the foregoing, the sentence of the lower court, being in accordance with the corresponding provisions of law (article 248 of the Revised Penal Code and Commonwealth Act No. 284), is affirmed, with costs against the appellant, whose motion for new trial for lack of merit, is denied.

Moran, C. J., Paras, Feria, Pablo, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

DISSENTING

HILADO, J.:

In consonance with my now well-known opinion on the question of validity or nullity of judgments and other judicial proceedings in cases heard and determined by the Japanese-sponsored courts during the Japanese occupation of the Philippines, I dissent from the foregoing opinion of the majority, without prejudice to the accused being prosecuted under and pursuant to the laws and in the courts of this rightful government.

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